Albemarle County Planning Commission
September 5, 2017

The Albemarle County Planning Commission held a public hearing on Tuesday, September 5, 2017, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Karen Firehock, Vice-Chair; Daphne Spain; Mac Lafferty; Pam Riley; Jennie More; and Bruce Dotson. Absent was Bill Palmer, University of Virginia Representative.

Other officials present were Elaine Echols, Chief of Planning – Long Range, Andrew Gast-Bray, Deputy Director of Community Development/Director of Planning; Sharon Taylor, Clerk to Planning Commission; Mark Graham, Director of Community Development and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

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

From the Public: Matters Not Listed for Public Hearing on the Agenda

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

Consent Agenda

a. **Approval of Minutes** – July 11, 2017, July 18, 2017, May 2, 2017 and February 14, 2017.

Mr. Keller asked if anyone wanted to pull an item from the consent agenda. Hearing none, he asked for a motion.

Ms. Spain moved, Mr. Dotson seconded to approve the consent agenda, which was unanimously approved by a vote of 7:0.

The meeting moved to the next item.

Work Session

CCP-2017-0002 Charlottesville-Albemarle SPCA
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL(S): 04500-00-00-08600 and 04500-00-00-08800
LOCATION: 3355 Berkmar Drive

PROPOSAL: Request early input from the Commission on potential SP amendment and ZMA to permit the renovation and expansion of the CASPCA.
PETITION: Potentially request an amendment to SP200700044 and a rezoning of 2.53 acres on Parcel 88 from the R-6 Residential Zoning District, which allows residential uses at a density of 6 units per acre to C-1 Commercial, which allows retail sales and service; residential by special use permit (15 units/ acre).
COMPREHENSIVE PLAN: Properties are located in the Places29 Development Area. Master Plan shows uses for Parcel 86 as Office/R&D/Flex/Light Industrial (no maximum density); supporting commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, and packaging. Residential is a secondary use in this designation. Parcel 88 is shown as Urban Density Residential (6.01-34 units/acre); supporting uses such as religious institutions, schools, commercial, office and service uses.
(JT Newberry)

Mr. Newberry said he would lead the Commission through a work session on CCP-2017-00002 Charlottesville-Albemarle SPCA. Before getting started, Mr. Newberry pointed out a typo on page 8 of the staff report in the paragraph above the recommendation that instead of the extended parking area was related to the existing facility, which should say, "The expanded parking area was relegated to the existing facility." Mr. Newberry said the purpose of tonight's work session is to provide guidance and input to the applicant for a future application and we are trying to understand what the best next step in the application process is. One item that was missing from the staff report was just the fact that the Charlottesville-Albemarle SPCA does a wide variety of service for the community; it serves as both a private animal shelter as defined under the State Code, but it does provide pound services for both the city and the county. Therefore, there is that public use aspect of it that was not noted in the staff report. In an overview of the proposal, which was attachment C from the staff report, the first four phases of the plan expansion relate to the existing facility; the proposed cathouse is an expansion; some treatment to the front of the building was planned to the north side of the building that the applicant would provide further input on. There is an expanded parking area out to the front of the site and a training facility shown in the footprint, which would support the function of the existing facility now.

In the zoning map of the area, he pointed out parcel 86 which contains the existing facility. The proposed training center would encroach just a little bit to parcel 88 to the south; the orange represents the R-6 residential zoning district and the pink represents the C-1 commercial district. Mr. Newberry noted that on the zoning map our GIS system is incorrectly showing some of the limits of previous rezonings cited in the staff report. ZMA-1998-26 you can see the limits going around parcel 90 but in actuality the limit of that rezoning was to this parcel and further up to the north ZMA-1988-21 was indefinitely deferred – this was a request by Falconer Construction to rezone this parcel from R-6 to LI, Light Industry and that was indefinitely deferred and never acted upon. Mr. Newberry said staff is taking the steps to correct the GIS map.

Mr. Newberry noted the next slide is the Comprehensive Plan map showing the existing

SPCA facility that is shown in the designation for Office/Flex/R&D/Light Industrial as shown in the purple color. Then parcel 88 to the south is in orange and that is the Urban Density Residential designation. The next slide mirrors Attachment E, the Comprehensive Plan Map, zooming in on the area where there is that potential encroachment for the training center. Attachment E although it is probably unclear on the printed materials that you saw was trying to measure the distance to which approximately the Office/R&D/Flex/Light Industrial designation encroaches onto parcel 88. It is probably between 30' to 40' as it extends along the boundary.

Mr. Newberry noted the next slide is a list of discussion questions staff is hoping to get feedback on from the Commission tonight. Before we turn it over to the applicant and the public Mr. Newberry said he would mention staff's position on the questions.

Discussion Question 1

Should this proposal require a Comprehensive Plan Amendment to move forward?

Staff's position broadly is just that because of the limited scope and scale that would not be necessary in this case.

Discussion Question 2

This question was related to voluntary limitations on a rezoning whether or not proffering out any uses would be appropriate. When the original rezoning for the facility was done, the Western Bypass was envisioned between the existing facility and this residential area. Therefore, there was not much thought put into uses in whether or not there needed to be any limitations on compatible uses or not, but it is staff's position that would be appropriate in this case especially as the Western Bypass is not going forward.

