Albemarle County Planning Commission
April 24, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, April 24, 2018, 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; Pam Riley, Vice Chair; Julian Bivins, Daphne Spain; Bruce Dotson, Jennie More and Bill Palmer, UVA representative. Karen Firehock was absent.

Other officials present were J.T. Newberry, Senior Planner; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Rebecca Ragsdale, Senior Planner; Sharon Taylor, Clerk to Planning Commission 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.

Mr. Keller said he understands that we have a guest in the audience that is part of our training process for Planning Commissioners and the Commonwealth of Virginia and my colleague is going to introduce him.

Mr. Bivins introduced Ron Williams from the Greene County Planning Commission. He said we are in the final weeks of a Certified Planning Commissioner Program and one of our homework assignments was to do an exchange between Planning Commissions. He said Ron invited me to the Greene County Planning Commission, which was a grand experience and so he is here with us tonight. He thanked Ron for being here tonight.

Mr. Keller thanked and welcomed Mr. Williams.

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. Hearing none, Mr. Keller said the meeting would move on to the next agenda item.

The meeting moved to the next agenda item.

Public Hearings

ZMA-2017-00008 Charlottesville-Albemarle SPCA Renovation and Expansion (Sign #95) MAGISTERIAL DISTRICT: Rio TAX MAP/PARCEL(S): 04500-00-00-08800 LOCATION: Approximately 500 feet northwest of the intersection of Berkmar Drive and Woodbrook Drive PROPOSAL: Rezone to match zoning of adjacent parcel containing the CASPCA facility PETITION: Rezone 2.53 acres from R6 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 and residential by special use permit (up to 15 units/ acre). OVERLAY DISTRICT(S): AIRPORT IMPACT AREA, STEEP SLOPES – MANAGED PROFFERS: NO COMPREHENSIVE PLAN: Urban Density Residential in Neighborhood 1, Places29 Master Plan, Rio CAC area. (JT Newberry)

SP-2017-00022 Charlottesville-Albemarle SPCA Renovation and Expansion (Sign #95) MAGISTERIAL DISTRICT: Rio TAX MAP/PARCEL(S): 04500-00-00-08600, 04500-00-00-08800 LOCATION: 3355 Berkmar Drive, approximately 500 feet northwest of the intersection of Berkmar Drive and Woodbrook Drive PROPOSAL: Construct several additions to the existing CASPCA facility totaling approximately 12,500 square feet, expand and relocate outdoor area for exercise, and provide additional parking and a stormwater facility. Request includes the ability to expand the use and additional structures including a training facility without a limit on square footage on TMP 04500-00-00-08800. PETITION: Expand existing animal shelter permitted under Section 22.2.2.13 of the zoning ordinance on a total of 8.9 acres. No dwelling units proposed. OVERLAY DISTRICT(S): AIRPORT IMPACT AREA, STEEP SLOPES – MANAGED ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre) and R-6 Residential - 6 units/acre. COMPREHENSIVE PLAN: Office R&D Flex Light Industrial and Urban Density Residential in Neighborhood 1, Places29 Master Plan, Rio CAC area. (JT Newberry)

Mr. Keller noted that staff will speak to both ZMA-2017-00008 and SP-2017-00022 Charlottesville-Albemarle SPCA Renovation and Expansion and we will break that into two public hearings.

Mr. Newberry said before he gets started he wanted to point out that it has come to my attention that the cover sheet for the special use permit staff report has the wrong magisterial district listed. He said it notes the Scottsville District as the magisterial district but it is in fact the Rio District and the good news is that the legal ads for both applications reflect the correct magisterial district.

Mr. Newberry said as you noted Mr. Chair he will be going through both the rezoning proposal and the special use permit proposal tonight. He would like to start by going over just a broad overview of both applications, then we will go into the rezoning application a little more closely and then the special use permit. In the PowerPoint presentation, he said the pictures on the title slide would be the pets that he has adopted from the SPCA. He noted the slide shows the existing site plan. He pointed out Berkmar Drive; the driveway that curves around to the existing facility; the outdoor exercise areas around the existing facility on the north side; trails that curl around and an exercise area in the south corner of the property.

Mr. Newberry said the next slide shows the proposed plan for both the rezoning and special permit. He said highlighted in yellow are the proposed physical improvements associated with the special use permit request. That would include the parking area at the front of the site as well as additions at the front, rear and sides of the buildings. The parking area on the south side would also be expanded. He noted shown in blue on the projector that area shows the developable area being considered under the rezoning. There are some notes at the bottom of the plan sheet that he wanted to highlight. These are rather important notes that demonstrate the applicant does not have a firm plan for what that area could include but they are noting that a training facility could be possible as well as accessory structures. The other important note is that the plan is for existing vegetation to remain and satisfy buffer requirements. He said there would be supplemental landscaping wherever needed.

Mr. Newberry said to sum up that broad view staff is not recommending approval of the rezoning as proposed without a commitment to limit uses to those available in residential districts. However, we are recommending approval of the special use permit and associated special exceptions with conditions. He said next he would jump into the rezoning analysis and this attachment is actually found in the special use permit report but it shows the existing facility on properties zoned C-1 and then it also labels parcel 88 to the south, which is currently zoned R-6. Other parts of the area that you may

be familiar with are Lowe's at the intersection of Woodbrook and Berkmar and then Agnor Hurt Elementary School also not far away.

Mr. Newberry said the next rezoning map has a little bit of additional detail – the highlighted parcels reflect prior rezonings where many of them have had proffered out uses. He said it was just to show that as consistent with other rezonings in this area we would be recommending that there be limits on the proposed uses. Next, is the Comprehensive Plan map that shows in purple the Office R&D Flex Light Industrial; orange is Urban Density Residential; the pink is Urban Mixed Use and the red is Commercial Mixed Use.

Staff found two favorable and unfavorable factors for the rezoning.

Favorable Factors

1. The C-1 zoning district will enable the applicant to request a special use permit for an animal shelter.
2. If the property is combined with the adjoining SPCA parcel, a single larger C-1 parcel will be created rather than a parcel with split-zoning (R-6 and C-1).

Unfavorable Factors

1. Without a commitment to limit uses to those available in residential districts, the request will not be in conformity with the Comprehensive Plan.
2. Without a commitment to limit uses to those available in residential districts, any commercial use allowed in the C-1 district would be possible on the property.

Mr. Newberry said without a commitment to limiting it to those uses available in residential districts staff does not find that it could be consistent with the Comprehensive Plan. He said so that asks the question then what are the uses that we would recommend to be excluded and so on the next two slides he has the by-right and by special use permit uses that we would recommend to be excluded. He noted that some of these things have probably greater compatibility or less compatibility with the residential area but these are ones that staff think should be excluded. He noted here are the special use permit uses that fall into that category. So again, staff cannot recommend approval of the rezoning at this time and next is the recommended motion slide.

Mr. Newberry noted that he would like to continue just to get through the special use permit analysis and then ask for any questions that you might have. Again, staff is recommending approval of the special use permit with conditions. Staff found four favorable and no unfavorable factors to this request. He said the SPCA has operated at this site without any complaints for over 15 years. They obviously provide a very valuable function to the community. Most of the activity would occur indoors and they are enhancing the required buffer by 10' from 20' to 30' around the adjoining parcel. The recommended conditions of approval reflect a lot of the same conditions that were approved with the amendment in 2007. Included in this list are some essential elements that were not present in the prior approval. It included things like the location of the parking areas and the buffer zone he mentioned. Another condition that was modified slightly related to fencing from the approval from 2007 would be shown in condition #6. The approval in 2007 was focused on the fencing immediately adjacent to Berkmar Drive understanding that there is additional fencing that would be needed should

parcel 88 be rezoned and utilized and staff just wanted to include that additional area under that condition.

Mr. Newberry said there are some special exception conditions staff recommends to not restrict the use beyond anything that had been requested but clarify the extent to which we are approving it. He said that the parcels 2 and 3 are needed to note the difference between the 20' and 30' buffer. Condition #4 is similar to what you recently saw with Willow River Vet Service. He said this is just a way that the applicant submitted information about the construction materials and construction type that would impact noise and this is just a way to ensure that happens with the building permit review. So with those conditions, staff is recommending approval as noted on the slide. He said he would take any questions.

Mr. Keller invited questions for staff.

Ms. Spain said since we had the work session and then you met with the applicants in a pre-application session why were the conditions not worked out in either of those situations in your unfavorable factors. She asked has the applicant expressed a preference not to go by those conditions.

Mr. Newberry replied that he would like to let the applicant talk a little bit more about their thinking behind that; but yes it is something that we have talked about and he thinks they will definitely address that he would assume with their presentation. He noted it is something that we have broached.

Ms. Spain asked staff to put up the slide showing the uses not acceptable.

Mr. Newberry noted there were two slides – this slide is the by-right uses.

Ms. Spain asked why would eating establishments be excluded if we are trying for mixed uses. She said the whole point is to change it to C-1 rather than R-6, but since there are residential areas around there.

Mr. Newberry said the anticipated impacts that are possibly generated by an eating establishment in our experience has been incompatible with a dense residential district without some careful planning. It would include the parking, drive through windows, hours of operation and lighting. Those are things that if a future eating establishment wanted to come back and rezone the parcel to allow that use staff would have another opportunity to identify the impacts and cater the recommendation to approving a use like that.

Mr. Dotson asked Mr. Newberry to explain factor 2 further on the unfavorable factors.

Mr. Newberry replied sure, so if parcel 88 – the 2.53 acres south of the existing facility rezoning is approved without any limitation on uses the combined acreage of both the existing facility and the proposed parcel would represent a pretty significant area for unfettered C-1 uses which include all of the things listed on the slides which without any limitation at all gives staff pause about whether or not it would be appropriate to a residential area.

Mr. Dotson replied that he shared that concern going back again to factor 2 without a commitment to limit uses to those available in residential districts sounds like this would be an allowed use in a residential district – but that is not the case correct. He said the Zoning Administrator has found

that this would not be allowable in R-6.

Mr. Newberry replied yes, and so the applicant would then limit everything except for an animal hospital or a vet use.

Mr. Keller opened the public hearing both the ZMA and the SP but they were going and members of the staff and the board are present to answer questions. He said he wanted to read a brief statement on the SPCA to highlight the organization's value to the community because he thinks it is important in the context of the services that they provide hereto address them separately. He invited the applicant to address the Commission.

Mr. L. J. Lopez, with Milestone Partners, said we were several months ago to talk about the CCP request and since then we have worked with staff to work on the plan that is here before you both in the ZMA and the SP with exceptions. He said their project team.

> "The Charlottesville-Albemarle SPCA founded in 1914 a non-profit open admission animal shelter whose purpose is finding permanent adoptive homes for animals in addition to functioning as a non-profit organization the SPCA performs an important community function by providing pound services to the City of Charlottesville and Albemarle County for ceased, stray, homeless, abandoned or unwanted animals. The organization also serves the community by offering lost and found services, low cost spray neuter vaccinations, micro-chipping as well as educational opportunities, youth camps, pet therapy and dog obedience. The SPCA provides employment for an average of 60 people and serves over 2,700 shelter animals a year more than 4,500 spray neuter surgeries were performed in 2016 and 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. Thank you for indulging me on that.

Mr. Lopez said regarding the ZMA and Ms. Spain to your question on why since the CCP we had not worked out the issues on limiting uses and it really comes down for us to the philosophical question of contiguous parcel, common ownership and a single tax/map parcel with split zoning designation when the current parcel has no limited uses. It is C-1; it is an animal shelter use and it will be common ownership with access to Berkmar Drive and in the Berkmar Corridor would it not be appropriate in some future condition or reiteration for those uses to be consistent and available. He noted financial institutions and a building/supply store are found right across the street. He said while we are amendable to conditions and limiting perhaps some uses and he thinks initially it was auto centric and as we furthered the discussion, it came to limiting all uses specific only on the southern parcel shaded in blue on the screen all uses with the exception of the animal shelter use. He said we are open to some limitation of uses but a carte blanche limitation felt inappropriate given the contiguous nature unified parcel for ease in administration over the long term and in addition he thinks the Comprehensive Plan is up for perhaps small area plan rethinking in the near future for the Rio Corridor. While that Comprehensive Plan and the lens by which staff has to evaluate the application suggested at the time it was created that was the appropriate use that may be re-thought with Berkmar Drive and the bridge and the development that has happened on 29 and currently. Therefore, there may be a disconnect in the Comprehensive Plan and what its update may hold in our future to what this application is ahead of that update. Therefore, again, he was not opposed to some limitation of uses but we felt that as strongly as limiting to only the

animal shelter use was inappropriate.

Mr. Lopez said speaking to the SP the SP conditions that staff has recommended consistent with the current SP clarification of those for the current parcel and expanded onto the southern parcel and also an expansion on the buffer again because it is residential uses we felt were appropriate and consistent and had no issue with. So relatively to the SP the conditions that staff has recommended the applicant take not exception to those. He said we are here to answer any questions.

Mr. Keller invited public comment. Hearing none, Mr. Keller invited the applicant to come forward for questions.

Mr. Dotson said an historical question when the initial meetings were had with staff the hope he believe was to have a zoning administrator determination that R-6 would allow this use. He asked is that correct.

Mr. Lopez replied that he believed that was the case, and it was found to be not consistent with the proposed training facility in the R-6 district and so therefore it led us to the C-1 rezoning to make consistent with the adjacent parcel.

Mr. Newberry said Mr. Dotson, we like you desperately wanted to call this a private school, a school of special instruction, a public use and that we really feel like we did everything we could to wish hope and try to make that a possibility. He said Mr. Blair may want to add some background on the public use since we looked into case law about the limitations there and working with the zoning administrator as much as we could to find something but ultimately came up short.

Mr. Dotson said my point is that the goal of the applicant was to be able to have the expanded facility; the goal was not to have C-1 zoning.

Mr. Newberry said he thinks that was the focus of our work session.

Ms. Riley asked him to explain more fully what you are open to in terms of limitations of uses and she did not know if it was useful to have those by-right put up but in follow up to what Mr. Dotson has said she said we all are assuming that it is the intent of the SPCA to expand their facility and their current uses. Therefore, she was interested in knowing what are some of the other limitations of uses that you think should be removed from this list.

Mr. Lopez replied this sole intent is expansion of the SPCA facility and currently we will be starting a renovation on the internal kennels at the facility. Therefore, that is an ongoing activity for us and this is helping prepare for the next phase of the expansion of the facility and its service offerings. What we had talked about previously at a high level were the were the auto centric uses, those with drive through, those on the retail/auto service stations, auto truck repair shop and some of the more manufacturing industrial type uses that may exist within the C-1, but those that are evident and exist across the street felt inappropriate particularly given the fact that the existing current SPCA parcel is C-1 without restrict and doing a boundary line adjustment, which will be in process as an application to be submitted will have a single tax map/parcel with split designation and the administration of that has been proven over time and through experience to create complications and intricacies of future applications. Therefore, this was in an effort to minimize

the complexity and complication to unify the parcel and make consistent across the current and the proposed southern parcel.

Ms. Spain said that she can understand that desire for consistency in the fact that you can't see reason why exclusions would be applied to the new parcel that have not been to the old parcel. Ms. Spain said my sense from the staff report is that the staff believe that the SPCA is feeling in good faith and this is all fine, but if the two parcels are combined and at some point in the future the SPCA decides to sell that whole parcel because there are less expensive accommodations somewhere else then all of these things would be of concern. Therefore, she thinks the point is it is not just about the SPCA it is about what will happen to the parcel in the future and that is the purpose of the request. She asked is there some way as Ms. Riley suggested bargain some of these or discuss and negotiate.

Mr. Lopez replied absolutely, as he said in the opening remarks we are open to some limitations, the Cart Blanche limitation of all with the exception of felt inappropriate. He said the limitation, again, is only on the southern parcel so there is a five acre parcel that is C-1 that would have no restriction on it so there is still in the scenario that you outlined there is still a five acre parcel that SPCA could relocate and there could be only of those C-1 uses available to it and a limited of series of uses on the adjacent contiguous common ownership parcel of 2.8 acres. So, again, we are open to limitation and he thinks the auto centric and light manufacturing uses above are in the realm of consideration and appropriate all with the exception of the animal shelter felt inappropriate to us but as our common goal to support the renovation and expansion of the SPCA's offerings in that location if the will of the Commission is to limit it in its entirety we would give strong consideration to that as well.

Ms. More said when we met in September the discussion was about if this was a use allowed if the zoning administrator could answer that question so we know the answer to that now. But, she thinks we also were talking about do we need a comp plan amendment and from reading back in the minutes and staff outlined this nicely in the report there were some reasons why we did not feel that was necessary and one of those was restrictions on the use could be proffered such that the parcel did not become commercial. She said she understands what he was saying about the desire to keep that consistency when you have the contiguous property. She said staff pointed that out as a favorable factor even though it is to me a little bit of a contradiction because it is an unfavorable but it is a favorable factor. She said when you talk about small area plans and changes that might happen, maybe that would become a use that is appropriate at some point, and you have proffered away these things and asked staff what that process would look like to back track and restriction could be redone.

Mr. Newberry replied that he would have to confirm with Mr. Blair, but he would say that if a future Comprehensive Plan designated that area for an appropriate C-1 zoning then he thinks it would be incumbent upon the owner to request that the proffers be removed. He said that is the only process that legislatively the governing body does not have the authority to remove proffers.

Mr. Blair agreed and noted that it would be a zoning map amendment (ZMA) to modify or remove certain proffers.

Ms. More said if that was a path we went down and if the future unfolded they did want to relocate and did want to have those proffers removed there is a process for that.

Mr. Lopez said that was understood and he knows that process is available but as you indicate not always the most enjoyable and we would like to avoid it. He said also from a timing standpoint whatever the future circumstances may hold that becomes yet another process to pursue. Again, looking at the current conditions and the factors to consider C-1 exists the facilities there, it is five acres, you have an adjacent contiguous land lock 2 acres, and consistency in my mind is key and uniformity. So that was the main driving force behind and we understood that staff's limitations on the lens by which they made the recommendation and the factors at which they look at to consider were limited and he thinks share an open minded perspective to what we use quite frequently let's just agree to disagree given the factors and the perspectives that we each had. So we wanted to raise it to the Planning Commission and just see what the will of the Commission was and how you felt about that going forward and again he thinks the auto centrix which was the initial discussion and conversation at the CCP if he was recalling correctly on limitations of uses and then that has extended to beyond the auto centric limitations of uses there may be some middle ground.

Mr. Keller invited other questions.

Mr. Bivins asked the applicant to tell me if we walk through the phases what is going to be done on parcel 86 and what will be done on the two-acre parcel.

Mr. Lopez replied that the large parcel to the north, parcel 86, would encompass phases 1 through 4 of the renovation plan. He said the renovation and expansion plan dates back to 2014 when the SPCA embarked upon a master planning exercise in envisioning its future – what will we become when we grow up and so what you see here encompasses all of those. He said phase is the dog kennel and outdoor atrium renovation; phase 2 is a cat facility, veterinary clinic, additions, and site work, parking the sally port intake and kennel additions. Those exist in the south addition showing the veterinary clinic, the cat facility and parking to support that. That is the primary large massive expanse of the facility. Once we relocate the veterinary clinic that exists in the facility today. He said phase 3 would be the main building interior renovation. He said phase 4 is the entry, new canopy and façade addition. He said that is the face-lift and once we are all said and done it gets a new front door. He said phase 5, which was referenced in what Mr. Dotson had identified as in the R-6 District could we find a way for a private school, education facility or some way not to undertake this process and limit it to special use permit the exceptions and proceed forward. He said we could not get there so here we are. He said phase 5 is a training center, a support building, inclusive of outside fenced exercise areas and trails. So what we have on the existing parcel are outside fenced exercise areas, trails, those are training and exercise would expand outside of the buffer areas that we have already designated. He said in addition, there would be a training facility building and that is to be determined size and square footage but would occupy educational classes and dog obedience training, etc. within that space not housing animals.

Mr. Lopez said that while he knows one could never say that it is going to take this long but do you have any idea when the SPCA might even get to phase 5.

Mr. Lopez replied that the SPCA every day gets closer and closer to it. If he was to target the date, he knows he would be wrong today.

Mr. Bivins said we are just looking into the future, and Mr. Lopez replied looking into the future they want it to happen sooner than later. He said it is an inevitability that it will happen and phases

1 through 4 are ongoing. He said we have started phase 1 in a linear fashion we will move through the phases 2 through 4 and he is going to have to look to the executive director and see if she can voice a time frame for the training facility.

Angie Gunter, Executor Director of the SPCA, said that for phase 5, the training facility that one is so important to me because she believes the future of animal sheltering is behavior. She said the more and more we become no kill the more animals we see that have behavior concerns that could be shyness. Ms. Gunter said she would love to be able to offer to our adopters to bring their dogs back to have ongoing training so we can keep animals in their homes. She does not have a specific time frame since money is always a factor as well, but that is very important to us.

Mr. Keller thanked Ms. Gunter and asked if there were any further questions for the applicant. He invited the applicant back for rebuttal.

Mr. Lopez thanked the Commission for their time and said as you deliberate if you have additional questions that we are here to answer them. He thanked the Commission for your consideration and we hope we can leave tonight with a recommendation for approval.

Mr. Dotson said that he had a comment to which the applicant could respond if chosen to respond. He said you indicated that you were concerned about what you labeled a cart blanche limitation and he thinks you have heard perhaps from every commissioner concern about cart blanche no limitation so we have kind of defined the poles. He said the difficulty for me tonight is where are we in between those two poles. He said we have not been brought a list of acceptable uses so how can we act without giving Carte Blanche no limitation. He said that was a statement and a question.

Mr. Lopez said he would ask in return is a position of the auto centrix uses that we previously had talked about and are there those in addition to that the members of the Planning Commission feel strongly about and maybe that is a starting point of auto centrix plus the light manufacturing, laboratory and manufacturing uses that are identified there. He asked is that the middle ground in addition to other number of others that we are happy to discuss and entertain.

Mr. Dotson said a question to staff he asked what is on the next slide.

Mr. Newberry replied that the next slide has the special use permit uses that are recommended to be excluded. He said these two slides comprise all the C-1 uses both by right and by special use permit that staff has recommended to be excluded. He said asked if he could cross out the auto service station.

Mr. Keller said that he did not know that this is the appropriate way to do this and he thinks they need to close the public hearing and come back for discussion. He said this is not a negotiating point.

Mr. Dotson noted that it would have been very helpful if we had a proposal put before us tonight, and Mr. Keller agreed.

Mr. Keller closed the public hearing to bring it back for discussion and action.

Ms. More said she had a question for staff for the parcels that are on Berkmar Drive, 109C3 and 109C2 what are the current uses there.

Mr. Newberry replied when looking at the two adjacent ones, one is an office and one a printing company. He said Print Source would be parcel C2 and parcel C3 is some kind of office use.

Mr. Keller said his inclination was to follow Mr. Dotson on this one. He thinks that if the applicants had come in with a specific list that we could evaluate but not hearing that my inclination is to follow the staff recommendations on both of these issues.

Mr. Dotson said procedural question for the county attorney if the Commission were to disapprove the rezoning with some commentary perhaps attached to it would it go on to the Board of Supervisors or does that end it and close the file.

Mr. Blair replied no, it would be a recommendation of denial to the Board of Supervisors but it would still proceed to the Board with a recommendation the Commission might have.

Mr. Keller said if we continue with the digital cross out and came up with a subset of things that would be appropriate then we could make that recommendation in our motion to the Board of Supervisors.

Mr. Blair replied sure.

Ms. Riley said just to continue that line of thinking or action we might not be able to come up with a conclusive of everything we want to eliminate but we could maybe make the recommendation to the Board of Supervisors about those that we felt sure about. She said some of the concern she has here is the process does not seem appropriate to me to be doing this negotiation process at this stage. Therefore, she was hoping that we could maybe have a different process suggested by somebody up here or the staff.

Ms. More said she would prefer not to sit and go through and cross off but she thinks what Pam is saying if we recommend denial but have that pass on to the Board that maybe the applicant could come back with something that they feel comfortable with that maybe they look at that list harder or maybe that is up to the Board's decision and if they want to work with staff in between to come up with a list rather than us sitting here and doing that.

Mr. Gast-Bray said he just had one small consideration in that context not that he disagrees with that. He said one of the concerns he would have is that the way that we set this process up is to have the public interaction so if you imagine that part of the reason why the zoning was the way it was. He said it was predicated on Berkmar being a commercial strip and the commercial district was adjacent to that. He said this is behind that which is immediately adjacent to a residential neighborhood and so before we open this up it would be appropriate to make sure that we could reach out to the neighborhood behind who is sort of being protected by the zoning that is extent to have that kind of ability to weigh in on that. He was just concerned with the shorter time frame that they would maybe not know and it might actually slow up the application of the applicant at this time if there are a lot of objections to some of the things that come without that public dialogue given the limitation at the time, it is not impossible obviously the Board of Supervisors is a public hearing and so that could be the venue to do that. However, sometimes as we all have seen

if that is the only time, you get to see something it is often a stickier situation than in the normal process. Mr. Gast-Bray said that is just something to consider about the process alone.

Ms. More said she thinks there was a community meeting held and those that attended were presented with the request that there are no restrictions and so she thinks that the applicant may want to readdress that.

Mr. Keller said they had actually closed the public hearing but since it had been brought up he asked the applicant for input on that.

Mr. Lopez said in the spirit of the context of the discussion, listening to you and consulting with the board and staff if the will of the Commission is to limit the uses and proceed forward with the recommendation for approval with the shelter use only the applicant would be amendable and open to that. He said we could take off the negotiation as there is no proposal before you, we would leave for the future opportunity to come back and readdress with the ZMA application and discuss uses based on the Comprehensive Plan in the future, and we are only talking about on the southern parcel shelter use going forward.

Mr. Keller thanked Mr. Lopez.

Mr. Blair asked if the Commission would like consider that perhaps you re-open the public hearing and just for the record have the applicant state that as part of the public record.

Mr. Keller invited the applicant to restate that for the record.

Mr. L.J. Lopez, with Milestone Partnership, thanked the Commission for the opportunity to let him address them again. He said for ease and convenience in moving forward in the discussion this evening we appreciate the time you have offered and the consideration you have given to it. He said without wanting to go into a negotiation here as this is not the correct forum for it we have two kind of polar positions given that the SPCA's sole objection is the training facility and the expansion of the shelter use on the southern parcel adjacent and contiguous to its current facility. He said we are open to limitation and restriction of all uses with the exception of the shelter use on the southern parcel.

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

Mr. Dotson said that he was prepared to make a motion.

Mr. Keller invited motions and we are going to do this as two pieces.

Mr. Dotson moved to recommend approval of ZMA-2017-008 Charlottesville-Albemarle SPCA Renovation and Expansion to C-1 with the understanding that the applicant is proffering restriction of use to the expansion needs of the SPCA and recommending the conditions as outlined in the staff report.

Ms. More seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

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

Mr. Dotson moved to recommend approval of SP-2017-00022 Charlottesville-Albemarle SPCA Renovation and Expansion including the conditions as outlined by the staff in the staff report. Mr. Dotson noted they do not need to address the special exceptions in this case since that is a matter for the Board of Supervisors and he is not addressing those in the motion.

Ms. More seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

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

Mr. Keller said this moves forward to the Board of Supervisors with a recommendation for approval. He thanked the SPCA for their service to the community.

Mr. Newberry thanked the Planning Commission since this might be his last time before them since he was transitioning to the Economic Development Office.

Mr. Keller thanked Mr. Newberry for his good work and looks forward with continuing to work with him.

The meeting moved to the next item.

ZTA-2017-01 Residential Tourist Lodging

The Planning Commission will hold a public hearing on April 24, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, to receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: Amend Section 18-3.1 to remove the definitions of bed and breakfast and tourist lodging and add a definition for homestay; Remove and Retitle Section 18-5.1.17 to Homestays; Retitle Section 18-5.1.48 from Bed and Breakfast to Homestays; Amend Section 18-5.1.48 to clarify that residency on a parcel requires at least 180 days of residency within a calendar year, require homestay owners to provide the owners' contact information to abutting property owners, permit an entire residence in the Rural Areas Zoning District to be rented for a maximum of 45 days in a calendar year and a maximum of seven days in any one month during the calendar year, and to permit homestays in duplexes, townhouses, and single family attached units in residential zoning districts; Amend Section 18-10.2.1 to replace the term bed and breakfast with homestay; Amend Sections 18-12.2.1, 18-13.2.1, 18-14.2.1, 18-15.2.1, 18-16.2.1, 18-17.2.1, 18-18.2.1, and 18-20A.6 to replace the term tourist lodgings with the term homestays; Amend Sections 18-19.3.1 and 18-20.3.1 to add homestays as a by-right use; Amend Section 18-4.12.6 to replace the terms tourist lodging and bed and breakfast with homestay and require one off-street parking space per guest room in addition to the parking required for a single family dwelling; Add Section 7-600, et seq. to establish a registration process for homestays including penalties for failing to register as well as a prohibition for offering a specific property for homestays if the property is the subject of multiple violations of applicable state and local laws and ordinances . A copy of the full text of the proposed ordinance amendments is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road,

Charlottesville, Virginia. (Rebecca Ragsdale)

Ms. Ragsdale presented a PowerPoint presentation to summarize the staff report for ZTA-2017-01 Residential Lodging. She said that staff has been discussing ordinance changes with the Commission since October and the Board of Supervisors initiated this effort in March. She thanked the Planning Commission for all of the good work sessions and discussion as we worked through getting through this milestone in the process. The game plan is we will have the public hearing this evening, receive any comments from the Commission and the public and the Commission would make a recommendation onto the Board of Supervisors. She said we have a work session with the Board of Supervisors scheduled for June 13 and then a public hearing on July 11 tentatively after the work session. This effort is borne out of our Comprehensive Plan with the last update to study the nature and extent to which transient lodging is occurring in the county and see if we need to update the ordinance. She said also as a phase 2 to the efforts work on compliance. There are concerns that there may be a number of operators out there that may not be compliant. Therefore, throughout this process we have tried to strike a balance between the economic aspects of this and then preserving rural character and development area neighborhoods.

Ms. Ragsdale said the direction from the Board was to consider allowing some more flexibility in the ordinance beyond what is currently in there. She said that was to deal with whole house rental to clarify and consider with the regulations what to allow in terms of rental when the owner of manager of a property is not present. Again, we are talking about the term the ordinance uses transient lodging, which is rentals of less than 30 days at a time and should not affect people that have long-term tenants beyond that. In addition, part of the process is to discuss whether we would allow this use in other dwelling unit types. Currently, it is only allowed in single-family detached dwelling units but also through this process we considered townhouses but also apartments which we did not ultimately recommend.

Summary of Recommended Changes

1. Replace the terms and definitions for “tourist lodging” and “bed and breakfast” with “homestay”
2. Allow whole house homestays in the RA zoning district subject to the following:
    a) No more than 7 days in a given month but no more than 45 overnight stays per year;
    b) Require a log of whole house rental days and available upon request by Zoning Administrator
3. Require that homestays provide neighboring residents local contact emergency information on the host doing the rental;
4. Allow up to 2 guestrooms for homestays in townhouses and attached units with owner or manager present during rental (No whole house rental)
5. Require parking to be located off-street for both Residential and Rural Area homestays
6. Adopt the Short Term Rental provisions of the Code of Virginia into Chapter 7 of the County Code

Accessory Tourist Lodging (Residential districts)

Existing:

- Rent up to 5 rooms inside a single family detached (SFD) structure
- Owner/tenant must reside in SFD

Proposed:

- Rentals required to provide neighbor notice
- Up to 2 guest rooms in TH/SFA with owner present

Bed and Breakfast (Rural Area)
Existing:
- Rent up to 5 rooms inside a single family detached (SFD) structure
- Or guest rooms may be located in accessory structures
- Second BNB allowed if there is a second dwelling with a development right and density met for each dwelling

Proposed:
- Whole house rental up to 7 days/month, no more than 45/year; log required
- Whole house rentals required to provide neighbor notice

Home Stay Registration
- Provides definitions of operator and homestay
- Requires annual registration
- Penalty of $500 fine per violation for not registering per day offered for homestay rental
- Prohibited from offering a property for a homestay upon conviction of three or more violations of any state or local regulation related to the homestay.

Ms. Ragsdale noted the next slide, Steps to Approval is what staff calls our three strikes you are out tool for enforcement if there is a repeated violation that someone is convicted of any state or local law related to home stays then they are prohibited from offering the property from rental. The way the application works is there is the application with Community Development with a $107 fee. The process is primarily inspection driven for a number of safety requirements that need to be met for the Building Code such as smoke detectors and then the Fire Marshall inspection requiring fire extinguishers and no electrical hazards. She said we make sure there is access for emergency vehicles to a property; that addresses are displayed and things along those lines. She said if necessary for properties that are on wells and septic or for properties that are providing any food the Health Department also reviews those. For those that are not providing food and that are on well and septic they are usually doing a review to make sure that the septic and drainfield are functioning properly and someone is not proposing more rooms for rent than they have number of bedrooms approved. Once that process is completed during the application process we would also confirm that the neighborhood has provided notice to their neighbors. This is something that we do now for our farm winery clearances. We have only processed a few of those but it is the applicant's responsibility to send the notice and then they provide the county a copy of it. Once that process is complete there are the monthly transient occupancy tax payments that would be due to Finance, then the log would need to be kept and available upon request for the whole house reporting, and then there would be the annual registry requirements. So everyone when they initially make their application to us would somewhat automatically be added to the registry and then we would have to implement the yearly verification of that.

Ms. Ragsdale said we had a lot of discussion about compliance and enforcement and we feel that we have taken a conservative approach to the ordinance and added a few things that would help with that.

Initial Outreach and Compliance Gap
- Publicize information

- Work shop for applicants
- Interactive on-line tool or video
- Explore whether inspections or process can be streamlined
- Proactively contact those who do not have permits based on on-line listings
- Reach out to hosting platforms

Enforcement

- Adopt short term rental registry provisions
- Annual registration
- 3 strikes you're out provision
- Report on # days whole house rental
- Provide neighbors emergency contact information

Ms. Ragsdale said as outlined in the report we would like to proactively reach out to people that are not currently licensed or having gone through the application process and do that in a number of ways as far as publishing the information and having work shops where we could bring in other people that are part of the process for sort of a one-stop shop. She said we did that after we updated the rural areas regulations in 2012. She said we did that back when applications were like a handful a year and now we have seen increases every year. She said so providing more interactive tools and reaching out to the hosts and the host platforms as we have talked about before would be something that we do after we get through the zoning text amendment process and as we said we will have to talk to the Board about any sort of resource allocation or funding that may need to be involved with this initially. We think after we do the compliance effort that the applications may level off a little bit. Then we have already talked about the registry and what enforcement tools that brings to us and she thinks that the things that we thought would help with enforcement are already covered in what she has summarized. We have recommended an ordinance that we think tries to strike a balance and get at some of the concerns that we heard from the public and the Commission during the work session but also adding that flexibility that we heard strongly from some folks in those September community meetings would like to see added.

Ms. Ragsdale said that brings us to the summary of changes that staff has recommended for the Commission this evening. She said the Commission would be moving to adopt the ordinance as provided in attachment D which includes the definitions, updates, the parking terminology updates and everything involved with making these changes that is sort of laid out nitty gritty in the ordinance for you that she did not go through in the presentation. She said the Section 5 and Chapter 7 text amendment was to add the registry.

Mr Blair asked to add one thing to Rebecca's presentation that he knows the Commission addressed and citizens commented on last time that we did add in the residency requirement specifically stated that you must reside at the parcel for a minimum of 180 days in a calendar year. He noted that was a concern of the Commission.

Mr. Keller invited other questions for staff.

Ms. More said since Karen is not here she would bring up one of her points in the last work session when we talked about in the rural areas for new homes that are built having a waiting period. She thinks that is something Ms. Firehock had suggested as a possibility to stop people from building a home just to use it for a home stay. She asked Rebecca what her thoughts were on that.

Ms. Ragsdale replied that it was something that staff did not recommend or feel that was necessary. She said it might be one of those other items that we can summarize for the Board. She said we feel like adding the 180-day requirement and the fact that this is intended to be an accessory use to a home that cannot otherwise be built because it has to meet all the development rights and density requirements so we did not feel that it was necessary.

Ms. More said with the other limitations in place as far as 7 days and those 45 overnight stays that it just might not be feasible as a moneymaking possibility and that she just wanted to bring it up because it was an interesting point that she made that addressed a concern that she thinks we all had.

Hearing no other questions, Mr. Keller opened the public hearing and said Vice Chair Riley would take it from here.

Ms. Riley invited public comment. She said we have four individuals signed up right now, but certainly, anyone would be able to come up after that. She invited the first person to come forward to speak.

Jim Donohue, President of the Canterbury Hills Neighborhood Association, said he was here tonight to speak in objection to five of the proposed changes to the Bed and Breakfast/Homestay ordinances. He said he would address each point on page 2 of the executive summary with the corresponding number found in that summary. Number one, we have no objections to replacing the various terms and definitions with the word homestay. Number two, as we discovered at the last Planning Commission meeting the off-street parking requirements that is 4.12.6 are meaningless under the current ordinances because under 4.12.8 on-street parking is allowed to meet those requirements. Specifically, 4.12.8 allows the parking requirements of this section to be satisfied in whole or in part by street parking, shared parking and off-site stand alone parking. He would like to go now to point six although this does not directly affect our neighborhood. We understand that parking is currently at a premium in many townhouse developments so the provisions of 4.12.8 would severely impact those residents. Point three, we have no opposition on whole house rentals in the rural area and appreciate the Planning Commission in deleting this from residential areas. We do not believe whole house rental in residential areas is in keeping with the Board of Supervisors strategic plan objectives of protecting the quality of our neighborhoods. Point four, we think it is naïve to expect home stays to rent without the owner present to maintain a log of the number of days rented each week and report monthly to the zoning administrator particularly when they would be reporting violations. Point five, providing local emergency contact information appears to be a reasonable requirement but who will enforce it. He asked does the county have sufficient staff to enforce these provisions. Finally point seven, we have not been able to study the Code of Virginia provisions for short-term rentals and currently have no position on this. He said his colleague, Bob Garland the secretary of the Canterbury Hills Neighborhood Association will address other concerns that our association has. Thank you and he would be happy to answer any questions.

Bob Garland, secretary of the Canterbury Hills Association, said he was here tonight to speak in opposition to the proposed changes to the residential tourist lodging or home stay ordinances. He said we believe that allowing up to five guest rooms to be rented in a single-family residence with no limit on the number of guests has the potential to adversely affect the quality of life for other

residents. He believed that all of us purchased our homes with the understanding we would be living in a single-family residential area. At the very least, we think that the city's limit of renting to no more than six guests is more reasonable particularly for residential area. The change in requirement for the owner or manager to reside on the parcel only 180 days absolutely changes the character of the property. We strongly encourage the Planning Commission to leave the current requirement for permanent residency in place. Additionally, we believe the owner should be required to live on the parcel rather than a manager. Without this requirement, businesses or individuals will be able to buy up multiple homes for short-term rental, which will decrease the number of homes for sale for long-term rental. He said he would remind you that the ordinances for both accessory apartments and home occupations require that the owner reside in the home.

Mr. Garland said as noted previously, the off-street parking requirements is meaningless and in some situations, other residents will lose existing on street parking. It is my understanding that the parking requirements for both accessory apartments and home occupations do not allow on street parking to meet the minimum requirements. Additionally, the home occupation ordinance specifies, "the traffic generated by home occupation shall not exceed the volume that would normally be expected by a dwelling unit in a residential neighborhood." Interestingly, the current ordinance under 5.2 still lists tourist lodging as a prohibited home occupation. Certainly, a Bed and Breakfast or home stay lodging is a home occupation and we believe the proposed changes are contradictory to the Board of Supervisors strategic plan objective of "protecting the quality of neighborhoods." We also support a requirement for periodic, for example, annual safety inspections paid for by the owner to ensure the property remains safe for guests after the initial inspection. In closing, this is yet another example of the county relying on residents to spy on their neighbors and report violations because there are simply insufficient staff to monitor these violations. Thanks so much for the opportunity to speak to you.

Supervisor Diantha McKeel said she lived in the Jack Jouett District and was here to make some very general comments most all of you have heard me say over the last four years. With that, Ms. McKeel said she is a 40-year plus resident of the urban ring in a development area neighborhood that predates homeowner associations and asks that you in general please protect the quality of our older existing development area urban neighborhoods that do not have the protection of a homeowner's association. She asked that you preserve the quality of life for those urban ring neighborhoods and folks that live there where Albemarle County wants people to choose to live. Please remember that these neighborhoods offer affordable housing and there is a concern in changing their character because we are already seeing as homes become available that they are turning into permanent whole house and short term rentals absent of owners who often live out of the area. Please remember as hard as our staff work in Albemarle County violations by complaint are not currently working. She said they are not working for current ordinance infractions. She said our staff lacks the enforcement tools to make them stick; staff has challenges in the number of staff that are enforcing them and there is retaliation in some of the neighborhoods for those neighbors who are considered the tattle tales and she can tell you personally that she has experienced that retaliation. With that, she thanked every single one of you for your service and appreciates you listening to me once again tonight about our older urban ring neighborhoods.

Travis Petrielo, with the Southern Environmental Law Center, thanked the Commission for the chance to comment again on this issue and hoped you received the email he sent yesterday. He said he would be recapping those comments here tonight. He said like many of you who are familiar of the advantages home stays can provide for both tourists and home owners but as you

consider expanding these uses it is also critical that it is done in a way that is consistent with the other goals and the overall vision of the Comprehensive Plan. We think that can be done successfully here so long as the county is cautious in opening the door to these uses. He said reasonable checks and balances needs to be put in place to make sure home stays do not proliferate in a way that would undermine the community's vision for the county. He said our chief concern remains of potential effects on the centerpiece of the Comprehensive Plan the growth management policy that directs new residential construction to the development areas to help preserve the county's rural heritage and natural resources. This ordinance has to ensure that we are not making home stays so lucrative that we are encouraging construction of new houses in the rural area that would not otherwise be built. He said we think it is safe to assume that the county does not want to create a rush to convert existing homes to mainly serve these uses either. One key protection staff is proposing is to place a reasonable limit on the number of days that whole house rentals can occur in the rural area. We strongly caution against going further than the staff's proposed limit of 45 days per year and 7 days per month. That would still enable a house to be rented nearly every other weekend of the year including every major travel weekend. Beyond that, we think there is a real risk that the commercial interest will overtake the residential on many of these properties. Second, we continue to recommend a waiting period before a newly constructed house in the rural area can be offered for whole house rental. We have seen an important distinction between the rental of an existing home and the rental of a newly constructed house in the rural area, which the growth management policy aims to avoid. He said a waiting period such as the five years Commissioner Firehock suggested at the last work session would remove much of the financial incentive to build new houses in the rural area yet it would not place any burden on those renting an existing home to help with their house payments. With so many unknowns about how expanding these home stay allowances will play out in the county this is exactly the type of issue the Comprehensive Plan is talking about when it advises that the changes to rural area uses should take place slowly with enough time to evaluate the potential impacts. He said it warrants a thoughtful and careful approach and we think the protections we have noted tonight are a good place to start. Thank you.

Ms. Riley invited further public comment on this topic.

Hearing none, Mr. Keller closed the public hearing to bring the matter back for discussion and action.

Mr. Bivins said that he had been trying to reconcile particularly in the residential area in why we would have two guestrooms in a townhouse. He noted a townhouse community could be right next to an existing single-family community or part of the residential area. He was struggling why just a street or block over you could have two guestrooms and over here, you would have five. He asked the Commission to consider that we be consistent particularly in the residential there only be two guestrooms. He said that he thinks it is a function of parking in the way the report reads. He is concerned not just by our experience in Albemarle County but just with the Airbnb model in general that it is very difficult to enforce people who are bad actors. He asked how we establish a way of doing that.

Ms. More said she was somewhat open to the idea of number of rooms versus looking at number of guests as a possibility or something that we could even push forward to the Board of consideration along with Ms. Firehock's suggestion of the waiting period. However, she thinks there is something to explore there when you have these large homes with large rooms and how

many people that brings. However, the parking might limit that because that might not make it conducive to bring that many guests to a home. However, she does think that the comment that was made by a member of the public about the way the city approaches that might be worth exploring.

Ms. Riley said at the very first work session she asked the question why were we setting the number of people versus the number of rooms since she thinks that could potentially be a better approach. The answer at the time was it is the way we have been doing it, but since we are making changes Ms. Riley said she thinks it is possible to make the recommendation of limiting the number of people. She is rather intrigued by your suggestion that may be we limit it uniformly to two rooms. She has consistently expressed concern about the impacts in all of the residential areas so she would be open to that. However, she thinks that ultimately a very strong concern she has seen throughout this process and mentioned by Supervisor McKeel this evening is not having a proactive approach to enforcement and relying on neighbors and complaint basis to determine the problems and therefore require neighbors to go through all kinds of difficulties before those problems can be resolved. She said if people do not report people then they just live with the problems. Therefore, she is not sure what the solution is since we have consistently asked about what kind of enforcement recommendations we could make that would make this stronger but it is still a big concern for me. She said she understands the Board of Supervisors determines the work plan for Community Development and they are open again to determine what kind of enforcement there is. However, she thinks that we have to make it very clear from the Planning Commission that from my perspective she is not comfortable with it being complaint driven.

Mr. Dotson said he had a question for the staff in he is thinking of the Supervisors and there are three sets of minutes that are quite long. He said staff has worked really hard on this and there has been a lot of discussion. He asked is there a way in advance of the staff giving an oral presentation on the night of the hearing on June 13 to acquaint the Board without them having to go through all the minutes and kind of lose some key points is there a way to highway a few points.

Ms. Ragsdale replied yes, we planned to do something like that.

Mr. Dotson asked how that would be done.

Mr. Ragsdale replied we would summarize your key points just as we did for the public input meetings summarize the themes for them.

Ms. More asked if it could be in staff's report to them so they can have that before they go through all of the minutes.

Ms. Ragsdale replied yes, we could do that it is a good suggestion. She pointed out that was a challenge for you and we tried to keep it simple since it is fresh on your minds as far as the report but we can work on that for the Board.

Mr. Dotson said with that answer and he thinks this is already part of your intent but he would state it, "the concern that three of the Commissioners expressed in our last meeting about preserving front yards and not having front yards become just parking lots and that might be a maximum percentage of the front yard 50%, 25% and he would not recommend at this point a particular number. He thinks that staff has indicated that you felt that was outside the scope of

what the Board had asked for but he thinks it is a possible unintended consequence of part of what is being proposed here. Therefore, he would like to have that included in the points that you are going to call out.

Ms. Ragsdale agreed.

Mr. Keller asked, as a follow up on that is there any way that the Commission can see the summary draft report before it goes to the Supervisors.

Ms. Ragsdale reiterated that it was to make sure we are accurately representing the other items you want to emphasize for the Board.

Mr. Keller replied yes.

Mr. Ragsdale said she would talk with Andrew and John the best way to do that and we can prepare something before the June 13 and asked if needed to be an agenda item or could we email that you to respond. She said staff could work that out.

Mr. Keller said he wondered if it could be a consent agenda item.

Mr. Dotson said if it was part of the report to the Board it will be on the internet a certain number of days ahead of time and we would have advance notice just as the Board would. However, he was sort of a little reluctant to put us in sort of an editorial role.

Ms. More asked staff to email the list of items that the Commission would like to have for the Board's consideration that we could push this through and that you have captured these comments. She said the Board's consideration for a waiting period for new construction in the rural area was an example and by replying, only to staff, that is the way we can be comfortable that all of that was captured in your report.

Ms. Ragsdale asked if a consent agenda item might be more appropriate.

Mr. Blair said right and that there were a couple consideration. Number one there will be Planning Commission meetings obviously before June 13 and he did want to add that is work session, correct, for the Board of Supervisors.

Ms. Ragsdale replied that was correct.

Mr. Blair said that staff reports are usually due two weeks before the actually Board meeting, and Ms. Ragsdale replied it was two to three weeks and we would have to look at the Board reporting system and work backwards from that to get that to you.

Mr. Blair pointed out when you consider those deadlines he believed there was a Commission scheduled for May 22 and what might be one option is for Rebecca to have just the list of the topics she would plan to put into the staff report that the Commission addressed and then let you see the list at the May 22 meeting. He said he would doubt you would have the analysis and all of that with it, but just the list of topics to make sure nothing that you would like presented to the Board that everything is in that list that she will put.

Mr. Keller said that staff has done an outstanding job in paring this down through time and it is clearer than it was in the beginning, but we do not want to lose the discussion points.

Ms. Ragsdale said that you just want to help summarize your discussion to the Board of Supervisors pulling from the minutes and we can work on getting something to you before the May 22 meeting.

Mr. Keller noted the tables that staff did before that made it clear what was happening in the growth, area versus the rural area was a clearer way to go. He suggested taking what you have and putting it in that format.

Mr. Bivins asked for two things, one he would like to wrestle on the five-year prohibition issue. He said he would be reluctant to join in a motion that suggested that the full Commission was suggesting a five-year prohibition on applications for a homestay. There are a lot of things that he could not stand comfortably with that new construction does not necessarily mean that a person has changed circumstances five or fifteen days later that would put them in a similar situation as someone who happened to purchase an existing house or who had been in a house for a long time. There are some things there that he is uncomfortable assuming that new construction means that you start from ground zero in your life. He asked Rebecca to walk through c. where it says parking – and in addition to the parking required for a single family dwelling the number of off-street parking spaces required by County Code Section 18.4.12.6 shall be provided. If we go to that, it is the place that speaks to we should have two spaces per unit except when the Virginia Department of Transportation required three spaces. He said later on in that section of the Code if we go to the alternative methods, those mean that we could use on street parking to satisfy that. So if he is understanding that correctly as the owner he would have to say he has a space for my vehicle off street and if he had a guest he also had a space off street for them, but if my spouse or teenage child could put their car on the street, too. So really all we are saying is that the owner of the house and the guest has to be able to park off street and we in fact still have not limited the impact of this function on our neighborhood.

Ms. Ragsdale said Section 4 we have included the off-street language specifically for the homestay. She said in section 4 it specifically is for the homestay parking calculation. She said that may leave that possibility open still for the residential parking but she thinks the intent was that all required parking if you have a homestay use would be met off street. In townhouse developments that would be parking lots of street and just not using off street parking for this use. She noted we had some of those concerns before so that may be something we need to clarify in the ordinance.

Ms. More said that was a very good point because she thinks that was what some people were getting at that there was a way around that that the meaning is there but how it might playout in real life would be but there is still on street parking occurring. She said to the other comment that she was a little hesitant about the five-year waiting period and my impression of what we were going to send to the Board were not something that we all unanimously agreed on. She said they were talking points and different ideas that came up that we thought were worthy of some consideration and she did not intend to go forward as this was something we all agreed on. She said if we did then the Commission should put it in here formally, since it was maybe a year or maybe they do not like it at all but that it was something that came and we have heard from the public, too, that was something they wanted to have. She said that the way she interpreted that it was none of the points that you might put forward to the Board or something that we all

necessarily agree on but thought were worthy for their consideration and would be more concise than trying to pull it out of pages of minutes.

Mr. Keller agreed, and again what Bruce started with regarding the front yards is a case in point and we understand why you need to have your silos for these things. He said as we have heard from two representatives from an older subdivision in the county that if they do not have HOA requirements the very nature of the requirement that we are putting in could in effect force individuals who are determined to do the homestay or Airbnb to consider paving more of their yards for on-site parking. He said there is a linkage that he believes needs to be clearly called out to the Supervisors to understand that potential ramification. He said we realize that in the newer units with the HOA's that is not going to be a possibility, but it would be interesting to actually know how many subdivisions in the county would be the potential for that as city lots have had that happen. Mr. Keller noted that no one had addressed the five-year moratorium or whatever we want to call it.

Mr. Dotson said he was satisfied since he thinks Commissioner More addressed it that it would not be put forward as the consensus of the Commission but rather this was an idea like others that we would like to bring to the fore for the Board to consider. However, they might kick it back to us and ask us to delve into it at that point.

Mr. Keller noted that was why he asked to see the summary of the points because there are so much that you have to synthesize down that he could see how something was not omitted on purpose but just forgotten in the complexities of this.

Ms. Spain asked to return the point of number of people versus number of rooms and she was one of those who also thought that to being similar to the city's or having identical language to the city's guidelines would be to our advantage since so much of the city looks like of much of the county now. She said she liked Mr. Bivins suggestion for only two guest rooms per unit regardless of the unit size. So she would say that one of the things to highlight in this summary would be that we have not yet resolved the issue of number of rooms versus number of people and whether we should try to replicate the city's guidelines or not. She thinks this would address one of the issues brought up by members of the public who are concerned about this being one of the key issues.

Ms. Riley said she would bring up one more issue regarding the inspections. She said it was still a concern for me that there is just an initial inspection even if it is just for the Fire Department and then there is no requirement of an owner of a property to have it inspected again. So something as simple as a smoke alarm can go out of compliance very easily and she thinks for the safety of owners, renters and adjacent properties this is something that we should be, again, more proactive on. She does not have a recommendation for how often; she just thinks that there needs to be some follow-up inspections for public safety.

Mr. Dotson said he had a question in the recommendation it says going for approval at the work session, and would that be when the Board would conceivably act on this or would this just a receipt and discussion of our information going forward to them.

Ms. Ragsdale replied since we already have the ordinance language developed it would be primarily informational and it would be for the Board to decide whether they want to move forward to their public hearing or not. She said if the Board is comfortable, they could do that as

we have advertised or based on any changes or anything that comes up at the Board that could change the course of the schedule. Therefore, we will have to get to the Board and see where we are. However, that first work session she thinks is to bring them up to speed on all of this with the Commission's help and the public meeting summary. It is what we have been working on the past year and why we have landed where we have with what we have advertised with the ordinance.

Ms. Spain asked as a point of information if homeowner insurance policies have anything to say about what happens when houses are rented like this who is responsible.

Ms. Ragsdale replied that she had not done a great deal of research, she just asked her insurance agent when meeting about her policy, and she thinks that they have a way of dealing with that. She pointed out that you just add the additional riders.

Ms. Spain said she wondered how many people who rent their homes understand that and whether there might be some benefit in making that part of the information packet that goes out to owners if they are applying for this or is there anything in the language of insurance companies that we could adopt for guidance.

Ms. Ragsdale replied that we had thought about that as far as more educational than regulatory as far as the application process.

Ms. Spain noted that it was just a to do list.

Mr. Keller suggested it would be like some of the national entities like Airbnb provided an insurance component. He said he had several just specific little things that maybe have already been caught or maybe he was just misunderstanding but under 5.1.4.8 where Bed and Breakfast is changed to homestays going down to where it says each homestay located in the rural areas zoning district shall be subject to the following. He noted that Bed and Breakfast shows up again and he asked if it was supposed to be struck there or is that making a distinction that a Bed and Breakfast is different from a homestay. He pointed out that was in Attachment D.

Ms. Ragsdale replied that might have been a reference we just did not catch.

Mr. Keller noted that was under c and d, required development rights . . . and bed and breakfast is auxiliary and then in the next one minimum yards . . . and auxiliary structure used for a bed and breakfast.

Ms. Ragsdale replied yes, staff just needs to make that substitution.

Mr. Keller asked staff to back up and he knows she has explained it in the presentation, but in k. above that dwelling types that clause that is in there about the resident manager of a duplex townhouse or single family attached unit. He noted he could read that one of two ways – he could read it that it is about the owner of the individual unit or the manager of a complex. He said in elder care there is often a room saved in an elder care facility that is rented to family members who come and visit. He asked is that the intent of that clause because that seems to be what it is referring to as opposed to an individual ownership. In other words, it is saying there are 50 townhouses here and two rooms have been reserved. He asked if everyone sees where he is going with this.

Ms. Ragsdale asked if your concern is that it is not clear enough that a resident manager means a tenant of the townhouse and they have to live within that unit not generally in the complex.

Mr. Keller replied that was correct, that it was not a concern it is for you to think about because you have had so many nuisances to deal with in all of this that staff and the Commission has caught some of them. He said he was sure there will be others and there will have to be zoning text amendments in the future because of things that have not been thought caught. He said it could be either the individual unit or an additional set that is available within a complex. He asked Mr. Blair under registration it says registration is not required if the Code of Virginia exempts the operator or short-term rental from registration and asked who gets the exception for that

Mr. Blair replied that is a good question. He said it is a certain type of real estate manager, Realtor's Code in 1983, "if the person is licensed by the Real Estate Board or is a property owner who is represented by a Real Estate licensee someone who is registered pursuant to the Virginia Real Estate Timeshare Act licensed or registered with the Department of Health related to the provision of room or space for lodging or licensed to register with the locality related to the rental management of real property including licensed real estate professionals, hotels, motels, campgrounds and bed and breakfast establishments". He said that is how the State Code exempts those categories from the Register.

Mr. Keller said so there might be something else that ends up coming through here as a mechanism to create something to get around these rules in the future. He said those were my little specific things.

Mr. Dotson said something Mr. Keller mentioned and maybe he was or was not referring to this but he recently learned that the University Village, which is a condominium development, has perhaps two units set aside for visiting families.

Mr. Keller replied that was what he was referring.

Mr. Dotson said he did not know how this would impact, if at all, that kind of situation but it is something to think through as we are trying to get down into the small details.

Mr. Keller said that goes back to what we just read.

Mr. Blair said it could be one of those but if one of those exemptions did not apply he thinks the analysis then goes back to is it transient lodging meaning less than 30 days rental and if so then it would either have to be a hotel/motel/inn or homestay regulations would apply.

Mr. Keller said that he thinks just about every one of these builder facilities has several rooms that fit that category. Again, in this whole question of enforcement and finding these over time it will be interesting.

Mr. Blair asked are those rooms for rent and Mr. Keller replied yes.

Mr. Blair said that he had heard of apartment complexes sometimes having one first come first that are free that would have like a spare unit on weekends.

Mr. Keller said that was my question about that other wording was about whether that was what it was referring to because the resident managers would be the ones who would have that power of assigning those. Then the question is as you have brought up if there is not a fee is there then a physical tax liability because just like anything else there is an in-kind value. He said we do not need to get into the weeds that way because those are just things that start showing up. He asked do we have wording for an action.

Ms. Ragsdale pointed out that was to move to recommend the attached ordinance to the Board that is provided as Attachment D with us honoring your request to bring your Commission input summary back to you on May 22.

Mr. Keller asked if the Commission was globally for the most part comfortable with the rural growth area divide in what we are seeing even if there are specifics that the Supervisors are going to have to deal with, for instance, the two versus the five or whether to put a time restriction on rural areas. He noted those seem to be the ones that have been hanging out now.

Mr. Bivins suggested adding parking.

Mr. Keller agreed that parking was in all of it. He pointed out in the rural area the setback has been addressed adequately, which was a discussion early on. He said he was trying to think of anything that was a major discussion early on that we might not have recently revisited. He said staff has done a good job of catching all of those.

Mr. Bivins asked if there is a way for us to stand with staff as they go before the Board of Supervisors and say because there are a number of things so Supervisors please figure out a way to put some enforcement in this. He said that puts staff and us in an uncomfortable position promulgating suggestions that there is not a way to back it up, and so he is uncomfortable doing that. He said regarding the parking issue, he just learned that the Governor provided Albemarle County with the ability to regulate its secondary streets. Therefore, he feels as if the Board of Supervisors need to take a position on that which could in fact eliminate a lot of the issues that many of our citizens are dealing with in regards to over parked streets or abandoned cars or things, which get in their way that might have an impact on this. He said there are some pieces here that if possible he would like us to set aside and help with the enforcement because he thinks it does not help anybody just to put an amendment there but somebody has to figure out are we going deal with this.

Mr. Keller asked if someone was ready to make a motion.

Ms. Ragsdale pointed out it was ZTA-2017-01 and the recommendation was the Commission would act to recommend the ordinance to the Board of Supervisors that is provided as Attachment D that they will consider at their June 13 work session.

Mr. Keller asked if they want to put something with the additional comments.

Mr. Blair suggested the motion be approved as presented with additional comments to be agreed upon by the Commission at their May 22 meeting.

Mr. Dotson noted it seems like it is getting into the details of how we are going to do it and suggested it be with the list of companion issues identified by the Commission.

Mr. Keller asked if staff is comfortable with that since they were trying to give staff more latitude not to have to go into the details so much as presenting those. He said if they are on that list then the Supervisors when they come to that point then you are in a position as staff to be able to say yes, the Planning Commission did discuss this and have thoughts on it.

Ms. Ragsdale replied yes, that would be very helpful.

Mr. Keller noted that would be without staff having to write pages and pages about it.

Mr. Bivins moved that the Commission recommend approval of ZTA-2017-01 Residential Tourist Lodging and include the companion issues that were discussed by the Planning Commission on April 24, 2018.

Mr. Dotson second the motion.

Mr. Keller asked for a roll call vote.

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

Mr. Keller thanked staff for their hard work and time put into the request. He said ZTA-2017-01 Residential Tourist Lodging would be forwarded to the Board of Supervisors with a recommendation for approval.

The meeting moved to the next item.

Committee Reports

Mr. Keller invited committee reports.

Daphne Spain reported:
- Pantops CAC met and discussed updating the master plan from 2008 and heard from several County staff and about 50 members of the public about the plans for trails and bikeways and specifically access to the river and Old Mills Trail.

Jenny More reported:
- Crozet CAC met with the main topic on the Buck's Elbow Mountain Radio Tower, which is a special exception that goes straight to the Board.

Pam Riley reported:
- Fifth and Avon Street CAC met and held a visioning session to identify the key problems and issues for the Avon Street Corridor Plan being developed.

With no further committee reports, the meeting moved to the next item.

Old Business.

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

New Business.

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

Items for Follow-up.

Mr. Keller invited items for follow-up. Hearing none, the meeting moved to adjournment.

Adjournment

There being no further business, the meeting adjourned at 8:07 p.m. to the Planning Commission meeting on Tuesday, May 1, 2018 at 6:00 p.m. in the COB-McIntire, Auditorium, Second Floor, 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:
Initials: