Albemarle County Planning Commission
FINAL November 5, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, November 5, 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; Daphne Spain; Julian Bivins, Vice-Chair; Karen Firehock; Bruce Dotson; Jennie More; Pam Riley; and Luis Carrazana, UVA Representative.

Other officials present were David Benish, Planning Director; Carolyn Shaffer, Clerk to Planning Commission; Lea Brumfield; Bill Fritz; Jodie Filardo; and Andy Herrick.

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.

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.

Mr. Dotson moved to approve the consent agenda. Ms. More 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

ZMA201900013 Biscuit Run Park

Mr. David Benish, Planning Director, presented the staff report. He said this is a proposal to rezone the property, known as the Biscuit Run Property, which is to rezone from NMD to RA to allow for the development of Biscuit Run Park.

Mr. Benish presented a map that depicts the development area boundary, the park will actually include areas beyond the outlined area, however, only the portion that is within the boundary is subject to rezoning. He gave a brief history of the original park zoning.

The County and the department of Parks and Conservation signed a 99-year lease for development of the park. The BOS in December of 2018 approved a plan for the park and in July 2019 approved a n Resolution of Intent to initiate a rezoning of the park. The rezoning is necessitated because the County is leasing the land, the staff report goes into a little more detail on that because it is a leased facility and the property in the NMD doesn't allow for the public park as proposed. Rezoning has to take place to implement the park.

The Comprehensive Plan, as noted, notes this property as the future Biscuit Run State Park and designates it as park purposes. There is a copy of the map the rezoning does not constitute a need to associate this plan with the rezoning that had already been approved by the state and the county. This rezoning is one of the steps that is necessary to help implement that plan.

He provided some information about transportation that was requested by a board member, that pertains to traffic impact. We do have a consultant working on that design to the entrance to the park, as it relates to the entrance to the east, off of Avon Street and Route 20 area. The consultant has been re-evaluating a number of park locations as it relates to the original plan for the state park plan which was directly off of Route 250. That work is still under way, the consultant is planning to present the findings to the CAC in December and ultimately to the Board of Supervisors. Just to clarify the associated Avon Corridor Study work, the design work for this entrance is not part of the Avon Corridor Study, however, the consultant for the Avon Corridor Study has considered the impacts on the park opening as it developed the corridor plan.

There are some preliminary numbers and some assumptions that have been used by the Avon Street Corridor Study consultant that at full build out there would be about 1,200 trips both on Avon Street and Route 20, again this is at full build out of the park and most of that traffic would be off peek hours. Those assumptions are still under review by VDOT. That is a follow through on some of the information the Commission had requested.

Chair Keller asked if the 1,200 trips mean 1,200 total or 1,200 for each of those streets? Mr. Benish responded that was 1,200 for each of the streets, and that would be 2,400 total, we just received this information from the consultant, they base this on trip "ins" that is one direction and most trips you go back out, so we equally distribute them on Avon Street and Route 20. Those numbers are still coming in, so we think they are generally correct, in order of magnitude but we think VDOT may have some adjustments to them.

Mr. Benish has the application plan for the Biscuit Run Development, it is not specific to what is before you today, but if you have any questions regarding what was previously approved, it was a maximum of 3,100 residential units, 150,000 sq. ft of commercial, 12 acre elementary site, and a 43 acre district park, that is what is being redistricted from.

Mr. Keller opened the public hearing.

Mr. Rex Linville, with the Piedmont Environmental Council, introduced himself, he wanted to largely speak in support of this rezoning, this is going to be an amazing amenity that generations of residents in the area will benefit from, and we are enthusiastic that Albemarle County is ready to make this park a reality. We are interested in seeing it built out and seeing it connected to the urban area with good bike ped infrastructure in addition to good road infrastructure that gets people there. We are an adjoining property owner, we own slightly larger than a two-acre parcel

at the north-east corner along the biscuit run stream valley which was a strategic acquisition that we got some help from a donor to acquire that property to help provide access to that park at that corridor at the appropriate time and I look forward to working with Albemarle County to eventually convey that property to the county or to the DCR so that it can become part of the park at some point in time in the future.

Mr. Peter Krebs, from the Piedmont Environmental Council, introduced himself, he would like to echo Mr. Linville's remarks and add also add a couple of things, first of all I think it is important to recognize that the rezoning of the land is an actual milestone. After attending several meetings and discussions on this project, and it is super exciting to finally be at the point we are today. I have literally hundreds or thousands of conversations with people who are super excited about having access to this park it answers a bunch of needs that have been pretty well articulated throughout the county about people having access to open space. Specifically, spaces to walk and bike and specifically family places to walk and bike, where folks who are 8 or 80 can go and be safe. Also, very specifically be connected to neighborhoods, this isn't going to be the sort of park where you set aside 20 minutes in your car to get there and have fun for a little while then spend another 20 minutes in your car coming home. Its going to be approximate to where many, many county and city residents live, the connectivity piece is important.

I would also like to convey, although it is not on the agenda to discuss, but keep in mind that not only is it a big need, it is an urgent need, there are kids living in the county right now who want to go there today. I'm sometimes in a position with transportation where people say, 'you know when can we go to this park?' We should be able to answer kids who want to go to the park, you should be able to say you can go to the park, you can do it while you are still a kid. So, lets get going, you don't have to wait for the full three phases of funding available, lets get this next hurdle crossed and get started and open a park for the community.

Mr. Keller closed the public hearing.

Mr. Bivins asked a couple of questions for clarification. The first being since this is a land lease and there is a lessor, how has the Commonwealth said we that yes, we can do this? Mr. Benish responded that there is a letter attached which the state has indicated their support for this proposal of this rezoning. There are agreements in place, he is not familiar with the details of those that allow for and accept the parameters that they have for how the property was eased or purchased for their purposes and under that control, our proposal is consistent with that. That was the main concern with the state, we have agreement on that plan, and we have the lease in place and our plan is consist with existing lease.

Mr. Bivins second question was, he noticed under the proposal, the part that is being held by the family, has decided not to move, and so would that mean if the family decided to put a development there that they would do what they would be allowed to do, and if that is an affirmative, which I image it would be, then when you are talking about transportation particularly coming from the Old Lynchburg Road side of the park, since I'm not aware that there is a way to sort of cross from Old Lynchburg to Avon Street, then would there be an opportunity for the county to perhaps re-coop some of cost for that infrastructure?

Mr. Benish stated that the issue with the Breeden property is that they are still subject to the NMD zoning district. Because of the content of that NMD Zoning District, it is going to be very difficult for them to develop that property at all. So, any actual development of that property will necessitate rezoning. The county did contact the Breeden property owners and asked if they

wanted to participate in this rezoning and they declined to do that they are still working through their issues on how they want to develop that property, but the fact of the matter is that the way they are zoning the structure, they still have the Neighborhood Model District structure and there would be compelled to meet all the code of the development and application plan requirements. They simply would not be able to with 99% of that plan now rural areas and proposed for a park. At the time of rezoning we'll look at the impacts of that proposal. It's a little complicated but that is the status.

Ms. Riley would just echo some of the comments made from the PEC, as not just the planning commissioner for the area but also as a resident in one of the adjacent neighborhoods. There is a lot of excitement and interest in this and being available for, particularly for biking and pedestrian. Phase 1 had those trails as the critical component as well as the entrance, bathrooms and some of the basic infrastructure, I would like to say that we are all very enthusiastic and excited about this park. She is really appreciate the staff providing the information about the entrance, I would say that the only concerns that I heard at the CAC level and other residents is the location and the configuration of the entrance because everybody knows that where Avon and Route 20 come together is essential almost like a "T" at this point, and so if the entrance is going to be located in close proximity to that "T" there is going to be a lot of concern on how that could be done well. There has be discussion about a roundabout which is an expensive approach, but I do appreciate the information about the new vehicle trips and the timeline in terms of an update on what the design team is looking at.

Ms. More added that, I don't think this is what you are asking us to do here, but based on the comments that we heard, obviously there is a lot of opportunity for bike and ped connection existing, but I wonder, and Ms. Riley might be a little more familiar with this than I am, where there are opportunities to create even further connections for bike and ped that could be potentially prioritized as this moves forward, and maybe you are more familiar than I am. Such as, where we might be lacking some that would be really critical to provide access where it may not exist currently.

Mr. Benish responded that the consultant that is working on the plan with the adjacent neighborhoods and property owners to both coordinate their security and privacy but access to those sites, to have a balance there, but the intent is to provide for multiple accesses to adjacent properties and strategic locations within the capital planning, I also know that Parks & Rec is looking at Biscuit Run trails, at off-site connections to this area and considering including those, but the access points that have been under consideration are both pedestrian accesses at Old Lynchburg Road for those residents to have nearby access near the Covenant School in Southwood for access points there. Also, strategically along Biscuit Run to Lake Renovia and South Mill Creek. The Avon Corridor Plan is discussing how to do, I believe, a shared use path as sort of the concept for Avon Street and extending that down as far as possible to provide as near-by access to that general access point off Avon Street. That is the approach that is being taken, the emphasis is for traffic access off of the east side of Avon Street/Rt. 50, but we do want to make sure there is pedestrian access for the residents along Old Lynchburg Road, if I understand it is still a work in progress. He isn't as directly involved with the actual plan development, but from an overall concept that interconnectivity is really important, the consultants and Parks & Rec are looking seriously at making those connections.

Ms. More continued with she thinks the opportunity is there for adjacent property owners to access but I think that may be what the consultants are looking at is the idea that you don't have to put, even for those that live just a little bit further away, you don't have to put your bike in your car to drive it to a place so you can bike, that you can bike there and then bike around, any opportunity that we can to achieve that.

Mr. Benish stated that Avon Street and Biscuit Run Trail Corridor will hopefully provide that multimodal opportunity.

Ms. Riley moved to recommend approval of ZMA201900013 Biscuit Run Park for the reasons stated in the staff report.

Ms. Spain seconded the motion, which carried unanimously 7:0.

ZTA201900003 Religious Assembly Use in RA

Ms. Lea Brumfield, Senior Planner in Zoning, presented an amendment to the Zoning Ordinance to codify equal treatment of religious assembly uses in the Rural Area (RA) under the Religious Land Use and Institutionalized Person Act (RLUIPA) of 2000 and permit nonconforming RA religious assembly uses minor expansions that do not increase capacity. Ms. Brumfield stated that the purpose of this ZTA was to bring the County Zoning Ordinance into compliance with Federal regulations and provide clarity to both applicants and County staff administering permits.

Ms. Brumfield stated that RLUIPA permits the County to regulate religious assembly uses on no less than "equal terms with a nonreligious assembly or institution," and compared religious assembly uses to the most permissive assemblies in the Rural Area, which are assemblies of up to 200 persons at agricultural operations, including farm wineries, breweries, and distilleries. She noted that the highest degree of regulation permitted at religious assemblies would correspondingly include restrictions based on maximum attendees at a single time, parcel size, visitor trips per day, the nature of the event (educational, workshops, sales-related, accessory events, the primary religious assembly use, etc.), minimum yards for primary structures, outdoor event and activity areas, parking areas, tents, and portable toilets, among other regulations. Ms. Brumfield also noted that standard regulations regarding outdoor amplified music decibel limitations apply. She said that of those potential regulations, the proposed ZTA restricts religious assembly uses only to reduce substantial impacts on public health, safety, or welfare, and that this ZTA also addresses the current requirement that nonconforming religious assembly uses in the Rural Area seek a special use permit for any alterations or additions to their structures, including for minor additions that do not increase the structure's capacity. She pointed out that in some cases, these permits have cost significantly more than the improvements themselves, and that by permitting by-right minor improvements to nonconforming religious assembly uses, this ZTA seeks to reduce an onerous permitting requirement for established religious assemblies that serve small rural communities.

Ms. Firehock said was curious about the outdoor amplified music being allowed until 10:00 pm. Ms. Firehock recalled she knew County staff had a long conversation with the folks from the wineries about the weddings and how late weddings go, and how late they need to be able to have that, but she guessed the thinking was for a church in a rural area to have outside the church music going on. Ms. Firehock said that 10:00 pm seems kind of late to her, and was wondering if that is absolutely necessary to be that late for outside music, as the music could be inside the church.

Ms. Brumfield explained that this is directly correlated to the farm/wineries because another thing that happens at churches is weddings.

Ms. Firehock stated that most of the comments regarding weddings at wineries had to do with the parties that they have in their tents. She said she has been to a lot of church wedding and can't remember going out to have a party on the church grounds.

Mr. Fritz stated that the regulations that they are proposing place the same limits on religious assembly that are on agricultural operations, we could be more generous. He said the County has to allow the same thing for religious assembly that is allowed for the agricultural assemblies, and that if the County were ever to change the agricultural regulations, they could also change the religious assembly regulations.

Ms. Firehock noted she understands that they are limited by the code but stated she finds it unfortunate because there is not a lot of similarity between agricultural and religious assemblies. Mr. Fritz stated that there is simply nothing that we can do about this.

Mr. Bivins asked whether attendance was based on the average Sunday attendance, since so the faith community can have a smaller attendance on most worship days and then a larger number on high holy days, and for homegoing celebrations or funerals could have attendance as high as a thousand people. He asked how we would measure that attendance and whether we would enforce that assembly limit, and said he wouldn't want that small rural church to find itself sideways with the county because it was burying someone, celebrating, or having a homecoming.

Ms. Brumfield stated that the way that the County has applied the attendance limit is based on the number of seats. She noted that if an assembly room can seat 400 people, then that is demonstrating that it is over the 200-person limit, but if you have one that can only seat 200, then that is under the limit.

Mr. Fritz added that where you have a ceremony where you have more than 200 people, we would treat that the same way we would treat a ceremony/wedding at a winery, the County's code enforcement is complaint driven.

Mr. Bivins thanked staff for the information. He suggested that as they present this to the next level above the planning commission, it was helpful to have had that conversation [about attendance limits], as faith communities in the rural area often don't have the internal infrastructure to ensure strict compliance the way a winery might. He noted that the ability to have them to only respond by complaint would be fine, because the persons would be sent home by the time the complaint gets dealt with.

There were no comments from the public.

Ms. Firehock made a comment that she thinks its really good that, although the County is mostly trying to comply with the law, the County is making it easier for churches to be able to operate. She noted that while a winery is a profit-making business, a rural church might be struggling to keep the church standing, so it was great to have a simpler process for them. She said that she didn't want her comment about noise at night to seem that she didn't whole heartedly support rural churches.

Mr. Keller mentioned that he knew for daycares at several smaller churches, there was architectural review comments on addition to the structures. He noted that while he knew daycares were not a component addressed this evening and he assumed that use calls for a Special Use Permit. He asked whether the ARB was involved in those cases because they were on entrance corridors.

Mr. Fritz stated that would be the only time there would be ARB involved is if there were any entrance corridor district. He stated that this ordinance amendment does not change that because they still need to get a building permit, and that building permits are not a land use regulation, so they would still need to go through the ARB review.

Mr. Dotson moved to recommend approval of ZTA-2019-03 as shown in the draft Zoning Ordinance Attachment B dated November 5, 2019.

Mr. Firehock seconded the motion, which carried unanimously 7:0.

Mr. Keller wanted to compliment staff on the way they are working through our regulations and trying to clean them up. He noted that this is another positive example of that, and he has seen many over the last couple of years. Mr. Bivins wanted to note a vote of appreciation to the way the PowerPoint was done.

Committee Reports

Ms. Riley stated that last week the Village of Rivanna met, the meeting basically focused on a discussion of the deferral of Breezy Hill. People were asking specific about, of which we had no answers to, like what were the next steps, so essentially where it has been left is that until the applicant communicates to the county what its intentions are, its in limbo. There was a lot of interest and questions about, would they be coming back before the end of the year or would they may be coming back when a new planning commission, when the new Board of Supervisors is seated.

Old Business

There was no old business.

New Business

Mr. Benish handed out the schedule for upcoming meetings. He said that everyone would be getting it electronically, but that he was still going old school for a bit, and that this would probably be the last time he made copies. Next week we will have possibly two members out, both the Chair and Vice-Chair, and will have to appoint a chair. Mr. Benish will chair the meeting in the beginning, just to vote on who the chair will be for the night. Ms. More asked whether that would happen at the meeting. Mr. Herrick confirmed that that is the way it would work. As Mr. Benish indicated, the first item at next week's meeting, if the Chair wasn't present, would be to elect a Chair for that one meeting. There would be a vote. Ms. More asked whether there could be prior communication among Commissioners about who might be Chair for the meeting. Mr. Benish didn't think there was anything inappropriate of Commissioners agreeing to who they might nominate. Mr. Herrick stated that was correct, provided there were no votes taken and provided that there were no simultaneous exchanges. Obviously, there couldn't be any violation of FOIA.

Ms. More wanted to clarify about the Rio 29 Form-Based Code that is being presented at the next meeting, are they bringing back what we looked at last time, and they have refined it or are we getting a whole new set of items. Mr. Benish stated this is another round of questions if he recalled. Mr. Dotson said that this is the draft of what is going to be sent to Board of Supervisors in December, it's called the Framework. Which is the principles on all subjects, so it is sort of taking everything we've had input thus far and putting it together. Mr. Benish stated it is not what was from the last meeting, it is a summary of all four presentations. He said you will get a report next week that is in your packet.

Adjournment

At 6:48 p.m., the Commission adjourned to November 5, 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 and transcribed by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards and transcribed by Golden Transcription)

Approved by Planning Commission
Date: 12/03/2019
Initials: CSS