Discussion Question 3

The third question related to what used to be called waivers, we now call special exceptions and there are supplemental regulations as well as district regulations that would apply. It is staff's position that these would likely be appropriate in this case and there can be conditions on those waivers to ensure that there is the right amount of compatibility between an expanded SPCA and any nearby residential use.

Discussion Question 4

The last question related to Neighborhood Model principles. Attachment C has the overview of the proposal and both the zoning map and the Comprehensive Plan map show some of the other existing buildings in the area. It would be staff's position that the site would meet more of the Neighborhood Model principles if that training center were moved closer to Berkmar Drive. Mr. Newberry said staff understands there are many priorities to balance in this case so that is a question that we wanted to get input

on from the Planning Commission. With that, Mr. Newberry said he would turn it back over to the Commission.

Mr. Keller invited questions for staff. Hearing none, Mr. Keller opened the session and invited the applicant to come forward and address the Commission.

L. J. Lopez, a partner at Milestone Partners, said we are here on behalf of our client the Charlottesville-Albemarle SPCA. He pointed out also present were members of the SPCA Board, staff and members of the project team so between our group hopefully we can answer all the questions that you might have of us this evening.

Mr. Lopez said he wanted to take a brief minute and highlight the organization in a little more detail. He said the SPCA is a great organization; it has deep roots in this community and it was founded in 1914 with over 100 years of community service as a nonprofit open emissions animal shelter whose purpose is finding permanent adoptive homes for animals. The SPCA performs an important community function by providing pound services, as J.T. noted to the City of Charlottesville and Albemarle County. It also serves this community by offering lost and found services, low cost sterilization, rabies and other vaccinations, microchipping as well as educational opportunities, camps, pet therapy, and dog training. The SPCA provides employment for an average of 60 people and serves over 2,200 shelter animals a year. More than 4,500 spayed/neuter services are performed annually, 2,900 of which were for owned pets within our community. The SPCA continues to serve at the forefront of no kill communities in this country helping thousands of animals each year receive the care they need to find homes or remain with their families.

Mr. Lopez said the last piece was really the impetus for the application. In order to carry on the animal shelter public service, it was determined by the board and staff that in 2014 they undertook a master planning effort so that they can continue to care for animals and meet the community needs for today and in the future. He said out of that master planning effort they determined that it would include an expansion of the dog kennel, the outdoor atrium renovation, a new cat facility, vet clinic addition, associated site work, parking, and intake expansion and overhaul of the main building interior, new canopy and façade. That was all to position it to provide services for the future.

Mr. Lopez said he shares the in-depth description to highlight the strong public use as J.T. noted in his staff report the public use and service components of the organization. He thanked J.T. and staff's leadership on the application, as there have been a number of variables related to it and the reason why we are here for this work session before the Commission this evening and so they have been very helpful to date. He said he had a few quick comments, which J.T. has already addressed a couple of from the staff report and then we want to turn it over to the Planning Commission for conversation, guidance and input on the question before us this evening.

Mr. Lopez said regarding the community meeting, one was not required for this work session; however, once we have final direction on next steps for Comprehensive Plan

amendment, rezoning and special use permit, we will satisfy that as required in this practice. Regarding Berkmar Extended, as J.T. noted, that the Comprehensive Plan in its current form it previously contemplated Berkmar Extended but indicated that a small area plan could be used to reevaluate the existing and future uses in this corridor. He would offer with the nearing completion of the Route 29 Solution Package, on-going small area planning in neighboring areas, although not currently including this area, this application and its timing is opportune to have a discussion and reevaluate one of the parcels that is here before you in the corridor. As J.T. outlined, the primary question before us is whether or not the application necessitates a Comprehensive Plan amendment prior to or concurrent with the purposed rezoning of the subject parcel 45-88 from R-6 to C-1. The Land Use Plan indicates Urban Density Residential and within that use, it is encouraged secondary for uses of Neighborhood Retail, Community and Regional Retail and general commercial services of which SPCA would fall under. The Land Use Plan and its Urban Density designation for this specific parcel supports the uses albeit a secondary one in the proposed land use as it exists today. Further, as J.T. clarified, which he hit all the points that he was going to so he appreciates that.

Mr. Lopez said some of the adjacent properties GIS designations is not consistent with the map, but while some of those adjacent properties are currently residential, the proposed land use suggests these to be Office/R&D/LI. There are many commonalities between existing zoning and the future land use plan within the immediately adjacent parcels; they might not be exact but there is a trend in those existing adjacent current and future land uses. Therefore, in closing, Mr. Lopez said we are in agreement with staff's recommendation that parcel 45-88 does not reach the threshold of requiring Comprehensive Plan amendment and we very much appreciate your thoughts on the question before you, your input and feedback on the path forward for rezoning and special use permit. He said myself and the project team are here along with the board and staff to answer any questions you have. He thanked the Commission for their time.

Mr. Keller invited questions for the applicant before hearing from anyone else.

Ms. Spain asked Mr. Lopez to say something about why the addition cannot be moved closer to Berkmar since J.T. mentioned that as a possibility that would avoid any discussion of parcel 88.

