Albemarle County Planning Commission
Draft Minutes Regular Meeting
January 28, 2025

The Albemarle County Planning Commission held a public meeting on Tuesday, January 28, 2025, at 6:00 p.m.

Members attending were Fred Missel, Luis Carrazana, Corey Clayborne, Karen Firehock, Julian Bivins, Lonnie Murray, and Nathan Moore.

Members absent: None.

Other officials present were Michael Barnes, Richard DeLoria, Syd Shoaf, and Carolyn Shaffer.

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Missel established a quorum.

Call to order and establish quorum

Mr. Missel said that he wanted to note that the work session, which he hoped everyone had had the opportunity to review, had been rescheduled for February 11, 2024. He said that he was informed by the Clerk this evening that that meeting would be a busy evening, with a significant amount of discussion on the Ag Forestal District. He said that the positive aspect was that they had the Parks and Recreation, as well as open space, documents available in advance of this meeting, allowing them to review and prepare accordingly.

Mr. Missel said that also, the week after that meeting was when the Board of Supervisors would be hearing the same section of AC44. He said that if anyone had comments, questions, or concerns regarding this matter, he encouraged them to submit them in written form in advance of the Board's hearing.

Public Comment on matters pending before the Commission but not listed for a Public Hearing on this agenda

There were none.

Consent Agenda

There was none.

Public Hearing

ZMA202300005 Berkmar Flats

Syd Shoaf, Senior Planner, said that tonight he will be presenting staff's presentation on Zoning Map Amendment application ZMA 202300005 Berkmar Flats. He said that he would first discuss the location and then highlight the differences between the proposal in June 2024 and the current proposal. He said that the subject property is located north of Charlottesville, between Woodburn Road and Berkmar Drive.

Mr. Shoaf said that it is situated near the Victorian Heights development with 88 units, the Berkmar Overlook development with 52 units, and the Woodbrook apartment development with 244 units. He said that the property consists of three parcels, Tax Map Parcel (TMP) 45-81, 45-82, and 45-82A, totaling 3.62 acres. He said that all three parcels are currently zoned R6 Residential, with one parcel containing an existing structure at 2175 Woodburn Road. He said that the parcels to the southwest are zoned R6 residential, comprising the Berkmar Flats development.

Mr. Shoaf said that the adjacent parcel to the northeast is also zoned R6 residential, featuring a single-family residence. He said that to the north, across Woodburn Road, is the Rural Areas (RA), and to the southwest, across Berkmar Drive, the parcels are zoned Highway Commercial (HC). He said that the subject parcel contains steep slopes along its frontage with Berkmar Drive and is within the airport impact overlay district. He said that the three parcels are located in the Places 29 Master Plan, with a future land use designation of Office/R/Flex/Light Industrial, which allows residential as a secondary use.

Mr. Shoaf said that this is the proposal, which is the same as the June 2024 Planning Commission meeting. He said that the applicant proposed to redesign 3.62 acres from R6 residential to R15 residential to construct 54 units. He said that this is the applicant's initial proposal from June 2024, which has been referenced in the staff report as the vehicular connection. He said that it includes two access points to the site, one from Woodburn Road and one from Berkmar Drive, connected by an internal travel way.

Mr. Shoaf said that additionally, a 50-foot private inter-parcel connection was proposed for the adjacent parcel to the north. He said that staff recommended approval for this proposal because it provided an internal vehicular connection to connect Woodburn Road and Berkmar Drive's access points. He said that the proposal currently under review by the Planning Commission was the resubmitted proposal, which had been referred to as the non-vehicular connection proposal in the staff report.

Mr. Shoaf said that the applicant could provide further details during their presentation, but the key difference between this proposal and the initial proposal was that the internal vehicular travel way had been replaced by a pedestrian connection. He said that the applicant had decreased the amount of impervious area on site and increased the recreation areas and amenities within the site to address the Planning Commission's concerns from the June 2024 public hearing; however, this proposal did not provide the interconnectivity.

Mr. Shoaf said that the applicant proposed two proffers. He said that the first was for the conceptual plan to be developed in general accord, which pertained to the following essential elements: the location of buildings, recreation square footage, and sidewalks along Woodburn

Road. He said that the second proffer was for 15% of the total residential units to be affordable housing. He said that it was worth noting that this application had been received prior to the change in the County's 20% housing policy. He said that in summary, there was one positive aspect: the proposal included a provision of on-site recreation amenities and an increase in recreation amenities. He said that, however, staff was concerned that the primary use of the property was not residential, but it was consistent with the character of most surrounding properties and their current residential zoning.

Mr. Shoaf said that there was no interconnection provided within the site to connect Woodburn Road and Berkmar Drive's access points. He said that a private interconnection to the adjacent parcel to the north was proposed, but a public easement would be preferred for that connection. He said that staff recommended denying the Zoning Map Amendment request for ZMA 202300005 Berkmar Flats.

Mr. Bivins said that on page 6, where they discussed schools, he thought it would be helpful if they could include a date for Center II before presenting it to the Supervisors. He said that he believed Center II was expected to open in 2027. He said that they had Agnor Hurt Elementary and Burley Middle, and they had that funding had been provided for Center II, with an anticipated capacity of 400 seats. He said that the construction was underway on the Lambs Lane campus, and it was expected to be completed shortly. He said that including this date may be beneficial, as one of the Supervisors was well-versed in Center II's details.

Mr. Missel said that he had one question regarding the Victorian Heights subdivision, located to the south. He asked if that subdivision had any requirements for interconnectivity with Woodburn.

Mr. Shoaf said that Victorian Heights, located to the north of the site, had been approved and featured an internal private travel way. He said that while discussing this topic, Woodbrook Apartments had also been approved by the Board, and their site plans were currently under review. He said that they were proposing an internal private travel way as well.

Mr. Missel asked what the name of the development was between Swede Street and Empire Street.

He said that was the Berkmar Flats Overlook.

Mr. Missel asked if that development had any requirements for interconnections.

Mr. Shoaf said that as they could see on this map, there was a stub out to the site located on Swede Street. He said that when this proposal came before the Planning Commission for the first time, there was discussion about the issue of the existing Rivanna Water and Sewer Authority (RWSA) pipe. He said that the problem was that there was a grading issue at that location. He said that as a result, a pedestrian and vehicular interconnection were not possible at that site.

Michael Barnes, Director of Planning, said that to clarify, the first subdivision came in and Swede Street was graded too low, unfortunately. He said that the pipe he was referring to was actually the main pipe coming from the water treatment plant, which was a significant piece of

infrastructure. He said that moving it was quite cost-prohibitive, and he believed it was unwarranted. He said that the Service Authority was not excited about that move, either.

Mr. Missel asked if that was included in the concept plan.

Mr. Shoaf said that Swede Street was not highlighted in this plan, but the one provided in June 2024 did show it. He said that on the left side of the map, they could see Sweet Street, and then it transitioned into the area before them, which was where the mini four seating area label was located. He said that if they would like, they could clean up that visual.

Mr. Missel said that he would like to clarify the location of the water line.

Mr. Shoaf said that it ran along the property line.

Mr. Missel asked if it ran along the area with the five-foot setback on the map.

Mr. Shoaf said yes.

Mr. Missel said that it looked like their building would be very close to that.

Mr. Barnes said that it was worth noting that the upper parking lot was actually situated on top of an easement, which was distinct from the situation with Swede Street, where it was multiple feet below the grade. He said that therefore, they would need to grade down significantly to connect.

Mr. Missel said that the pipeline was higher.

Mr. Barnes said that he was certain that the engineer could provide them with the specific numbers, but he would offer some general information. He said that Swede Street was currently at this elevation. He said that the water line was relatively close to that street, situated on the bank. He said that if they were to drop the bank on this property, it would likely require lowering or relocating the main water line. He said that again, this was due to the nature of this project, which involved a principal service line. He said that he believed that the Service Authority had not been enthusiastic about moving the water line either.

Mr. Shoaf said that he also wanted to correct the agency in charge of this area; it was the RWSA, not the Service Authority. He said that although he had not mentioned this in his presentation, the by-right zoning for this parcel was for 28 units, and final site plans were currently under review. He said that he had had correspondence with both the Virginia Department of Transportation and RWSA regarding the proposed connection, and they had both noted to him and the applicant that this connection was not feasible without the modifications suggested by Mr. Barnes.

Mr. Missel said that to state the obvious, the only potential interconnection possibility was Woodburn Road, even though one had already been accommodated in the adjacent development.

He said that to clarify, at the time of the Berkmar Flats development, there was no requirement for that development to connect to Woodburn Road.

Mr. Shoaf said that he was not a planner at the time, and therefore, he was not aware of the specific circumstances surrounding that rezoning.

Mr. Barnes said that they left it as an emergency access point rather than a full access point. He said that he believed that the staff at this point would have wished that they had designated it as a full access point from the outset.

Mr. Bivins said that Mr. Missel's question was if there was a connection between Swede Street and another development. He said that he did recall that there was a two-way exit onto Woodburn Road from the intersection of Empire Street, Swede Street, and Marsac Street, which was a cul-de-sac. He said that within the cul-de-sac, there was an emergency exit between the cul-de-sac and Woodburn Road.

Mr. Bivins said that to address the Chair's question, which he believed was the same one he had, all three new projects had three streets. He said that during his visit to Victorian Heights, he observed that the streets allowed for a continuous route from Berkmar to Woodburn. He said that therefore, the odd development out would be the one they were discussing tonight, which did not provide a similar crossing option between the community and Woodburn Road if needed.

Mr. Missel said that he also noticed that Swede Street continued through. He said that it would likely continue as an interconnection to the south.

Mr. Murray asked if there was an opportunity of utilizing Swede Street as a pedestrian connection, perhaps by installing stairs or another type of pedestrian access.

Mr. Shoaf said that he had correspondence with RWSA regarding this matter, and they suggested that it would not be feasible due to VDOT's system not accepting it. He said that he believed the applicant could provide additional information to that point.

Mr. Missel opened the public hearing. He asked if the applicant had a presentation.

Kelsey Schlein, Planner with Shimp Engineering, said that she is joined tonight by Justin Shimp, their engineer for the project, Whit Graves, the builder, and JT Maxwell, the property owner. She said that she would like to begin by thanking the Planning Commission for the feedback and comments they provided at the meeting in June. She said that tonight, they were presenting a significantly improved concept compared to their previous presentation six months ago.

Ms. Schlein said that however, she was aware that they are in a challenging position, given that their previous recommendation for approval from staff has been changed to a recommendation for denial, due to changes they made in response to feedback from the Commission. She said that she was aware that they were not where they want to be, but she would like to delve into the details of the site grading, as she believed it was crucial to understanding the layout of this site and why it is been designed the way it is.

Ms. Schlein said that it was also essential to consider the grading of the other sites in the Berkmar area, particularly the development at Victorian Heights, which features 24 feet of retaining walls to support its grading. She said that their goal was to achieve a more pedestrian-scale, human-friendly design that aligns with the neighborhood model principles. She said that with that in mind, she would focus on the site grading tonight, but wanted to keep the bigger picture in mind, as this project represents 3.6 acres in the development area and 54 units, which was an efficient use of land that could help prevent premature expansion of the development areas, which was a key concern that the comprehensive plan team has been addressing over the past few months.

