

Albemarle County Planning Commission
March 19, 2019

The Albemarle County Planning Commission held a meeting on Tuesday, March 19, 2019, at 6:00 p.m., at the Albemarle County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were PC members present were Mr. Dotson, Chair Keller, Vice-Chair Bivins, Ms. Riley, Ms. More. Ms. Spain and Mr. Carrazana (UVa Rep.) were absent.

Other officials present were Tim Padalino, Tori Kanellopoulos, David Benish, Megan Nedostup, Andrew Knuppel, Andrew Gast-Bray, Andy Herrick, Frank Pohl, Marsha Alley, Marsha Cutright, and Stephanie Banton

Call to Order and Establish Quorum

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

Other Matters Not Listed on the Agenda from the Public

Mr. Keller invited public comment on other matters from the public not listed on the agenda. Hearing none, the meeting moved to the next item.

Mr. Neil Williamson with the Free Enterprise Forum said that there was nothing his organization liked more than solid, objective data. He said charts and infographics would have his organization's attention. Mr. Williamson said that at first, he was thrilled to see the depth and the breadth of the 2018 Planning Commission Annual Report, and that was when the movie "Shrek" came to mind. He said that was when the organization began to peel away the data layers and the more he enjoyed the data, the more he concerned he became about the inclusion of expansion of data in the Planning Commission's report.

Mr. Williamson said the charge for the production of an annual report comes from the Code of Virginia, specifically Section 15.2-2221, which states the Commission is to "make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction." Mr. Williamson said most jurisdictions produced short reports that were less than five pages long that noted the number of meetings held, the recommendations that had been made on various applications, and how these applications had moved forward or did not move forward. He said that Albemarle's report for 2018 was 23 pages and it included several important data points and layers that Mr. Williamson said had a questionable nexus with the actual actions of the Planning Commission or with the status of planning within the jurisdiction. Mr. Williamson said the Free Enterprise Forum found the data to be compelling but was not convinced that the Planning Commission had a direct impact on the county's building energy usage, recycling rates, or public safety response times. Mr. Williamson said the Free Enterprise Forum understood that the Albemarle

County Planning Commission was legislatively charged with drafting the Comprehensive Plan every five years and also recognized that Albemarle's expansive Comprehensive Plan included goals far outside the purview of the Planning Commission. He said that the metrics were being used to track the progress of the goals of the Comprehensive Plan.

Mr. Williamson said that while the Free Enterprise Forum applauds the tracking of the data, he believed the information belonged in Albemarle County's annual report. He said that placing the data in the Planning Commission's annual report would suggest that the Planning Commission may have impact on the results -- which he said was far outside its legislative charge. Mr. Williamson said the organization was fearful that such expansive reportage could be used to falsely justify Planning Commission's mission creep rather than a laser-like focus on their direct charge. He compared the situation to "Shrek's onion" and said the Free Enterprise Forum's answer was layered because they loved the data but not where it had been placed.

Mr. Keller asked if anyone else had public comments. Seeing none, Mr. Keller moved on to the consent agenda.

Consent Agenda

Approval of Minutes: September 26, 2017, October 31, 2017, November 14, 2017, April 10, 2018, July 17, 2018, August 14, 2018, September 4, 2018, February 5, 2019

Mr. Keller asked if any Commissioner would like to pull an item off the consent agenda. Hearing none, he asked for a motion.

Mr. Bivins, Ms. More seconded for acceptance of the consent agenda; which was approved by a vote of 6:0 (Ms. Spain was absent).

Deferred Item

Mr. Keller introduced the next item.

SP201800016 EcoVillage Charlottesville – Preserved Steep Slopes

Mr. Tim Padalino thanked Mr. Keller and members of the Planning Commission and introduced himself. He noted that this was a special use permit application that had been deferred after a public hearing on January 15, 2019. Mr. Padalino said he would provide a quick summary of the staff report and provide a more detailed update on the revised application materials.

Mr. Padalino said the property was close to city limits in the development area and was within the area of the Places 29-Rio Community Advisory Committee. He said the property was identified as Tax Map Parcel 61-210 and was currently 6.3 acres and would become a 6.5 acre property if an adjacent parcel were added by plat.

Mr. Padalino said the property was zoned R-4 residential and displayed a critical resources map that depicted extensive preserved steep slopes wrapped along the frontage of the entirety of

the subject property, with the exception of an area where the existing driveway was located. He displayed several images with existing conditions such as the existing driveway, a view along Rio Road East looking east, a view from across the street looking at the blind curve of Rio Road East, and an image looking south that showed how the vegetation on the preserved slopes was mostly grass, brush, and other ground cover materials along the road bank. He noted that the mature vegetation began at the top of the bank.

Mr. Padalino said the original proposal reviewed on January 15 was a request to disturb the preserved steep slopes for the use of private facilities. He said this specifically referred to a commercial entrance location, a private street and accessway, and parking areas.

Mr. Padalino displayed a grading sheet taken from the initial site plan which had previously been approved with several conditions but added that the site plan and the special use permit were being reviewed concurrently. He said the sheet from the initial site plan depicted in red where the preserved steep slopes disturbance was originally proposed; the new location requested to disturb slopes was now being shown in green; and purple indicated disturbance along the frontage of Rio Road East.

Mr. Padalino said the revisions had been submitted and were subject to the new public hearing, and some of his images were garbled but the overview was intended to show where the locations of changes had been made.

Mr. Padalino said one of the changes in the resubmission was the relocation of the proposed entrance about 40 to 50 feet to the west of the originally proposed location. He said the change was made to better comply with VDOT design standards and that no VDOT waiver would be necessary with the new proposed location. However, Mr. Padalino said it did appear that an offsite sight distance easement would be required to the adjacent parcel at TMP 61-190 owned by Mr. Harold Herz.

Mr. Padalino said the other change in the resubmission was to the configuration of the proposed parking area, which would no longer impact certain slopes. He said the amount of disturbance of preserved slopes in the area of the parking facility had not been decreased because the location of the entrance necessitated additional disturbance along the frontage of Rio Road East. Mr. Padalino said the applicant had reconfigured the entrance and the parking areas in a way that did not reduce the amount of preserved steep slope disturbance, but there was overall a net decrease in the amount of disturbance of preserved steep slopes with the revised proposal because the applicant had realigned the private street accessway into the interior portions of the site in a way that no longer required any disturbance associated with the private street accessway.

Mr. Padalino said he had pointed out in the staff report that there was a lack of clarity regarding the limits of disturbance and whether certain existing vegetation would be impacted or not. He said that 10 or 12 days earlier, the applicants had caused the site to be flagged with markers and stakes and flags. Mr. Padalino said he had spent time on the site on the day of

meeting with David Benish and they had seen the markings. He said it appeared that mature pine trees in the locations would not be impacted and would be outside the limits of disturbance within the preserved steep slopes overlay district.

Mr. Padalino noted that the image was not displaying correctly, and he had wanted to show the Commission what had been shown in Attachment H, which depicted the habitat planting plan. He said the plan had been provided in two different formats, the first of which had been in a 34-page packet that showed the landscape mitigation broken into different layers. He said all of the groundcover and shrub layers were shown on one exhibit, and the canopy trees and large trees were shown on a different exhibit on the same sheet. Mr. Padalino said Attachment H was an update that showed all of the landscaping layered on top of each other to depict what the full habitat redevelopment and screening effects would be with the proposed mitigation measures.

Mr. Padalino said staff's evaluation of the resubmission was done closely with engineering staff to understand how mitigation efforts would address and potentially improve stormwater and drainage issues on the site that would need to be mitigated with any grading and disturbance of the steep slopes. Mr. Padalino said favorable factors included: 1) the entrance location would presumably be safer because there was no waiver required for reducing the site distance, though Mr. Padalino noted it did appear a sight distance easement would be required offsite; 2) the impacts to preserved steep slopes were no longer being proposed for the private street access way, which lead to an overall net reduction in the amount of disturbance of preserved steep slopes; and 3) there was a one percent decrease or 617 square foot net decrease in disturbance of steep slopes with the resubmittal.

Mr. Padalino said that County Engineer Frank Pohl had indicated no objection to the special use permit as revised and had resubmitted provided that certain recommended conditions were applied and enforced in the site plan and the water protection ordinance plan.

Mr. Padalino said there were three unfavorable factors, including that 1) the proposed revisions would require additional disturbance of preserved steep slopes along Rio Road East to the east of the proposed new entrance, as well as the applicant's decision not to pursue an entrance that would require a waiver from VDOT; 2) the proposed parking area and private facility appeared to have insufficient screening as viewed from Rio Road East and adjoining residential districts. Mr. Padalino said the habitat planting plan did embody desirable design concepts and was a strong starting point, but staff believed additional landscaping would be needed, such as evergreen shrubs and trees at strategic locations around the parking area and private facility.

He said that some conditions of approval could be crafted to sufficiently screen the private facility in a way that appropriately mitigated the impacts to the character of the preserved steep slopes overlay district in the nearby area. Mr. Padalino said the third unfavorable factor was that 3) the proposed mitigation related to stormwater and drainage issues was partially insufficient. He said that in collaboration with the County Engineer, staff believed that additional mitigation measures should be formally required as conditions of approval. He said

the mitigation plan did include good design and engineering methods, but staff believed that conditions of approval would be necessary to ensure that appropriate mitigation of impacts could occur.

Mr. Padalino said in summary that staff recommended approval of the special use permit application with conditions of approval as specified in the staff report. He said he could provide a summary of those conditions. He said the first would be that the limits of disturbance of preserved steep slopes for the project would be limited to that shown in the conceptual materials. He said the second condition was that the final site plan and landscaping plan would be in general accord with the documents provided with the special use permit, with some additional modifications and to the satisfaction of the director of planning. Mr. Padalino said the third condition was that the improvements related to stormwater, drainage and grading that will be shown on the final site plan and WPO plan must be in general accord with the mitigation measures shown in the application materials, with a few recommended modifications as specified in the staff report. Mr. Padalino said the fourth condition for approval was that all stormwater treatment facilities and practices for ensuring water quality would be provided onsite and not through purchase of offsite nutrient credits.

Mr. Padalino said that concluded his staff report and he would take questions.

Mr. Keller asked Commissioners if there were any questions. Mr. Dotson said he would hold his questions until after hearing from the applicant.

Mr. Tom Hickman identified himself as one of the members of the applicant's development team. Mr. Hickman said there would be different houses and that the development was about community and nice houses. He said that they had not gotten into the architectural details yet because they were still waiting for some other studies to be done. He visually gave examples of other projects and said that this project was moving quickly. Mr. Hickman showed an image of an 800-square-foot house that he said would get them towards being more affordable. He said the project would have four affordable houses, which was part of the requirements for the county, but Mr. Hickman said there was a strong desire to create affordability outside of the rules in terms of the capital structure and how they would help people buy the houses. He said there was also the idea of accessory units in basements.

Mr. Hickman said the development team had been working with students at Virginia Tech and the University of Virginia, and he showed an image from a recent meeting. He said the students were doing analysis of many different aspects of the project, and he showed a 3-D model the students had put together. He said a model of a house showed that it would have passive design to get the energy needs as low as possible. Mr. Hickman said the students were exciting to work with, and it was a lot of fun letting the students find new ideas about how the houses would relate to walkability. He noted that some of it didn't work but it was fun to study it.

Mr. Hickman stated that they proposed running a line all the way down to Meadow Creek using the one percent rule to move all of the water off of the site, in part because they had originally

considered taking the parking lot area and putting in systems that would ease the water out. Mr. Hickman said what the development team wanted to do with the project was take the water and treat it more like a cistern and run the water back through the project and do some creative things with the water. He said they could not do that if the system had to release the water within 48 hours, so they suggested the straight line down to Meadow Creek to aid with the stormwater challenges that neighbors were having and that would be created by the development. He noted that this would also give the opportunity to take the water and do some fun things with it on the project. He said the idea could be a little windmill, fun water towers that could pump the water back up to recirculate, and what the homes themselves could do with rainwater and runoff. He said they were analyzing all of these ideas, and one idea was the purification of rainwater.

Mr. Hickman said there was a lot of rock at the site and rather than haul the rock off, they wanted to integrate it back into the site because it would be attractive and economic. He said rather than paying someone to haul it off, they would study the site to use rocks on the site to be very creative with landscaping and tiering and how they water runoff management.

Mr. Hickman showed an image that he said would address the screening at the parking lot. He said they did not jump out with a screening concept because they were not sure how it would look, and it might not need screening if it was a tall wall or just a 3:1 slope. Mr. Hickman said they were still trying to work with that and that the Planning Commission could see they had made adjustments to the parking to try to see how they could incorporate applications of the rock.

Mr. Hickman displayed pictures of how water would travel through the project, but they had not defined where that would be yet because they were still moving the layout of the houses. He said the students at Virginia Tech had changed the location of the common houses, which had had ripple effects on the elevation and on the amount of dirt that would need to be moved. He said this created opportunities for stones but they did not know where the water features would be or the quality of the stormwater runoff. Mr. Hickman he was in Seattle recently and was amazed by what they had been doing there, but he was not saying that was exactly what they would do at Eco-Villages even though they were looking into some of the ways they could move water through the project.

Mr. Hickman said they were talking about having a green roof at least on the common house. He said the students at Virginia and the UVA-based engineering group had been talking about different uses and applications that could be created on the roof. He said they were looking at the solar panels that would go on the parking lot, and the initial thinking was that the solar panels would feed the common house and the mansion. Mr. Hickman said that because of the way Dominion worked, there would be some dancing that would need to go on there. He said he expected that all of the houses would have solar panels, but the marketing and the costing of that and the options that would be made available to the purchasers were under discussion.

Mr. Hickman said they had also discussed the microgrid and were still trying to figure out the financial model and the case study. He said that Dominion seemed excited about this and that the development team had great connections at that higher level. He said there was a group in South Boston that was using tobacco money to do the same thing and that the development team was just starting to work with that group.

Mr. Hickman said the common house was going to be about education, and the development team was excited that education would be ongoing and that the students who would live there would be engaged. He said the common house would be like the Discovery Museum in that it would purpose for the people who would live there, but the development team wanted many different things going on at the site. Mr. Hickman said if they were to pump water back to the site and it were to trickle back down, that could power a turbine that would operate light bulbs and fans in the common house. He said there were so many things and that there was a hackathon that the UVA engineering students had done that had generated many ideas for the common house. He stated that the development team was thrilled with the wind turbine, and another group wanted to take on as a capstone project how they might build a bridge over Meadow Creek at the location of the sewer line and storm water movement. Mr. Hickman said there were two groups that had come up with different designs and it would require another conversation to determine if these ideas were feasible, but it was exciting to work with the students on their concepts and ideas.

Mr. Hickman said the development team was asking for a special use permit on moving the entrance location, but he said that all of the other things going on in the project really would help mitigate the issue that they were asking for permission for. He said they had not gone any further with the project because it had many moving parts and they wanted to know what the Planning Commission had to say before they committed a lot more money and started moving into the details.

Mr. Justin Shimp introduced himself as the engineer for the project. He said the Planning Commission had heard the details of the project but said there was one technical detail in the conditions that should be discussed: the requirement for a 3:1 slope. He said he wanted to clarify where that would happen because in one location if they had to do a 3:1 slope, they would have to clear a bunch of trees they would otherwise not have to clear. He said the condition would have an unintended consequence, and the intention of the condition was that where they were disturbing the slopes, particularly to the west of the entrance, that area should be regraded with less slope so it could be more successfully revegetated. Mr. Shimp said there was one section that could be pulled up on the screen after the public comment period to clarify the condition so they did not clear trees unnecessarily.

Mr. Bivins asked if there were members of the public who wished to speak on the matter.

Mr. Harold Herz said he lived at 435 Rio Road East to the southeast of the subject property. He said he wanted to revisit two of the points he had brought up during the January 15 public hearing with regard to stormwater and the new commercial entrance. With regard to

stormwater, he thanked staff and the engineering department for their work with the developer. He said they had done an outstanding job and he was very satisfied with how they had addressed his issues with stormwater and drainage. He said he wanted to clarify that Mr. Padalino and Mr. Pohl had worked with Mr. Hickman and Mr. Shimp to satisfy concerns.

Mr. Herz said with regard to the commercial entrance, he wanted to bring up several points of concern. He said the entrance was being moved 50 feet down the western slope of Rio Road East and that a straight line across Rio Road would put it in line with only 50 feet away from his patio on his property. He said he was concerned about how the new entrance would affect the safety of the property and he wanted to bring that to the Planning Commission's attention. He said the new entrance would create a safety issue for his home because there had been many accidents in that area and there were two dents in the guard rail right behind his house. Mr. Herz said he hoped the flow of heavy construction equipment could be looked at and hopefully there would be auditory or visual screening, as well as reinforced guardrails, and potentially a separate construction entrance for the project would alleviate a lot of the impacts from the project.

Mr. Herz said his second concern dealt with the plan laid out in Attachment I that had been shown to the Planning Commission. He said that moving the entrance would also require what seemed to be a sight distance easement and he asked for clarity on the intent. He said he was confused about the application to obtain a sight distance easement shown in Attachment I, and the red line clearly dissected his property and the intent of "bank erosion control mitigation and the removal of vegetation within this distance easement." Mr. Herz said he assumed that meant the removal of trees on his property to create a site line. He said he had not granted an easement and that he had no intention to remove trees on his property. He said he would appreciate some clarification on the intent.

Mr. Morgan Butler of the Southern Environmental Law Center said he wanted to commend staff for putting forward a very clear and helpful staff report. He said the application was a challenging proposal and that it appeared there were many pieces still up in the air. He said staff had done a really good job of trying to boil down the issues to explain them as clearly as possible to help the Planning Commission make as informed a decision as possible. Mr. Butler said it was particularly impressive how staff had taken the various stormwater concepts and ideas, as well as other things the applicant had mentioned they were still studying and boiling them all down into hard and fast commitments to treat the 25-year storm and to treat all of the stormwater onsite and to now allow offsite nutrient trading.

Mr. Butler said that the staff report going back to January had noted it would be very helpful for staff to get a clear picture of what the slope impacts would be if the applicant were to go out to the site and actually flag those areas of disturbance, which Mr. Butler noted had already been done since the staff report was published. Mr. Padalino said the two stands of trees that Mr. Padalino had identified in the presentation and the staff report were the tall pines to the west of the proposed entrance and the evergreen trees to the east of the proposed entrance. Mr. Butler said it was his understanding from Mr. Padalino that those trees would not be disturbed

-- and he would recommend memorializing that in a condition because it was not clear from the materials whether they would be disturbed. He recommended that either the plan be changed to include those areas of non-disturbance or that the condition be worded that identified those stands of trees because they were important to mitigate impacts.

Mr. Bivins asked if there were any more members of the audience who wished to speak. Hearing none, Mr. Keller asked the applicant to come back up.

Mr. Hickman said Mr. Herz had raised a good point related to the sight distance easement. He said the development team was still not quite clear about what that would mean and that it was hard to get some answers out of VDOT. Mr. Hickman said his team was still processing the waiver that would change this and make it better and added that the first plan that the Planning Commission saw in January was based on the assumption they would get the waiver. He said their decision to change to the sight distance easement was that they did not want to get the approval from the county and find out down the road they did not get the waiver and to have to go through another three or four months of county review. Mr. Hickman said it was his understanding that they did not have to remove trees if they could talk to VDOT and explain that foliage at that level of site was not a problem. He noted that this was still a new front for the development team and they had a learning curve.

Mr. Hickman said Mr. Herz had just looked at the sight distance easement earlier and had some good questions about it, adding that the development team had not had the chance to sit down and talk about what it would look like.

Mr. Keller asked Commissioners if they had any questions.

Mr. Dotson asked Mr. Shimp a question related to the changes since the earlier plans and how they dealt with the frontage along Rio Road. Mr. Dotson said he was looking for a show and tell to take the words in the staff report and translate them to the map that was on the screen. He said that one of the things in the staff report was "reconstruction of the existing paved ditch along Rio Road East to improve drainage" and asked what that meant.

Mr. Shimp responded that the view on the screen was looking to the east of the entrance. He said this was a good time to reference both Mr. Butler's comments and the 3:1 slope. Mr. Shimp said one of the problems that Mr. Herz was having was related to inadequate existing infrastructure. Mr. Shimp said this project would fix the ditch line, which required regrading of the slopes because the preserved slope ran right to the ditch. He said the issue with the 3:1 slope condition was that the existing slope was about 2:1 so if it was graded back to a 3:1, the applicant would have to remove what had been shown on an earlier slide to be saved. He noted that a condition related to tree preservation was not an issue but the 3:1 slope would contradict that condition.

Mr. Shimp said drainage improvements would be the only work done in that area, which was not for the entrance but was instead to make sure Mr. Herz did not continue to get runoff on his property.

Mr. Dotson asked what drainage improvements meant and asked if that would make the channel deeper to add capacity, or to stabilize the channel.

Mr. Shimp responded that it would be to add capacity by making the channel deeper and wider, and that would make the slope have to tie back in to the existing slope. Mr. Shimp said the ditch along there had rock in it for a regular flow and if it clogged up, the water would kick out into the street. He described the road there as being super-elevated and the water went across the road and down the hill onto the neighbor's property. He said the origin of the work to the east was a drainage improvement and not a disturbance for the purposes of the project.

Mr. Dotson said the second item was construction of curb and gutter above and below the proposed entrance. He asked where the curb and gutter would go and how that would facilitate the beneficial handling of the stormwater.

Mr. Shimp pointed on the map where the curb and gutter would begin and outlined its path. He said it would be an improved control mechanism over what was currently on the site. He said he would also be improving the drainage ditch behind the curve, which would catch the water. Mr. Shimp said the improvements across the frontage were still drainage and entrance related, and when you upgraded something to VDOT's current standards, roads would get wider and the ditch would get deeper and the curb would be larger. He said most of the disturbance was a function of the project bringing the existing conditions up to standards, and that would take care of the drainage issue with the neighbor across the street.

Mr. Dotson said the reason he asked the question was that he could picture a crowned road where the elevation went down and the curb would stop an overflow of water and would contain it until it moved into some sort of inlet. Mr. Dotson said that in this situation, it seemed to him that the water would try to move across the road and away from the curb rather than the curb containing the water. He said he was trying to understand how the curb was helpful.

Mr. Shimp said the section of the road to the west of the entrance did slope toward the project site, and then transitioned at the entrance point and kicked over to the other side. Mr. Shimp said the curb would act to trap the water on the section on the uphill side after the steep corner on Rio. He said the problem had not been adequately captured and the water was currently going into an inadequate channel -- and all of the drainage issues were tied together in the improvements being proposed.

Mr. Dotson asked if there were new inlets or if existing inlets would be enlarged and made more functional.

Mr. Shimp responded that there were and indicated Inlet A on the slide as an existing inlet that would have to be adjusted to ensure it captured the water from a 25-year storm as conditioned by staff to anticipate higher storm frequencies. He pointed to locations for two new curb inlets to pick up stormwater before it got to the entrance and described how this system would work.

Mr. Dotson asked about the red line of the sight distance easement and asked what that would mean for the abutting property owner.

Mr. Shimp said he had not been involved in some of those conversations with the owners but the idea was that in the site line you could look around a tree, but you could not look through a hill. He said the problem the applicant had with the old entrance location was that they would have to cut back a lot more preserved slopes in order to have a clear line of sight. He said the applicant was more hopeful with the sight distance easement because there had been existing mature trees at the location, but the tree canopy was high. Mr. Shimp said that it was possible to see around the area and the applicant would have to work out with VDOT and the neighbor what the final details would be. He said this approach would have a better chance with VDOT than the old design, which would have required disturbance of more preserved slopes.

Ms. More asked for clarification that the applicant was unclear at this point with VDOT and whether the applicant was speculating about what the sight distance easement might mean to the property owner where the site distance was shown. She asked whether the developer was saying the neighbor would not be asked to remove trees.

Mr. Shimp said there had to be a line of sight and that the trees could still be in there, and there was discretion on VDOT's part on how that would go. He also said that if the neighbor was not agreeable, they would ask VDOT for a waiver -- which he said would be an easier direction to ask a waiver for because cars came uphill around that side. Mr. Shimp said there could still be a VDOT waiver if the easement could not be arranged to everyone's satisfaction.

Ms. More said her overall impression was that there were a lot of loose ends, which she was willing to accept. She said staff had done a good job in explaining how those can be met down the road, but the applicant was going to ask for a waiver for the original location. She said that indicated to her that the applicant would build the original location if they got that waiver from VDOT, and that was a piece that was up in the air that she was not comfortable with.

Mr. Shimp said that if the waiver from VDOT for the original entrance was approved, they could go back to that, but they would have to come back to the Planning Commission to amend the permit to disturb preserved slopes. However, he said he did not think that was a likely outcome. He said in the approach of asking for a maximum limit of preserved slopes that would have to be disturbed for drainage and sight lines, if they had to move the entrance 20 feet one way or the other, it should not matter as long as the slope disturbance had not changed.

Ms. Firehock asked for clarification that when Mr. Shimp was talking about the 3:1 slope requiring the disturbance of trees, had he been asking to add language that a 2:1 slope was acceptable.

Mr. Shimp responded that the applicant was okay with the 2:1 slope from the east side of the entrance in the preserved slope area. He said the intent was that if they were to try to revegetate that, they did not want to put it in a steep slope. Mr. Shimp said that within the site, they might want to a 2:1 slope perhaps 500 feet from the preserved slopes. He said the applicant did not want to have that ruled out because of this disturbance. He said the applicant would be comfortable with a condition that would require 3:1 slopes in any area of the preserved slope disturbance on the east side of the entrance, if that slope was vegetated at 3:1, but that the applicant wanted to be able to do a 2:1 slope on the west side because that was where if they were required to do a 3:1, they would disturb more trees and slope without any real benefit.

Ms. Firehock said she did not have any problem with that, and it was also stated on page 6 of the staff report that one mitigation technique would be “implementation of offsite ‘bank erosion control mitigation.’” Ms. Firehock asked Mr. Shimp what he meant by offsite.

Mr. Shimp said he wanted to defer to Mr. Hickman about that item because he had not been involved in all of those discussions.

Mr. Hickman explained that this referred to Mr. Herz’ property.

Ms. Firehock asked if that meant streambank or road bank.

Mr. Hickman said the road leaned into the Herz property instead of leaning into the applicant’s property. He said the intent was to go over and work on the bank to accept the water that keeps rolling onto Mr. Herz’s property. Mr. Hickman said the exact details had not been finalized on how that bank would look, though he said there had been positive conversations about it.

Ms. Firehock said there had been a lot of talk from the applicant about one percent of the stormwater leaving the property and that maybe they would use cisterns or bioswales. Ms. Firehock said she liked to treat as much stormwater onsite and not shunt it off to the street. She asked for the applicant to sum up the overall stormwater strategy because she said it seemed they had a lot of options and possibilities. She said it did not seem totally clear to her and she wanted to know the overarching philosophy for stormwater management. Ms. Firehock urged staff and counsel to consider what would need to be put into the language of the conditions so that the end product was not 1970s era stormwater management.

Mr. Hickman responded that the plans were still in flux. He said a big part of the theme of the project was handling the water, so they had to play with Virginia Department of Environmental Quality rules and certain guidelines. Mr. Hickman said the development team also had to think

about how to create opportunities to do the things they thought were important and that hopefully others would think were important. He said he was not sure he could answer her question other than to say that they would try to grab as much of the water as possible and keep it from getting down to Meadow Creek, as well as slowing down and dealing with the quality. Mr. Hickman said that in the end, the stormwater would hit that line whenever it came down to the bottom. He said that if the stormwater plan had handled the quality side of it, there would then be a conversation about the quantity. Mr. Hickman said they really wanted to collect the water and run it back up and utilize it and do things with it. He said they would go well beyond what they needed to do to meet the other requirements. Mr. Hickman asked if he had answered the question.

Ms. Firehock said she had a lot of experience with sites where people had the best of intentions but came back and said it was too expensive.

Mr. Hickman said he understood that and he was not sure how to work with the county to package that language up to say to pay more attention or to insist on requirements.

Ms. Firehock suggested Mr. Shimp join the conversation because he understood the different kinds of technologies and how this could be proposed.

Mr. Shimp said the way the staff had written the conditions was to require the applicant to have all of the water quality treatment for all of the water onsite, which meant that would establish a performance standard whereas if the applicant created impervious areas, the water had to be treated onsite. However, Mr. Shimp pointed out the language did not restrict the developer as to a water quantity level. He said they would still need to comply with the regulations as they were, which allowed for a variety of options, or it would leave Mr. Hickman the possibility to do other things he would want to do. Mr. Shimp said the idea was that if you captured and treated all of the stormwater, that was really quite a bit above the minimum standard which was where most people bought nutrient credits offsite. He said that was a big step up over the minimum standards and that he saw that as a way of demonstrating that they would meet a higher standard without requiring a specific technology in the conditions. He said that was a good framework that would make the project easily enforceable.

Ms. Firehock said that in developments such as River Bluff, they had permeable paths to houses and measures that reduced the area you had to treat stormwater for. She said some of the surfaces the applicant wanted to pave for the convenience of the residents could be treated differently to reduce the volume of stormwater that would have to be dealt with.

Mr. Shimp agreed and said that because they would treat the water quality onsite, it would incentivize to use those sorts of measures. He said that as a matter of practicality, they would have to use walkways between houses as small micro-bioretenion places just to meet the threshold of the condition.

Mr. Bivins said he had a couple of definitional questions that came from his reading of the two documents. He asked if the common house was what had previously been referred to as the “community house.” He noted that the plats used the phrase “community house” but the phrase “common house” was used in the documents.

Mr. Hickman responded that they were the same thing.

Mr. Bivins said when he was looking at the schematics for the houses, he noted that eight of the structures had garages built into them. He pointed out on the map that these were across from the main parking area. Mr. Hickman said that they had put the driveways there because that helped meet the county’s requirement for parking. He said he was not sure they would be garages when built. He said the development team’s hope was that those would be accessory units.

Mr. Bivins said he was trying to figure out the parking and the reconfiguration of the parking. He asked if they would be putting parking underneath the houses and he was trying to understand the plat because some names appeared and then they disappeared. Mr. Bivins asked for the location of Allwood Lane.

Mr. Hickman said it was in the top corner and would take care of the adjacent properties.

Mr. Bivins asked where the old driveway was on the displayed map.

Mr. Hickman said that Mr. Padalino had pointed to indicate the location where the steep slopes opened up.

Mr. Bivins asked for confirmation that the old driveway would no longer be used.

Mr. Hickman responded yes.

Mr. Bivins stated that the applicant was looking for permission to create a new entrance.

Mr. Hickman said it was about 110 or 120 feet down the road.

Mr. Bivins said his only concern was related to the water that would originate from the project, stating that Condition 4 under staff’s recommendations required the quality to be addressed onsite. He said he assumed that GC7 on the drawing referred to gutters and curbs.

Mr. Hickman confirmed this.

Mr. Bivins mentioned the water that Mr. Dotson and Ms. Firehock had said would come down Rio Road. He asked if that water, plus the water that came off of the property, would somehow find its way into Meadow Creek.

Mr. Hickman said it would go down the pipe.

Mr. Bivins said there would be cleanish water mixed in with not so-cleanish water, and then all of that water would be pushed back up to the property.

Mr. Hickman responded that this would not be the case and they would collect the water coming around, which he called “dirty water” or “street water.” Mr. Hickman said the curb and gutter would capture the clean water and aggregate it so it flowed down to Meadow Creek. He said he was talking about siphoning off of that system onto the development project and putting the water into cisterns that could be run back up to the site to do some interesting things and keep the streams going.

Mr. Bivins asked for clarification that the water from the property should not find its way into Meadow Creek.

Mr. Hickman responded that it would.

Ms. Firehock said they would have to convey the stormwater offsite to a receiving stream or lake. She said there were not too many zero discharges, and that was the way the state stormwater rules were set up. Ms. Firehock said they were not doing anything strange but the developers were proposing to do more water quality treatment than what the state regulations required, with the state regulations changed in recent years to add nutrient trading as a mitigation. She said that as a result, there were fewer low-impact development best management practices -- which she felt was unfortunate. Ms. Firehock said there were some strange issues with the regulations but that could be discussed at another time.

Mr. Hickman said if they did not run the water down to Meadow Creek using the one percent rule, then the development team would clean the water up and have it sit in the cisterns and then the water would be eased back out into the street.

Mr. Keller asked if there was currently a pipe from an inlet on Rio Road going down to Meadow Creek.

Mr. Hickman responded that there was not and said the water crossed the street and hit a wall of concrete and had a path down to the stream.

Mr. Keller asked if the discussion about the pipe would involve another property owner and their permission for access.

Mr. Hickman said that the property owner, Oliver Kuttner, had granted permission to bring the line and sewer to Meadow Creek.

Ms. Riley said she was pleased to hear that the project would involve affordable housing and that there would be a minimum of four units. Ms. Riley asked Mr. Hickman to define what he

meant by affordable housing and who would be served by the units, and what area median income was as the target for people who would be eligible for the units.

Mr. Hickman responded that it was his understanding that there were rules in place that if the developer provided four units, they would get something from the county per existing guidelines. He said it was his understanding that the county would figure out and vet those people. Mr. Hickman said he had a long conversation with Ron White four or five months ago and that he was not sure of the new rules but that the development team would follow those specific guidelines. Mr. Hickman said he was not sure if it was 60 percent and he did not know how the affordable housing structured worked. He said it was a flawed picture and that the market needed to find a way to want to build affordable housing and how to make that work so it was a sustainable model. Mr. Hickman said he was starting to look at ideas in the city with teachers and whether units could be sold for more than \$240,000 and mutually owned. He noted that there were models from Burlington, Vermont -- but the four in this project were set by the county.

Ms. Riley said she would assume that these projects would be for 80 percent below AMI.

Mr. Keller said the last time the project was before the Planning Commission as well as this time, he was excited about the concepts and the storytelling. He said the project was still nebulous and if the development team thought it were ready to go, and the Planning Commission were to recommend approval and the Board of Supervisors were to approve it, the project could end up being very different from what was discussed.

Mr. Keller commented to Mr. Herrick that there was a need to have real definitions about what affordable housing was and whether the definition was for below 80 percent or if it were something that might not even get to the market. He said the county needed to be much more specific about what affordable housing was and if it was for the workforce. Mr. Keller said a lot of these things were being discussed and that his hope was that the Regional Housing Study would lead the county in other directions.

Mr. Keller said he could not support the project but added that he did not want his feeling to come off as being negative about the project. He said he did not think that the project was ready for review before, and he did not think it was ready for review at this meeting. He said there were too many variables and added that he thought many of them could be easily addressed but it would mean going to a next step. Mr. Keller said that as a former design professor who had students doing similar projects, wonderful ideas could come from student work with input from professionals.

Mr. Hickman said he more than understood Mr. Keller's concerns about the uncertainty and that he could agree with that. He said that if his team had brought a lot of specificity to it and nailed down exactly what would happen on the site, he did not know if a recommendation for the approval of the steep slopes waiver would allow enough flexibility at the site plan stage.

Mr. Keller noted that Mr. Shimp had just asked Mr. Padalino a question and asked if the subject was about this matter.

Mr. Padalino asked for the question to be reframed because he did not catch it.

Mr. Keller asked how much maneuverability there would be in the site plan with the steep slopes waiver that had been proposed.

Mr. Padalino responded that hypothetically there would be flexibility because county staff thought of the site plan and the steep slopes waiver as being conjoined applications, as this was an unusual type of special use based on the disturbance that transcended to form and physical expressions. He said most uses were about land use, and this application was a little different so county staff had requested that the plan and the special use permit be reviewed as concurrently as possible.

Mr. Padalino said this was just a request for the disturbance of preserved slopes so if that was approved with conditions, some other by-right development could presumably happen outside of the whole area of slopes.

Mr. Benish said the impact of the slopes would be driven by the conditions of approval and they would run with the land. He said if a different site plan from a different owner were to come in but they were impacting the preserved slopes, they would either do it by this plan or they would resubmit a revised plan. He said that would include water quality, which was offsite, as conditioned in condition 4. Mr. Benish said that was where it was a bit nebulous because those improvements were not necessarily in the preserved slope area, but the impact from the slopes would cause that to be a condition. He said that would still run with the site plan or another site plan submitted by someone else.

Mr. Herrick said that county staff had proposed four conditions, many of which were tied into the specific plans that had already been submitted. He said proposed condition #4 was not tied to any specific plan, but conditions #3 and #4 required certain standards to be met to the satisfaction of the county engineer. Mr. Herrick said that did build in some flexibility and at the same time, it would tie this applicant and any future owners of the property to specific components of the existing plans that were referenced in conditions #2 and #3.

Mr. Dotson said that one of the things he had heard as a concern was that not everything was pinned down, with the biggest lack of specificity being whether or not VDOT would approve the entrance waiver. Mr. Dotson said he thought the answer would be that if the Commission recommended and the Board approved the permit showing the alternative location, the developer would have to come back and amend the special use permit if he wanted to use the waiver. Mr. Dotson asked if that were correct.

Mr. Padalino responded that he did not believe that was correct because the configuration that was originally proposed would involve less areas of disturbance of preserved steep slopes. He

said that was what the application hinged on. He said this was a design move to push the location further down the hill to get away from the need to request a waiver from VDOT and offset that by grading the road bank further back. Mr. Padalino said that if VDOT were to approve the waiver and the developer wanted to locate the entrance in the original location, it would result in a reduction of disturbance near the blind curve where Agnese Street dropped down into the City of Charlottesville. He said it might be a slight reduction in disturbance of preserved slopes. Mr. Padalino indicated the location on the map and said otherwise the disturbance that was shown would still be necessary for the entrance at either location.

Mr. Dotson asked if it were correct that none of the conditions as outlined would have to be modified if the entrance were in the original location.

Mr. Benish said that as long as the original impacts were lesser than those conditions, and as long as the conditions could still be met, there was nothing that would mandate they take an option for lesser disturbance if one were available. He said there would still be a financial incentive to taking the lesser disturbance option.

Ms. Riley asked if an additional condition could be created to address this matter if it were a concern of the Commission that the latest proposed entrance could be conditioned not in the site plan but in the approval of the special use permit.

Mr. Padalino responded that it could in theory.

Mr. Keller asked to make certain that there was nothing in the recommended conditions that would address the patio downhill and lights that shone into the space at night. He said that if the Commission wanted to address that matter, they would need to add something about the offer of vegetated screening. Mr. Keller asked if that were correct.

Mr. Padalino responded that it was, as it related to the adjoining property across the road. He said the conditions did not address those potential impacts but could be potentially added.

Mr. Keller said that from his vantage point, he saw the creativity the applicant was trying to embrace for this project. He said the challenge was to take a European model like the German model and state they would not have any water going off of the site. He said that would have an effect on any changes or modifications that would happen to the steep slopes, and he saw the interconnection between the two. He said that would mean roof gardens on all the units to stop water coming off, which would mean dealing with permeable surfaces for all of the roadways and parking areas and having some form of retention to provide the water back onto the property. Mr. Keller said that more and more, that was what was needed at these challenging sites, but noted that was a personal opinion based on his career in design. He said he was thinking about hydrology.

Mr. Hickman said he heard what Mr. Keller had said and was processing the math. Referring to the entrance, Mr. Hickman said that outside of further conversations with Mr. Herz, his feeling

was that if they went through that negotiation and the waiver came through, they would just have to disturb less, especially toward the east of the hill. He said he was trying to figure out the question about going back to the other entrance and said it would probably be because of conversations with Mr. Herz about the patio, the lights and the safety issues. He said this was a brand-new conversation and his gut said they would not disturb as much because the line of sight would go in his property's direction.

Referring to the water onsite, Mr. Hickman said that he did not know how to address that issue. He said if he had to put landscaped roofs on every house, that would make the homes less affordable. He said it was a great idea and that he loved what Austria did in terms of the ability to do more on your land, but he said he was not sure he could make it work here.

Mr. Keller asked if there were any more questions for the applicant. Hearing none, he closed the public hearing and asked Commissions for a discussion or action.

Mr. Dotson said the applicant had indicated in condition #3a that they believed the intent for the 3:1 slope was in the area to the east of the entrance. He asked if that were correct and if that was staff's intention.

Mr. Padalino responded that the condition was written to apply to all of the disturbance proposed with the application. He said that in working with Mr. Pohl, it was related to the areas closest to the proposed parking area private facility, and that caught staff's attention when they were looking at the site plan and the conceptual grading. He said what he thought Mr. Shimp was saying was related to another area, noting the area on the screen. He said Mr. Shimp had said that if he had to meet a 3:1 slope, which was not shown in the conceptual grading plan, that slope would creep up the road bank high enough that it would have an impact or actually require the removal of the large stand of Virginia pines.

Mr. Padalino said it was hard to make a call without seeing how the grading would work and looking at it at the proper scale. He said he and Mr. Benish were at the property that morning and it did appear that the pines were set up on the crest of the slopes and that there was a fair amount of width between where they had staked the proposed disturbance and the remaining road bank up to where the crest of the trees began. Mr. Padalino said it would be hard to know if there could be more disturbance without impacting the root systems or actually requiring the removal of the trees.

Mr. Dotson asked about the condition that had been suggested by the Southern Environmental Law Center that would require the tall pines and evergreens along Rio Road East to be retained. He asked if that were to be added and the condition clarified that the 3:1 slope would apply to the area east of the entrance, if that would complete the purposes.

Mr. Benish responded that it would. He also said that the condition could be changed to say that 2:1 slope may be permitted west of the entrance to preserve existing trees. He said that

would say basically the same thing as #3a, which would give the latitude to the county engineer and staff to make sure the 2:1 slope was for the purpose of preserving trees.

Mr. Padalino said that perhaps if the 2:1 slopes in that area met the design standards of zoning ordinance section 30, it would not allow 2:1 slopes if they were to be mowed regularly.

Mr. Benish said staff could clean up the language before the Board meeting.

Mr. Bivins asked if that would bring in the explicit notion of preserving those trees or if the language had to be modified.

Mr. Benish said the addition of the 2:1 slopes in #3a if it were to be tied to the preservation of existing trees.

Mr. Keller said that as a landscape architect, it seemed to him that the trees were hitting maturity and really just have a tap root rather than a series of roots. He said they were not doing a whole lot in terms of the water and that deciduous trees were the ones that would be more likely to do that. He said that was another conversation the Planning Commission might want to have with staff and an arborist about why there were decisions to protect some things with the canopy up so high. He asked how much that would really provide visual relief for development that occurred on that curve, and asked if there might be other things that might be more beneficial to the development to not have to preserve those trees.

Ms. Firehock said she was also wondering about where the pines were in their lifecycle of maturity and if they would be going to advance measures to try to protect something that would fall over in 10 years. She said that to the point of stormwater management, the leaf area index of a pine was actually greater than a lot of broadleaf trees because there were so many needles and they were green all year so they actually did a lot for stormwater management. However, Ms. Firehock said that none of the Commissioners or staff could make up an arborist's judgement on the dais so maybe there would need to be some flexibility in the language that they didn't go to a lot of work to preserve something that might not be around.

Mr. Padalino said that staff's intention was for the consideration of the mature stand of pines as a contribution to the character of the district more so than a consideration of the ecological performance. He said the points were well made and well taken in terms of the possibility of sacrificing some things to save something that was in decline, which would be unwise.

Mr. Keller asked Commissioners if someone wanted to propose a motion.

Mr. Dotson said he would attempt one. He said that staff had pointed out that this was an unusual process because it was a special use permit and a site plan moving along at the same time. Mr. Dotson said his impression when he read the staff report was that there was a lot more information than he was used to, even though there were loose ends to determine, and that was the purpose of a site plan.

Mr. Dotson made a motion to recommend approval of SP-2018-16 for EcoVillage Charlottesville as proposed in the resubmitted materials with the conditions outlined in the staff report with the modification to #3A to indicate that 2:1 slopes would be allowed or could be considered in the area west of the driveway to retain the pines and evergreens in that area.

Mr. Keller asked Mr. Dotson if he wanted to say anything about the adjoining property owner.

Mr. Dotson responded that he did not.

Ms. Firehock seconded the motion.

Mr. Keller asked if there were any further discussion.

Hearing none, Ms. Blanton called the roll.

Mr. Keller said he would support the permit because of what he had heard from fellow Commissioners. He said he would take the leap because of the compelling arguments that had been made about trying to push the boundaries of development, and he hoped the county would be rewarded.

The motion was approved by a vote of 6:0 (Ms. Spain was absent from the meeting and vote).

Mr. Keller thanked the applicant and his team for getting the county and the Commission to contemplate many issues over the past couple of meetings. He thanked staff for the concise way they had presented the summary so that the Commission could go through the changes.

Ms. Firehock commented that it was worth the effort to go back and have another look at this project, and it was a great example of when the Commission could encourage deferral and as a result get a much better product.

Public Hearing Items

SP201800019 Greenfield Terrace Apartments

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 04500-00-00-15700; 04500-00-00-15800

LOCATION: Greenfield Terrace: undeveloped area at the end of the cul-de-sac. Approx. 420' from the intersection of Greenfield Terrace and Berkmar Drive, and approx. 310' from the intersection of Station Lane and Rio Road W.

PROPOSAL: Amend existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800 from the existing SP. New SP201800019 to build 33 multifamily residential dwelling units in a new 39,000 sq. ft. three-story building on Tax Map Parcels 04500-00-00-15700 and 04500-00-00-15800.

PETITION: Amendment to existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800. New SP to allow R-15 (15 du/acre) multifamily residential units under Section 23.2.2.9 of the Zoning Ordinance. 33 multifamily residential units were proposed on two parcels (TMP 45-157 and TMP 45-158) on a total of 1.96 acres at a density of 16.84 du/acre. Special Exception request to waive the 20' buffer requirement for adjacent lots zoned residential per 18-21.7(c). Special Exception request to use 18-4.19 residential setbacks instead of 18- 4.20 commercial setbacks per 18-21.7(a) and (b).

ZONING: Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/ acre).

OVERLAY DISTRICT(S): Airport Impact Area; Entrance Corridor; Steep Slopes- Managed
COMPREHENSIVE PLAN: Flex Area within Rio29 Small Area Plan – area intended to allow a flexibility of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 2-5 stories, built close to the street, with pedestrian access and relegated parking. (Tori Kanellopoulos)

Ms. Kanellopoulos introduced herself as the reviewer for the application. She said this was a public hearing for a special use permit to establish 33 multifamily residential dwelling units on two parcels totaling 1.96 acres. She said the proposed multifamily residential building would be located on a street called Greenfield Terrace adjacent to where the public street intersected with a private street called Station Lane. Ms. Kanellopoulos said this was approximately 420 feet from the intersection of Greenfield Terrace and Berkmar Drive and said this was 310 feet from the intersection of Station Lane and Rio Road West. Ms. Kanellopoulos said there were five adjacent town homes on Station Lane and there was an existing daycare and office use. She said there were also several existing professional and medical office uses along Greenfield Terrace.

Ms. Kanellopoulos said the property was zoned for Commercial/Office, which allowed for multifamily residential uses by special use permit. She said the adjacent parcels were zoned for Commercial/Office, R-4 and R-6 residential. She said the property was designated Flex in the Rio Road Small Area Plan. Ms. Kanellopoulos said properties with this designation may include residential, commercial, retail, office, institutional, and employment uses. She said that meant the proposal was consistent with the Comprehensive Plan designation.

Ms. Kanellopoulos said the proposal would require two motions and therefore two application numbers for approval. She said the first was SP-2019-1 to remove TMP 45-158 from the existing special use permit, SP2000-74, which established the adjacent townhomes on Station Lane. She said the conditions of SP2000-74 were no longer relevant and did not need to be applied to TMP45-158. Ms. Kanellopoulos said the office building that was approved for this parcel was never built.

Ms. Kanellopoulos said the second application number was SP-2018-19 to establish 33 multifamily residential units in a three-story, 39,000-square-foot building with one and two-bedroom rental units. She said that special use permits in Commercial/Office zoning would allow for residential units of R-15 density and the applicant had proposed to use affordable

units to qualify for a density bonus to allow for a density of 16.84 units per acre. Ms. Kanellopoulos said this request would be finalized at the site planning stage.

Ms. Kanellopoulos said there were no major concerns noted by staff or during the community meeting. She said the main issue raised at the community meeting was traffic which transportation planning staff, and VDOT did not have concerns about. Ms. Kanellopoulos said VDOT had stated the additional unit count was not sufficient to warrant any intersection improvements. She said if the special use permit was approved, the applicant would have to go through the site plan process as well as the Architectural Board Review approval process because the property was within an Entrance Corridor.

Ms. Kanellopoulos said there were also two special exceptions requested in the proposal and the intent of both was to treat it as residential even though the property was within a commercial district. She said the first was to waive the 25-foot commercial buffer requirement between residential commercial districts per section 18-21.7(c). Ms. Kanellopoulos said there was only one adjacent parcel where this requirement was not being met, which was the adjacent and undeveloped parcel to the north owned by Albemarle County and shown in the exhibit in the purple box.

Ms. Kanellopoulos said the proposal will still need to meet steep slope and screening requirements at the site planning stage. However, she said the 25 foot undisturbed buffer was intended for commercial uses and not for residential uses and in order to allow for the proposal to fit within the site, staff recommended approval of the special exception.

Ms. Kanellopoulos said the second special exception was to apply residential setbacks for section 18-4.19 instead of commercial setbacks under section 18-4.20. She said that staff had recommended approval of the special exception given that the proposal was a residential use. She said that parking would still need to be screened per site plan requirements, and there might need to be additional Architectural Review Board landscaping requirements.

Ms. Kanellopoulos said staff recommended approval of the special use permit application with the conditions, but she would not go through them in detail because they were in the staff report -- although she could answer questions and elaborate on the reasons.

Ms. Kanellopoulos presented staff with motions for the Commission's consideration. She noted there were three other motions for the other special use permit application number and the two special exceptions. She said the two special use permit applications had the same conditions. She asked if there were any questions on the motion.

Hearing none, Ms. Kanellopoulos went on to state the next motion also recommended approval with the same conditions. She said there was an additional finding for that motion because the new building would be in the airport impact overlay district and in order to achieve bonus density the Planning Commission had to make the finding that the development was acceptable.

Ms. Kanellopoulos displayed the motion for the special exception request to waive the commercial buffer requirement and then displayed the motion for the final special exception to use residential setbacks.

Mr. Keller said that in total the Planning Commission would be doing four motions.

Ms. Kanellopoulos said yes.

Mr. Keller said that after the last meeting, they wanted to be totally clear on the number of motions.

Mr. Keller asked the Commission if they had any questions. Hearing none, Mr. Keller opened the public hearing.

Mr. Greg Powe introduced himself as having an architectural firm in town that focused on urban mixed-use and multifamily properties. He said he was also part of a development services group called Urban Places.

Mr. Powe said he had had the pleasure of working with the workgroup with the Rio Road Small Area Plan with members such as Mr. Dotson. He said he was enthusiastic for the potential of a real town center on US 29. He said when this property became available, because it fell within the area of the Small Area Plan, his firm felt that it was well worth developing. He noted that it was undeveloped at the moment.

Mr. Powe said his firm had looked at the zoning and felt that a multifamily focus would be more appropriate to the market and would bring more diversity to the little cul-de-sac which was really just an employment site right now. Mr. Powe said it was within easy biking distance of the future town center and when the improvements such as trails happen, it would also be within walking distance. Mr. Powe said the property sat right on two major bus routes.

Mr. Powe said his firm was not proposing a mixed-use on the site but submitted that by adding multifamily to Greenfield Terrace they would be creating more of a mixed-use street to start working on the edges of what would become the town center area.

Mr. Powe said that Planning Commissioners might have known about his involvement with affordable housing. He said his firm was proposing six affordable units and that they could do that without subsidizing at 80 percent of the area annual median income. He said he had not talked to the county yet about whether there were any programs to subsidize lower than amount. He said he would have no problem with that but financially the project could be sustained at 80 percent of AMI for six of the units. He said he would like to see the mix of the affordable units be the same as the mix of wach building itself, half of which would be two bedroom / two bath units and the other half would be one bedroom. Mr. Powe said he thought that would be the sensible thing to do with the affordable units.

Mr. Powe said his firm saw this project as being millennial-focused but not exclusively so the two bedroom units would be designed with two separate suites with their own rest rooms and a shared living room. He said the one bedroom units would work for others as well, including younger couples.

Mr. Powe said after looking at the context of Greenfield Terrace and not finding a lot of merit in what was there to relate to, they decided to look forward and not backward on this project with a modern expression. He said part of the selfishness of that was that it would have a flat roof. He said they had a lot of fun in D.C. right now with 28 affordable unit apartment building that was net zero. He said he really wanted to try to get there with this building and that flat roof would help with a solar array if the trees to the west do not foil that goal.

Mr. Powe said the impacts of the development would be modest and noted that VDOT said they had not problems.

Mr. Powe said the development would try to preserve as much of the trees to the west. He said the site steeply rises to the west and they would have to flatten out enough of the land to get parking but they would preserve as much as they could. He said that would require some retaining walls in order to stay out of a buffer to the west.

Mr. Powe said that to the north, they did not show a buffer, but the land was owned by the County and was adjacent to a County school. He said it had been assumed that would be kept either for parkland or for future school use, but that had not been determined by the county. He said the property had the benefit of woods directly to the north.

Mr. Powe asked if there were any questions.

Mr. Keller asked Commissioners if they had questions for the applicant. Hearing none, he opened the public hearing.

Mr. Bivins asked if there were any individuals who would like to speak to this matter.

Mr. Bivins noted that no one wished to speak to the item.

Mr. Keller invited the applicant to come forward to make a summary or to answer questions.

Mr. Dotson referred to Attachment I in the packet which was a letter from a resident on Station Lane who talked about losing the access through Station Lane and on down so that they could get out on Rio at the signalized intersection. Mr. Dotson said that in looking at the site plan in the packet, it looked like the access would be retained.

Mr. Powe said that not only would the access be retained, but that the county had requested it be maintained as a private road that interconnects the cul-de-sac to Rio Road.

Mr. Dotson asked for confirmation that it was not an issue that Station Lane would be closed. Mr. Powe responded that was correct.

Ms. Firehock said she had a design question that did not necessarily have to do with her vote. She said she was curious that they put the recreation area on the side of the cul-de-sac and across from the parking. She said she was thinking that someone wanting to go out their door and recreate close to their residence and not having to go down the street and cross the parking.

Mr. Powe said he thought that there was room closer to the building on the building side as well. He said topography was a challenge and that the initial uses that they were thinking of did not lend themselves to the topography. He said they thought about croquet and bocce as passive nice green areas. He said they did not want to put too much of an outdoor congregation area right out front of the units themselves. He said it was a combination of topography and privacy but added that the site plan would have to be far more definitive of what those outdoor recreation areas are.

Mr. Powe said bikes would be an important part of the project because of the trails and so every one would have private bike parking in the basement. He said they wanted an adult tot-lot. He said the county still required tot lots so they would find something that was millennial for recreation.

Ms. Firehock asked Mr. Powe if he imagined the millennials would be having children. She said he had said that the target market was millennials but she said she had some millennials who had kids. Ms. Firehock said people like to be able get to recreation sites to see their children play.

Mr. Powe said that in this market, family housing tended not to be apartments. He said these units would be smaller one and two-bedroom units. He said they were not small for one and bedroom units, but they were one and two bedroom apartments. He said that would certainly be suitable for a child in the second bedroom. He said that possibility was by no means not welcomed. Mr. Powe said that this location being close to the future village center that it would be attractive for young folks and for empty nesters such as himself who were looking to downsize.

Ms. Riley said she appreciated Mr. Powe's commitment to building affordable housing but that he had been speaking with a lot of clarity about what he was providing tonight. She asked Mr. Powe what his understanding was for the length of time and the term that the units would be affordable.

Mr. Powe said the County had very specific guidelines and his firm's goal was to be more ambitious than the guidelines. He said they were already going beyond the minimum number that the County would normally look for in a special use permit. He said his firm was talking

with even more partnership potentials which could get even more affordable units. Mr. Powe said his firm was comfortable with the numbers because they were at 80 percent sustainable without a subsidy. He said they wanted to explore the potential for subsidy. Mr. Powe said he was not sure that the County had a clear path to that but he was on the Regional Housing Partnership's executive board with Supervisor Ned Gallaway and others. He said hopefully there would be clarity coming out of that on a regional basis and Albemarle County had been embracing that whole regional approach to looking at affordable housing shortage. Mr. Powe said he was optimistic that there might be ways to find some subsidies beyond the market rate.

Ms. Riley said she thought it was great that Mr. Powe would consider going below 80 percent AMI.

Mr. Powe noted that there was not enough housing for 80 percent around so he would not feel guilty if that was what this product does. He said his firm does plenty of 100 percent affordable projects as well.

Mr. Bivins thanked Mr. Powe for the project and said he was excited about the project and how it had gotten a lift because of the Rio Road Small Area Plan.

Mr. Bivins asked for confirmation that the cul-de-sac on Greenfield Terrace would still remain open. He asked if he would be able to come down the street and come into the new development and exit out onto Rio Road. Mr. Powe responded yes and noted that was an existing possibility because it was a through private road today. He said the County was specifically asking for this. He noted he was surprised it was not a condition.

Mr. Bivins asked Mr. Powe to tell the Commissioners the make-up of the six units. He said there would be three different types of dwellings.

Mr. Powe responded that they did. He said 50 percent of the mix would be two bedroom units and the other 50 percent would be one bedroom units and one bedroom units with a den. He said the dens would happen around stairs. Mr. Powe said his firm was saying that the affordable mix should be the same as the building mix.

Mr. Bivins offered advice that Mr. Powe not market the property to empty-nesters because there were a bunch of people his age who never had children and who did not have a nest that will ever be empty who would perhaps want to live in these units. Mr. Powe said he understood the point and said there was a lot of jargon that should really be more considered.

Mr. Powe said that some people did not like the term senior, either, but they fit the description.

Mr. Keller closed the public hearing. He asked Commissions for discussion and action.

Mr. Dotson said he was willing to make a series of motions if that was desired. Mr. Keller asked staff to counsel the Commission that there were making the motions in the proper order. Ms. Kanellopoulos said she would try.

Mr. Dotson made a motion to recommend approval of SP-2019-1, Greenfield Terrace Amendment, with conditions as stated in the staff report. Ms. Riley seconded. Ms. Banton called the roll.

The motion was approved by a vote of 6:0 (Spain absent).

Mr. Dotson made a motion to recommend approval of SP-2018-19, Greenfield Terrace, with conditions as stated in the staff report and with the finding that this development will reduce or be equivalent to hazards and/or noise impacts anticipated under standard level conventional development in the Commercial/Office zoning district. Ms. More seconded. Ms. Banton called the roll.

The motion was approved by a vote of 6:0 (Spain absent).

Mr. Dotson made a motion to recommend approval of the requested special exception to waive the 20 foot buffer requirement for the reasons outlined in the staff report and Attachment F. Ms. Riley seconded.

The motion was approved by a vote of 6:0 (Spain absent).

Mr. Dotson made a motion to recommend approval of the requested special exception to use 18-4.19 residential setbacks instead of 18-4.20 commercial setbacks for the reasons outlined in the staff report and Attachment G. Ms. More seconded. Ms. Banton called the roll.

The motion was approved by a vote of 6:0 (Spain absent).

Mr. Keller thanked staff and the applicant and said the item would be moving on to the Board of Supervisors.

Mr. Keller said the Commission would take a five minute break.

After the break, Mr. Keller introduced the next item.

SP201800021 Waldorf School SP Extension

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCELS: 06100000017000; 061000000172A0; 06100000017200; 06100000017400

LOCATION: The existing Waldorf School (TMP 61-170 and TMP 61- 174) was located at 120 Waldorf School Road, Charlottesville, VA 22901. The two parcels proposed for school programming expansion were located at 738 Rio Road E, Charlottesville, VA 22901 (TMP 61-172A) and 746 Rio Road E, Charlottesville, VA 22901 (TMP 61-172).

PROPOSAL: Amend Special Use Permit SP200600010 to include Tax Map/Parcels 061000000172A0 and 06100000017200 to provide additional education programming space for the Waldorf School. The school plans to use the existing residential buildings and convert them into additional classrooms and programming spaces. Any increase in students will remain within the SP limits of 350 students. No residential units were proposed.

PETITION: Section 15.2.2(5) Private Schools ZONING: R-4 Residential (4 units/acre) which allows residential uses; private schools by special use permit.

OVERLAY DISTRICTS: Airport Impact Area; Steep Slopes- Managed; Steep Slopes Preserved. COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 2 of the Development Area of the Places29 Master Plan. (Tori Kanellopoulos)

Ms. Kanellopoulos introduced herself and said the item was a public hearing for a special use permit to expand an existing private school, the Waldorf School, onto two adjacent parcels to provide for additional education programming space. She said the Waldorf School was now comprised of four parcels totaling about 15 acres. She said the school was located on Rio Road East at the intersection of Waldorf School Road and Pen Park Road. Ms. Kanellopoulos said the school was adjacent to the Village Square development and was across the street from River Run.

Ms. Kanellopoulos said the school was currently consisting of a grade school, an early childhood school, pavilions, a sports court, a library, outdoor play area, and two parking lots with 47 total spaces. She displayed an image that depicted the existing two parcels in red and said that the two newly acquired parcels, which were tax map parcels 61-172 and 61-172A, were outlined in blue. She said that there was one adjacent owner to the north whose property was already partially adjacent to the school and was now fully adjacent.

Ms. Kanellopoulos said the property was zoned R-4 residential and which she said allowed for private schools by special permit. She noted that Charlottesville Catholic School and CATEC were also zoned R-4. She said the property was designated as Urban Residential Density in the Places29 Master Plan and the Comprehensive Plan, and that properties with that designation may include residential, schools, commercial, office and service uses. Ms. Kanellopoulos said that meant the proposal was consistent with the Comprehensive Plan designation.

Ms. Kanellopoulos said that if structurally possible, the school would use the two existing residential units and existing storage structures on Tax Map Parcel 61-172 and 61-172a for additional programming, administrative, and storage space. She said a new tot lot was proposed and was located more internally and away from the adjacent property owner. She said the school would continue to use pedestrian paths and sidewalks to provide connectivity throughout the site.

Ms. Kanellopoulos said the hours would remain the same at 8:00 a.m. to 6:00 p.m. and that the maximum number of students would remain the same at 350. She noted that the school was currently well below that figure. Ms. Kanellopoulos said that the school would continue to use

the existing safety fence along Rio Road and that the school would continue the existing fence along the property line with the adjacent property owner, and that would mean a requirement to provide landscaping screening if the use of the building closest to the property, labeled building A, would change from anything other than incidental storage.

Ms. Kanellopoulos said that any new structures on TMP 61-172 and 61-172a must be located within the building envelope shown on the concept plan as a black box with dotted lines. She said this would allow for a similar building footprint area within the same uses if it were to turn out that the structures were not adequate for these uses.

Ms. Kanellopoulos said no new parking spaces would be required or proposed and that no new access was required or proposed. She said the school coordinated with Fire/Rescue and VDOT and it was determined that a gate with a Knox Box for emergency access would be the best option for the existing driveway to access the two newly acquired parcels.

Ms. Kanellopoulos said staff was recommending approval of the special use permit application with conditions, and said that because the Planning Commission had seen them in the staff report, she could return to address them any question as needed or address the reasoning behind them.

Ms. Kanellopoulos displayed the one motion for the Planning Commission's consideration. She asked if the Planning Commission had any questions.

Mr. Keller asked if there were any questions for staff about the conditions.

Mr. Dotson asked to confirm his understanding that this would not allow for an intensification of the school because it would be the same number of students. He said it was his understanding this permit was to allow the school to use the additional land that they own. Ms. Kanellopoulos responded that was correct and that because these parcels were zoned residential and because the school was well below their maximum number of students and that would not change with this proposal.

Mr. Keller asked if there was any further questions from staff. Hearing none, he opened the public hearing and asked to hear from the applicant.

Mr. Daniel Hyer introduced himself as the engineer for the project. He said he was the father of two students who go to the school and the husband of a spouse who works for the school. He said that was why he was representing the school on the project.

Mr. Hyer said the Charlottesville Waldorf School was an independent school in the county that offered a nature-based educational program that was unique to their methodology. He said he would make one correction to Ms. K. that the parcels were not newly acquired and that the school had owned them for some time. He said the units were apparently rented out as residential units.

Mr. Hyer said the goal was for the school to begin to provide additional space for their early childhood program which he said was growing. He said that similar to the little red house on Rio Road which was an early childhood building, the two residential properties would be renovated and converted into school program space. He said because they had been rented for some time, school administration and officials had not been in the buildings to evaluate them in terms of how many classrooms per building could be in there, but that they were imagining it would be one per building. He said that maybe there would be two in the larger unit closer to the residential property but what was to be determined.

Mr. Hyer said this was a pretty simple application and that they just wanted to extend the use and provide some pathways to provide a perimeter fence and increase vegetation and turn the attention inward to the campus. He said this would create an early childhood campus within the broader campus.

Mr. Hyer said the school provided an education for children as young as 3 up through 8th grade. He said the school was not asking for any increases but just for an opportunity additional space for classrooms.

Mr. Hyer said that was the end of this presentation and said he was available for questions.

Mr. Keller asked the Commission if there were any questions for the applicant. Hearing none, he thanked Mr. Hyer.

Mr. Bivins asked if there was anyone in the audience who wished to speak to the matter.

Mr. Keller noted that there were no speakers. He asked for the applicant to return to summarize the application. He asked the Commission if there were any questions for the applicant.

Ms. Firehock asked if any neighbors had expressed any concerns. She said that Mr. Hyer had said the tot lot would be more central and not up against any fences, but she said little people coming and going still would be making some noises and wanted to know if there were any concerns from the neighbors.

Mr. Hyer said the neighbors had not made any mention or concerns. He said they had held the community meeting and the school had been as friendly with the community as they possibly could be, and that there were already a gaggle of kids playing by the fence to the west of this area. Mr. Hyer said the school intended to try to corral the students closer to the center of the campus.

Mr. Hyer said there had been no complaints from neighbors.

Mr. Dotson said he had a question that dawned on him because of the pictures that were shown on the screen. He said the existing houses must have driveways off of Rio Road East. He asked if those driveways continue to be used once they became classrooms or would all of the access be internal off of the major school driveway.

Mr. Hyer said the two homes were sharing a driveway and that while it would not be closed off to Rio Road East, it would not be promoted as an access point for parents to drop off their students. He said there would be a vehicular gate there in case someone had to drive in for some reason or if an emergency vehicle needed to get in. Mr. Hyer said there was no intention to use the existing residential driveway for access.

Ms. Riley said the staff report had mentioned that there was concern about increased traffic from this and that the school had said they would consider moving the drop off and pick-up to the rear of the main property if it became a real issue to prevent queuing on Rio Road East. Ms. Riley asked Mr. Hyer to describe where the pick off location was currently and why it was being proposed as a way to change if it becomes an issue.

Mr. Hyer said that the school had had staggered drop off times for the two programs. He said the grade school of grades 1 through 8 were to drop off at a time earlier than the early childhood. He said that operationally the school had made moves to begin to mitigate what could be a perceived increase in traffic. Mr. Hyer said at this point of the school year, the school had also changed their drop off pattern in the morning to have it on the westernmost part of the campus by the outdoor pavilion. He said those changes had already been made.

Mr. Bivins said one of his colleagues had asked about the tot lot. He said that on the property close to Rio Road there was a larger gumdrop tot lot and a smaller squiggly tot lot. He asked if those would both remain or if the squiggly one would go away leaving only the gumdrop.

Mr. Hyer said the smaller squiggly one would likely remain. He said it was really just a sandbox. He said the newer one would be a little more formalized and that there was a hill there and they were going to try to use the hill to build a natural playscape.

Mr. Keller asked that when the fencing was gone, the applicant would consider having the outside of the fencing face outside of facing in.

Mr. Keller thanked the applicant and closed the public hearing.

Mr. Keller asked Commissioners for discussion and action.

Mr. Dotson said he was on a roll and moved to recommend approval of SP2018-21, Waldorf School, with conditions as stated in the staff report. Ms. More seconded.

Ms. Firehock said she thought it was a very well-prepared proposal and that she appreciated the level of detail.

Ms. Banton called the roll.

The motion was approved by a vote of 6:0 (Spain absent).

Mr. Keller thanked the applicant and said the item would be moving on to the Board of Supervisors.

ZMA201600022 Moss (2511 Avinity Drive)

Ms. Megan Nedostup introduced herself and said she would be going through the staff report. She said that with the exception of Mr. Bivins, all other Commissioners had been present at the last Planning Commission meeting where this proposal had been discussed. She said her presentation would be short and if Commissioners had any additional questions to cover, she would have extra slides at the end of the presentation to go through.

Ms. Nedostup said the proposal was one to rezone from R-1 to Planned Residential Development (PRD) and that a public hearing was held on September 26, 2017 and was deferred by the applicant at that time to address nine issues that were identified in the staff report.

Ms. Nedostup showed an image to orient the Commission on the location, which was located along Avon Street Extended next to Avinity and by Cale Elementary School. She then displayed the plan that had been submitted and reviewed at the last Planning Commission meeting in September 2017. She said that not a lot had changed in terms of design. Ms. Nedostup said the two buildings and the parking area were roughly in the same location. She said there had been added additional pedestrian facilities and the parking had been modified and the courtyard had been extended.

Ms. Nedostup said the applicant had addressed several of the issues that were identified at the last planning Commission meeting to staff's satisfaction, as was outlined in the staff report. She said that one of the significant issues identified and addressed included access to the site from Avinity Drive. Ms. Nedostup said at the last Planning Commission meeting, the developer had not demonstrated that they had adequate access but since then they had worked with the adjacent property owner and obtained access. She said there had been a lack of information and justification provided at the last meeting for the reduction request for the Planned Resident Development. She stated there was a minimum of three acres and the developer wanted to reduce that to 0.9 acres. Ms. Nedostup said the developer had submitted additional information that demonstrated 25 percent open space onsite, including the courtyard and pedestrian circulations throughout the site. She said staff was satisfied and could support that request.

Ms. Nedostup said another issue had been the lack of detail regarding affordable housing. She said the applicant did provide language on the application plan to address the concern of 20 percent, and staff had found that the language met the policy in the Comprehensive Plan.

Ms. Nedostup said that due to the applicant's response and ability to address the issues, staff was recommending approval of the rezoning and in addition to the rezoning request, there was a request for a special exception for the reduction in the required PRD acreage from 3 acres to 0.9 acres. She said a detailed analysis of this request was provided in Attachment D.

Ms. Nedostup offered to answer questions.

Mr. Keller opened the public hearing and invited the applicant to speak.

Mr. Justin Shimp introduced himself as the engineer for the project. He noted that some time had passed since the application was last before the Planning Commission, when all Commissioners except one had been present. He said he would give a quick run-through of the application to highlight changes and would report on the interactions with the neighbors.

Mr. Shimp displayed an image of the subject house and noted that the built Avinity neighborhood was in the background. He then displayed an aerial photo that showed the scale of the development relative what had been built, pointing out that a lot of the development that had been built was phase 2.

Mr. Shimp said the adjacent lot was owned by Mr. Jason Moss, who was present at the meeting. Mr. Shimp said Mr. Moss had lived for about 30 years in a house that was displayed on the screen. Mr. Shimp said it was an interesting situation where the development had happened all around them and the Mosses had come back with their own piece to redevelop. Mr. Shimp said this was one of the rare times this had happened in his career.

Mr. Shimp showed another image, which he said depicted an attempt to show the buildings were being made at scale that was similar to what had been built around it. He said the difference was that the newer buildings were multifamily buildings so there would be more people in smaller spaces, but the size of the buildings was equivalent to a three-unit townhouse and a seven-unit townhouse if it were built to what was normally within Avinity.

Mr. Shimp said the property was about one acre and had an existing house in the middle. He said there was a driveway that was built as part of the Avinity neighborhood. He said this driveway was the main reason why it had taken the application 18 months to get back to the Planning Commission. He noted that the driveway was due to foresight from a prior Planning Commission in 2006 that had put a condition on the application plan for Avinity that inter-parcel connections be provided, and it ultimately ended up happening with the easement.

Mr. Shimp said someone had been thinking ahead because the Avinity driveway used to be in one location and there was an easement. However, he said when a new entrance was built to

the approved PRD, there was a lack of coordination on the site plan but it had been caught by the Planning Commission and had been attached to the zoning, and that had made it a legally binding requirement so that was how access to the subject property had been granted.

Mr. Shimp displayed the site plan and said there had been a lot of details in the plan. Mr. Shimp said that PRD and Planned Unit Development applications normally spoke to a suburban construct, so the 25 percent open space requirement, some people might think that would mean preserved trees. However, Mr. Shimp asked what would be done with a 1-acre infill site. He said there was really not a good zoning ordinance for that in Albemarle, so the request was for a PRD with a request for a special exception to go from 3 acres to 1 acre. He said they had demonstrated via detail in the plan that there was sufficient amenity area for the residents. Mr. Shimp said that in this case, pretty much all of the 25 percent was usable space, whereas many times there would be trees that were nice but not an actual amenity area. Mr. Shimp said all of the space at Avinity was usable for different functions, with a courtyard with a landscaped lawn game area and another grass area to walk dogs.

Mr. Shimp showed an image of the street to give an idea of the missing piece in what was otherwise developed as an urban form. He showed a photo of the Sam Craig units being built along Avon Street. Mr. Shimp said his firm modeled the architectural requirements after those units. He said another of the confusing aspects of this had been that Avon Street used to be an entrance corridor. He said the developer had said they did not need to do an architectural proffer because the ARB would require a comparable design. However, Mr. Shimp said that had ceased to be the case, so his client had hired an architect to produce a rendering for the proffer which picked up the detail of the Craig units so that in construction they would look similar. He said that had been one of the questions from the staff and the neighbors. Mr. Shimp said this would be a different product from what was around, but he said he thought that they have demonstrated that the scale and design was compatible.

Mr. Shimp presented an illustration showing that the Craig units were three stories with a roof top, and he noted that the Avinity Moss units would be three stories with a low hip roof and a very similar look.

Mr. Shimp said he did not have traffic numbers but there was only a very minimal increase and that was determined to be adequate.

Mr. Shimp said that because the application had been deferred for so long, there had been a neighborhood meeting two and a half years ago. He said the neighborhood had changed and people had moved in and out. Mr. Shimp said they held another neighborhood meeting a few nights ago and he said he thought some people were relieved to see some of the architectural renderings and that there was compatibility. He said those were some of the questions that they answered.

Mr. Shimp said one small item was brought up at the neighborhood meeting that he was willing to address and keep working on between now and the Board of Supervisors meeting. He stated

that the plan had a required screening fence on the back of the property, which was required by the ordinance to be six feet.

Mr. Shimp said the adjacent neighbors had noted that at one point the PRD had been intended for higher intensity than the single house. He said that development would have required an eight-foot screening fence, and he had agreed to match that height -- which would be clarified in the final application plan.

Mr. Shimp pointed to an image of a house that he said would have the potential of light shining in from the parking lot. He said they would agree to provide a solid fence at that portion of the land to provide a little extra screening.

Mr. Shimp said another item that came up at the neighborhood meeting was the potential for people from this development to stroll over to Avinity and use their clubhouse, patio and dog park. He said because this development would be a rental community, the owner had offered to put in a condition that if residents were to go over and use those, that would be grounds to be removed. However, he said the preference was that this new development would join the Avinity Home Owners Association. Mr. Shimp said they would send them a letter.

Mr. Shimp said that had nothing to do with the zoning question, but he wanted the Planning Commission to know they would submit a letter offering a contribution to the maintenance of the road, which was currently free to the owner in exchange for an opportunity to buy into the HOA so that people who lived in the new development could use those amenities and it could be one community. He said that in the context of Avinity, a product that was really missing was small apartment buildings with 20 percent affordable units, and that would be five affordable units. He noted that this would fill in the piece.

Mr. Shimp said he felt remaining items could be resolved from a zoning and application plan standpoint, and a few minor tweaks with the fencing detail would move this forward.

Mr. Keller asked Commissioners if there were any questions for Mr. Shimp.

Ms. Riley stated that Mr. Shimp would match the eight feet and asked if there was any vegetation or any other screening beyond the fence.

Mr. Shimp responded that it would just be a fence on that side.

Ms. Riley asked how close the Avinity fence was to the fence. She asked if it were correct that they were not close.

Mr. Shimp responded that they were pretty close and that it would need coordination. He said that the site plan for the adjacent property required them to put a fence up, and now he was required to put up a fence, so there would be competing fences.

Ms. Riley asked how much space would be between the fences.

Mr. Shimp said it could be as little as a foot.

Mr. Keller asked Mr. Shimp if that was something he was hoping to work out with the HOA.

Mr. Shimp responded that he would work with staff on the fencing issue and tweak the application plan to clarify that. He said it was a neighbor to neighbor issue where the ordinance required one person to build a fence and the ordinance required another person to build a fence, and they just needed to do that in a reasonable way. He said it was a maintenance issue but that they didn't want there to be an odd space that got overgrown with weeds or wildlife.

Mr. Keller asked if there were any further questions.

Mr. Bivins asked if there were any members of the audience who wanted to speak to the issue.

Mr. Paul McArter of 2012 Avinity Loop introduced himself and said he had spoken to the Commission several times before. He said he had three things he wanted to state that were concerns on his behalf. He said one of them had already been alluded to working on, which was the spillover in to Avinity. He said some of Avinity's amenities like the clubhouse were behind lock and key and were not necessarily a concern -- but sidewalks, lawns, the dog park, doggie bags, a future playground and several things like that were concerns from both a wear-and-tear and liability perspective.

Mr. McArter said that one thing Mr. Dotson had mentioned last time was that you drive past the Avinity sign to get to this place, and obviously anything on the other side of that sign would be part of Avinity. Mr. McArter said they he was happy to hear they were discussing the possibility of joining the HOA. He said Avinity was developer run and that would mean some stuff was outside of the homeowner's control. He wanted to make sure those issues were brought up and that it was nice to hear there was something to work with.

Mr. McArter said the second item was the change to the entrance corridor rules. He said one of the concerns he had was that the developer for Avinity II made promises up front about what it would look like when done, but now the county had lost the oversight control as an Entrance Corridor. He said if there was a mechanism to make sure that this development was actually built like what they recommended, that would relieve some concerns for residents.

Mr. McArter said the third item was not specific to the project but was about Avon Street Extended as a whole. He said that Cale Elementary School was getting very overwhelmed by all of the new developments that were going in. He said that adding this with the two bedrooms, which would lend themselves to an additional child, added to concerns about Cale getting more people given to them in a very short period of time.

Ms. Cara Cavanaugh at 2144 Avinity Loop said that she appreciated the neighborhood meeting and that a lot of her questions and concerns had been answered. She said she just wanted to touch on a few things to make them public record. She said that Mr. McArter had mentioned the need for assurance that the design piece was what they would see when it was built. She said that based on the new changes, she appreciated the design cues that were taken from the Craig buildings. She said she hoped that along with the landscaping would actually be done. Ms. Cavanaugh said she could not say that on other developments within that property. She said she had been told that because one was residential, and one was site plan, but she was now being told that was not necessarily true and the oversight might not be there.

Ms. Cavanaugh said her second piece was the maintenance and the property management and the tenant management. She said she was all for affordable housing and apartments. She said she lived in apartments for 18 years. However, she said that in the residence that was currently on the property, there was a violent sex offender living right next to Cale Elementary School, and she was very concerned that there was no vetting process for tenants at this location. She said as someone who had to apply for apartments for 18 years, that was always part of it -- and she was hoping that there could be some sort of assurance with the owner that there could be something built in. She said the bus stop was right on the corner there, and the victim of the sex offender was 11 years old. Ms. Cavanaugh thanked Mr. Shimp for the work he had done to educate the neighbors.

Ms. Marty Power of 2084 Avinity Loop said she was the owner of the town home right next to the development. She said she appreciated what Shimp Engineering had done to come over and talk to the neighborhood. She said her biggest concern was the fence and she wanted to go on record to support what Mr. Shimp was proposing with an eight- or nine-foot fence that was closed so that headlights do not come into her house.

Ms. Power said the other concern she had was that the first time that they saw the proposal, a dumpster had been located next to her backyard. She said she wanted some assurances that the dumpster would stay where it was and would not be pulled over to the right next to her backyard. She said she was concerned about the odor and other things. Ms. Power said she welcomed the development and looked forward to the opportunities the new residents would have if they could be part of the HOA. She said having that kind of development in the neighborhood could definitely make a difference.

Mr. Keller asked the applicant back to answer questions.

Mr. Shimp said he had two clarification to make based on the comments. He said sheet 6 in the application plan was the rendering of the buildings. He said the way the staff had the application up; those renderings were proffered. He said even though the application was not within the ARB's jurisdiction, the developer had to build in accordance with the design that was in the record. He said the folks who had spoken to that issue could know that what had been presented to them was what the county will be required to enforce. He said zoning staff would make sure that the building was built that way.

Mr. Shimp said the other clarification related to the dumpster and said it was the same sort of issue. He said because there was connectivity with the road and the emergency access as a main function, the dumpster being where it was located would not be a lot of change. He said there was a lockdown with the application plan, which was a very specific application plan but a small site. He said for those two items, people could be assured they were locked down.

Ms. Riley asked about the offer made to build an eight-foot fence in the back portion adjacent to a homeowner's parcel and if it would be solid. Mr. Shimp said that would be something that could be added to the recommendations, and he would tweak the application before it went to the Board of Supervisors to explicitly state that.

Mr. Bivins asked Mr. Shimp to state the number of affordable units that would be considered at the development.

Mr. Shimp responded that it would be 5 units or 20 percent.

Mr. Bivins asked what that would be five units if there were 42 units.

Mr. Shimp said there were 24 units in the whole development.

Mr. Bivins said that given the desire for affordability, he wondered if there was flexibility to designate handicapped spaces or if that was locked in.

Mr. Shimp responded that there was a requirement for a number of accessible parking spaces based on Americans with Disabilities Act (ADA) codes, and there were two such spaces for this project. He said that the plans might not show them, but they were intended to be there. He said the requirement was one per 25 units, and regardless of what was shown on the plan, there would have to be two spaces.

Mr. Bivins asked Mr. Shimp if he would fix it.

Mr. Shimp responded he would.

Mr. Shimp said the county's system did not require all units on the first floor to be accessible units that were also affordable. He said it would be good practice to do so because people who received housing voucher assistance could get into those units, but it was not something that was required and was instead left up to the developer and the builder.

Ms. Riley asked for further clarification about the mix of units within the development and how long the term would be for a commitment to keeping the affordable units affordable.

Mr. Shimp said the mix would be 18 two-bedroom and six one-bedroom units, and the affordable units would likely follow that same ratio. He said there was a different price point set

for the affordable units so there would probably be a diversity of units as well, and the term of affordability would be 10 years.

Ms. Riley said she was assuming that was within the county's policy.

Ms. Nedostup confirmed this.

Mr. Dotson said that regarding the woman who lived in the unit directly opposite and closest to the parking lot who had talked about the wall, it seemed that Mr. Shimp was willing to build an eight-foot or nine-foot fence. He suggested that Mr. Shimp do a mock-up of the fence to show what eight feet would look like and what nine feet would look like. He said that more was not necessarily better, and it could become something that instead of protecting would become an intrusion in its own right.

Mr. Shimp said the fence would be eight feet and would match the fence that was there. He said there was actually an eight-foot fence along there now and he wanted to make sure it matched. He said there was some coordination that had to happen but he would stay on top of it, and neighbors were happy with what that height. Mr. Shimp said he agreed that it could be intimidating if a neighbor did not know how it would be sitting next to the house.

Mr. Keller asked if there were any further questions for the applicant. Hearing none, he closed the public hearing and brought the matter back before the Commission for discussion and action.

Ms. Firehock commented that she was fine with a little less open space, but she did not want to set a precedent that sidewalks would count toward the open space calculation. She said she expected to see sidewalks in a quality development. She said she would like to have open space be something that actually had a different purpose than simply walking through the development, and the sidewalk was not a trail.

Ms. Riley said she had heard the applicant say he was amenable to doing an eight-foot fence with solid material and that Mr. Shimp had said they could make that a recommendation. She said sometimes the Commission made conditions and sometimes just made recommendations, and she asked Mr. Herrick if a recommendation would be binding.

Mr. Herrick said it would not be binding and that anything that would be binding would need to be made a condition of the recommendation.

Ms. Riley said she was struggling because there needed to be further discussion between the neighbors, and she did not want to bind them into an outcome that the neighbor and the applicant might want to change later because there was an improved design. She said the Commission had made recommendations in the past and generally felt that applicants would follow through on them and do the negotiations with those neighbors before an item went to

the Board of Supervisors. She said she was open to that process and wondered what other Commissioners thought.

Mr. Bivins said there were several things he thought the Commission was leaning toward. He said the applicant had said they would like to join the HOA, and HOAs typically had owners who would say yes or no at some point as to whether or not they could join. Mr. Bivins said it was in the applicant's interest to do what they said they would do -- otherwise the other half of the desire probably wouldn't get fulfilled. He said he did not think the applicant wanted to create an environment where there were harsh feelings, and he would help support the applicant's desire to join the HOA.

Mr. Keller said the Commission was interested in connectivity and asked if there was a mechanism whereby the redundant fence could still be required in case the other fence came down. He said it seemed like these should be resources that could be spent on something else rather than on a redundant fence.

Ms. Nedostup said if the fence was shown on the site plan and there was a desire to remove the fence because of the parking along the residential neighbor, the ordinance required screening of the parking.

Mr. Keller asked if that meant there could be a vegetative fence that could go next to the physical fence.

Ms. Nedostup responded that she did not know from the application plan where the existing fence was to determine if there was enough room to put in vegetation on one side or the other, and that might require an easement.

Mr. Keller pointed out that Ms. McCulley had kept a list of zoning items to fix and suggested it would be appropriate for Ms. Nedostup to add the fence to a similar list of items to fix if they started seeing more of these fences. He said there should be ways to come up with not doing something that was not necessary, but at the same time there could be a protection that if the other fence went away, this one would remain. He said if the HOA agreement were to fall apart in 10 years, there would still be a responsibility.

Ms. Nedostup said if the fence were a requirement of the site plan, it would be a site plan violation and they would need to replace the screening.

Mr. Keller said he was trying to find a way to take the redundancy out because the Commission was trying to align circulation. He said it seemed to him that they really didn't want to create a redundancy of dueling fences.

Mr. Herrick said he thought Mr. Keller's point was well taken, but it was an administrative site plan issue rather than a rezoning issue. He said there was a ZMA before the Commission, and

the fence issue was really something that would be addressed with a site plan regulation rather than a rezoning.

Mr. Keller said he was just asking if it could be something to put on the list for items to think about.

Mr. Herrick said he understood.

Mr. Keller said he had not heard of a double fence in the years he had been on the Commission and was wondering if it would come up again with more infill development. He said he was not suggesting the fence be addressed in the rezoning.

Ms. Nedostup said staff would take a closer look at the site plan if the neighbors were amenable to having vegetation instead of a fence because the regulations did allow that distinction.

Mr. Keller said that might be more effective in terms of the car lights.

Ms. Riley said she was prepared to make a motion.

Ms. Riley moved to recommend approval of ZMA-2016-22, 2511 Avinity Drive, for the reasons stated in the staff report, and she recommended that the applicant increase the fence height from six to eight feet on the eastern side of the parking lot and make the southernmost portion of the fence a solid material.

Mr. Bivins seconded the motion.

Mr. Keller asked Mr. Herrick if he was comfortable with the modification.

Mr. Herrick responded that he was if it was the will of the Planning Commission, adding that the Planning Commission spoke through approved motions.

Mr. Dotson noted that there was no reference to any of the attached exhibits and asked if they were needed.

Ms. Nedostup said the approval for the ZMA was with the application plan, so there was no need to make a reference.

Mr. Herrick said that was correct and it was a rezoning and not a special use permit.

Ms. More asked for clarification that the recommendation as it was presented in the motion would still allow for the possibility of a double wall to be reconsidered in the site plan process.

Mr. Herrick said if the motion were adopted, that would be the recommendation of the Planning Commission. However, he said that staff's review of the site plan would be governed by the site plan ordinance.

Mr. Keller said they had heard that the vegetative fence could be an alternative.

Mr. Keller said they had heard a second. He asked for further discussion. Hearing none, he called for the roll.

The motion was approved by a vote of 6:0 (Ms. Spain was absent from the meeting and the vote).

Mr. Keller thanked staff.

Ms. Nedostup said there was also a motion for the special exception.

Ms. Riley made a motion to recommend approval of the requested special exception to allow the minimum area required for the establishment of a Planned Residential Development from 3 acres to 0.9 acres for the reasons listed in the staff report.

Mr. Bivins seconded the motion.

The motion was approved by a vote of 6:0 (Ms. Spain was absent from the meeting and the vote).

Mr. Keller thanked staff and the applicant and said the project would move on to the Board of Supervisors.

Regular Item - 2018 Planning Commission Annual Report

Mr. Keller said they still had to hear the Planning Commission's annual report and an update on proffers from Mr. Herrick and asked the Commission if they were willing to proceed on both.

Ms. Firehock said she had a sick relative who was waiting to be picked up and taken home and thus would not be present for the proffer presentation, but she had previously done a lot of work on proffers.

Mr. Keller asked Mr. Herrick how long the proffer presentation would be.

Mr. Herrick responded that he would plan for no more than 10 minutes but was also happy to take questions.

Ms. Firehock withdrew her concern as long as the presentation didn't take an hour and a half.

Mr. Keller moved on to the annual report.

Mr. Gast-Bray said he would be very quick himself. He said the Commission had very much the same format they had last time with the exception that he wanted to make sure that the Commission's request that the special topics and discussions were included. Mr. Gast-Bray said it also showed what the Commission had reviewed in the course of the year and that the joint sessions were also mentioned.

Mr. Gast-Bray also pointed out that based on critique of the last report in which the metrics themselves were being challenged as not being the best, staff wanted to show work they had done to identify better metrics -- but since that was an agreement process, it would have to go through a public process to change what those metrics would eventually become. He said staff wanted to give an idea of what staff was considering and exploring.

Mr. Gast-Bray said that they continued with the same metrics they had in the former report and kept that annual update moving forward. He pointed out that they were about to show more about where they wanted to go with the metrics, but to address an earlier comment from this evening, the idea was that the Planning Commission was responsible for the Comprehensive Plan. He said these metrics were intended eventually to be a very good representation capturing what was being achieved. Mr. Gast-Bray said staff hoped to do better in the future as they went forward.

Mr. Gast-Bray said he believed it was quite possible the county would take a more aggressive role as a whole to have metrics be a key part of how they do all of their things so that the Comprehensive Plan might be part of everything they did.

Mr. Gast-Bray said that Andrew Knuppel would demonstrate how he had been working on enhancing the ability to show and pursue metrics.

Mr. Knuppel thanked Mr. Gast-Bray and introduced himself as a neighborhood planner in Community Development. He said he had several slides about what staff had been doing for the past year. He said this was a recap for those who had seen the dashboard presentation, but he said this presentation would have more focus on the internal process.

Mr. Knuppel said staff had heard from the Commission quite a bit about the desire for a data-driven process and performance management as part of the way the staff operated. He showed a slide with other documents and other indicators of progress from the 2015 Comprehensive Plan that came from the Livability Project done by the TJPDC.

Mr. Knuppel said the Rio Road Small Area Plan had key outcomes and metrics that were adopted with that plan in December 2018. He said there were also recommendations for how the county might establish a forward-facing system for performance management in line with Smart City set of technology.

Mr. Knuppel said there were ongoing efforts such as the biannual capacity analysis identified with the Comprehensive Plan, which would keep track of what was available, and a planning process would be built around those sorts of things.

Mr. Knuppel said staff had been working smarter as an organization, focusing on improving capacity and trying to improve staff's usage of data. He said there was a workshop coming up with the partner organization Smart Cville on improving data literacy and data governance. He said that was the preference as an organization for how they processed data and ensured consistent quality. He said that was a difficult task at a government organization because the tasks were not one-dimensional in any way.

Mr. Knuppel said staff was also improving the capacity for GIS, and there were new staff members that had been brought on in the past year that were working to expand the usage of GIS technology for transportation planning and to ensure they were looking at maps properly.

Mr. Knuppel said the development dashboards were rolled out in February and were a continuation of some of the work started by David Fox to map and visualize how much development was coming. He said there was a lot of work with the ongoing community field survey and with identifying what bicycle and pedestrian facilities were out there. He said there was a quick first number in the 2017 annual report, which was the first year there was facility information based on a field survey that the Planning District Commission did in 2015. Mr. Knuppel was trying to identify ways to keep it up to date and have it standardized so they could keep it as a living, breathing database moving forward.

Mr. Knuppel said he would touch on the dashboards project briefly and some of the steps that had been taken. He said to get the project up and running as a public-facing tool, they had to do quite a bit of system and process integration. He said they were currently not dedicating staff resources to the work, so it was a side project that could have substantial time savings for Mr. Knuppel because he would not have to format the same spreadsheets every time. He said it was also a question of adding new indicators and how to get better quality information. He said it was important to make sure all of the items were being counted the same way and adding things like unit types and commercial square footage, so it could become a more robust tool for economic development partners to identify housing needs moving forward.

Mr. Knuppel said those were some of the aspects that were considered when it came to improve the quality of the development dashboard reports. He said when they decided to measure something, they wanted to do it the right way and in a replicable format.

Mr. Knuppel said he wanted to address some of the next steps for projects the Planning Commission might see over the next year or two, as well as new opportunities that were arising in the county. He stated that over the summer, staff would conduct the residential capacity analysis presented with a prior annual report two year ago. He said staff would hopefully be working on some ways to improve the process and that might also be put into the dashboard process to make sure there was a replicable, automated format moving forward.

Mr. Knuppel reported that Community Development was engaged in the enterprise GIS licensing agreement, a major technology initiative for the county that would hopefully expand the use of GIS throughout the organization. He said in the background of the slide, the Commission might have been able to see a 3-D visualization that Andrew Walker in the Geographic Data Services division had put together. Mr. Knuppel said that Mr. Walker had had his last day with the county a few weeks earlier, but staff had the general proof of concept and knew what was possible and what it needed for more sophisticated analysis.

Mr. Knuppel said there were several initiatives that Community Development staff was working on with the County Executive's Office including the 2019 Resident Survey. He said he was working on the survey team with Siri Russell and the Office of Equity and Inclusion to ensure they would get decent sample sizes and better information to supplement what was and wasn't available in the Census and the American Community Survey. He said they could hopefully get better information on housing, cost burdens, mobility, etc., and scoping was still underway with the Weldon Cooper Center. He said they were hoping to get better data to inform their work.

Mr. Knuppel said they were also working with the county equity profile prepared with the Office of Equity Inclusion, and there would hopefully be some insights on the equitable provision of services within the county and how that would play into comprehensive planning and the provision of community facilities.

Mr. Knuppel said he had mentioned one potential local partnership, and they were looking beyond the organization to identify who was currently doing what work, as there was a lot of work being done with data and forward-facing technology in the Charlottesville area. He said one of the organizations was Smart Cville, which the county had partnered with last year for Civic Innovation Day. Mr. Knuppel noted that Mr. Bivins was in attendance for the presentations, and they had talked about digital humanities, storytelling, and the use of technology. He said staff was looking at other organizations in the area to determine ways they could piggyback off of this.

Mr. Knuppel said staff were happy to answer questions about the process, the way staff was currently working, or about the next steps.

Ms. Firehock noted that Mr. Knuppel had shown statistics on the number of new lots in the rural area versus new lots in the development area in a tabular format. She noted that there was a county chart in the Biodiversity Action Plan that showed it as a graph and she said that worked. She recommended that staff use that because it was really nice to see, and it was more visually understandable.

Ms. Firehock noted that staff had said it was difficult to measure stream buffers. She said she did not think that could be done on an annual basis but that there was one-meter resolution for land cover for 2009 and she thought 2015. She said it would not be beyond the GIS capacity to clip those areas 100 feet from streams and compare them. She said it would be tricky because they

were not required on agricultural land. She said there were some other GIS tricks that could be done to answer some of these questions and said she would be happy to work with the county to brainstorm some of those other spatial analysis tools that could come into play in terms of capturing some of the difficult things that were not currently tracked.

Mr. Keller thanked staff and said that Mr. Gast-Bray had been talking about this since he arrived. He said it was part of the legacy of Ms. Elaine Echols. He said it was really great to see Mr. Knuppel jumping into the work. He said other people on staff had suggested that he be the point person for this work.

Mr. Keller said it was positive to have the data and the discussions with Weldon Cooper and other organization. He said he thought about what Jeff Werner had been doing with spatializing the development in the rural areas versus the development area. He said Mr. Knuppel had all the available data to run the modern versions of that, and it might be worth a brief discussion with Mr. Werner because he was now city staff to talk about the things that he was interested in tracking from that realm.

Ms. Riley said in some cases, Mr. Knuppel had indicated the data was not current or was not complete. She said there was a goal of increasing the number of recyclable materials and that it looked like the gathering of that information ended in 2017. She said that in the urban development areas, many of the private haulers had moved to separated recyclable materials and so the sources of the data in that area had changed. She said the data had been reported by private sources, so it was not really verifiable, and there was a new source for that data so there should be at least an increase of some sort from the separation of curbside materials.

Mr. Keller said there was now a rule change about what you can recycle because plastics were not being shipped to China.

Ms. Riley said the question was whether it was being measured and what was being picked up at the curbside.

Mr. Gast-Bray responded that they were trying to establish some history with tracking, and as staff shifted to better mechanisms over time, they would be able to draw the translation between them because they had to compare apples to apples. He acknowledged that data points had been flawed but they were doing the best they could. He said he had taken note of their comment and would try to integrate that in the future.

Ms. Firehock said that it still seemed tricky because there was nothing where she lived for curbside pickup and that there was no separation, and she drove her recyclables to Charlottesville. She said she knew there was a survey at the recycling center that asked if patrons were county or city and said she had answered that question at least three times. She said that if more people were coming from the county to use the McIntire facility, it would mean that more people were recycling, or there was less service available, and it was very complicated to tease out the trends.

Ms. Riley said this was a case where making a distinction between the rural area that didn't have that service and the development area which now had the service of recycling pickup. She said she realized that not all parts of the urban development area did.

Ms. Firehock said they would not be able to pick up the rural area people like herself that were driving. She said there was a lot of recycling going on in the rural areas but not in that location.

Ms. More commented that there was a target to increase the number of beds in assisted living in long-term care facilities, and she wanted to mention that the county needed to talk about the lack for affordable assisted living in senior housing when it talked about affordability. She said there was a specific type of grant that low-income people could qualify for, but there were very few facilities in the Charlottesville and Albemarle area that would actually accept it. She said with the sale of Mountainside in Crozet, which had been one of the biggest places that accepted the grant, there was now a crisis. She said most people who came to the county to make this transition from their home into assisted living that qualified for the grant had nowhere in the community for placement. She said the conversation needed to shift to include that when they look at the issue of affordability and low-income housing. She said it was her understanding in the agreement that was made was that the people who were in the beds would remain and that no one would be kicked out. However, she said they would not reuse those beds as auxiliary grant beds, and there were very few left.

Ms. More said that she thought that two assisted living facilities had come before the county during her time on the Commission, and typically affordability was not a piece that was added or required to a privately-owned facility.

Mr. Gast-Bray asked Ms. More if she would object to Ms. Stacy Pethia reaching out to get the details. Ms. More said she did not and would love to do that, and they could talk with the Department of Social Services as well because they were trying to brainstorm ways to come up with other partnerships.

Mr. Dotson said one of the things he had noticed looking at the different variables was that in a lot of them, the number bounced up in one year and then down the next. He said it seemed like what they were after was a trendline and that there were seasonal variations. He said that was understandable because they were just starting out tracking and there was not much of a history. He said at some point they might want to start using three-year averages or something else to flatten it out a little bit.

Mr. Gast-Bray said that they could use something like regression analysis.

Mr. Dotson said at this point it would be good to make that observation.

Mr. Dotson said that Ms. Riley's name was spelled incorrectly. He said he would give a list of other editorial corrections. He noted that Ms. Spain was not there so that he had to take on that role.

Mr. Keller said he wanted to go back to affordable housing and said staff would hear more from him on that issue. He said that he thought the county had the capacity to determine based on an assessment value how many units were existing that were affordable at least in the individually owned as opposed to the larger housing units. He said he would like Mr. Knuppel to talk to him about how they might get that information. He said he knew others were really concerned about the number of units that were being brought on, but he said he was concerned about the number of units that were being taken off because houses were being flipped. He said that happened a lot in the city but that it also happened in the rural area. He said there were houses that were affordable at \$100,000 to \$250,000 that were selling for over \$300,000 when they were flipped when people aged out or moved away, and he wanted to get some sort of grip on that.

Mr. Keller thanked both Mr. Gast-Bray and Mr. Knuppel for their time.

Mr. Gast-Bray asked Mr. Herrick if the Commission had to adopt the report.

Mr. Herrick said they did not have to do so and that if the Commission were comfortable, the report would be forwarded to the governing body.

Mr. Keller asked if they should forgo the committee reports until there was a full house.

Review of March 6, 2019 Board of Supervisors Meeting

Mr. Gast-Bray said the only matter directly of interest was the work session on Pantops. He said the Supervisors had answered a series of questions that were the same ones that the Planning Commission had done pertaining to land use and implementation. Mr. Gast-Bray said that Supervisors concurred with the Planning Commission's recommendations and had appreciated the work that had been done in the two sessions on the topic, reinforcing it with the same approach. He said that it would be coming back for the final public hearing.

Old Business/Items for Follow-up

Mr. Keller asked Commissioners if they would like to hold the proffer discussion until there was a full house.

Mr. Bivins said it would be helpful for two of the people who were not present who often talked about the issue.

Mr. Dotson said he thought a full discussion would take more time than they had, but he asked if Mr. Herrick could comment briefly on the new measure that the General Assembly passed

and that the Governor had signed regarding applications that were still in the stage of discussion, specifically what the new legislation meant for the Planning Commission's behavior in terms of those applications.

Mr. Herrick said that was a good question and that was part of what he was intending to cover at a later date. He said to address that issue specifically, the enactment clauses of the legislation provided that it would apply to applications filed on or after July 1, 2019 when it would become effective. He said applications filed before July 1, 2019 could elect to either proceed under the law that was in effect at the time that they filed, or they could elect to take them up under the new law.

Mr. Dotson asked for a brief version of what the new law would do.

Mr. Herrick said he had prepared a 10-minute presentation that he could provide now or offline later. He said he realized it was late and the item was not something that he wanted to force on anyone, but he was trying to be responsive to the request.

Mr. Keller said he would like to proceed.

Mr. Herrick said he would keep the presentation to 10 minutes.

Mr. Herrick said he had been asked by a couple of the Commissioners to give an overview of the new proffer legislation. He said that what he had done in the outline distributed was list what the law had been beforehand and what the law would continue to be, as well as what some of the new provisions were.

Mr. Herrick said the law applied was a fairly limited class of rezonings and would not apply to all rezonings and proffers. He said it only applied to proffers and condition amendments for new residential developments or new residential uses, and it had to do with residential proffers and not all types of proffers.

Mr. Herrick said the legislation provided that local governing bodies may not require any unreasonable proffers and that unreasonable proffers were a defined term. He said it sounded like a loaded term, but it was a term that the statute itself defined. He said the local governing bodies may not require any unreasonable proffer or deny any rezoning application or proffer condition that was based on an applicant's failure or refusal to submit an unreasonable proffer.

Mr. Herrick asked what was unreasonable and said the statute defined an "unreasonable proffer" as any proffer unless it addressed an impact specifically attributable to the proposed new residential use, and any offsite proffer unless it addressed an impact to public transportation, public safety, or public school facility, or public park, such that the proposed new residences both created a need in excess of existing capacity and received a direct material benefit from the proffer.

Mr. Herrick said this was a pretty limited class of items that could be requested to be addressed under the existing proffer law. He said it was limited to public transportation, public safety, public school facilities, and public parks. He noted that affordable housing was not on that list. He noted that this was why when affordable housing came up under the existing proffer law, the existing proffer did not allow for it. Mr. Herrick said it was pretty notable that this started with a default assumption that proffers were unreasonable, and if you looked at the definition of “reasonable proffer,” it started off by saying “any proffer.”

Mr. Herrick said that provision would continue in effect and was still the law, even post 2019.

Mr. Herrick said another continuing provision that would continue to exist was that with any action contesting a denial, such as taking a county action to court, the court would presume that an applicant’s refusal or failure to submit a request an unreasonable proffer was the controlling basis for denial, and the court presumption was built into the statute.

Mr. Herrick said the law did not apply within certain limited areas, including designated revitalization areas within approved small area comprehensive plans. He said this provision mainly applied to areas around Metro stations in Northern Virginia and very few other places. He said that it was worth throwing that information out there, but the reality was that the provision applied to almost all residential rezoning applications.

Mr. Herrick said some of the new provisions ameliorated the effect of the old law, including provisions that were still in effect.

Mr. Herrick displayed one of the new provisions on the screen and said that it was probably the most significant one. He said an applicant or owner could submit any onsite or offsite proffer that they deemed reasonable and appropriate as conclusively evidenced by the signed proffers. He clarified that this meant that an applicant’s signing of a proffer acknowledged that the proffer was reasonable and appropriate. He said that meant that anything could be proffered, including affordable housing, if the applicant stated that it was reasonable and appropriate. Mr. Herrick said this would allow them to proceed with proffers that were not related to public safety, public transportation, and the rest of the list that had been on the prior screen.

Mr. Herrick said this was a big improvement and it would allow localities and applicants to engage in more proffers than the existing law would allow. However, he said that failure to submit such proffers could not be a basis to deny the application. He said it could not turn into a situation where it was expected that the applicant would submit a voluntary proffer and that a failure to do so would be turned into an automatic basis for denial.

Mr. Herrick said another new provision was that before an applicant could bring a suit challenging a denial, the applicant must have objected in writing to a proposed condition prior to the governing body’s action. He said it was not enough for them to say that they heard a public comment somewhere along the way that they didn’t like, and the applicant would have

to object in writing before filing suit. Mr. Herrick said the court's presumption against the local governing body would apply only if the unreasonable proffer was requested in writing.

Mr. Herrick said another improvement was that there was a subsection that stated verbal discussions between an applicant or owner and the locality during the application process may not be used to show that an unreasonable proffer or proffer condition meant it was required by the locality. He said one of the complaints about the existing proffer laws was that it had had a chilling effect on the dialogue between applicants and localities. He said many people saw that interaction as a positive element where things could get addressed, but in many localities, that dialogue had been completely shut down. Mr. Herrick said that had led to staff being nervous about anything said that could be the basis of a suit.

Mr. Herrick said the new rules applied automatically to applications filed on or after July 1, 2019. He said for applications filed before then, the applicant would have the opportunity to elect what law they wanted to proceed under. He noted that he had included several good resources at the end of the outline, including a link to the legislation in comparative form. He said the *Land Use Law Handbook* had a very good treatment of the old proffer law, although he said it was limited to the pre-2019 legislation.

Mr. Herrick said he would answer any questions.

Mr. Dotson said he could not remember the name of an application that Mr. Don Franco had brought to the county and said there had been a proffer that had been removed having to do with affordable housing. He asked if the new law was in effect at that time, would that have meant the county would not have needed to do that.

Mr. Herrick said it would mean that if the applicant had come forward with that and signed the proffer form, they would agree that it was reasonable. He said then the Commission could have proceeded to consider and accept that proffer.

Mr. Dotson asked if they would have had to have elected to in advance of July 1 to proceed with the new law.

Mr. Herrick said if that application was still pending after July 1, 2019 and if the applicant chose to continue to make that affordable housing proffer, they could so under section D1.

Mr. Dotson asked if the Board of Supervisors were to act on that before July 1 if the affordable housing provision would be gone.

Mr. Herrick said it could not be even suggested before July 1, 2019.

Mr. Dotson asked if the Commission had dealt with an application before July 1, the Board had not gotten to it, and the applicant wanted to proceed with the new law, they could go under the new law.

Mr. Herrick said the applicant would both have to agree to go under the new law and would have to agree to sign in writing that they found that was a reasonable condition, and that their failure or refusal to do so could not be the basis for rejection of the application.

Mr. Keller asked if there was any other old business.

Mr. Gast-Bray said he wanted to make sure that the joint work session requested by the Board of Supervisors was on the agenda for July 9 at 6:00 p.m. Mr. Keller asked if it would only be on the one topic because he had a number of Supervisors stated they wanted to discuss more. Mr. Gast-Bray said that at that point, it had not been finalized and that there had been discussions both ways.

Mr. Keller asked if there was any further discussion or if the Commission was ready to adjourn.

Adjournment

At 9:02 p.m., the Commission adjourned its meeting to April 9, 2019 Albemarle County Planning Commission meeting, 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, (Interim) Secretary

(Recorded by Stephanie Banton and transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 4.23.19
Initials: SLB