Mr. Lopez replied that the master planning effort, as our land use plan is a guiding document. He said it had preliminary engineering at a conceptual level with grade for storm water, the managed slopes on that property with the parking adjacent to the use and maintaining a buffer along Berkmar; it was envisioned to be the most practical location given the current layout. He said that is not off the table for further evaluation as we move forward and so that would be something he thinks they are open minded to studying further through rezoning and special use permit. He said the current thinking in 2014 was that the approximate layout, the adjacency to the facility that was the practical location for it given the constraints, but we are open minded to evaluating further

Mr. Spain asked J.T. to put the plan back on the screen.

Mr. Dotson asked what the training facility was.

Mr. Lopez replied that he would let Angie talk about uses for the training facility.

Angie Gunter, Executive Director, said the training facility is a dog training facility and so it would be for members of the community to come for training classes but also for us to work with our animals. She said we know that over a third of animals that are relinquished to shelters are due to training or behavior needs so we want to make sure that we get ahead of that and can really counsel folks that adopt. She said if they want to relinquish animals, we want to be in a position to help them through training. As mentioned earlier we also serve as the pound for the City of Charlottesville and Albemarle County. Therefore, we feel that we have that need to be the main resource in this community.

Mr. Dotson said he would take it that was a long term, a stage 5 ambition.

Ms. Gunter replied that was correct; that would be the last thing.

Mr. Dotson said that is in the future but how would that operate; would that be on a fee basis.

Ms. Gunter replied it would be a fee base for public, but for the animals that we adopt out we would probably work something out to work with those adopters for a short period. She pointed out they would have to think through that for sure, but if someone wants to relinquish an animal we would want to try to get them into a training first with probably a low fee base.

Mr. Dotson asked would that be something the SPCA would operate themselves, or would they likely outsource that.

Ms. Gunter replied yes, we would operate those ourselves.

Mr. Lafferty said he understands that you will own lot 88.

Mr. Lopez replied the Charlottesville/Albemarle SPCA owns that parcel 45-88 to the south, currently zoned R-6 and proposed for rezoning to C-1 consistent with the zoning of the existing facility. He said it was a use conversation in whether the appropriateness of the zoning of that parcel's common ownership was a unified use for the purposes of the SPCA now and in the future and in the rezoning as we would put forward is the Comprehensive Plan required prior to rezoning or proceed to rezoning in order to satisfy the need of that and any input you have regarding provisions or limitations on the rezoning as we move forward.

Mr. Dotson said he had a follow on question on that about parcel 88. He asked when

was that acquired by the SPCA and have you had that as long as you have had the main parcel or was that a recent acquisition.

Mr. Lopez replied it was purchased in 2015 or there about.

Mr. Dotson said it was recently purchased so you could not have known that you wanted it to be included at the time you got your last special use permits in those actions.

Mr. Lopez replied that was correct; this is a new development in the life cycle of the SPCA. He noted as property previously owned to the north was part of the Western Bypass and that would be parcels 45-85A. It has changed the evolution and the need for opportunity to expand and serve the needs of the community in the future.

Mr. Dotson said at some point it would be useful, and staff might be the ones to do this, just to show what would have been the alignment of the Bypass and what the parcels would be that will now be at some point offered up for development. He noted that J.T. was nodding so he would think he was going to answer that.

Mr. Lopez replied that they did not have an exhibit of that alignment but we could certainly follow up and provide one for future work session and/or application materials.

Ms. More asked to go back to the location of the training facility and the suggestion that it might be moved by staff suggestion. She said it sounds like where he would like the parking lot to be is the wooded area and asked if that was correct.

Mr. Lopez replied that he did not have his exhibitions but that was on an aerial.

Ms. More said she was wondering if the parking lot were to go in the proposed location it looks like there are some slopes that actually go along closer to Berkmar and would that be a possibility if that is wooded would there be ability to retain the wooded nature of the part closer to the Berkmar Corridor.

Mr. Lopez replied that he thinks there is. This property although he thinks we may be getting ahead into more of the technical details but expansion of Berkmar Drive and that Corridor through there to align with the right-of-way width and dimension of Berkmar Extended is desired. Therefore, the buffer would have to be evaluated coming from both sides, internal, and external into the property. Therefore, we would look at that and the desire would be to have it preserved in its current condition to the maximum extent possible.

Ms. More pointed out she was just curious with staff's recommendation about the location of the parking lot and maximum screening and the ability to use what is already there to the extent that is possible.

Mr. Lopez noted there are some competing priorities in the development in keeping the

buffer as is the widening of Berkmar from a right-of-way acquisition standpoint, which he knows, is on the table and will be eyed as we have already discussed through pre-application meetings with staff. He said so we would have to study that in detail in order to provide a more definitive answer as to dimension and quantify how much could be provided.

Ms. Firehock said in looking at your site, she knows this is not a full-blown site plan, it is more conceptual and you have a storm water treatment facility in the corner by Berkmar; she was just wondering to what extent have you thought about using best practices management practices, low impact development and permeable pavement. She noted for example in front of the training facility that is a place where you would not be bringing large tractor trailers; so it might be a perfect site to use that type of treatment and that might be able to shrink the amount of the size of your storm water facility significantly. She said she would like to see them make this site as green as possible and to that thereby minimize the disturbance of the vegetation. She said in the parking lot for the training center that it looks like you have variable space sizes and asked are those little spaces next to the training center with bigger spaces at the top.

Mr. Lopez replied that may be a rendering or scale issue in this since it is at a conceptual level and getting into the site planning. He said the Berkmar Drive Corridor has a regional storm water facility, which may satisfy our quantity components, and on site quality, we would look to incorporate all the best management practices in LID and permeable pavement. Although we do not have a center island in this for grading and drainage he said any bio filter planting without curb runoff into those detention areas would be evaluated and we have not exceeded beyond the conceptual level for the storm water management.

Ms. Firehock suggested they might be able to shrink the footprint of that parking lot by using variable space sizing. She said in my experience with Timmons they often just give kind of a straight out without playing with the spacing so you might ask them if they have tried doing that. She said because Albemarle County allows that you might be able to shrink that footprint and thereby pull your building a little bit more out of the encroachment into that residential zone.

Ms. Spain asked what determined the demand for the number of parking spaces.

Mr. Lopez replied Cody with Timmons Group is here who may be able to speak to the number.

Cody Pennetta, with Timmons Group, said the parking configuration and quantity is based primarily on historic experience with the quantity that is required and the number of visitors is one of the other reasons the location is set towards the front. He said we evaluated some other options that push the parking towards the back but we want people to, especially the visitors, to come and be at the entrance and have access to the front of the building. He said so that is what has set the location and the quantity for the number of spaces. He pointed out the location of the existing storm water

management fixture and the existing sanitary pump station. He said it is going to be one or the other factors that helped us consider where we could potentially put the training facility and kind of the challenges we would see if it was there. There is also about 30 feet of grade difference between Berkmar and the existing floor elevation of the building that is there now. Therefore, grading and access throughout the site is definitely one of the things we are considering as we put the plan together. He said we are definitely considering storm water management at all sorts of levels and treatment of terrains and trying to be creative with these sites. It is especially important in an area where there is a lot going on and challenging slopes to deal with to try to preserve as much as possible because it is a nice corridor and heavily vegetated in the front. He said these are the things we are looking at early on; but have not gotten into full detail yet.

Ms. Riley asked if the new parking lot where the current dog walk area is. Secondly, she asked on the training center is there a stream down below and how far from that stream is it.

Mr. Lopez replied that he did not think so since it was not registered on the GIS, but if it is a dry discharge channel we can study that further.

Ms. Gunter asked to add in regards to the parking we did have the opportunity in a parcel next to us where we were able to park, but we no longer have access to that. She pointed out that we are essentially almost full daily where people are parking along the drive and our neighbors across the road are so kind to let staff park over there. She said they have warned me we cannot continue but the neighbors have been very kind to us. Therefore, parking is of the essence; any given day we do not have enough space for visitors who are parking along the drive just to come in.

Ms. Firehock noted we have one person signed up to speak from the public, David Griffin.

David Griffin noted that he did not wish to speak at this time.

Ms. Firehock thanked Mr. Griffin for coming.

Hearing no one else to speak, Mr. Keller closed the public comment period for the work session and asked staff to put the discussion questions back up on screen.

Ms. Echols noted that staff actually has the questions one at a time on separate slides.

<u>Question 1</u>

Mr. Newberry noted that discussion question #1 is on the screen and staff's position that is a Comprehensive Plan amendment would not be beneficial to the process because of the very limited scope and scale of the encroachment into the Urban Density Residential designation. Mr. Newberry said staff thinks the proposed use is similar to

other uses that could be allowed in residential areas as a secondary use; this is an opportunity for planning that buffer zone between the existing SPCA facility and the potential for nearby Urban Density Residential development; however, staff does not feel a Comprehensive Plan amendment would be necessary. Mr. Newberry asked if the Commission had other thoughts to share.

Mr. Keller invited comments.

Mr. Dotson asked Mr. Newberry to comment on the secondary uses.

Mr. Newberry replied the Comprehensive Plan has both primary and secondary uses in each designation and residential areas have other secondary uses like areas of assembly and some institutional uses. He pointed out the SPCA has such a blend of institutional and a little bit of commercial uses, and so staff felt like the impacts from those were not so different from some of the other permitted secondary uses which is one contributing factor as to why a Comprehensive Plan amendment would not be needed.

Mr. Keller asked Mr. Dotson if he was asking more about the specifics.

Mr. Dotson replied no, he thinks that explanation responds to it since he personally thinks it does not seem like a Comprehensive Plan amendment is the right way to go on this. However, in not going that way if that is the outcome he would like to emphasize in future reporting that this is consistent with the residential designation and zoning and at the risk of creating laughter he thought about it and had said well training facility is that like a school for dogs and schools are allowed in a residential district. He asked are there different ways to think about this and is this sort of a hospice, a health facility or a temporary residence. Mr. Dotson said somehow he would just like to hear some more thinking, not necessarily right now, but that sort of says this is a legitimate use under that rather than it is just too much hassle to do a Comprehensive Plan amendment.

Ms. Echols said staff actually went down that path of is this a special use permit for a school because the training is very much like a private school. Staff took it to the zoning administrator to evaluate and because their public funding in their school aspect really is secondary to the activity of the SPCA; the zoning administrator could not find that it could be just an independent private school because it would always be affiliated with and be a function of the SPCA. Ms. Echols noted staff also went down the path of seeing whether it could be considered a public use because it is the pound for the county as well as the city. However, the zoning administrator looked at that and determined that its funding is not primarily from the public; it is from public entities; and yes, it is a nonprofit and it raises money for the use, but the money that is provided to the SPCA from the city and the county is not significant. She asked Mr. Newberry if the zoning administrator was looking at 50 percent.

Mr. Newberry replied yes, as a loose general rule.

Ms. Echols noted since it was not one-half of the money that they raised and so she did not think it could be considered a public use. Ms. Echols pointed out one thing she heard tonight that maybe we hadn't talked a whole lot about that may be relevant to this conversation is whether or not there is any other use of this property for any other kind of commercial activity because if the only thing is just that little bit of encroachment over onto the residential designated property there are different ways you can get at how that is in conformity because there are similarities. But, if there is a desire for it to be available for more than just that little piece of encroachment and have a more commercial character to it, then she thinks we are getting into an area that needs some further evaluation.

Ms. More asked for the purposes for our discussion where do we consider the small encroachment.

Ms. Echols pointed out the area where staff has been considering it.

Ms. More said based on that assumption she did not think it needs a Comprehensive Plan amendment, and she thinks staff and the applicant have both outlined very good reasons why and she agrees with it.

Ms. Riley agreed.

Ms. Firehock said she agreed as well. She said she would not pretend to be an attorney, but in terms of the zoning administrator's ruling that it is not a public institution because it does not receive its majority of its fund from the city and county; it is publicly supported charity so the IRS would look at that as an institution supported by the public. So she feels like she could be a little more creative perhaps and would leave it at that.

Ms. Spain said she would concur with her colleagues that no amendment is needed.

Mr. Lafferty agreed.

Mr. Keller asked if this was from the earlier days of GIS when we were not as accurate and it was just a drawing mistake.

Mr. Newberry replied looking into that a little further the server that contains the information shown on GIS updates once a week and so his understanding is staff believed that the problem had been fixed and perhaps forgot to set a reminder the next week to go back and double check and it got lost in the shuffle of things. However, it is on our radar screen now to get that updated. Mr. Newberry said he had contacted both GIS and the folks that manage our proffer database to make sure that it is reflected correctly.

Mr. Echols asked was your question though about where the line was and had it been intended that Office/R&D Flex\Light Industrial would have all been on the SPCA property. She said when we did our original mapping it was not intended to necessarily

be parcel based; but, what we were trying to do was capture in many ways those uses. Therefore, it was possible that line if we were redrawing it more accurately would line up with the existing SPCA boundary for the C-1 designated area. However, it is not uncommon for there to be a little bit of wiggle room at the edge and it gets a little gnarly depending on how far you go with where that wiggle room is. Ms. Echols said our comfort level is high with that small degree of wiggle room for an encroachment for the reasons that are in the staff report.

Mr. Keller pointed out having lived through the paper to Mylar to digital transitions and the impacts it has had on a number of projects worked on through the years he was not surprised. In fact, he was actually surprised that this is the first one that he had seen in the almost four years that he has been here, which is a very positive comment on the way it has been done in the county. He said since this obviously raised a bit of heartburn when you all realized that it had not refreshed properly, he asked staff to take a guess as to how many more of these situations there might be. He noted the reason he asked this is if this is the sort of things staff has tracked a number of them and just as we are doing the ZTA changes that there might be a reason to do a comprehensive review because there are 75 parcels and we want to clear up those lines with a one-time action.

Ms. Echols asked Mr. Keller if he was talking about clearing up where the Comprehensive Plan line abuts a property boundary or about updating the zoning proffer as it is applied to the map.

Mr. Keller replied yes, and noted that is a good question.

Mr. Newberry asked to clarify that by highlighting the hatching on the screen where the GIS map was attempting to indicate there was an approved rezoning and applicable proffers and so that database updates weekly; however, Ms. Echols is asking the more important clarification that the boundary lines of the designations, which he thinks are correct and has not seen any incorrect designation lines. However, Mr. Newberry pointed out the hatching areas is attached to a parent parcel and as parcels are subdivided; it has caused some inconsistencies so that was what he was referring.

Mr. Keller asked to go back and reference something that Ms. More was asking about with the Crozet projects a long time ago, and asked the SPCA folks to please bear with us, because he knows this is a bit beyond because they are all trying to work towards a simple solution here. Mr. Keller noted it was an issue about which of these maps, the one in the small area plan versus the Comprehensive Plan versus whatever is the official map. He asked Ms. Echols if she thinks that the map at the highest level is correct which would be a justification for not needing to make the changes or is it something that would warrant us cleaning this up just in terms of some precedent.