Ms. Schlein said that with that in mind, she would proceed with her presentation, which includes the staff report from prior to June and the June Planning Commission staff report, which recommended denial due to connectivity concerns. She said that they made some changes between the time the staff report was published and their presentation to the Commission. She said that they upgraded the access to Woodburn Road from emergency access only to full access, and they added a private interparcel connection.

Ms. Schlein said that this change addressed staff's concerns about interparcel connections and allowed them to move forward with a recommendation for approval. She said that in their previous concept, as Mr. Shoaf demonstrated in his presentation, they had envisioned a continuous vehicular connection through the site. She said that this created significant grading challenges, which she would discuss later in this presentation.

Ms. Schlein said that to illustrate their original vision, she would like to pull out some quotes from the minutes, as this was what they had heard. She said that they wanted to incorporate more connected green space, human-scale design, and pedestrian-friendly access to the future shared use path on Berkmar Drive, which would connect to Target. She said that they aimed to create a place where people could enjoy living. She said that this guiding principle informed their redesign.

Ms. Schlein said that she would like to highlight some major changes. She said that their prior concept, as shown in this burgundy layout, featured a vehicular connection from Woodburn to Berkmar Drive through the entire site. She said that however, to meet Albemarle County's minimum parking requirements, they had to limit the site to no more than 5% impervious surface area. She said that this necessitated significant earthwork and asphalt to achieve.

Ms. Schlein said that the gray area represents their current layout, which breaks up the two connections and allows them to maintain the high portion of the site while keeping the low portion low. She said that by doing so, they reduced their impervious paved area by approximately 13,000 square feet. She said that this change also highlighted the increased open space. She said that the yellow area in this layout shows the original plan with extensive impervious surfaces for building sites and vehicular connections. She said that with this revised concept, the stormwater facility became open space, and they were no longer doing primarily underground detention.

Ms. Schlein said that this facility could serve as part of the open space program and be incorporated as an amenity for the site. She said that additionally, it helped address the issue of asphalt and heat generation in a residential community. She said that by removing the

underground detention, they could reduce the heat island effect on this development. She said that they had a proffered commitment to increase the recreational areas on the site beyond the code requirements.

Ms. Schlein said that according to the Albemarle County code, subdivisions with more than 30 units required at least 200 square feet of recreational space per unit, not to exceed 5% of the site area. She said that they had agreed to increase their requirement by 20% beyond the code, allowing them to allocate less site area to asphalt and more to recreational spaces. She said that the revised grading plan showed a steepness gradient of the site, explaining why so much of it was dedicated to asphalt to meet the minimum parking requirements.

Ms. Schlein said that they needed to create a flat landing for the inner parcel connection, which limited the amount of asphalt needed. She said that the design allowed for a safe and efficient flow of cars, with ramping travel ways, while keeping the amount of asphalt to no more than 5%. She said that this also ensured that Americans with Disabilities Act (ADA) spaces were limited to no more than 2%. She said that she would like to provide some context on the amount of earthwork involved in making the connection. She said that the cross-section showed the existing grade of the site. She said that the proposed site section was different from the previous section.

Ms. Schlein said that the yellow on the cross-section highlights the significant cut they made to the site to create the connection and accommodate the parking requirements, which had resulted in two separate entrances. She said that the high side of the property remained high, while the low side was lower. She said that she also wanted to draw attention to the fact that they had previously discussed the by-right site plan, which was very close to approval. She said that this rezoning would be the first phase, and it would largely incorporate into the phase two plan. She said that one item she would like to note was that their current primary use designation in the R/Flex/Light Industrial District was working against them from the comprehensive plan, which was last updated in 2011.

Ms. Schlein said that the draft future land use map currently recognized the development along Berkmar Drive, including this site, as urban density residential. She said that in contrast, the site they were currently working with was more holistic in its approach, with residential being a supporting use for the surrounding commercial uses. She said that however, if this rezoning moved forward, it would be consistent with urban density residential principles. She said that she was simply calling attention to these points, which everyone was well aware of.

Ms. Schlein said that she would like to highlight the site context and how, in the context of Albemarle County, this development was relatively walkable. She said that the shared use path between Woodbrook and the existing roundabout behind Hilton Heights, which was expected to come online, would provide a continuous path from this site to Target, spanning nearly three miles. She said that this was an amazing amenity that residents could benefit from living in this area. She said that she would like to bring to their attention a few other destinations in the area, including the big box stores such as Lowe's and Walmart, as well as several salons, spas, and fitness studios that were conveniently located near this development.

Ms. Schlein said that unfortunately, she was out of time. She said that she would like to make one final statement. She said that six months ago, as they had previously discussed, the issue of interconnectivity remained a challenge. She said that this exhibit illustrated their difficulty in making a connection to Swede Street. She said that the waterline elevation and road design shown on their concept plan demonstrated how the road would be designed if it were continued.

Mr. Moore said that he had some questions regarding the grading for the inter-parcel connection off to the right. He said that one concern he had was that they should avoid replicating the issues seen on Swede Street, where the connection could not accommodate the intended use.

Ms. Schlein said that the alignment works with Victorian Heights, and this image illustrated that their inter-parcel connection was directly aligned with Victorian Heights' inter-parcel connection. She said that one thing that was not an issue was the utility conflict, which was a significant advantage because, as they had asked, it was often wondered why it could not be made to work. She said that they could move some dirt around and figure it out. She said that there was not a utility conflict in that location, which meant they did not have that obstacle to overcome.

Mr. Moore said that that helped clarify things. He said that he was also wondering, if they referred back to the new walkability plan, approximately how many parking spaces could be expected in the off-Woodburn section versus the off-Berkmar section.

Ms. Schlein said that their traffic count was more informative, and it aligned with the initial allocation they had in mind. She said that the single-family attached town homes would have driveways, and there would be parking spaces for approximately 18 dwelling units. She said that the off-street parking for Berkmar would accommodate approximately 22 units, with parking spaces located on that side.

Mr. Bivins said that he also wanted to thank the applicant for coming back with a plan that was certainly different and responsive to their earlier discussions. He said that he had a couple of observations and questions. He said that he understood that the portion of the project currently on Woodburn Road was by right. He said that he had expressed his concerns about the narrow road, and he had also acknowledged that only one side of that road was in the development area and the commercial zone.

Mr. Bivins said that given the road's narrow width and the 32 residences, it seemed that the Berkmar Drive side would be more suitable for a higher density, considering its two-lane configuration. He said that he was trying to clarify if this was indeed the case. He said that he wanted to address his concerns regarding the shared use path and the walking path along the right side of the property. He said that the Chair had spoken earlier about the importance of having alternative routes for emergency situations.

Mr. Bivins said that in this case, he pointed out that the Victorian Heights path to the north and the path to the south could be used as an emergency route, allowing vehicles to drive through. He said that he was concerned that this was the only viable option, and that the shared use path on the left side of the property may not be suitable for vehicles. He said that he was worried that this could leave 22 households without a way to exit the property in the event of an emergency,

particularly since Berkmar Drive had a history of issues. He said that he was struggling to understand why he should be comfortable with this arrangement, given his traditional discomfort with it. He said that it appeared that staff had acknowledged his concerns by not providing an alternate route, which only added to his concern.

Ms. Schlein said that to clarify, both concepts had been presented to VDOT and the transportation staff, and from a transportation impacts perspective, not having a connection had not been a concern. She said that this was a benefit. She said that in the grand scheme of the transportation network in this area, this development was a minimal impact. She said that if this project had been built by right for 54 units, they might have chosen the original concept. She said that they had gone back to the drawing board and come up with a better concept.

Ms. Schlein said that considering the property's current designation as 28 units, there could be 28 units exclusively accessed from Woodburn or Berkmar. She said that in terms of impacts beyond the current by right, once the property was designated as urban density residential, they could utilize bonus factors to exceed 28 units by right. She said that ultimately, they were not at a greater impact than they would have been in the by right scenario, as they were only at one entrance.

Mr. Moore said that he had a question to note, which he believed was briefly mentioned in passing regarding the Victorian Heights project. He said that since he did not have the plan for that project in front of him, he wanted to inquire about a specific point. He said that he wanted to know if there was a pass-through connecting Berkmar to Woodburn in that area. He said that if someone enters Berkmar, they could loop through Victorian Heights to access the back entrance without having to go that far.

Mr. Bivins said that he appreciated the clarification. He said that he would like to revisit his previous point. He said that he was wondering if it would be possible to daylight the pipe south of the location, allowing for a connection to the road. He said that this was a common practice in other areas, where pipes were exposed. He said that by daylighting the pipe, they could avoid the need for a more complex and expensive solution.

Ms. Schlein said that Swede Street was the main water supply from the reservoir, and therefore, it was a critical component of their infrastructure and could not be lifted up.

Mr. Bivins said that he was thinking about the multiple places he had seen where pipes were daylighted.

Ms. Firehock said that those creeks were typically daylighted until they were buried, whereas their water supply was one that they actually wanted to encase and protect in order to transport it.

Mr. Murray said that they mentioned earlier that the design was based on the County's requirements for parking spaces. He said that he was wondering if the facility had sufficient parking, or if they felt that there was excess parking in this design.

Ms. Schlein said that she believed they were currently four spaces short of the requirement, so they would need to apply for a site modification. She said that in her view, the parking they needed was included in the design. She said that Victorian Heights had added parallel spaces along the streetscape as well. She said that although those spaces had been shown in front of their site at one point, they were later suggested for removal. She said that she believed that the parking they needed was still located in this particular location.

Mr. Murray said that he was in favor of reducing parking requirements, and that was why he was considering alternative solutions.

Ms. Schlein said that they had successfully implemented this approach in other locations and certain neighborhood models that they had worked on. She said that as a result, they had been able to reduce the parking requirement, especially in multi-family projects. She said that on average, they had been able to achieve about 1.7 parking spaces per unit in the County. She said that in some projects, they had even been able to reduce the requirement to 1.3 or 1.4 spaces per unit. She said that in this location, however, they were already a little short, and since they did not have a lot of street parking available, they would likely stick with the minimum requirement.

Mr. Murray asked what was the closest distance to a transit stop.

Ms. Schlein said that a transit stop was located very nearby, which she indicated on the map.

Mr. Murray said that he was curious to know why the proposed connection was being considered a private easement rather than a public one.

Ms. Schlein said that she believed that the Victorian Heights connection was also a private access.

Mr. Murray said that in the past, he had heard concerns about the lack of light industrial and commercial properties in their area. He said that he believed that, just as they discussed the development of residential areas, they also needed to consider the commercial and light industrial sectors, as they were crucial to their tax base. He said that this funding was essential for supporting schools and infrastructure.

Mr. Murray said that he thought it was essential to their neighborhood model, which prioritized walkability and accessibility. He said that as they had demonstrated, it was possible to walk to a big box store and other local businesses from there. He said that however, he was concerned about the adaptability of these buildings to accommodate changing needs. He said that for example, he wondered if they could be repurposed to include commercial space on lower floors, or serve the local community with amenities like a coffee shop or bookstore.

Ms. Schlein said that taking a residential building that was permitted under the residential building code to commercial was a very challenging process. She said that the likelihood of a conversion was difficult, however, since the portion of the site adjacent to Berkmar was likely to be a rental product, and the portion adjacent to Woodburn was likely to be a for-sale product. She said that she believed that when one maintained control over a larger portion of property, there was always

the opportunity down the road, many years from now, to redevelop it in a different way. She said that for instance, maintaining control of the entire parcel as a rental product did not preclude the possibility of future redevelopment.

