

**Albemarle County Planning Commission
Work Session and Regular Meeting
Final Minutes September 26, 2023**

The Albemarle County Planning Commission held a work session on Tuesday, September 26, 2023. at 4:00 p.m.

Members attending: Fred Missel, Vice Chair; Julian Bivins; Luis Carrazana; Karen Firehock; Lonnie Murray; Nathan Moore.

Members absent: Corey Clayborne, Chair.

Other officials present were: Kevin McDermott, Deputy Director of Planning; Andy Herrick, County Attorney's Office; Scott Clark, Conservation Program Manager; Margaret Maliszewski, Planning Manager; Cameron Langille, Principal Planner; Carolyn Shaffer, Clerk (via Zoom).

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Missel established a quorum.

Work Session

ZTA202300006, WPTA202300002 & STA202300003 Riparian Buffer Overlay District Process

Scott Clark, Conservation Program Manager in Community Development said he would begin this discussion on the riparian buffer ordinance with a brief background. He said the proposal they were going to discuss was a project that originated from the stream health initiative of 2017. He said that phase two of that initiative focused largely on rural areas and included an extensive public input process resulting in 14 proposals for possible future County ordinances, programs, and education efforts. He said that proposal one was a proposal to move the stream buffer protections from the water protection ordinance into a new riparian buffer overlay district in the zoning ordinance.

Mr. Clark said that riparian buffers were important for protecting stream banks from erosion, reducing flood damage, limiting pollutant flow into their streams and rivers, protecting habitat both on land and in the streams themselves, and also play a role in carbon sequestration for climate goals. He said that the question had come up about why they were moving this from the water protection ordinance to zoning. He explained that it was due to the broader enabling authority for zoning, which provided a better fit for working with land use and land management. He said that it offered a more extensive authority than the one provided by the state water control law for the water protection ordinance.

Mr. Clark said that before they got into the details of the proposal, he wanted to review some history. He said that the original water protection ordinance from 1998 to 2014 had stream protections that regulated land cover management in the streams, mainly for development purposes. He said that however, at the time, they lacked the resources to effectively enforce the ordinance. He said that in 2014, the focus shifted to buffer regulations related to regulated land-

disturbing activities such as site plans and other activities that involved erosion and sediment control, and that was where they were now.

Mr. Clark said the proposal was to return to a broader requirement for retaining vegetative stream buffers, regardless of whether there was land disturbance activity, while maintaining the post-2014 exemptions for agriculture and forestry. He said that another frequent question was about the location of these buffers, and if they would be in the same locations as the current water protection ordinance's buffer requirements.

Mr. Clark said that there were different standards for development areas depending on whether they were in a water supply protection area or not. He said that most of their development areas were not in those protection areas except for Crozet, which had a separate standard for land adjacent to public water supply impoundments with a wider buffer. He said that in the rest of the County, the standard was for rural areas, mostly areas other than those adjacent to the impoundments or the 100-foot buffer on perennial and intermittent streams or the widths of flood hazard overlay districts. He said that this was exactly the same as the widths they had right now.

Mr. Clark said that permitted uses within this overlay district would include all the ones they saw here, agriculture and forestry, utilities, infrastructure, basic access, trails, restoration, vegetation management. He said that the next few slides would mention items that were covered in specific sections of the ordinance, and he would try to be brief about these for now, but he could always bring up the full text for review if needed.

Mr. Clark said that all of these permitted uses would be subject to the performance standards in the Performance Standards Section 30.8.6. He said there were other uses that were permitted only by County approval, so these were items that would require the riparian buffer administrator's approval and a mitigation plan, and these were contained in 30.8.8.

He said that he tried to give them a slide summarizing this, but it was either too long or too inaccurate, so if they had any questions about these permitted uses and the buffers, he would be happy to go over them in more detail once they get to the Q&A. He said that outside of those permitted uses and the buffers, the general buffer management standards were in 30.8.6.

Mr. Clark said that put briefly, they required the retention of existing native vegetation buffers to be maintained in a natural condition and where a permitted use, such as agriculture or forestry, ceased permanently for conversion to another use, the buffers would need to be restored. He said that it was important to note that this did not mean that a pause in use for an agricultural activity would require restoration, this was when it was a change of use. He said that they had received many questions from the public during the public input phase about exactly what people could or could not do within the buffers. He said that they need to add more clarity and more guiding language in this section, so when this came back for a public hearing, he expected to have more detail on this.

Mr. Clark said that they had approximately one month-long public input period where they received approximately 80 detailed responses from members of the public. He said that they broke them down into these 10 general areas of concern. He said that they had all the summary of this public input as Attachment E to their staff report and he also had all those lists here in the presentation. He said that if they had a question about 3B or 5C or something, they could jump to that and put it up on the screen, but these were the general areas of concern.

Mr. Clark said that the goal for today's work session was to answer questions about the draft ordinances or the issues raised in the public input and gather the Commission's guidance on how to do the revisions, at which point staff would go away and take everyone's input and work on revising these ordinances and preparing them to bring them back for a more formal public hearing.

Mr. Bivins asked how the stream buffer overlay district worked with the Chesapeake Bay Act. He said that he wondered why they could not just adopt the Chesapeake Bay Act and if that would not be easier for everyone.

Mr. Clark said that he did not think that adopting the complete Chesapeake Bay Act would not be easier, as there would be a lot of additional areas they would be obligated to address, such as septic systems that their current staffing levels were not prepared for. He said that Mr. Pohl and Mr. Herrick could probably provide better information on this topic since he was not an expert. He said that they were not required to follow the Bay Act requirements as they were not in the area where it applies, but they could adopt it if they chose to do so. He said that the scope of adopting that entire act was a much bigger topic than what they were prepared to talk about today.

Mr. Bivins said that this was a narrower piece of the whole, as opposed to taking the entire broad, comprehensive piece. He said that when they talked about this, and since they were moving it from one area to another, to the ordinance, he asked if anyone had an opportunity to quantify the level of infringement and if there were locations that could be identified in an attempt to have the largest mitigation impact. He said that he could not imagine that they had staff in place right now, so he wondered how they would they focus their staff so that if they ended up adopting this and changing and making it part of the ordinance so they would get the most bang for someone paying attention to it. He asked if there had been any quantification of the locations where there was a concentration of infringement or possible infringement.

Mr. Clark said that the implementation of this one included the addition of one more staff member who would respond to public concerns and assist with the enforcement of any violations, as well as reviewing development plans. He said that part of how they would address this was through the development plans that come in, just like they did for all other overlay district requirements. He said there would also be the possibility of receiving public complaints so they would take them seriously and respond accordingly. He said that as far as where the less-than-ideal buffers were located across the County, according to what he had been able to gather from the GIS, they were fairly scattered.

Mr. Clark said that there were hundreds of parcels with non-forested buffers on them scattered across the County. He said that it was not that they had one particular watershed or one particular neighborhood or community which had a huge bulk of the non-forested buffers. He said that they were really all over the place. He said that the complicating factor was that a lot of the land that had open buffers was agricultural land, which would not be affected by this anyway. He said that even if they took those out, there were still thousands of individual parcels that had little bits of non-forested buffers all over the place.

Mr. Bivins said that one of the things he thought about in reading the ordinance was trying to put in place a law or ordinance to protect their water system. He said that if they were to look at sort of the tributaries and the places where the water system was located, he would expect that they would have spent some time looking to see just how vulnerable the tributaries of the streams or the lake that flows into the major catchment areas of the water system. He said that when he did

do a cursory look at the GIS, it looked like a lot of the land that would be subject to flowing into the water system was agricultural land and not developments.

Mr. Bivins said that if they were discussing the preservation of water that people drink, and one of the main areas for exception was agricultural forestry, he was not quite sure what the major benefit of this ordinance would be, as it would not give staff nor the Supervisors the ability to come in and implement even minor mitigation measures, such as planting trees or making buffers farther away. He asked how they could do that, because the closure of recreational waters due to algae blooms this year had been quite disturbing for their communities. He said that from what he could see around those areas, some of it was caused by chemicals running off lawns, which he hoped they would address, but some of it was simply due to the fact that it was located in a rural part of the County and subject to all the issues that occur in a bucolic place called Albemarle County.

Mr. Bivins said that one of the things he was trying to figure out was how this ordinance would mitigate those types of issues, because while it was good code, he did not know how it would help advance the kinds of issues they see in the summer or the kinds of issues that threaten their water system.

Mr. Carrazana said that the first thing they were being asked to do was to move the location of the Water Protection Act.

Mr. Clark said that the stream buffer portion of the water protection ordinance would be moved to a new section.

Mr. Carrazana said that moving that was one part of the conversation.

Mr. Clark said that this was not meant to be the whole picture; it was just one piece of it.

Mr. Carrazana asked if staff wanted the Commission to focus on just that piece of it.

Mr. Clark said yes, for now, as this was the one detailed proposal, they had ready for the Commission.

Mr. Carrazana said that part of the reason for the justification, as he understood it from his reading of the document, was that in the land use plan, it was a better fit. He asked if Mr. Clark could elaborate on this point.

Mr. Clark said that Mr. Herrick may be able to elaborate as well, but basically the state Water Control Act, and their own water protection ordinance were focused on primarily individual land-disturbing activities, so for someone who was doing groundwork on a development site, they could regulate that activity and various aspects stream buffers and otherwise through the water protection ordinance. He said that the difference here with the zoning ordinances was that they could set an expectation for vegetation management and other forms of buffer protection whether or not there was a site plan going on, whether or not there was a development project going on. He said that if there were, as they would expect across the rural areas, thousands of parcels that did not have any activity going on in terms of new development, but they did have buffers with native vegetation along the streams, this would help them to protect that, which was something they did not really have in the current water protection ordinance.

Mr. Missel said that if he understood Mr. Clark's response, the additional leverage that this provided was the ability to improve water protection areas outside of the process related to development. He said that for example, there may be a property owned by someone with a degraded stream and a water protection area that extended 100 feet on either side showing degradation, and even without a site plan or the WPO, it could still be improved.

Mr. Clark said that it could be improved anyway, as they did not prevent that and were careful to allow for restoration activities. He said that essentially, if that same property were a property that had open and partially forested buffers on a stream in rural areas, nothing about its use would change. He said that currently, if the landowner wished to clear the forested section of their buffer, they could do so. He said that under this ordinance, they could not and would be required to retain that.

Mr. Missel said that was unless it was part of the exemptions.

Mr. Clark said that if there was a permitted use and a mitigation plan, or if there had been a restoration activity or things like that, but just to take a wooded buffer and clear it because they were not mowing the yard or because they wanted to see the mountains or something, that would not be allowed.

Mr. Missel asked if they could still do that in an agricultural or forestal area.

Mr. Clark said that for an agricultural or forestal activity, yes, they were farming. He said that just because it was zoned agriculture, it does not mean everything was exempt, it only meant those particular activities that were protected by the state Right to Farm Act were not limited by this ordinance.

Mr. Carrazana said that he was still struggling to understand where the additional leverage came from with this move.

Mr. Clark asked if he was referring to the control of the vegetation or uses in the buffers.

Mr. Carrazana said that Mr. Clark had mentioned that they now had the ability to prevent areas from being deforested. He asked how they had acquired this ability to do that with the proposed move.

Mr. Clark said that it set management requirements and limited uses in the buffers that were currently not regulated as far as vegetation removal, structure placement, access, and it allowed for enforcement through the zoning enforcement process.

Mr. Carrazana asked if they did not have a way of enforcing it now. He said that they could add those requirements to the current statute.

Mr. Clark explained that the water protection ordinance largely limited their capacity to control land-disturbing activities.

Mr. Herrick said that it was a matter of the state enabling authority for their current water protection ordinance was very specific and detailed. He said that therefore, the parameters of their local water protection ordinance were likewise very specific and detailed. He said that by shifting some of these regulations over to the zoning ordinance, which had broader and more general state

enabling authority, they could do things that were not specifically enabled under the state water control law.

Mr. Carrazana asked if they could write additional language requirements.

Mr. Herrick said that their authority under zoning was not unlimited, but it was certainly broader than what was available under the very specific state water control law.

Mr. Carrazana asked if they had more flexibility under this type of mitigation that they could now incorporate.

Mr. Herrick said that they could make reasonable land use regulations under the zoning ordinance in ways that they could not do if they were operating strictly under the state water control law, and that was the basis for making the move, as it allowed for a broader enabling authority to perform some of the things that they deemed worthwhile.

Ms. Firehock said to respond to Mr. Bivins, he was not incorrect to look at things like agriculture and question why they were not doing more. She said that that the Chesapeake Bay Act specifically examined agriculture, utilities, railroad, stormwater management features, etcetera, so their hands were tied in that respect, although there certainly were USDA programs. She said that they gently encouraged their neighbors to fence their cattle out of their stream, and they did and got paid money for it, so they were very happy about that. She said that there was a lot that could be done for education, and for the audience, there could be enforcement potential, but there could be potential for education of landowners.

Ms. Firehock said that she had had good luck with landowners saying they understood that they liked seeing the whole creek, but part of the reason it was sedimenting in was because they were seeing the whole creek, and they did not have any tree roots holding that bank in place. She said that in another landowner example, she said that they were losing 10 feet of bank a year, and asked what they paid for acre so they could do the math on the half-mile of stream frontage, which was expensive, and they considered planting trees.

Ms. Firehock said that she wanted to ask a question about the slide, because she was confused about when permitted uses agriculture forestry cease, the impacted buffers must be restored. She said that agriculture and forestry did not have to have a 100-foot buffer and could have their best management practice of 35 feet or whatever they put in their management plan. She said that they would not have to have a buffer, and she also had not seen where they had to go and replant the trees. She asked for clarification.

Mr. Clark said that the difference was that with an agricultural activity that was paused or inactive for a long time, they would not expect a buffer to be replanted, but a property that was in agricultural use and was subdivided and developed for residential use, they would.

Ms. Firehock said that there was an instance in her neighborhood of Howardsville where a landowner cleared a forest and claimed it was for forestry purposes, but the trees were never harvested and were just left lying around. She asked what would happen if someone cleared a buffer zone and then tried to develop the site, and if they would ask them to put the trees back. She said that another example was that hip camps were illegal in the County, but she could think of several that she knew of, and one landowner had cleared some of their land for a hip camp

along the river. She said that in that case, the use was illegal, but she wondered if they would be made to put the trees back in that type of scenario.

Mr. Clark said that they would need to develop a mitigation plan in order to obtain approval for how they would proceed with restoring the non-permitted vegetation changes at the buffer of the site.

