

**Albemarle County Planning Commission
Final Minutes Regular Meeting February 28, 2023**

The Albemarle County Planning Commission held a public hearing on Tuesday, February 28, 2023, at 6:00 p.m.

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

Members absent none.

Other officials present were Kevin McDermott, Director of Planning; Andy Herrick, County Attorney's Office; Rebecca Ragsdale; Alberic Katrina-Plun; and Carolyn Shaffer, Clerk to the Planning Commission (via Zoom).

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Clayborne established a quorum.

Other Matters Not Listed on the Agenda from the Public.

Ms. Annie Lorenzoni stated that she was speaking on behalf of Livable Cville to discuss homelessness in the Charlottesville and Albemarle area. She stated that housing was a human right, and it was a violation of that right when someone experienced homelessness in the community. She stated that the underlying problem was insufficient housing.

Ms. Lorenzoni said that homelessness was increasing in the area, and according to the Blue Ridge Coalition for the Homeless, the point-in-time count for the area increased by 50% to 266 people in 2022. She said that more than 440 people accessed the Haven's Day Shelter services more than 19,000 times in 2022. She said that they had to address stereotypes related to homelessness and that attributing homelessness to individual choices or behaviors misunderstood the reasons why people became homeless, resulted in harmful policies, and deferred real solutions.

Ms. Lorenzoni distributed copies of the book, *Homelessness is a Housing Problem*, by Clayton Page Aldern and Gregg Colburn, and copies of a flyer from Haven with information about the work of the organization to the Commissioners.

Consent Agenda

There were no items on the consent agenda.

Public Hearings

ZMA202200006 999 Rio Road

Ms. Rebecca Ragsdale, Planning Manager, stated that there was a planting strip exception that required action from the Commission. She stated that the property was at the corner of Belvidere Boulevard and East Rio Road, and it totaled 1.9847 acres. She stated that the parcel was currently undeveloped, and an existing house was on the property. She noted that the parcel was zoned Neighborhood Model District (NMD), and the parcel was surrounded by R4 residential zoning and commercial zoning.

Ms. Ragsdale stated that currently, the code of development established two blocks—one mixed-use and one residential—and the proposed change would reduce it to one block for residential development. She explained that the residential block would allow for 10 additional residential units, and it would eliminate the minimum and maximum nonresidential uses.

Ms. Ragsdale said that the requirement for a minimum of two housing types and 15% affordability would not change. She said that there were no requirements for specific unit types to meet the affordability requirement.

Ms. Ragsdale said that there was more greenspace in the new proposal, and the buildings were shifted away from Rio Road. She said that buildings were still fronted on Belvidere Boulevard. She said that there would be an internal parking area. She noted that a planting strip exception was approved with the prior proposal.

Ms. Ragsdale stated that the primary land use designation was urban density residential in the comprehensive plan. She explained that nonresidential user were secondary in the urban density residential designation. She said that there were no center designations or specific recommendations for a neighborhood center in the Places29 Master Plan for the area. She said that the proposal was reviewed by the Transportation Department as to traffic impacts. She noted that no concerns were identified related to traffic impacts.

Ms. Ragsdale noted that the EDA was aware of the request, and they did not express concerns about the reduction in commercial inventory. She stated that staff recommended approval of the rezoning, and they found positive aspects to the proposal. She noted that the request to wave the mixed-use requirement and eliminate the nonresidential uses was not consistent with the purpose and intent of the NMD, but the master plan did not specifically call for nonresidential uses in the area.

Ms. Firehock clarified that if there were a planting requirement, there would have to be plants and trees. She asked what was required to be planted in the planting strip.

Ms. Ragsdale explained the planting strip was required to be a grass strip of six feet between the parking area and the sidewalk.

Ms. Firehock asked if the planting strip was required to have trees.

Ms. Ragsdale responded that there were street tree requirements.

Ms. Firehock asked if the applicant was required to plant trees if they were not required to install the planting strip.

Ms. Ragsdale responded that she did not know if street trees were required, but the development would have to comply with the tree canopy calculations and landscaping requirements of the ordinance.

Ms. Firehock asked whether the development would lose a tree-covered parking lot if the planting strip were removed.

Ms. Ragsdale responded that there were landscaping requirements for the parking lot. She noted that the design of the amenities and green space had not been finalized.

Ms. Firehock noted that the urban heat island effect would impact the development with a large parking lot in the center.

Mr. Missel noted that there were planned VDOT improvements for Rio Road and asked if the development coordinated with those plans.

Mr. Kevin McDermott, Planning Director, stated that the location was separate from the roundabout that was already funded at the John Warner Parkway. He said that there were minor impacts to Rio Road. He said there was a project under consideration for SMART Scale funding next year. He said that there was a right-of-way designation that would provide additional room for the SMART Scale project, and the developer provided a multi-use path that could coincide with the traffic improvements.

Mr. Carrazana asked if all of the parking was external and whether there was information regarding the scale.