Mr. Murray said that he encouraged them to consider adaptability when designing these buildings and sites. He said that as they developed the growth area, he thought it was essential to think about the future. He said that one of the big problems he saw was that they often locked things in time, making it difficult to accommodate changing needs. He said that in the past, neighborhoods had evolved over time, with single-family housing giving way to multi-family housing, which then became commercial spaces.

Mr. Murray said that eventually, a city would form. He said that with their current zoning and approach, they had essentially frozen development in time. He said that this was putting them in a challenging position. He said that in this context, he thought it was worth considering how to incorporate adaptability into some of these areas, allowing them to potentially accommodate small-scale commercial use in the future.

Mr. Moore said that he appreciated Mr. Murray's comments because it would be beneficial to have mixed-use possibilities. He said that in this case, he was not convinced that every parcel needed to do every job, given the proximity of the site to various amenities such as a bank, salon, print shop, dentist, and child care center. He said that it was a quarter-mile walk, which was not an excessive distance. He said that there was already light commercial activity nearby, just not on the site itself.

Mr. Murray said that if they considered the potential impact, it could be said that they would have the same issue. He said that looking at downtown Charlottesville, for example, they had a much shorter distance to travel. He said that to achieve a truly walkable situation, he believed it was essential to consider the inconvenience of carrying groceries, even if it was only a quarter mile. He said that in his opinion, this was a significant drawback.

Mr. Clayborne said that he wanted to thank the applicant for the presentation. He said that he acknowledged that this was a challenging site they were working with. He said that he was curious if they could elaborate on the conversations they had had with staff regarding interconnectivity, specifically with regards to Woodburn Street. He said that he was trying to understand how those concerns had been addressed versus the conversations they had had with Fire and Rescue, who reportedly had no concerns.

Mr. Clayborne said that it appeared to be an inherent conflict, and in his mind, it was similar to Mr. Bivins' point about the fire-life-safety aspect. He said that however, if the staff had concerns and Fire and Rescue did not, he would like to hear more about how they attempted to resolve this discrepancy and the differences between the two perspectives.

Ms. Schlein said that from a planning and land use perspective, connectivity is a crucial principle, particularly in neighborhood models. She said that they are looking at ways to provide alternative routes for people to get around, which is a key consideration. She said that from a Fire Rescue

standpoint, they are evaluating whether the development's design allows for safe access and egress for fire trucks, ladders, and other emergency vehicles.

Ms. Schlein said that they are checking factors such as the width and clarity of travel ways, the proximity of buildings to the fire access road, and the availability of fire hydrants. She said that fortunately, this design has already passed Fire Rescue review and meets their criteria, ensuring that emergency vehicles can access the site safely and efficiently.

Mr. Carrazana said that he also wanted to express his appreciation for the way they had incorporated many of the comments they had made. He said that it had been June, but it did not feel like it had been that long ago. He said that he appreciated the effort and thought this design was much more livable, with the inclusion of green space. He said that the fact that stormwater management was now an amenity, rather than an underground system, was an improvement.

Mr. Carrazana said that he also appreciated the reduction in impervious surfaces, which was a positive aspect. He said that there were several other benefits he saw in this design. He said that he would like to understand the interconnectivity opportunities. He said that they had a connection at the north. He said that he wondered if they were planning to build out this connection as part of the project to link it to Victorian Heights.

Ms. Schlein said that it was a reservation for a future connection.

Mr. Carrazana said that the other project was currently under construction.

Ms. Schlein said that yes, Victorian Heights was currently under construction, and their alignment and design were modeled after the existing situation. She said that as a result, they were experiencing the same challenges. She said that according to their plan, they had a reservation area marked by these two lines on the map, which indicated the edge of the pavement.

Mr. Barnes said that to clarify, there was a parcel of land situated between the two developments.

She said that yes, there was. She said that she would refer to a context map that she had here.

Mr. Barnes said that if there was a common boundary between the two developments, they would likely be able to make that connection today.

Mr. Carrazana said that he had assumed that was part of the discussion.

Mr. Missel said that this was why they were referring to the alignment.

Mr. Carrazana said that he was wondering why they were not implementing it now. He said that he understood now and appreciated the clarification.

Ms. Firehock said that she had two questions and a comment. She said that first, she would like to express her gratitude for the applicant’s response to their comments. She said that she could understand the challenges of being responsive and the negative recommendation from the staff,

as they had mentioned. She said that regarding the stormwater management, she had made an assumption and she would like to verify it. She said that they now had a stormwater pond, and she would like to know if it would be a wet pond or dry pond, considering it would be serving as a site amenity. She said that wet ponds had been shown to have higher efficacy for pollutant removal and were generally more aesthetically pleasing.

Justin Shimp, Project Engineer with Shimp Engineering, said that they had designed it, and he described it as an extended detention type, with a blend of characteristics from both. He said that due to the limited watershed area on this side, they could not create a wet pond. He said that instead, they typically incorporated engineered wetlands or similar treatment systems to mitigate the issue. He said that they could not sustain a true wet pond due to the insufficient watershed area.

Ms. Firehock said that now that she had this information, she wanted to ask about what they had mentioned before regarding storing the water in underground tanks for temporary detention. She said that they were planning to release it to the stormwater system slower, to attenuate the flow. She said that in this case, now that they were treating the water with vegetation on the surface, they were also providing water quality treatment, not just quantity. She said that otherwise, they would have needed to purchase water quality credits elsewhere if they were only using underground storage tank detention.

Mr. Shimp said that the caveat was that there was some underground detention systems also incorporated sediment filtering, which could lead to improved water quality. He said that this was something they did frequently, as one of their manufacturers offered a system that effectively trapped sediment. He said that while it required more maintenance, as the sediment needed to be vacuumed out regularly, it did result in a removal rate. He said that according to the state's testing, this system achieved a 40% removal rate, or a similar level. He said that while some areas did have underground detention systems with sediment filtering, in general, above-ground systems were more likely to include water quality treatment.

Ms. Firehock said that it appeared to her that by bringing the tank above ground and utilizing vegetation on the surface, they were achieving better water quality treatment and mitigation than would be possible with an underground tank system.

Mr. Shimp said that the state advised on those numbers. She said that ultimately, it was more within her expertise to determine how they arrived at those numbers. He said that essentially, yes, there were multiple methods for above-ground attention, and they could receive a credit for removal due to vegetation, as she had mentioned.

Ms. Firehock said that if they had vegetation growing there, they would also be providing habitat for pollinators and other benefits, beyond just the tanks underneath a parking lot. She said that she apologized for the lengthy detour into stormwater management. She asked if they could please refer to the picture of the development's conceptual plan. She said that she was curious about how the different areas were designated, although she understood that was not the final version. She said that it seemed to her that the dogs had the largest recreational zone. She said that she knew that people in Albemarle County loved their dogs, but she wondered if that was

intentional. She said that she was just not sure, but it seemed to her that maybe the dogs could frolic in the pollinator patch, while the people had a bit more open space.

Ms. Schlein said that this was a great question. She said that as she mentioned, this was conceptual at this point. She said that they would likely be pursuing modifications if the project moved forward to meet the code requirements, ensuring that the facility was more than just a few amenities, but rather a comprehensive space that allowed the dogs to have enough room to run around. She said that they had actually delved into dog park design in several of their other communities and had gained experience on how to set up gates and other necessary elements to accommodate the desired size.

Ms. Firehock said that she thought she would prioritize the people's recreational areas over the dog park. She said that perhaps they could create a smaller dog park in a corner. She said that she did not want to overstep the site's design; the idea just occurred to her. She said that she would like them to bring up the image of Victorian Heights that they had shown earlier, which was an aerial view. She said that they had been discussing how it would work in that context. She said that looking at that image, Victorian Heights was quite impervious. She said that in comparison, the subject site was much greener, thanks to the redesign.

Ms. Firehock said that while Victorian Heights met their requirements for through-roads, they sacrificed other things and did not have easy sites to develop; those had already been built up. She said that they were left with more difficult sites, like this one. She said that they would have to deal with soil movement, grading, and slope disturbance to make connections work, and the result would be a very impervious site. She said that she appreciated the applicant’s efforts to make this site greener. She said that she wondered if anyone really wanted to walk along the sidewalk with the retaining wall, which provided connectivity but was still dangerously close to the roadway.

Mr. Missel said that he appreciated their comments, and he was glad that they were focusing on the details because it indicated that they were supportive of the bigger picture. He said that the revised plan was a significant improvement, and he appreciated their efforts. He said that as others had mentioned, he thanked the applicant for responding to their comments. He said that he had a couple of questions. He said that regarding the better living across the street that they had shown, the connection to Berkmar Drive, he was wondering if it was possible to have this entrance across from that location. He said that he was curious to know where their property boundary was in relation to Berkmar Drive.

Mr. Shimp said that the stormwater management was in this area.

Mr. Missel said that he was wondering if there was a way to line those up, and if they had looked at that.

Mr. Shimp said that he did not think it was practical, and that was not something that VDOT's rules on commercial entrances would allow, which was to avoid conflicting left turns. He said that therefore, lining them up or offsetting them sufficiently would be necessary to avoid the conflicting

left turns. He said that they had met the clearance requirements far enough to meet their standards, which meant they were offset sufficiently.

Mr. Missel said that reviewing the plan, he noticed that the non-vehicular plan, located in the upper left-hand corner, appeared to encroach on a 20-foot RWSA easement. He said that the building was situated very close to the edge of this easement, and he was concerned that it may be too close to a pipe that was parallel to the property line. He said that he wondered whether the building's proximity to the pipe posed any issues, particularly given the potential for a significant grade difference.

Ms. Schlein said that that they could have the parking lot and the driveway built over top of the pipe. She said that the problem lay in cutting down the slope where the pipe was located, and she said that uncovering the pipe was the main concern.

Mr. Missel asked if they would allow them to pave over it.

Ms. Schlein said that they would allow them to install pavement over top of it.

Mr. Missel said that at one point, he was considering the dog park comment as well, but his focus shifted to Mr. Bivins' mention of emergency egress and access. He said that it appeared that there was a connection between the two buildings, which zigzagged across the site. He said that he was wondering if the grades would accommodate a connection in or around the dog park, but he did not want to nitpick.

Ms. Schlein said that it was feasible. She said that the issue was not related to a VDOT right-of-way, but rather the pedestrian connection to the south.

Mr. Missel asked if nay members of the public wished to address this item.

Stacy Tanner said that her backyard was parallel to the main water line, right next to Swede Street. She said that she was concerned about the grading that will be taking place there, as well as any vegetation or screening that could be implemented along the entire property line adjacent to the easement. She said that this would help maintain a good neighborly relationship with those nearby.

Ms. Tanner said that they were also concerned about potential water and erosion issues that could affect their property. She said that they were worried about fire safety, given the presence of cars and the limited maneuverability of a fire truck in the area. She said that they were concerned about access in case of an emergency, as the area would likely become congested. She said that overall, it would be best to keep the zoning at R6, because with less density there would be less problems with safety, vegetation, and erosion. She said that the green space was not usable; there was nothing there for children. She said that the quality of life there for the commercial businesses would be affected, so it would be nicer over there with a mixed-use space in that area. She said that she would like to see a better plan.

Tom McDermott said that he resided in Berkmar Overlook. He said that his question pertained to the shared use path that was mentioned as an amenity. He said that they were also interested in this feature. He said that he and his family had moved there a couple of years ago, and individuals they met at church and elsewhere expressed the notion that the Berkmar Drive extension had been sold to them as a shortcut to Earlysville. He said that they wanted a 45-mile-per-hour speed limit on Berkmar Drive and no more crosswalks.

Mr. McDermott said that given this, his question was: how confident were they in ensuring that the shared use path was actually constructed, and what steps could be taken to make it a reality. He said that the idea of transforming this neighborhood into a walkable community seemed challenging to envision without the shared use path. He said that he was concerned about this aspect.

Mr. Missel asked if the applicant had a response to the public comments.

Mr. Shimp said that the stormwater drainage issue, he believed, had been discussed prior to the last hearing. He said that regarding the site, particularly for those living in the Berkmar Overlook neighborhood, which could be seen on this drawing, the contours indicated a drainage divide that split the site roughly in half. He said that currently, all the water flowed in one direction. He said that with the proposed design, they would intercept and redirect the water, ultimately leading it down a different path.

Mr. Shimp said that this meant that the existing slope towards homes would be regraded, drainage captured, and redirected. He said that he understood why some people may be concerned, but it would be addressed. He said that he would like to make a general comment that supported Ms. Firehock's statements. He said that these sites were inherently challenging, with difficult land and development constraints.

Mr. Shimp said that they had spent countless hours trying to perfect this layout, but he acknowledged that it was not perfect. He said that in a perfect world, they might have achieved a different connection. He said that however, the trade-offs were necessary, as the fire marshal had pointed out. He said that requiring multiple access points for every development would lead to impractical conditions, such as excessive asphalt and adverse conditions.

Mr. Shimp said that these trade-offs were what they operated with, and they must balance the regulations, including converting apartments or townhomes to commercial spaces, which they could do with ease. He said that they could open a bakery in that location, except that it would be in violation of the zoning code, building code, and fire safety codes, which presented several challenges. He said that they had made their best effort to create a more livable and environmentally friendly layout from a grading perspective. He said that he believed that people would enjoy living there, and there was a trade-off in not having a direct connection.

Mr. Shimp said that as with every site, there were compromises that needed to be made, and they felt that this was a better outcome than the original proposal. He said that the shared use path was indeed an option that was currently under process. He said that they had clients who

were already in negotiations with the Berkmar community, and he was not sure of the exact date for that.

Mr. Barnes said that the shared use path project was a funded initiative, and their Facilities and Environmental Services (FES) department was actively working on it.

Mr. Missel asked if the County would construct that.

Mr. Barnes said that their contractor would construct the project.

Mr. Missel asked if Mr. Shimp could share information regarding the screening between the properties.

Mr. Shimp said that one of the things they did not show here was that parking lots would be required to be screened, which would result in the addition of shrubs and other landscaping features. He said that this was a zoning requirement that they typically did not delve into in the concept plan. He said that to screen the parking spots, they would need to add trees and other landscaping elements along the edges of those areas, which would introduce additional requirements that were not immediately apparent from the site plan.

Mr. Barnes said that regarding the water line itself, RWSA would not want to have trees planted in their easement.

Mr. Shimp said that if they cut three inches of dirt over the water line, the plan was reviewed very closely, and their inspectors would closely monitor the contractor throughout the day to ensure that the work was done correctly. He said that if someone were to accidentally hit the water line, it could potentially affect thousands of people without water.

Mr. Missel said that he was surprised that they were able to pave over it.

Mr. Shimp said that if they needed to maintain it, they would likely rip up their asphalt in order to access the pipe.

Ms. Schlein said that RWSA had reviewed this plan, and it was the final site plan.

Mr. Missel closed the public hearing and the matter rested with the Commission.

Mr. Moore said that he would like to start by acknowledging the green features in this proposal, which he believed his colleagues and he had discussed at length in terms of the significant amount of pavement. He said that this new design did appear more attractive, with the landscaping effectively snaking around the existing infrastructure. He said that barring any last-minute issues, it looked ready for approval. He said that it seemed like a well-rounded proposal, with the added bonus of a new entrance from Berkmar.

Mr. Moore said that he appreciated the redesign process, which was lengthy but ultimately resulted in a better product in terms of interconnections. He said that as someone who lived in a

neighborhood with limited access points, he appreciated the opportunity to have multiple entrances. He said that functionally, the only concern he had was that the parking spaces may be eliminated if one entrance was used, requiring a loop around to access the other side. He said that this was not a significant issue, as it was only a short detour to access either Victorian Heights or the other side. He said that he believed this was a good use of approximately 3.5 acres to bring housing to the development area.

Mr. Bivins said that he appreciated having two entrances and exits. He said that this concept resonated with him, as it reflected the current state of their world, where things could quickly go awry. He said that although he would not advise anyone to sign up for it, he was concerned about the rising number of shootings, stabbings, and assaults in their community, which had caught his attention. He said that as a result, he was looking for places with high population density that may require quick evacuation. He said that if this area had a high-rise development, then they could have all kinds of park space.

Mr. Bivins said that however, given their community's aversion to high-rises, he would not expect that. He said that he was supportive of this plan. He said that he wanted to state that the water company's plans to dig up and install pipes throughout their community to bring water from Ragged Mountain was a pressing issue. He said that it seemed illogical to him that they could not accommodate a road due to the existing pipe infrastructure, especially when the water company would be moving and adding pipes throughout their community. He said that he felt compelled to bring this to their attention.

Mr. Bivins said that he believed that creating a community among multiple developments, such as the dentist's office, the school, and the Berkmar Overlook, and the current project, was beneficial. He said that however, their current approach of isolating each community from one another was frustrating, as it prevented them from forming a cohesive community among themselves. He said that this trend must come to an end, and he believed they could be part of the solution by saying they needed to stop this foolishness. He said that as one community, they were bringing these communities together, and they needed to provide them with ways to interact with each other in a meaningful way.

Mr. Bivins said that he had expressed his concerns about the water pipe, specifically why he thought it was a poor solution. He said that they could cover it with concrete, asphalt, and rocks, but they could not simply dig it up and relocate it, which did not make sense to him.

Mr. Missel said that he was not sure if it was gravity or a pressurized pipe.

Mr. Barnes said that the pipe was pressurized, and he was not aware of its exact size, but the main point was that it was the primary pipe coming from the plant, making it a large pipe. He said that as Mr. Bivins had mentioned, since it was under pressure, it could be moved, but the size of the pipe was the limiting factor. He said that therefore, it was very expensive to relocate, and it was also critical to its functionality that a bypass pipe be installed in the meantime. He said that in fact, they would likely need to build two pipes to accommodate the relocation.

Mr. Bivins said that he appreciated what he was saying, but they did things here where they let infrastructure guide what their community would be. He said that the community was not just a pipe, but a living entity that was shaped by its surroundings. He said that they had mentioned earlier that there was an amphibian found in this area, which was a brilliant example of how nature could influence their decisions. He said that this was about people, and they were trying to create ways for kids to walk to school, so they could actually walk across these properties if there was a connection. He said that he would stop his rant about connectivity because he did not want to hear about hypotheticals about getting people from Charlottesville or Crozet on a bicycle when he was struggling to get someone from Victorian Heights to the school.

Mr. Murray said that he appreciated the receptiveness of the applicant to the Commission's comments, particularly regarding the additional stormwater treatment. He said that this location was very close to the reservoir, and he believed it was worth emphasizing. He said that he wished there was a way to have a pedestrian connection across that pipe, perhaps a stairway or a bridge that could be installed without disturbing the slope. He said that it seemed like a feasible solution, but he acknowledged that this was a challenging site. He said that a question for staff was: If they accepted this rezoning, even though it was a residential rezoning, did it still allow for community-scale commercial development, or would any future revisions require the County to revisit this decision?

Mr. Shoaf said that if this rezoning were to be approved, it would be an R-15 rezoning. He said that he reviewed the ordinance, which was initially brought to his attention, and found that retail commercial was only permitted by special use permit on R-15 zones. He said that therefore, they would need to obtain a special use permit. He said that he could further investigate this question and provide a more accurate answer regarding the type of commercial that would be allowed.

Mr. Murray said that it seemed to him that he would prefer, if possible, to accommodate this in the future, so that they did not rule it out entirely. He thought it would be beneficial to consider it now, rather than closing the door on it for the future. He said that perhaps they could explore this idea through the comprehensive plan. He said that they had discussed the importance of allowing for more commercial development within residential areas, and this situation may be a good example of where that would be particularly relevant. He said that he would just suggest this idea for consideration.

Mr. Clayborne said that he had to refer back to his notes from June, as it had been a while since he reviewed them. He said that upon reviewing his notes, he had expressed concerns about the green space and the amount of asphalt, which did not feel like a community-oriented design. He said that he would like to thank the applicant for revising the plan, which is a very challenging site. He said that he believed the revised plan was significantly improved. He said that as he studied it, the green space was now more effectively integrated into the topography.

Mr. Clayborne said that the applicant had achieved a reduction of 13,000 square feet of impervious area between the original and revised plans. He said that this came at the cost of some other elements. He said that he was willing to support this plan as long as it met the fire and life safety requirements, and he believed the applicant could work with the community and other interests to make this work.

Mr. Carrazana said that he agreed with many of the points made. He said that to the applicant, he would encourage them to consider how they will program the green space they have created. He said that while they had made significant strides in increasing green space and opportunities, he believed there was still room for improvement. He said that specifically, he thought about the dog park and the amount of space allocated to it. He said that he believed that incorporating walking trails, which did not necessarily need to be concrete or paved, could be beneficial.

Mr. Carrazana said that this could also help with stormwater management, which had been mentioned in relation to adjacent properties. He said that he thought this would be a valuable consideration. He said that he would encourage them to continue exploring how to program the amenities space around the buildings. He said that he was supportive of this proposal overall.

Ms. Firehock said that she was in support of this development. She said that Shimp Engineering was used to her saying she would want even more green space. She said that however, she understood that in order to protect the rural areas' green spaces and resist the pressure to expand the growth area during the upcoming comprehensive plan, they must make some compromises within the development area.

Ms. Firehock said that this development did bring them closer to the types of densities they had been advocating for. She said that regarding the comprehensive plan, the updated comprehensive plan map, which would eventually be adopted, designated the parcel as a residential use, which made sense given that it was already surrounded by residential areas. She said that it would be unusual to develop it with its current zoning, and she believed people would likely be even more opposed to that idea. She said that she also wanted them to be mindful of the amount of impervious surfaces they were getting with new developments, as they strove to create an urban ring that was comfortable and enjoyable to live in.

Ms. Firehock said that if they simply paved over every inch of it, people would not want to live there. She said that by adding this green space and reducing the urban heat island, as their days got hotter and hotter, she believed this was a much more quality development. She said that this was why she was in support of it. She said that she thought the developer had made a genuine effort to meet their concerns, although they may not have fully addressed them.