Ms. Firehock said that if they did not adopt the ordinance, they would not have to put the trees back. She asked if that was correct.

Mr. Clark said that they did not have the tools to do that with their current ordinance.

Ms. Firehock said that that was the major difference. She said that in her faux forestry example, there was nothing they could do to make them put those trees back, and in this illicit land use case, there was nothing that they could do to make them put those trees back once they had cleared them. She said that it encouraged bad behavior because people could just say they did it and the County could not make them fix it, so this was a good tool in their toolbox. She noted that in Article 3, District Regulations, there was a sentence on page 3, the purposes of the section, and under C it stated that it was for safeguarding waters from pollution. She said that the wording was awkward and could be improved by replacing "the safeguarding of clean waters from pollution" with "safeguarding waters from pollution."

Mr. Herrick said that he had the same reaction when he saw that, and he discovered that it was the exact language of the state enabling authority.

Ms. Firehock said that she could imagine someone picking that apart and saying that a stream was already half-impaired.

Mr. Herrick said that it could also be said that all waters should be safeguarded regardless of their current condition, yet this was how it was worded in the state law.

Ms. Firehock said that she would withdraw her concern and was sorry for the state's grammar.

Mr. Murray said that to clarify, the Chesapeake Bay Act did allow for requirements for agriculture. He said that it required that if agriculture was going to impair the buffer, like if they decided they want to convert part of the buffer into row crops or pasture, they had to get a conservation management plan. He said that there was quite a bit involved in that, and it put some conditions. He said that in fact, in 2014 they actually had a restriction on agriculture for row crops in Albemarle County, and they did require a buffer for row crops. He said that however, this mysteriously vanished after 2014 when this rewrite happened.

Mr. Murray said that his understanding with the rewrite was that the regulation had been based on the Chesapeake Bay Act previously, and then when the new erosion and sediment control rules came up, staff said that the sediment control rules had buffers and the Chesapeake Bay Act had buffers, so they should not have buffers in two places, they should just merge these together. He said that when the dust cleared, the buffers only applied when development was occurring, because then their buffers became glorified silt fences, because after the development was finished, they know, all the permits were complete, someone could remove the buffer at will, and then people could remove streams 10,000 square feet at a time, which was currently the case.

He said there were actually provisions for requirements for agriculture, and he knew they were contentious, but those were in the Bay Act.

Mr. Murray said that as it was said, the nice thing about the Chesapeake Bay Act was that they can opt into any piece of the Bay Act and opt out of any piece that they liked, so they can pick and choose what parts go in. He said that one of the big things here was that they need a standard operating procedure to guide enforcement of this policy. He said that staff will always be underfunded and understaffed, so when there were not enough staff to handle all the complaints, they should determine which complaints were prioritized. He said that it seemed like a lot of the language in the ordinance gave too much power to the riparian buffer administrator, particularly related to things like ponds. He said that some other localities had a committee that those go to. He suggested that a Citizen Advisory Committee could continually provide input on this policy and how it was applied would be very valuable.

Mr. Murray said that he understood that they were going to discuss it in terms of vegetation management, but he would say right now that the way that the Bay Act worked and the way that he would encourage them to apply this was that if there was not a language established, buffers should be established where they do not exist. He said that this should not mean that people had to go back and plant trees if those trees were not present on the day that this was passed, but they need to stop mowing the buffer. He said that if they chose to do something more like plant native plants or perform restoration activities, that should be permitted, but at a minimum they should stop mowing the 100-foot buffer. He said that that was their policy in 2014 and that should be their policy now.

Mr. Murray said that it was time to consider a minimal buffer in the development area. He said that he knew that people would like to push that off to some future date, but it took so long. He said that they knew that there were problems with this shortly after this change was made in 2014, it had taken them until now to address this policy. He said that if they did make changes, they would not happen for another decade. He said that some minimal buffers should apply in the development areas on intermittent streams. He said that it was kind of crazy that they go from 100-foot buffers in the rural area, suddenly hit the development area, and then had zero-foot buffers and they could just remove those streams entirely. He said that a 35-foot buffer, or for that matter, even a 5-foot buffer would be preferable.

Mr. Missel asked if it was true that there was no buffer requirement.

Mr. Murray said that yes, for intermittent streams in the development area, except where the stream was part of the water supply protection area.

Mr. Missel asked if Mr. Murray was suggesting that apply to areas not within the water supply protection area.

Mr. Murray said that was correct. He said that the inconsistency had been pointed out about why they were providing 100-foot buffers on intermittent streams in the development area for the water supply areas but not the other ones. He said that they needed to reconsider the policy and believed it should be done now rather than 20 years from now. He asked what transportation improvements meant. He asked if it included private roads or only VDOT infrastructure projects. He said that it was written that transportation improvements would be allowed in the buffer.

Mr. Clark asked if Mr. Murray was referring to a particular section.

Mr. Murray said that it was up on a slide when Mr. Clark first began his presentation. He said that he had had conversations with others about that as well.

Mr. Clark said that the transportation uses that were permitted within the buffers were stream crossings, bridges, culverts, driveways, and roads as listed in Section 30.8.8. He said that there were standards for how they could do that, and a mitigation plan would be required, so they were not exempt from the ordinance; they were permitted with mitigation.

Mr. Murray said that that needed a lot more clarification. He said that he understood if something were going to cross perpendicular to a buffer and he understood if it were tied into reasonable use of the lot as that was mentioned later, but it seemed like they would not want to create a situation where someone could just run the road parallel through the stream buffer.

Mr. Clark said that there was a standard in D that discussed being perpendicular or as close as possible.

Mr. Murray thanked Mr. Clark for his answer. He asked if he could define the reasonable use of the lot. He asked if it was referring to use of all the potential development rights on the lot, use of just the first development right, or was somewhere in the middle.

Mr. Herrick said that that language in the ordinance was to prevent a regulatory taking by ensuring that reasonable use of the property was still possible even after the adoption of the regulations. He explained that if all reasonable uses were prevented, someone might file a claim for a regulatory taking and demand compensation. He said that the basis for this requirement was to allow for some reasonable use of the law to avoid the regulatory taking.

Mr. Murray said that he appreciated Mr. Herrick's answer, but it did not answer his question. He said that they had previously talked about hypothetical development rights, which were hypothetical in the nature that the topography and natural resources might or might not enable the complete use of all those development rights. He asked how arrived at that number.

Mr. Herrick said that the reason for wording the regulation in that manner was to allow for case-specific determinations by the administrator. He said that unfortunately, there was no one-size-fits-all determination, as each property was unique, and it would be up to the administrator to determine what constituted reasonable use of the property and whether these regulations would deprive all reasonable use of the property. He said that a similar analysis was done with variances heard by the Board of Zoning Appeals, where they must determine if the zoning ordinance prevented reasonable use of the property in the absence of a variance. He said that the buffer administrator would make the same sort of determination as to whether this regulation would have the effect of depriving the owner of the reasonable use of the property.

Mr. Murray said that he would strongly encourage a standard operating procedure should be developed along with a committee. He asked how streams would be added. He said that when moving from one section of the code to another section of code, it seemed they were applying an overlay district, but now they had a map based on which stream buffers were being applied. He said that often, their streams were poorly documented, so when staff went out to a site, they often discovered streams that were not on their maps or neighbors noticed these streams that the County maps did not include.

Mr. Frank Pohl, County Engineer, said that that would happen the same way it was today. He said they defined this overlay district as a text based on the definition, not as a map, so it could change based on field conditions.

Mr. Murray asked what happened when residential uses happened on an otherwise agricultural property and how the rules applied there. He said that he was wondering about silt fences, because it seemed that if they had to have silt fences if there was potential for erosion near a development uphill. He asked if that were how they would apply the requirement for stream buffers. He asked how they would determine what streams were buffered when residential activities occurred in an agricultural lot.

Mr. Pohl said that the erosion and sediment control requirements would only come into effect if a permit of that type was triggered. He said that if a building permit exceeded 10,000 square feet in the rural area for land disturbance, then E&S measures were required to be implemented around the land, typically, silt fence was placed at the edge of the land disturbance. He said that it was not necessarily contingent upon a stream; there may not even be a stream, but a silt fence would still be used. He said that in this ordinance, they excluded E&S measures from buffers unless it was absolutely necessary, and if it was, it must be within the first 50 feet of the buffer zone, and it had to be restored once removed and was not a permanent impact. He said that this was a change from the ordinance before 2019, where it was allowed in the buffer.

Mr. Murray said that he would encourage it, because the temporary disturbance that occurs during residential development and the long-term impact on streams were two very different things. He said that staff did not like redundancy or the ordinance, but in his opinion, it made sense to keep requirements for buffers under erosion and sediment control as well as those here because it covered both sides. He said that there were questions from the public regarding culverting streams, and he knew that the Bay Act dealt with this by requiring buffers even if the stream was buried, so it was fine to obtain a permit to remove the stream, but still required a buffer. He said that it was not clear to him while reading this whether that would also be a policy under this ordinance. He asked if a stream still had a buffer if it had been culverted and had no banks anymore.

Mr. Pohl said that no, based on the definition of perennial streams, it was a natural stream and not a piped stream. He said that this one was delineated. He said that another issue they had was that the site-specific evaluation for perennial streams had those sheets which they must go through, and it had all of the different characteristics of a natural stream. He said that they used the Fairfax method as well as the North Carolina method, which all pointed to natural stream characteristics. He said that he had not used that method on a pipe stream, but he would guess that it would not come up as a perennial stream if they used that checklist to define it if it was perennial or intermittent.

Mr. Murray said that he could share the relevant guidance from DEQ regarding stream buffers and retention even after a stream was buried, with some exceptions. He said that he might have shared this document with them in the past. He said that he strongly encouraged adopting the policy, as it would be more defensible and in line with DEQ guidance. He said they should keep in mind any guidance documents issued by DEQ on this topic, as they should be part of their standard operating procedure except when it did not apply, like he knew that they were not adopting the agricultural portions of the Chesapeake Bay Act. He asked how they clarified what was or was not agriculture when there was a dispute about a use.

Mr. Clark said that they had a definition of agricultural use in the zoning ordinance.

Mr. Pohl said that the way they currently determined whether a use was agricultural or non-agricultural was by calling a representative from the United States Department of Agriculture (USDA) to help them make those determinations. He said that it also applied to forestry; they ask for assistance from the Department of Forestry to help them make those determinations. He said that if they considered it to be agricultural, they would work with them accordingly and must also involve the Department of Environmental Quality (DEQ). He said that it was not just their own experience, as he was not a farmer himself, so they sought input from other people in the industry who were experts.

Mr. Murray said that was extraordinarily helpful. He said that if they developed a standard operating procedure guide, that sort of thing would be helpful to have in there so that the public could see how these sorts of determinations were formulated.

Mr. Clark said that the work plan for developing this ordinance included a step to write down a guidance document for the new enforcement position.

Mr. Murray thanked staff for undertaking this huge effort. He said that there were areas where people had taken a bulldozer to streams in his own back yard, and that currently was a permissible action on residential properties, and this ordinance would fix that. He commended staff for their efforts.

Mr. Moore said that there certainly should be an emphasis on maintaining clean water, because if it was not clean, it was no good. He said that there were plenty of other cities and counties out there who were harming their residents with tainted water supplies. He said that he would like to hear more about the decision to keep the buffer at 100 feet in the designated growth areas. He asked what went into making that call to match the rural areas versus the suggestion of making it 50 feet.

Mr. Clark said that when the 14 proposals went before the Board, the way it was laid out was that the extent of the buffers would not change, so even though they were changing the character of the regulations, they were not affecting a new and different area, different landowners, or different areas of land, so they were carrying forward exactly the same buffer extents that they had before. He said that whether 100 or 50 feet was the best answer was a much more extensive project to propose. He said that the intent was to improve the regulation of the same area.

Mr. Moore asked if prior to 2014, even in the development areas, they had the 100-foot buffers.

Mr. Pohl said that in 1998, the 100-foot buffer was established.

Mr. Moore asked how many homes and businesses in the existing development areas, or the urban ring were located less than a hundred feet from a stream.

Mr. Clark said that there was an extensive portion of the draft ordinance dealing with nonconformity, so uses that were already located in the buffers can remain and can be replaced if they were destroyed or something like that. He said that if there were requests to expand or change a residence or another structure that was in the buffer, then that was one of those items which would require a mitigation plan. He said that in most cases, they needed look outside the

buffer first, and if it cannot expand outside the buffer, then it can do so with mitigation inside the buffer, but it depended on the particular type of structure or use.

Mr. Moore said that he had seen the parts of the document that pertained to grandfathering in existing structures. He asked if there was an estimate of how many such structures already existed if this would be grandfathered in.

Mr. Clark said that he did not have an estimate on that, but they could certainly take the time to provide that at the next meeting.

Mr. Moore said that as they talked about land in the development area and what they were building on it, he would ask how much of that land would be reduced by putting in the 100-foot buffers in the zoning code.

Mr. Clark said that a mapping exercise would be necessary.

Mr. Murray said that UVA had done an excellent job of managing streams. He said that the South Lawn Project was an example of how streams can be managed well during development, as there was an intermittent stream on that property. He said that it was possible to have attractive developments while still preserving green spaces and water features, such as running water, by implementing standards for what happens in the development area and having a procedure for creating managed water features with mitigation plans like those used by UVA.

Mr. Moore said that he was struck by the mitigation plans and possibility of nice water features, but there were only so many tools in their toolbox for housing affordability, and where they could build things and said they could build things was one of them. He said that he appreciated Mr. Murray's thoughts on mitigation.

Ms. Firehock said that she co-authored the Water Protection Ordinance for the City of Charlottesville, and they put 100 feet on the three major streams as a part of that ordinance, but they also engaged in an exercise where they mapped every stream and determined how much buffer could be put in each area based on the landscape. She said that the City chose not to adopt the proposed buffers and kept what they had, but this exercise could be done in the County. She said that if someone wanted to achieve more practical results, they should consider doing this analysis so that they could see the streams that had room for 100 feet of buffer while others may only have 30 feet due to the tight landscape.

Mr. Moore said that for the urban ring development pattern, to apply very similar buffer distances to both giant estates and in the urban ring was what his question was pertaining to.

Ms. Firehock said that she had confidence that they could figure that out.

Mr. Missel said that in the agenda, staff said specifically that the Planning Commission was asked to provide input regarding the issues raised by the public input to guide upcoming staff revision to the draft ordinances. He said that he wanted to make sure that staff received what they needed from the Commission. He said that he wondered in particular if there were any specific things that staff would like them to address or focus on.

Mr. Clark said that they had no specific ones, but they wanted to make sure they were aware of them. He said that if they saw something in either the summary or the full input that they had

questions about or felt a need for clarification on how they answered the question, he would be glad to hear it, but they did not need to go through all 10 categories.

Mr. Missel said that regarding the process for development in the community, it would be helpful for developers to understand how this process currently worked and what changes were proposed. He said that a chart or outline comparing the current requirements with the updated requirements could be beneficial for Supervisors. He said that the comment about regulatory taking was interesting, and it revealed that land value was something they need to consider when enhancing and improving their water quality. He said that they should also be conscious of the impacts the buffer changes had on landowners. He said that they talked a lot about perennial and intermittent streams, so he would like to know how often the mapping was updated and how frequently they checked whether a stream was intermittent or perennial.

Mr. Pohl said that they always did that when they had an application plan that did not show a buffer on something that could be. He said that it was more done to add something than to subtract something, but they had few cases where the owners requested to remove it because they say there was no stream there, but it did not happen often. He said that they would conduct a field investigation in that circumstance.

Mr. Missel said that the old USGS maps would show perennial streams as blue lines.

Mr. Pohl confirmed that that was an option, and another option was to do a field survey.

Mr. Missel said that he was curious due to climate change and the resulting droughts.

Mr. Pohl said that the Department of Conservation and Recreation had a map that did not match theirs either, so he used that one as well, and if it showed a solid line he would go out and look at it.

Mr. Missel said that a large farm adjacent to his personal property is undergoing extensive earthwork. He said that he wondered if they had considered assessing the greatest offenders, meaning whether they should focus on the development community or the agricultural and forestal community. He clarified that he was not suggesting taking away rights from either but simply was asking if they had considered which one would have a greater impact on the environment. He said that when he looked at the impacts to that one area compared to even a residential subdivision following the current WPO requirements, it was much greater. He asked if they had looked at areas of greatest offense.

Mr. Clark said that there were 14 proposals in total and not just this one, and there were many options available for addressing stream protection on agricultural land that often-involved cost-share programs and voluntary programs that he hoped that they would also be pursuing. He said that he knew the Soil and Water Conservation District was a regulatory tool which largely impacted land management and land development but may not be the best tool. He said that an issue they could reasonably address was how do they, particularly in reservoir watersheds, deal with agricultural impact, but that may not be through this particular tool.

Mr. Missel asked that they continue to look at that.

Mr. Bivins said that he appreciated the elegance of having all of the conditions apply to each one of the areas, but he would push back a little against having intermittent streams outside of the

water protection area. He said that it may be difficult for staff to determine the size of a lot if they had to go out and anticipate what might be an intermittent stream on a big or small piece of property in the development area. He said that additionally, he was not sure what benefit there would be from including the regulation of the streams versus what Mr. Missel was speaking about, where they were trying to ascertain what were the big portions of their streams or pooled water impoundments that really had an impact on their drinking water. He said that if they had to prioritize where funds should go, he would prefer to maintain and extend their drinking water supply, as opposed to trying to do something very broad. He said that given that they did not currently have a staff person who would walk around and check all of those out, and this would fall entirely on the County Engineer until he delegated it to somebody else, he would prefer that they look at those areas where they had the least amount of imbalance and the most amount of risk. He said that that was where if they were looking at those kinds of dollars, and he would like to allocate those dollars where they could have the highest return on their investment.

Mr. Carrazana asked to see the list of public comments. He said that in particular, he wanted to touch on prioritizing major streams that were obviously impacting their water quality and the Chesapeake Bay. He said that he loved being real about what they could accomplish. He said that the statement would be that some buffers were better than no buffer. He said that prioritizing and looking at what could be achieved in major streams would be something that they should probably spend some time doing. He said that they should determine the extent of the stream buffer and how mapping can help show where they got the most bang for their buck. He said that he would encourage looking at those areas, and it seemed they had an example done for Charlottesville, and whether it was adopted or not, it was perhaps worth looking at for Albemarle County.

Mr. Murray said that the headwaters of a stream were actually the most important part of the stream, comparing them to the capillaries in the human body, which if they stopped working, would be fatal. He said that likewise, if they removed all the headwaters of a stream, they would automatically have an impairment in the stream. He said that in the case of Moores Creek, which had a state of impairment, if they removed the headwaters, there was almost nothing that could be done to fix it anymore, and they would have a polluted stream running through their development area.

Ms. Firehock clarified that the headwaters could be intermittent. She said that it was a good point.

Mr. Murray confirmed that the headwaters could be intermittent. He said that having a minimal buffer of some kind, even if it was a managed stream like the South Lawn Project, provided a stormwater benefit and may improve the quality of what was on the surface and saved that stream. He said that if all the headwaters were sacrificed, then the stream had been lost.

Mr. Bivins said that he was not in disagreement with Mr. Murray because he had just done what he suggested, which was to make a decision that the body of water flowed into the water system, and therefore, there was a high value in protecting it, as opposed to something that only flowed into the water system if there were heavy rains like the previous week, and other than that was just dirt. He said that he agreed that if they were looking at the headwaters of what flowed and had RWSA work with staff, they should look at everything that fell as a possibility of flowing into Moores Creek. He said that however, if there was no possibility of the flow, he did not understand why they put that barrier. He said that they should allow for some flexibility in the code to enable them to take it and be able to come alongside those waterways and things that had been mentioned.

Mr. Murray said that a good method to implement this would be to enforce buffers on all intermittent streams within impaired watersheds. He said that if they did that, it would create an automatic incentive for individuals to clean up the watershed, as otherwise they would lose property value.

Ms. Firehock said that in hydrology, there can exist a situation where an intermittent stream becomes perennial due to extensive land development. She said that this may result in streams changing their classification. She said that she was not saying that it was a problem, but it could be seen where intermittent streams were now perennial because there was so much runoff.

Mr. Murray said that he recalled trying to see a City Councilor in Charlottesville a while back, and she was going around talking to constituents about what they wanted most. He said that one child told her that what they wanted most of all was a stream to play in, and she said that there was a stream that went right through his backyard, but they put it in a pipe. He said that this was an example of how they were taking away something from urban residents, in this case low-income residents, that would like to have that feature.

Mr. Missel said that they had discussed a fair amount about education, and what those opportunities were out there for that. He said that this was a regulatory issue, with the perception being that they were adding regulation or process to it. He said that it would be interesting to balance it with some opportunities for improvement to stream buffers. He said that there was a recommendation in one of the public comments to use native plantings. He said that it was a no-brainer, and he knew they would add it back in, but he did not necessarily know himself what other opportunities may be available for them to take advantage of.

Ms. Firehock said that there was more money available for riparian buffer planning than had ever been in the history of the government funding support of such things. She said that there was Department of Forestry Clean Waters for the Bay and U.S. Forest Service just put out almost \$1.5 billion for tree planting. She said that the James River was in their watershed and there was a huge amount of money in the James for planting, so it was not just about having a regulation but rather, there was a ton of money and technical support and people to come to their property and help them.

Mr. Missel said that maybe that did not exist necessarily in this information, but maybe there was a reference to a tool or resource that provided those resources.

Ms. Firehock confirmed that there was an online tool that could be used.

Mr. Clark said that they could update the environmental stewardship hub on the County's website with that information as well. He said that the next step for this process would be to make revisions based on the Commission's input as well as public comment, then staff would return with a revised version of all of these ordinances for a public hearing.

Ms. Firehock said that she hoped they could really push forward the notion of strong protection that they once had. She said that they were introducing a new code, but this was not like imposing new, harsh regulations. She said that people had lived here for a long time, and most or all of them did during the buffer period, and there was no closure of businesses, farms did not cease operations. She said that they were just trying to reinstate what they should be doing in the face of climate change.

Mr. Murray said that when they looked at stream health, it had continued to decline, and while not as rapidly in their area, the trend was still ongoing. He said that if they expected stream health to improve, they needed to do more, and could not just do less and hope for an improvement.

Recess

The Planning Commission recessed the meeting at 5:15 p.m. and reconvened at 6:00 p.m.

Call to Order

Mr. Clayborne called the meeting to order at 6:00 p.m.

Ms. Shaffer called the roll.

Mr. Clayborne established a quorum.

Other Matters Not Listed on the Agenda from the Public

Mr. Clayborne asked if any members of the public would like to speak. Seeing none, he asked the Clerk if anyone was signed up online to speak.

Ms. Shaffer said that there were none.

Consent Agenda

Mr. Clayborne said that there were no items on the Consent Agenda.

Public Hearing

SP202300007 Home Depot Outdoor Storage, Display, and Sales

Ms. Margaret Maliszewski, Manager in the Planning Division of Community Development, said that she would be presenting this entrance corridor-related application. She said that this was a request for a special use permit for outdoor storage, display, and sales associated with a new Home Depot store. She said that the site was proposed for the Fashion Square Mall, located near the intersection of Route 29 and Rio Road. She said that the Sears store, currently located at the north end of the mall, would be demolished for this proposal, and a new Home Depot store would be constructed in its place. She said that both Route 29 and Rio Road were entrance corridors, and the proposed display was within the entrance corridor overlay and was the reason why the SP was required.

Ms. Maliszewski said that the yellow highlighting on the slide displayed on the screen showed the areas proposed for product display around the building. She said that Rio Road was at the right side of the slide and Route 29 was well off the top of the slide. She said that the next slide showed the proposed appearance of the garden center and what some of the display areas would look like. She said that most special use permits were reviewed under Section 33.8 of the zoning ordinance; however, SPs for outdoor storage display and sales were reviewed under a different section, which limited the factors to be considered to determining whether the outdoor storage display and sale was consistent with the applicable design guidelines.

Ms. Maliszewski said that those guidelines were the entrance corridor design guidelines, and the Architectural Review Board applied them in their review of this request in early August of this year. She said that it was a detailed review of design topics such as visibility, scale, building forms and features, materials, colors, screening, and lighting. She said that all of these details can be found in the ARB staff report, which was attached to the Commission's report as Attachment E. She said that after their review, the ARB voted unanimously to recommend approval of the request with some amendments to the staff's recommended conditions.

Ms. Maliszewski said that those amended conditions were listed in the ARB action letter that was included in the Planning Commission report as Attachment F. She said that those conditions were adjusted slightly after the ARB meeting to be more consistent with standard language for SP conditions, resulting in this list of conditions that they could see on this slide, and also on pages 3 and 4 of the staff report. She concluded that staff recommended approval of the proposal with the conditions listed on the slide and in the staff report.

Mr. Clayborne asked if Commissioners had any questions of staff. Hearing none, he opened the public hearing.

Ms. Valerie Long stated that she was representing the applicant, Home Depot. She said that a number of members of their project team were here, including their project architects and David Ellington with Kimley Horn civil engineers to address any questions. She said that to clarify, the project was to redevelop and replace the existing Sears at Fashion Square with a retail store, which was a by-right use in this zoning district, Planned Development Shopping Center but because the project property fronts on the entrance corridors, they needed a special use permit for the outdoor storage, display, and sales, including the garden center itself because it was not entirely enclosed, as well as the outdoor display of products, and a temporary staging area for some items. She said that there was a large amount of existing vegetation; the mall was first constructed in 1979 or 1980 and a lot of the vegetation was quite mature.

Ms. Long displayed on the screen a view from Rio Road if they were turning into the shopping center, and the former Sears building could be seen sort of in the center distance with the white building. She said that they had a view in from Rio Road at this particular location where there was a short gap in the trees and the shrubbery, and there was another view from Rio with a fairly steep bank to the right there of the guardrail, and they could see the existing former Sears store and the parking lot. She noted that there was not any parking lot landscaping, which would obviously be a requirement under the existing site plan ordinance.

Ms. Long said that the garden center would be in the foreground where the vacant parking lot was now. She showed on the screen a view from the far side of Rio Road showing what it looked like now, with some existing rooftop mechanical equipment visible. She said that the outdoor storage and display of products would be along the front of the store, as shown in the image on the slide. She said that the areas circled in red were where display products would be located, similar to what one might see at other Home Depots or other similar stores. She said that the next image showed the back and, on the side, where there would be some temporary staging proposed.

Ms. Long said the next slide showed a portion of the proposed site plan where the parking lot landscaping would be located, meeting all standards. She displayed different views of the garden center and the landscaping that was proposed along Rio Road, noting that all vegetation would be left in place and that new plantings would be added. She said that the Architectural Review

Board had approved this plan, with one condition that the plantings here be of a more diverse species and not just all the same, and that would be included on the final plans.

Ms. Long said that one of the recommended conditions of approval was that they add landscaping along Route 29 where there was not any at the moment. She said that originally, they were happy to do that, even though there was not a lot of space between the right-of-way and the edge of the existing parking lot. She said that, however, an American Land Title Association survey showed all of the conflicting utility and other easements that restrict where plantings could be located in that area.

Ms. Long said that although this portion of the parking lot was not part of the current project, once the Home Depot store was approved and, on its way, Home Depot would be working towards what they called phase two of the mall redevelopment, and among other things, this area would be torn up as part of that future redevelopment, but not at this time. She said that the hope was that in the future, there would be plenty of room sort of inside the blue line to add more plantings, but right now, there was not.

Ms. Long said that the only area that was available that was not in conflict with other easements was the area displayed in green on the slide, and even that was subject to VDOT's approval, so they did not know if they would be able to plant there, but they were willing to give it their best shot. She said that therefore, they may need to talk about some minor tweaks to that particular condition of approval to just make it clear that everything was subject to VDOT's approval. She showed on the slide an image from October of 2014 when, before the Rio 29 grade separated interchange was constructed, there were some very mature trees in that exact location, but as part of the widening of Route 29, those trees were removed. She showed an image taken from Google Earth showing this area where all those trees were during construction and a retaining wall that was constructed.

Ms. Long said that this was the area in question where they would hope to be able to plant some trees, but again, in those areas where it was permitted under the existing utility easements. She displayed renderings of the proposed elevations of the building so they could see a little bit better of where the outdoor display products were proposed to be located. She said that on the top left was the garden center with exhibits and plants and things like that on racks, then the second half of the building, the far end with the lumber entrance and some products for display in front there.

Ms. Long said that the next image showed a view looking from Rio Road and the side of the garden center. She said that there was an element called a tool rental center that was essentially on the side of the building and was a portion of the store where customers could come and rent tools such as ladders or snowblowers, and that was visible from the entrance corridor, but it sort of looked like it was a little closer than it was, however that was going to be in the distance, but they wanted to try and show they sort of what they might see from the entrance corridor.

Ms. Long said that on the bottom was the full view from Rio Road showing the garden center and the fencing that was proposed to enclose it. She said that they were proposing three layers of fencing, slightly different on the bottom than on the top. She said that all parts of the fence on the garden center would be a vertical black metal fence, and then in between will be what they were calling this expanded metal mesh fence, and on the inside at the bottom, there will be this black fabric mesh.

Ms. Long said that they did not have a precedent image to show, but it would be without chain link; along all of it would be the metal vertical metal fencing, on the bottom would be the security fencing, and then some chain link behind it. She said that there was no Home Depot store that had the fence design exactly like it was proposed here, so that was why they did not have any actual pictures to show them, but they had some pictures showing various elements of it. She said that one image showed the chain link fence with the vertical metal fence. She said that the next slide showed some pictures taken at the Home Depot in Waynesboro, the left side was a very close up look at the chain link, and the other image showed from a distance that it did provide some screening and some shade.

Ms. Long said the next slide showed photographs of what that would look like. She said that this was the fencing in Waynesboro, but it did not include the mesh fabric that was proposed that would help screen those materials from the entrance corridor. She said that the next image was just an example of the types of temporary staging, which would be pallets of mulch and other materials like that. She said that the next images showed the garden center roof at the Waynesboro store. She said that they had some renderings showing the plantings and what they looked like at full maturity and how they would screen the building once it was built from Rio.

Ms. Long displayed on the slide a rendering from Rio Road looking south with the proposed plantings as they were shown now on the plans. She said that again, they would be a little bit different with the different species. She said that the next image was a view of how the building would be well-screened from Rio. She said that the next slide showed a photograph of an actual store in Texas that she thought was helpful in showing exactly what the plants might look like, the product display, as well as the roof, and what that might look like from an aerial view from Rio Road in terms of the three different layers of roof.

Mr. Clayborne said that he appreciated the comprehensive report and the graphic images provided.

Mr. Murray said that he strongly encouraged using native species in the area. He said that one of the pictures shown looked like a big hedge of burning bush, which was a state-listed invasive species. He said that if it were that species, he would encourage the applicant to remove that and replace it with a non-invasive, native species.

Ms. Long said that she knew of the image that Mr. Murray was referencing, and Ailanthus was one as well that would come out, but they would not remove any mature vegetation.

Mr. Murray said that he believed it was a hedge, and it was noticeable because it turned bright red at this time of year and was very noticeable. He said that in Sugar Hollow they could see how it had invaded the woodland. He said that he was glad to hear that much of the parking lot would be torn up and made into something else eventually. He said that he wanted to mention that there were incentive programs for the removal of impervious surfaces and hoped that if they ever decided to take advantage of this funding, he hoped that they would apply for it.

Mr. Bivins asked why, when VDOT took down the mature plantings on Route 29, VDOT did not have the responsibility to replace them.

Ms. Long said that she could not speak for them, but she speculated that with the retaining wall and the existing utilities there that there was no room left.

Mr. Bivins asked if Ms. Long's client was supposed to put a tree there when VDOT could not.

Ms. Long said yes, that was the challenge.

Mr. Bivins asked if there would be barbed wire on the fence.

Ms. Long said no. She said that the tighter mesh on the bottom of the fencing was for security purposes to prevent theft or damage.

Mr. Bivins said that he was glad to hear that there would not be any barbed wire. He said that the circus would not be able to take place in that vacant parking lot.

Ms. Long said that in phase two, there would still be some vacant space, so it was possible. She said that the parking lot would still be there.

Mr. Bivins said that on the islands that were present, he saw that they were going to have 3.5-inch caliper plantings. He said that it was a rough place to put them, even though they had outdoor storage, and it would become a garden center. He said that a 3.5-inch caliper tree would have a hard life on that asphalt.

Ms. Long said that she believed that was the criteria under the site plan ordinance for parking lot landscaping.

Ms. Maliszewski said that for parking lot trees, the requirement was for 2.5-inch caliper. She said that she did not see the landscape schedule on this concept plan, so those details would come with the final site plan.

Mr. Bivins said that since it was going to be a garden center, he was hoping that there would be something planted that would help to enhance that as opposed to being a Charlie Brown Christmas tree.

Ms. Firehock said that the tree ordinance of the County needed to be updated because it did not have adequate planting specifications. She noted that the larger the caliper of the trees, the lower their survival rate was due to being stored in pots and becoming root bound.

Mr. Murray said that making the parking islands inward-facing instead of outward-facing would allow them to capture stormwater rather than keeping it out. He said that parking lots were a harsh place for trees and plants to live, so there was no reason to keep water out of them.

Ms. Firehock suggested that the planting beds be recessed so that some of the water could go in.

Mr. Murray noted that there were natural habitats in the County which were rare globally and consisted of granitic outcrops where plants were adapted to survive in harsh conditions, including trees. He said that when looking at the plant list, they should consider species that naturally thrived in harsh conditions as they existed in Albemarle County.

Mr. Clayborne read the rules for public comment during a public hearing. He asked if there were any members of the public who wished to speak. Seeing none, he asked the Clerk if there was anyone signed up online.

Ms. Shaffer said there were none.

Mr. Clayborne closed the public hearing and the matter rested with the Planning Commission.

Mr. Bivins said that he was not passionate about having trees on a sliver of land that would be disturbed during the second phase of the redevelopment of this area, and he suggested that they should consider allowing the trees to be put there within a certain number of years of Home Depot's opening, rather than putting them there before the second phase of redevelopment. He said that it seemed odd to require them, particularly when it was VDOT who removed them.

Mr. Missel said that he understood Mr. Bivins' point, but if they were required or recommended by the ARB to screen and there was not a known timeline on the development of the frontage, he would still support installing them.

Mr. Bivins asked if he would support trees as opposed to bushes or something like that.

Mr. Missel said that he would defer to the ARB recommendation. He said that they never knew how long it might take. It might take 10 or 15 years for that to develop, and in the meantime there was an open view when they could have had a screen. He said that he understood the logic that it could be a waste.

Mr. Bivins said that if they looked across the street, they could see a car dealership. He said that if they went a little bit further up, they could see the old Outback Steakhouse. He said that they could see into the developments where Staples was. He said that he had made previous comments on this that he would like to see more mature trees in the parking lot where they would have a larger benefit and they could do some blockage from there than to try and do this one piece of land, which was not the responsibility of the applicant. He said that the ARB had one role and the Planning Commission had another role before it went to the Supervisors. He said that while he appreciated what the ARB had recommended, he recommended something else as a legislative act.

Ms. Firehock said that she agreed with Mr. Missel on this one. She said that with trees versus bushes, there were different kinds of trees that would form and branch out higher up. She said that maybe they did want to see the garden center. She said that she was not personally offended by the look of the garden center that much. She said that the trees would also be filtering the particulates from the exhaust of those cars driving by and helping with stormwater management, so even if they disappeared in a decade because something else was put in and they had to re-engineer something; they still had done some good. She said that they were trying to incrementally improve their development area after not having good standards in place. She said that they had a lot of less than desirable views, and that parking lot was in terrible shape with all the cracking pavement, so it could only improve with this development.

Mr. Moore motioned to recommend approval of SP202300007 Home Depot Outdoor Storage, Display, and Sales with the conditions as outlined in the staff report. Mr. Bivins seconded the motion.

Mr. Missel asked if the language should be amended to include the applicant's point that the landscaping requirements must be approved by VDOT.

Ms. Maliszewski said that that would be determined at the site planning stage.

Ms. Firehock asked if the motion included all of the staff conditions.

Mr. Moore said yes.

The motion carried unanimously (7-0).

ZMA202000012 Montclair (Formerly known as White Gate Village)

Mr. Cameron Langille, Principal Planner in Community Development, said that he would be giving the staff presentation on ZMA202000012 Montclair. He said that to begin, he would explain the specifics of this proposal. He said that the main request was a rezoning application to change two parcels of land to the neighborhood model zoning district. He said that there was also a private street authorization request and a special exception for a sidewalk waiver and a planting strip waiver. He said that there was an ACSA jurisdictional amendment application, but the PC did not actually have to act on it as it was handled by the Board.

Mr. Langille said that to give context of where the subject application was located, he indicated on the slide the parcels were highlighted in yellow, and it was at the southeastern corner of Park Ridge Drive, Route 240, and Crozet. He said that to the east was the Wickham Pond subdivision, further east was the Highlands neighborhood, and then immediately south of these two properties was actually a CSX railroad right of way, but further south, and that was the Western Ridge neighborhood. He said that west along 240 was actually some primarily vacant land that used to be industrial areas.

Mr. Langille said that on the slide was the current zoning map that displayed TMP 56E-2 in light blue, which represented the light industry zoning district, and TMP 56-91A in white, which represented the rural areas zoning district. He said that these two parcels were located in overlay districts, including the entrance corridor and managed and preserve steep slopes. He said that the future land use plan from the County's master plan highlighted the parcels in yellow, with different colors representing different future land use classifications. He stated that these classifications indicated the types of uses that could occur if a special use permit or rezoning application was ever proposed on these parcels.

Mr. Langille said that both parcels were located at the northern side and had a green color, which represented open space areas or amenity areas, and specifically the Crozet Master Plan called for landscaping buffer for the reason that across Route 240 from these parcels was the comprehensive plan's rural areas. He said that the landscaping buffer was intended to serve as a screening for any uses that may occur here. He said that the orange color represents the middle density residential future land use classification, which recommended dwellings at six to 12 units per acre, including single-family detached homes and townhouses.

Mr. Langille said that the future land use classification allowed for up to 18 dwelling units per acre if they were small or small dwelling unit types, or affordable dwelling units. He said that the yellow color on the south side of these two parcels represented neighborhood density residential and allowed for lower density residential dwelling unit types such as single family detached homes. He said that attached units were also permitted but the density range was three to six units per acre. He said that the green area that ran diagonally from the southeastern corner to the property boundary represented an area with a Water Protection Ordinance stream buffer. He said that that

meant no roads, houses, or physical improvements could be built on this land aside from some landscaping.

Mr. Langille said that the next slide showed the application plan for Montclair, included as Attachment 4 in the package received by the Planning Commission. He said that the specific image was sheet 5 of Attachment 4 and was the basic block layout network for this project. He said that they had four blocks, three of which were where the primary development could occur, and block four was shown in green and was meant to remain as open space or environmental features and was referred to as a conservation area in the application plan. He said that the specifics of this were that this developer would like to do a maximum of 122 dwelling units. He said that dwellings were permitted as proposed in blocks one, two, and three.

Mr. Langille said for the gross density of this project, it would come out to 8.18 units per acre, and the net density was 10.9 units per acre. He said that they were asking for the ability to do some non-residential uses here and that could be commercial and retail. He said that in Attachment 5, which was the code of development, there was a table in there that listed out specific use types, so it was basically columns that had the use and then by block whether it was permitted by right or not permitted. He said that he could go over any questions about the code of development later once they got to the question and answer point. He said that one thing to note was that this block four measured 2.8 acres, but there were some other features that they were going to be protecting which he would show on a later slide, so overall it was almost three acres minimum of open space in this project.

Mr. Langille said that on page 7 of the Attachment 4 of the application plan was the circulation transportation network inside of the project. He said that the dashed lines along all the streets represented different modes of transportation, including traffic flow itself. He said that the darker dashed line had arrows on each end, which meant that two-way traffic would be allowed on those streets. He said that the project was going to be served by two public streets as their primary entrance and egress to the project. He said that one of them was going to enter or exit onto Route 240, which goes north to south, and it was in block one. He said that the other public street was shown right here, and it would connect to Park Ridge Drive, and then also Wickham Pond Way.

Mr. Langille said that the other streets showed a lighter gray dashed line, which were internal private streets where dwellings would have their driveways and be located. He noted that it was visible on several sheets of this application that this applicant was proposing to reserve almost one third of an acre of land along the frontage with Route 240 to dedicate to the County so that a 10-foot-wide shared use path could be built along that property frontage. He said that the orange hatched line along Route 240 represented that.

Mr. Langille said that the next image on the slide was from the application plan and showed that orange color indicated building footprints. He said that there were some architectural specifications in the code of development, and this project was reviewed with ARB staff because it was in an entrance corridor. He said that the regulations pertaining to building height allowed for a maximum of 45 feet or three stories tall. He said that there were other architectural features required for facades such as porches, balconies, and projections. He said that on another topic, the developer was proposing to do 15% of their overall units at 80% AMI. He said that in this case, it would be 18 units if they developed out to the maximum of 122 dwelling units.

Mr. Langille said that Attachment 11 in the Planning Commission packet was an analysis by Stacy Pethia with their Housing Office that went over this in more detail and supported the affordable

housing proposed. He said that again, there was a green color on the slide which represented a 100-foot wide and deep landscaping buffer that the developer was proposing to plant. He said that there were some more details between the code of development and the application plan about spacing and sizing of the landscaping, but it was meant to serve as a screening for the actual development as they got further into the site.

Mr. Langille said that there were a couple of pages in the staff report that talked about another aspect of this request, which was that there were a couple of areas of preserved steep slopes on the westernmost parcel. He said that the developer had asked that those be treated as part of this rezoning approval as managed steep slopes. He said that when a developer requested to go into the neighborhood model district, that could be done as part of the approval of their application plan.

Mr. Langille said that Planning staff and their Engineering Division staff had reviewed the analysis provided by the developer when requesting that and found that the preserves slopes met most of the criteria for managed steep slope areas, particularly that preserved slopes were supposed to be contiguous areas of 10,000 square feet or larger where land exceeded 25% topography, and these three areas in total measured 3,800 square feet. He said that they had evidence dating back to the 1990s that these areas were created by the installation of an existing stormwater pond on the property and an existing driveway that came off Park Ridge Drive and served this structure here.

Mr. Langille said that they were likely manmade and were below the size threshold for preserved slopes, so staff was supportive of the request. He said that there were a few additional things, one of which was a private street authorization request for four of the internal private streets, which did require Planning Commission approval and did not need to go before the Board; the Planning Commission made the final decision on private street requests when they were serving residential dwelling units. He said that as part of the private street request, they were also requesting to waive and vary the sidewalk requirement along some of these streets, specifically private roads A and B, they wanted to waive the sidewalk that was required on both sides.