Ms. Echols replied that the Comprehensive Plan is a guide and its maps are correctly drawn. If we were to modify the Land Use Plan to align with property boundaries, the property boundaries could change at any time; and, therefore we would be in the

constant state of trying to evaluate what the land use designation is on each parcel. Ms. Echols said it would not be a good exercise to try to line up the parcel boundaries with the land use designations because in some cases it is deliberate that they are not lining up because of some kind of a feature or perhaps there is a Rural Area development area boundary that goes through a property and so it does not line up with any of the boundaries. Ms. Echols noted that she understands your frustration with this and totally understands the question; however, she thinks there is enough room in the Comprehensive Plan to interpret these kinds of situations and be broad enough in our interpretation that we can make the right decisions about where land uses should go.

Mr. Keller agreed with Ms. Echols, supports the other commissioners and suggested that Ms. Echols help facilitate that in the meeting with the Board of Supervisors as the first statement. He suggested there be a paragraph in which that thought process is laid out so that they don't have to reinvent the wheel of this conversation that we have all been through. Ms. Keller asked Mr. Blair since the Commission was advisory in this and they have the information so the Commission does not need to take an action.

Mr. Blair, Deputy County Attorney replied that was correct. Mr. Blair asked the Commission's indulgence for Ms. Firehock's question and some others who discussed public use that he would try to explain some of the thought pattern that goes into that. Mr. Blair explained our Zoning Code defines a public use as buildings and structures funded, owned or operated by a local state or federal agency and obviously, the SPCA is not owned or operated by local governments. As to the question of funding, Mr. Blair said while there is not 100 percent congruence the Virginia Freedom of Information Act has what is called a public body definition and that is how the FOIA applies to various institutions. He said there have been Attorney General's opinions, Virginia of Freedom of Information Act Advisory Board opinions as well as a couple of Circuit Court opinions that have looked through the years at things like a volunteer fire department, various non-profits and public broadcasting. He said they have looked at what percentage of your budget did you get from a governmental entity and they used that to determine whether something was a public body or not. Generally, they have looked at one-half throughout the years. For instance, there was a voluntary fire department that received about one-third of its funding and they were not held to be a public body. Public broadcasting back when it was funded by the state received at one time about a quarter of its funding and it was held not to be a public body by the Norfolk Circuit Court. Mr. Blair explained that he just wanted to provide some background on what this definition of funded, owned or operated by local, state or federal government, but did not know if that thought pattern was helpful

Mr. Keller asked Mr. Dotson if the issues he presented need further clarification to the staff in order to be passed onto the Supervisors.

Mr. Dotson replied that he thinks it is a messy situation and to the degree that the staff in subsequent reports can focus on the legitimacy of this use under this Comprehensive Plan and possibly even zoning designation that would help clean it up.

Mr. Keller asked staff to move to the second question.

Mr. Newberry noted for the second question some of the relevant history that staff looked at was the consideration that the Western Bypass would be buffering any residential development from any impacts created by the SPCA. Therefore, in looking at this now knowing that will not take place it would be consistent with other rezonings that have taken place in this area that were either designated as Office/R&D/Flex/Light Industrial or if under the old Comprehensive Plan they were designated as transition it would be consistent that there would be some uses that were not deemed to be consistent with the Comprehensive Plan and the applicants in those cases proffered out certain uses. Therefore, staff wanted to get the Commission's feedback on whether or not in this scenario when the existing SPCA facility was rezoned it got straight C-1 zoning and in this case staff is thinking that it would be appropriate that not all of the uses in C-1 would be permitted on parcel 88 if it were proposed to be rezoned.

Mr. Lafferty asked how close was the nearby residential uses.

Mr. Newberry replied that the existing zoning map shows all of the R-6 zoning that is surrounding the area and then he thinks it was Mr. Dotson that brought up an exhibit on the bottom of page 5 that shows the parcels that are currently zoned R-6 that will be made available for sale. Mr. Newberry pointed out those approximately add up to about 13 acres so under the R-6 zoning, they are to the north and some of them are pretty far to the north. He pointed out there were existing single-family uses to the west and some multi-family to the south.

Ms. Echols pointed out an apartment complex to the south that was multi-family residential and then the other houses are to the north.

Mr. Newberry pointed out the area proposed to be sold by VDOT.

Mr. Lafferty noted as the staff report points out Berkmar is mainly commercial and this seems to be consistent with that.

Ms. Spain said she thinks it should be compatible with residential to the extent that noise might be an issue, which she assumed was something that would come up at a community meeting. Ms. Spain said not knowing how much of this new activity will be outdoors or how much will be sound insulated if the training center is all inside would be her only concern.

Ms. Firehock said in terms of a rezoning she agreed the applicant to make the future use more compatible probably should limit the uses they would propose under the new rezoning. She said even though the SPCA has invested a lot in the property in the future it could become a very hot prospect to sell and raise money for the SPCA and build a facility elsewhere. Therefore, she thinks they need to think about the legacy of the rezoning. She said the other point is that the training center encroaches very little currently into that property and obviously they could eventually do more with that site

but they could offer to have a thicker vegetative buffer that is maybe wider than normal around their site to mitigate the impacts on potential future adjoining residential uses. Their main facility is actually quite close to the current existing building to what would be residential behind it. However, Ms. Firehock said she thinks these things could be worked out and to your point, she thinks it would be interesting to know if there would be soundproofing of all the dogs learning to be good dogs or other animals you are training there. Even just people arriving, coming and going if they are exercising their dogs outside what would be the impacts; it would be good to know.

Ms. Riley said she agreed mostly with what everybody has said previously, but it does look like if this training facility is sited as noted on the diagram it is actually going to be in less proximity to the residential areas than the existing uses that you can go over there and see what the noise levels are right now. She agreed with the staff's recommendation that there should be should be some limits on uses to be compatible with residential.

Ms. More agreed with staff recommendation.

Mr. Dotson said if the zoning administrator continues to feel that a training facility is not a school then he would agree with limiting uses through the rezoning process.

Mr. Keller concurred with his colleagues. He asked staff to move on to question three.

Mr. Newberry said that question three talks about some of the specific special exceptions that may be requested or considered in a future request that talks about the sound proof and air-conditioned buildings. The supplemental regulations in 5.1.11 reference a 500' buffer for structures that are not soundproofed and air-conditioned, and if they are, there is a 200' buffer requirement. The other applicable section that we anticipate there could be a request to for special exception would be the buffer between commercial and residential districts. There is currently a 20' buffer that limits grading and clearing of vegetation. If we need to refer to them, Mr. Newberry said he had some of the specific language here but he thinks some of the Commissioners have already touched on we think that could be covered during the rezoning and site planning process, but are there any specific concerns. He thinks it could be helpful to quickly go to a GIS map and just measure how far away it is from the lot line. He thinks that we may find that just approximately if we were looking here the nearest lot line is a little over 300' away from residential or even 150' away so it is likely that some special exceptions will need to be considered.

Ms. Echols said we have had in the development areas these kinds of requests before for less than the required distance for enclosed facilities and that would be a consideration the Commission would make. However in the development areas if there is a demonstration that they have the proper soundproofing and such that has not generally been a problem for the Planning Commission to recommend those. It used to be variations or modifications and now it is special exceptions.

Mr. Keller asked for Commissioners response.

Mr. Dotson said a question of staff in thinking about applying these supplemental regulations are you thinking just about the training facility or all of the facility.

Mr. Newberry replied he thinks we should consider all of the facility since his understanding is he does not believe any of the proposed expansions have new outdoor areas. He said he thinks they are all existing, but perhaps the applicant could educate us about if those have been identified and if they have outdoor play areas that they are hoping to have. He said they would look at everything new since we have had no existing complaints or problems at all.

Mr. Dotson said the way he was thinking about it is to use a term a rebuttal presumption, and he would presume that the facility would comply with the supplemental regulations but he would want to hear a rational why not.

Ms. More said she somewhat agreed with that and thinks the existing facility if there are not complaints if they have been given these waivers then she is not inclined to dig into that too much. She said if the additions to the existing structure are going to be managed in a way that reduces sound or like staff suggested more outdoor areas and where they are in proximity. She was more interested in the new and felt it was not necessary to go digging into something that seems to be working well. Ms. More said she would be supportive of exceptions as far as the proximity of the training facility and the need to since they can deal with that in site planning to reduce sound. She noted if that was something we hear in the community meeting, then staff can come back to us with that.

Ms. Riley said yes, she would consider recommending special exceptions.

Ms. Firehock concurred.

Ms. Spain said she concurred as well, but just for her edification is a buffer anything from an expanse of empty land to one that is planted with vegetation or trees because an empty land buffer does not serve the same purpose as a treed or shrubbery buffer.

Mr. Newberry replied that it was just an undisturbed buffer whatever may exists there. He said that sometimes we are faced with granting special exception requests to disturb the undisturbed buffer to plant materials that would create a better buffer.

Mr. Lafferty said given that they have had no complaints in the past he would think that they would be into the sound proofing good enough so he would go with the special exception.

Ms. Spain asked do we know that they have had no complaints in the past, and Mr. Newberry replied yes, to his knowledge.

Mr. Keller agreed with his colleagues here. However, he has a question since we are doing these ZTA amendments and is a buffer something that warrants a look or are you comfortable. He said this is a rhetorical question and staff does not have to answer it now. However, he encourages Andrew not to lose this one because we are going to be having many areas with 29 and the other development areas that he just wonders based on what Ms. Spain brought up whether there maybe needs to be a bit more thought about that. He said if staff is just doing best practices and accomplishing it, that is fine but could there be more support for staff making those best practices decisions.

Ms. Echols pointed out staff looked at some of that when we were looking at the different setback changes and the distance between nonresidential districts and residential districts like commercial districts and residential districts in the rural areas and industrial districts and residential districts in the rural area. There was a lot of discussion at that time and she thinks staff proposed some changes to those requirements and there was a lot of push back. So it may be time to relook at it, she just knows in the last five years there was a fair amount of resistance. She thinks it would be worthwhile to look at what the purposes of these things are because the undisturbed buffer came through our old form of development following sort of the rural suburbia pattern for separation of uses. She said it may be time to look at what that undisturbed thing means as opposed to planting and distance – what is the appropriate distance for plantings to either screen or buffer which is less than a screen or to obscure things. She said it may be some relevance in relooking at that, but the distance for the setbacks was not something we were able to accomplish.

Ms. Firehock said she would concur with maybe looking into that question of what is that buffer made up of and she would note that in my experience in looking at a number of applications where people have said they would screen something the most common thing they picked was Leyland Cyprus, which then dies ten years later. She said it is picked up as a screening plant, and then it dies out. Even looking at the quality of what is being chosen and recommending things that are long lived so that the point of the buffer is not gone in 10 or 15 years. She said if we go there later on in a different process, she would like more thought on that mix of things.

Mr. Keller pointed out to Andrew that he thinks that term “undisturbed” has gotten us into some interesting questions in terms of steep slopes and so he would encourage him to add undisturbed as much as buffer. He said he would not dare to go to steep slopes at this point, but the undisturbed versus managed on that again is another one of these interesting things that maybe we over time could clean that up to clearly define what we mean by that. He asked staff to move on to question #4.

Mr. Newberry pointed out that question #4 was worded a little bit differently in the staff report but it was getting at the Neighborhood Model principles and particularly the proposed parking area at the front of the site and whether or not the Commission believes that should be relegated.

Mr. Lafferty asked if they put it at the back of the site if that would be very close to the housing back there.

Mr. Newberry replied it would be closer to the residences.

Mr. Lafferty said he did not see much in the way of other possibilities right now.

Ms. Spain agreed with Mr. Lafferty that she did not see other options, but her only concern is the size but would defer to others who know more about the daily traffic and the parking needs of staff and visitors to the center.

Ms. Firehock said even the elevation lens are quite faint on the sketch and you can see that there are many steep areas. Having been to the site many times Ms. Firehock said she thinks if you were to try to relegate it to the back and actually work it out that would require a lot of additional paving to get the access lane to the parking to wind all around to get it to a spot where you could fit it. In the interest of not making the county more impervious Ms. Firehock recommended leaving it where it is. Again, with her earlier comments of trying to play with the variable space sizing and other things to make it less impactful and landscaping to make it more attractive.

Ms. Riley said she did not think relegated parking in this situation is very practical and/or necessary if we can maintain a good buffer with Berkmar Drive, which there seems to be probably plenty of trees to do that. She said having visited the site yesterday there was high activity and thinks there is some real argument for the function of people being able to park and get in and out of that front entrance way without having to be hit by cars in trying to go some other way.

Ms. More agreed with fellow Commissioners.

Mr. Dotson said he would like to see one particular alternative location explored before it comes back and that would be an area that is on the northwest side of the entrance drive. Having been out there today he could not see well but it looks like there is some sort of fenced exercise facility or something. He did not know whether those might be shifted up to the area of the proposed parking lot and they might have less impact on the vegetation and the screening than the parking lot would so he would like to see that explored. He thinks the whole issue, this is sort of stepping back from this proposal of relegated parking is in fact an issue. Right across the street at the Signature Spa the parking is rather obviously in front so an equity and consistency basis you could say that is a rationale to do the same thing here. On the other hand, if we say that we will never achieve relegated parking. He knows that Colonial Auto has raised the issue a little further down Berkmar where they have an entrance on Berkmar and have sort of told us how that land is used in the positioning of that building will be an issue at a point in the future and it has been said by at least one supervisor that the question of uses, setbacks and relegated parking along Berkmar should be studied. At one point, he had thought it would be part of the small area plan, but it does not appear to be since the small area plan is not getting into that. Therefore, every time we make a decision on

relegated parking we need to think about the precedential effect of it, but that is not necessarily a controlling factor. However, in this particular instance Mr. Dotson said he would like to see an exploration of shifting it back to that area that he indicated on the upside of the drive.

Mr. Keller agreed with all the points. He asked Mr. Newberry if he needed any more input from the Commission or applicant.

Mr. Newberry replied that he did not think so and thanked them for all the feedback and thoughtful analysis of the site.

Mr. Keller thanked the folks from the SPCA for bringing a very positive project and for all your good work in the community.

Committee Reports

Mr. Keller invited committee reports.

Mr. Dotson reported on today's Residential Impact Fiscal Committee that Mr. Keller is part. He said the Committee has been looking at a series of alternative tools that might get at addressing fiscal impacts in one way or other. Today we talked about special use permit procedures, special districts, and road impact fees that one jurisdiction in Virginia is using. The committee decided today having looked at all the tools that they should be put into a matrix so we can see comparatively on one sheet of paper the advantages, disadvantages and where it is appropriate. The feeling of the committee at this point was we are probably going to end up proposing to the Board multiple tools rather than any one tool. The committee discussed impact fees and that it might be the fairest way to address by right development and development that might require a rezoning or a special use permit.

Ms. Firehock reported the Storm water Task Force will meet on September 11th at 4:30 p.m.

There being no further committee reports the meeting moved to the next item.

Old Business

Mr. Keller invited old business. Hearing none, the meeting moved to new business.

New Business

Mr. Keller invited new business.

Mr. Gast-Bray reported on scheduling for future meetings.

Tim Keller said there will be no Planning Commission meeting on Tuesday, September 12, 2017 and September 19, 2017. Mr. Keller said the next regular meeting will be on Tuesday, September 26, 2017 at 6:00 p.m.

There being no further new business, the meeting moved to adjournment.

Adjournment

With no further items, the meeting adjourned at 7:23 p.m. to the September 26, 2017 Planning Commission meeting at 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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Andrew Gast-Bray, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)

Approved by Planning Commission
Date: 12-19-2017
Initials: sct