Ms. Firehock said that they had a by-right development that was already approved, which was less dense, so they needed to balance all these factors. She said that she understood why staff had to say no to the two-entrance requirement, as it was not feasible for this steep site. She said that she had spent a lot of time on Saturday, walking around the top and bottom of the site, and comparing it to the developments next door. She said that it gave her a real perspective of what was possible.

Ms. Firehock said that regarding the two-entrance idea, it was not that the whole site was funneled to one entrance, but rather that the whole site could not access two entrances. She said that this meant that some sections could have one entrance, while others had the other. She said that ultimately, it would be up to the market to decide which side of the development people preferred, whether it was the one with the easier access or the one that required a longer drive. She said

that she was in support of this development and appreciated the developer's willingness to listen to their concerns and try to address them as best they could.

Mr. Missel said that one benefit of going last was that he could concisely agree with everything that had been said by the other Commissioners. He said that to further emphasize a point that had already been mentioned, he also had the opportunity to walk around and drive around the two adjoining parcels, and he was struck by the significant differences between them. He said that both required extensive grading, and it was a reality that they would likely encounter similar challenges as they developed the remaining parcels located within the development area. He said that it was a trade-off that needed to be made in order to balance the need for control over the development area with the desire to create density.

Mr. Moore motioned that the Planning Commission recommend approval of ZMA20230005 Berkmar Flats for the reasons discussed this evening, including efficient use of the development area, increased green space, and enjoyability. Mr. Clayborne seconded the motion, which carried unanimously (7-0).

SP202400004 K-9 Hotel

Syd Shoaf, Senior Planner, said that he would present staff's presentation for the special use permit SP202400004, the K9 Hotel. He said that this permit request sought to allow a commercial kennel on a rural area zoned parcel, approximately five acres in size, located at 3225 Gilbert Station Road, near Stony Point. He said that the property was zoned for rural areas and was designated as such in the comprehensive plan. He said that the site contained an existing single-family residence where the applicant resided.

Mr. Shoaf said that the property was accessible via a 30-foot access easement, a gravel driveway that passed through two other properties, with paved sections in areas where the terrain was steep. He said that the site also featured areas of critical slopes, marked as orange on the map, and a portion of the Water Protection Ordinance (WPO) buffer, shown as purple. He said that the adjacent properties were also zoned for rural areas and were undeveloped. He said that at a distance of approximately 700 feet, there were single-family residences. He said that the proposal before them this evening was SP 202400004, requesting a special use permit for a commercial kennel with a capacity of up to 12 dogs.

Mr. Shoaf said that a separate proposal, a special exception request, would be discussed in detail, but it sought to reduce required setbacks from one of the supplementary regulations. He said that the applicant's concept plan, if approved, would feature the kennel building approximately 75 feet away from the closest property line, with the outdoor run area approximately 92 feet away. He said that the kennel building would be soundproofed, and a sound-dampening fence would be provided around the outdoor run area. He said that the existing single-family residence would remain on site, where the applicant planned to continue residing. He said that further details of the plan would be provided by the applicant.

Mr. Shoaf said that moving on to the special exception, this proposal aimed to reduce the required setbacks from residential and rural properties under Section 18-5.1-11. He said that this section

outlined supplementary regulations for specific uses, including additional requirements for commercial kennels. He said that for the purposes of this special exception, Section 18-5.1-11 required soundproof confinements. He said that no such structure could be located closer than 200 feet to any agricultural or residential lot line.

Mr. Shoaf said that the applicant was requesting a reduction of the 200-foot requirement to 75 feet from the closest property line. He said that as previously mentioned, the closest residences were approximately 700 feet away from the proposed kennel. He said that in the review, staff had examined the factories and findings under the zoning ordinance and had considered the applicant's request. He said that staff believed that the proposed special use permit would not harm adjacent parcels, would not alter the character of the nearby area, and would remain in harmony with the rural area zoning district, consistent with the comprehensive plan. He said that the supplementary regulations outlined on this screen must be met prior to site plan, building permit, and zoning clearance approvals.

Mr. Shoaf said that he would next paraphrase each regulation. He said that the first regulation required that if animals were confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals could be closer than 500 feet to any agricultural or residential lot line, which did not apply to the proposed kennel. He said that the second regulation required an external solid fence for non-soundproofed confinements, which the applicant had proposed. He said that the third regulation required soundproofed confinements to be at least 200 feet from any property line.

Mr. Shoaf said that the applicant had requested a special exception to reduce this setback to 75 feet. He said that the applicant must meet the requirement that sound levels at the nearest property line not exceed 55 decibels for all confinements prior to receiving zoning clearance. He said that the final regulation required that animals be in an enclosed building from 10:00 p.m. to 6:00 a.m. He said that the applicant had indicated that this requirement would be met. He said that since this proposal was for rural areas, this requirement did not apply.

Mr. Shoaf said that there were seven conditions for this application. He said that the first condition was that the development must be in general accord with the conceptual plan. He said that the two essential elements identified by staff were the location of the proposed building and the location of the proposed parking area. He said that the second condition was that the maximum height must be one story.

Mr. Shoaf said that the third condition was that the maximum number of dog kennels, as requested by the applicant, was 12. He said that the fourth and fifth conditions were to limit the size of the proposed kennel building and outdoor run areas. He said that the sixth condition was already required by the supplementary regulations, which held the applicant to constructing it with the materials referenced in the narrative. He said that the seventh condition was that the building must be soundproofed, with sound levels not exceeding 55 decibels from the nearest property line.

Mr. Shoaf said that in summary, staff had found this proposal to be consistent with the review criteria for special use permits contained in the zoning ordinance, and they did not have any

concerns. He said that staff's recommendation was for approval with the conditions as recommended in the staff report.

Ms. Firehock said that she was unsure if her question was relevant for staff or for the applicant. She said that when VDOT reviewed these applications, they say to have no objection to commercial uses or other things. She said that however, it seemed that they were only evaluating the entrance from a VDOT-managed road, not the driveway that extended all the way to the applicant's property. She said that in other words, VDOT was not assessing the entire road segment from the VDOT-managed road to the entrance, as the entrance was actually located through an easement that spanned multiple properties to reach the applicant's property.

Mr. Shoaf said that that was correct. He said that VDOT evaluated the entrance, where the driveway intersected with Gilbert Station Road. He said that the Fire Rescue, Engineering, and Transportation staff all assessed the driveway and found no concerns regarding it.

Ms. Firehock asked if the fire trucks could easily access the driveway by the pond and maneuver around.

Mr. Shoaf said that according to their two reviews, yes.

Mr. Clayborne said that he was interested in the precision behind conditions four and five. He said that he wondered what drove the exactness of those measurements, 650 square feet and 1560 square feet, respectively.

Mr. Shoaf said that those setbacks were proposed by the applicant and they could likely provide more detail. He said that any building or outdoor run that exceeded the setback requirement may conflict with the request they made.

Mr. Clayborne asked if that was for the outdoor piece, number five.

Mr. Shoaf said that that applied specifically to the commercial kennel building, not the outdoor area.

Mr. Murray asked if staff could describe Gilbert Station Road. He said that he noticed that it was on the paving list for 2022. He said that he wondered about the current condition of that road.

Mr. Shoaf said that they conducted a site visit to the location earlier last year. He said that the area was paved, at least from the portion they visited when they exited Highway 20. He said that he did not have information on the condition of the road beyond the applicant's driveway.

Mr. Bivins said that item five specified that the maximum size of the outdoor run was 1,500 square feet. He said that he reviewed the petition before them and did not see a specific ratio required between the number of kennels, the number of dogs being housed, and the amount of space available outside. He said that this was the applicant's stated requirement for 12 dogs.

Mr. Shoaf said that was correct.

Mr. Bivins said that he would like to revisit the discussion on fencing. He said that they had previously discussed fencing at other locations in the County. He said that the Commission had determined that a wooden fence was not sufficient, and that there needed to be an additional level of soundproofing that went with the wooden fence, in addition to other measures such as trees. He said that he wondered if there had ever been a discussion with the applicant about placing something on the inside of the fencing to help mitigate the sound.

Mr. Shoaf said that for the first part of the supplementary regulations, it required that fences be composed of concrete block, brick, or other materials approved by the Zoning Administrator. He said that as for the inside, if they provided more plantings or considered that option, they had not had that type of discussion.

Mr. Bivins asked if wooden fences were approved, because they were not listed in the materials.

Mr. Shoaf said that, according to the information on the screen, materials such as concrete, block, brick, or any other material approved by the Zoning Administrator were permitted.

Ms. Firehock said that it had to be dense.

Mr. Missel said that it was open ended.

Mr. Bivins said that it was often the case when specific materials were list, they were preferred.

Ms. Firehock said that would be something to use to ameliorate the impact.

Mr. Bivins asked if there would be a separate presentation on the special exception.

Mr. Shoaf said that he discussed the special exception during his presentation, but he could provide more details.

Mr. Bivins said that if they said today that it was acceptable to have a 75-foot setback, that impacted the other piece of property. He said that the setback required being at least 200 feet from the property line. He said that if they could come 75 feet in, then someone who wanted to have the same kind of enjoyment of their property must push their use further in, not necessarily because they had to, but because they wanted to have the space.

Mr. Bivins said that he had always been a bit uncomfortable agreeing to a setback unless he knew something was there, and presently there were many trees there. He said that if the neighboring property owner decided to put something in, they would have already lost 125 feet in buffer. He said that he would have a hard time saying yes to a setback when there was nothing there to compare it to.

Ms. Firehock said that they lacked the authority to make decisions on special exceptions. She said that Mr. Bivins could make a recommendation to the Board, but they would not be the ones to decide it.

Mr. Bivins said that he believed they were taking something away from someone without providing an alternative.

Ms. Firehock said that if the other property was large enough, they would have enough space to accommodate something that was suitably far away.

Mr. Bivins said that they would be making a decision for them now, and that was a concern for him, particularly regarding property rights. He said that he did not see wood materials listed, but he did see other types of dense fencing. He said that he wanted a sense as to whether wooden fences would be approved.

Mr. Shoaf said that according to the code section, it was up to the Zoning Administrators to make the determination. He said that if they decided that it was allowed, then that was acceptable. He said that according to the supplemental regulations, it was not listed.

Mr. Carrazana said that he thought it was worth mentioning that a wood fence with vegetation in front of it would likely be a more effective sound barrier than a concrete one, as sound could bounce off.

Mr. Bivins asked if that was something they could request. He said that they could have a fence with plantings in front of it. He said that they could include non-toxic plantings for the dogs.

Mr. Carrazana said that he believed it would be more effective, but ultimately, it was up to the Zoning Administrator to decide.

Mr. Missel said that the decibel level was the key measurement that must be met and would ultimately determine the outcome. He said that the way the applicant met the decibel levels was up to the applicant.

Mr. Moore said that he did notice the rule regarding 55 decibels at night, specifically from the property line, which was the regulation. He asked what the process was for a decibel violation and what happened in such cases.

Francis McCall, Deputy Zoning Administrator, said that the process involved someone submitting a report of a noise violation. He said that if the noise exceeded the established limits, they would measure it with their devices and follow the ordinance's outlined procedures to determine whether it was exceeding those levels or not. He said that they would then work towards compliance, which may involve additional sound dampening or soundproofing measures.

Mr. McCall said that initially, they would work with the applicant to bring their project into compliance before making a formal statement to the Board of Supervisors that they were not meeting the requirements. He said that the Board would have the authority to revoke the special use permit. He said that he had never heard of the Board revoking a special use permit.

