

**Albemarle County Planning Commission
Final Minutes Work Session and Regular Meeting
February 25, 2025**

The Albemarle County Planning Commission held a public meeting on Tuesday, February 25, 2025. at 4:00 p.m.

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

Members absent: Corey Clayborne.

Other officials present were: Michael Barnes, Alberic Karina-Plun, Tori Kanellopoulos, Tim Padalino, Rebecca Ragsdale, Scott Clark, Bill Fritz, Amelia McCulley, Andy Herrick and Alberic Karina-Plun.

Call to Order and Establish Quorum

Mr. Karina-Plun called the roll.

Mr. Missel established a quorum.

Public Hearing

AFD202400008 Keswick District Review

Mr. Missel said that they had agreed that they would have a combined staff report for all of these district reviews. He said that they would hold a single public hearing for all the districts, but would make separate motions on each district.

James Van Vranken, Conservation Program Planner, said that they would review the listed Agricultural-Forestal Districts (AFD), which was the same process for the AFD reviews they had followed in December. He said that due to the large number of reviews in total, they had decided to split them in half to make it more manageable.

Mr. Van Vranken said that the Board of Supervisors had reviewed the first batch of districts last week and had voted to follow the staff recommendation and the Planning Commission recommendation. He said that he would like to provide some context and background on the conservation program to help them understand the process. He said that in the rural area, parcels could be categorized into three broad groups.

Mr. Van Vranken said that the first category, which they were calling regular parcels, was the default and included parcels not in any conservation program. He said that the second category was parcels in temporary conservation, which currently included the AFD program. He said that the third category was permanently conserved, permanently protected land, which were parcels under conservation easement.

Mr. Van Vranken said that it was understandable that people often confused how conservation programs interacted with tax programs. He said that to clarify, regular parcels were generally eligible for three tax categories: full market tax, active agricultural and horticulture use tax, and forestry tax. He said that parcels in an AFD could also qualify for these three tax categories, and being in an AFD did not affect this.

Mr. Van Vranken said that parcels in AFDs still required active use or a forestry plan to qualify for land use tax. He said that there were parcels in AFDs that paid regular fair market tax, and those

that met certain size requirements could qualify for the third type of land use tax, which was open space. He said that conservation easements were taxed slightly differently, but for all intents and purposes, it was equivalent to land use for most conservation easements.

Mr. Van Vranken said that the AFD program was a voluntary land conservation program that involved a five- to 10 -year commitment from landowners, offering benefits such as extra review for special use permits and the open space tax rate. He said that the County benefited from this program, primarily through the prohibition of small lot development rights for landowners. He said that in the rural area, the by-right lot size was 21 acres, and small lot development rights could be thought of as exceptions to this, where landowners could build or create lots smaller than 21 acres.

Mr. Van Vranken said that those two to 21-acre lots were not permitted in AFDs, except in the case of family subdivisions. He said that this brought them to two theoretical maximum scenarios. He said that this was a theoretical outline of the main conservation value of these AFD programs. He said that districts were required to be reviewed every five to 10 years, and the following criteria were relevant for those reviews. He said that item seven regarding development rights had been a point of focus over the past year. He said that it stated that it was County policy not to include parcels without development rights in AFDs.

Mr. Van Vranken said that the concern that led to the creation of this policy was that parcels were accessing open space land use without necessarily having protected small lot development rights. He said that staff had made recommendations for the renewal of these districts consistent with this policy. He said that the AFD Advisory Committee had given a different recommendation, stating that parcels without development rights should not be removed from the districts.

Mr. Van Vranken said that the difference lay in the last two rows, where parcels without development rights were concerned. He said that staff recommended removing these parcels either immediately, if they were not facing rollback taxes, or giving them a five-year notice period if they would face rollback taxes to allow them to change their tax status. He said that staff was recommending removal; the Committee recommended keeping these parcels in the AFDs. He said that he would briefly review the individual districts. He said that the maps provided showed the parcels highlighted in pink were recommended for removal.

Mr. Van Vranken said that parcels highlighted in blue were recommended to receive a five-year notice period, allowing them to temporarily remain in the districts. He said that parcels highlighted in green were those requested for withdrawal. He said that during the district review, landowners could withdraw from the districts by right. He said that they had previously discussed concerns about the potential erosion of the districts due to this policy. He said that to clarify, the parcels recommended for removal, those in pink and blue, were mostly already developed and had already experienced erosion in the sense of losing rural character. He said that most of these parcels lacked conservation value and should not be retained in the AFDs.

Mr. Van Vranken said that if they possessed conservation value due to size, habitat quality, or floodplains, they could be conserved through other programs that would better protect them. He said that a large pink parcel, a 130-acre parcel, had significant conservation value despite lacking smaller development rights. He said that it was not being conserved by the AFD, but it was eligible for other programs and was part of an open space use agreement.

Mr. Missel said that he had a question. He said that the individuals requesting withdrawals did not necessarily have no development rights. He said that he was wondering what would be the reason for requesting a withdrawal, other than the desire to develop. He said that he was curious about the motivation behind asking for this withdrawal.

Mr. Van Vranken said that most of the time, it was a desire to develop. He said that occasionally, it was a landowner seeking to simplify their situation, eliminating some paperwork. He said that these were the only two reasons he had encountered.

Ms. Firehock said that along those lines, the parcel he was just discussing, which he had mentioned had conservation value, raised another question. She asked if he was indicating that it was not currently being actively farmed or timbered? She said that in other words, was it not being used for agricultural purposes?

Mr. Van Vranken said that this property had recently been utilized for agriculture, but he was unsure if it was currently. He said that it was intended to continue being used for agriculture. He said that the main conservation value he was referring to was due to its size, as it had the potential to accommodate six or seven subdivision lots, with the possibility of 21-acre lots, regardless of its intended use.

Ms. Firehock asked if it was recommended that the property be withdrawn because it did not have the small lot development rights.

Mr. Van Vranken said that that was correct. He said that to briefly review these districts, he would not delve into all the details, as they are summarized in a table at the end. He said that the Moorman's River District was the largest in the County, covering approximately 11,000 acres, located between Charlottesville and Crozet, primarily north of Garth Road. He said that next, they had the Keswick District, spanning approximately 7,000 acres to the east of Charlottesville, north of Keswick. He said that Kinloch was composed of about 1,700 acres to the north and northeast of Esmont.

Mr. Van Vranken said that fourth, they have Fox Mountain, a small district totaling five parcels and 437 acres, located north of White Hall, near the start of Blackwell's Hollow Road. He said that Buck's Elbow Mountain was approximately 3,200 acres northwest of Crozet, bordering the Shenandoah National Park.

Mr. Van Vranken said that Sugar Hollow was roughly 5,000 acres in size, situated close to Sugar Hollow Road, north and south of the road. He said that finally, Buck Mountain was located in the far north of the County on Davis Shop Road, with approximately 500 acres. He said that this data was summarized in the provided table, which includes the current district sizes and parcels, requested withdrawals, recommended removals, resultant size, and recommended renewal period, either five or 10 years.

Ms. Firehock said that upon reviewing the list, she noticed a few instances that warranted attention. She said that regarding the two-acre parcel owned by Bucks Elbow Mountain MMF Holdings, LLC, it seemed unusual that a parcel of this size would be located within their Agricultural Forestal District. She said that to her, it appeared that such a parcel would be more of a large garden rather than an AFD-designated property.

Mr. Van Vranken said that a policy was adopted in 2016 not to allow parcels without small lot development rights, which would include all two-acre parcels. He said that prior to that, there was no policy in place for parcels of this size. He said that parcels were previously assessed based on their values and other criteria. He said that it was possible that a two-acre parcel is part of a larger parcel, and the entire land was put in at one time.

She said that she had considered that. She said that she was wondering if there were multiple properties in the County with the same name. She said that she owned a 1.78-acre parcel in the County, but it was actually composed of three separate parcels, none of which were particularly large. She said that this was largely a relic of the past, when parcels were often much smaller.

She said that she was trying to determine if this property might be attached to a larger parcel, but it did not appear to be the case.

Mr. Van Vranken said that it was also possible that the facility was created after the larger parcel joined the AFD, He said that they may have developed a family subdivision.

She said that that might make more sense. She said that she was trying to imagine that parcel going before the AFD Committee and being accepted. She said that some of these parcels must be remnants like that.

Mr. Murray asked if that two-acre parcel was open space. He asked if it was still taxable.

Ms. Firehock said that it was listed as regularly taxable. She said that she was surprised to see some of these really tiny parcels and was trying to understand how that was accepted into the AFD, but if it was split off for a separate single-family home from a larger parcel, or sold to another entity, it could be explained.

Mr. Murray said that it made sense so long as they were not two-acre parcels qualifying as open space and getting tax breaks.

Scott Clark, Conservation Program Manager, said that he was filling in for Mr. Lynch, the County Assessor. He said that to qualify for the open space tax rate, any parcel must have at least 20 acres of open space land, regardless of whether it was located in an Agricultural Forestal District or otherwise. He said that none of these parcels with less than 20 acres would qualify for that particular designation.

Mr. Clark said that in response to Ms. Firehock's question, in the early days of establishing these districts, a significant amount of this work was done by neighbors, who encouraged and supported each other, resulting in many people applying. He said that several small parcels were added to the larger parcels as part of a community effort, making the overall area more contiguous. He said that there may have been two- or five-acre parcels that joined the existing parcels with relatively little impact. He said that this was not a particularly significant part of the overall program.

Ms. Firehock said that there were not so many of them that significantly impacted the County's tax base. She asked if this gave those properties a lower tax rate.

Mr. Clark said no; it just allowed them into the district.

Mr. Barnes said that to clarify, they could be considered an AFD parcel and be subject to regular taxation. He said that in fact, many parcels were in that category.

Ms. Firehock said that that was right. She said that in the table, one was listed as ag and forestry, one was forestry, and one was regularly taxable. She said that she found it odd, because there was a logic that had nothing to do with development rights, but rather it was about creating a successful farming district with a critical mass of farmers and farms.

Ms. Firehock said that for example, if they did not have a neighboring farm, they would not have had access to a tractor or someone to spread manure. She said that having contiguous farm parcels in a district was helpful for farming. She said that however, if they were just a two-acre parcel, they were not really farming; they were not really contributing to the district. She said that she did not understand that aspect.

Mr. Moore said that even if a parcel was significantly large and lacked development rights, there was nothing to keep it from being a farm if it was removed from an AFD,

Mr. Barnes said that to that point, there were some parcels that were fairly large and had no development rights, and for that reason would be removed from the policy. He said that however, since they were so large and were farming, they could access land use taxation benefits, despite not being in the AFD. He said that he believed it was an important point to consider. He said that the issue here was addressing the parcels that did not have development rights.

Mr. Bivins said that it was also worth noting that districts were used as a way to prevent the County and the Commonwealth from taking certain actions, as they required permission from the district to undertake specific projects, such as road takings.

Ms. Firehock said that that was true for conservation easements, but she was not aware that it was the same for AFDs.

Mr. Clark said that the conservation easements had a significant impact on road takings. He said that AFDs did not prevent these takings; they merely added a layer of state review.

Ms. Firehock said that some of their development applications to this body involved situations where, for example, solar panels were proposed. She said that if a farm was within the AFD, the AFD confirmed there was no effect on it. She said that they gave their opinion, but it did not have a legal impact on the land use application.

Mr. Herrick said that he understood and appreciated the Commission's curiosity into the rationale behind the ordinance amendments made in 2016 and 2018. He said that however, he suggested that the Commission focus its attention on the ordinance criteria, specifically subsection 201(F)7 and the highlighted provision. He said that he believed that was the key issue here. He said that when the last batch of AFDs came before the Commission, the Chair's question was, on what basis should they be considering these? He said that he suggested that the Commission focus on the ordinance itself, rather than debating the merits of the ordinance that the Board had adopted nearly seven years ago.

Ms. Firehock said that they would be sure to follow the code, but she thought it was essential to understand the broader concept of an AFD.

Mr. Bivins said that he had mentioned family subdivisions, which had always been a concern for him. He said that he wondered how they ensured that the person receiving the house was actually a family member. He said that he was curious about what happened when that family member passed away, and the house was transferred to someone else. He said that he wanted to know what tracking mechanism was in place. He said that he was also interested in what happened when the County provided something, and they needed to recoup the costs when things went awry. He said that his main concern was that they needed to be able to trace the ownership and recoup their investment.

Mr. Clark said that Mr. Fritz he was more familiar with this topic than he was. He said that the subdivision ordinance had specific standards for family subdivisions, which included not only the process of subdividing but also holding periods before and after a family division could occur. He said that on the plat for a subdivision, notes regarding family subdivisions were typically included.

Mr. Clark said that in Albemarle, for example, one had to have owned the land for four years before proceeding with a family subdivision. He said that the state allowed up to 15 years, but they adhered to a four-year period. He said that once the division was completed and transferred to a family member, it had to remain in their possession for an additional four years. He said that the question was, was this holding period sufficient? He said that they could consider extending it, but this was more related to the subdivision ordinance than the AFDs.

Mr. Bivins said that in a place that values generational land ownership, four years was a relatively short period. He said that his concern was that they were losing a significant amount of money due to leakage, and the County lacked options to effectively address and close these issues. He said that for instance, he had owned his house for over 30 years and could have subdivided the two-acre lots in front of him. He said that he could have sold them and maximized his return. He said that, as a sophisticated community, they understood how to optimize their investments and minimize their taxes.

Mr. Clark said that it was worth noting that the two-acre lots created by the family subdivision, regardless of whether they were located within an AFD, would not qualify for a reduced tax rate.

Mr. Bivins said that he was using his comment about family to make a point about the cost of family division, which they did not currently track.

Ms. Firehock said that perhaps that was a topic for discussion at a later time, when they covered the rural area plan. She said that she believed they had previously touched on this subject. She said that as they had previously discussed, they needed to plan more for the rural area, but it would be a more significant effort. She said that there was now a goal in the comprehensive plan to develop a rural plan later. She said that she suggested they move the discussion of this topic to another time, as it seemed to be a lengthy discussion.

Mr. Missel opened the public hearing. Seeing no speakers, he closed the public hearing and the matter rested with the Planning Commission.

Ms. Firehock asked if the Board had already voted on this topic.

Mr. Barnes said no; the Board voted on the first section of AFD reviews, which the Commission had reviewed back in December 2024.

Mr. Carrazana said that Mr. Missel had passed on some of that information to the Board of Supervisors.

Ms. Firehock said that over the years, she had received multiple emails about the division rights, whether they exist, what the ordinance stated, and what their basis was for the decision. She said that she remained aware.

Mr. Carrazana motioned that the Planning Commission recommend renewal of the AFD2024-08 Keswick District for a five-year period, with the staff-recommended removals. Mr. Murray seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400009 Moorman's River District Review

Mr. Murray motioned that the Planning Commission recommend renewal of the Moorman's River District for a five-year period, with the requested withdrawals and staff-recommended removals. Mr. Moore seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400010 Kinloch District Review

Mr. Bivins motioned that the Planning Commission recommend renewal of the Kinloch District for a five-year period, with the requested withdrawals and staff-recommended removals. Mr. Murray seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400012 Fox Mountain District Review

Mr. Murray motioned that the Planning Commission recommend renewal of the Fox Mountain District for a ten-year period, with the staff-recommended removals. Mr. Moore seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400013 Buck's Elbow Mountain District Review

Mr. Murray motioned that the Planning Commission recommend renewal of the Buck's Elbow Mountain District for a ten-year period, with the staff-recommended removals. Mr. Moore seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400014 Sugar Hollow District Review

Mr. Murray motioned that the Planning Commission recommend renewal of the Sugar Hollow District for a five-year period, with the requested withdrawal and staff-recommended removals. Mr. Moore seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

AFD202400015 Buck Mountain District Review

Mr. Carrazana motioned to recommend renewal of the Buck Mountain District for a ten-year period, with the staff-recommended removals. Mr. Moore seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

Adjournment

At 8:37 p.m., the Commission adjourned to March 11, 2025, at 4:00 p.m., Albemarle County Planning Commission meeting.



Michael Barnes, Director of Planning

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

Approved by Planning Commission
Date:03/11/2025
Initials: CSS