Ms. Ragsdale responded there would be surface parking, and the structures would be no more than three stories. She explained that the code of development established the building height requirements. She said that the standards of the code of development established 35 feet as the maximum height. She clarified that the development was within the Entrance Corridor, and she noted that in the staff report, it stated the landscaping would be reviewed by the ARB.

Mr. Murray asked if staff had contacted the EDA or small businesses. He said that without such engagement, then they may be decreasing the availability of commercial space. He said that small businesses do not have available commercial space was similar to families and children living homeless because there was not enough available housing.

Ms. Ragsdale responded that the EDA was aware of the request and did not express concerns about the impacts to the commercial inventory.

Ms. Firehock said that the EDA did not know what small businesses needed in terms of commercial real estate. She asked whether the stormwater management pond would be dry or wet.

Ms. Ragsdale responded that the stormwater pond was intended to be an amenity feature, and it would be a wet pond.

Mr. Clayborne asked why the 500-square-foot minimum was implemented.

Ms. Ragsdale responded that the master plan did not provide guidance as to the appropriate range, so staff determined a range of 500 to 6,000 square feet was an appropriate scale for secondary uses in the neighborhood.

Mr. Clayborne opened the public hearing.

Ms. Nicole Scro, representing the applicant, stated that parties which expressed interest in the commercial space initially backed out. She said that the underground stormwater system doubled in price, so the project no longer became feasible. She said that they were returning with a proposal that was entirely residential. She explained that there was a requirement for street trees, and within a parking lot, there was a maximum allowed amount of asphalt per square foot. She noted that a 20% tree canopy was required.

Ms. Scro said that Ms. Jessica Primm was the architect, and Craig Builders would be the end-user and ultimately own the rental community. She explained that the units fronting Belvidere Boulevard would be two-story stacked units. She stated that the units opposite the private driveway would be three-story townhomes, and they may be sold.

Ms. Scro said that the project would be able to accommodate the SMART Scale project for the Continuous

Green-T intersection. She noted that the proposal was less than the density proposed in the comprehensive plan. She said that renderings of the stacked unit structures were available.

Mr. Bivins clarified that the development would be sold to another party.

Ms. Scro responded that the end-user would be Craig Builders.

Mr. Carrazana clarified that the renderings were conceptual.

Ms. Scro responded that the renderings were detailed because they had been reviewed by the ARB. She said that the stacked units were designed to have a double-frontage look.

Mr. Carrazana asked about the site grading.

Ms. Scro responded that the site would be fairly flat, but it would decline toward the front for the stormwater pond.

Mr. Missel asked whether the applicant had a set of design guidelines for the proposal.

Ms. Scro responded that they would have to return to the ARB because the renderings were for the previous proposal, but the section of stacked townhomes would not change. She said that they would draft a new set of guidelines.

Ms. Firehock asked for more information about why the applicant was returning to the Commission. She noted that the underground stormwater storage had become unfeasible. She noted that the proposed stormwater wet pond would improve water quality and quantity.

Ms. Scro responded that the stormwater pond would not be a wet pond—it would be a dry pond with a biofilter.

Ms. Firehock said that the site would still gain water quality treatment for the site which was not present in the prior application. She asked for more information about why the applicant was returning to the Commission.

Ms. Scro explained that the first proposal came before the Commission twice because they had to lower the density by 40%. She said that when they lost the potential commercial interest, it became difficult to afford the increased price of the stormwater detention. She explained that in order to afford costs of development, the stormwater management had to change or the density had to increase.

Ms. Firehock asked what the applicant did to attract commercial tenants.

Ms. Scro responded that they worked with commercial brokers. She noted that along Rio Road, there was too much demand for older buildings at a lower price point. She said that the applicant would not be able to compete with the other commercial space in the area.

Ms. Firehock asked if a community meeting was held for the changed application.

Ms. Scro responded yes. She noted that she was a member of the Places29 CAC and attended monthly meetings. She said that a meeting was held in October for the proposal.

Mr. Murray asked whether the parking for the proposal was too much, too little, or enough.

Ms. Scro responded that the proposed parking was too much from an environmental perspective, but it met the present parking demand. She noted that it was difficult to travel around the County without a car. She said that the proposed parking met the demand, and there was no more parking than required.

Mr. Clayborne asked for more information about the market study performed in 2020.

Ms. Scro responded that the intent for the 6,000 square foot commercial space was to provide a place for a professional office to own the building. She said that after the COVID-19 pandemic, the dynamic changed for what was feasible for commercial interests.

Mr. Clayborne asked if there was fencing for the project.

Ms. Scro responded that there was no fencing proposed for the site, and there was no fencing around the stormwater pond.

Mr. Murray asked whether the applicant would reconsider commercial space if the permitted density for the site increased.

Ms. Scro responded that the dynamic would be different, but a building to accommodate a commercial tenant could be built.

Mr. Clayborne opened the hearing for public comment.

Mr. Justin Shimp, engineer for the project, explained that Glenwood Station offered commercial real estate at much lower prices than the applicant would be able to. He said that infrastructure costs had increased by up to 75%, and those costs increased rents beyond what small businesses could afford.

Mr. Clayborne closed the hearing for public comment.

Ms. Firehock said that the number of trees should be increased in the parking lot area. She noted that the County's parking lot requirements needed revision. She said that she was supportive of the proposal.

Mr. Carrazana noted that development costs had increased. He said that he was supportive of the proposal. He said that housing was needed in the County.

Mr. Bivins said that he supported the proposal. He recommended that the applicant install electric vehicle charging points in the parking lot of the development.

Mr. Clayborne said that he supported the proposal.

Mr. Bivins moved that the Commission recommend approval of ZMA202200006 to amend the 999 Rio Road Code of Development and Application Plan for the reasons stated in the staff report. M. Carrazana seconded the motion which carried unanimously (6-0).

Mr. Bivins moved that the Commission approve the request for an exception from the planting strip requirement of County Code § 14-422 because of an unusual situation, including but not limited to the unusual size of the property and the reasons sated in the staff report. Mr. Missel seconded the motion which carried unanimously (5-1), with Ms. Firehock dissenting.

ZMA202200010 Riverside Village NMD: Block 1 Amendment

Ms. Ragsdale stated that the request was for an amendment to the code of development, and only one action was required of the Commission. She stated that Riverside Village was located in the Pantops

development area along Route 20, and it was located at the front of the Riverside Village NMD. She said that Riverside Village was built out, and the subject proposal was limited to Block 1 of the development.

Ms. Ragsdale stated that there were three mixed-use buildings with ground-level commercial use and 24 residential units above. She said that the commercial space totaled 13,200 square feet, and it was constructed in 2019. She said that there had been three tenants in the space since 2019. She noted that Grit currently occupied 1,600 square feet, and the remaining space was vacant. She said that previous tenants included River Birch, which occupied 3,800 square feet, and a dance studio, which occupied 2,100 square feet.

Ms. Ragsdale stated that the surrounding uses included NMD, R1 Residential, R10 Residential, and R15 Residential. She noted that Wilton Farm and Avemore developments were nearby, and so was the Cascadia NMD. She noted that Avemore and Cascadia had approvals for nonresidential uses. She said that areas close to the intersection of Route 250 and Route 20 were commercially zoned.

Ms. Ragsdale said that the project was originally approved in 2012 with 69 residential units, a minimum of 16,000 square feet nonresidential and a maximum of 46,000 square feet nonresidential. She said that at the time, the property was designated neighborhood density, which was a lower density than the present buildout. She said that the residential and nonresidential uses exceeded the recommendations of the master plan at the time.

Ms. Ragsdale explained that an amendment related to the number of units and nonresidential space was approved in 2016. She said that the amendment added 36 units to the total allowed. She said that the minimum nonresidential space was reduced to 8,000 square feet.

Ms. Ragsdale explained that the present request was to reduce the minimum nonresidential space from 8,000 square feet to 1,600 square feet. She said that the unused nonresidential space would be converted to residential units in Block 1. She said that the maximum nonresidential use would remain at 36,000 square feet in Block 1 and 46,000 square feet total. She noted that the neighborhood center was now located at Elks Lodge.

Ms. Ragsdale noted that the area was designated as urban density, and nonresidential uses were secondary under the designation. She said that there was no specific square-footage guidance for the property. She said that the change was reviewed for traffic impacts, and no concerns were identified. She said that the EDA had no concerns about the reduction in commercial inventory. She noted that residents were concerned that commercial uses could not return to the site. She said that staff recommended approval.

Mr. Clayborne clarified that the proposed minimum square footage of 1,600 square feet was determined from the space occupied by Grit Coffee.

Ms. Ragsdale responded yes.

Mr. Clayborne opened the public hearing.

Mr. Justin Shimp, engineer for the project, said that he conceived the project in 2010. He noted that the foot traffic into the development had not materialized. He said that the commercial area of the development only had 600 households within the development tract, and the area was not walkable. He said that the surrounding community was not large enough to support the businesses in the development. He noted that the use could be converted back to a commercial use in the future.

Mr. Zach Zingsheim, Stony Point Development Group, said that he had been involved with the project

since January 2022. He said that they did not see a demand for the vacant retail spaces. He said that the 24 residential units had been historically 100% leased. He noted that they would add residential units.

Mr. Clayborne asked if there were any questions from the Commissioners.

Ms. Firehock asked if the units were to be leased as rentals.

Mr. Red said that that was correct. He said that they retained the ability to convert them to rentable apartment units.

Ms. Firehock asked if the market changed again the use could be switched back and no further permissions were needed because they had met their code of development.

Mr. Shimp said that was correct. He said that having the building code's structure as commercial allowed them to change it to a residential use by removing only a few walls.

Mr. Missel said that if they were marketing their larger NMD development to homeowners and commercial users and was based on the mix that was outlined in the application plan, but then the mix changed, there was no benefit to having that mix promised on later in the process.

Mr. Red said that they had every intent to bring forward the conditions of a mixed-use development, but market forces had shown that there was not the demand for the amount of retail that was built at that time, so it would be a loss to have empty retail space as well as space that could be used for housing.

Mr. Joe Regg said that optionality was the main focus of their work, and when they made promises to the residents when selling the condominiums there, their intent was to fill out the area with a mixed-use development. He said that they wanted to create a centralized community there with amenities that allowed for people to do things without leaving the neighborhood, but unfortunately those dreams were not a reality.

Mr. Regg said that they had pushed for leases and deals, but they had been unable to fill those spaces. He said that he would do everything in his power to provide the amenities that people wanted in these developments such as the endcap restaurant in River Birch, but it was best to use the space for residents rather than allow it to sit vacant and deteriorate in condition.

Mr. Bivins said that he would like to see that space in the endcap space shared, because while it began as a lively community area, it recently had become much less busy, which was not a good sign for these kinds of developments. He said that there was a question of how to make these small-scale mixed-use projects viable with the reality of the economics.

Mr. Bivins said that they should consider other ways to incorporate mixed uses coexisting, because the model may not be workable for at least a decade with the current market being what it was. He said that he understood what they were going through, was disappointed that they were bringing it down to 1600 and was hopeful that they considered sharing the empty spaces.

Ms. Firehock asked for the price per square foot of the commercial space being advertised for lease.

Mr. Red asked if Ms. Firehock was asking in terms of rent.

Ms. Firehock said yes.

Mr. Red said that they had marked the rent down considerably, a number greater than 20%, in addition to tenant improvement allowances, by way of free rent and a combination of percent rent, but that had not been enough for the interior spaces to garner any interest.

Ms. Firehock asked if the rent being requested was cheaper, higher, or in line with other industry examples.

Mr. Red said that they were at market level and had to drop along with the market. He said that he had not seen with any concession of price a number that would gather interest when looking at the whole package of offerings.

Ms. Firehock asked what variety of spaces were available to businesses.

Mr. Red said that there were a combination of spaces including 2,000 square feet, 4,000 square feet, a 17,000 square foot bay, and a 2,300 square foot bay that was vacant.

Mr. Clayborne asked what industries were being pursued to fill these spaces.

Mr. Red said that the restaurant space was planned to be backfilled, but specifically for the interior bays that had not been filled, there were businesses such as dentists, law firms, and florists, with no particular industry being targeted.

Mr. Clayborne asked why the square footage of the restaurant space was not included in renting the commercial space.

Mr. Red said that it was meant to maintain optionality, so that conversion between uses would be more efficient.

Mr. Shimp said that the process, while limited, still took a year to get through, and many thousands of dollars on the part of the applicant, so if the applicant were to wait to find out that there was a problem, they would have to put in the same request with the County yet again, which was to be avoided.

Mr. Clayborne opened the public hearing.

Mr. Richard Allen said that he lived at Trailside Court. He said that it was important for the Planners to take into account the points of view of the residents who had received the promises just described. He thanked Mr. Missel for landing on that with his remarks. He said that it should be noted this was a significant second shrinkage of retail, and it was highly unlikely that Stony Point would return it to retail space. He said that walkable retail nearby was a large reason why many residents moved to Riverside Village, and Stony Point's website and realtor, Ms. Mills, promised this feature repeatedly to all buyers. He said that Mr. Henry also pledged to place one tier of rental apartments on top of the shops at Riverside, where he instead placed two tiers of rentals and an additional 12 units there, collecting that rental profit for several years.

Mr. Allen said that the Planners should remember that they were hearing from the point of view of the residents. He said that they now wished to remove the space promised to residents and they were to expect a third tier of rental profits on the ground floor where retail space should be. He said that Mr. Henry made large profits selling out Riverside Village and used the development as a model to gain other Albemarle and Charlottesville development permits, created a profit center of houses developed near Penn Park, a second time with Dairy Park with 180 apartments. He said that he had proven that at Dairy Market he could find successful retail space, as well as Freedom Drive and Zion Crossroads.

Mr. Allen said that he requested that Mr. Henry continue to receive his rents on the third tier of rentals that he already received and should leave this space open. He said that he needed to do a better job post-Covid of finding retail space there, and a restaurant was certain to become profitable to him, for users across the way at Cascadia, Wilton Pond, as well as three seasons of people at Darden Towe Park. He said that Stony Point had been deceptive by failing to locating promises to tenants there and for the deception of adding the third story of rentals, and this developer must not be allowed to default on his contract with them. He said that voting citizens of Albemarle deserved to have their residential rights respected.

Mr. Edwin Scorza said that he was also a resident of Riverside Village. He said that he was reluctant to have the loss of commercial space availability. He said that River Birch did not have a plan or consistent menu, and the current problem with all restaurants was staffing. He said that he knew that Mr. Regg had worked hard to find places to fill the space, but he was unsure of how attractive they had made the rental amounts, because they did not want to share that.

Mr. Scorza said that he had attempted to locate potential restaurateurs, but none had worked out. He said that he understood that the economics had changed, but they did not know when the economy would come back, and Stony Point could make enough additional money with converting some of the units, but they should at least have a few years to try and get the restaurant space filled. He said that optionality was a word that he found somewhat offensive.

Mr. Dick Ruffin said that he was Chair of the Pantops CAC and had been a resident of Riverside Village for three years. He said that he agreed that all stakeholders wanted a restaurant there, and that was not the issue, however there were economic concerns. He said that a concern that had not been raised was that the master plan talked about walkability and accessibility, but no one walked across Route 20. He said that far more people lived in proximity to that restaurant space on the east side of Route 20 than on the west side, and there was no safe place to cross.

Mr. Ruffin said that crossing at the light at Darden Towe and those areas had no area to walk in front of Elk Lodge, so it must be done in front of the restaurant. He said that someone in the County should pay attention to how to get people to walk across Route 20 so that they could access a restaurant there safely. He said that if this was done in a timely way, it may relieve Stony Point of the problem that they had. He said that he urged the County to solve the issue of crossing Route 20 so that the restaurant had a better chance of thriving there.

Mr. Clayborne asked if there were any speakers signed up online.

Ms. Shaffer said that there was no one who wished to speak at this time.

Mr. Clayborne asked if the applicant had any closing remarks.

Mr. Shimp said that even without commercial space, this continued to be a desirable neighborhood in a convenient location, which they expected, so it did not seem fair to say that the developer backed out of the promise. He said that the mixed-use buildings that were constructed were not cheap, and he did not know of any other developers who did that in that timeframe.

Mr. Shimp said that they were very genuine efforts, and the last effort was to take River Birch out, but this was a year-long process, and they were asking to be able to clean it up for the worst-case situation. He said that because it was market-driven, a restaurant would be there. He said that the walkability was a good point, because there was a question of how many years it would be until they had enough population density where this would be very successful.

Mr. Shimp said that Stony Point made multiple offers to buy the Elk Lodge next door, and if they had been able to, there would have been a connection and resulting walkability. He said that he understood the neighbor's concerns, but he felt strongly that Stony Point had put forth the effort to get this done and invested a lot of money to do so. He said that they were trying to do something now that made sense in turn with the current conditions.

Ms. Firehock asked how long the units had been vacant.

Mr. Shimp said that some units had not been occupied for three years.

Ms. Firehock asked if some of the units had been available before Covid-19.

Mr. Shimp said yes.

Mr. Clayborne asked if there was a fitness studio in the space.

Mr. Shimp said that one internal space was occupied, or approximately 10% or 20% of the space was occupied, but that had been vacant for about one year.

Mr. Missel asked what the square footage was of the River Birch restaurant.

Mr. Shimp said that it was approximately 3,800 square feet.

Mr. Clayborne closed the public hearing.

Mr. Bivins said that he wondered how to sustain this model of development as an owner, and he appreciated that people purchased homes there with the belief that services were to be provided. He said that if the services did not manifest, there must be some return for those who had invested, with the ability to have it converted. He said that a former Commissioner had voiced the need for space that could be converted back and forth from commercial to residential.

Mr. Bivins said that he would be more supportive if the restaurant space was the last to be given up. He said that the applicant seemed to appreciate that that was a serious investment for the community as well as a lifestyle option for the community. He said that he hoped the company would maintain the space until it was truly unable to do so, and it was unfortunate that this project was the way that it was.

Mr. Carrazana asked if 1,600 was the minimum being set.

Ms. Ragsdale said that was correct.

Mr. Carrazana said that if every attempt could be made to find a tenant and keep the restaurant space operable, it would be a great amenity for the community. He said that the intent of having a mixed use was part of how the buildings were constructed, but the last few years had been difficult for rental properties to get off the ground. He said that he understood and appreciated the residents' points of view, but he also knew that the landowner did not want their properties to sit empty for three or four years. He said that he was supportive, also with the hope that the second restaurant could open.

Mr. Missel said that this was a complicated item. He said that there was concern that the NMDs were built into that as commercial mixed use and there was walkability included. He said that here, it could be seen that the tenants may have been promised something, but he did not know because he was not a part of those conversations and was unsure if that was pertinent. He said that this item was more about land use

than the economics of the market. He said that as Planning Commissioners, their primary focus should be what the best orderly development of this property.

Mr. Missel said that he was sympathetic to the developer because retail spaces often needed to be subsidized. He said that there was a benefit to having a restaurant there due to the internal trip captures to the restaurant or other commercial use. He said that he was sympathetic to the community members, but those people did not need to pay the bills for these things and make them actually work. He said that there was risk and reality on both sides, and this issue was not about economics or past promises but the economic development of the County and its environs.

Mr. Missel said that there was a need for a greater amount of mixed use in this original neighborhood model, and they had seen it progressively go down over time. He said that he could not support the request as was written here, but he would support something that would include keeping the restaurant, which would mean it was basically reduced from 8,000 square feet to 5,400 square feet, and while there was hope that the restaurant would go last, there was nothing that guaranteed that.

Ms. Firehock said that she concurred with Mr. Missel's remarks. She noted that while she was not an expert, she looked at space for lease often, and she could not find these spaces in Albemarle County, so perhaps it was a best-kept secret. She said that because she was unable to hear from the applicant what price they were asking for or any other information, she had no way to judge whether their efforts to lease were reasonable or diligent enough, and although it could be converted back, it was unlikely they would undo the apartments once that expense was incurred. She said that this concept could still work, with perhaps a better marketing and better pricing along with more distance from the pandemic. She said that she was not in support of the application.

Mr. Murray said that he did not support the application either. He said that if the County stepped in to allow conversion of commercial space into residential space during a time of economic downturn, they were preventing the free-market condition that allowed small businesses to find leases at low prices. He said that as the Planning Commission, they should be planning for the community that was 20 to 40 years in the future.

Mr. Clayborne said that this facility was within his magisterial district and a place he frequented. He said that he was worried about the precedent of allowing continuous amendments to a project as it progressed. He said that there were many unknown economic factors related to the empty business space, such as poor management of the restaurant, expensive rent, or other unfavorable conditions.

Mr. Clayborne said that if the proposal had given some sort of attempt to keep the restaurant space, he could have supported it. He said that the current proposal cut it out and included houses and a coffee shop, which did not seem to be the intent of the NMD district. He said that he would be unable to support the proposal as presented tonight.

Mr. Carrazana said that he thought that there was a lot of merit to the proposal that Mr. Missel made, which was that there was a middle ground to be found. He said that there was a reduction, so there was allowance to make a change, however, there was a commitment to it being a mixed-use community, so he understood the line of thought and agreed that the overall mixed use in that area made sense and was needed long-term, and it was hard to change it. He said that he would support an amendment to include that suggestion.

Mr. Clayborne asked if an amendment was possible.

Mr. Herrick said no, a vote on the current proposal must be made.

Mr. Bivins said that he could appreciate the idea of coming dramatically down from what was authorized before this, even if it were to go to 5,400 square feet, there was no way to be sure that the restaurant space would be the space that would be preserved. He said that there was purely a business sense from the owner that there was a capital investment that must be preserved, but if someone were to come around and say that they would take the entire inventory, it would change things quickly.

Mr. Bivins said that he never believed anyone would walk across Route 29 when reviewing the Rio Small Area Master Plan. He said that the shopping center near the Home Depot was absolutely empty of businesses for reasons unknown. He said that while this area may be zoned as it currently was, he believed it was incorrectly done so, because the infrastructure to make that a walkable community did not exist and would not exist. He said that therefore, he was still in support of this because it was mis-zoned.

Mr. Missel said that he understood Mr. Bivins' perspective. He said that if it were mis-zoned, it was mis-zoned by the County. He said that there was a certain application that had a mix of uses that made sense, and it was now being reduced for a second time, so there was question about at what point that zoning was proper. He said that perhaps the area around it did not develop the way they thought it would in terms of connectivity, but as a land use planner, the mix of uses would have to be almost internally self-supporting.

Ms. Firehock said that she lived in the rural area, but she would drive to a restaurant if she had heard it was very good. She said that they could all agree that there was not enough foot traffic to bring people to that space, but it was on a very busy corridor, so an excellent restaurant with a great menu would succeed. She said that while they should strive for the neighborhood to be self-supporting, it did not need to be by walking.

Mr. Missel said that he did not mean that it must be solely supported by walking, but that it was an important component.

Mr. Carrazana said that the infrastructure may already be in place for this use because the street capacity was there. He said that the challenge in the past was that when they were building dense housing with no transit and roads could not handle the traffic, the roadways became constricted, and that was when infrastructure was needed before development caused those issues. He said that with this item, the infrastructure was there, and there may be other economic pressures being dealt with currently, but did not mean that it was not appropriate in the long-term. He said that he was unsure if it was a mistake when it was done, and if the vision for what it could be was not the right vision for that area.

Mr. Clayborne said that walkability meant different things for the different areas of the County. He said that during the wintertime, it was dark at 5 p.m., so even with a sidewalk down Route 20, he could not imagine families walking down that road at night to and from River Birch restaurant, and was only useful for those living at the adjacent developments.

Mr. Murray said that it was important to keep in mind that the way that infrastructure was paid for was through commercial development, because residential development frequently cost more in infrastructure than what was received in taxes. He said that if commercial development continued to be reduced in all of these places, they would not have the revenue to build the needed infrastructure. He said that counties such as Fluvanna had much higher tax rates per person because the ratio of residential development to commercial development was much higher.

Mr. Bivins said that there was a reasonable conversation to be had about the viability of the commercial mix within the County. He said that the community also sent messages to developers by allowing things to remain vacant, because at some point, the business model did not work for the community. He said that the economic balance today was different for small businesses who could not get loans or find

trustworthy investors. He said that he was unsure if some of their development models could sustain under what was a shifting economic model at the County level. He said that there would be many more small businesses closing due to the many negative conditions. He said that he did not believe that by saying they had to have commercial meant that it would be filled.

Mr. Missel said that the vacancy was not the issue but the use was.

Mr. Missel motioned to recommend denial of ZMA202200010 to reduce minimum nonresidential square footage from 8,000 to 1,600 square feet for the reasons discussed by the Planning Commission.

Mr. Clayborne asked if specific reasons should be stated.

Mr. Herrick said that was preferable.

Mr. Missel said the reason for the recommendation of denial was that the mix of uses should be retained, either as currently required with the 8,000 commercial square feet, or as a reduced amount, and that it was important for the order of the planning associated with this development. Mr. Clayborne seconded the motion, which passed (5-1). Mr. Bivins was the dissenting vote.

Committee Reports

Mr. Missel said that the 5th and Avon Street Community Advisory Committee met on February 16, where CAC officer elections were held, and Ms. Alison Wrabel gave a helpful overview of the AC44 update. He said that there was a lot of discussion about the update and the questionnaire to solicit information from different CACs. He said that the group discussed one of the questions before conclusion of the meeting, and the conversation would be ongoing.

Mr. Bivins said that at the Hydraulic Rio CAC meeting, there was a presentation from an applicant who was working with staff to propose a development near the high school, directly across from Georgetown Green.

Ms. Firehock asked what high school it was near.

Mr. Bivins said Albemarle High School.

Ms. Firehock asked where Georgetown Green was.

Mr. Bivins said that it was right across from Albemarle High School. He said that it was the second time they had heard from this applicant, and perhaps they were going to see something there.

Mr. McDermott said that at the February 15 Board meeting, there were public hearings for Maple Grove Daycare and the Ivy Proper Veterinary and Catering, both of which were approved with support from Board members, similar to what they heard at the Commission. He said that he encouraged everyone to tune into the Board meeting occurring tomorrow for Old Ivy Residences. He said that in regard to the AC44 update, there were community connectors who were discussing with CACs and other community organizations throughout the County to work through the questionnaire that was intended to generate discussion and create feedback. He said that each time the questionnaire was filled out at a meeting and submitted, the team catalogued and reviewed the item to ensure those ideas were incorporated.

Mr. McDermott said that the working group also was trained to give those same presentations within their own networks, and they were currently holding small meetings with their groups to discuss these same issues, then reporting back to the County. He said that in addition, County staff were attending pop-up

events around the County, with the schedule for events made available on the County website. He said that currently, they were at the Northside Library and had events scheduled for each magisterial district in order to elicit feedback from the questionnaires to be returned to staff.

Mr. McDermott said that staff also would be attending many of the technical committee meetings to discuss the comprehensive plan with them, and the focus of the County-appointed technical meetings was to discuss the goals and objectives in the previous plan, trying to get feedback as to how those were relevant today and changes to be made to those.

Mr. McDermott said that there would be another Planning Commission work session for the next phase of the comprehensive plan development, where they would talk about the planning toolkits and included things like growth management, activity centers, multimodal corridors, and then gather community feedback on those same topics. He said that he would follow up shortly with everyone on the Commission individually to make sure that all pertinent information was being incorporated.

Ms. Firehock asked how the County was proposing to handle the many promises in the comprehensive plan in the form of strategies. She asked what the County's policy was when coming across something that in the last comprehensive plan was noted to be important, but after eight years, nothing had been done on it. She said that for example, there was a lot of willingness to work and volunteer to work on Dark Skies initiatives, but the County and Board did not support doing any official work on it. She asked if there was some sort of checklist about the reasons for the past decisions for choosing to work or not work toward certain goals, and what the evaluation metric was.

Mr. McDermott said that strategies were yet to be determined, but they recognized that the last comprehensive plan had too many strategies to be reasonably achieved, and they were trying to relook at that and find what the priorities were. He said that they would determine if it was still a good idea, why it did not happen the last time, and how it was carried forward into the next comprehensive plan and thus the next 20 years. He said that the current phase included discussion of goals and objectives, and the strategies came directly out of those goals and objectives.

Ms. Firehock said that she would rather them to a smaller number of things very well and actually deliver on them than to put everything in there.

Mr. McDermott said absolutely. He said that there were an obscene number of strategies in there, and as a part of this process, they were attempting to be more focused in that work.

Mr. Carrazana said that they had discussed having measurable strategies for a long time and had been given as feedback at several work sessions. He said that as they developed goals and objectives, it was important to have those goals and objectives be informed by what was or was not working before, because they would have similar goals from before. He said that having those measurables on the previous comprehensive plan would be critical to how they created and evaluated the new goals and objectives. He said that a report given recently described how they had under-densified, but they had some densities met in some areas, so it was an important piece of information to receive, and he hoped that they would be able to begin to evaluate that as they developed these goals and objectives.

Mr. McDermott said exactly.

Mr. Clayborne said that as the process continued, the Planning Commission would be more involved with working on the comprehensive plan. He asked if there was some way, they could review their next step of engagement so that they would be prepared.

Mr. McDermott said that he could develop something, but he would return with information to ensure that they would have some form of discussion between now and the next work session, but it was yet to be determined. He said that he would make sure that the Commission was prepared for the work session discussion so that it was effective and the Commissioners could cover the areas they wanted to.

Ms. Firehock said that they had asked for materials to be received more than five days ahead, and while it was elegant to say that each work session was for a different topic, but these discussions were complicated, so she suggested that while it did not fit elegantly in the schedule, there may have to be a two-part discussion on the same topic.

Mr. McDermott said that he understood, and that opportunities were being discussed for that right now; there may be an adjustment in the schedule to include additional work sessions to include room for those larger topics. He said that they were also scheduling a housing update for the next Planning Commission regular meeting with Dr. Stacy Pethia with an opportunity for feedback.

Mr. Missel asked if that was scheduled for the next meeting.

Mr. McDermott said that it was scheduled for March 14.

Mr. Carrazana said that there were benefits to having a two-hour session as opposed to one hour, so it could be potentially held during their regular meeting.

Mr. McDermott said that if it were split up, it would be with a clear and delineating line so that they were not trying to carry on the same conversation. He said that regarding having work sessions in their regular time, it was a possibility as long as they did not have the legislative agenda. He said that they also would have to announce that schedule ahead of time and it must be changed to reflect that, so they avoided doing so, but it did not mean they could not do it.

Mr. Murray said that there were some topics that may make it advantageous for a smaller number of Commissioners to discuss a topic in more detail and bring it back to the Commission as opposed to having everyone in one room doing the same thing.

Mr. McDermott said that it was another consideration to be noted.

Mr. Herrick said that it was an option, but the meetings would have to be noticed if there were at least three Commissioners working on a subcommittee like that.

Mr. Murray said that he understood. He asked if the book presented to the Commission was considered a gift.

Mr. Herrick said that he was unsure of that.

New Business

There was no new business.

Old Business

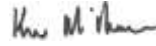
There was no old business.

Items for follow-up

There were no items presented.

Adjournment

At 8:20 p.m., the Commission adjourned to April 12, 2022, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Kevin McDermott, Director of Planning

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

Approved by Planning Commission
Date: 03/28/2023
Initials: CSS

[Attachment #2](#)
[Attachment #3](#)

Attachment 1
Letter submitted by Judy Schlusel

I had planned on speaking in person to the Planning Commission at the February 28, 2023, meeting. However, due to the death of a family member, I will be attending the funeral. Please consider my points and include them in the Planning Commission minutes.

When this application came before you quite a while ago, this body as well as the BOS gave approval to the proposal since it fell under the Neighborhood Model District. The rezoning is requesting the following changes:

- =eliminate the commercial pad
- =now proposing between 10-38 residential units
- =include building envelopes
- =include parking
- =include green space for amenities and storm water management

While eliminating the commercial pad and increasing the density may fall under guidelines meeting a county's bullet point, I am deeply concerned. This parcel is located in the Entrance Corridor nestled among several housing developments that are single family and duplex style homes which all have the common feature of a yard...aka greenery.

The proposed placement of the amenities and storm water management is of concern which will front Rio Rd. From what I understand this development will be rentals rather than the original proposal of "small homes" to purchase falling in the category of affordable housing.

Developers promise the moon yet deliver much less than that. Developers are notorious for leveling a parcel plowing down all greenery, The front part of this parcel is flat with no large trees. However, the back part does have many large trees which I suspect could be labeled as Witness Trees considering the history of this portion of Albemarle County. Is the developer going to plow everything to satisfy a bullet point in the Neighborhood Model District guideline making another attempt to obliterate a portion of history? The developer will probably tell you those trees will be replaced. However, will they be replaced with a twig style tree that will take 25+ years to mature.

Look around this section of Rio Rd and how many of the developments have any amenities facing Rio Rd. What type of amenities is the developer planning....a playground, tennis courts, exercise course? Although you may think some of these thoughts are far-fetched, developers are creative to lure potential clients to their site.

The proposal of green space is of concern. Since this development is being proposed as rentals who will be responsible for the maintenance of the green space? Remember the location is in the Entrance Corridor and all one needs to do is drive by and see the unsightly overgrown unattended junipers located on Rio Rd. Do you, the Planning Commission want to approve and ultimately encourage another unkept section of the Entrance Corridor?

The developer is eliminating the commercial pad and increase density now to a maximum of 38 units. This increase by itself may seem insignificant but that is more traffic funneling onto Belvedere Blvd and ultimately onto Rio Rd. This intersection is a traffic nightmare. I attended the recent meeting at the center presented by VDOT and the County, one does not need to be a traffic engineer, but it came

through loud and clear that although there are several traffic options on the table all theoretical and many years down the road till implementation becomes reality.

At the Feb 23, 2023, Rio 29 CAC meeting storm water management issue came up. Supervisor Ned Gallaway indicated that the Board of Supervisors are aware there are problems with the storm water system in this development area.

Although the rezoning application is being promoted as new and improved, perhaps it should not be approved but at least tabled until more concrete answers can be obtained regarding some of the points, I've raised namely traffic and storm water management.

Thank You.

Judy Schlusell
Rio District Resident
Member of the Rio 29 CAC