Mr. Missel asked about the fencing question.

Mr. McCall said that he was unable to make that determination at this time. He said that he would like to see what alternative proposals the applicant might make before they would make a determination.

Mr. Missel asked if there was a preference for materials such as concrete or brick.

Mr. McCall said that he worked within the parameters of the ordinance, and they evaluated requests with the proper individuals, such as landscape architects, to determine whether it would be feasible. He said that this would be something they would evaluate at the time of construction, when they were on site and conducting evaluations for compliance.

Mr. Murray asked whether there was any analysis of the daily trips generated by the traffic from the development.

Mr. Shoaf said that this was not requested by staff due to its low impact.

Mr. Missel opened the public hearing.

Nikki Marcum, applicant, said that she and her husband, Cody Marcum, lived at 3225 Gilbert Station Road. She said she was born and raised in Stony Point and had been there for 35 years. She said that Mr. Marcum had been there for 17 years and in 2008, they built their home and were now fortunate to raise their three small children in the area. She said that, except for right after high school, when they both worked for a local Stony Point business, they had operated and managed their fencing and landscape business, Marcum Services.

Ms. Marcum said that due to her husband's increasing health issues, they had had to gradually close down the business as he could no longer drive and it was no longer safe to operate and run the machinery. She said that having the dog boarding business would allow them to work from home on their own land and support their small family while providing a much-needed service to the Stony Point area and surrounding communities.

Ms. Marcum said that the project was small in scale and they believed it was similar to others that had been approved and were operating in the area. She said that their proposed business had been noted to potentially negatively impact the daily lives of residents. She said that long-standing Stony Point community members, including the three closest neighbors who surrounded their property, were supporting this business. She said that adjacent properties were undeveloped and used as farmland.

Ms. Marcum said that their building had also been referred to as an industrial development by someone who disagreed with their project. She said that their project was small in scale and their building was comparable in size to an average garage or workshop. She said that it could be used as a barn, storage, chicken house, or goat house. She said that the building would be one story, measuring 16 by 40 feet, and would hold up to 12 dog kennels. She said that they would be working closely with a licensed contractor to ensure all steps were taken to soundproof the building effectively.

Ms. Marcum said that the outdoor dog run would be surrounded by a seven-foot-tall wooden privacy fence. She said that the backside of that fence already had 18-foot-tall green giants growing along the backside of the fence. She said that to add to their discussion, they were open to incorporating landscaping around the rest of the fence. She said that the building would be fully enclosed, and the dogs would not have access to the outdoor area unless they were being supervised while outside. She said that they would be boarding dogs exclusively, with no doggy daycare or grooming services provided during the day. She said that dogs would be kept indoors from 10 p.m. to 6 a.m.

Ms. Marcum said that having the building close to the residents allowed them to quickly respond to any issues that may arise. She said that the building would not require any disturbance of trees or vegetation, and it was located outside of the water protection ordinance. She said that all dog feces would be collected from inside and outside the building, bagged, and picked up by a dog waste removal service. She said that they were also aware of an anonymous letter sent to a 10-mile radius around their address, which contained false information about their proposed project. She said that if any of the recipients were present, she would like to invite them to speak up and address the false claims made in the letter.

Cody Marcum said that he wanted to point out, regarding the fencing, that the area was mostly trees. He said that he had cut it back for his work equipment. He said that they would install extra vegetation if required.

Mr. Moore said that despite the property line being relatively close at 75 feet, the house itself was quite far away. He said that from a materials perspective, he would hate to have a complaint come up related to soundproofing because they went with a wood fence rather than a concrete block fence.

Mr. Bivins said that he would like to know how often the dogs would be taken outside and how it would be managed.

Ms. Marcum said that they intended to take them in groups of four for 30-minute breaks throughout the day.

Mr. Bivins asked for clarification about owners being able to request that the dog be walked on a lead.

Ms. Marcum said that the business plan included an option for clients to pay an additional fee to have their dogs walked around the five-acre property for extra exercise.

Mr. Marcum said that trails had been cut in, which followed along the creek. He said that there were already designated areas to take the dogs on walks.

Mr. Murray said that one thing he would like to mention is that when they previously assessed Moores Creek, they noticed that one of the largest contaminants to the waterway was actually

dog waste. He said that as they considered trails, he would advise keeping them outside of the stream buffer zone, as dog waste could lead to bacterial contamination of the streams.

Ms. Marcum said that she wanted to bring up another point regarding the building itself. She said that it was 200 feet away from the closest stream or water source. She said that she wanted to reiterate that all feces would be properly cleaned up and removed from the property by a service provider.

Mr. Clayborne asked for clarification about the building size and why it was 650 square feet.

Ms. Marcum said that one thing they did not want was a huge, massive building just sitting on the property. She said that this building was small enough to accommodate 12 4x6 kennels, a small washroom and bathroom area, and a walk-in office where people could drop off their dogs.

Mr. Clayborne said that when he reviewed the 650 square foot proposal, he was concerned that it may limit their flexibility in the future. He said that the proposed office space was six by six, which, when equipped with studs and drywall, would result in a cramped and uncomfortable area. He said that the bathroom layout may not meet ADA standards, necessitating future expansions. He said that given the long-term nature of the project, he suggested enlarging these spaces to accommodate future needs. He said that he hoped they were working with a design professional or had access to one, as currently, it appeared to be restrictive. He said that he feared that this may compromise their business's long-term viability.

Mr. Marcum said that when they had the design drawn up, they were considering minimizing the space used for a large office. He said that the facility featured a small bathroom with just a toilet and a sink.

Ms. Marcum said that they would not likely be using the office throughout the day. She said it was more intended to be a drop-off location for the dogs.

Ms. Firehock said she had asked about the driveway and the fire department, specifically the paved part that was quite steep leading up to the house. She said that she tested the driveway this weekend to see what it was like, but it was still icy. She said that she was curious to know more about the driveway when it was not covered in ice.

Ms. Marcum said that the steepest part was paved, and the firetrucks did come up their driveway. She said that they could turn around and, as shown on the map, they had a loop driveway. She said that they had visited their house on other occasions, and they could access their driveway.

Ms. Firehock said that she wanted to reiterate a point that they had made earlier. She said that the dogs would be kept inside except for designated periods of the day when they were allowed to be outside in the run. She said that they had mentioned that they would be supervising them, which alleviated her concerns. She clarified that they would not be leaving the area unattended, and if any issues arose, such as a fight or unruly behavior, they would intervene and separate the dogs, taking them back inside as necessary.

Ms. Firehock said that if they were taking a dog on an extra walk because the client had paid extra for it, they would not let that dog run and bark. She said that if the dog was obnoxious, they might tell the owner, "Sorry, we cannot walk this one. He was just barking at everything and was disturbing the peace."

Mr. Marcum said that they would probably ask the owner not to bring the dog back.

Ms. Firehock said that there would be no situation in which the dogs would be left unattended.

Ms. Marcum said that was correct.

Ms. Firehock said that to her, that satisfied the concern about dogs running and barking, as dogs do bark. She said that a study was conducted to understand why dogs bark, and the conclusion was that they simply did not know. She said that she was familiar with the issue of dogs barking, having lived in a rural area where she had neighbors with hunting dogs and kennels, and their dogs could bark excessively. She said that she had been able to work out a solution with her neighbor, who had seven dogs, and they had implemented measures to keep them quiet. She said that in contrast, the applicant faced more stringent regulations than many rural residents who wanted to keep dogs in kennels.

Ms. Marcum said that there were no restrictions on the number of dogs someone could have. She said that running dogs on their land and being kept outdoors was generally allowed.

Mr. Marcum said that they could have as many dogs as they would like, as long as they were licensed with the County. He said that they were trying to do their best not to make their neighbors mad.

Ms. Firehock said that she did not think that they wanted to be perceived as bad neighbors. She said that having a negative reputation would not be beneficial to their business. She said that it appeared that they had thoughtfully considered the logistics of dog care, including the process of dropping off and picking up dogs. She asked if people would be limited in when they can drop-off and pick-up their dogs.

Ms. Marcum said that they had established drop-off and pick-up hours for Monday through Friday, from 9 a.m. to 10 a.m., and in the evenings, from 6 p.m. to 7 p.m. She said that people would not be coming throughout the day. She said that they were closed for pick-up and drop-off on Saturdays.

Mr. Bivins said that he had a question regarding the easements. He said that in the report, it mentioned having two easements. He said that he would like to confirm that these were permanent easements, which were recorded in the County.

Ms. Marcum said yes, they had the easements for the driveway.

Mr. Bivins said that he would recommend paginating the document.

Mr. Missel opened the public hearing to comments from the public.

Dave Norford said that he and his wife owned the property on one side of the Marcum's property, and they leased the farm on the other side, where they raised cattle. He said that he had known the Marcums for many years, and he could attest that they were hardworking and responsible individuals. He said that he believed that they had identified a genuine need in the community for the service they were seeking to provide. He said that he was fully in favor of approving this project.

Emily White said that she and her husband lived on Proffit Road in the Rivanna District. She said that she was in support of the K-9 Hotel. She said that as a family that treats their dogs like children, they strongly agreed that there was a need for a facility like this, and they would welcome a place that offered the amenities available in rural areas.

Ms. White said that the Marcums were responsible and respectful members of their community. She said that they had taken every precaution to minimize any potential impact on their neighbors. She said that this project would enable a young family to maintain their livelihood on their land. She said that they had discussed soundproofing the building, sound-dampening fencing, and incorporating landscaping with native plants, pollinators, and other features.

Ms. White said that as local business owners themselves, they would love to see someone else succeed with a local business, keeping tax dollars and income within their community. She said that they were fully in support of this project, and they hoped you would consider it tonight.

Scott Cunningham said that he neighbored the proposed project. He said that he and his wife were fully in support of this project. He said that he had worked with the Marcums on various projects in the past. He said that he was there to fully support the Marcums.

Rachel Hamm said that she lived directly across the street from the site at 3098 Gilbert Station Road. She said that she had written a letter and submitted it, which confirmed that they were direct neighbors. She said that there were three generations of their family who lived within the sound-shed of this project.

Ms. Hamm said that her parents lived directly next to the proposed site, as did her cousin and his family. She said that collectively, they owned nearly 300 acres of land in this immediate area. She said that in addition to living within the impacted area of this project, she and her husband also owned 20 acres of land downstream from the proposed site, which was currently under forestry land use. She said that their property was located within the sound-shed of the proposed kennel, where they raised their children and enjoyed the natural beauty of the area, including a swimmable stream.

Ms. Hamm said that this stream was an important recreational resource for their family, and they were deeply concerned that the proposed kennel would negatively affect its water quality. She said that specifically, they were worried about bacterial contamination from dog feces runoff, which could eliminate their ability to safely use the stream. She said that as someone who had previously worked for the Virginia Department of Environmental Quality as a planner and liaison

to localities, dog feces was a primary contaminant measure that impaired streams for recreational uses. She said that the locality had enforcement mechanisms to address this issue.

Ms. Hamm said that the staff report mentioned that the Virginia Department of Health had been notified of this project, but they had no jurisdiction over dog feces. She said that it was the County's responsibility to ensure that dog feces were removed. She said that they were concerned that the County lacked the necessary enforcement mechanisms, including reporting requirements and dedicated staff, to address this growing problem.

Ms. Hamm said that the permit specified that the noise at the property boundary should not exceed 55 decibels, and the proposed kennel would use mineral wool insulation inside the building. She said that the manufacturer's website stated that mineral wool was comparable to standard fiberglass insulation, which raised questions about the soundproofing. She said that similarly, the permit mentioned that the materials had to be robust.

Ms. Hamm said that they had significant concerns about the enforceability of these permits and the County's growing trend of approving dog facilities. She said that if they were implementing these measures, there must be a mechanism for enforcement. She said that they had grave concerns about the liability that would be placed on the County and the potential harm that would be inflicted on residents.

Crystal Biacki said that her husband had submitted a letter earlier that morning, while she had submitted hers later that evening, so she was not sure if the Commission had reviewed it. She said that after reviewing the proposal and speaking with other neighbors, she and her husband both wholeheartedly supported this endeavor. She said that this was a family that had lived in the community their entire lives and were deeply ingrained in it. She said that they were frequently seen at community events hosted by the school, fire department, and Stony Point Ruritan.

Ms. Biacki said that she believed that this family genuinely wanted to do the best job possible and was committed to being respectful to their neighbors. She said that they were willing to listen to concerns and work together to find solutions. She said that her letter was much more detailed. She said that firetrucks were able to use the driveway, and she knew that because her husband was on the Fire and Rescue Board.

Ms. Biacki said that if there were any noise concerns, people could file a complaint. She said that she believed that this project could be a great addition to the community, and it was a need that they had.

Belinda Blankenship said that she lived at 3100 Gilbert Station, which was diagonally across from the proposed site. She said that she wished to express her opposition to this project. She said that this was not a personal issue against the Marcums; it was a concern about the long-term impact of this business on the community.

Ms. Blankenship said that the permit was for a kennel that would be attached to the property forever. She said that the Marcums were a lovely couple with the best intentions, but the stipulations being asked, such as the timing of dog releases and noise control, were not related

to the permit and could not be enforced. She said that she was concerned about the noise and its effect on property values, which would have a significant impact on her family and their community.

Mr. Missel asked if there were any public commenters appearing virtually.

Ms. Shaffer said that there was one person wishing to speak.

Dave Martell said that he lived approximately a mile from the property in question. He said that, like the previous speaker, he did not have personal concerns related to the Marcums, but he did have concerns regarding the special use permit. He said that he had concerns about noise pollution. He said that he also had concerns related to odor issues, particularly during the summer months.

Mr. Martell said that the Marcums had indicated that they had a waste management plan, but he believed that this plan may not be sufficient to address concerns related to contamination of local soil and groundwater. He said that in the vicinity of this area, there was a known DEQ contamination due to an old gas station on Stony Point Road, which had already contaminated numerous groundwater sources in the area. He said that this was a concern for him regarding the enforcement of waste management.

Mr. Martell said that he also thought that there should be concerns related to the impact on decreased property values in the area. He said that he believed that there were concerns related to the negative aesthetic appeal of the fencing that was being proposed. He said that kennels could become breeding grounds for disease, parasites, and viruses. He said that this could lead to increased wildlife interaction, including the attraction of coyotes and raccoons. He said that the kennel itself could be disruptive to surrounding residents and their lifestyles. He said that these were not specific concerns related to the Marcums' intent, but rather larger concerns related to the issuance of the permit.

Mr. Missel said that the applicant had the opportunity for rebuttal.

Ms. Marcum said that she would like to respond to a few points that were brought up. She said that one of the concerns was a negative impact on property value, and she believed this was extremely unlikely. She said that property assessments continued to increase every year. She said that they had already discussed the potential negative impact of noise, and they were committed to finding ways to mitigate it.

Ms. Marcum said that in their neighborhood, there was always a constant background noise from Route 20, Stony Point Road, and nearby farms, which included cattle, donkeys, chickens, and dogs. She said that as for the permit permanence, the permit would remain tied to the location of the house, regardless of who the future owner was. She said that this was not a concern for them, as they had no intention of moving away from Stony Point and the property they lived on. She said that if that were to happen, it was unlikely that the new owner would want to continue operating a dog boarding business.

Mr. Missel closed the public hearing.

Mr. Moore said that one thing that he always noticed was that they had a couple of kennel applications come before them. He said that they had also had a service dog training facility. He said that he was struck by how easily someone could have a facility with cows producing 80-90 decibels of noise, or a pig farm with pigs squealing at 110 decibels. He said that similarly, a pack of dogs could be roaming freely, creating a significant noise disturbance.

Mr. Moore said that given that their rural areas were intended to support people making a living off the land, he sometimes wondered why the SUP process was so involved. He said that he did think that the distance alone would not be enough to bring the decibels down to 55. He said that he believed that soundproofing materials would need to be considered during the design phase to mitigate the noise issue. He said that overall, he believed it made sense to approve the permit.

Mr. Clayborne said that for the general public's knowledge, soundproofing was more than mineral wall; it was a collection of assemblies, including wall assemblies, door assemblies, and seals that must be used. He said that as the applicant worked with the design and construction team, these requirements would be clearly outlined. He said that he would like to flag the 650 square footage as it was a maximum limit. He said that he recommended a 1,200 square foot limit, though the applicant did not have to use all of the space. He said that he was concerned they would face issues during building code review with regards to the available space.

Mr. Missel said that was wise advice. He said that to address this issue, the applicant could consider making a change between now and the Board of Supervisors' decision, or the Board could make a determination and decide that a change was desired. He said that the Planning Commission could recommend the change, as well.

Mr. Clayborne said that he recommended a maximum of 1,000 square feet.

Mr. Bivins said that he wanted to clarify a few points regarding dogs. He said that as someone who lived in a rural area with heavily wooded property, he wanted to illustrate a point. He said that when he renovated his property, a representative from the County came to the site and suggested they pay for a kennel because they had a number of dogs. He said that they assumed they were running a kennel, and the County's standards for dog ownership only applied if they were not making a profit from it. He said that as soon as the County suspected they were making money from the dogs, they imposed additional regulations.

Mr. Bivins said that this highlighted the disparity in standards depending on the financial situation. He said that he believed the plan to take only two or three dogs outside at a time was a reasonable approach to managing dogs. He said that having worked in environments with thousands of dogs, he could attest that this was a manageable way to care for them. He said that he also wanted to bring to their attention that the Keswick Hunt Club was located nearby, and they had 30 couples of American Foxhounds that ran across these properties at any given time. He said that he lived near the Farmington Hunt Club, and he could tell them that American Foxhounds in training could be a challenge to manage when they had not learned to stay with the pack.

Mr. Bivins said that it could be a frightening experience when the dogs suddenly appeared on his property, which had happened multiple times. He said that as a resident of the rural area of the County, he believed that was part of the reality of living there - being exposed to things they may not have known existed or been aware of when they first moved in. He said that the rural area had a different set of laws and regulations governing these types of situations where people wanted to make money from the use. He said that he was in support of the project. He said that they should not over-regulate these types of uses.

Ms. Firehock said that she wanted to make a comment regarding her individual review of each special use permit. She said that rather than stating all dog kennels were acceptable in rural areas, she examined each situation separately. She said that in this case, her concerns about the wooded site and hilltop location were alleviated by the management plans for the dogs. She said that she did not believe they could regulate the situation to the point of limiting the number of dogs that could be kept together at one time. She said that there was a limit to how much they could write into regulations, as it raised enforceability issues. She said that at some point, they must trust that the owner would manage the kennel as stated.

Ms. Firehock said that she also acknowledged that the permit ran with the land, allowing for potential changes in ownership. She said that she struggled with determining the optimal conditions to include in the permit. She said that they could establish the hours of operation and related drop-off and pick-up times, as well as specify the method of soundproofing the fence. She said that she had faith in their Zoning Administrator and staff to ensure the fence was adequately constructed to meet its intended purpose. She said that she did not feel compelled to include additional language in the permit.

Mr. Bivins said that the applicant had noted they would put vegetation in front of the fence if necessary.

Ms. Firehock said that she suggested they could recommend that they consider additional vegetation, and she would suggest placing it on the inside of the fence as well, since the dogs would likely urinate on the fence constantly. She said that to effectively break down pollutants, it would be beneficial for them to urinate on a bush. She said that she thought their waste management plan sounded good. She said that after hearing the presentation and responses tonight, she believed her concerns had been largely alleviated. She said that she thought the dogs could coexist peacefully in the rural area, perhaps even more so than many other animals.

Mr. Missel asked for a motion.

Mr. Clayborne motioned that the Planning Commission recommend approval of SP 202400004, the K-9 Hotel, with conditions as stated in the staff report, amending Condition 4 from 650 square feet to a maximum of 1,200 square feet. Mr. Bivins seconded the motion, which carried unanimously (7-0).

Committee Reports

Mr. Moore said that he attended two committee meetings last week. He said that the Rio 29 CAC meeting had no public hearings, and they discussed the types of presentations they would like to have. He said that they expressed interest in transportation, microCAT, and a Rio Road corridor study, as well as small area plans and form-based code. He said that they also discussed fire prevention, climate resilience, zoning modernization, missing middle housing, and housing affordability. He said that these topics were often at the forefront of their discussions.

Mr. Moore said that the other meeting was for CTAC. He said that the Smart Scale results were recently released. He said that they only had one proposal recommended for funding out of eight. He said that unfortunately, the proposed peanut-shaped roundabout on Rio did not make the cut. He said that the Pantops improvements, which included sidewalks, crosswalks, and a park and ride, were recommended for funding.

Mr. Moore said that he found it interesting to learn that the Smart Scale funds were significantly limited due to the transfer of $510 million in state funds from construction to maintenance to address severe weather-related issues. He said that this may continue for the foreseeable future. He said that what struck him was that many funded projects in other districts across the state brought locally leveraged funds. He said that they were largely able to do this through regional transportation authorities. He said that they were working towards establishing a transportation authority, but it may be challenging to secure significant funding in the near term.

Mr. Bivins said that when considering their population density, they did not have the same level of transportation issues as some other areas, such as Virginia Beach, Norfolk, or the Northern Virginia corridor, which had both significant populations and transportation problems that needed to be addressed to maintain economic growth. He said that as a result, their transportation projects tended to only receive funding when there were safety issues. He said that they were soon to review another self storage facility on Hydraulic Road. He said that he questioned the storage needs of residents in the County.

Mr. Bivins said that he should investigate potential economic benefits as an investor.

Mr. Missel said that there were.

Mr. Bivins said that given the population in the County, that may be driving the development. He said that he found it hard to believe that grandma's trinkets required such extensive storage.

Mr. Murray said that if they thought people's physical storage was a problem, they should see the state of their IT storage and its impact on data centers. He said that he urged everyone to delete all unused photographs and files, as they were unlikely to be viewed again.

Ms. Firehock said that the Historic Preservation Committee did not meet due to a lack of quorum. She said that not much happened at the Fifth and Avon CAC meeting. She said that they were discussing the mission and whether they agreed with the approach, specifically whether they were using the master plan for the area. She said that unfortunately, this did not go well with the Fifth and Avon CAC, as their master plan was quite old. She said that the plan was too old to be used as a daily tool.

Mr. Murray said that at the last Crozet CAC meeting, there had been a discussion about when the master plan should be revised. He said that specifically, it had been mentioned that the plan should be reviewed more frequently and updated in a series of smaller increments rather than making major revisions all at once.

Ms. Firehock said that there was definitely interest among CACs in having updated master plans. She said that the County had stated several years ago that they did not have the bandwidth, staffing, or resources to update these plans every five years. She said that they had set expectations for their CACs that the County could not currently meet with its current staffing levels. She said that the Fifth and Avon plan was 15 to 20 years old and did not reflect the current situation. She said that even with the Crozet plan, which was more recent, there was still dissatisfaction among the community. She said that she was not expecting that all master plans would be updated unless they received additional staffing or funding.

Mr. Bivins said that he believed they had paused master plan reviews because of the AC44 process.

Ms. Firehock said that this conversation appeared to be a continuation of a discussion that originated from many years ago on the Planning Commission, before they had begun the comprehensive plan process.

Mr. Barnes said that the Places 29 Master Plan was from 2011.

Ms. Firehock said that they were not expecting to have plans updated every five years at this time. She said that they had been informed that this was not feasible.

Mr. Barnes said that he did not intend to delve into a deep philosophical discussion about plan updates. He said that this topic had been a point of discussion among staff. He said that in the coming weeks, they would take a brief pause from AC44 to focus exclusively on this issue internally. He said that they would then revisit it as they approached the end of their current chapters. He said that he believed it was essential that they articulated a strategy.

Ms. Firehock said that she believed they may need a different process that was more dynamic or flexible, allowing them to avoid the significant effort required to create a plan every year. She said that in a rapidly changing urban area, they may need a different process.

Mr. Murray said that in IT, there was a method called AGILE. He said that AGILE was based on continuous improvement, involving small, incremental changes over time.

Ms. Firehock said that they should consider updates as needed.

Mr. Barnes said that VDOT had conducted a study on the Fifth Street corridor around 2018 or 2019, so there were ongoing planning efforts.

Ms. Firehock said that the Avon Street corridor study was really excellent. She said that they had done a great job of gathering input and adapting it. She said that it was not like they did not have any plans, but the plans they did have were not used by the CAC when making decisions because they were out of date.

Mr. Moore said that the Places 29 Master Plan was almost 15 years old, and the small area plan was seven years old. He said that the County had an issue of making plans but never making them come to fruition. He said that they relied on private development to achieve the plan.

Ms. Firehock said that the plans were mostly desires. She said that they should be more realistic about what the County could do and achieve.

Mr. Missel said that he attended the Agricultural and Forestal Districts Advisory Committee meeting on January 23, and there was an upcoming meeting on January 30. He said that during the meeting, he found it to be an interesting conversation. He said that although he was not present for the entire meeting, he was able to attend for the majority of it. He said that the meeting covered seven district reviews, which were available online on the Ag-Forestal Districts Committee page.

Mr. Missel said that what struck him was the range of sizes of the districts, with some covering over 5,000 acres. He said that the Keswick district was approximately 5,336 acres. He said that there were several areas that were being requested to be removed from the district due to a lack of development areas. He said that the supervisor present said that they were supportive of removing these areas from the district because it aligned with the County code, which was written in 2016. He said that there were concerns raised by at least two members of the advisory committee, who discussed the importance of preserving assembly spaces and other issues.

Mr. DeLoria said that the chair of the advisory committee was focused on addressing a potential policy change. He said that he believed the goal was to implement a specific strategy, which took a couple of meetings to clarify. He said that initially, the committee was struggling to make progress, often discussing and debating without reaching a consensus. He said that now, the focus was shifting towards a legislative change, which the chair had emphasized, and there may be an effort to get the Board of Supervisors to address the issue before considering changes to the district constitution at this time.

Ms. Firehock said that she had been receiving numerous phone calls and communications regarding this issue. She said that while she would not comment on the importance of maintaining parcels closer together to make AFDs function like agricultural districts, the supervisors made a decision in 2016 to create the AFD legislatively. She said that this decision required erasing development rights for a tract to be included in the district. She said that according to her understanding, the Commission was not involved in this decision, nor was it consulted.

Mr. Bivins said that he wanted to be clear about his position on this matter. He said that by putting land into an AFD, the property owner was removing the opportunity for the County or the Commonwealth to make a decision for the greater good. He said that this is what happened during

the Bypass. He said many individuals decided to put their lands into an AFD to prevent the bypass from being routed through their properties.

Mr. Bivins said that the County was releasing authority over land to property owners, people who were not elected, and he did not want to see the County go back to this process. He said that large, wealthy landowners were dictating what the community could do. He said that land without development rights should be removed from the district.

Mr. Missel said that another point that arose was the reality that there were other opportunities for landowners to explore alternative methods, such as placing their land in conservation districts or other strategies to minimize or avoid taxation.

Mr. Bivins said that he agreed completely with that point. He said that that approach was making a severe decision about land use.

Mr. Missel said that he was confused about the purpose of the Commission in this discussion.

Mr. DeLoria said that the Commission's position aligned with the recommendations made by the AFD advisory committee. He said that during the advisory committee's vote, they rejected staff recommendations and instead recommended that the parcels with no small lot development rights remain unchanged, and the only parcels to be removed were those that petitioned for withdrawal. He said that he believed the ask would be to follow the advisory committee's lead and make the same recommendation.

Mr. Barnes said that the Commission's role was described by state law. He said that state law required review by the AFD Committee followed by a recommendation from the Commission.

Mr. Missel asked what the Commission's role was in the eyes of the Board.

Ms. Firehock said that the Commission reviewed applications to the AFD. She said that they had not been asked whether development rights should be part of the requirements.

Mr. Missel asked if the Board would have to change the code if they decided not to follow it.

Mr. Carrazana said that they planned to postpone decisions until there was more discussion on the matter.

Mr. Barnes said that as a programming note, he wanted to bring to their attention that there had been two tranches of AFD districts moving through the process. He said that one of them, which had been previously discussed, was scheduled to go to the Board on February 19. He said that the second tranche, which they had referenced from the meeting last week, would be presented to them at their next meeting on February 11.

Ms. Firehock said that she imagined it would include recommended removals.

Mr. Barnes said that staff was following County code and the criteria they used to make their recommendations. He said that Mr. DeLoria had already shared the AFD committee's recommendation.

Mr. Missel said that he thought they could discuss this topic for a while, but he would like to recommend a couple of things. He said that if they had time, he asked that they review the presentation from the Agricultural-Forestal District Advisory Committee, which was given on January 23. He said that after going through the agenda, they would find review criteria and additional discussion.

Mr. Missel said that the presentation also provided a great summary of each district. He said that it may be beneficial to review the seven districts ahead of the February 11 meeting. He said that he believed that members of the advisory committee would be present and share their comments.

Mr. Murray said that he believed this reinforced the need to consider wise uses of expenses when developing a rural area plan. He said that this would allow them to put those programs into context and provide value to the Board by examining how to conserve the rural area and whether this policy was the right approach to achieve that goal, and make recommendations accordingly.

Mr. Bivins said that if they decided to proceed with this, it would be beneficial to have someone from the assessor's office or a similar entity involved in the process. He said that these decisions had significant consequences, including budget implications and potential losses in tax revenue. He said that they were losing land that was intended for commercial, industrial, or research use. He said that almost $1 billion worth of land was included in AFDs currently.

Mr. DeLoria said that he anticipated that their assessor, Peter Lynch, would be in attendance at the meeting on February 11. He said that Mr. Lynch was a member of the AFD advisory committee and had expressed his views previously.

Mr. Barnes said that Mr. Lynch would be out of the office sometime during the next month, so he may not be at the meeting.

Review of Board of Supervisors Meeting: January 15 and 22, 2025

Mr. Barnes said that the meeting on January 15 had only one item that had come before them, but there were several other issues worth noting. He said that one of interest was a special exception for Innisfree for a central sewage system. He said that Innisfree had experienced septic issues at their location and were transitioning to a central sewage system. He said that County Assessor Peter Lynch presented on the 2025 assessments.

Mr. Barnes said that there was also a presentation on the Lambs Lane Loop Road at Albemarle High School, which was part of a larger project being facilitated for the High School Center II. He said that they were currently working on an application for a revenue sharing grant, which included upgrading the shared use path.

Mr. Barnes said that they were also installing a green-T type intersection at Georgetown Road and making pedestrian improvements at Whitewood and Georgetown. He said that they presented on microCAT, and the Board also reviewed the Walnut Creek substation, which had previously been discussed and was located on Old Lynchburg Road. He said that the potential for landscaping for the neighboring property was also revisited and discussed. He said that there was a lengthy discussion about sound mitigation. He said the Board approved the request.

Ms. Firehock asked if the Board added any additional sound requirements beyond what the Commission recommended.

Mr. Barnes said that there was a requirement to review the sound dampening on some of the large transformers. He said that on January 22, they presented the AC44 Environmental Stewardship Chapter to the Board, and the Board also discussed the Archer North application. He said that a lengthy discussion ensued regarding the application.

Mr. Barnes said that one notable aspect was that the applicant had increased the affordable housing component from 15 percent to 20 percent. He said that the housing aspect was a contentious issue, and it ultimately received a 5-1 vote. He said that it was worth noting that the original percentage was significantly higher, reportedly around 75 percent. He said that Mr. Pruitt voted against the project.

AC44

Mr. Barnes said that he intended to bring them a calendar to help them navigate the rest of the chapters, and they were very close. He said that they had successfully addressed the Board schedule aspect, but they still had one more question to resolve before they could finalize the calendar. He said that he promised to send out a calendar to the Commission by the end of the week, which should cover the period from now until June and complete the 10 chapters they were working on.

Mr. Barnes said that he also wanted to assure them that they would provide summaries of the Board's discussions as they occurred, and as part of this update, he would also share the summaries they had prepared for the previous chapters that they had discussed. He said that this should help facilitate the ongoing dialogue between the two bodies.

New Business

Mr. Murray said that he had a question regarding the no parking signs on Ridge Road. He said that over the past couple of months, they had received several communications about this issue. He said that to provide some background, Ridge Road had a wide area at the front where people had been parking for generations, at least as long as he had known. He said that this area was located off Garth Road and Ivy. He said that previously, a person who no longer lived on the road had complained because people were blocking part of the road.

Mr. Murray said that when VDOT installed the no parking signs, they were placed on the broad part of the road, rather than the narrow part where the issue was actually occurring. He said that

as a result, there were no parking signs, and the property owner who was affected was actually fine with people parking in the wide area. He said that there had been many questions about when they could resolve this issue and have a resolution. He said that he was aware that one of the supervisors was eager to address this. He said that he was wondering how they could move forward to get VDOT to relocate the no parking signs to the appropriate place.

Mr. Barnes said that there had been discussions between their transportation staff and VDOT. He said that he was not aware of the specific details, but he knew they were working to follow up on the issue.

Mr. Missel said that he had the opportunity to tour the Forest School site on Dudley Mountain Road. He said that if any of them had the chance to visit, he thought they would find it worthwhile.

Old Business

There was none.

Items for follow-up

There were none.

Adjournment

At 9:00 p.m., the Commission adjourned to February 11, 2025, at 4:00 p.m. Albemarle County Planning Commission meeting,

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Michael Barnes, Director of Planning

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

Approved by Planning Commission
Date:
Initials: