Albemarle County Planning Commission
FINAL MINUTES October 8, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, October 8, 2019, 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; Julian Bivins Vice-Chair; Daphne Spain; Karen Firehock; Pam Riley; Jennie More; and Bruce Dotson.

Members absent: Luis Carrazana, UVA representative.

Other officials present were David Benish; Andy Reitelbach; Kevin McDermott; Andy Herrick; and Vivian Groeschel.

Call to Order and Establish Quorum

Mr. Keller 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. Hearing none, he moved on to the consent agenda.

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, he proceeded to the Consent Agenda.

Consent Agenda

Mr. Keller asked if any of the Commissioners cared to pull a consent agenda item. Hearing none, he asked if there was a motion for acceptance.

Ms. Firehock moved to approve the consent agenda. Mr. Dotson seconded the motion, which carried by a vote of 7:0.

Mr. Keller asked if anyone else cared to speak. Hearing none, he moved on to the first public hearing item.

Public Hearing Items

ZMA201900003 Royal Fern

Mr. Andy Reitelbach, Senior Planner, presented. He said that this was an application to rezone two parcels, and a portion of a third parcel, from R2 Residential, R10 Residential, and CO - Commercial Office to PUD - Planned Unit Development. He said that the two parcels, and the portion of a third, total 13.36 acres and are located at the intersection of Old Lynchburg Road and 5th Street, across from the 5th Street County Office Building, as well as on the west side of Old Lynchburg Road between Mountainwood and Country Green Roads.

Mr. Reitelbach presented an aerial view of the area that showed the nearby locations, including I-64 at the upper righthand corner. He noted that the interchange of Exit 120 was slightly off the map, to the east. He said 5th Street comes in off the east and continues in a southwesterly direction, turning into Old Lynchburg Road at its intersection across from the 5th Street County Office Building. He indicated to the Oak Hill Convenience Store (located on Country Green Road to the south of the western portion of the property), the Region 10 Community Services Board offices located to the north or northwest of the subject property, the Sherwood Manor subdivision (to the northwest), and the Brookdale Apartments (currently under construction) to the west.

Mr. Reitelbach presented a map that showed the two sections of the property – Tax Map Parcel 76-54, and the eastern portion of Tax Map Parcel 76-46A – that are located on the east side of Old Lynchburg Road. He said the western part of Tax Map Parcel 76-46A, and a portion of 76-46F that is proposed to be rezoned, are located on the west side of Old Lynchburg Road.

Mr. Reitelbach presented street-level views of the location, noting that all of the parcels included in the rezoning request are currently wooded. He said the photographs also demonstrate the lack of pedestrian facilities in the area. He did note, however, that there is one existing, approximately 4-foot wide asphalt path along Old Lynchburg Road on the west side.

Mr. Reitelbach presented a map that represented the existing zoning, as well as the zoning of the surrounding districts. He said that 76-46A, which is the disjointed parcel, was currently zoned R2 Residential for 2 units per acre; 76-54 is currently zoned R10 Residential, allowing for 10 units per acre; and all of 76-46F, including the portion proposed to be rezoned as a CO - Commercial Office. He indicated on the map to a wide range of zoning districts, including R6 to the northwest, R15 to the northeast, R4 and C1 to the southwest, and the County Office Building being zoned as CO.

Mr. Reitelbach said that by-right development (48 units) can be developed on the parcels under the standard development of 2 units per acre and 10 units per acre. He noted, however, that with the use of the various bonus factors that are allowed in the zoning ordinance for density bonuses, there is the potential that the property owner could have up to 73 units on the parcels.

Mr. Reitelbach said there were several zoning overlay districts on the parcels, with all of them being located within the Entrance Corridor and the Airport Impact Area. He said there were managed steep slopes on all the parcels as well.

Mr. Reitelbach indicated to a slide providing a view of the Comprehensive Plan and what it sees as the vision for the area. He said that the portion on the east side of Old Lynchburg Road, directly across from the County Office Building, is designated as Community Mixed Use, which represents a mixture of residential, retail, service, and commercial uses. He said the residential density allows for up to 34 units per acre. He indicated to the Urban Density Residential, which included portions of the property to the west of Old Lynchburg Road and is designated for largely residential uses between 6-34 units per acre, as well as supporting uses such as places of worship, schools, early childhood education centers, etc.

Mr. Reitelbach presented the application plan for Block 1 of the proposed project, Royal Fern, noting that it was all of the property to the west of Old Lynchburg Road. He said it was approximately 5.08 acres in gross acreage and that the applicant was proposing a maximum of 150 units for that area. He said there was no commercial or retail proposed in Block 1. He said

the applicant was also proposing some right-of-way dedication along the edges of the property to facilitate pedestrian improvements, including sidewalks.

Mr. Reitelbach presented a section of the application plan that showed Blocks 2-5 in a gridded pattern along the remaining acreage, which was 8.55 acres gross. He said that Blocks 2 and 3 (on the eastern side, adjacent to the existing Cavalier Crossing apartment community) were designated for all residential, with Block 2 being a mixture of townhouses and multi-family, and Block 3 being townhouses only.

Mr. Reitelbach said Blocks 4 and 5 (on the western portion of the property, at 5th Street and Old Lynchburg Road) are proposed to be the more commercial areas, with Block 4 designated as the commercial shopping center area to allow for a wider variety of commercial uses that are currently allowed in the commercial office (C1) and Highway Commercial (HC) zoning districts. He said Block 5 was proposed for a mixture of commercial service uses and residential uses, with the residential uses being both townhouses and multi-family and the commercial areas being office. He said the applicant was proposing no more than 125,000 square feet of commercial and service area throughout Blocks 4 and 5. He said this could be a mixture of retail, hotel, office, and self-storage use.

Mr. Reitelbach said that in addition, the applicant was proposing to provide pedestrian, and some bicycle, improvements along the existing roads in the area. He indicated on a map to a cross section included in the application plan that showed the multi-use path along 5th Street from the Cavalier Crossing property at Wahoo Way to the intersection with Old Lynchburg Road. He described the path as being a 10-foot multi-use path with shoulder areas, a 5.5-foot landscaping area, as well as a curb on the travel lane. He presented a photograph showing what the path looked like currently with the existing 3- to 4-foot asphalt path and ditch, going straight into the travelway.

Mr. Reitelbach said in addition to the rezoning request, the applicant was also requesting five Special Exceptions from the Planned Unit Development ordinance. He said the applicant was requesting to modify the minimum acreage requirement, explaining that in PUD, the ordinance requires a 100-acre minimum. He said the applicant was requesting that this be reduced down to 13.63 acres.

Mr. Reitelbach said the purpose of the exceptions was to allow flexibility with the Board of Supervisors in approving PUDs, as all sections of the PUD ordinance can be waived or modified through the Special Exceptions process. He said that with the minimum acreage requirement, it was important to note that there are a few parcels of 100 acres left in the development areas. He said that the only parcels of 100 acres or more include the airport; one parcel within the Brook Hill development (which was currently being subdivided); and UVA Foundation properties including Boars Head, Birdwood, and the UVA Foundation off of Lewis and Clark Drive.

Mr. Reitelbach said that in addition, the applicant was asking to modify the minimum area requirements for open space, explaining that the PUD ordinance requires 25% and that the applicant requested to reduce this to 20%. He said the applicant has stated that because there are other public parks nearby (including Azalea and Biscuit Run, which are both within 0.5 a mile in either direction), that this provides for some park space. He noted that although the PUD ordinance requires 25%, the only other mixed-use development district in the zoning ordinance is the Neighborhood Model District (NMD), and that this zoning district only requires 20%.

Mr. Reitelbach said the other three special exception requests that the applicant was requesting include waiving the requirement that the total gross floor area in commercial and service areas be 80% of residential prior to allowing commercial and service areas; that 80% of the building permits be issued for residential before any commercial and service uses be issued; and that 80% of the building permits for residential units be issued prior to shopping center uses.

Mr. Reitelbach explained that PUDs are not a common request in the County, noting that there had not been one requested in several years, with very few existing in the County. He said the PUD is the only mixed-use district permitted by the ordinance outside of the NMD. He said the NMD is very time-intensive for staff to administer at the site planning and subdivision stage because every NMD has its own code of development. He said every code of development is different, with a diverse range of CODs, and that NMDs can range anywhere from just a couple acres to a couple hundred acres.

Mr. Reitelbach said that conversely, the PUD uses the existing language in the zoning ordinance and the requirements in Section 4 of Chapter 18 for parking setbacks, stepbacks, and recreational requirements. He said it therefore provides much more consistency with the other zoning districts in the County. He noted that the regulations in Section 4 were updated in June 2015 to reflect NMD principles, so the existing regulations in the zoning ordinance already reflect the NMD. He said that because the PUD then refers back to those principles, the County is already allowing for those NMD principles to be within PUD zoning districts.

Mr. Reitelbach said staff suggested that the applicant look at the PUD for the project due to the complex nature of NMDs. He said that with PUDs, staff is looking for more flexible and creative ways to allow for different zoning districts and four zoning districts that are already within the ordinance, as opposed to creating what is essentially a new zoning district each time and a new COD for each NMD. He said this was why the applicant was requesting several Special Exceptions.

Mr. Reitelbach noted that the PUD does allow for all the Special Exceptions and that every regulation in the PUD can be waived or modified by the Board of Supervisors. He said this demonstrates that the PUD is supposed to be a flexible zoning district to fit within the request of an applicant. He said that the 100-acre-minimum requirement and the 25% open space requirement were two regulations that the applicant was requesting to be waived.

Mr. Reitelbach said that in addition, the applicant has submitted two proffers, with one being included in future uses. He said that there were HC uses which would otherwise be permitted by right in the shopping center area and with the proffer, the applicant chose to prohibit those uses. He noted that there was a typo in the staff report about this.

Mr. Reitelbach said the other proffer was for transportation improvements, specifically for the intersection of 5th Street and Old Lynchburg Road as well as the adjacent corridor, with the applicant proposing two options - $200,000 cash to the County, or $100,000 cash to the County and the dedication of right-of-way. He said there was an ongoing study for the 5th Street Corridor with results expected in 2020. He said staff expects to submit the Smart Scale application funding for the improvements in 2020, after the study results come in, as the 5th Street Corridor is 7th on the list of County transportation priorities. He said construction, however, would not be expected to begin until 2024, as it takes approximately four years for the County to receive money from Smart Scale.

Mr. Reitelbach said that Mr. Kevin McDermott (County transportation planner) and Mr. Adam Moore (VDOT) were both present to answer any questions about transportation.

Mr. Reitelbach said there were several recommended revisions for the application plan of the Zoning Map Amendment that were included in the staff report, including revising language of the affordable housing note on Sheets 2 and 3; clarifying a few notes shown on the application plan; providing a slightly wider landscaping strip along Old Lynchburg Road; revising the project's net density information, as it should only be gross density; and self-storage buildings have been determined not to be an appropriate use for the community mixed-use land use designation area, as they are difficult to administer at the Entrance Corridor stage.

Mr. Reitelbach said there was one revision not included in the staff report, which was to revise the label of the proposed private road that goes through Blocks 2 and 5 of Sheets 10 and 12 of the application plan to state that it is a public or a private street. He said its status, along with the justification of why it should be a private street versus a public one, would be addressed at the site plan and subdivision stage when the applicant has a better idea of what specific uses would be included in those blocks, as well as the layout of the exact site.

Mr. Reitelbach presented the factors unfavorable to the request, including additional students to be enrolled in area schools (including Cale Elementary, which is already over capacity). He mentioned that at this location, there was a miscalculation in the staff report in the number of elementary students for multi-family – that it was originally written at 78, but should be 36. He said that although those numbers were different, it does not change the capacity issues with Cale Elementary, which still remained well over capacity.

Mr. Reitelbach said that another factor unfavorable was that additional traffic will be produced along 5th Street and at its intersection with Old Lynchburg Road, which is an intersection that is already failing. He added that certain HC uses permitted by right in the commercial shopping center block were not appropriate uses, including self-storage use.

Mr. Reitelbach said there were also several factor favorable to the request. He said it was, overall, consistent with the use and density recommended in the Southern and Western Urban Neighborhoods Master Plan. He said it is consistent with the applicable NMD principles. He said the request includes office space, which is a goal of the County through the Economic Development department's Project Enable. He said it would provide additional residential and commercial development in what has been designated as an opportunity zone by the U.S. Treasury. He said it would provide additional pedestrian connections along Old Lynchburg Road, Mountainwood, Country Green, and 5th Street. He said the request proffers contributions to assist in resolving the traffic issues at Old Lynchburg Road and 5th Street, as well as along the 5th Street Corridor.

Mr. Reitelbach said that based on the factors favorable, staff recommended approval of the rezoning request with the revisions, as recommended by staff, in the presentation, including the five in the staff report as well as the sixth included in the presentation. He said staff also recommends approval of the five Special Exception Requests associated with the Zoning Map Amendment.

Mr. Keller invited the applicant to come forward.

Mr. Justin Shimp, engineer for the project, was joined by Ms. Kelsey Schlein (Shimp Engineering)

and Mr. Kyle Reddinger (developer). He said that he had not done a PUD before, noting that it provided a good blend of flexibility and using the ordinance changes that have already been made to enforce NMD principles, even on a by-right scale, and including mixed use without needing a COD.

Mr. Shimp presented a map of the property that was more zoomed out in order to provide context. He said it was a fairly densely developed area of the County that was close to the interstate, 5th Street, and its commercial activities. He addressed the factors unfavorable, acknowledging that the school factor was a tricky one, as the Comprehensive Plan indicates that it wants people to move to the area. He said people living there was a positive thing and that the types of housing in the location would be more affordable accessible.

Mr. Shimp addressed the transportation issue, explaining that the origin of their proffer was that they looked at the traffic impacts of the development and determined that the critical movement was the left turn coming out of Old Lynchburg Road onto 5th Street. He said the traffic study identified that a traffic signal there would solve the problem completely, in context of the proposed development. He said that the applicant was willing to go to half of the cost of the light installation. He said that the County and VDOT take perspective beyond just the proposed development, as they have to determine how to use the money to apply for Smart Scale and do other projects, such as the roundabout.

Mr. Shimp said with this in mind, the applicant offered the flexibility of the $200,000, or $100,000 plus the land for the roundabout, as their proffer. He said the study determined there would be a 17% increase in trips, and the applicant was proposing a fix and that they pay 50% of the cost as what they felt was the most reasonable way to address the impact.

Mr. Shimp said regarding storage, the applicant disagreed with staff. He said the concept of single-story storage buildings taking up acreage would not be appropriate in that location. He said, however, that a number of three- or four-story storage buildings have been built, presenting images of storage buildings in Texas as well as one at Pantops that obtained ARB approval. He acknowledged that the buildings have a different look but that they serve a community need, with people who often move because they are renters and may have things they need to store. He agreed that the historical design of storage was something that was undesirable in the area, but that on a one-acre site, storage can now be built to accommodate what used to take up to 8 acres to accomplish.

Mr. Shimp said the applicant was open to some discussion about the storage, but that they believed it was not an unreasonable use for the commercial property.

Mr. Shimp presented an illustration of the 100 acres around the applicant's site, noting that they couldn't develop this now as one zoning as it is all built. He said considering the residential and mixture of commercial, one can imagine how this could have been planned all at once to be a PUD.

Mr. Shimp presented the application plan. He said the applicant had no objection to staff's proposal that the private street be public or private, and that this was something to figure out at the site plan level. He indicated to areas that were more intense commercial, less intense commercial, and mixed residential districts.

Mr. Shimp said there was discussion between the applicant, staff and transportation planners. He

noted they started off with different shared use paths in places that turned out to be sidewalks, which added some costs to the applicant but that they were happy to oblige. He said various things have therefore been changed regarding the pedestrian infrastructure, with a sidewalk extension on one side of Old Lynchburg Road, a cross over, a sidewalk on another side, as well as a sidewalk extending to a new sidewalk that was built with the apartments, providing connectivity with the completion of the development.

Mr. Shimp said that one thing that was heard early on at a neighborhood meeting was that there were poor pedestrian movements in the area, and so the applicant has addressed this at every corner of the property. He indicated on a map to a section on Old Lynchburg Road headed west, noting a landscaping strip and sidewalk as a new cross section. He presented the transportation plan for another block, indicating to a shared use path and sidewalks.

Mr. Shimp provided an illustration of a view of coming down Old Lynchburg Road, indicating to a side of the street with the landscaping strip and sidewalk. He indicated to the existing asphalt path on 5th Street, explaining that the applicant would create the landscape buffer and shared use path along the frontage, which would be an improvement.

Mr. Shimp expressed that the plan thoroughly meets the Comprehensive Plan and that the applicant has worked on all the mitigation they believe is reasonable, as well as incorporating the pedestrian improvements.

Mr. Keller opened the public hearing.

Mr. Morgan Butler (Southern Environmental Law Center) said that at the Planning Commission's meeting two weeks earlier about the Growth Management report, SELC offered its take that the County needs to focus on how it can provide better services and infrastructure within the existing development areas rather than expanding the area over which those things must be provided. He added that several members of the Commission have raised consistent concerns that the County isn't doing enough to ensure that infrastructure keeps pace with the development occurring with the growth areas.

Mr. Butler said that a key question was to how they could do a better job. He said that one way was ensuring, as best they can, that new development proposals will mitigate any infrastructure deficiencies they would create or contribute to, as called for in the Comprehensive Plan. He said that on this point, the staff report for the Royal Fern proposal points out that it was notably increase vehicle trips, delays, and queue lengths at certain locations that are already congested.

Mr. Butler said the report then notes that the applicant has submitted a transportation proffer that the applicant believes to be reasonable in addressing those impacts. He said that this was fair, but that was what was missing was any real indication of whether staff feels the proposed transportation proffer is sufficient.

Mr. Butler said SELC understands that this is a more challenging task when the County is waiting for the results of a traffic study that will identify specific solutions for the area. He said the County was lucky to have very knowledgeable and dedicated transportation planners and that there must be a way to offer some helpful analysis to the Commission, the applicant, and the public on whether the proffer is a fair estimate of the cost to address the extent to which the project would make existing traffic conditions worse.

Mr. Butler pointed out that the restrictive statute the General Assembly passed on proffers in earlier years was recently loosened up. He said that among other key changes, it now makes clear that it does not prohibit analysis or presentation of the impacts that new development would have on public facilities, such as roads. He said it also makes clear that the locality can discuss with the applicant potential voluntary proffers that might address those impacts.

Mr. Butler said that this was the discussion worth having that evening and that along those lines, SELC notes that a crucial tool for addressing transportation impacts in the growth areas – transit – is not discussed in the application plan or the staff report. He said there was no mention of how the proposal has been, or could be, designed to tie into or facilitate use of the public transit line that passes by it and has a stop across 5th Street.

Mr. Butler said that everyone recognizes the importance of providing the infrastructure that the County's development areas need to be successful. He encouraged the Commission to do all it can to make sure that new development proposals are offsetting their share of impacts. He said it was not yet clear to the SELC that this was being done here.

Mr. Shimp responded to Mr. Butler's comments. He acknowledged that the proffer legislation did change, which was what enabled the applicants to make the proffers they have, noting that other applications have not had any. He said there were major questions about transportation that the County and VDOT had, but that the applicant's traffic study had determined that a traffic light would mitigate the impacts of the 17% increase in traffic and would vastly improve what is already there. He said there were other possible solutions but that the applicant has addressed the direct impact.

Mr. Shimp said that Mr. Butler's point about transit was a good one, and that the applicant did mention to staff early on that they were agreeable to addressing any needs pertaining to a transit stop. He said that this was an issue that did not present itself and was, in some ways, more of a site plan issue. He said if more space was needed at the bus stop for a canopy or bench, the applicant would be amenable to it.

Mr. Dotson asked where the $200,000 amount for the transportation proffer came from and if this was going to be half of the cost.

Mr. Shimp replied that the applicant's traffic engineer gave them an estimate of $300,000-400,000 for the installation of a light and therefore, the $200,000 was by taking half of $400,000. He said if it the price went up, there was still some cushion to cover it.

Mr. Dotson said that perhaps Mr. Shimp was finished responding, staff could respond to the same question. He said his other question was in terms of the Traffic Impact Analysis, expressing his confusion that the staff report makes reference of up to 300 dwelling units but that the TIA was based on 230 dwelling units. He asked for clarification, noting that if the TIA hasn't studied all of what the Commission was being asked to approve (300), this created a problem.

Mr. Shimp acknowledged Mr. Dotson's point and said that this was discussed earlier. He said the plans have a certain amount of commercial and residential and that the TIA's dwelling unit number represented a possible configuration or scenarios of the buildout. He said there were 80 townhomes included in the TIA and if they went to 300 dwelling units, it would have to have essentially all multi-family to fit. He said that those numbers were run and that the difference was 8-10 trips in an hour, so 17-18.5%. He said it was a good point that the TIA did not capture every

possible trip, though the commercial assumptions included a daycare (which is a high-traffic generator), and if a daycare is not built, that number goes down.

Mr. Dotson expressed that the right thing to do in a TIA is to examine the maximize amount, and that people would know that it would be either that number or less.

Ms. More asked about Special Exceptions 2 and 3, which were to waive the requirement for the issuance of building permits for 80% of the dwelling units prior to the issuance of building permits for shopping centers, as well as for commercial service uses. She asked if Mr. Shimp could explain this.

Mr. Shimp explained that the PUD construct was more suburban and that there would have to be a certain amount of residential before commercial, which makes sense on a 100-acre project. He said that looking at the map and noting that much of what surrounds the project is residential, the project's commercial amount could be more than the ratio imagined. He said the requirement was likely built in many years ago, imagining a very large project, and that with infilling, the ratio would not work.

Ms. More said that she was having trouble seeing the project as a PUD. She asked if the rooftops were ready to support the commercial without creating them on their own because it was not truly a PUD.

Mr. Shimp said that if all the houses surrounding the project could be captured in that zone, they would be in the range of a PUD, and that there would be that many building permits and COs for residential right now. He said that looking at the area in context, imagining it all as a PUD makes sense.

Ms. More said that those houses were not the applicant's units, and asked why Mr. Shimp thought this made more sense, since this was his first time working on a PUD and because staff recommended it. She said that from staff, she heard that it is easier for them to manage a PUD than an NMD, and that she wanted to know why the applicant has gone the PUD route, from their own perspective.

Mr. Shimp replied that part of it was that it requires less work from the applicant as there was no COD, and that with the way the parcels were broken up across the road, it was better to look at them as part of a neighborhood. He said that if the applicant were to do a 100-acre PUD from the start, it would be sold to many different developers doing different things anyway. He said the applicant thought about the area as a whole, and that as long as residential units are around (regardless of who built them), it made the area suitable for a PUD. He said this could have been accomplished in other ways, such as with split zoning, but that community mixed use was difficult to achieve without a PUD or NMD.

Ms. More asked if split zoning was a possibility.

Mr. Shimp replied that it could be done, but that when building it out, flexibility is lost. He said, for example, that vertical mixed use would be difficult or impossible. He said that split zoning is generally discouraged for those reasons.

Ms. Firehock said she still didn't understand why the applicant went the route of a PUD. She acknowledged that it was to allow for flexibility, but it was also to allow for creative design. She

said that usually, PUDs are applied to a landscape that has challenging slopes (e.g. wetlands) and constraints that make it difficult to meet required setbacks and realize economic value.

Ms. Firehock said she knew the County hadn't had a PUD in a while, but that she had personally reviewed many PUDs and what she expected to see were the creative design elements. She said she expected to see how the applicant was arranging the site in a creative way, using the maximum ability of the PUD, and that the Commission didn't have any of this detail. She said the applicant was asking for special exceptions to utilize a design that she couldn't see and that this was where she was having problems with the request. She said the project was much too small to fit the standard that the County has set.

Mr. Shimp said that focusing on what is in the Comprehensive Plan for community mixed-use, there isn't a good zone to accomplish the project, other than the NMD. He said that in other localities, there is a more detailed layout in PUDs, partly because those counties don't have a by-right ordinance with an NMD built into it. He said that leaving flexibility for themselves, they could create better outcomes, noting that they did not know exactly what each building would be, and that site planning would be done around the ordinance. He acknowledged this was a matter of trusting that it would happen and that he understood Ms. Firehock's question. He said that to lay anything out in more detail at that time would be difficult and that amendments tend to happen when they do, which creates more work for staff.

Mr. Shimp pointed out that more recent plans being done are block plans for those reasons, as well as because there is a general understanding that once one sees the site plan, it has to have certain quality design features that are spelled out in the ordinance.

Mr. Bivins said that the community meeting had asked the applicant how to configure multi-modal sidewalks that will get people around. He said that there was nothing in the plan that looked like multi-modal paths, except for the one on Old Lynchburg Road. He noted that the bulk of the project was not on Old Lynchburg Road as much as internal streets. He said that Mr. Shimp's comment of a "robust community" led him to believe that there would be people walking around and engaging with the green space there.

Mr. Bivins said in a simple request for having areas for people to move, the applicant was less than willing to engage in having this be a more pedestrian-friendly, bike-friendly community because they were doing whatever was necessary as far as what VDOT would suggest. He said that at least, this was how it was reported from the community meeting. He said that if the applicant is trying to create a community where people will walk and that would reflect the three communities around it, he didn't get a sense from the design that there was an attempt to connect to those other communities. He said that, in fact, through all the exceptions, it was taking advantage of the mass and population in those existing communities.

Mr. Bivins asked if Mr. Shimp had had an opportunity to talk to some of the other communities there to see whether or not they thought that issuing a PUD was something they were excited about, as it would bring a level of services to the people who live in the adjacent communities.

Mr. Shimp replied that he didn't think this discussion had come up. He said in terms of the connectivity, the applicant was building a sidewalk on both sides of Old Lynchburg Road, and a cross walk, so that there was connectivity from one piece to the other. He said there were some width constraints with putting in 14-foot paths everywhere, noting that they did not have the space for this on Old Lynchburg Road and that this wasn't something that VDOT thought was necessary.

He said there was also a plan laid out with the transportation planner, which was the origin, and that the applicant had some flexibility in this. He said there were also situations where VDOT may not want to maintain a 14-foot path.

Mr. Shimp said he did believe that the applicant was achieving connectivity across, from block to block, and that it was a challenging piece as it was divided by a road and was outside of their control. He said the applicant did their best to work with staff and the transportation planners.

Mr. Bivins asked if in Blocks 2, 3, and 4 where the private or public street would be, there would be a multi-modal path there for people to get around, noting that it was not shown on the plan.

Mr. Shimp replied no, that it would not likely be provided in that piece. He said this would be a very local street where one normally wouldn't see a multi-use path. He said the street itself would be 25 mph (and potentially less, if private), that it would be bikeable, and there would be a wide sidewalk as required by the ordinance. He said the plan was relatively small, at 5 acres, and a walk from one block of residential to another was about 3 minutes.

Mr. Bivins said he could easily see how this could become a default cross-through from Wahoo Way over to Old Lynchburg Road.

Mr. Shimp said that it could, and that it depended on what would happen with VDOT's transportation improvements along the corridor. He said this still was not such a level of traffic that would make this unsafe for bicyclists or pedestrians to be beside it.

Mr. Bivins asked if Mr. Shimp could speak on the reduction from 25% to 20% green space, and the fact that the applicant was suggesting the tradeoff for this was to go to Azalea Park or Biscuit Run (which have no sidewalks). He asked why he should believe that this was a fair tradeoff to areas that were difficult to access for one living in the area. He said it seemed as if one wants to focus on being an internal, "robust" neighborhood, there should be neighborhood green spaces instead of pushing people to places they would have to travel to on the shoulder or culvert of the road (and where it would be difficult to push a carriage).

Mr. Shimp said that the 25% PUD requirement was more a suburban standard, and that this was not typically seen in an urban area. He said NMD requires 20%. He said if they were to rezone to R15, it would be 5%, which was just a fourth of what the applicant proposed. He said the applicant felt as if the 20% was reasonable and gives them enough space to make meaningful space for people, at the same time acknowledging that while one may not be able to get to the parks easily by foot today, it is a short trip by car and as time goes on, infrastructure improvements will make those connections happen.

Mr. Bivins said he had trouble with this. He said he understood the plan and thought it was nicely laid out, but he was trying to hear Mr. Shimp speak to the larger issue regarding Section 8.2B that says, "In the case of a requested modification, the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification." He said he understood all the modifications, but that he was struggling with how they were functional equivalents. He said that from the public standpoint, he was hoping Mr. Shimp would make the argument about how what he was proposing was functionally equivalent to what would be expected from a 100-acre PUD that was built from the start.

Mr. Shimp replied that in a 100-acre proposal for a PUD with a variety of housing types and

densities, one would see more of the open space around the perimeter. He said that in the more intense parts (such as the core, which is what the project was in), one would see less of this, as this space is needed for commercial uses and the density of residential the applicant is trying to achieve. He said there is a tradeoff and in looking at the context of the whole area, there is a good deal of open greenspace there. He said as the applicant is filling in the "core," they will naturally be pushing the number down to make room for commercial, core activities and that it didn't take away from what was there.

Mr. Shimp said this was an urban form development and infill of the spot, and it will inherently have less open space than the fringe area of the PUD, yet still four times what is required if they had gone with R15 (which would have also been supported by the Comprehensive Plan).

Ms. Riley echoed Mr. Dotson's comment that it would have been most useful if the full buildout of 300 units had been the assumption used in the TIA. She said she had a question about the assumption for Southwood, asking if the assumption was for Phase I or for all of Southwood.

Mr. Shimp replied that it was for Phase I.

Ms. Riley asked how many units.

Mr. Shimp replied 450 units.

Ms. Riley said that looking at the supplemental TIA that the Commission had asked staff for, the emphasis was on a possible R-cut improvement for the area. She said that knowing the corridor was under study, and that there was also the possible use of a signal, an R-cut, and a roundabout, she was looking to hear more from VDOT about what their preferred recommendation would be, if there was one.

Ms. Riley said that ultimately, the R-cut that was analyzed in the TIA was very disappointing and a concern for her because her understanding of the conclusion was that it would require only a right turn out of Old Lynchburg Road onto 5th Street Extended, and then the traffic would be funneled into a U-turn. She asked what, under this scenario, would allow people who will be making a U-turn into the westbound traffic. She said the TIA showed that all the other possible intersections may be improving under this, but the U-turn would remain at a level of service of "F."

Mr. Shimp replied that the applicant discussed this with staff and VDOT and did not have an objection to the R-cut. He said that the money they would put forth in the proffers could be used towards an R-cut or whatever solution VDOT and the County deems best. He said the R-cut could even be a less expensive route to implement. He said looking at it in the context of no approval of Southwood, the R-cut would work well, but with the Southwood traffic, making the U-turn becomes difficult. He said the applicant thinks the traffic light is the right solution for the project and that they would pay for their fair share of it. He acknowledged that it was part of a more comprehensive study going on to determine what was right for that particular location. He agreed than an R-cut wouldn't work as well at that location.

Ms. Riley said she knew that there were many unknowns and that the study was not complete, but there was a known traffic impact from the proposed development without a proposed solution. She said that the applicant has volunteered $100,000-200,000. She echoed Mr. Butler's question as to if this was a reasonable amount of money that would help with the impact. She asked if VDOT doesn't allow a signal there, and perhaps something else that is more expensive (e.g. a

roundabout, at $3-5 million), if $100,000-200,000 was reasonable. She said she was trying to thoroughly understand what the potential costs would be that would, in fact, provide some kind of improvement to the traffic impacts, and what was an appropriate amount of money that the applicant should offer for it.

Mr. Shimp replied that a traffic light would be fine for the applicant to have there. He noted that there were other developments coming up that need to be considered, as well as other factors that could make this not be the right solution at the moment.

Ms. Riley said that Cale Elementary was of grave concern to her, as the School District has under-projected the enrollment and as staff reported, the school was already over capacity. She asked if Mr. Shimp could comment on the added student projections for the project, mentioning a projected number of 169 students.

Mr. Shimp replied that the applicant had looked at numbers for schools early on before they had received tighter data and had come up with the number of 39 students. He said in September, the applicant then received more detailed data, which was reflected in the numbers that were recomputed and based on this, the number is around 60 total students (or about 5 per grade). He said the number of 162 was high was incorrect.

Ms. Riley commented that there was a wide discrepancy between the applicant's suggested projection of 60 and staffs of 169. She said that even if taking into account the correction that staff provided, 75 additional students were being considered to the elementary school, or about 22% of the overall projections for County staff.

Mr. Shimp asked Mr. Reitelbach for the corrected number from his calculation.

Mr. Reitelbach replied it was 36 elementary school students, for multi-family.

Mr. Shimp noted that all of the 300 units were for multi-family. He asked for the total number of students.

Mr. Reitelbach replied that it was 114.

Mr. Shimp acknowledged that there was a variance in the numbers, as he had believed the number was closer to 60 total students. He said the area was planned for a greater population and that people would be moving there. He said people who move from outside areas to Albemarle County are excited about having their kids in the school system. He said there was a public benefit that comes from the County operating a quality public education system, and that the fact that growth will happen needs to be accepted.

Ms. Riley said she would be asking staff more questions about the projections because the County has historically under-projected enrollment at Cale Elementary. She stressed the importance of developing a better method or formula for going forward. She said from what she read in Mr. Shimp's narrative and his assumptions, she thought that perhaps Mr. Shimp's projection was much lower than the County's was because he assumed that 12% of the students would attend private schools, because it was half of what the general private school population in the County is (which is 25%). She said she was unsure how he could assume that people living in rental apartments and/or townhomes would be sending their kids to private school for elementary school.

Ms. Schlein replied that the applicant had received comments back from staff about the narrative, asking them to evaluate their impacts to the school. She said the applicant then turned to the American Community Survey and looked at many tables of data from over the past five years, which they cited in their narrative. She said the private school number was taken from that data, from an overall calculation of how many children between ages 4-18 are attending private schools in Albemarle County.

Ms. Schlein said that this was the first application she has ever received where the schools have provided the applicant with a projected enrollment number. She said that in response to receiving those numbers, the applicant asked where they got the data and how they could better evaluate their impacts in the future. She said that this went on for a few months with no answer.

Ms. Schlein said that on September 25, they received the school enrollment data from Albemarle County Public Schools and Rosalyn Schmitt, and the numbers that the Weldon Cooper Center had come up with in their study with Albemarle County Public Schools they did a few years earlier, where ACPS provided the WCC with 10 years of student address locations, then the WCC analyzed where the students were living and what type of unit they are living in.

Ms. Schlein said the applicant just received this information last week and that in the evaluation of 30 proposed townhouses and 270 multi-family, using the calculation, they arrived at 37 elementary school students with a total impact of anywhere between 63 and 83 students, depending on the unit count and whether the project allocates more to townhouses or multi-family.

Mr. Shimp said that in the future, the Commission would likely see estimates that align more closely, but that it was a matter of the applicant not having the specific data until after they had turned in their original application.

Ms. Spain asked if there was a transit stop at Azalea Park, and if there would be one at Biscuit Run Park.

Mr. Shimp said he did know that the applicant has a bus stop in front of their site, but that he would have to defer the question to Mr. McDermott.

Ms. Spain said she thought that Mr. Reitelbach said that self-storage units have been taken off the table, yet the applicant included pictures of self-storage units in their presentation. She asked if the storage was still included in the plan or not.

Mr. Shimp replied that staff has recommended the self-storage units to be removed, but the applicant would like to keep them. He said the Commission could let them know where they stand on the matter, reiterating that the way people who live in small units frequently move, storage is a community service. He said that not everyone has an opportunity to store their things on their property, and the context of that need must be considered. He said if the Commission deems that the storage units should be eliminated, this recommendation could go to the Board of Supervisors, who could then determine what they think is appropriate.

Ms. Spain mentioned the picture of the self-storage units at Pantops and asked where these would be located (if it was beyond the interstate).

Mr. Shimp replied that the Pantops storage units were located at the corner of Routes 20 and 250

and that it was going near the new Wawa that was under construction.

Ms. Spain asked if it had or had not been constructed yet.

Mr. Shimp replied that it had not. He said it has been approved by the ARB, but not constructed.

Ms. Spain said Mr. Benish had provided a list of other PUDs in the County in order to provide the Commission a sense of comparability. She read the list, which included Mill Creek, Mill Creek South, Willoughby, Branchlands, Four Seasons, Forest Lakes South, and Earlysville Forest. She asked if all of these were 100-acre developments.

Mr. Benish replied that there was a caveat – that some of the zonings, with the change in 1980 to the new zoning ordinance at the time, used to have rural development plans. He said there was Neighborhood Planned Residential Development zoning, which was converted to PUD. He said that Four Seasons was actually a converted land designation to PUD. He said Willoughby is less than 100 acres, but it is a portion of a development that is half in the city and half in the County, with the total of that being larger than 100 acres. He said that this was not an all-inclusive list but that it captures most of the development area.

Mr. Keller asked how much of the 20% open space would not be in steep slopes or flood plain, but would have an opportunity to actually be in and amongst the residential units as opposed to periphery land that is quasi-usable, at best.

Mr. Shimp replied that the ordinance requires that one-fifth of any open space be outside of those spaces. He said there was an additional requirement that was more applicable, which was the active recreational requirement of 200 square feet per unit, and that this would drive the usable acreage. He said the applicant would be allowed to have some open space acreage that is at the peripheral (such as trees on the edge), and that there is a certain requirement that must be accessible by sidewalks as part of the neighborhood, which is also driven by the recreation requirement. He said in the applicant's case, math from the ordinance would require minimally one-fourth.

Mr. Keller asked if this meant 10-foot-by-20-foot spots.

Mr. Shimp replied yes, that this was for every unit, and multiplying this by 250, this would be the required space, or series of spaces.

Mr. Keller recalled Mr. Shimp's earlier comment about more urban nature of the project versus the more suburban nature of the classical PUD. He said the implication of the comment was that this allows for less open space because in urban areas, there is often less open space. He said he begged to differ and noted that in a number of the projects Mr. Shimp has brought forward, he has creatively tried to create more open space in them. He asked if Mr. Shimp really believed that urban areas have less open space than suburban areas.

Mr. Shimp replied that this was not necessarily usable open space – that typically in a by-right subdivision, the urban space ends up being scattered around the perimeter. He said that in a project like Royal Fern, more of the open space will be usable by the nature of grading the land relatively flat and having common space seating areas and recreation areas for people to use, adding that it was important to the success of the project. He pointed out that the land mass was more in more suburban settings, and that urban projects do have open space inserted into them

(mentioning projects done at Riverside), but not at 25% open space. He said if it was 25%, the land would be scattered at the perimeter in flood plains or steep slopes.

Mr. Keller said that they had not yet discussed the Fry's Spring neighborhood, which is a traditional community that is close by and is impacted by transportation issues. He mentioned a stormwater project that was going on over the past few years to deal with those issues. He asked if Mr. Shimp was suggesting in any way anything that might lessen the impacts that the development would have on Fry's Spring and pass-through.

Mr. Shimp asked if Mr. Keller meant traffic.

Mr. Keller said that Mr. Shimp is creative and that he wanted to hear his perspective.

Mr. Shimp indicated to an area on the plan, explaining that from a stormwater standpoint, that area drains into a regional facility that goes under I-64 (beyond Fry's Spring) and drains into Moore's Creek. He said runoff that goes towards the Fry's Spring area, towards the park (which has been subject to flooding) has to be carefully maintained and reduced as part of the stormwater requirements. He said that the laws protect someone downstream, in that case.

Mr. Shimp said he did not know the traffic patterns in that area well in terms of how many people will drive from that site into the city. He said there were many people having the issue with the left turn to go onto 5th Street Extended. He said the neighborhood has stayed single-family relative to the project's density and that, in a way, the density being closer to the corridor likely relieves housing pressure on the older neighborhood as far as rental housing. He said though there may be some traffic, he didn't see those things having large impacts on the neighborhood.

Mr. Keller said this brought him back to the public transportation component as it seemed to him that, as a person who has circulated around the city for many years, there will be more opportunity as the numbers increase to the south to cut through Fry's Spring on the way to UVA, and especially to UVA Hospital jobs. He said public transit could begin to alleviate some of this, as well as the movement of people from Fry's Spring to Azalea Park.

Mr. Keller said that for the Special Exceptions the applicant was asking from the Commission, it seemed that in terms of enhancing the quality of life through the amenities in the project (and the impacts it will have on adjacent areas), the applicant might consider more things that could be offered. He said since the applicant will provide significantly increased density, it seemed as though more things need to be discussed. He acknowledged that much of this happens at the site plan, but that at the condition level, many of those things could be discussed as well.

Mr. Shimp said that the condition about the CO timing relative to residential rooftops was a function of the size and location of the site. He said the open space percentage could be discussed and if there was a desire for transit stop space, the applicant was happy to provide that.

Mr. Dotson said he suspected everyone was wondering about the name "Royal Fern."

Mr. Kyle Reddinger, the applicant, addressed the Board. He said that when he names communities, he tries to look for natural and local flora and fauna. He said his last community was Sparrow Hill in Crozet. He said he was looking at native plants to Albemarle County, and "Royal Fern" came up. He said he liked the name, but his fiancée does not, so it may change at some

point and is what was on the application for now.

Mr. McDermott, Transportation Planner, said he didn't have a specific presentation but would try to remember the questions. He said that Mr. Moore would be able to provide more details about the analysis.

Mr. McDermott said that regarding the proffer and whether it addresses the impacts that will happen, this was a difficult question to answer as he did not have a specific measure for this. He said they could look at the one intersection, which would add just under 20% of traffic to the future condition of it, and if the applicant says they are putting up 50% of the cost of a particular improvement, this appeared to be reasonable. He acknowledged there were always additional impacts further down from every vehicle generated and that he didn't expect that the County could have this applicant be responsible for all developments that will also be using that intersection.

Mr. McDermott said he did not know what type of improvement would be preferable at that location and that he appreciated the flexibility the applicant put into this. He said in this sense, the applicant has made a good effort towards addressing the transportation impacts.

Mr. McDermott said there was currently only transit on 5th Street that goes out to Southwood, turns around, and heads back into town. He said the process was underway of updating the public transit system and that they would be working on a new plan in the short term as far as how some of the routes could be changed. He said they would continue to serve Southwood, and up and down 5th Street. He said there currently was not a bus that goes down Old Lynchburg Road.

Mr. McDermott said transit was discussed with the applicant and that he wished that the single stop in front of their site would be upgraded. He said it sounded like the applicant was willing to work with staff on this, which was important. He said there was a nice bus stop across the street at the County Office Building, and that putting one at the development would be great so that people can go across in both directions in nice shelters.

Mr. McDermott said he thought that the improvements the applicant was offering for the pedestrian and bike system were valuable. He said the ultimate goal is a shared use path on 5th Street and Old Lynchburg Road (south of the site) from Sunset and all the way up to the city. He said it would connect over to the Moore's Creek Greenway, which was currently being built out.

Mr. McDermott said there were plans for a sidewalk on Old Lynchburg Road and that he expected that by the time that there were people living in any homes that occur in Royal Fern, there would be a pedestrian connection that would go from Royal Fern all the way to Azalea Park, with a crossing of 5th Street that they would get with any of the transportation improvements being considered (R-cut, roundabout, or signal). He said those people will be able to eventually access Biscuit Run once there is a trailhead on that side, but this was still a long ways in the future.

Ms. More asked Mr. McDermott if he could speak to the timing for the proposed traffic light compared to the study going. She said staff had mentioned the study would be complete in the summer of 2020 and if it was selected for Smart Scale, construction would happen in 2024 for a more comprehensive improvement along the corridor. She said she shared Ms. Riley's concern about the R-cut.

Mr. McDermott said that R-cuts are an alternative intersection type that transportation staff considers, and though there were none currently in the area, there were some that would come

in on Route 29 at Lewis and Clark Drive. He said they were a new concept and that personally, they were not his favorite because it feels as if it's not providing as much access. He said the police across the street were not excited about the idea of an R-cut there, but perhaps a roundabout would be a solution that they would prefer.

Ms. More expressed that impatient drivers were going to be made to do R-cuts and wondered what the queueing would be like for this.

Mr. McDermott said that different alternatives were considered for the R-cut, noting that some could be signalized, which would improve the level of service from level "F." He said there were many ways to configure an R-cut – that either or both U-turns can be signalized, and the center can be signalized for left turns in. He said if the U-turn is signalized, it would reduce the wait times at the U-turn. He said the benefit of doing it this way is that the signal only stops one direction of traffic at a time, and so good flow can continue. He said that VDOT was loving R-cuts at that time and that there was a lot of data that backed them up.

Ms. More asked if VDOT had fallen out of love with roundabouts.

Mr. McDermott replied no and noted that everything has its place. He said the problem with roundabouts is that they cost much more money than R-cuts and signals typically do.

Ms. More asked if the solution (R-cut, roundabout, or signal) was included as the 2024 construction.

Mr. McDermott replied that VDOT's corridor study (for 5th Street inside the city out to Old Lynchburg Road) would be finished within the year and that VDOT would be considering options for all the intersections along that corridor, while also considering the entire corridor together. He said that out of this, the County would be receiving good recommendations as well as a timing scenario that would prioritize which ones should be done first. He said staff would likely be making an application for an R-cut in Smart Scale and that he hoped the study would suggest this. He said this would mean that they were looking at construction for that being six years out. He said if they go with a roundabout, it would not be constructed before the buildout of Royal Fern.

Ms. More pointed out that they have to be selected to receive the Smart Scale funding.

Mr. McDermott replied yes. He said if they are not selected, staff would look at more interim solutions, such as a traffic light.

Ms. Riley asked for the projected cost of an R-cut with a signalized U-turn.

Mr. McDermott replied that he did not have a number for that.

Ms. Riley asked for a range. She said she would like to know the ranges of the costs for the various improvements for comparison purposes.

Mr. McDermott said that a roundabout would likely cost $8-10 million, and an R-cut would likely be $4-6 million. He said that a light would cost under $1 million, and probably closer to $500,000 or less, as the applicant has said.

Ms. Riley asked Mr. McDermott what, as a transportation planner, was his approach to

determining what is a reasonable contribution to an impact in the traffic. She recognized that they did not have a strict formula at that time, noting that part of what has been frustrating her with the traffic impacts related to many applications is that they do not have a consistent, data-based, quantifiable approach and that she would like the County to get closer to having this. She asked for Mr. McDermott's opinion on the applicant's statement that they would be generating a 17% increase in vehicle trips per day. She asked him what was an appropriate, or reasonable, amount of a cost of any one of those improvements.

Mr. McDermott said he believed the applicant was going down the right path, and that in looking at all the improvements in the corridor that they may need as a result of the development, as well as the amount of traffic that the development would generate and use this as a rough proportional estimate of what they would expect. He said that he didn't know what his role was in dealing with the proffers and that this was the first one he had seen since the new legislation came about.

Mr. Herrick said it was his understanding that the applicant has requested to proceed under the 2019 proffer law. He asked for confirmation from the applicant.

[Someone away from the microphone answered.]

Mr. Herrick said that as the Commission is aware, for applications that were received prior to July 1, 2019, the applicant can choose whether to proceed under the 2016 proffer law, or the 2019 proffer law. He said it was his understanding from the staff (and confirmed by the applicant) that they are electing to proceed under the 2019 proffer law, which does allow a more relaxed ability to speak with the applicant and for the applicant to provide any proffers that it deems to be reasonable and appropriate.

Mr. McDermott said that because the applicant deemed their proffer reasonable and appropriate, staff must accept it. He said the proffers obviously would not address all the problems in the corridor, pointing out that the applicant did not cause all the problems in the corridor, either. He said he understood the frustration and that it would be ideal to have an easy formula. He said that though one was not available at the time, staff could look into it.

Ms. Riley added that, when looking at the hypothetical numbers, the applicant suggested a $100,000-200,000 contribution on what Mr. McDermott was now saying could cost a $500,000 for something as simple as a signalized light. She said looking at what was 17-20% of $4-6 million for an R-cut signalized U-turn versus 17-20% of an $8-10 million solution, those numbers were significantly different in terms of what could be considered a fair and reasonable contribution.

Mr. Benish said that the issue was that the County doesn't have a recommendation for what the alternatives are. He said that what Ms. Riley was likely struggling with was the timing of the information available for her to make a decision. He said that what the applicant has offered is a method that addresses their impacts through one way of addressing the intersection. He said whether this is the decision of the County and VDOT as to the best future approach, staff did not have that information at that time.

Mr. Bivins asked what VDOT's role would be in assessing either the private or public lane that is on Blocks 3, 4, and 5, recalling earlier conversation that perhaps it could be looked at as a public road.

Mr. Adam Moore (representing VDOT's Charlottesville residency) addressed the Board. He said

VDOT would take no stance on whether the road should or should not be public or private. He said there are design standards, if chosen to be public, that the road must meet. He said that access management standards at its intersection points would be required, regardless of if it was public or private. He said this would be requirements for the typical section, the width of the road, and sidewalks on both sides (in this instance). He said Wahoo Way is currently private and he knew of no plans to make it public, so it would only be connecting to a public road on one end.

Mr. Bivins asked if the decision to do this was the developers.

Mr. Moore responded yes.

Mr. Benish added that private road standards essentially mirror public road standards.

Mr. Keller said he kept hearing talk about how roundabouts are the ideal solution, and that having walked the Gordonsville circle many times (which was one of the first in Virginia) as well as ones all over the world, he found traffic circles very difficult for pedestrians and bicyclists. He said that with talk about attempts to make the project pedestrian friendly, he wondered if there could be another discussion with the Commission about how the flow would really work, as well as how R-cuts and the signals would work.

Mr. Moore commented that Gordonsville was a poor example of a roundabout, and that it was actually a traffic circle. He said there are differences between the approaches to the circle from different angles and signs. He said the roundabout would be much more similar to what is seen near the Charlottesville Airport or Hollymead Town Center.

Mr. Keller mentioned the way people drive through the roundabouts because of the lack of curb in the center and trucks of certain sizes.

Mr. Moore noted that there was a very sensitive design parameter for roundabouts to which VDOT tries to strike a balance between slowing vehicles down so that the busiest approach doesn't dominate the other approaches, as they are coming in so fast. He said it also has to keep people moving to keep the lines short at the busiest times. He said generally, the idea is that the geometry of the roundabout keeps traffic at about 15 mph, at most.

Mr. Keller said with pedestrians, and now scooters being added in with bikes, would make it fascinating to watch how 5th Street and Old Lynchburg Road will work, as well as other areas.

Mr. Moore said that in terms of pedestrian challenges in the area, with 5th Street being a four-lane section with a wide median, pedestrians currently would have to cross two lanes at a time, get to a median, and then cross the other two lanes. He said in a roundabout, there would be more protected islands. He said it wouldn't necessarily be a quicker crossing, but there would be more of a station-to-station crossing. He said that along with roundabout designs, there are established points where pedestrians come across as the splitter islands on the approaches.

Mr. Keller asked about the R-cut.

Mr. Moore replied that the R-cut provides a different challenge for pedestrians. He said it keeps it very similar to the conditions today for pedestrians crossing the street.

Mr. Keller noted that Mr. Moore was in the business of dealing with adjacent jurisdictions, and in

this case the area was very close to another jurisdiction in several ways. He asked Mr. Moore if he had any thoughts on this aspect of transportation, vis-à-vis development on Old Lynchburg Road or 5th Street Extended. He asked if the study being done would address both jurisdictions, for instance.

Mr. Moore replied that the corridor study adds onto a previous study that was done wholly inside the city, explaining that it overlaps one segment of 5th Street between the two studies and continues outward.

Mr. Keller asked about the Old Lynchburg Road portion.

Mr. Moore replied that the Old Lynchburg Road portion, to his knowledge, had not been studied by VDOT or the city for any improvements. He said that he drives through the area regularly and what he sees is probably not a significant change in coming years in the amount of traffic from the city coming in and out. He said he sees this as likely stable, with the growth being primarily in the County in the area along 5th Street and Old Lynchburg Road (south).

Ms. Riley asked if Mr. Moore could talk more generally about what would be included in the study, and what other major components or intersections besides Old Lynchburg Road and 5th Street would be included.

Mr. Moore replied that the goal of the study was to identify incremental improvements, both corridor-wide and in intersections, that are low-cost in the short-term as well as higher-cost, longer-term solutions that typically end with some sort of public project (e.g. Smart Scale, revenue sharing). He said there are often very small-scale improvements that VDOT can accomplish with maintenance or County safety funding they have at their disposal. He said very small changes included lane configurations, pedestrian facilities, signing plans, etc.

Mr. Moore asked if the Commission wanted him to speak about the differences between signals, R-cuts, and roundabouts in the proposed location and the costs. He said the primary problem with a signal at that location was that it was very specifically isolated to certain approaches or individual lanes turning left onto 5th Street from Old Lynchburg Road. He said when the problem is very concentrated as such, the signal will contribute to the benefit of the one approach while creating problems at the other approaches.

Mr. Moore explained that after buildout, to benefit 300 or so vehicles coming out of Old Lynchburg Road, they would have to stop the nearly 800 vehicles that are traveling through the intersection on 5th Street or Old Lynchburg Road. He said in doing so, this becomes inefficient because with every signal cycle, everyone stops for a certain amount of time, and this time is lost; whereas, the other designs do not have this shortcoming.

Mr. Moore said the other downside of signals is that they introduce a certain portion of crashes that would not occur in the other designs. He said they will create, specifically, a certain number of rear-end crashes at the approaches to the signals that were not expected with yield conditions (such as at a roundabout) or at stop conditions (such as with an R-cut).

Mr. Moore said that at the location, VDOT has determined that a roundabout truly addresses both operational concerns and access concerns not only from traffic using Old Lynchburg Road, but also from the County Office Building across the street. He said the difference between the R-cut and the roundabout was primarily cost. He said if the cost of an R-cut, to make it work with

signalization and perhaps right-of-way needed, would not be the preferable alternative, but is much cheaper to construct than a roundabout, especially in the location where there is plenty of right-of-way with the wide median. He said that with 5th Street and Old Lynchburg Road, the right-of-way impacts were much less, and that construction of U-turns and a central island for an R-cut is far cheaper than a circulatory roadway and center island of a roundabout.

Ms. Riley asked if Mr. Moore could explain why an R-cut with a signal at the U-turn would not have the same downsides as a signal right at the intersection. She asked if the cars were still stopping for the flow of the U-turns that have just done a left turn.

Mr. Moore replied that it was similar, but probably by some factor less because in this case, the vehicles have already crossed the traffic coming out of the city and they are then only having to wait for a gap in the traffic just coming in. He said currently at a stop condition, the vehicles have to wait for a gap in both directions to be able to get out.

Mr. Keller announced that there would be a five-minute break.

After the break, Ms. Riley said she had some questions for staff. She noted that one of the unfavorable factors in the staff report was listed as, "Additional students will be enrolled in area schools, including Cale Elementary, which is already over capacity." She said in the staff report on page 12, it states, "Since there are no projects in the CIP to address future school capacity impacts, no commitments would be expected from this development to address future school capacity. In addition, the school system may also choose to redistrict in the future, thus shifting the capacity levels of individual schools."

Ms. Riley asked staff why they were treating the impacts to schools differently than those for transportation. She mentioned there were similarities between the corridor study of 5th Street and the School District's Long-Range Advisory Committee study that was assessing Cale Elementary School and potential solutions to the over-enrollment. She asked why schools and transportation were being treated differently in terms of not engaging in conversations around contributions to the impacts.

Mr. Reitelbach said that staff's perspective on schools was that there was nothing in the CIP being addressed currently and that the school system had not identified any specific needs for addressing additional capacity for Cale Elementary specifically, and therefore there was nothing for staff to specifically analyze in regard to that. He said that for transportation, on the other hand, the ongoing study and the TIA provides some information for staff to analyze impacts that were not available for the schools.

Mr. Benish added that there were standard measures by which staff knows they can address the traffic issues, whereas there isn't guidance as to what the specific options are for Cale Elementary. He said this goes back to the fact that staff lacks information currently to know what the recommendations are to be able to address what the costs of the improvements are. He said until staff has further information from schools, it is a timing issue of what they have to evaluate. He said that in terms of schools and proffers, there is also a proportionality that is intended to be directly attributable, and that it is an important measure that is difficult to achieve for schools.

Mr. Herrick said that the exact term, under the 2016 proffer law, is "specifically attributable," but schools, public safety, recreation, and transportation are all allowable factors and impacts to be considered, even under the 2016 proffer law.

Ms. Riley said this information was helpful. She commented to the rest of the Commission that the argument could be made that there is currently a CIP FY 21-22 fund request for improvements at Cale Elementary that includes expansions and site improvements, therefore documenting the current needs. She acknowledged there was not a specific solution from the Long-Range Planning Advisory Committee about what the adjusted projected enrollment would be, but that it was known that the school was over capacity and that there would be a need for funding for whatever the solution is. She expressed that she was frustrated with the process.

Mr. Bivins said that Fire & Rescue is presented the plan and gets to comment on it, and Police, Utilities, VDOT, and Traffic also get to do this. He said what the staff report has about the school is descriptive, but they don't seem to give the school system an opportunity to comment and weigh in on the development in a similar way. He said perhaps this process would get to what Ms. Riley was speaking to.

Mr. Keller said that hopefully, after the County housing policy is updated, Housing would follow suit, as the County was starting to see more information built in about affordable housing as well.

Mr. Benish said staff does give Housing an opportunity to weigh in, and that their comments usually come from the long-range plan.

Mr. Dotson said he didn't object to the self-storage. He said in an area in which there will be multi-family and townhouses, and with people downsizing, there is a need for self-storage. He said he thought the appearance of the examples that were provided seemed attractive enough. He added this was not in the "urban core" (such as with Places29), but was more like a satellite area.

Mr. Dotson commented on the open space. He said the thought behind a PUD envisioned a variety of densities, but that there would be some single-family detached units and that many of the examples of PUDs that have been cited have single-family detached, which include much private open space in the form of a yard. He said that as they have multi-family and townhouses in the development, there is less private open space, and to reduce the open space further doesn't necessarily make sense to him, though that he understands that from a fairness and equity standpoint, if the NMD requires 20%, this provides a more current benchmark than when the PUD ordinance was formulated.

Mr. Dotson said that one of his concerns was with a problem when affordable housing is built – that the County scrambles to find people who have prepared to become homeowners and who qualify financially and therefore, they have lost in that 90-day period a number of affordable housing units. He said that if 45 affordable units are built, they shouldn't be built all at once as the County will never be able to find 45 qualified families. He said some creative thinking on the part of the applicant to space those out over time and phase them in would balance the supply and demand, rather than putting them on the market all at once.

Mr. Dotson said that an additional piece of information about Cale Elementary was if comparing the K-12 enrollment numbers at Cale for 2018 and 2019, there were 83 more students in 2019. He said there were already four trailers on the site and two more have moved in for 2019. He said that though there may be room at other schools for trailers, there was no more room on the side of Cale for trailers as it was maxed out. He said this was a serious problem. He noted there was a proposal to study, along with middle schools, what to do about Cale. He said that assuming it goes forward in the CIP, it would be two years, but if the outcome is to build a new school, a new

site has to be located and it takes about three years to design and build a school, resulting in a longer-term issue that was of some concern.

Mr. Dotson said his last point regarded traffic, noting he was concerned that the TIA didn't analyze the 300 units that the Commission was being asked to approve, which makes him think that perhaps they should approve 230 units instead, as that was what was analyzed. He said he was unsure if the Commission had this discretion and that they would likely have to go up or down on the 300. He said he was disappointed in this because the Commission was being asked to approve 30% more than what has been studied.

Mr. Dotson said that relating to traffic and capacities in general, he has put much thought into the rationalizations. He said one rationalization is, "It's only an hour in the morning, and an hour in the afternoon. It's okay the rest of the time." He said another rationalization is about fairness: "We've said okay to others, so we ought to say okay here, to be consistent." He said another one was, "It's only a small share – perhaps 17% - so that's not too bad. We can live with it." Another rationalization he cited was, "It's too late. The camel's back is already broken, so let's not try to unbreak it at this point."

Another rationalization Mr. Dotson quoted was, "We can't hold the development up, or don't need to, until after the corridor study is complete." He pointed out that they would likely be learning a lot from the corridor study. He said putting it on the priority list doesn't mean it would be funded. He said the last rationalization was, "We acknowledge the lack of funds and pledge to keep on looking." He said he didn't know, if he were to vote "yes" to the proposal, which one of those rationalizations he could hang his hat on to say that this was a rationale, not a rationalization.

Ms. More said she didn't have a particular comment on the self-storage because she was still struggling with wanting to look at the idea that this could be a PUD as a creative solution. She said she was not finding herself there, and with every exception being asked, it was leading her back to not considering the proposal to be a PUD. She said she wished she could see it as a way to get at something that other designations wouldn't get to, but that she couldn't get on Board with the idea of the PUD and with calling the other rooftops in place to allow for the exceptions. She recalled Ms. Firehock's points about the intent of the PUD (flexibility and creativity).

Ms. More asked how she could know that it won't just be all storage units in all the commercial space. She asked that on the other hand, how she could know that it wouldn't be some other by-right use. She said this happens frequently where the Commission doesn't know and has to go forward, and that she was having a hard time with the PUD designation and if it was appropriate when considering 13 acres. She recognized that there weren't many sites that would be a minimum of 100 acres, pointing out that the Commission was not being to even consider 70 or 50 acres, but 13. She said perhaps the lack of 100 acres signifies that the County needs a designation that would get at the design that would not require applicants to write a COD or for staff to jump through hoops to see it through.

Ms. More said that just as she had said at many previous meetings in terms of traffic and schools, she was not inclined to believe that they should continue to make a bad situation worse. She said this was a terrible approach because the County was seeing more failing intersections and overcapacity at the schools. She said that when Crozet was designated as a growth area, there were cautionary words about what could happen. She said that concurrent infrastructure now almost seemed like a ridiculous thing to expect. She said that in terms of school and traffic, it was unsafe and irresponsible to continue down a path when there are studies in place to help better

inform decisions.

Ms. Firehock concurred with Ms. More. She said the application was trying to shoehorn into a zoning class that was created for other purposes. She said she had a lot of experience with PUDs and it was not solely intended to be flexible. She said she did not hear an acceptable justification for the open space reduction, and that in terms of the approximate parks' argument, they were not approximate enough. She said that the contribution towards traffic impacts did not seem to be proportional to the impact that would likely result from the development. She said she was concerned about the school issue because Mr. Dotson had mentioned three years to find a site for a new school. She said to consider how long it would be in the life of a child to be schooled in a trailer, pointing out that children need more room.

Ms. Firehock said she was not disposed to support the proposal. She said she did not see the creativity or thoughtfulness in terms of the design that would justify why the Commission should make the extreme special exception to what a PUD truly is.

Ms. Firehock said that in Charlottesville, there is a similar problem where they were having small infill projects that didn't fit PUDs, so they actually made something smaller than a PUD called an "Infill SUP." She said it wouldn't be the exact thing that would be appropriate for this development but suggested to the County that perhaps a new zoning class needs to be created specifically for shoehorned-in odd spaces to lay out exactly what is expected from them, instead of trying to take a PUD and inappropriately applying it. She said she didn't blame the applicant, since it was staff's suggestion, but that she didn't think it works in this case.

Mr. Bivins said he has struggled with the public facing of the code, and if he were a developer coming into the area and looking at the PUD as an option and did everything laid out in the code, he would have to come before staff and perhaps make some modifications. He said he didn't necessarily know, in looking at the code, that he could come in and ask for five exceptions.

Mr. Bivins expressed his concern that when the County allows projects to come forward with this number of exceptions, and that the exceptions (as he read to Mr. Shimp), "Do not satisfy to at least an equivalent degree" with the modifications of the original regulation. He said he was struck that while the project was interesting, in good faith of what the code does, he could not see how this project should be permitted with the number of exceptions that were being asked for.

Mr. Bivins said he was also struggling with the space – if it would be a community of a number of different types of homes that will be among themselves, or (as an argument for the commercial sector facing on 5th Street) serving the people going up and down 5th Street. He said there was an inherent tension in this for him and that the argument for allowing this to happen takes it even a further step away from the PUD. He said that while he believed there were some interesting pieces and that the corner would bring some new life to the area, he was not comfortable saying that the PUD was the vehicle by which the project would go forward.

Mr. Bivins said that vis-à-vis the storage, there were many things that could be done by-right, such as 70 units put in there and using the commercial space for the storage, which may be the solution there. He said the applicant could make this decision with their resources and investors. He said it may be, as Ms. Firehock said, that the County needs to come up with a code modification that allows applicants to read the code and clearly determine what is being asked of them, as opposed to trying to creatively find a way around it. He said he was uncomfortable with the latter and was not what he wanted to vote for, and instead he wanted the code to be what it

is.

Mr. Bivins said it would make things easier for staff and for developers to modify the code, because having applicants think of ways to creatively craft their way through code was a waste of time for many people. He said because of this, he cannot use the PUD (with five exceptions) to support the proposal.

Ms. Spain said she concurred with many of her colleagues, especially on the issue of the five exceptions, as it seemed like too many for the size of the project. She likened the issue as trying to put a square peg into a round hole.

Ms. Spain reminded her colleagues that in terms of school enrollment and over-enrollment, during the Baby Boom, because they couldn't expand space, they instead split time and were on split shifts for many years. She said she didn't think that Albemarle County wanted to resort to this, and that the problem wasn't that big yet, but if there was another bulge in student enrollment, there may have to be a solution that is not space-dependent but is time compatible.

Ms. Riley agreed with what her colleagues had said. She echoed the comment on the need for more open space, noting that this was the second application that has come through along the 5th Street Corridor (with Southwood being the first one) where there is a proposed reduction in open space and active recreational use. She said she agreed with the Commissioner who stated that particularly in denser areas (e.g. multi-family and townhomes) where there is less private open space, there is likely an additional need for more open space for the public.

Ms. Riley said this was a project that was partially in the Scottsville District and partially in the Samuel Miller District. She said she was prepared to make a motion when ready.

Mr. Keller concurred with his colleagues and said that all the points had been well-made.

Mr. Shimp said the discussion was more complicated than he had anticipated. He said he wanted to make clear that the Comprehensive Plan was the applicant's guide. He said they were not trying to fit something into the PUD ordinance, but rather, they were trying to work the PUD ordinance around the Comprehensive Plan. He agreed that there wasn't a perfect fit for the project's size, but it was collectively agreed upon with the applicant and staff that of the tools they had, this was the best way to get to the goal of the Comprehensive Plan for the property.

Mr. Shimp acknowledged that it was imperfect and complicated but expressed that the PUD was the best way. He said the other choice was NMD. He said he would like a chance, if the Commission could consider deferring, to go back and address specifics about the exceptions. He said that the applicant could go to 25% open space, if it was important. He said the NMD had established a precedent and had they applied for it, they would have come to the same exact point.

Mr. Keller asked Mr. Shimp if he was asking for a deferral.

Mr. Shimp replied yes. He said he had heard a lot of questions and that he couldn't address them all that evening. He said the applicant could adjust the traffic study to show the full 300 units, for example. He said if there was no way the Commission could accept a PUD, they could vote that evening, but that he believed there should be more discussion about the ordinances and what they are trying to accomplish as far as following the Comprehensive Plan before the request is

dismissed. He said the PUD was specifically written to allow for exceptions as necessary so that the plan can adjust to the Comprehensive Plan. He said he would like to have more time to bring the details back, as though it was complicated, he believed the PUD was the right thing for the project.

Mr. Herrick asked for clarification as to if the applicant was requesting a deferral.

Mr. Shimp said he would request a deferral.

Mr. Herrick asked if this would be for both the ZMA and the special exceptions.

Mr. Shimp replied yes.

Mr. Keller asked Mr. Herrick if the discussion should be continued by the Commission in terms of things they would like to see, or if the Commission had discussed enough at that point and should vote on the deferral.

Mr. Herrick replied that it was up to the chair. He added that there was not a requirement that there be a deferral, and that what the request does is open up the ability of a member of the Commission to make a motion to defer.

Mr. Keller said that technically, then, it would be best for the Commission to address the deferral and if there were no votes for this, come back and vote on the application.

Mr. Herrick replied that it would be up to a Commissioner to decide whether the Commissioner wanted to make a motion to approve, a motion to deny, or a motion to defer. He said any one of those motions would be in order. He said that a motion to recommend approval, recommend denial, or a motion to recommend deferring would be in order from a Commissioner.

Mr. Keller said he would look to the Commissioners whose districts the project falls in.

Ms. Firehock said she was not disposed to a deferral, stating that she did not know how to fix this particular application.

Ms. Riley said that on the contrary, she would entertain a deferral to give the applicant an opportunity to see how they could address the concerns that were raised.

Ms. Riley moved to recommend deferring ZMA201900003 Royal Fern, as requested by the applicant. She recommended deferral on all five of the Special Exceptions, as requested by the applicant.

Ms. Spain seconded the motion. The motion failed 3:4, with Ms. Spain, Ms. Riley and Mr. Bivins voting in favor; and Ms. More, Ms. Firehock, Mr. Keller, and Mr. Dotson voting against.

Mr. Keller allowed Mr. Shimp to make a final statement.

Mr. Shimp said the applicant was told by staff that this was a good way to bring the project forward. He said if the Commission is denying the request, the applicant has to completely start over. He acknowledged that there were issues with the request, but that they were worth more discussion. He said the County staff knows how to implement the Comprehensive Plan from the ordinances

and that's why they were recommending the PUD. He expressed that for the Commission to toss the project out on a technicality (that was directed to the applicant to do) felt harsh to him.

Mr. Keller thanked Mr. Shimp for his input and said he would see if the Commission could address this through its discussion and comments.

Ms. More said the reason for her vote was because if the deferral was to come back and say that it, for instance, wanted three exceptions and even if it eliminated the exception for 20% open space, she still didn't feel like that would bring them to a different place than they currently were. She expressed her appreciation for the applicant working closely with staff but said that it was difficult for her to imagine a scenario where there wouldn't have to be so many special exceptions.

Ms. Firehock again expressed that she didn't think the particular application fulfilled the intent of a PUD. She said a PUD is not simply "anything goes zoning," but the purpose was for creative arrangement of the space that is brought about by difficulties with topography and layout. She said PUDs also encourages mixed use. She said the application was not appropriate for a PUD.

Ms. Firehock said she was sorry that staff led the applicant down that path and that she did not agree with staff. She said if the Planning Commission was simply there to approve what staff says, there is no purpose in having a Commission. She said the Commission greatly respects staff and appreciates their hard work, but they are free to disagree with staff's analysis, which has happened more than once during her time on the Commission. She said this is why the Commission has debate, dialogue, and discussion as it was the purpose of a democracy.

Ms. Spain said she may have misunderstood Mr. Shimp, but that she thought that when he was asking for a deferral, that he might be asking for an opportunity to change the request from PUD to NMD. She asked if it were NMD, would the Commission still be having the same type of conversation.

Ms. Riley added that though she never got to the point of making the motion for denial, in addition to whether or not the application essentially meets the PUD intent, the other reasons why she had grave concerns was because she didn't think the development adequately addresses the off-site impacts, specifically to the area traffic and the additional students that would be enrolled in Cale Elementary School. She said that in part, she was leaving the door open for the applicant to consider this as well when revising their application.

Ms. Spain said she would still like to know if the development was NMD, if the Commission would be more inclined to recommend approval.

Ms. Firehock said she took great care to write down her other concerns about traffic, schools, etc. and so an NMD approach would have to depend on the density and how the applicant proposes to address the traffic. She said the Commission heard attempts to address the traffic impacts, as well as what she deemed to be a ridiculously high amount of money it costs to do the various improvements without the benefit of a study that determines if any of the solutions are appropriate.

Mr. Bivins suggested that this was perhaps where lacking code is driving an uncomfortable decision for both sides. He said the code was being used to describe something in the community that is either not needed or is impacting the community in a different way. He said the Commission had an opportunity to say at some point that evening to the Board of Supervisors, if staff and the Commission believe that the PUD needs a complementary set of code that allows these types of

infills to take place without a recrafting that is, in some ways, in conflict with a plain reading of the code.

Mr. Bivins said that with the NMD, the applicant would have to submit their COD and there would be a deeper, more robust exercise with staff and then bring before the Commission that would be better crafted for the particular project. He said he tried to look for a legislative history on the PUD, which he couldn't find. He said he reads the PUD as statements that say, "There shall be..." instead of "Perhaps..."

Mr. Bivins suggested that Chapter 18, Section 20 may need a complement to it and that this was something that he would like the Commission to recommend to the Board of Supervisors to give staff an opportunity to write or change the language that provides a level of flexibility in the interpretation. He said that when the statement says, "Not less than 25% open space," and when he reads this statute, it makes it difficult for him to allow for 20%. He said when he reads, "The minimum area required for the establishment of a PUD district shall be 100 acres," this tells him that he has been boxed in by the intelligent people who crafted the ordinance many years ago.

Mr. Bivins said he was not trying to set aside the traffic or school impacts, but he was trying to set aside the fact that the applicant and staff, being creative, thought they could bring a solution to the Commission that is making many of the Commissioners uncomfortable with what they are asking them to do. He expressed he was uncomfortable as to what kind of precedent this would set for other developers who may decide that they do not need 100 acres. He stressed that the people of the community needed to expect some consistency from the Commission. He said that this was an opportunity to review the ordinances with staff and the Board of Supervisors so that staff is spending time where they should.

Mr. Dotson replied to Ms. Spain's question about what the Commissioners would think if the application was to be submitted as an NMD. He said if all the results were to be the same, he would not support it as an NMD, either. He said it was about the school and traffic issues and that the outcomes were his concern.

Mr. Keller asked if there was a motion.

Mr. Herrick asked if staff could display suggested motions on the screen.

Ms. Riley moved to recommend denial of ZMA201900003 Royal Fern for the reasons listed: the proposed development's location (including being bisected by Old Lynchburg Road), small acreage, reduction in open space, and the community design do not meet the PUD intent regulation, which is described as intended to serve as a neighborhood or mini-neighborhood within designated communities in the urban development; there is a lack of information about possible solutions to the offsite impacts of traffic and schools; and the proposed development does not adequately address its off-site impacts, specifically impacts to area traffic and the additional students that would be enrolled in Cale Elementary School, which is already over capacity (these impacts are both listed in the Unfavorable Factors section of the staff report).

Ms. Firehock seconded the motion, which was carried by a unanimous vote (7:0).

Mr. Herrick said there were the five Special Exceptions that needed to be considered.

Mr. Bivins asked if they could be grouped.

Mr. Herrick replied that it was preferable to have them done separately, for clarity's sake.

Mr. Keller said the Commission would vote on each of the exceptions.

Ms. Firehock moved to recommend denial of the requested Special Exception for Section 20.7.1 - PUD Minimum Area Requirements because it was far below the actual acreage in the ordinance.

Ms. More seconded the motion, which was carried by a unanimous vote (7:0).

Ms. Firehock moved to recommend denial of the requested Special Exception for Section 20.8.2 -Minimum Area Requirements for Open Space because it is below the amount required by the ordinance, and no adequate justification was given for the declination.

Ms. More seconded the motion, which was carried by a unanimous vote (7:0).

Mr. Dotson moved to recommend denial of the requested Special Exception for Section 20.9.3 - Total Gross Floor Area and Commercial/Service Areas of the PUD because the request is far in excess of what would be allowed in the PUD, with many factors of magnitude.

Ms. Firehock seconded the motion, which was carried by a unanimous vote (7:0).

Ms. Firehock moved to recommend denial of the requested Special Exception for Section 20.9.4 - PUD Building Permits - Issuance for Commercial/Service Uses because the rationale provided for the applicant to vary from the original ordinance was not sufficient.

Ms. More seconded the motion, which was carried by a unanimous vote (7:0).

Ms. Firehock moved to recommend denial of the requested Special Exception for Section 20.10.3 -Building Permits – Issuance for Shopping Center Uses because the justification provided by the applicant was not sufficient.

Ms. More seconded the motion, which was carried by a unanimous vote (7:0).

Mr. Keller said he believed there was reason to follow up on Mr. Bivins' suggestions in explaining this, in effect, through a request to the Board of Supervisors about the policy. He asked if this should be addressed in "New Business" and if this was the proper way to do this.

Mr. Herrick replied that if the Commission would like to discuss potential policy guidance or recommendations it wishes to make to the Board of Supervisors under "New Business," this would be appropriate.

Committee Reports

Mr. Dotson said that the School Division Long-Range Planning Advisory Committee was meeting the following day (October 9).

Ms. More said the Crozet Area CAC had its second workshop for Master Plan review. She said there would be a third in November before entering into another phase which would involve more details of the existing plan. She said though there was less attendance at the last workshop, there

were creative breakout sessions that the community participated in.

Mr. Bivins said he attended the Staunton-Augusta-Waynesboro MPO, which was a shared meeting with the Charlottesville-Albemarle MPO. He said there were several presentations, and that one interesting idea was an Afton express service, which would be coming across from Staunton and Waynesboro into Charlottesville, then a reverse in the evening, which would take some vehicles off the road as well as give people who don't want to drive across the mountain to work another option.

Mr. Bivins added that were interesting things happening with DRPT (Department of Rails and Public Transportation), which was running a bus from Blacksburg to places in between Harrisonburg and to Dulles Airport. He said Charlottesville was also being discussed as having a bus going to Dulles Airport.

Mr. Bivins said that the most fascinating item from the meeting was the Crozet Tunnel progress update, explaining that the tunnel had the capability of bringing tourists to the Crozet area while representing and honoring its history. He said if the Commission could see a presentation about the tunnel, they would see how people undertook large projects long ago. He said it was a tunnel that is known around the globe for the way it was done.

Ms. Firehock remarked that the Crozet Tunnel was on the TV show called "Mysteries of the Abandoned."

Mr. Keller said the project was an opportunity to tell about the many communities who worked on the tunnel.

Review of Board of Supervisors Meeting – September 18th, 2019

Mr. Benish said that at the meeting, 999 Rio Road was deferred by the Board at the request of the applicant, and to date, it had not been acted on, nor had there been a resubmission, or any information provided back from the applicant.

Mr. Benish said the Special Use Permit for Regents School on Reservoir Road was approved with the conditions that were recommended by staff and reviewed by the Commission.

Mr. Benish said there were also six Agricultural and Forestal Districts that the Commission had reviewed that were all approved by the Board, as well as one addition. He said these were all acted on as the Commission had seen them.

New Business

Mr. Bivins said that regarding the Royal Fern application, part of the conversation was to recognize that staff was trying to be creative, but that this was done within the context of a zoning ordinance that has firm language around it, with many "shall" statements. He said in a strict reading of the PUD, he felt "boxed in" in that the language didn't permit him to feel the kind of latitude that the particular project was asking the Commission to apply to it. He suggested there may be a way to do a modification of the PUD, or to create a new ordinance that is slightly different in order to allow for more latitude.

Mr. Keller added that staff had stated that there are so few 100-acre parcels. He asked if this was

the case, why they would not do something that is relevant to the parcels they have.

Mr. Benish replied that staff has an overall re-write of the ordinance that they were beginning to embark on and that this could be an aspect in an attempt to modernize the ordinance. He said it was fine to make a recommendation or motion, but within staff's work program and within the County Attorney's office was the lead to begin to recraft and modernize what is an antiquated ordinance, both from the mechanics of it and bringing it up to a modern standard.

Mr. Benish said he couldn't recall the schedule of the work program, but what the Commission was asking staff for was something that they know is long overdue. He said that staff understood there are missing pieces to its ordinance and were trying to determine the best ways to implement the recommendations of the Comprehensive Plan, which was crucial to any decision that is made.

Mr. Benish said that in terms about the language "shall," Mr. Herrick could address the expectations of an ordinance, noting that ordinances are usually proactive and specific in what needs to be done, and that other sections of the ordinance can allow for the exceptions that are made. He said this was the common approach to an ordinance, as opposed to a policy. He said this would be considered as staff updates the ordinance.

Mr. Herrick said that the entire County code (not just the zoning ordinance portion) was currently in recodification. He said that every chapter of the County code was being analyzed for modernization and reorganization. He said he was not sure where on the calendar Section 20 of the zoning ordinance (the PUD) would fall, and if the Commission wished to move it up in terms of whether they think it is more urgent that the other chapters or sections of the zoning ordinance.

Mr. Herrick suggested that if the Commission wanted to discuss it further, it might be an appropriate subject for a work session before staff engages in any sort of proposed Zoning Text Amendments.

Mr. Benish said staff could look at this in the context of how they programmed going through the ordinance. He said he wasn't trying to dissuade the Commission from making a motion.

Mr. Bivins said he appreciated this. He said he understood the piece about asking for exceptions with the ordinance, but that when he read the ordinance in terms of how exceptions can be made, and that the exception language in Section 8.2.b 1.3 that says any exception has to be as good as if there was no exception. He said in the language, how the Commission is pushed through the exception process needs to perhaps needs to be more open. He said it was currently a high standard to meet.

Mr. Herrick said that didn't want to delve into policy matters, as this was for the Commission rather than for counsel, but noted that there are reasons why the standard is this high. He cautioned to be very careful before lowering those standards.

Mr. Bivins said he understood and that whatever takes place in the rewrite will be meshed with the high standard.

Mr. Benish suggested that staff should come back to the Commission to get clarity on the Commission's resistance to the use of PUDs for something less than 100 acres. He said that they only had one other tool, which was the NMD. He said the NMD is essentially an ordinance without requirements that is driven by the Comprehensive Plan recommendations. He said they would be

starting with a blank slate, meaning that every property has its own zoning ordinance, which creates many administrative issues that staff was beginning to discover.

Mr. Benish said they were trying to balance when it is best to use NMD with whatever other tools are available. He recalled that the Commission reviewed a PUD in front of the Avinity development, which was much smaller at less than an acre. He said they have been making exceptions with the notion that what they are ultimately looking at is the form of development and what it is that the County wants to have on the site. He said he understood where the Commission was coming from in using an antiquated ordinance that presumes an expectation for any PUD.

Mr. Benish said staff was trying to find the most efficient way to get away from a situation (such as Belvedere) where they were up to 75 exceptions to the adopted code of development, and that each one has to go to the Board of Supervisors for approval, which involve staff reporting and scheduling. He said he hoped the recodification and other improvements of the ordinance could ultimately address the issues. He expressed that there was perhaps a triage issue that needed to be further vetted with the Commission.

Mr. Keller asked how they get the information from the present discussion attached to the previous decision so that the Board of Supervisors become enlightened about the issue. He said the Commission has concerns for the development community and staff and want it fixed as quickly as possible.

Mr. Benish replied that the Commission has made this a focus of the decision that they made, among other reasons. He said this would necessitate staff to explain the situation to the Board of Supervisors. He again said he was not trying to dissuade the Commission from a motion for a resolution if this was important for them to do. He said he wanted to make sure the Commission understood what was already underway.

Mr. Keller asked the Commissioners if they were comfortable with staff coming back for a work session about the matter. He said he had no problem with representatives of the development community to weigh in as well.

Mr. Benish said that staff could hold a work session on the use of the PUD and NMD districts. He noted that it was mid-October and asked if it would make sense to wait until the new Planning Commission was in place before scheduling the meeting.

Mr. Keller replied that this most likely made sense.

Mr. Benish said that the Commission had discussed its desire to have a better understanding of the R-cut and other intersection improvements. He said that Joel DeNunzio from VDOT has offered to provide an overview and has a presentation he could provide. He said Mr. DeNunzio recently presented to the Ashcroft Community, as they will be getting an R-cut and diverging diamond. He said he would let the Commission know when Mr. DeNunzio is scheduled to present to the Board of Supervisors if the Commissioners wanted to attend it. He acknowledged that this could be problematic, as those meetings are during the day, and if they can't make it, staff would try to accommodate to the Commission.

Mr. Keller asked if the person who works on the sidewalk fill-in and bike-ped fill-in connectivity to be a part of the presentation. He said he was concerned about how the pedestrian/bicycle interface with those vehicular engineering solutions would work.

Mr. Benish replied that he could see if Mr. DeNunzio could present on this and perhaps get some traffic people to attend as well.

Ms. Spain pointed out that one of the applications on next week's agenda was Galaxie Farm, requesting a rezoning from 13 acres R1 to PRD (higher density), also represented by Shimp Engineering, also requesting three modifications, and also (among factors unfavorable) adding additional students to Cale Elementary. She said she assumed that the Commission would be dealing with the overcrowding of Cale whenever there is a southwestern development that is proposed. She said this application was only for 72 units, which was much different from potentially 300 units, but that she was having trouble figuring out at what point the Commission determines that a request is okay. She said she had not made up her mind yet but wondered what the tipping point was.

Mr. Herrick cautioned the Commission to not pre-judge applications. He said he understood Ms. Spain's question, but suggested that the discussion take place the next week, when the noticed public hearing comes forward.

Old Business

There was no old business.

Adjournment

At 9:08 p.m., the Commission adjourned to October 15, 2019 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Interim Director of Planning

(Recorded by Vivian Groeschel and transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 11/05/2019
Initials: CSS