Mr. Langille said that streets A and B were unique in that they functioned like an alleyway. He said that all of these structures here would have rear loading garages facing this private street, with the front doors looking outwards towards open space areas, amenity areas, or main public streets. He said that it did not really make sense to have sidewalks along that alleyway. He said that the application plan showed where pedestrian transportation infrastructure would be available through the network of public streets and private roads with sidewalks.

Mr. Langille said that there was also a request to waive and vary some planting strip requirements. He said that in the County's development areas, all public or private streets were required to have a 6-foot planting area between the sidewalk and the curb and gutter, however, they were requesting to waive that requirement entirely along those two roads that will function as alleyways. He said that on two private streets, they were requesting to waive the requirement on one side only, so there would still be sidewalks and planting strips on this side of these two private streets. He said that staff had reviewed these requests and was supportive of approval of all three requests.

Mr. Langille said that the entire proposal was consistent with the land use recommendations of the Crozet Master Plan, and it was also consistent with the Neighborhood Model Principles outlined in the Comprehensive Plan. He said that this request would provide some new

transportation improvements that were called for by the implementation chapter of the Crozet Master Plan, specifically the 10-foot-wide shared use path. He said that the developer was putting in to do 15% affordable housing units which was consistent with their Affordable Housing Recommendations from the Comprehensive Plan.

Mr. Langille said that an unfavorable factor that they were able to identify relates to school enrollment. He said that right now, Western Albemarle was over capacity, and based on the dwelling unit types that were proposed in this project, it was anticipated using some figures from the school system that there would be about 14 new students at the high school level generated by this project, so the school was already over capacity, and this would further contribute to that capacity issue at Western Albemarle.

Mr. Langille said that to summarize, staff recommended approval of ZMA202000012 because the favorable factors outweighed the unfavorable factors. He said that they recommended approval of the private street authorization requests, as well as the sidewalk waiver and the planting strip request. He said that they cited the specific code sections where those findings were authorized in the Subdivision Ordinance.

Mr. Murray said that he assumed that the recipient had received a PDF containing a list of concerns. He said that one of these concerns was the lack of a turn lane on Three Notch'd Road. He asked if there was any input regarding this issue.

Mr. Langille said that any time when a zoning map amendment was proposed in the County, they sent a copy of the proposal to the Virginia Department of Transportation (VDOT). He said that VDOT was one of their partner agencies that reviewed these development projects with them. He said that after the first review, VDOT provided a comment letter with specific requests for turn lane warrant analysis for Park Ridge Drive and the entrance onto Route 240. He said that VDOT gave this analysis to them, and he did not initially include a copy of it, but he would likely include a copy in the staff report when it went to the Board. He said staff's analysis found that this project would not trigger the need for any turn lanes into there, and VDOT agreed with that analysis, so that was why there was not any turn lane shown. He said that specifically the materials sent to them from the members of the public were asking about a right-turn lane from Route 240 into the site, and that turn was analyzed by VDOT.

Mr. Murray said that there was a roundabout suggested for a future date. He asked if Mr. Langille could discuss that.

Mr. Langille said that he believed that came from the Crozet Master Plan which called that out as an implementation project at the intersection of Route 240 and Park Ridge Drive. He asked Mr. McDermott if he had anything further to add.

Mr. McDermott said that he recalled that intersection at Three Notch'd Road and Route 250 and Route 240. He said that there was a roundabout that was fully funded at that location at this point. He said that VDOT held a public hearing two weeks ago for the roundabout at Routes 240 and 250, and that was fully funded and recommended to be constructed in the 2025-2026 timeframe. He said that this project caused some confusion for the community because it had actually been funded many years ago, but for some reason VDOT was unable to complete it for a long time, and they now included it in a package that had gone out to bid for a contractor to be constructed.

Mr. Murray said that they had heard recently that there had been some complications in that prices increased dramatically regarding the Eastern Avenue Connector due to the bridge. He asked if there was any update on that. He said that it sounded like currently, the bridge was not viable as a project, which really impacted the Crozet Master Plan if Eastern Avenue could not be built in the next 20 years.

Mr. McDermott said that they were not considering the project not a viable option at that time, but they were looking for an alternative way to deliver it, and staff was working on that right now. He said that sometimes working with VDOT, they could come up with some unreasonable price estimates, so they may have to work around that issue, which was what they were doing currently. He said that recently, he did talk to the Board about this project, and they had money available through the County Capital Improvement Plan as well as some state money for construction. He said that they had funding but were trying to find an alternative way to deliver the project that would remove the need to use the process that came up with that estimate.

Mr. Bivins said that on page 5 of the context plan, he would like to know what was possible on the two pieces of property that adjoined block one. He said that he assumed that the area outside of the ZMA would continue to remain as green space.

Mr. Langille apologized for not mentioning that previously. He said that that property on the west side of the ZMA's proposal was only being rezoned to a light industrial district, while the remainder, the southern half of it, would remain as a residue parcel in the same zoning district, and would not be changed to a neighborhood model district.

Mr. Bivins said that on page 4, it said that it was Barns Crozet, LLC. He asked if that could be developed at some point in the future.

Mr. Langille said that that was actually a block that was able to be developed as mixed use. He said that there was non-residential square footage available in that lot, but it had not been built yet.

Mr. Bivins asked if that was not a part of this plan.

Mr. Langille said no, it was not a part of this plan.

Mr. Clayborne said that in situations where public streets intersect with private ones, there was often a Memorandum of Understanding (MOU) between the local government and the landowner to maintain a certain level of quality. He asked how that would work in a situation such as this.

Mr. Langille said that they used to require a document called a maintenance agreement was required to be recorded with a subdivision plan. He said that this document specified the timing and responsibilities of property owners who adjoined a private street to ensure the cost sharing for maintaining it was equally distributed. He said that they no longer required this maintenance agreement, but every private street that he had seen get approved since the maintenance agreements had gone away contained covenants in its deed that addressed how the costs of maintaining the road would be evenly distributed among property owners.

Mr. Clayborne asked if the applicant had a presentation.

Mr. Vito Cetta, architect and developer, said that Albemarle County had experienced an increase of 1,500 people in its population each year, requiring about 800 new residences to be built to accommodate them. He said that the comprehensive plan was used to absorb those units, and in his opinion had been incredibly successful. He said that the comprehensive plan was started in 1971 and over 60% of the homes built in the County were located in rural areas. He said that now, that number had come down to around 16%. He said that the comprehensive plan focused building in the growth area. He said that for the public, the map on the screen displayed the three areas where the comprehensive plan applied, which were Glenmore to the right, around the City in the middle, and Crozet to the left.

Mr. Cetta said that to the north, their site was located on the edge of the growth area, with nothing but farms beyond it. He said that they were fortunate that their County's development was in accordance with the comprehensive plan. He said that as an example, on the screen was a picture of Garth Road, which looked as it did 30 or 40 years ago while still being very close to the City. He said that areas of Route 29 south and Interstate 64 were undeveloped because of the comprehensive plan. He said that the next slide showed a graphic of the proposal and the four different housing types. He said that Wickham Pond was to the right. He said that the next slide was an aerial photograph showing the greater area, indicating that all of the areas south and all the areas east had been processed and approved through the County just like this project.

Mr. Cetta said that the next slide showed a depiction of Wickham Pond. He said that 12 projects had been developed through the County with the same rezoning process as the current proposal, and Wickham Pond was one of their projects that consisted of 165 units, with 28 affordable units, and the top-left parcel was intended to be a mixed-use project of high density residential and commercial, although they did not own it. He displayed photographs showing the views along Wickham Way.

Mr. Cetta said that project included picket fences, front porches, and green strips. He said that the townhouses at Wickham Pond had front-loaded garages and front porches, which had improved on that at Montclair so that the garage would be put to the rear, giving them two parking spaces there. He noted the trees planted along the green strip. He said that Habitat for Humanity had built affordable units for sale, and they were very successful.

Mr. Cetta said that the next image showed affordable units that the County referred to as bungalows, but they were actually townhouses with one bedroom and a den. He said that the units pictured were built 15 years ago and were still considered affordable today. He said that the next image showed a green strip that was 100 feet wide with a 10-foot walkway. He said that referring again to the graphic of the proposal, the bottom units were villas with two-car garages and an apron in the front and faced onto 100-foot open space. He said that the top units could be either 22-foot-wide townhouses or could become the bungalow units, with three or four units in the building.

Mr. Cetta said that to the left on this site was the Habitat for Humanity's 12 homes, and to the bottom left was a daycare center, which would buy the parcel to the left to change their parking and perhaps expand their facilities. He said that they had some common areas, playgrounds, and courts at the site. He said that the site had not been lived in for about 40 years. He said that the photograph on the slide showed mature cedar trees that they intended to keep. He said that the villas were 32 feet wide with a two-car garage and two cars on the apron. He said that the townhouses were 22 feet wide and could accommodate either one townhouse or up to four small units.

Mr. Cetta displayed another photograph of the townhouses facing the green strip. He said that this issue and the slight variance they asked for was the same. He said that people parked as guests and walked up to their units and were not on a regular street. He said the next image showed what the alley looked like, with two-car garages and guest parking spaces behind them. He said that the landscaping had made it an attractive place. He said that this did not have an official sidewalk in the area, but there was a path for walking. He said there were some parks in this space and a gathering place near the villas.

Mr. Cetta said that on the right side of the slide was an example of a bungalow design that could fit two efficiencies on the bottom level and two bedrooms above, with four units in total. He said that the design had the same footprint as a townhouse. He said that the next slide showed on the right 440 square foot efficiencies, with one bedroom and two bedrooms. He said that the next image was looking north, and beyond the site was farms.

Mr. Cetta said that they had previously developed Liberty Hall near Harris Teeter on Route 250, which the County requested be a live-work building. He said that this design included commercial spaces on the lower level and townhouses above. He said that across from the townhouse, they built ten affordable 16-foot-wide townhouses that were sold as affordable units. He said that their first project in Crozet was Parkside Village, which was pictured on the slide and featured white picket fences, front porches, and interesting landscaping. He said that he was very proud of this one, and all of the trees had been planted by them.

Mr. Bivins asked what type of structure the building in block 2 would be and if it was part of Bright Beginnings.

Mr. Cetta said that this was drawn before they talked to Bright Beginnings. He said that they were talking to them at length. He said that they were talking about doing a variety of things. He said that one was that they need more open space. He said that they had introduced a trail, a loop trail that goes through that open space. He said that would be their use, but also the Bright Beginning's use. He said their parking was awkward. He said that they may be parking in the area where that building was shown.

Mr. Bivins said that there was a maximum height of 45 feet in the code of development. He noted this will accommodate a variety of housing styles that were shared with the Commission.

Mr. Cetta said yes. He said that he believed the height of the building was the average height of the roof to the ground area, and they could accommodate the request.

Mr. Bivins said that all types of houses, including studios and townhouses, as well as bungalows and single-family homes were in block three.

Mr. Cetta said that even though those townhouses were built, which were out of bounds, was that they actually had a fourth floor known as a mezzanine by definition. He said they possessed a deck, and they did not exceed the permitted height either.

Mr. Carrazana asked if that one development to the southwest was that the only non-residential development in the property.

Mr. Cetta said that was the Liberty Hall. He said that they lived in a free market economy. He said they were proposing to build something, and they showed a commercial space. He noted that to the right of this image, there was a large piece of land that was zoned 16 years ago. He said the commercial industry did not step forward and say they wanted to use it. He said that the last thing they want to do was build something that would not work. He said that he would think that site to the right will become a place where there was enough density in this area with housing so someone will step up and say, "Let's build some commercial." He said that was what they wanted. He said that they wanted people to walk there, go to dinner, get a shave, get a haircut, and buy a dress. He said that they did not see that market yet.

Mr. Carrazana said that the area of potential commercial use was being kept as a speculative reserve. He said that they were preserving it to possibly serve future commercial needs.

Mr. Cetta said that he did not own that.

Mr. Carrazana said that he was talking about the area by the daycare center.

Mr. Cetta said that the project had been ongoing for over three and a half years, with two and a half more years to go before they can build a building. He said that they were open to the idea of constructing a small restaurant or other unspecified establishment, as outlined in their plan.

Mr. Carrazana asked if that was the only commercial property they were planning in this development.

Mr. Cetta said that they could build commercial uses if they were able to secure a buyer.

Mr. Carrazana asked if this would have been the tallest structure on location.

Mr. Carrazana said that the townhouses and bungalows were three stories high.

Mr. Carrazana asked if it would stay below the 45 to the ridge line.

Mr. Cetta said that the County uses it to determine the average height of the roof.

Mr. Langille said that he was not an expert in the area, but Mr. Cetta was correct; the height of the structure depended on the type of roof. He explained that if it had a hip roof, a gable roof, or a flat roof, the technical definition and way to measure it differed. He said that in terms of this particular roof, he believed the official structure height would be from the ground floor elevation at the bottom up to the midpoint of the ridge. He said that they had some staff members in zoning who could clarify if necessary. He said that with three-story developments like this one, 45 feet was usually enough. He noted that most of these developments also had a similar limitation.

Mr. Missel said that the code of development was clear. He said regarding block two, it had a small odd-shaped area that extended downwards, which was adjacent to block four. He noted that it belonged to block two. He said that the red area within block two could be used for office space, retail sales and service, barber shops, beauty salons, health spas, and other uses. He said that in the area, one could build a minimum of eight residential units or a maximum of sixteen residential units, which would amount to 16,500 square feet of non-residential space in addition to the residential uses.

Mr. Cetta said that yes, that was correct.

Ms. Firehock clarified that the applicant was asking for a sidewalk waiver, but there was a little pathway. She asked if that was what was proposed.

Mr. Cetta said that they were proposing exactly this. He said that it was just drainage, and it could be a sidewalk.

Ms. Firehock said that she understood that it was not as wide as the County code. She said that it gave the impression of being able to walk from the car to the neighbor's house and greet them. She said that there was some vegetation behind it, so it did not look as stark or ugly as the second picture shown.

Mr. Cetta said that one thing that happened was practically everybody had a porch which was used often. He said that for people to walk to the end unit, which was essentially 13 units deep, they did not complain. He said that the issue of this variance was a technicality.

Ms. Firehock said that she understood that the function was operating more like an alleyway.

Mr. Murray said that the proposed road would pass through Park Ridge, where there was currently a stormwater pond. He said that after the completion of the construction of the stormwater pond, it would need to be managed properly. He said that the pond had been built to handle the existing construction. He asked how it would be managed once the pond was removed.

Mr. Justin Shimp said that the road traverses closer to Route 240 than the existing pond. He said that they were going to rebuild the pond into a more substantial stormwater management facility. He said that it would become some sort of biofilter or enhanced extended detention facility. He said that there would be a combination of buried underground stormwater and some surface treatment. He said that this was a big enough project that there would be a mix of surface treated areas that fed into underground detention facilities. He said that both would exist in that zone. He said that you would see courts and playgrounds that may very well have underground detention beneath them. He said that they had landscape area above that people could use, and then the detention stormwater below. He said that the green space was right on top of a big pipe in the ground, so rather than using the acreage for the pond, they put it underground and added more meaningful space above it.

Mr. Murray asked if they were considering purchasing nutrient credits.

Mr. Shimp said that there may be some situations where a portion of the project needed to be minimally treated onsite due to state code requirements. He said that it was possible to purchase credits for a certain amount, but sometimes even with this option, runoff requirements cannot be met without some sort of onsite treatment. He said that a residential development of this size would likely need more intensive onsite treatment. He said that they had not gotten that far yet in their planning. He said that if the site were smaller, they could typically buy credits for the whole thing, but when the site was larger, like 10 acres, they start to phase out of this option.

Mr. Murray said that he had heard many complaints over a long period of time regarding underground stormwater facilities failing. He said that it was possible.

Mr. Shimp said that it was a cost. He said that the technology used for the pipes 20 years ago was not up to the mark. He said that now, galvanized or aluminized pipes were used which can last for 50 or 100 years. He said that per the HOA documents, a reserve fund was required to replace the systems. He said that when creating an HOA in such neighborhoods, engineering firms need to be hired to analyze the cost of replacing the system and its lifecycle. He said that the HOA funds were put aside every month to deal with the problem as it had been an issue before.

Mr. Murray said that he had another question for the staff regarding traffic on Park Ridge. He noted that there had been a lot of concern about this issue, and there had been some discussion about traffic calming on Park Ridge. He asked for an update on the issue.

Mr. McDermott said that they had been looking at traffic calming along Park Ridge between the Eastern Avenue interchange and Route 240 for several years. He said that there were certain requirements set by VDOT that needed to be met in order to move forward with physical traffic calming measures. He said they had been trying to gather measurements to see if they met the thresholds for speed and volume. He said that last month, they went to the Board to request a resolution to ask VDOT to perform another analysis of the area. He said that they believed it would show that the speeds were higher than what was required to initiate a traffic calming planning process. He said that they hoped that they would be able to move forward with some elements of traffic calming in the near future.

Mr. Cetta said that they did not have a dedicated lane to go left or right into the project. He said that they followed VDOT's instructions. He said that they implemented this in Wickham Pond, but VDOT had stated that it was not necessary at the subject site. He said that if it were required, they would put it in place.

Mr. Murray said that although VDOT stated that it was not necessary, it could still be done.

Mr. Cetta said that they only sought guidance from VDOT. He said that he was impressed at how little traffic there was.

Mr. Moore clarified that the western edge of the parcel up against Park Ridge Road was possible for commercial development if a buyer could be found.

Mr. Cetta said that was correct.

Mr. Moore asked what the unit on the other side of the stream was.

Mr. Cetta said that it was finished two years prior with the goal of building a structure on the land. He said that the space was designated for a daycare center which will include parking amenities.

Mr. Moore said that there were only about 82 distinct townhouses and villas listed in the plan. He said that even if they included another 15 or so affordable units within the existing footprint, this would be under 100 units. He said that he had read concerns that 122 was too many units for this development, but it appeared that they were looking at under 100 units as it currently stood.

Mr. Cetta said that if you took the townhouses, the top portion, and then the bottom left, that would be a five-unit building. He said that if it was instead the bungalows, it would have 17 units. He said that if they did that more than twice, the number of units would be over 122.

Mr. Moore asked if they were considering building more affordable housing units.

Mr. Cetta said that he was not the builder, and they had not yet reached that stage.

Mr. Moore said that he was also curious about the site plan. He said that to the east of Public Road B, there were seven or eight houses and then a north-south private road. He said that to the west, there was only one house and no private road. He asked how this came about.

Mr. Cetta said that with five units, a turnaround was not required. He said that if there were more than five units, as they had on the right, a turnaround must be introduced to accommodate the road. He said that once this plan was approved, they would work out the details of the bungalows and an additional road.

Mr. Clayborne asked if the plan for the affordable units was to disperse them throughout the project or if they were to be co-located in one single area.

Mr. Cetta said that the answer was a disbursement. He said the idea would be to have affordable units on the bottom left. He said that they had to be in their own building and could not be mixed with another building due to the nature of the building. He said they would be mixed in.

Mr. Clayborne asked why they could not be mixed in.

Mr. Cetta said that at the end there would be efficiency units. He said that it must be an end unit in order to utilize efficiencies, and if it was not an end unit, then they could not use efficiencies.

Mr. Clayborne said that he had never heard of that restriction before.

Mr. Cetta said that the reason for it was due to the fact that the efficiency unit faced the side yard. He said that if it was a middle unit, there was no side yard available.

Mr. Clayborne opened the hearing for public comment. He read the rules for public comment.

Eric Schmitz, Whitehall district, said that it was troubling that there were many details still to be worked out with the proposal. He said that the application did not reflect a heavily contested stream on the property, including its buffers. He acknowledged the point about the roundabout but clarified that it was not the one mentioned by Mr. McDermott at Route 240 and Route 250, but rather at the head of Park Ridge and Route 240. He said that the applicant's narrative suggested that this roundabout was needed.

Mr. Schmitz said that they were not asking where the County's growth should go or whether it needed more affordable housing. He said that they were asking some simple, bigger questions about the role of the totality of a master plan and what that role played in a particular application. He asked about the current state of Crozet's planned critical infrastructure and if it was a factor in their decision. He questioned if the structural integrity of their plans was compromised, whether they should continue to build. He said that the comprehensive plan stated that they should not approve re-zonings when planned facilities were not in place to support the project and existing neighborhoods.

Mr. Schmitz said that a vital bridge, Eastern Avenue Connector, was planned to connect Three Notched Road to Route 250, and that was a baseline expectation of Crozet even becoming a growth area. He said that now, the price tag was so high that it would probably never be built. He said that the County could not afford the \$30 million needed to build it, and all of the recent rezonings in Crozet were built upon the assumption it would be built. He requested that the Planning Commission deny the proposal.

Brad Rickel, Whitehall District, said that a little history was worth considering when discussing Crozet's growth. He said that 20 years ago, when the first Crozet master plan was put together, Crozet was a small peach orchard on the west side of the County. He said that at that time, the people of Crozet and the County agreed to grow responsibly. He said that the population grew from 3,000 to about 12,000 today, and with approved but not yet built developments, it was projected to reach 15,000 in the next few years. He said that a key part of the growth agreement was the acknowledgement that substantial infrastructure was needed to make Crozet a safe area because it did not have the natural advantages of being in the urban ring or along Route 29.

Mr. Rickel said that the critical initiatives were the work needed at Lickinghole Creek Bridge and projects targeted at moving people safely in, out, and around Crozet. He said that the Virginia code stated that localities must consider transportation, emergency evacuation, and safe access to schools and parks when evaluating rezoning. He said that the County's own comprehensive plan, strategy 9C, also stated the need to consider these critical pieces when evaluating rezoning. He said that this had been deferred for 20 years, which was conveniently ignored. He said that they cannot rewrite history, and as a community, they must move forward and focus on following through with the long-promised safety measures before further upzoning.

Minsu Kim, Whitehall District, said that he was there in front of the Commission as a resident asking for help. He said that he implored them to reject the proposal specifically around safety. He said that he had three young boys and shared an incident where a four-year-old was hit on St. George Street, a street without sidewalks. He said that there was a head-on collision that happened a month ago at Route 240 and Route 250. He asked the Commission who they could turn to for safety, a safe environment, and well-being if they could not come to them for help. He said that their decision today would have lasting impacts for years.

Quinn said that he was 15 years old, and he had lived in Western Ridge all his life. He said that his family moved to Crozet in 2005. He said that when the topic of Montclair first came into the news a few years ago, he, his friends, and his family were concerned about the possibility that the Western Ridge Hill in the surrounding natural area would be turned into a portion of the development. He said they were all worried because this was a part of their neighborhood, their life, their winter fun, and their memories. He said that in the past year, he had learned more in depth about topics like the Crozet Master Plan, traffic studies, affordable housing, and development. He said that he learned that they did not own the Western Ridge Hill; instead, it belonged to a developer who did not see the value of the hill.

Quinn said that he understood why so many people wanted to live in the town of Crozet. He noted that it was close to the Blue Ridge Mountains, had many water features, parks, and a relaxed suburban environment. He said that he and his friends used to go all over town on their bikes or by foot to meet up to play some basketball, to go fishing, or in the wintertime sled together down the Western Ridge Hill. He said that there were spaces around Crozet where they used to enjoy those memories that had disappeared. He said there were fields that he would play football on

filled with houses, and the Crozet trails lost trees every day. He said that animals were seen less, and creeks became polluted in areas near development.

Quinn said that Crozet was special with these places like the sledding hill. He said there would always be days where they would have competitions to see how fast they could get the sled down the hill, or they would build a ramp of snow to catch air going down the hill. He said that the hill was not theirs, but the memories belonged to them, and the hill provided many kids and their families with joyful memories. He said that developing the sledding hill will not only take away a special part of their lives in Crozet, it will remove a unique place that kids in the future will not be able to grow up with.

Ann Elizen said that she had moved to Western Ridge from Northern Virginia in the summer of 2005. She said that it was refreshing to ride bikes and walk around the trails and downtown Crozet without the concern of excess traffic, speeding vehicles, and dangerous pedestrian crossings. She said that the explosive growth in Western Ridge and Crozet over the last 18 years had been astounding and community-changing. She noted that as sections of the hill crossing were being developed, the housing growth seemed reasonable and thoughtful. She said that as more trees were uprooted and rezoning density approved, the reasonable and thoughtful took a backseat to the quick and the greedy. She expressed concern about the neglect of infrastructure needed to keep families, children, and pets safe on the streets and sidewalks.

Ms. Elizen said that since 2019, she had operated a small local business as a dog trainer and walker. She said that the volume and size of vehicles alone left little to no room on the streets for safe crossing. She noted that one such example was the pedestrian crossing point at Park Ridge Court where she had witnessed and been a part of too many close calls. She said that last spring, children waiting at the bus stop by the intersection of Cardinal Court and Park Ridge had witnessed the death of a family cat. She said there were handmade signs saying, "Please slow down". She said that approving the Montclair proposal without first attending to our infrastructural needs was pure negligence. She said that any number of measures would be welcomed by all of the residents to help prevent a tragedy. She noted that more vehicles and more congestion meant more opportunities for such a tragedy. She said that there needed to be a commitment to intelligent development, and improving Montclair at this point was turning a blind eye to reality.

Rashmi Guy, Whitehall District, said that as an environmental scientist working on recreational water studies and methods, she had concerns surrounding the proposed Montclair development. She said her first concern was that the stream buffer was inadequate. She said that the proposed plan showed a buffer of less than 100 feet on either side of the stream. She said that the developer should adjust the stream buffer and reduce the number of houses accordingly. She said that her second concern was based on past behavior of the developer regarding streams and their future intentions of the one-way streets. She asked why the developer could not create a U-shaped loop connecting the two one-way streets to make it easier for residents and emergency vehicles to get in and out.

Ms. Guy said that she was worried that the developer might eventually try and cross into the block that was not currently being developed and try again to encroach on the stream when no one was paying attention. She said that her third concern was that construction, and the proposed density would stress the stream further and negatively impact the health of the stream and the wildlife who used the stream as a water source. She said that she was specifically concerned about water runoff, which would carry pollutants and sediment from construction sites and everyday residential activities into the stream.

Ms. Guy said that it was important to note that the Crozet development area was entirely within the water supply watersheds for the County and the City of Charlottesville. She said that one of the guiding principles in the Crozet's master plan was to enhance Crozet's natural beauty, existing natural resources, and the surrounding rural areas. She said that the integrated network of parks and gathering spaces, trails, and natural areas increased opportunities for outdoor recreation and protection of natural resources. She said that this development project was not in line with that principle.

Ron Wade, president of the Homeowners Association of Foothills Crossing, said that he represented 82 homeowners in the neighborhood. He said that about two thirds of the homes faced Park Ridge Drive. He said they were probably the most impacted by the traffic along Eastern Avenue and Highway 240. He said that as property owners, they were owed responsible decisions by the Planning Commission when it came to development. He said that when considering new developments, the proposed mid-density violated the original Crozet Master Plan. He said that the CAC had a resolution against an increase in density. He said that from the perspective of the 82 homeowners in his area, they were looking at the units in Glenbrook, and they looked out of place.

Mr. Wade said that the single-family homeowners in the space west of Eastern Avenue were now looking at this high density development between them and Blue Ridge Mountains. He said that the development along Route 240 will look completely out of place in the neighborhood. He said that the negative impacts were minimal, but the school was overcrowded. He said that his wife taught there as a volunteer, and the schools were overcrowded. He said that the traffic congestion was atrocious, and so was the lack of infrastructure, particularly Eastern Avenue bridge. He said that the safety issue of first responders being able to get in and out of neighborhood was a great concern. He said that this development looked out of place in the neighborhood.

Ms. Joan Fadden said that she lived in Stonegate, an enclave of 57 homes in Western Ridge approximately two blocks from Route 240 and the entrance to Park Bridge Drive. She noted that in talking with neighbors about their decision to locate to the Western Ridge many years ago, they expressed the following. She said that they moved because of the beauty and uncongested drive on Route 240, the bucolic vistas of the mountains not blocked by development, the small community atmosphere, the lush green space, and the Crozet Master Plan that spoke to slow and managed growth. She said that such a policy appealed to the Stonegate residents for safe outside activities, as many of them were walkers, bikers, and runners. She said that the slow and managed development growth plan had been forfeited to multiple developments without the essential infrastructure to accommodate the growth.

Ms. Fadden said that safety had become a huge concern for Stonegate residents in turning left or right out of their community, due to increased construction and other vehicles. She said that the pending thought of additional traffic and delays in exiting or entering Park Ridge Drive from Route 240 was a major concern. She said that the development was unwelcome by the surrounding communities, as they felt the developers had lost sight of the deleterious impact of their plan. She said that there would be more buildings, more people, more traffic, and the huge loss of a beautiful green space. She noted that the hill was a favorite of children in the area. She said that the adults also shared the enjoyment.

Ron Pantuck, Whitehall District, said that over the last two years, his home property taxes had gone up 22%. He said that the primary reason for this was not inflation, but the number of housing

units being built and developed in Crozet. He said that the property taxes on these additional housing units did not cover the added expense of more students, more teachers, more school administrators, more school buses and drivers, more school buildings, or more infrastructure. He said that adding to the tax burden on existing homeowners was the use of affordable housing to increase density.

Mr. Pantuck said that not only did the additional fair market assessed units not cover the financial impact on the community, but the artificially low market value of the affordable houses compounded the issue. He said that the added tax burden of uncontrolled growth will impact all existing homeowners, including lower income homeowners. He asked if they want to drive homeowners out of Crozet and have a town where only the wealthy can afford to live. He said that if they continued on the path where more was better, property taxes will continue to spiral out of control. He said that double-digit yearly tax increases were unacceptable.

Bill O'Malley, Westlake, said that the Commission's primary role was to serve as an advisory body to the Board to promote the orderly development of the County, as outlined in the state law and the Albemarle County Code. He said that he urged them to prioritize the well-being of Crozet by revisiting its developmental pace. He said that by addressing the emerging safety and traffic issues now, they would prevent themselves from looking back on poor decisions or ineffectual actions. He said that he was still appalled that they did not know about the funding for one of the critical infrastructure projects. He said that endorsing the Montclair up zoning would push already strained intersections like Park Ridge Drive and Three Notched Road.

Mr. O'Malley said that it was very hard to turn into town from Crozet Avenue. He said that one had to live and drive there to know it. He said that it was not fair to the residents of Crozet to endure worsening traffic conditions, and most of the people making the decisions did not live in Crozet. He said that the proposed Montclair up zoning development contradicted the Crozet Master Plan. He said that the initial master plan in 2004 set a population cap at 12,500, which was contingent upon the construction of two connectors, Eastern Avenue and Main Street, which remain unrealized.

Mr. O'Malley said that the populations were nearing 11,000, and they did not know when it would exceed 16,000. He said that once approved, they could never take back an upzoning approval. He said that given everything they knew about the state of the roads, the intersections, and the sidewalks in Crozet, it was a certainty that they would surely fail an infrastructure stress test. He said that the Albemarle County comprehensive plan empowered the Commission to decline it if the supporting infrastructure lagged, and it did lag.

Sarah Baldwin said that she had been residing in Stone Gate since 2008, and when she first moved to Crozet, Lake Tree Lane was not yet finished. She said that there were still houses to be built in Stone Gate. She said that between then and now, there were approximately two or three thousand more people living in her area due to the completion of Western Ridge, Stone Gate, Foothill Crossing, and denser areas beyond Foothill Crossing. She said this had resulted in it no longer being safe or pleasant to live in Stone Gate. She said that it was difficult to get out of Stone Gate in a car, and she was reluctant to cross the area on foot.

Ms. Baldwin said that it was not a question of there not being housing, but Crozet did not have the street or area to move vehicles into to support the housing and population that was currently there. She said that it was dangerous for those who lived in Stone Gate. She said that if one did

not live in Crozet and experience the difficulty of getting to the library or local Great Value, it was difficult to fully understand their concern.

Shirley Wild said that she had lived in Stone Gate for four years, and she had seen a significant change in the town during that time. She said that she moved there because it was quaint, the people were friendly, and it seemed like the residents thought carefully about their development plans. She said that she came from Florida but had originally been from Connecticut. She said that she was concerned that the town was becoming like Florida, with a lack of attention to infrastructure and land management.

Catherine Rotolo said that the development should not be approved. She said that Stone Gate was a wonderful community, and it was a nightmare getting out of there. She said that it would only get worse if more cars were put on it. She noted that they were trying to put in a roundabout. She said that they were going to have a restaurant at that corner, but now they were not. She said that all it would do would ruin Crozet. She requested that the Commission not approve the development.

Dan Rosenzweig, President and Chief Executive Officer of Habitat for Humanity of Greater Charlottesville, said that they were not a party to the application, but they had a letter of intent with the developer. He explained that if the project gets built, they hope to enter into a contract to build Habitat homes in the project. He said that 10 years ago at Whitcomb Pond, the developer had six final lots available and came to Habitat to provide affordable housing in Whitcomb Pond.

Mr. Rosenzweig said that they had been searching for lots in Crozet for almost two decades. He said that it was difficult to find lots there. He said that they received a lot of flak from the neighborhood. He said that the six families who were now at Whitcomb had a completely different outlook on life after living in that community. He said that they hoped for the same thing at Montclair. He said that the prospective builder, Craig Builders, invited Habitat and gave up two lots at Old Trail. He said that they were now building two homes in Old Trail, and by December, two single women will be homeowners in Crozet. He said that the plan was entirely consistent with goals of affordability.

Carol Fairbourn, Westlake Hills, said that she drove along Park Ridge Road and Three Notch Road at least a dozen times each week. She said that the essential infrastructure was not there to support the 122 units at Montclair. She said that essential infrastructure was not realistically coming anytime soon because of the drastic funding deficits. She said that the school capacity was not there, the sidewalks were surely not there, and they were not coming anytime soon. She said that overall local support simply was not there. She said that if the Montclair proposal were approved, she would ask why they even had a Crozet master plan. She said that the Montclair proposal violated the master plan in numerous ways. She said that Montclair violated the plan on land management, infrastructure, and environment. She requested that the Commission not approve the proposal.

Luke Fairbourn, West Lake Hills, said that it was revealing that all the community members who spoke before him, except one, were against Montclair. He said that the community did not want this project as it would affect their quality of life. He said that the authorities should consider the response and help keep Crozet a safe and beautiful place to live by rejecting the proposal.

Kimberly Gale, President of Western Ridge. She said that she was a mother and a teacher. She said that the children of Crozet could not accommodate more children in their already

overcrowded schools. She said that she was surprised that there would be no sidewalks in the neighborhood, and Mr. Langille noted that staff approved the waiver of no sidewalks in this neighborhood. She said that they needed sidewalks on the entirety of Route 240. She said that they could not handle any more neighborhoods in Crozet until the infrastructure was built. She said that when they did not have the infrastructure before the approvals, they did not get it. She said they were all asking to not approve another rezoning until the important infrastructures and safety measures were in place.

Brian Ireland, Wickham Pond, participating virtually, said that he was not against new housing but believed the density of this development was out of control. He said that affordability did not have to mean density; it did not have to be an afterthought. He said that his property was on Delilah Drive and his house faced west. He said that the development was going to be in his backyard, and he would have to look at it every day. He stated that he would lose any sense of privacy because there was no buffer in the proposal. He said that the northern end of the street was proposed right up against the adjacent lot. He said that he was okay with some development but would like to see something change. He said that as it was currently proposed, he did not think it provided a benefit to the community. He asked that the Commission reject the proposal as submitted.

Dan Sheets, Western Ridge, said that he had noticed significant traffic changes, particularly between the hours of 7:30 and as late as 9, which made it difficult to get to work in Charlottesville within 30 minutes. He said that there were often long queues of cars at the intersection near Meechum's River, making it a disaster for people who need to be at work at specific times. He said that another issue he had noticed was an increase in speeding traffic on Park Ridge Drive and Western Ridge due to the lack of speed bumps and traffic lights. He said that it posed a danger to children in the neighborhood. He noted that the same problem affected all homes farther back from Route 240. He said that during rush hour, it would be difficult for first responders to access those areas in case of an emergency. He said he was concerned about the schools, stating that his daughter attended Western Albemarle where they had 15 trailers. He said that it was frustrating that Virginia had been using this outdated model for 20 years and was now overburdening the school with even more cottages.

Mr. Sheets said that there was one bald eagle inside Lickinghole Basin, a naturally protected federal bird. He said that they had to catch the Army Corps of Engineers being lied about through the previous development process where it was suggested that the Army Corps of Engineers had already surveyed the site. He said that if the citizens of Crozet had not been on watch for these oversteps, their way of life would slip away. He asked the Commission to consider the pleas from the citizenry and turn away the developer money. He said that Old Trail was overrun with plenty of tracked housing. He asked the Commission to think about preserving land values, the educational system, and green integrity.

Mr. Clayborne said that the applicant had a chance for rebuttal.

Mr. Cetta said that every project in Montclair had gone through this process. He said that if one were to survey everyone who lived within a half a mile of Montclair, they would likely love their community. He said that as for sidewalks, they were well-equipped with them and had excellent landscaping. He said that this project was fabulous and absolutely consistent with the comprehensive plan. He said that people will be happy when it was built.

Mr. Murray said that he wanted to know the exact location of the sledding hill that was mentioned.

Mr. Cetta said that it was to the left where the Habitat homes would be. He said that they were dealing with the daycare center and considering selling or giving them some of the land. He said that the plan was to most likely keep the hill.

Mr. Missel asked where the comments regarding inconsistency with the master plan originated from.

Mr. Cetta said that the Crozet master plan required exactly what they were asking for, and they were not in violation of anything or requesting any variances.

Mr. Missel asked if they had reached out to RWSA and gone through the process of having the capacity of water and sewer analyzed.

Mr. Cetta said that the comprehensive plan was only 5% of the County and was located in areas that had the backbone utilities, which included water and sewer, schools, and roads. He said that the engineer had all the answers regarding these issues.

Mr. Shimp said yes in terms of the RWSA certification.

Ms. Firehock noted there was comment about a lack of buffer on the southeastern part of the development. She asked for further comment on that. She asked if there would be further screening.

Mr. Cetta said that they were planning to landscape it as much as needed. He said that they showed this on the plan as a heavily landscaped buffer.

Ms. Firehock asked for clarification regarding the landscaping requirements for the backyards of the structures between the neighboring property line.

Mr. Langille said that there might not be any requirements for buffers and landscaping buffers. He explained that the requirement for buffers and landscaping buffers usually was to separate different use categories, such as residential adjacent to commercial or industrial uses. He said that when one neighborhood exceeded the density of a neighboring residential area, there may be a required buffer. He said that there were necessary building setbacks on all sides.

Mr. Clayborne closed the public hearing.

Recess

Mr. Clayborne said they would break for a 9-minute recess.

Public Hearing

ZMA202000012 Montclair (Formerly known as White Gate Village)

Mr. Langille said that the dwellings on private street D would not be required to have rear landscaping buffers at the rear of the lots. He said they were mandated to have a five-foot building setback, but there was no such requirement for a landscaping buffer.

Mr. Missel said that was for both the proposed development and the existing development.

Mr. Langille said that he was not sure about the setback in Wickham Pond, as it appeared to be larger than five feet. He said that he believed they might have had a requirement for a 10 or 15 foot setback. He said that there was usually a maximum front setback of around 5 to 15 feet. He said that the rear setback was just a minimum.

Mr. Missel said that he was confused by the comments regarding inconsistencies between the master plan and the comprehensive plan. He asked for more clarification.

Mr. Langille said that from a master plan standpoint, they looked at the three classifications that applied to this area, and the proposal was consistent with them. He said that beyond just the uses, they looked at the density recommendations. He said that the proposal was within the density range allowed by the master plan. He said that based on the total boundary of this project, not including the area that was not being rezoned, they could get 123 dwelling units. He said that they were proposing a maximum of 122, so they were within the threshold called for by the master plan.

Mr. Langille said that the next biggest thing of note was that the shared use path along Route 240 was identified as the number two most important transportation project in Crozet by that master plan. He said that the developer proposed to build a 10-foot shared use path along the entire frontage of both parcels. He noted that even though the parcel on the west was not being rezoned, the developer still intended to provide the shared use path along the whole frontage. He said that the project was identified in the master plan as a capital improvement project and would be paid for and undertaken by the County.

Mr. Langille said that if the proposal were approved, the shared use path would be a feature of the application plan. He said that the developer would not receive approvals for road plans, site plans or subdivision plots until the shared use path had been designed and shown on an approved plan. He said that the other internal street that goes east to west and connects from Park Ridge Drive to Wickham Pond was identified in the Crozet master plan as a recommended future public street. He said that it was consistent with everything he had reviewed.

Mr. Missel clarified that a full traffic analysis was not required because it did not meet the threshold for such an analysis.

Mr. McDermott said that they did not have a specific threshold for Albemarle County; they had a recommended threshold. He said that the State Department of Transportation required a minimum of 5000 vehicle trips generated per day. He said that the application was approximately 1,200 vehicles. He said that they typically requested a traffic impact analysis when an application comes in over 1,000 vehicles per day. He explained that the application was initially submitted after the traffic analysis for the Crozet master plan update, which analyzed all major intersections and included future land uses. He said that it took into account the densities that they would expect to see on the parcels. He said that the question about the roundabout was addressed in the transportation study; however, the recommendation did not make it into the Crozet master plan recommendations because it was so far out in the future. He noted there were higher priorities in the area.

Mr. Missel clarified that the plan was not required, and the build-out density used in it was a maximum build-out based on Crozet master plan recommendations.

Mr. Carrazana said that he wanted to address what he believed was the underlying issue that many members of the public had raised. He said that the issue had been expressed in different ways, but at its core, it concerned developments that were required for growth according to the master plan. He said that those developments included infrastructure improvements such as the eastern connector. He asked staff to address whether those were prerequisites for growth.

Mr. McDermott said that the County recognized that Eastern Avenue was a needed road network connection. He said that was why they had put significant money; they had done engineering studies, and they were still working to construct Eastern Avenue to connect from the West Hall area down to Route 250. He noted that they do not typically take a master plan as prerequisites. He explained that they continuously analyze what was going on with transportation in the region, and they determined what priority projects they needed to move on. He noted that there were funding constraints. He said that under some estimates, Eastern Avenue could be \$40 million. He said that they prioritized projects throughout the whole County. He said that one way they achieved infrastructure improvements was through developments. He said that was why they had requirements for sidewalks and new roads. He noted that working with developers was a primary way that they achieved the necessary transportation improvements.

Mr. Carrazana said that Crozet had seen an increase in development over the past several years despite minimal infrastructure improvements. He said that the area had only two ways in and out, both of which were challenged. He said that there would be significant improvements on Route 240 and Route 250, and it would benefit the community. He noted that it would still be limited. He suggested taking an incremental step to make improvements, even if it meant not completing the whole project in one step. He noted the importance of addressing emergency vehicle access and urged the County to continue thinking about it. He said that it was difficult to recommend approval for developments when the infrastructure was not in place.

Mr. Bivins asked counsel for clarification about the need to complete infrastructure and safety improvements before continuing with development.

Mr. Herrick said that the issue had been discussed in the context of other applications prior to this one. He said that the Attorney General had opined that moratoriums on rezonings were not allowed because every application was entitled to fair consideration on its own merits. He said that a blanket approach that said no application would be approved until further notice would be found to be unreasonable. He said that a Planning Commission or Board of Supervisors could approve or disapprove of any application on its own merits, but to do so as a moratorium was not allowed.

Mr. Carrazana said that he was not against the development and believed it had merit and was consistent with other developments in the area.

Mr. Moore said that he had heard about potential safety issues regarding first responders being mentioned. He asked if fire and emergency services believed they could enter the neighborhood in question as well as those behind it.

Mr. Langille said that fire rescue staff were, again, part of the review team that looked at these sorts of proposals. He said that the fire marshal had reviewed this proposal, and they saw no issues with the design in its current stage, which was a preliminary stage. He said that emergency vehicles will be able to get into and out of this site and make necessary turnarounds. He said that

fire rescue staff will be involved throughout the process, from subdivision plotting through road planning, to verify compliance with any regulations that may come into play.

Mr. Moore asked why VDOT did not recommend a turn lane into or out of Route 240 into the proposed development.

Mr. McDermott said that VDOT used a standard model for determining when turn lanes were required. He said that they consider the amount of traffic that was traveling on the road and the expected amount of traffic that would turn into the development. He said that a graph was used to chart this information, which told them whether or not a turn lane was needed. He said that for all entrances on this development, it did not fall into the area where a turn lane was required. He said that if this project were to move forward to a site plan stage, VDOT would have more specific information and could reevaluate whether a turn lane was still necessary.

Mr. McDermott said that they could put in a turn lane if they so desired. He said that the County could also put requirements on that if it were necessary. He said that at times, when VDOT said it was not required but it was very close on the line, the County will go back possibly require the traffic improvements.

Mr. Missel clarified that the permit needed to be approved by VDOT since they were maintaining a turn lane. He noted that the permit could be denied.

Mr. McDermott said that was right.

Mr. Moore said that the comments seemed to be less about the specifics of the proposal and more about the overall quantity of cars in the area. He said that he wanted to hear from staff about efforts at Park Ridge or Route 240 regarding any efforts being made towards speed control.

Mr. McDermott said that VDOT had strict requirements on whether they can put in any physical traffic calming structures, such as speed bumps, and they must meet certain warrants. He said that the County staff recognized that there was a problem in Park Ridge and would like to do some traffic calming. He said that VDOT had not given approval to move forward with something like that. He noted that they requested an additional speed study and traffic volume study on Park Ridge. He said that eventually, they probably will reach the point when they cross the threshold and VDOT allows it. He said that there were some other options that they will continue to look at, and maybe they can convince VDOT that it met their threshold.

Mr. Moore asked how difficult it was currently to access the proposed development and Harris Teeter. He said that he drove it in six minutes and wondered if that experience was accurate for others as well.

Mr. McDermott noted that there were multiple ingress and egress points in the area.

Mr. Carrazana said that he would like to clarify the right- and left-turn onto Park Street from Route 240.

Mr. McDermott said that the two areas that were analyzed were the other entrance on Route 240 directly into the development and then the direct entrance to Park Ridge.

Mr. Murray said that in the previous Crozet Master Plan, the parcel on the right was originally designated as green space, but it was removed from the last Crozet Master Plan revision. He asked if that was the same time the stream was removed from the Crozet Master Plan. He asked if there was any rationale for why that was removed.

Mr. Langille said that in the 2008 Crozet master plan, the entire parcel was designated as green space. He said that the definitions of the green space future land use classification were slightly different in the 2008 master plan from the recent one that was adopted in 2021. He said that the house on this parcel was identified during the 2008 master plan adoption process as a potentially valuable historic feature. He said that there was a stream on the south side of the property, and the decision was that it should be entirely greenspace. He explained that members of the historic preservation committee had gone out to the site and looked at that house. He said that it had been documented through photographs, and it was not eligible to be entered into any sort of historic database. He said that the parcel was 12.19 acres that would have been entirely undevelopable through a special use permit or rezoning under the old plan. He noted that there was in fact a stream buffer, but all that other land was not encumbered with any environmental features or any historic resources. He said that the Board adopted the plan, which had some land use designations on it other than green space.

Mr. Missel said that there was a question or comment regarding the buffer area size being less than the requirement. He clarified that it was 100 feet on each side centered on the stream, as per the ordinance.

Mr. Langille said that was correct.

Mr. Clayborne said that he had one question regarding the safety of that area. He noted that the County in their transportation reviews, they looked at areas that were prone to accidents or crashes. He asked if that particular area was identified as being at high risk for such incidents.

Mr. McDermott said that in this area of Crozet, no intersection or segment had been identified as a high-risk location using the VDOT tool and methodology.

Mr. Clayborne said that as a group, they had discussed several topics and he would like to take a straw poll regarding further discussion on any big topic that they thought they needed to address. He said the discussion focused on infrastructure, primarily roads and traffic. He noted that they also touched upon schools, the east connector, stream buffers, and roundabouts. He asked whether any of these topics were a hard no before they could reach a consensus to move forward with action.

Ms. Firehock said that there was a level of distrust and disappointment with the developer due to previous experiences. She said that the stream proposal was not heard at the time. She said that the community had worked to keep the stream relevant, and it had been protected, which was a victory. She said that she believed that the development would become a tremendous amenity, a people wanted to live along the proposed path. She said that she appreciated the development because of the diversity of density that was provided, noting that some smaller efficiencies allowed people to stay in the neighborhood when their children left for college rather than having to move out. She thought it was a good design and much better than what was about to come before them previously.

Mr. Murray asked for more information about the status of sidewalks on Park Ridge.

Mr. McDermott said that there were sidewalks on the opposite side of Park Ridge, and the developer was going to build a sidewalk on the frontage they were developing on. He said that there were sidewalks further down on Park Ridge. He said that they would like to see full sidewalks on both sides, but there were connections on Park Ridge currently. He said that the Crozet Master Plan recommended a shared use path all along the south side, and another segment adjacent to that was being developed. He said that the County would continue to work to extend it into the employment area around Star Hill and eventually all the way down to Crozet Avenue.

Mr. Murray said that he was not currently in favor of the proposal. He said that he supported the idea of density if there was the infrastructure on the ground or if it was coming soon. He said that they could not just keep voting for things when the infrastructure did not appear. He said that they did not have a plan for the Eastern Connector, and Park Ridge was unsafe. He said that he could not support it at that time. He said that he could definitely support some type of density. He said that the other factor for him was that there were a lot of sensitive environmental systems there. He said that if what was being proposed was a low impact, highly environmentally sensitive project, maybe that would sway him. He said that it was important that the density did go in the growth area and that this was what they were intending with their plan.

Mr. Clayborne noted that as a commission, they had four motions total.

Mr. Bivins moved to recommend approval of ZMA 2020-12, Montclair, for the reasons outlined in the staff report and in the discussion of the Commission. Ms. Firehock seconded the motion, which carried (5 – 2). (Ayes: Moore, Missel, Firehock, Bivins, Clayborne; Nay: Carrazana, Murray)

Mr. Herrick noted that there were three motions. He explained that the Commission had final say on the next three requests, it was not just a recommendation. He said that there were certain findings required by the ordinance. He said that the motions had been reworded to allow the Commission to take final action on these three requests and incorporate the findings of the ordinance.

Mr. Murray moved to approve the private street authorization as the application demonstrates compliance with the criteria and findings necessary for approval specified by §§ 14.233 and 14.234 of the subdivision ordinance. Mr. Missel seconded the motion, which carried unanimously (7–0).

Mr. Murray moved to approve the sidewalk variation and exception application as the applicant had demonstrated that the application met the findings of §§ 14-203.1(B)(2) and 14-203.1(B)(3) to approve the variations and exceptions, respectively. Ms. Firehock seconded the motion, which carried unanimously (7–0).

Mr. Murray moved to approve the planting strip variation exception application, as the applicant had demonstrated the application met the findings of §§ 14-203.1(B)(2) and 14-203.1(B)(3) to approve the variation and exceptions, respectively. Mr. Carrazana seconded the motion, which carried unanimously (7–0).

Review of Board of Supervisors Meeting: September 20, 2023

Mr. McDermott said that there were no public hearings for development applications at that meeting. He said that they had a great presentation in the afternoon session on the micro-transit

project which was proposed to get underway by October 23. He said that micro-transit was a demonstration project that would serve the Pantops area and Route 29 North, from Rio Road to the edge of the development area. He said that it would operate like Uber through a contractor called Via. He said that the marketing effort for the project was underway.

Committee Reports

Mr. Murray said that the CAC had met and discussed the stream buffer overlay district. He said that they also talked about the MPO long range transportation study. He said that there was a lot of discussion about different transportation improvements that could be made in the area.

Ms. Firehock said that the Historic Preservation Committee had met. She said that they had spent 99% of their time on the historic marker program and the committee's confusion over the fact that they had a historic marker program within their equity office. She said that they were going to do four markers through that, but they had already completed those. She said that they were confused about whether there was another marker program or if they were only doing equity markers from now on. She said that the result was that they will have one marker program, but they will be a clear process for the public to nominate places. She said that they were going to work on a clear and transparent ranking schema so people know how they can nominate a marker that addresses equity or underrepresented communities within the County or people or places.

Ms. Firehock noted that there was a lot of history in this area that had not all been told. She said that she missed the CAC meeting. She said that on Thursday, she and Mr. Murray did an online session with Cville 100, and there was a podcast. She said that they wanted to understand what they were doing with the environment chapter. She explained that they had not actually met about it yet and pointed them to the survey. She said that the meeting was mostly them asking questions, not really making recommendations. She said that she made it clear that they should go through the County process and that they already had a robust public engagement.

Old Business/New Business

AC44 Update

Mr. McDermott said that they would be holding a work session on the goals and objectives related to environmental stewardship, parks and recreation, and historic scenic and cultural resources. He said that this was what they planned to discuss at the next Commission meeting. He said that they would be holding two public hearings. He said they would hold one on the fees restructuring, and the other was a small rezoning. He said that they would be providing a detailed staff report on this. He said that there were surveys open right now that listed the goals and objectives that they were coming with a recommendation on. He said that they would be presenting background on that, and then they would hear feedback from the Commission. He noted that they could accept emails if they had suggestions. He noted that afterwards would be looking for action steps.

Mr. McDermott said that they had three work sessions scheduled this year on different topics. He said that they would then go to the Board, and the public engagement surveys would be open that entire time. He said that after they went to the Board early next year, they would come back to the Commission with an update on how they would move forward. He said that they had some public engagement activities, such as a pop-up at the Loop de Ville celebration.

Mr. Alberic Karina-Plun, Planner, said that the Saturday portion was cancelled due to rain. He said that on Sunday, there was a condensed version of the same event. He said that he arrived at about 12:30 and stayed until 4:30 PM. He noted that during that time, he and Ms. Kanellopoulos were at a table answering questions from people who came by.

Mr. McDermott said that they would also be present at the Rivanna River Conference on Thursday afternoon. He said that there was an event happening all day in Lane Auditorium on the Rivanna River. He said that he could send around the registration details and ensure availability for those interested in attending. He said that they would be stationed outside in the front with a table during office hours, answering questions about the comprehensive plan.

Mr. Murray said that one thing that had come up was how interconnected environmental issues were with the rural area. He said that in looking at the roadmap that was shown for how the progress will be handled, there was a notable absence of a separate space for discussion of the rural areas. He noted it was because it was bundled up into the land use section. He said that it would be better to separate out the land use phase into its own phase instead of combining it with growth areas. He suggested having a land use section that was divided into two phases - one for growth areas and another for rural areas - so that the roadmap was clear.

Mr. McDermott said that he would look into that and agreed that they needed to give the rural area its fair due in that section. He noted that it was a lot of topic and promised to ensure that they gave it enough time during their work session. He said that he would not schedule it during a meeting with other items on the agenda but instead would allocate separate time for a good discussion. He said that staff would work to avoid overwhelming the public or the Commission with too much information at once.

Mr. Murray said that it was not just about the volume of information; rather, the concern was that if all this were combined into one topic, it could overshadow the section on rural areas. He said that there would be people with a great interest in growth areas or transportation. He said that he was afraid that the rural area may seem like a secondary consideration within that discussion.

Mr. McDermott said that he would discuss this matter with their long-range planning team.

Mr. Carrazana asked when the next working-group was scheduled.

Mr. McDermott said that they had their last working group meeting of the year for this working group. He said that for phase two, they held three public meetings, and one was about a month ago. He said that there was still work that the working group needed to do. He said that they needed to work with their cohorts and return feedback based on the online activity "Think Like a Planner." He said that the last meeting was held for this phase.

Items for Follow-up

Mr. Bivins said that he wanted to give a heads-up to everyone. He explained that if commissioners used a VPN to view documents from outside the country, they should avoid accessing it on the same computer where they had their Albemarle email account. He said that it will trigger the IT department to shut down email access. He said that in order to obtain journals in different languages, there were certain things that could not be accessed unless one was physically present in the country of origin. He said that they cannot have the VPN and County email on the same device.

Mr. Herrick said that there was a technology policy adopted by the County four or five months ago, making it very strict that County personnel were not to take County computers overseas. He said that he could forward the new policy to the commissioners so that they were aware of it.

Mr. Clayborne said that the economic development briefing would be on October 24 as part of the work session, which was meant to prepare for a deeper discussion on that topic within the comprehensive plan. He said that the City and County joint planning commission meeting was still a work in progress, but it was unlikely to happen this year. He said that there will be a joint work session with the Board of Supervisors on housing, which was gaining momentum and was likely to take place in November or December.

Ms. Firehock asked if the joint meeting with the Board would be different than the Tuesday meeting. She asked if it would potentially be held on a Wednesday.

Mr. Clayborne said that it would most likely not be on the same day as the meeting, but rather during working hours. He said that they were planning to send out a Doodle poll shortly to determine when that could take place.

Mr. McDermott said that the Commission meetings and the Board meetings were packed full, so they will be trying to schedule them on a different day. He said that they will select a variety of times, likely in the afternoon or evening in November and December. He said that they will send them around doodle poll when they can get a time figured out.

Adjournment

At 9:25 p.m., the Commission adjourned to October 10, 2023, Albemarle County Planning Commission meeting, 6:00 p.m.



Kevin McDermott, Deputy Director of Planning

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

Approved by Planning Commission
Date: 10/10/2023
Initials: CSS