

**Albemarle County Planning Commission
FINAL Minutes August 24, 2021**

The Albemarle County Planning Commission held a public hearing on Tuesday, August 24, 2021 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Karen Firehock, Vice-Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Jennie More; Tim Keller; and Luis Carrazana, UVA representative.

Members absent: none.

Other officials present were Andy Reitelbach; Kim Biasioli; Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at www.albemarle.org on the Community County Calendar when available.

After Mr. Rapp called the roll, Mr. Bivins established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

Mr. Keller moved to approve the consent agenda.

Mr. Clayborne seconded the motion, which carried unanimously (7:0).

Public Hearing

SP202100005 Haupt Property

Mr. Andy Reitelbach, Senior Planner, said this was a public hearing from the Haupt property day camp proposal. He said the property is located in the Samuel Miller Magisterial District, off of Batesville Road. He said the map on the screen showed the two parcels that are the subject of the special use permit request, highlighted on the left side of the screen. He said at the top right of the screen was the Community of Batesville. He said he had labeled some of the nearby roads to provide better information of the location (Batesville and Craigs Store Road).

Mr. Reitelbach said the area may look familiar because several months ago, another special use permit application came before the Commission, which was recently approved by the Board of Supervisors, for Central Virginia Electric Cooperative's solar power generation facility. He said this is contiguous to the parcels that would be discussed, as it is southeast to the subject parcels, across the Mechums River.

Mr. Reitelbach presented a zoomed-in aerial view of the Haupt site. He said Ms. Margaret Haupt and Mr. Richard Haupt are the property owners and applicants, and they own two parcels that are contiguous to each other. He said the Haupts live on the property in the north-central portion of the larger property. He said the entrances were shown on the screen, and there are two, with the labeled entrance being the one that will be used for the proposed day camp under discussion.

Mr. Reitelbach said there are several ponds on the property – one on either side of the property. He said the Mechums River forms the southern property line, and the CVEC solar facility is to the southeast.

Mr. Reitelbach said both parcels on the property are zoned RA – Rural Areas, with the Flood Hazard Overlay District only on the southern portion of both parcels along the Mechums River. He said all surrounding parcels are also zoned Rural Areas. He said the requested use (a day camp) is permitted by a special use permit in the RA Zoning District.

Mr. Reitelbach said regarding the Comprehensive Plan, similarly, these two parcels and all surrounding parcels are designated as Rural Areas in the County's Comprehensive Plan. He said the uses designated for Rural Areas are the preservation and protection of agricultural, forestal, and open space lands and natural and historic scenic resources, along with low-density residential development at one-half unit per acre.

Mr. Reitelbach said the specifics of the proposal include a request to an amendment to an existing special use permit (SP1989-110), which was approved in March of 1990. He said the applicants are asking to expand the existing permitted day camp use to increase the number of participants allowed from the maximum of ten participants (which is currently allowed under the 1989 special use permit) up to a maximum of 50, which would include 42 campers and 8 staff members. He said the applicants are also asking to increase the number of days of operation of the camp from 30 days per year to 45 days per year.

Mr. Reitelbach said the applicants are asking to add an additional parcel to their special use permit. He said currently, the 1989 special use permit only applies to the larger of the two parcels (TMP 85-3A), and they are asking that the other parcel (85-3A1) also be added to the special use permit. He said together, these two parcels total approximately 103.56 acres.

Mr. Reitelbach said the camp would operate for five days per week, Monday through Friday, for nine weeks throughout the summer months (June through August), which would be the 45 days the applicants are requesting. He said the camp would operate 8:00 a.m. to 5:00 p.m. for staff members, and the campers who attend would be there from 9:00 a.m. to 4:00 p.m. He said there is no overnight boarding or camping proposed, and it would simply be a day camp.

Mr. Reitelbach said the only new construction that the applicants are proposing is a proposed future pavilion for camp activities, which would be constructed on the smaller of the two parcels (85-3A1). He said he had more information about the pavilion in a later slide. He said there would be minimal grading and clearing proposed for the maintenance of trails and the driveway entrance on the property, and for the construction of the pavilion.

Mr. Reitelbach said before going further, he wanted to provide clarification, as there actually are two special use permits under review by the County now, proposed to be operated by the Living Earth School. He said these are both in the Samuel Miller District – one on either side of the Community of Batesville. He said the special use permit under review at present was the one

shown on the left side of the map on the screen (Haupt parcels, SP2021-5).

Mr. Reitelbach said there is another application (SP2021-13), which is on the Israel Mountain Farm property, as seen on the right side of the map. He said that application is still under review by County staff, although he believed there had been a community meeting held for it. He said that application would likely come before the Commission at a later date and at present, only the two Haupt parcels to the left of Batesville were under review.

Mr. Reitelbach said both Haupt parcels are located within the Batesville Agricultural Forestal District (AFD), as seen in the figure on the screen as the two highlighted parcels. He said several other parcels are scattered throughout the Batesville AFD. He said because the subject parcels are within the AFD, they did go before the AFD Advisory Committee on March 16, 2021 for review. He said the majority of the committee voted that the proposal is in accordance with the purposes of the AFDs as outlined in the County's ordinance.

Mr. Reitelbach said the Nature Conservancy holds a conservation on the larger of the two parcels (TMP 85-3A). He said there are two supplemental regulations found in the Zoning Ordinance for day camps. He said one is the appropriate Health Department approval of any well or sanitary facility (e.g., septic fields, outhouses) is required before a day camp can begin operation. He said any sort of outdoor burning (whether outdoor cooking or campfires) does require notification to an approval by the Albemarle County Fire Rescue Department.

Mr. Reitelbach presented the concept plan that was provided by the applicants, showing the two parcels and where the various activities and facilities for the camp would be. He said staff parking and turnaround drop-off would be in the center of the property, behind the Haupt residence. He said the future pavilion is located along the property line, and there are two ponds that could be used for swimming. He said the rest of the over-100 acres would be used for various activities, adding that the applicant has stated that the 42 campers would be divided into smaller subgroups and dispersed throughout the property, throughout the day.

Mr. Reitelbach said the proposed pavilion is the only new construction proposed with this application. He said the map on the screen identified the rough approximate location of where the applicants propose the pavilion to be. He said it is outside of critical slopes and is along the edge of the Mechums River floodplain, in a flatter area of the property. He said since this would be a node of activity for the camp, it is approximately 200 feet from the property line with the CVEC property, which is across the Mechums River, to the southeast.

Mr. Reitelbach said there is one recommended revision to the application that staff believes should be made prior to going to the Board of Supervisors, which is providing an estimated maximum square footage of the footprint for the proposed wooden pavilion. He said this would help to better understand exactly how large this is proposed to be.

Mr. Reitelbach said there are several factors favorable to this request. He said the request is consistent with the County's Comprehensive Plan. He said minimal disturbance of the land does allow for the continued ability of agricultural and forestal production of the property, protection of the water supply watershed (with the Mechums River being within the Southfork Rivanna River Reservoir Watershed), and the conservation of natural resources. He said the request was determined by the AFD Advisory Committee to be in accordance with the purposes of the AFDs.

Mr. Reitelbach said factors unfavorable are that the use will generate additional vehicular trips on the surrounding street network, through the Village of Batesville and along Batesville Road, which is a gravel road. He said there are, however, several conditions that staff has included in the special use permit that staff believes will reduce trip generation, and the applicant has indicated that they would use a bus and carpooling to further reduce the trips that would travel along Batesville Road as they go to and from their proposed day camp.

Mr. Reitelbach said staff recommends approval of the special use permit SP2021-5 with the following conditions and provided that the one recommended revision is made to the application prior to the Board of Supervisors public hearing.

Mr. Reitelbach said there are nine recommended conditions that include a standard condition used for special use permits that development of the use should be in general accord with the concept plan that was provided and reflecting the central major elements, such as the camp entrance, parking and drop-off areas, location of the future pavilion, and location of the outhouses and privies. He said minimum grading and clearing would be allowed to locate sanitary facilities in the pavilion. He said minor modifications that do not conflict with the above elements can be made to ensure compliance with the Zoning Ordinance, other County laws, and state and federal laws. He said minor modifications to have to be made with the approval of both the Zoning Administrator and the Director of Planning.

Mr. Reitelbach said Condition #2 outlines the hours of operation for the camp (five days per week, Monday through Friday, for a maximum of 45 days per year, June through August, from 8:00 a.m. to 5:00 p.m.) and no overnight boarding or camping.

Mr. Reitelbach said Condition #3 would limit the request to 50 people per session. He said this would be about 42 camp attendees and 8 camp staff.

Mr. Reitelbach said regarding transportation, bus and carpool trips would be the primary means of transportation to arrive at the camp. He said VDOT has identified that the entrance would meet low-volume commercial entrance requirements, so the daily trip generation cannot exceed VDOT's requirement for that.

Mr. Reitelbach said Condition #6 is that Health Department approval is required for all well, septic, and outhouse facilities.

Mr. Reitelbach said Condition #7 is approval by the Fire Department for all outdoor cooking and campfires.

Mr. Reitelbach said to ensure that impacts on neighboring properties are mitigated, any outdoor lighting that is ultimately proposed would have to be a full cutoff fixture and shielded to reflect light away from abutting properties. He said if the applicants do choose to do outdoor lighting, a lighting plan would need to be submitted for approval by the Zoning Administrator.

Mr. Reitelbach said sound amplification of any type would not be permitted.

Mr. Reitelbach said these are the conditions that staff recommends be placed on the special use permit.

Mr. Bivins asked the Commissioners if there were questions for staff. Hearing none, he said he had one question. He said since this is an amendment of the conditions that are there, he would ask how many of those conditions are already in effect.

Mr. Reitelbach replied that the existing special use permit has about eight conditions, and some of them staff proposes to get rid of because they are no longer relevant. He said the others are usually being amended because they were the conditions that limited the hours and days of operations and attendance levels.

Mr. Bivins asked if there was then not an overlap of what is proposed and what is being reviewed versus what already exists. He said some conditions would come off, and some were additional ones that are pertinent to the current request.

Mr. Reitelbach said this was correct.

Mr. Bivins asked if it was also true that in the location of the future pavilion, there would be a maximum size indicated.

Mr. Reitelbach replied yes.

Mr. Randolph asked if he could focus in on Condition #4, under Recommended Actions on page 7. He said there, it is stated that bus and carpool trips must be the primary means of transportation for camp staff and attendees. He asked how the County proposes to assess and verify compliance with this condition.

Mr. Reitelbach replied that for the busing, when a zoning clearance is approved, as part of the application, the applicant can show that they have at least contracted out a bus or something of that nature. He said pooling is something that, of course, would likely fluctuate day by day. He said every student or attendee would be able to carpool every day, which is why it is somewhat open, but ensuring that the majority of the attendees do carpool every day, he did not know if Zoning would have anything additional to say about this, though he believed Mr. Frances MacCall was on the line.

Mr. Frances MacCall said he understood Mr. Randolph's concern about the particular condition, which the applicant would possibly speak to further in terms of what they are promoting or asking, knowing the concerns of the area. He said it would be difficult, but staff would follow up with it as needed if they receive complaints about there being too many cars. He said unfortunately, however, staff is not able to watch, but he believed this particular situation is one where staff has to take this on the applicants' ability to comply.

Mr. MacCall said this could be attributed to some other conditions as well, such as the applicants having fires on site without permission from the fire official to do so. He said in this case, staff would have to follow up on this and verify whether or not it was founded.

Mr. Randolph thanked Mr. MacCall for the explanation. He said the word he was raising a question about was "primary." He asked if "primary" constitutes a percentage or majority percentage. He said this section of Condition #4 seemed somewhat vague, and he was trying to get a better handle on the specificity behind it.

Mr. Bivins invited the applicants to speak.

Ms. Haupt said she would use her time to explain why she and Mr. Haupt want to have the nature camp operating on their land.

Ms. Haupt read her statement aloud: "We are concerned about our rapidly developing County and the decisions that will be made by the next generation. How much development will this next generation allow? How much greenspace will they demand? Will the importance of biodiversity be recognized? What will be done to reduce our community's contributions to global climate change? These important decisions will be made consciously and unconsciously by future generations. We believe our County will best be served if these future adults have childhoods grounded in nature, and an appreciation of the quiet of a pine forest, the deep pleasure of swimming in a spring-fed pond, or a fast-blowing river."

"As a fellow resident of Batesville Road, I share your concerns about traffic on the road. I am an early-morning worker and often dodge dump trucks and fast-driving commuters, usually between 7:00 and 8:00 a.m. Yes, there will be an increase in traffic at 9:00 a.m. and 4:00 p.m. for nine weeks in the summer. The tradeoff will be the opportunity for 42 children a week to spend time in the woods, meadows, ponds, and river on our property. It's a tradeoff we think will benefit us all in the long run as we support the development of a generation of environmentalists."

"We are grateful to have lived on this beautiful piece of land for 45 years. We placed our land at a conservation easement with the Nature Conservancy as one step in preserving it. But in addition, we would love for our legacy to be that we made it available for children. I hope you will support our request for this special use permit."

Mr. Bivins asked the Commissioners if there were questions for the applicant.

Mr. Clayborne said he had a list of questions that he believed were straightforward. He asked the applicants if they could share how they arrived at the number 50.

Ms. Haupt replied that she believed this number was recommended by the County as being a number that would be appropriate. She said she did not believe she came up with the number but rather, the County suggested it. She also acknowledged that her memory was not her strongest suit, so she was not absolutely sure where the number came from.

Mr. Clayborne rephrased his question to ask if Ms. Haupt believed they would max out in the summer or if this number was allowing for future growth of the camp.

Ms. Haupt replied that it was not the applicant's camp but rather, the Living Earth School's camp, or a nature camp in general. She said she and Mr. Haupt were not planning on running the camp. She said the Living Earth School has been in operation for over 20 years, and they fill up immediately, as soon as they open. She said it is a very popular camp, so she thinks it will max out the first year at 42 kids. She said she also feels that this is a number that is sustainable for this size property. She said she honestly would not want the number to be any bigger than this, as it is plenty.

Mr. Clayborne said he had more questions, but they may be for the person running the camp and that it was fine for that person to jump in and answer. He asked what the age group of the children was.

Mr. Scott Cunningham, Director of Operations for the Living Earth School, said he would be running the day-to-day programs on the land. He said to answer Mr. Clayborne's question, the programs they are looking to run at the day camp are from age 5 up to age 17, which is the targeted group. He said this was utilized as a site for day camps just for summer use for the school to expand and deliver its services.

Mr. Clayborne asked what the role of camp staff is and if they are the eyes and ears to ensure that the children are within the property lines.

Mr. Cunningham replied that the camp staff ratio is very low, which is six participants or campers to one staff. He said this is extremely low because of the type of instructing they do. He said the instruction happening is nature-based around understanding silviculture, permaculture, identification of plants, animal tracking and identification of animals, the entire ecosystem, and how children (as people) belong to the environment and are part of the living earth. He said this is to build their environmental awareness and the understanding of where they fit in Earth. He asked Mr. Clayborne if this answered his question.

Mr. Clayborne replied that it did, adding that he had two more questions as well as a follow-up question to that. He said he was trying to address the concerns of those who wrote in about children perhaps going outside of the boundaries and crossing over into their property. He asked if there is a plan to put signage up within the compound to make sure that people are within the property limits.

Mr. Cunningham replied that the property lines are well-defined. He said there has never been a problem in the camp's 19 years. He said in fact, most of the time when talking to the neighbors that the camp has been friends with over those times, they have actually invited the kids into their land. He said the camp is very responsible. He said they are teaching kids how to be responsible within nature, and they respect other people's boundaries. He said it is not a loud, crazy camp. He said it is fun, and there are even mud days, but they have never had problems with neighbors. He said they have been a very good neighbor and that they could bring in some references from the many years at Sugar Hollow and others.

Mr. Clayborne said his last question was about how trash would be handled.

Mr. Cunningham replied that as an environmentally focused camp, this would be very easy. He said they do a very good job of taking out the trash and dealing with it, but this is micro-trash. He said the kids bring their lunches in and pack their trash out. He said they will not be cooking nor providing any food service, so all food is brought in and will go out with the kids. He said the camp does a lot of "leave no trace" and repair of the natural areas they have been in, which is why it is also important to keep the numbers low. He said one may think 100 acres is a lot, but putting kids on it and having them walk through, play games, and assess things does create an imprint. He said 50 is the right size for this.

Mr. Bailey said he wasn't sure if his question was for the applicants or for the camp's Director of Operations. He said with regard to the shelter, there are often thunderstorms (and even severe ones) that can come up during the summer and be unpredictable as far as their track. He asked if the shelter could house 50 people underneath it and if it has grounding to handle a lightning strike or direct strike. He said when reading the concept plan, he noted some mention of temporary tents perhaps near the drop-off area. He said this may help with water, but in the event of a severe thunderstorm, he wanted to understand how this is currently being handled as well as

how it will be handled for the proposed new facility.

Mr. Cunningham agreed that the weather is very unpredictable, which the camp noticed in the second week of August, when there were four straight days of lightning storms coming across camp. He said the kids were put into a shelter. He said he would have to look at the size of the pavilion, but there are also other outbuildings that would be available in this location that the kids could shelter into. He said the camp has a comprehensive plan to manage for the risk, and they are constantly watching the weather to manage that. He said they will make sure there is enough appropriate coverage and that the kids have appropriate and easy pickup when those incidents happen.

Mr. Bailey asked Mr. Cunningham if the camp currently uses any type of bullhorn or notification. He said as a golfer, he often hears an alarm on the golf course to seek shelter during inclement weather.

Mr. Cunningham replied that there were several things. He said they do have a bullhorn, and all instructors have walkie talkies, so they are in constant communication. He said in addition to those communication methods, the camp has a number of security protocols because it is not just the weather they worry about, but it is visitors that are not invited onto the campsite and other things to worry about. He said there are multiple communication and security layers to get the message out.

Mr. Bailey said to circle back to his first question, he wanted to know the size of the pavilion and if it is intended to be reasonably sized to host the full group, or if it would be smaller and only be able to host a portion of the group, either for activities or for weather events.

Mr. Cunningham replied that a standard tent will not protect from a lightning strike, and a pavilion will have to be up off the ground or grounded to protect. He said he did not have the pavilion size to say how many people would fit within it and what protection it would provide. He said there is a barn on site and other buildings that could be utilized, but it was something he would have to look at more in depth.

Mr. Bailey asked if the barn was part of the Haupt property, if it was available for use for the Living Earth School, and if this has been agreed upon. He said looking at the concept plan, he did not see the barn listed as a facility or outbuilding to be used by the school.

Ms. Haupt replied that the barns, according to the Nature Conservancy easement, would not be available, not because the Haupts would specify this, but the Nature Conservancy would not allow them to be used. She said this was a good, important question, and she believed they simply had not gotten that far yet. She said the pavilion has not yet been built, and they do not have the specifications for it. She said this certainly will be addressed, and the applicants are aware of the late afternoon lightning storms and want to make sure the kids are safe.

Mr. Bailey said he had one more question. He said it was written in the concept plan that all water will be brought in by campers. He said often, when there is 100-degree heat in, he questions this as far if the camp also brings in other coolers. He said there is only so much water one can typically tote in as a camper for a whole day of consumption. He said it was listed there was intended to be no water facilities in the plan and that the campers would have to bring water in. He asked if Mr. Cunningham could speak to how additional water or water refills would be handled for the campers.

Mr. Cunningham replied that the camp always has large 5-gallon water buckets throughout the locations of where campers are set up for activities. He said sometimes, the camp has brought in water and other times, they simply utilize the hose or well water at the site. He said every camper comes in with two water containers for themselves as part of what they bring to camp on a daily basis. He said the campers each bring in two thermoses, and the camp provides additional water consistently.

Mr. Bailey said with regard to the privies, he did not have a concept of that. He asked if those will be permanent structures, as these had been referred to as state-of-the-art privies. He asked if this meant a temporary, plastic container or an improved structure with potable water ran to it.

Ms. Haupt replied that there is an outhouse that has two different sections to it, and she had a picture of it she could send the Commission. She said these are nice, wooden outhouses that are professionally constructed. She added that there is a pump fed by her well that is near the drop-off so that there is water available.

Mr. Bailey said he assumed the privies that exist there are approved by TNC to be existing on that side of the land.

Ms. Haupt replied yes.

Mr. Bailey apologized for all the questions.

Ms. Haupt said she appreciated the thoughtfulness of the questions.

Mr. Bivins opened the public hearing.

Ms. Jane Fellows (1915 Thunder Ridge Road, Batesville/Afton Mountain) said her property was the property the Commission saw on all of the vignettes that Mr. Reitelbach showed at the beginning of the hearing, which is the only property that shares a long water border with the Haupts, on the Mechum side. She said the property on the other side of her is the new solar energy farm that is going in that has already been approved.

Ms. Fellows said her opposition to the proposal was both personal and on behalf of the larger Batesville community. She said from a personal point of view, having children and staff (50 people) Monday through Friday for the entire summer is one quarter of the year, and residents will be impacted by having a commercial operation on the neighboring property. She said it feels like a big imposition to the residents. She said it feels like an imposition of someone else's desire, and she feels that their freedom to do what they want to do on their land should be limited by how it impacts other people. She said their freedom ends where her freedom begins, and she feels that this camp will be an imposition on the way they live every day of the summer.

Ms. Fellows said she also spoke to her liability insurance company, who said that their insurance will definitely increase and that they may become uninsurable if there is a camp next door. She said this is significant, and she thinks the County needs to take this into consideration. She said there are other neighbors who had similar liability concerns, and although she was not sure if they were on the call or had sent in letters, they have spoken to her directly.

Ms. Fellows said Ms. Haupt had talked about future generations, but she would ask what was to say that when this special use permit is approved and expanded, that future development and the next owners of this property do not expand it even further. She said she was trying to limit her losses. She said property values next to schools, camps, and playgrounds go down, and people do not like to live next to camps. She said the neighbors of the camps in the County have talked about how this is a disruption and they do not like it.

Mr. Chris Hawk, Piedmont Environmental Council (PEC), said PEC supports County staff's recommendations, given the property's A) inclusion within the Batesville AFD, B) existing conservation easement on the larger parcel, C) 0.86 miles of frontage on the Mechums River, and D) location on a rural gravel road with limited access and safety maintenance measures.

Mr. Hawk said PEC recommends that the following be added to meet approval: 1) update County staff recommendation #1 to include additional pavilion citing requirements, requiring that it must be constructed outside of the floodplain, Water Protection Ordinance buffers, and critical slopes; 2) update County staff recommendation #4 to require a documented plan for offsite bus and carpooling, to provide a) certainty that the primary means of transportation for onsite users is not single-vehicle trips, and b) clarify the definition of "primary means of transportation"; 3) update County staff recommendation #5 to include VDOT's definition for low-volume commercial entrances, as it would further clarify within the permit that daily trip generation must not exceed 50 vehicular trips per day; 4) prohibit paving the existing dirt road or additional roads that would lead to the proposed pavilion; 5) include TNZ's letters dated January 31, 2020 and February 4, 2021 to ensure that the special use permit is consistent with the terms and conditions of the conservation easement; and 6) require that forested buffers be maintained on property boundaries to a) avoid adverse impacts on adjoining landowners and the Mechums River, and b) reduce the impacts of any future septic impacts that could arise from onsite privies.

Mr. Hawk said that in addition to these above recommendations, the PEC asks the Planning Commission and County staff to further consider, explore, and discuss the insurance and liability implication raised by adjoining landowners. He said the two onsite swimming ponds could create additional liability and insurance implications for adjoining landowners, as the tax maps and concept plans both show the swimming ponds as being co-owned by the applicant and adjoining landowners.

Mr. Hawk said the following questions have arisen during previous discussions for similar uses in Albemarle County's agricultural areas: is there a landowner agreement that could help solve insurance and liability implications; should the applicants' insurance policy include the adjoining landowners as additionally insured parties, given the potentially shared ownership of the swimming ponds; and as the requested use requires a special use permit and is not a by-right use, could the adjoining landowners have predicted the proposed day camp swimming ponds when acquiring their property.

Mr. Hawk thanked the Commission for hearing PEC's concerns on this matter and encouraged them to reach out to him with any questions.

Mr. Bill Fellows (1915 Thunder Ridge Road, Batesville/Afton) said his main concern was around all the questions involved in this. He said the camp says they will do things, but there is nothing to police who will do this. He said he did not think it was the responsibility of the Haupts, nor the responsibility of the neighbors. He said it is an impossible task. He said there is an open fire burn law that the camp could get around if they wanted to, but with the dry conditions now, he would

be hesitant to allow that.

Mr. Fellows said 50 people on the land is a huge footprint, and if talking about being stewards of the land, they are certainly not being good stewards if they are violating the neighbors' rights. He said if one reads the definition of what a steward of the land is, it is the river that runs through one's land that continues on downstream, and it is the property that borders all the other properties. He said this is a huge concern for him.

Mr. Fellows said looking at the possibility of perhaps 30 cars, this is 30 cars coming in and 30 cars going back out by the houses on that road. He said it is not just one trip, as the return trip makes it twice. He said the impact the camp will have and the questions that were unanswered were difficult for him to wrap his head around. He said he has known these people for a long time and know they love their land. He said he was not trying to discourage the use of their land, but it is impossible to do what they are going to do and still respect that land.

Mr. Bivins closed the public hearing and brought the matter back to the applicants for three minutes to speak or add any information if they felt inclined to do so.

Ms. Haupt said she did not have any statement prepared and asked the Commission to bear with her. She said there is a very long frontage on the Mechums River that her property includes, and a very small part of it adjoins the Fellows property. She said they have tried to assure the Fellows that no camp activities will take place across from their property. She said it is more than 100 acres, and there are lots of opportunities for the kids to explore without there ever needing to be within sight or hearing of the Fellows. She said it is very important that they respect their neighbors, and they will do everything they can to make sure that this happens.

Ms. Haupt said she would contest that both ponds are on neighbors' property. She said the property that adjoins the Gathwrights is near that border, but her property includes the entire pond. She said it is not partly on the Gathwrights' property and although it may look that way, she has seen the site lines, and it is absolutely not on the Gathwright property. She said regarding the other pond, she could not speak clearly to that, and there may be a piece of it that is on an adjoining neighbors' property. She said she would look into this.

Mr. Haupt said he was astounded by the strength of the complaints of the neighbors. He said it sounded as if they were going to run a military camp and be doing military-type activities. He said this is so different than anything like this, and he would be concerned about what the public might think after hearing those statements. He said as Ms. Haupt focused on earlier, this is for kids to come out and enjoy nature, which is the primary focus.

Mr. Cunningham asked if he could have a moment to address some of the questions.

Mr. Bivins informed Mr. Cunningham that he had one minute to speak.

Mr. Cunningham said that summer, the camp tracked their carpooling and even through COVID, they averaged 2.6 kids per car. He said given that the County averages three people in carpooling, during COVID the camp was at 2.6, which puts them at about 16-17 cars. He said they were very focused on creating carpools with all of the people that sign up, which is a part of their environmental focus. He said they understand traffic and are working towards this.

Mr. Bivins asked the Commissioners for their thoughts.

Mr. Keller said he was positively inclined towards the applicants.

Ms. Firehock said she did not ask many questions because she actually thoroughly studied the proposal, and she has also been out to the site to walk the boundaries and paths. She said this is a heavily wooded site with already-established paths. She said she could testify that the privies work, and she thinks this is a very light footprint on the land. She said she thinks the separation from the neighbors is adequate, and this helps assure her that it may be the case that the children would need to walk from Point A to Point B and may pass near the property boundary, they will not be engaged in activities there.

Ms. Firehock said there is also a high ratio of counselors to children, so she does not think there is the concern that was read in some of the comments that children will be running off the property, swimming the river to the neighbors, and other concerns that were raised.

Ms. Firehock said she also does not believe it is in the purview of the Planning Commission to get engaged in people's liability concerns. She said the Planning Commission does not review people's liability policies and does not get engaged in assessments of liability risk. She said she thinks this is not an appropriate avenue for the Commission to explore.

Ms. Firehock said in terms of carpooling, she has talked with the people who propose to run the camp, and they seem to have great experience already running summer camps. She said this is not their first camp, and they have engaged in extensive carpool planning. She said she is not concerned that this site would actually be a nuisance to the neighbors. She said she absolutely appreciates the need and importance for quiet enjoyment of one's own property, but she does not believe that 50 campers on a large site greater than 100 acres is actually going to be a disturbance. She said she hoped it would not be.

Ms. Firehock said she is very favorably inclined towards this proposal. She said she is not in favor of a camp on every rural property in Albemarle County. She said there are many places where it would not be appropriate. She said having looked at this site, however, she thinks this site is very well buffered, and it is a camp that will be managed by people who are truly environmental stewards. She said if one were to put 50 cows on this land, it would have much more impact than the 50 children proposed.

Mr. Randolph said the only thing he would add to Ms. Firehock's sentiments (which he would echo) is if not a camp here, the question would be where in Albemarle County. He said one would have a difficult time finding a more ideal site than this location.

Mr. Randolph said Mr. Bailey's line of questioning, however, does lead to a need for the Commission to make a recommendation that the pavilion have adequate square footage to accommodate 50 people in case of inclement weather. He said he thinks this is absolutely essential in a wooded location because otherwise, they are setting themselves, campers, and parents up for an unpleasant outcome. He said he thinks this is something that is absolutely essential, and the pavilion needs to be built sooner rather than later for the protection and welfare of the campers and the staff at this location. He said he thinks this should be added as one of the conditions.

Mr. Randolph said otherwise, he is enthusiastic, and he knows if there are any problems, since Mr. Haupt was trained by Mr. Woody Hayes, he would be able to tackle anyone untoward on the property and take them down very quickly so that they would not represent a threat either to neighboring properties or to the welfare of the campers.

Ms. Firehock said relevant to what Mr. Randolph said, she had a question for staff. She said PEC mentioned a concern that the pavilion is not sited in the floodplain or on steep slopes, and she would not imagine that the County would permit that structure to be within the 100-year floodplain or on a steep slope. She said it is not a structure with four sides to it but nevertheless, she did not think the County would allow this, so she does not see that they would need to make this a condition. She said she wanted staff to respond if she was incorrect about this.

Mr. MacCall said this initially was a concern when staff wanted to know what that location was. He said talking with the Zoning Administrator and the County Engineer, both with the floodplain and the stream buffer being there, they did not have any issues. He said the ordinance would allow the open structure with four posts and a roof, and it is at the outer edge of the floodplain in the woods, just beyond the field opening. He said this was a concern initially, and staff believes that the ordinance does allow that kind of a structure to be in the floodplain and even in the stream buffer, as regulated by the County Engineer.

Mr. Clayborne said going back to Mr. Randolph's recommendation, he believed if this is added in terms of the importance of managing expectations, they could perhaps say that this is in accordance with the Virginia Uniform Statewide Building Code to give a square footage per occupant for that type of gathering. He explained what they would not want is to come back later with a square footage and have to prove that 50 people will fit in it, so he would advise managing expectations on that.

Mr. Bailey added that as mentioned by the applicant, if the pavilion does not have a floor, it needs to be grounded. He noted that while he did not know if this would be covered in the building code, this would be a very important factor.

Mr. Bailey said he had one question about the pond and swimming activities. He said he was positively inclined to support the application, but he did have some questions and concerns because when pulling up the Albemarle GIS, it appears that the pond does sit on the border between other neighbors' property. He said he did not know what the zoning or agreements are that are necessary for making sure that swimming would be permitted in a pond that is jointly owned by neighbors, and this was more of a question to County staff on how this would be handled with regard to a water body that is on multiple properties.

Mr. Bivins said he would ask Counsel to give the Commission a sense of this.

Mr. Andy Herrick, County Attorney's Office, said he believed the applicant alluded to a caveat. He said the boundaries shown on the GIS are approximate and are not necessarily legally definitive. He said to the extent that the boundary line actually does split the water body, property owners would be obligated to keep their uses within their property boundaries, even if that boundary goes through the middle of a body of water.

Mr. Herrick said that technically, any uses that the Haupts, their guests, invitees, or campers might have of the property would need to stay within the boundaries, even if the boundary line went through the body of water. He said to the extent that campers or any invitees of the Haupts went

over that property line, this conceivably would be a private civil matter between the Haups and their neighbors and not necessarily something for the Planning Commission to regulate.

Ms. More said she agreed with what others said, and she was positively inclined. She said she did have a few questions in her mind, but she believed others brought those up or shared that those may not necessarily be in the Planning Commission's purview. She said she liked Mr. Randolph's suggestion about having a condition that talks about the pavilion and capacity.

Ms. More said she noticed when Mr. Cunningham was talking about in the case of an emergency and using the barns, the property owner said that the easement would not allow for those structures to be used. She said she would encourage the applicants to make sure they are on the same page in terms of what the easement does and does not allow. She said she knows there are attachments that are from the easement holder, but she did pick up that perhaps this needs to be sorted out between the applicants and camp. She said otherwise, she definitely supports the request.

Mr. Bivins said he supports the request as well. He said from his view, it is helpful to have a diversity of businesses and activities that take place in the Rural Area. He said while he is sensitive and aware of some of the concerns that have been raised through letters and communications, he also has a sense that the present owners of the property, the Haups, are committed to making this work in a way that is not onerous to people around it.

Mr. Bivins expressed his belief that if the school upsets people next year, people will not be shy about expressing their concerns when things do not go as anticipated. He said he believes there are market forces that will help to ensure that people do what they sign up to and declare they will do, particularly in a public setting, and particularly if this request goes forward to the Board of Supervisors in a public forum. He said expectations will be there, and he thinks the two parties will have to manage their expectations and persona.

Mr. Bivins said he supports the request, and he also supports the idea that the Commission be more prescriptive in how they look towards the pavilion. He said if Mr. Reitelbach has additional language for this to insert into the conditions, it would be helpful in the process.

Ms. Firehock said she was prepared to make a motion that incorporates the earlier discussion about the pavilion and see if it is of satisfaction to her fellow Commissioners.

Ms. Firehock moved that the Planning Commission recommend approval of SP202100005 Haupt Property with Conditions 1-9 as outlined in the staff report, with the following modification to Condition #1 (location of the pavilion): in addition, the pavilion's per-person capacity and footprint of the foundation be added.

Mr. Herrick asked Ms. Firehock if there was an intended capacity that she wanted to add to the condition, and if her motion would also include Mr. Reitelbach's suggested revision, as this was part of the suggested motion, yet he did not hear it in her motion.

Ms. Firehock said she was lost about the last part.

Mr. Herrick said Ms. Firehock had indicated that she thought the capacity of the pavilion should be specified.

Ms. Firehock said yes.

Mr. Herrick asked Ms. Firehock if her motion included a limit on the capacity.

Ms. Firehock replied that it was not specifying a limit on the capacity. She said she wanted it to specify what it is for so that people can determine whether or not it is adequate to support the 50 campers and staff.

Mr. Herrick said his second question regarding Ms. Firehock's motion was if she intended for her motion to also include Mr. Reitelbach's suggested revision. He said this was part of the suggested motion, but he did not hear it as part of her motion.

Ms. Firehock said she had Mr. Reitelbach's staff report with Condition #1. She asked what the additional revision was.

Mr. Herrick asked Mr. Reitelbach if he could un-share his screen and go back to the suggested revision. He said there was one revision in addition to the nine proposed conditions.

Mr. Reitelbach said the one revision he had was related to the pavilion.

Ms. Firehock said she wanted to amend her motion to include Mr. Reitelbach's revision, in addition to knowing the footprint (in square feet) of the pavilion as well.

Mr. Herrick asked Mr. Reitelbach if he could go back to his original suggested motion. He asked Ms. Firehock if the suggested motion on the screen covered everything that she was looking for, now that she knew what the revision was.

Ms. Firehock replied that it did, except that she did not see that it also included the footprint of the foundation.

Mr. Bivins asked Ms. Firehock if she wanted to be more specific on the footprint and incorporate Mr. Reitelbach's revisions.

Ms. Firehock asked if she should make her motion again.

Mr. Bivins replied yes.

Ms. Firehock moved that the Planning Commission recommend approval of SP202100005 Haupt Property with the revisions and conditions recommended in the staff report; and to Condition #1, please also specify the square footprint of the foundation.

Mr. Keller seconded the motion, which carried unanimously (7:0).

Mr. Bivins addressed Mr. and Ms. Haupt, noting that the Commission would be moving the application forward to the Board of Supervisors with a recommendation for approval. He said they also heard from the Commission's colleagues a number of items that they would suggest working with Mr. Reitelbach on, that they are more specific on the project before they bring this before the Board. He thanked the Haupts, adding that they should work with staff on the revisions before moving this forward.

Presentation

Stream Health Initiative – Phase II Update

Mr. Rapp prefaced by noting that this presentation had already gone before the Board and that staff would be sharing it with the Commission for their information. He said he would welcome feedback, as it is a project underway that Ms. Biasioli has been working on for quite a while, and staff thought it would be of interest to the Commission.

Ms. Kim Biasioli, County Natural Resources Manager, said she would talk about the Stream Health Initiative project, which is a Board of Supervisors initiative. She said while this was an informational session, she would welcome any feedback and answer any questions the Commission may have.

Ms. Biasioli said she would talk about the entire project, but mainly focus on Phase II of the project, which is focused on improving stream health in the Rural Area.

Ms. Biasioli said she would provide background to give the Commission the big picture of where the project started. She said this project began with the creation of Albemarle County's Natural Resources Program in 2015. She said one of the primary objectives of that program when it was established was to conduct a review of the stream buffer requirements in the Water Protection Ordinance.

Ms. Biasioli said that through this work grew a bigger project and in 2017, staff were directed by the Board to develop strategies for improving stream health throughout the County. She said at that time, this was a broad objective, so staff divided it into two phases – the first phase being focused on development and working with the development community to come up with different strategies and solutions for improving stream health, and Phase II being more focused on Rural Area land uses. She said some of this focus on the Rural Area also includes development since development is occurring throughout the County.

Ms. Biasioli said the graphic on the screen showed that Phase I is still ongoing, and some of that work is moving forward in parallel with the Phase II work that she would be speaking about. She said before getting to the Phase II work, she would give a quick update on some of the key outcomes from Phase I. She said some of the proposals that were adopted or completed thus far were included one that was related to increasing requirements on steep slopes for erosion and sediment control. She said secondly, there was a proposal to allow erosion and sediment control measures only in the outward 50 feet of stream buffers and with mitigation. She said there was a general fees update, which also included increasing fees for repeat violations of the ordinance.

Ms. Biasioli said there were some general updates to Water Protection Ordinance, primarily clarifications. She said there specifically was one clarification related to the requirement for forest management, requiring stream buffers for stream site management zones, as they are referred to in the Best Management Practices Manual for Forestry for Virginia, to maintain the exemption for forestry. She said there is also bonding for maintenance of stormwater management facilities.

Ms. Biasioli said two of the original Phase I proposals were related to education and outreach, and staff has been working hard to address those through much of the work being done in Phase II.

Ms. Biasioli said there is another subset of the Phase I proposals that have not yet been adopted

or completed, but they are supported by the Board. She said these are not yet adopted mainly because they are pending allocation of resources. She said the first is an update to address incremental development, essentially when repeated applications are coming in just below the 10,000-square-foot threshold on the same property year after year, or fairly close together. She said the second proposal is to have some additional standards that dictate when two-layer erosion and sediment control measures would be required. She said lastly is implementing the 25% improvement factor and the two-layer erosion and sediment control measures, specifically within sediment TMDL watersheds.

Ms. Biasioli said moving into Phase II, which is focused on the Rural Area, the slide on the screen showed the timeline that staff set out for the year for the project. She said even before this timeline, last fall, staff was working on planning and material development. She said they formed their Stream Health Team, which is an interdisciplinary team with people from different departments in the organization, and they developed a lot of education material and opportunities for the public to engage with the project, both through the website and the public input site.

Ms. Biasioli said the year was divided into four quarterly stages, and the first stage had a focus on education and outreach, listening to the public and hearing what was important to them, and providing some education through a seven-part webinar series with technical experts talking about different aspects of stream health.

Ms. Biasioli said that in the second quarter of the year, staff worked with a stakeholder workgroup, and those community members volunteered their time with different levels of interest and expertise in the subject matter. She said there were a number of conversations with the workgroup via Zoom where they worked on defining the visions and goals for stream health in the community. She said they brainstormed different strategies they might employ in order to address those goals.

Ms. Biasioli said it is currently the third quarter, and those strategies were brought back to the Board and to the public. She said staff is receiving feedback from the Board and from members of the public, and they are starting work on developing some of the strategies into more fully fleshed out proposals, where they can evaluate and analyze the costs and benefits of each.

Ms. Biasioli said moving into the fall, into the “Decide” stage, staff will be bringing those final proposals back to the Board for some decision making. She said the implementation of any of these proposals will extend well beyond 2021.

Ms. Biasioli said this started with over 40 strategies that were proposed to staff by the public and mainly by the workgroup. She said staff worked with technical experts to whittle this down into the ones they determined would have the most impact (either medium or high impact) on stream health. She said they were generally supported by the stakeholders staff talked with, or at least those stakeholders who participated in the project, and/or they were proposals that staff felt would have a high likelihood of success (with appropriate staffing and resources).

Ms. Biasioli said that in addition to those specific criteria, there are many other constraints and considerations that staff has been evaluating and will continue to as they move forward through the project.

Ms. Biasioli said she would share with the Commission the strategies that staff recommended to the Board in July. She said this was provided as an attachment, in a table format. She said this did not exactly match the presentation as there were a few that were removed from the

presentation that were not supported by the Board, and there was one additional strategy that was not recommended by staff but was encouraged by the Board for staff to add it back in and continue exploring and developing it into a proposal.

Ms. Biasioli said generally, the strategies were grouped into three main categories: New or Revised Regulations, Incentives and Voluntary Opportunities, and Monitoring Education and Partnerships.

Ms. Biasioli said she would share the strategies in each category. She said she would not provide much background information, but there was some analysis in the table that she was happy to elaborate on, clarify, or answer any questions on at the end of the presentation.

Ms. Biasioli said the first category is New or Revised Regulations, and the Commission would notice going through the slides that there are two additional pieces of information at the bottom of each. She said this is the next step to either initiate proposal development, that if the Stream Health Team felt there was enough information to do so at that time, or assess opportunities if they were not sure and needed to do more research to figure it out. She said the second factor is alignment, and this is where the proposed stream health strategy aligns with a strategy that is included in either the Climate Action Plan (CAP) or the Biodiversity Action Plan (BAP). She said there is a lot of overlap in those strategies, which is cross-referenced in the document.

Ms. Biasioli said that in New or Revised Regulations, the first strategy is to reestablish countywide requirements for perpetual retention and management of 100-foot stream buffers, with exemptions for agricultural, forestry, and other limited land uses.

Ms. Biasioli said the second strategy is to strengthen restoration requirements and guidelines for when agricultural and forestal land is converted to residential use, and also for mitigation when violations of the Water Protection Ordinance occur.

Ms. Biasioli said the third strategy is to amend the Zoning Ordinance to clarify that environmental restoration projects (specifically, stream mitigation and nutrient banks) are permitted by right throughout the County, subject to consistent regulations for their review and approval.

Ms. Biasioli said the next strategy is to review existing policies and regulations to identify opportunities for better alignment with the Chesapeake Bay Preservation Act. She said the last strategy was to adopt the full Chesapeake Bay Preservation Act voluntarily in the County, which is the strategy that was not recommended by staff but by the Board for staff to include in their proposal development.

Ms. Biasioli said the second category is Incentives and Voluntary Opportunities, with the first strategy being to establish a riparian buffer easement program, focused specifically on protecting water quality through new riparian buffer easements in high-priority areas, and by strengthening existing whole property easements with additional provisions to protect stream health.

Ms. Biasioli said the next strategy was to establish a conservation easement assistance program to help landowners with the transactional costs of placing land under conservation easement.

Ms. Biasioli said the next strategy was to create a stream health improvement fund that offers assistance to landowners engaged in conservation or cost-share programs and to support specific restoration projects that benefit stream health.

Ms. Biasioli said the next strategy was to support existing cost-share programs that promote best management practices to improve stream health.

Ms. Biasioli said finally, there is a strategy to explore options to encourage onsite treatment of stormwater and minimization of impervious surfaces by providing an incentive for low-impact development practices.

Ms. Biasioli said the last category of strategies is Monitoring Education and Partnerships. She said the first strategy here is to develop a countywide water quality testing program for landowners that could also serve as a screening tool to help identify waterways that would benefit from long-term monitoring or stream health improvement projects.

Ms. Biasioli said the next strategy is to expand and formalize a new landowner education project. She said another strategy was to support the expansion of education programs for student and a coordinated watershed-wide approach, especially at the middle school and high school level.

Ms. Biasioli said a strategy is to explore grant opportunities to support stream health restoration, conservation, and education projects and programs.

Ms. Biasioli said these were all the strategies, and she would be happy to hear feedback, make any clarifications, or answer any questions from the Commission.

Mr. Randolph said this is very encouraging in terms of the amount of work that staff has done. He said he wanted to compliment Ms. Biasioli and the volunteers in this process. He said he had a couple of observations, noting that he would say this as someone who has worked with three watershed organizations and states to the north. He said the first is when looking at analysis and discussion under Section 2, "Incentives and Voluntary Opportunities, A," he would go down to Subpoint 1, "Encouraging donation of riparian buffer easements to the County." He said one thing that needs to be thought through is how the staffing will need to occur, and how managing these easements will occur.

Mr. Randolph said he wanted to put out a thought, which is if the County is going to start encouraging and accepting donations for riparian buffer easements, the question is if they should include an easement dedication fee for the County taking over these easements. He said the reason he asks this is when looking at Section C, this talks about creating a stream health improvement fund. He said one thing he has learned in four years of working at a different level in the County is that unless one has dedicated money, budget cycles can end up restricting the flow, and one can "crimp the hose." He said the resources do not get to where they need to be.

Mr. Randolph expressed that despite talk of recession, every single year, water quality will need to be addressed. He said in fact, one could make the argument that when the economy goes in recession, this is when mischief takes place in the riparian environment, with more tires, refrigerators, etc.

Mr. Randolph stressed the importance of finding a way of funding this that will be ongoing and will not be episodic or periodic, nor dependent upon the political will of the Board of Supervisors (whose members can change every two years). He urged staff to look at this.

Mr. Randolph said under IV in part A, it talks about conducting a review of stream buffer provisions

and existing conservation easements held by ACA and Albemarle County. He said this is an ideal intern project for a summer, as it has a very specific focus, and a student would lap up the opportunity to work on that.

Mr. Randolph said that part B speaks of establishing a ranking criteria to prioritize geographic areas. He said it is absolutely important to prioritize, but he would come back to this subsequently. He said he thinks there has to be a choice of essentially a beta in terms of which of the magisterial districts they want to start with. He said this could be done completely randomly, but he does think they need to start with one, tweak and refine it, then take lessons learned from working in that magisterial district. He said one could make the argument that they may want to pick a magisterial district that has the least amount of Rural Area rather than the most, as this reduces some challenges that he would be coming back to.

Mr. Randolph said he would then switch to Section 3. He said there is always a lot of discussion at the Board level about having volunteers taking care of this. He asked if there could also be a nonprofit organization that the County already funds take care of this versus adding additional staff. He said he would urge looking into looking with the RCA, noting that he and his wife are contributors to the RCA but since he has worked with three watershed organizations and was a part of an earlier effort to get the RCA to merge into becoming the organization it is today, perhaps a P3 relationship with RCA is a model that should be explored rather than simply adding staff, building bureaucracy, etc. He said they do an outstanding job in water quality monitoring, and he would say this whether or not he supported them.

Mr. Randolph said under Point B, he thinks Albemarle County could do a better job highlighting what RCA finds. He said when he was on the Board, they tried to incorporate what RCA semiannual water quality studies were finding, but it wasn't part of the discourse as much as it could be.

Mr. Randolph said under Point D, the last sentence said, "...exploring creative ways to educate the public and increase awareness of opportunities for landowners was identified as a high priority." He said the County has a public engagement department, and they have added a number of people over the last five or six years to that department. He said there has to be someone there that can be helpful in this effort to try to educate the public about this process. He said this is something that could be done together with the RCA.

Mr. Randolph said in Point E, it talks about the RCA. He said he thinks it is important to integrate this with the Albemarle County School Division and the RCA, as well as the County's Community Development. He said he was sure Ms. Diantha McKeel brought this up at the Board level, and he would reiterate that the more they look at integration – especially because of the conversation on the last application regarding environmental education – there are families who are eager to have their children learn this. He said the more they can develop a partnership or P4 type of approach, the better off everyone will be.

Mr. Randolph said in Point G, it said, "...explore ways to work with VDOT to reduce the impacts from public roads." He said he thinks this especially would be the case in terms of gravel or where slopes are at play. He said here, they could start with one magisterial district, do the study, and look at how gravel roads and slopes are having an impact on water quality. He said this is where integrating with RCA, they could potentially do water quality testing at that location.

Mr. Randolph said his final point was not about anything in Phase II but rather, it was on page 2

of the summary, where it said there was broad support within the workgroup for utilizing a variety of these different approaches; however, representatives from the agricultural community expressed strong opposition to employing a regulatory approach for rural land uses.

Mr. Randolph said if the County continues an approach that is based on voluntary compliance in the Rural Area, they are kicking the proverbial can down the road. He said the proper way to approach this is to ask the question, "What strategies (individual, or in a mix) assure the best chances or probability of success in natural resource protection?" He said doing it the same old way and going along with the Farm Bureau statement of, "We're taking care of that. Our animals are not in the watershed" (which he has heard raised before in a Farm Bureau meeting) is not proven to be accurate when doing the testing in those locations and looking at the high levels of animal proteins in the water.

Mr. Randolph expressed that he thinks the right question needs to be asked and with that question, they will get out of the argument that this is being regulated and forced. He said this is not the question here but rather, it is which strategy will assure the best chances of natural resource protection for the long term. He said they have a watershed and drinking water supply that depends on those outcomes.

Mr. Randolph wished Ms. Biasioli luck, adding that he was delighted she was there and working on all these issues while making real headway.

Ms. Biasioli thanked Mr. Randolph for his comments. She said there was a lot to respond to, but she would let the other Commissioners provide feedback first.

Ms. Firehock said Ms. Liz Palmer originally asked her to give her comments on the presentation to the Board, and she was told that Planning Commissioners could not be on the stream committee because they would get a chance to comment in this venue. She said she feels, however, that this is somewhat after the fact because it was coming to the Commission after the Board has already told staff what they want.

Ms. Firehock said nevertheless, in terms of the riparian buffer easements, the Thomas Jefferson Planning District Commission (TJPDC) had a riparian buffer easement for many years, and as far as she knows, it still goes. She asked Ms. Biasioli if she was proposing that the County replicates this.

Ms. Biasioli replied that this was something staff looked into. She said they talked with the TJPDC and also with other easement organizations in the County (such as PEC) to work through what would be the best approach before they settled on it being a County program. She said there are a few reasons for this. She said the Soil and Water Conservation District does have a program, and their focus now is at least more on mitigation, and it has also been more opportunistic in terms of it being anyone who comes to them. She said staff wanted to have a more strategic, prioritized effort where they are focusing on maximizing water quality benefits in the County.

Ms. Biasioli said TJPDC's last riparian buffer easement in Albemarle County was recorded in 2003, so while the program still exists, it has not been active. She said in talking with the district, they do not have the capacity to expand it at this time. She said she thinks that in some sense, the County is replicating it, but hopefully in a more effective and efficient way. She asked Ms. Firehock if this answered her question.

Ms. Firehock replied that it did and was very helpful. She asked Ms. Biasioli to keep in mind that there are other organizations (like Friends of the Rivers of Virginia) that hold riparian easements and have done so for many decades. She encouraged the County partner, when possible, with a group that already does this for a living and does it well (rather than reinventing the wheel, or trying to duplicate something), to Mr. Randolph's earlier point about fickle budgets and elections.

Ms. Firehock said in terms of Total Maximum Daily Loads (TMDLs) for watersheds that are already impaired and have cleanup plans, when proposals come to the Planning Commission to review, one of her pet peeves is that it never states that the property is on a TMDL stream. She said in other words, no additional consideration is made for the fact that this stream is already impaired, nor is there any recommendation from staff as to additional things that might need to be considered for a property that is coming to the Commission. She said she has sent emails asking for the TMDL until she is blue in the face, and she wishes it was a part of the regular procedure for the County and is given consideration because they already know that water is impaired, and they are adding more land disturbance to it.

Ms. Firehock said Ms. Biasioli did make an excellent point earlier about trying to have stormwater management (especially for water quality) be taken care of onsite instead of an off-site purchasing of water quality credits, which was enabled by the legislature several years ago and has hampered the County's ability to get developers to actually do low-impact development BMPs onsite. She said they keep buying credits, and the County is worse for it. She said she is not blaming the developers because it is a cheap thing to do, but it is not good for the streams.

Ms. Firehock said the number one thing that the County needs to spend time on is landowner education. She said if she were to do a "man on the creek" interview in her watershed, she would bet that the majority of landowners have no idea that there is a stream buffer regulation, and they would not know why. She said her neighbors dutifully mow to the stream, including the floodplain. She said they want a lawn right to the edge of the creek, and they do not know that this is bad. She said she has gotten some neighbors to fence cattle out of the stream through cajoling, but she will not be the one-woman educator of the Samuel Miller District.

Ms. Firehock said she thinks a big push to get landowners to do the right thing by letting them know what the right thing is and why it is important is where the County needs to put its energy. She said there are also so many people moving in and out of the area. She said there are people who have been there their entire lives and others who have been there one year. She said this needs to be a constant reeducation campaign as to why the County is doing this.

Ms. Firehock said in terms of adopting the entire Chesapeake Bay Act regulations for this area, she believes this is a tall order, and they probably will not get very far.

Mr. Keller said it was great to have Ms. Biasioli leading this effort and to see such an organization approach thus far. He said building on Mr. Randolph's and Ms. Firehock's comments, after spending a number of years in the Midwest, where agriculture is king and they know about the runoffs down to Mississippi and the bloom in the Gulf of Mexico, there are a number of farmers that he is amazed (given many aspects of their life, politics included) are big supporters of buffers.

Mr. Keller said he imagines staff is keyed into it, but he would encourage them to reach out to the National Association of Conservation District (which is headquartered in Johnston, Iowa), as they are into the public education side and bringing farmers who have amazingly successful operations who believe in the importance of buffers to speak with other farmers.

Mr. Keller said that to echo what Mr. Randolph and Ms. Firehock touched on, in his mind, seeing Table 1A and the exemptions for agriculture, forestry, and other limited land uses, they know why it is there, but he does not know that this is as hard a nut to crack as it is. He expressed his belief that there are ways to get at the issue that are beneficial to the farming community. He said he had more ideas on this if staff wished to follow up with him. He said he has spent a lot of time with farmers in the fields in Iowa over the last 30 years.

Mr. Bivins said he would share a couple of things to expand on Mr. Randolph's image of "kicking the can down the road." He said his concern is that they have kicked the can to the Development Area. He said when Ms. Biasioli put up the Phase I slides that showed the six different issues, he was curious as to whether they would see any overlap or commonality between the Phase I approach with the developers and the Phase II approach with the agribusinesses. He said his sense is that even though these are two business types (the ag business, and those who build homes and commercial spaces), those who do business in the development part of the community are treated differently than the people who do their business in the rural or ag area.

Mr. Bivins said his colleagues have pushed him about the Right to Farm legislation, which he understands regarding plowing a field that has a lot of bedrock in it. He said his concern, however, is if Albemarle County is talking about creating a space that allows people to come here and build new lives – whether this is through traditional farming with cows and sheep or the new kind of farming taking place with distilleries, wineries, and breweries – there seems to be a disconnect between the regulations that are applied to two business.

Mr. Bivins said he is getting away from the rural and pastoral vision of what farming used to be and get down to the fact that in Albemarle County, as he is experiencing farming, this happens to be downright, cold, calculated business. He said many of those businesses are finding that the calculation works for them because they do weddings on their property. He said while one might say that hopefully, there will be a new generation that comes out of that wedding, this is not necessarily the crop that will be grown or harvested there.

Mr. Bivins said his concern is that they move through this, if there is some commonality or at least some parity that takes place in Phase I and Phase II of how they look at streams, it is not necessarily a line with the romantic image of what farming used to be in the community.

Mr. Bivins said as Ms. Firehock shared about her stream, he sits on Ivy Creek, at the end of his property. He said someone farther upstream from him wanted to put a crossing across Ivy Creek. He said there is nothing but dirt between the 100 feet and the creek now. He said Ivy Creek used to run clear, even when there were torrential rains, but there is now plenty of silt in it. He said the person gets to do this because they sit on a farm. He said he could do it, too, because he sits in the Rural Area, but if they were developing something in the Development Area, this would have never been allowed.

Mr. Bivins said the question is how to strike a balance to preserve the key opening statement in the Comprehensive Plan. He said if they really want this to be a beautiful place that people come to live in and grow prosperous and wise, then they have to figure out how the streams that are in the agricultural part are not trumping the rights of the streams in the rest of the County. He said this imbalance is uncomfortable for him since he has become a member of the Commission and had an opportunity to see how they treat two businesses, between which he would like to see some parity.

Ms. Biasioli said she would respond to the Commissioners' thoughts and would start by responding to Mr. Randolph's point about the need for dedicated funding, his thoughts on staffing and including an easement dedication fee. She said these are all things staff is considering, including staffing with respect to all the proposals and resource needs, and these need for those to be continual.

Ms. Biasioli said with the stream health improvement fund, for example, there was a suggestion (though she was not sure about its feasibility) to have at least a portion of that fund be paid into when new mitigation is not possible. She said this was not in lieu of mitigation for development projects. She said her understanding from talking to previous staff is that they had this in the early 2000s, and as Mr. Randolph had talked about, this program went away with the recession. She said this actually existed in the County previously, and having some existing dedicated funding would allow the County to apply for grants where matching funds are required. She said there are a lot of moving parts, but working through all of those details is what staff is doing now in the proposal development stage.

Ms. Biasioli said the Commission talked about working with other organizations rather than adding staff (e.g., the RCA for the water quality monitoring proposal), and that is exactly what staff is proposing. She said RCA has the program already well established, and they have ideas for how this could be expanded. She said through this project, staff heard from a lot of landowners throughout the County who want someone to come to their properties and test the water in their streams.

Ms. Biasioli said RCA and DEQ have testing sites throughout the County, but there is certainly a lot of opportunity for more of that to occur and have it be a response to landowners' needs. She said it would be somewhat of a random sample throughout the County that might identify areas where there is some issue contributing to stream health, but also long-term monitoring sites if there is a pristine site or areas that need to be targeted for restoration and further monitoring.

Ms. Biasioli said they can build on these programs with existing staff. She said with education programs, it is the same as they are proposing to coordinate RCA and Soil and Water's existing programs with some of the County schools and science coordination happening there, and hoping to integrate this if the County schools can accommodate it. She said they will be working with the School Division and the Public Engagement Department throughout. She said there have also been volunteer efforts with the Natural Heritage Committee in doing education, so staff is trying to merge together pilot programs they have been testing to expand and formalize them.

Ms. Biasioli said to Ms. Firehock's point about new landowners in the County, staff has GIS tools that can help them identify when land is purchased in a high-priority area. She said this can target new landowners to help educate them about existing conservation, cost-share programs, and best management practices for stewardship as well. She said all of this is part of the program. She added that staff is developing these proposals now, so the strategies have been developed, but she would welcome Ms. Firehock's and any of the Commissioners' feedback as they go forward in the next few months, as staff will be working on fleshing out the proposals. She said there will be more opportunity for receiving that feedback.

Ms. Biasioli said focusing on TMDL watersheds, this is actually in the Phase I development-related proposal in terms of at least one element, looking at the two-layer erosion and sediment control measures. She said this would be one way to do that, but there are probably other ways

to integrate this into the processes in Community Development.

Ms. Biasioli said these were all the things she wanted to address. She thanked the Commission for their feedback, encouraging them to reach out to her if they have other thoughts.

Mr. Bivins thanked Ms. Biasioli, adding that the Commission looked forward to her next presentation. He said he suspects that Ms. Biasioli would hear from Ms. Firehock and Mr. Randolph soon.

Committee Reports

There were no reports.

Review of Board of Supervisors Meetings – August 4 and August 18, 2021

Mr. Rapp said there were a couple of special use permits before the Board on the evening of August 4. He said there was a request by the MonU Park to increase the area for their four fields (but no increase in intensity), and this was approved by the Board. He said afterwards, the Blue Ridge Swim Club requested modifications to their special use permit, which were also approved by the Board.

Mr. Rapp said on August 18, he explained net density and gross density to the Board, which is something he feels needs to be worked on in the Comprehensive Plan and ordinance updates to take a direction and clearly define which they do. He said there are certain things in the ordinance, certain things in the master plans, and certain things in the Comprehensive Plan, and none of them align. He said they have their work cut out for them in the near future to align, figure out the direction they want to go, and clearly articulate this.

Mr. Bivins said this will be an evening where Mr. Rapp could let the Commission wrestle with this term, as he thinks there are a number of Commissioners who would enjoy doing so.

Mr. Rapp said he looked forward to the discussion.

Old Business/New Business

Mr. Bivins asked the Commissioners to inform them of their upcoming holiday or travel plans.

Mr. Rapp said he wanted to give an update on Commission meetings and whether or not they will be in person again. He said some time ago, they started making plans to eventually get back in person, but they have paused this at the County based on the current statistics with COVID's new Delta variant and recommendations from the Health Department. He said staff will continue to monitor this but for the time being, they will continue virtual Zoom meetings throughout the County and follow guidance from the Health District. He said as things evolve, staff will update the Commission. He encouraged everyone to stay safe and while they will one day be back in person, this was the situation for now.

Items for Follow-Up

There were no items.

Adjournment

At 8:03 p.m., the Commission adjourned to September 14, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

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

Approved	by	Planning
Commission		
Date: 09/14/2021		
Initials: CSS		