

**Albemarle County Planning Commission  
FINAL Minutes December 7, 2021**

The Albemarle County Planning Commission held a public hearing on Tuesday, December 7, 2021 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Rick Randolph; Daniel Bailey; Karen Firehock; Jennie More; Tim Keller; and Luis Carrazana.

Members absent: Corey Clayborne.

Other officials present were Mariah Gleason, Senior Planner, Community Development Department; Cameron Langille, Principal Planner, Community Development Department; Bill Fritz, Development Process Manager, Community Development Department; 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 called the meeting to order. He 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/community/county-calendar](http://www.albemarle.org/community/county-calendar) when available. He asked Ms. Shaffer to call the meeting to order and establish a quorum.

Ms. Shaffer called the roll and established a quorum.

**Consent Agenda**

Mr. Bivins asked if anything should be pulled from the consent agenda for further review.

Mr. Randolph moved to approve the consent agenda, seconded By Mr. Keller.

Mr. Herrick clarified that the motion was to approve the consent agenda.

Mr. Bivins confirmed that was what they were doing.

The motion passed 6-0.

**Other Matters Not Listed on the Agenda from the Public**

Ms. Shaffer said there was no one signed up.

## Public Hearing

### **SP2021-00003 Caliber Collision**

Ms. Mariah Gleason introduced herself as a Senior Planner in the Planning Division of the Community Development Department. She stated that she would be presenting a special use permit request, SP2021-00003, Caliber Collision for their consideration. She said that the location of the special use permit was located on Route 29 at 1720 Seminole Trail, on Tax Map Parcel 45-106. She said the property was about 500 feet north of the intersection of Rio Road and Route 29. She said that businesses and uses were highly diverse in this area and included retail and commercial business, restaurants, storage facilities, motor vehicles, sales, rentals and repairs, medical facilities, grocery stores, public facilities, and others. She said the property's immediate neighbors were Storage Solutions Center to the north and west, Jefferson Coin to the south, and Albemarle Square Shopping Center located across Route 29.

Ms. Gleason said the subject property was zoned as highway commercial, seen in bright red on the slide, as were the neighboring properties. She said the surrounding properties were generally zoned as commercial, shown on the slide in pink. She said the permitted uses in the highway commercial zoning district were diverse; however, body shop uses required a special use permit.

Ms. Gleason said the applicant was proposing to use the existing building on the property for body shop use, and all the work and repair activities for the body shop would occur within the enclosed building. She stated that vehicles awaiting repair would be parked to the side and rear of the parcel behind a screening fence. She said the proposal would require a site plan to amend the previously approved site plan, because they were making changes to the parking area and areas in front of the building to make the parcel more consistent with the recommendations of the comprehensive plan, which in this case was the Rio-29 Small Area Plan.

Ms. Gleason reported that staff found many positive aspects with the proposal; however, it was inconsistent with the use and form recommendations of the Rio-29 Small Area Plan, which again served as the comprehensive plan and visioning document for the local area. She stated that the Rio-29 Small Area Plan designated this property as a core area. She explained that core areas were characterized by a highly urban and pedestrian friendly environment, with buildings recommended to be three to six stories in height, be built close to the street, have windows on the ground floor along the street, and have active first floors. She said that as provided in detail in the staff report, the Rio-29 Small Area Plan did not readily recommend auto service uses like body shops in the core, but it permitted them by exception if they had minimal impacts on surrounding uses and if a certain building form was achieved.

Ms. Gleason said that specifically, the plan recommended that the uses were part of a mixed-use development, with the oriented uses located in the back of the property. She said this proposal was not consistent with the form and use recommendations of the Rio-29 Small Area Plan, and because of these inconsistencies, staff was recommending denial of the proposal. She said that should a commissioner wish to recommend approval of the proposal, staff has recommended the condition as shown on the slide, which primarily solidifies the positive aspects of the proposal. She offered to answer questions.

Ms. Firehock asked Ms. Gleason if she knew how long the property had been vacant.

Ms. Gleason responded that she did not know.

Ms. Firehock said she believed it had been several years but did not know for sure.

Mr. Randolph asked Ms. Gleason to cite any examples of existing buildings currently on this block of Seminole Trail that were consistent with the recommendations in the small area plan in terms of the core principle.

Ms. Gleason said she would share her screen again and go to the aerial image of the block. She said that looking at the core, the light pink area around the urban core area, not many buildings were located consistently with the small area plan at this time. She said she had not actually looked into each building on each parcel to see if that were true, but she would generally say no, there were not many that would be consistent.

Mr. Randolph asked if in terms of uses in this corridor, that the small area plan was aspirational in terms of what it would like to see in building type, configuration, and height, versus what current zoning permits were in this area.

Ms. Gleason said that she thought that overall, this proposal was highlighting that the zoning they had in this area, and the existing character of the area was different than the visioning document for the area. She said that was not always true, but in this case, the current character was not the future vision that they saw.

Mr. Bivins asked if there were any further questions for the applicant. He asked for the applicant to be invited in.

Mr. Bret Flory introduced himself as being with Cross Architects. He said they were the architects working on this project, and he had been working with Caliber Collision for close to nine years doing most of their work across the country, around 300 sites nationwide. He said Caliber Collision was the world's largest collision repair company, with close to 1,400 locations, and one of the newest constructions was currently being completed on the east side of Charlottesville. He said they worked with all the major insurance companies and over 20,000 employees.

Mr. Flory said that Caliber set the standard in the industry for business operations, beginning in California 30 years ago and expanding to encompass the whole country. He said they had the highest customer service ratings in the country in this market and had to run a first-class operation to keep their business. He said they basically did not go anywhere without the insurance companies supporting them, so every one of their businesses was a successful location that they maintained.

Mr. Flory said that they used top-of-the-line equipment, with a paint booth that had stage three filtration carbon filters so the air coming out was cleaner than the air they breathed walking down the sidewalk. He said all of the work was done inside so there was no noise or additional decibel levels being added to the area. He said the car appointments were typically scheduled with the insurance companies to ensure things moved expediently, but if cars did have to wait outside, they would be parked behind the fence—and the way the site was oriented had the parking area on a hillside and a storage unit facility on the backside, with the building shaped in a way that it was screened from the highway.

Mr. Flory said they had been working on this project since January, and there were a lot of hurdles to clear when asking for a special use permit for something like this, which they were accustomed to. He said that staff had been very supportive for the most part, and they had received staff approval for this special use permit from every reviewing staff member, including the Architectural Review Board for the building and the landscaping. He said they hired a traffic engineer to get an

access management exception for the plan for the driveway separation, and to confirm they did not need a deceleration lane. He said that the County engineer indicated that VDOT had approved it. He said they had approval from zoning and from planning, but they were trying to follow the Rio-29 Small Area Plan. He said he supported permit planning and trying to improve areas, and he felt this would be a major improvement.

Mr. Flory said the lot had been vacant for at least a few years, and this was a very challenging building for someone to take on, but it worked for Caliber, and they were happy to be there. He said they had tried to improve the building and were investing in improvements to install the 14-foot-wide shared-use path out front and the eight-foot buffer, and they had coordinated that with all relevant departments. He said he was unaware of any other businesses along that area that had even put a shared-use path in. He noted that they were screening the rooftop units and were making the building look a lot better. He said that even though they had approval from the Architectural Review Board for the building, they were willing to look at it further to get it more consistent with their desired heights; while they would not do three to six stories, they could do something to improve the height if it made a difference.

Mr. Flory said there were several automotive uses in this area, and Caliber Collision was a good fit and would be considered a complementary type of use. He said they considered themselves a neighborhood service, because all of the customers were around the retail areas. He said the business appreciated the County's time and request and their consideration of approval with the conditions that the Planning Department recommended. He said they had no issues whatsoever with those conditions, and he was happy to answer any questions. He said they had a few renderings they could show.

Ms. Hernandez asked if they could see the site plan on the screen.

Mr. Bivins confirmed that they could.

Mr. Flory said the site plan showed the shared-use path in front, as well as the required eight-foot landscaping along the highway and the shared-use path. He said the small area plan wanted to make it a pedestrian-friendly area, which he fully supported, but right now it was a highway with a posted speed limit of 45 miles per hour, so they may be the only people putting this shared-use path in until that changed. He said they were happy to do it to try and comply with the plan. He said as the Commission could see, there was a hill on the southside that was fairly steep, and storage on the north and west, with outdoor vehicle storage behind the L-shape part of the building. He said it would be completely fenced in with an approved fence.

Mr. Flory said the next side was a perspective showing the northeast view; to the right is the storage use facility, and another angle from the southeast looking northwest shows how they would paint the building and the shared-use path and landscaping to meet requirements. He said they showed an overhead door on the side of the building but took that out, so there would be no overhead doors seen from the road. He showed an image of the parcel with the hillside on the left slope and the back of the building secluded. He then presented an aerial picture that showed the car dealership to the right and several other automotive uses nearby. He commented that Caliber Collision's building would be an asset to the community, stating that their painters were paid six figures and put a lot back into the community.

Ms. Hernandez said that concluded their slides.

Mr. Flory said they were trying to improve this and get as close to the spirit of the Rio-29 Plan as possible but would be willing to accept the conditions and consider another parapet to raise it up somewhat, although they already had the ARB's approval. He said they appreciated their time and consideration, and he was happy to answer any questions they may have.

Mr. Bivins asked if there were questions for the applicant at this point. Seeing none, he said they would open the public hearing. He asked if there were any people signed up for this item.

Ms. Shaffer said there was no one with their hand raised.

Mr. Flory stated that they did meet with the Community Advisory Council in March, and there was some mixed feedback in that case, but they did have some support as well. He said that it was very common that they had to get these approved with a special use permit, and he had told this to planning commissions and city councils all over the country that sometimes there were stipulations and conditions on the approval—and not once had they ever had any negative actions from sites not following conditions. He said he believed they would find this to be an asset to the area and an improvement to the site and the building. He offered to answer questions.

Ms. Firehock said that perhaps Ms. Gleason could help her with a question. Ms. Firehock said she was looking at the rendering and understood the purpose of the shared-use path, but it looked so wide on the site, and she wondered what the width of the path was. She said she hated to see sites become more impervious as a result of redevelopment, which seemed to be the case here.

Ms. Gleason responded that it was meant to be 14 feet, which matched the recommendation of the small area plan. She said the through corridor of the bike route on 29 was recommended to have a separation zone or planting zone that was eight feet, a shared-use path that was 14 feet, and a frontage zone that was 5 to 25 feet. She said the idea was that like a commuter route for cars, this would be seen as a commuter route for active travel options such as walking or biking, which was what informed the 14 feet. She said that the recommendation was developed with internal and external partner agencies.

Ms. Firehock said it appeared that there was not eight feet of separation. She said she did not see scale on there, but it did not look like there was eight feet of separation and instead there was a strip of grass and a 14-foot-wide path.

Ms. Gleason said that in the proposal's concept plan, there was an eight-foot measurement. She said that it measured out to be consistent with the recommended street frontage, where there was eight feet between the street and the shared-use path, 14 feet for the shared-use path, and an additional 22 to 23 feet between the side of the building and the exterior edge of the sidewalk shared-use path.

Ms. Firehock said she would prefer to flip that and have the shared-use path be eight feet. She said she understood there would be bike commuters, but it was sitting there by itself, next to a large hill, and it was hard to imagine the 14-foot path going through that hill. She said they created a bit of a super-wide path to nowhere in that spot, and if it would be possible, she would like to see shrinking it down in that location because it did not make sense when looking at the topography where it sits. She said that regarding the reuse of the building itself, she had no problem with what was proposed there.

Ms. Gleason said the recommended street frontage was meant to be on a greater scale than this site in particular, so it may look odd looking at a singular site, but the idea was that the implementation would be along a corridor in a general recommendation.

Ms. Firehock said she completely understood that, and she had done projects where they had to put in one section of sidewalk and wait five years for the next section, but if this ran into a slope, so they were not going to propose that someone bulldoze the hillside to continue that width of a path in that location. She said sometimes things looked good on paper, but in reality, they had to adapt.

Mr. Keller said they had several of these in the last couple of years, such as the Hardee's site and a car repair service. He said in looking at this, he would like to know if they looked at comparables in the last couple of years since the Rio-29 Plan to see what staff recommendations were, and whether there were any denials before. He said if there were consistency from a staff point on this, he would be inclined to support staff, and he would like to know what the staff recommendations on the last several were.

Mr. Rapp said that they had a similar construction of a mattress warehouse store a few years ago, just south of the Fashion Square Mall entrance drive. He said the site plan had included this multi-use path and frontage. He continued that one of their conditions was to construct the building in a way that additional floors could be added on to meet the height requirement. He said the other site, the Hardee's at the corner of the Rio-29 ramp, only came before the Commission because there was an entrance corridor requirement for outdoor storage display. He said they were limited to reviewing the use, and it was just if the outdoor storage was in compliance with the entrance corridor regulations. He said it was discussed as part of that project, but the focus was limited to that outdoor display.

Mr. Rapp said this was, as Mr. Randolph pointed out, the first one they had in that core area; they had not had the small area plan in existence long enough to have much of this materialize yet, so this would be a first test case for them. He said as Ms. Gleason pointed out, it was something they went back and forth over in the context of current zoning, but there was the long-range plan that they referenced for special use permits and rezoning applications, which was where they had a consistency issue.

Mr. Randolph said the other two buildings that Mr. Rapp had just cited were new buildings or were an expansion of an existing building. He said if the applicant there was talking about putting in a new building, he would totally support staff in the recommendation that this application not be approved, because it was not multi-story. He said that because it was an existing building and the use was inconsistent with what was recommended by the small area plan in this location, which was aspirational going forward, it was totally consistent with the existing businesses that surround it and complement it. He said this was a service that was an adjunct service to the other businesses, competitive though it would be for them. He stated that he saw no reason to put this against the small area plan, which was something that looked forward and aspired the County to pursue and implement.

Mr. Randolph said that saying to the applicant that they wanted to support only the ideal application here would thereby reject their application. He noted that Ms. Firehock was correct that it had been over two years—in his recollection maybe three years—that Goodwill had vacated the building and it lay there waiting for an applicant, lessee, or business to purchase it. He said they had to look at phases. He stated that they were getting part of the vision of the small area plan here in terms of the 14-foot multi-use path in the front. He said they would not know what

would happen with the automobile business over the next 10-20 years, but a lot of cars going forward would be made of plastic, some still with steel exteriors, that would need collision services, although the demand remained uncertain. He said this application seemed to fit the site at the current time and was appropriate in terms of the character of the community, and he did not see any reason to deny the application.

Mr. Keller said he would like to hear from the two commissioners that had the jurisdiction on either side of 29 before making a decision.

Ms. Firehock said she wanted to put out for consideration that while this was not required by County code, she wondered if this was an opportunity—since they were making a very paved site even more impervious, understanding it was meeting the County's desire to have a 14-foot-wide travel way—for this section to be permeable pavement, which was a tool available to them. She emphasized that this would not increase the stormwater runoff from this site, which a traditionally paved path would do.

Mr. Bailey said he wrestled with this a lot because he was a part of the Rio-29 Small Area Plan and was excited it was recently adopted and moving forward. He said as he thought about it more as they went through it, he agreed with his fellow commissioners that they were still in an aspirational phase with the small area plan, and the building had been sitting empty for many years. He continued that when looking at the current development, it felt to him that the momentum would start on the other side of 29, where they had the mall and the Albemarle Square Shopping Center, and more of the retail and urban mixed-use living components were there already—whereas on the west side, there was more of an auto alley and more disjointed development. He said along those lines, it was consistent with the kind of uses on that side and he was inclined to support the application, with a suggestion of going one step further with permeable pavement and using a permeable paver or something that added a bit more appeal, which would be nice if they were putting hardscapes in front.

Mr. Bailey stated that he was leaning more in support of filling an empty building, because he did not want to risk a bunch of empty buildings as they tried to create a path to the future of what they want the area to be. He said they had a long road in front of them, and they had to keep taking steps that way, but he felt the biggest momentum would come from the side with the mall and Albemarle Square, towards that small area plan, as opposed to this side of 29.

Mr. Carrazana said he agreed with both Mr. Bailey and Ms. Firehock and the different points they had made. He said the momentum would be over with the mall, but it was uncertain what would happen there in the long term other than that was where the small area plan would be implemented. He stated that he agreed with the point that Ms. Firehock was making with the 14-foot travel way. He said that could be used differently if there were landscaping and trees along that buffer, as it would give a better feel as those cars were moving very quickly. He said there was a divergence on the road to get on either Rio or 29, so it would be helpful to create a bit more of a buffer there and a bit more diversity instead of a 14-foot path all the way along that roadside, which, as Ms. Firehock pointed out, would not be continuous due to the topography. He said there was some flexibility with what they could do with the plantings, and he agreed it was a consistent use on an existent property that was unused, and the proposal would only be an improvement to the community.

Mr. Bivins said that he supported the project. He said everyone had heard him say that he struggled from the very first time they discussed the small area plan with how he thought the action should be on the other side of 29 and the challenges facing the west side of 29, with the

main consideration of how to build a residential community. He said he recalled the conversation and some of the struggles that took place with making the improvements to the intersection of Rio/Hydraulic/29 exchange, and part of what they saw on the northwest side of that intersection was to facilitate the businesses between there. He noted that this was why they continued to see pull-ins and driveways to go to the businesses along that road, and it was in fact being looked at as a place where they expected commercial businesses to take place. He said for him, this was a continuation and living into that original design of that intersection, so he was okay with this.

Mr. Bivins stated he was also pleased from an economic standpoint that the project would provide a local piece of competition for Brown's, which was a helpful thing for the community to have. He said he was unaware that they had as many as 300 locations across the country, but it would be good for them to be engaged in competition with the businesses there. He said he would be more inclined for the applicant to do something with the façade than to wrestle with pavers. He suggested perhaps reducing the width of the walk and putting some visual presence and viable trees on the street there, but he first would like to bring some height to the façade to bring variation to the buildings, noting the large presence of the CVS up the road from the site with some plantings and a strip mall that he supposed someone would do something with. He said he would prefer a higher façade and street trees as opposed to the small section of permeable pavement, which he did not think would connect anything for the next 10 to 15 years. He concluded that he supported the reuse of a legacy building as opposed to tearing it down and having to dispose of everything that was there before, from an ecological standpoint.

Mr. Keller said he had an issue with the long façade, which was interesting in light of Mr. Bivins' comments about it. He said obviously one was along the ramp and could not be seen very much, but he was thinking of all the bays where the work would be done, and he would like to hear from Mr. Carrazana on that. He said he thought he understood what the Architectural Review Board was doing with not covering all of that façade in the front or covering it on the side, because it was a modernist approach to not decorate the box. He said it would have been an interesting opportunity for the two architects to speak and what the ARB's approach was.

Mr. Keller said he agreed with all of them on the economic aspects. He continued that on the west side of 29, he felt the whole time that the County had to put its responsibility and buy the park plan or plaza to spur the development, and maybe future Boards of Supervisors would see enough happening on the east side to think about that, but with all of the other things confronting the County at this point, he could see why that had not happened. He said while it was not necessarily their charge to think about economic development, they needed a tax base to do all of these things. He said they had a legitimate business that was going to be paying significant wages to at least some cohort of their personnel, and as Mr. Randolph pointed out, it may be a temporary one or not, but people kept a lot of cars for a long time that needed body work, and he assumed companies like this were going to move on to working on graphite and plastic.

Mr. Carrazana said that reminded him of a quote from Frank Lloyd Wright that a doctor can bury his mistakes, but an architect can only advise his client to grow some vines. Mr. Carrazana noted that for this proposal, he would recommend street trees.

Mr. Rapp said he thought the commissioners made a good point about the width of the 14-foot-wide path, and he knew there had been struggles with how to place trees and utilities there. He said allowing some flexibility with the width could fit it to the roadway conditions with what might be on either side and future connections, but also help them work with the applicant and accommodate some street trees. He said he wanted to add that into their discussion, so they did not feel held to the 14-foot path if it were approved tonight. He mentioned that this had not been

approved by the ARB yet; it had been submitted, but the ARB had not completed a full review or approved it.

Ms. Gleason clarified that the ARB said they had no objection to the special use permit, and they had not reviewed the site plan and discussed it at that level.

Mr. Bivins asked if the ARB would have a chance to hear their comments on this.

Mr. Rapp said one of the ARB liaisons was in the audience and may be able to provide some of that information.

Ms. Firehock said permeable pavers could be more subject to uneven settling and were more expensive and difficult to maintain, so in the interest of affordability and consistency throughout the corridor as the path was completed, permeable pavement would be easier to maintain and install for a consistent look, because there were all sorts of different pavers on the market. She said in terms of the width, she would recommend they should reverse their thinking on this particular case because they needed more landscaping at this site. She said they tidied up the bushes in the rendering compared to how they looked currently, but she would like to see trees—and to have trees to survive there, it would be great for them to have a 14-foot-wide planting strip and an 8-foot-wide path in this location.

Ms. Firehock said there was ample documentation that street trees also serve as traffic calming measures, because they create visual stimuli on the corridor and make people feel protected. She said if they actually wanted pedestrians and bicyclists to use that path, planting trees would buffer them against the traffic in the area. She said this was a site that she would surmise did not have great stormwater management, and she would like to make the small effort of putting in trees and permeable pavement to absorb the stormwater. She said that was the kind of condition she was looking for to be able to support this. She said the site was not attractive, so landscaping was the best thing at this point.

Mr. Bailey said he was happy to make a motion with some adjustment on the modifications and conditions.

Mr. Bivins clarified that they were talking about changing the planting strip from 8 feet to 14 feet. He said they were discussing a 14-foot shared-use path that would be 8 feet but with the caveat of giving staff the space to work out what the optimal ratio would be between those two functions. He said if that were accepted, perhaps they could move forward with that.

Mr. Bailey said he accepted those suggestions.

Ms. Gleason said she may have to remedy the conditions to make sure it was clear what exactly the Commission was voting for.

Mr. Herrick suggested that the motion would be that the Planning Commission recommend approval of the SP2021-00003 Caliber Collision application with the conditions as listed in the staff report with the following revisions: that the planting strip be 14 feet wide and that the shared-use path be 14 feet wide with permeable pavement. He asked if that was along the lines of what he wanted to move.

Mr. Bailey clarified that it would be 8 feet wide on the shared-use path with flexibility for the staff to adjust as necessary with the applicant to best fit the site with the permeable pavement.

Mr. Bailey moved to approve SP2021-00003 Caliber Collision with the conditions as listed in the staff report with the following revisions: that the planting strip be 14 feet wide and the shared-use path be 8 feet wide, with flexibility for the staff to adjust as necessary with the applicant to best fit the site with the permeable pavement and to include street trees.

Mr. Randolph seconded the motion.

Mr. Bivins asked if there was any further discussion. Hearing none, he asked for the vote to be called.

The motion passed 6-0.

Mr. Bivins told Mr. Flory that he hoped he would sit with Mr. Rapp and Ms. Gleason to digest what had been discussed that evening, so that when they went to the Supervisors, they would sense that he had been responsive.

Mr. Flory said he would be happy to do that and greatly appreciated the Commission's positive support, and he agreed with all of their conditions.

Mr. Bivins told him to stay safe and that they looked forward to seeing his project. He told Ms. Gleason that going with the reuse of a legacy building was not going against her good work. He said they were still looking forward to the work taking place for the small area plan, and he hoped that big piece of green land by the lawnmower place was something they would see come before them soon.

Ms. Gleason said there were many positive aspects to this proposal, so she felt it was just weighing the consistencies and inconsistencies with the comprehensive plan in this case. She thanked them for the direction and feedback.

#### **SP20190009 S.L Williamson Replacement Asphalt Plan**

Mr. Cameron Langille introduced himself as a principal planner with the Albemarle County Department of Community Development and said he would be giving a staff presentation on SP2019-00009. He said that the special use permit subject property is identified in the County tax records as Tax Map Parcel 88-18, located approximately one mile east of the intersection of Red Hill Road and Route 29 or Seminole Trail. He said the property is owned by Martin Marietta Materials, Inc. and measures 579 total acres. He continued that in the image presented on the slide, the total parcel was outlined in yellow, and the special use permit acreage was only 4.4 acres. He said that area had a red rectangle around it on the map, and that encompassed the area where the special use permit was proposed. He said this parcel was located Rural Area 4 of the comprehensive plan and was commonly known as the Red Hill Quarry.

Mr. Langille pointed out Red Hill Quarry in the center of the property where they could see that grading had occurred, noting that mining activity was currently happening there. He said the southwest corner of the property highlighted in red was the area where S.L. Williamson currently leased 4.4 acres and operated an asphalt-mixing plant. He said that surrounding uses adjacent to this parcel included rural area, single family homes, and agricultural farmland; on the north and northwest side of the parcel, there were undeveloped parcels that featured heavy vegetation.

Mr. Langille showed an image of the zoning of the subject property and the surrounding land and said that all properties in this area, including the subject parcel, had a zoning district of RA. He

said the subject property was also located within two other zoning overlay districts. He stated that the first was the dashed blue line on the slide, located on the subject property and some adjacent parcels, which represented the flood hazard overlay district. He stated that the blacked dashed lines seen on the subject property represented the natural resources extraction overlay district.

Mr. Langille showed an aerial image of the property and stated that it focused on the area with the special use permit, noting the southwest corner of the parcel where S.L. Williamson had their lease permit to operate the asphalt-mixing plant. He showed a 3D image where they could see the equipment and the accessway that led into the site, providing more context as to where the quarry activities occur in the central portion of the property.

Mr. Langille said the SP2019-0009 proposal was requesting approval for a special use permit for the asphalt-mixing plant to operate on the subject property. He said in the natural-resources extraction overlay district, operation of an asphalt-mixing plant required a special use permit and was not permitted by right. He said that S.L. Williamson was requesting this permit because they wanted to replace the existing operation with more modernized equipment. He said the current asphalt-mixing plant was reaching its operational lifetime, and they needed to put in new equipment to continue their business there. He said the replacement plant was going to operate the in same location as the existing plant, and there were some associated improvements such as vehicular travel ways, stormwater management, and other supporting structures that allowed the asphalt to be mixed through that operation. He said as was noted in the staff report, there were two special exception requests that went along with the special use permit. He continued that one was a critical slopes waiver, and the applicant was asking for the waiver of the approval to put structures and equipment over approximately 1,200 square feet of critical steep slopes. He said there was also a waiver for a building site area and dimensions for requirement for a zoning ordinance.

Mr. Langille referenced an image from Attachment 4 of the staff report, which was a special use permit concept plan. He said this showed what their proposed replacement plant would look like and all of its associated structures and hardware. He pointed out that he had enlarged the central area where most of the asphalt mixing would occur, and also shown was the replacement plant, which was what was called a drum-mixing plant. He said it was different from the batch-type plant that currently operated on this parcel, and the applicant would give more details on how the asphalt was mixed. He said what was also shown on the slide was the different conveyor belts and storage silos that supported the actual asphalt-mixing operation. He said the arrows represented the accessways that went in and served this site, where vehicles would travel to obtain and receive supplies for operations.

Mr. Langille stated that with the critical slopes waiver, there were some critical slopes on this property, but all of them had been created primarily through manmade activities. He said that a lot of the areas that showed up on the County's GIS system as critical slopes had actually been created by placing land extraction activities that resulted in new slopes being created. He said there were only a few improvements associated with the asphalt replacement plan that would be located in critical slopes—six storage bins and one silo. He said that County staff had reviewed this along with the County engineer, and the findings specified in the zoning ordinance were to allow approval of the waiver request. He said this was an action for the Board of Supervisors, and there was no action needed by the Planning Commission, but he wanted to mention it because it was in the staff report.

Mr. Langille said that the other special exception that was proposed related to the County's definition of a building site. He said that any development in the rural area needed to have a

building site that met certain dimensions and area requirements; specifically, it needed to be 30,000 square feet in total area and should be a rectangle where no boundary of that rectangle exceeded a 5:1 dimension ratio. He said in this case, the building site measured 48,000 square feet, so there was no problem there, but the lease area that S.L. Williamson had from Martin Marietta was an irregular shape. He said he believed the average width of the special use permit area was about 34 feet, but the total length was 784 feet, so it really exceeded the 5:1 rectangular dimension ratio. He said that they also looked at this with the County engineer, the Virginia Department of Health, and Planning staff, and they found that the waiver request met all the findings specified in the zoning ordinance. He said if it were not granted, it would require S.L. Williamson to possibly relocate some of the structures and other materials they would be installing onsite, and that may encroach into their water protection ordinance with stream buffers, flood plain, and work areas with critical steep slopes elsewhere on this property.

Mr. Langille said that as noted in the staff report, there were four favorable factors with this request. He said the proposal was consistent with the purpose and intent of the natural resources zoning overlay district, and they found that this proposed use would not create substantial detriment to adjacent properties. He stated that the proposed use was consistent with the character of the nearby area and was consistent with many of the recommendations, strategies, and objectives of the natural resources and economic development chapters of the County's comprehensive plan. He said that one favorable that he identified was that this use was slightly more intense than what was typically recommended by the rural area chapter of the comprehensive plan.

Mr. Langille stated that some ideas of other uses that were called for in the rural areas were low-density single-family detached residences, meaning 0.5 dwelling units per acre. He said the rural area chapter also called for some non-residential uses in the rural areas, but specifically, that was agricultural activities, farmland, or forestry. He said this was more intense than that, but considering it was just upgrading an existing plant that had been in operation for about 60 years, they found that unfavorable factor did not outweigh the favorable factors of this request.

Mr. Langille stated that staff was recommending approval of the special use permit, with five conditions intended to establish performance standards necessary to keep this plant operating and not create a substantial detriment to adjacent parcels. He said they also believed these would protect the public's health, safety, and welfare. He said that the conditions seen there were similar to those applied at the asphalt-mixing plant that S.L Williamson operated at the Luckstone Quarry in the Shadwell area of the County, which was where they got the idea that they should be consistent. He said the conditions were tweaked slightly to fit the hours and operation for this specific site.

Ms. Firehock said she had a question about the expiration of the plant's use when the quarry was no longer in operation. She said she completely understood that the source material for this business was in the quarry, so it did not make much sense to permit it beyond the life of the quarry—but the clause “no longer in operation” gave her a little pause. Ms. Firehock said she wondered about a scenario where there were some financial difficulties that occurred at the quarry, and they stopped operating it for a year. She asked if this would cause the special use permit to be void, even though someone else bought the quarry and reopened it. She asked because they had seen this in the County, where a use went dormant, and it was not that the material was gone, but that the issues resided with the owners. She said she worried that they would unnecessarily close it, even though the quarry was still viable.

Mr. Langille explained that the reason they had thought of this condition was specifically because this property was only located in the natural resources extraction overlay district due to the mining activities being permitted by right. He said if the quarry ceased to exist, the County would probably take an action to remove it from the natural resources extraction overlay district, and the special use permit would no longer be viable. He said if there were ideas for alterations to the conditions that would address that, he would be amenable to discussing them as well.

Ms. Firehock said she understood that they still needed to hear from the applicant, but perhaps they could put stipulations such as, should the quarry cease to operate for a period longer than three years, or something like that, to allow for heirships, wills, and bankruptcy to come and go—rather than only saying when it ceased to operate.

Mr. Herrick said that they could have a recommendation similar to what was in the non-conforming section of the zoning ordinance to read something like, "This special use permit would expire if the adjacent quarry use were discontinued for more than two years." He said that would be more consistent with the non-conforming uses section of the zoning ordinance.

Ms. Firehock said that was what she had in mind.

Mr. Bivins asked to hear from the applicant.

Ms. Blair Williamson introduced herself and said she would discuss their corporate replacement project at the Red Hill asphalt plant. She said she was fortunate to be leading the local family business that employed about 125 people as a third-generation heavy highway contractor, primarily in the 40 miles around Charlottesville. She said their Red Hill facility was the most important plant to them, and their plant located in this quarry was the oldest quarry in the Martin Marietta Corporation, opened in 1939 to mine ballast rock for the adjacent railway. She said this quarry produced an excellent non-polishing granite aggregate that was the main ingredient in plant-mixed asphalt, making up 95% of the volume of a ton of asphalt "mix." She said they were lucky in Charlottesville to have very high-quality stone for highway work, as opposed to the valley, where most of the aggregate was limestone and not suitable for highway work, interstates, and primaries.

Ms. Williamson said their current asphalt plant was installed in 1961, prior to zoning regulations, and had operated continuously since that time. She said they had enjoyed a quiet relationship with their neighbors, and to her knowledge never had a negative incident with any adjacent property owners. She said that the plant was now tired and had served them longer than they could have hoped, so it was time to replace it. She said that plant technology had changed substantially in 60 years, and they had the opportunity to replace it with the most current features. She said this included changing their fuel source from recycled fuel oil to liquid natural gas, which would allow them to burn the cleanest fuel available and cut their carbon footprint in half. She said the new plant would be considerably quieter than the existing one and would result in a significant reduction in dust. She said they were currently operating within DEQ air and stormwater permits, but they were excited to be able to build a plant that would lessen their environmental impact. She said because they were not contemplating changing any of the delivery of raw materials to the plant, there would not be an increase in traffic.

Ms. Williamson said the plant would also have a truck-forward operation, so backup alarms on trucks would be at a minimum. She said at present, every dump truck that was loaded was required to back under the plant, and as trucks had gotten larger over the years, they could no longer maneuver around the tight site as they were originally designed to do 60 years ago. She

said the adjacent quarry had the longest life ahead of it than any of the other quarries in the area, with a minimum of 100 plus years of supply in its future. She said that although the site was challenging from a layout standpoint of being long and skinny, it was crucial to the future success of their company, as this was one of the only sites available in the County for their operation. She said it was imperative that their ability to operate this site for the purpose of asphalt production not be tied to the businesses of another company for which they had no control. She said she respectfully requested that they remove the requirement that their use be predicated by the operation of the quarry.

Ms. Williamson said she understood that the County would like them to minimize night work, and nothing would make them happier, but they did a considerable amount of VDOT and municipal work, and some of this work was mandated to be performed at night. She said the 90-day maximum night work limit that was contemplated by staff's recommended conditions was sufficient to accommodate their needs. She said she was hopeful that they would allow them to replace their equipment with the latest and greatest technology and continue to serve the transportation needs of this community. She said that Valerie Long from Williams Mullen was representing them on this permit and would be presenting the project in more detail.

Ms. Valerie Long introduced herself and introduced members from their team there tonight, including Amy George with Roudabush, Gale & Associates, a civil engineering firm that had prepared the plans; and other representatives from S.L. Williamson, who could answer questions.

Ms. Long showed a slide with an exhibit from the manufacturer of the plant that S.L. Williamson would purchase, called "Aztec," to the extent that it was helpful for the commissioners to see a better image of what an asphalt plant looked like. She said when they talked about a "plant," that was referring to the equipment, and she noted the coal feed bends that Mr. Langille had referenced in his presentation, the control house, storage silos, and the drum mixer. She showed a different vantage point that had the drum and silos and said she hoped this provided a better mental picture when they were discussing asphalt plants. She said the vast majority of this was equipment structures, and the only building was a small control house where the operators and the computers that ran the operation were located.

Ms. Long said they had conducted a noise study to assess the current levels emitted from the plant, and their sound consultant was able to make predictions about the noise levels using the specifications from the proposed plan. She said the summary was that the new plant was projected to have no greater noise levels and substantially lower levels at the adjacent boundaries. She said there were also some aerial images from about 18 months ago to demonstrate the disturbance that had already occurred at the site during the 60 years it had been in operation. She said for a vantage point, Red Hill Road was located off to the left of the screen, and the settling ponds could be seen with the stream just beyond them. She showed a different point where the trucks had to back up. She said at the new plant, there would be a truck-forward circulation model, as Ms. Williamson indicated, that would not only be much more efficient but would also substantially reduce the amount of backup alarm noises in use.

Ms. Long showed other aerial photos of the lot and said she would be happy to go back to them at any point. She presented a color version of their concept plan, with the new circulation pattern and layout of the equipment onsite. She stated that the small areas that were critical slopes proposed to be disturbed were actually piles of aggregate and were not natural slopes. She said unfortunately, the critical slope ordinance did not provide for any exemptions when they were talking about steep slopes of aggregate material, so they had to apply for an official critical slopes waiver.

Ms. Long stated that the area had been disturbed for over 60 years as part of the proposed replacement of the old plant with the new plant, and their consultants at Roudabush Gale worked closely with County engineer Frank Pohl to work out a planting mitigation plan. She noted that even though they were not increasing the amount of the disturbed area onsite or any disturbance into the buffer, a disturbance obviously had been there for 60 years—not only long before the zoning ordinance but long before the water protection ordinance was adopted in the late 1990s, so there was already disturbance of what was now the stream buffer area. She said they were not encroaching any further into that area, but because some of that area would be better improved with the new site, they worked out a planting mitigation plan, working with the County engineer, so all those areas (which were now largely unvegetated) would be planted as part of this project.

Ms. Long said the issue that Ms. Firehock raised was with condition number two, which tied the life of the special use permit to the adjacent quarry. She said the questions and concerns Ms. Firehock raised were the exact questions the applicant had been raising throughout this process, and they shared those concerns. She said S.L. Williamson was investing approximately \$6 million in this new facility, and they did not expect the quarry would close down, as indicated, as they forecast a very long life. She said in reality, it was probably not going to be a risk that they had to worry about, but it was a significant factor because the quarry could shut down for a variety of reasons. She said it was possible that if for some reason Martin Marietta were to close down, a new company could come in and take it over, but they just did not know that yet, and S.L. Williamson would not just be able to pick up its plant and move to a new location.

Ms. Long stated that there was no zoning district in Albemarle that allowed an asphalt plant by right, and it was only allowed with a special zoning permit in two districts. She said one was heavy industrial, and the other was the natural resources overlay district. Ms. Long commented that she thought everyone could agree there was an extraordinarily low inventory of heavy industrial land in the community, and even if they could find one that was available for sale at a reasonable price, S.L. Williamson would have to go through that entire process again. She pointed out that creating a completely new plant would be a controversial and unpredictable—in contrast to this facility that had been operating for six decades without issue, so they believed it was far more appropriate that the plant be allowed to stay there.

Ms. Long said they appreciated the suggestion of a two- or three-year period, but even that was very unnerving to the company because it was out of their control over whether a new company would come in or not, and there was nothing in the ordinance that said an asphalt plant had to be tied to a quarry. She stated that it said it was required by special use permit, but it did not say anything about regulations for being adjacent to an operating quarry. She said they respectfully asked that the Commission remove that condition, but all of the others they were comfortable and happy with.

Mr. Randolph said he thought any discussion about potential discussions with a time limitation was not appropriate for this body to entertain, and he felt it was a Supervisor issue if they wanted to have a discussion with the applicant about it. He said he did not feel it in any way was related to their decision about whether this was a special use permit or not.

Mr. Bivins said it would be helpful to consider the elimination of condition number two, to be able to reconcile in his mind how a use such as a very valuable asphalt plant could continue to be in a place that no longer had an extract overlay on it. He said there were just hypotheticals. He said if the operation went out of business 100 years from now, and the County said they would no longer

have that overlay on the property, that would—by its sole action—put the existence of the plant in jeopardy. He asked how they would begin to reconcile that.

Ms. Long said that if for some reason the quarry were to close, the County would not remove the overlay district from it, it would leave it there in place, which would perhaps increase the likelihood that a new company would come along and purchase it or restart operations. Ms. Long said that as was stated, it was very high-quality material at the quarry, it was plentiful, and there were not many locations in the area that had more—so it would be short-sighted of the County to remove the overlay. She said they hoped it would stay and the plant could continue. She stated that it did not reflect the realities of this business and the efficiencies associated with having the asphalt plant on the same site as the quarry, which reduced transportation impacts and addressed a host of other issues.

Ms. Long aid that it made sense, but in reality, there would be nowhere else for this plant to go. She pointed out that it would have to go outside the County, where there was more heavy industrial land and zoning restrictions were not as challenging as they were in Albemarle, resulting in even more trucking of materials and higher environmental impacts, as well as 30 high-paying jobs that would be lost. Ms. Long stated that for those reasons, it made sense to not require the condition and for the County to keep the overlay in place as long as there were materials remaining in the quarry, so they would not create the types of problems she had described.

Ms. Shaffer said there was no one signed up for public comment.

Mr. Bivins asked if Ms. Williamson would like to give some closing remarks. He said she did not have to, but this was the time to do so.

Ms. Williamson said she appreciated their consideration and respected the fact that it was the Board of Supervisor's purview to figure out the connection the quarry. She stated it was a major purchase for their company, and if she said to their banks that they could potentially shut down if the company they were unaffiliated with closed, and they had no way to repay their loan, the bank may not give them the loan for the facility. She said that was a major barrier, and she knew it existed at their Shadwell plant, at the Luckstone plant on the other side of town, but luckily it had stayed in existence, and they had paid for it. She said they were only one of the users of this quarry, and it served incredible building and construction beyond them. She said even if the quarry were not operating, they would get aggregate from another source and make material there, because it was such an investment to build this plant, and it was not something that could be moved around, although there were few possible locations.

Ms. Firehock asked the applicant if there was any estimate on how long the quarry would last.

Mr. Bivins said he believed they were told it was around 100 years.

Ms. Williamson said it would be around after their lifetimes, and perhaps for several more lifetimes. She said if they had ever been to this quarry, there was still a mountain they were taking down, and the other quarries in town were pits. She said they half a lifetime before it would be considered to be made into a pit, and it was an incredible conserve of aggregate and an amazing resource for the area.

Mr. Bivins said he was surprised to see, and he had a bit of a conversation about whether or not there were statutes in the Commonwealth on how mines would be reclaimed, and whether they would be deep mines, or quarries—and just this past October, that entire piece of legislation was

repealed. He said that was interesting to him to find out that their legislature just repealed an entire suite of legislation around that issue. He said he was supporting this issue and agreed with his fellow Commissioner that there was a piece of this that would be dealt with amongst the Board of Supervisors as to whether there would be a sunset clause.

Mr. Randolph commented that the language of condition two was very vague. He noted that it said the use of the asphalt plant authorized by this special use permit would expire when the adjacent quarry was no longer in operation. He asked if there was a union shutdown of the plant because of a union action, and the plant was not in operation, whether that then would mean that the special use permit expired. He said he hoped it was not a hair trigger. He said he thought the intention here was that the adjacent quarry's operations had been terminated, but even then, the language did not address the applicant's well-taken point that if the business was terminated, it may be an attractive asset for another company to own and operate. He said it could just be in suspended animation for a period of time, and this did not mean this applicant should be put into financial jeopardy because of that. He said it was something that the Board of Supervisors would have to do to distinguish those final sets of conditions. He said he was unhappy with the existing language and felt it was far too ambiguous.

Mr. Herrick said he had suggested language and shared it with Mr. Langille, who said he adjusted his slide. He said the language suggested earlier to Ms. Firehock had now been incorporated.

Mr. Bivins said they would wait until they got to that point then.

Ms. Firehock said that after hearing from the applicant as this pertained to their ability to get funding for constructing this expensive new processing plant, she had a lot of sympathy for that. She said she also understood the length of years for which the material would be available, and with her experience seeing situations where quarries opened and closed because of changes in ownership, she was in favor of entirely eliminating condition number two, and she did not believe it was above their pay grade, as Mr. Randolph said, she thought it was their job to make recommendations to the Board of Supervisors, and they would do what they would with those recommendations.

Ms. Firehock said that from her perspective, it caused more harm than was intended, and the intent of staff recommending that was on the right track to make sure this plant was approved in this area because it was tied to the physical extraction of material at this location. She said though that it seemed that given the lifespan of this particular quarry, in more than 100 years, they would not be saving any unnecessary hardships. She said she could not quite articulate it, but she essentially thought condition number two was problematic enough, and while she understood the clauses, it was very complicated to transfer ownership of a quarry other than a nonconforming general store or something like that. She said she thought the simplest path would be to eliminate condition number two, and staff certainly could forward their recommendation to the Board.

Mr. Keller said he agreed with Ms. Firehock and disagreed with Mr. Randolph about not weighing in on certain things like this. He said he thought the Supervisors he had spoken with through the years felt it was helpful to hear what the Commission had to say and had every right to disagree and not go that route. He said he also supported Ms. Firehock's recommendation to remove that condition.

Mr. Bailey said at a high level, he was excited about the upgrade and equipment, knowing that the carbon footprint would be cut by going to a cleaner source. He said with respect to the limitation, these things were tied together. He said this use had been there, and the Department

of Mines and Minerals had many defunct mine sites, especially in western Virginia, that were sitting there empty. He said once a choice was made to mine those materials, they were limiting its future potential value for that land to have other uses. He said there was some movement to put solar panels on them in western Virginia, and to try and find other uses for them, and the Nature Conservancy had done a lot of work across the central Appalachians to reclaim them for different uses, but they always faced challenges with the previous industrial use of the area.

Mr. Bailey said from that perspective, he was not making a strong recommendation but would caution them from making the asphalt plant move, and he did not know the cost of bringing in other aggregate material. He said it was a 60-year-old site that had already created a footprint, and to move it to another site did not make sense to him versus letting it continue to operate in the quarry. He added that the log for the Board to mull over on tying the future viability of this asphalt company to the operation of the quarry based on the environmental impacts that were already established for that use and continuation of operation of the asphalt plant at that location, as opposed to moving it to a different location. He said they would still have roads and need to pave them around Charlottesville and this area.

Ms. More asked if the applicant could talk about the hours of operation.

Mr. Bivins said his recollection was that they did not object to the hours of operation. He said some people put their thumbs up, so he said it probably was okay.

Mr. Randolph said he wanted to close with the thought about number two because he did not want them to belabor the issue here, because the ultimate decision would lie with the Board. He said he supported removing condition number two as well, as he did not think the language was clear, and if the Board wanted to put it in there and figure it out with the applicant, they could do that. He said he felt they had an excellent discussion here, and the application was better off without that condition.

Ms. Firehock said she would make a motion.

Mr. Bivins said there were three motions.

Mr. Herrick said there would need to be separate motions for the special exception requests and the special use permit, and he was not sure which the Commission would like to take up first. He said it sounded as though most of the discussion had taken place around the special use permit. He said that the Commission was free to modify or delete condition number two if desired.

Mr. Bivins asked if they would still do two additional ones for each special exception. He asked if Mr. Herrick's preferences were to separate them out as well.

Mr. Herrick responded that the cleanest thing would be to have separate motions for the special use permit, and then for each of the two special exceptions.

Ms. Firehock asked for some clarity and said she was having laptop issues. She said this particular motion for the use did include the four conditions that were in the staff report, which went with the other one regarding special exceptions. She asked if that was correct.

Mr. Herrick said that was correct. He said the special exception recommendation by the staff did not include any conditions. He said it was the special use permit that included staff-recommended conditions.

Mr. Bivins said that if they were going to eliminate condition two, it would be on the special use permit, if that was what they wanted to do moving forward.

Mr. Herrick said that was correct, and he noted that the motion on the screen currently did not include the conditions recommended.

Ms. Firehock said she was going to reference them from the staff report in this motion. She said she just wanted to be clear.

Ms. Firehock moved to recommend approval of SP20190009 S.L. Williamson Replacement Asphalt Plant, including the conditions in the staff report numbers 1, 3, 4, and 5.

Mr. Keller seconded the motion.

Mr. Bivins asked if there was any discussion on what had just been moved. He said it was all of the conditions except for number two, which had been eliminated.

The motion passed 6-0.

Mr. Bivins asked to see the special exceptions.

Mr. Langille said he had no recommended motions other than for the Planning Commission to recommend approval of both of those special exceptions.

Mr. Herrick said the motion could be as simple as moving to recommend approval of requested special exception SE2021000036 for the first one.

Ms. Firehock moved that the Planning Commission recommend approval of special exception SE202100036.

Mr. Keller seconded the motion.

Mr. Bivins asked if there was further discussion. Hearing none, he asked for the vote to be called.

The motion passed 6-0.

Mr. Bivins asked if anyone would like to do a special exception for SE202100037.

Mr. Herrick said that would be for the Planning Commission to recommend approval of that special exception request.

Ms. Firehock moved that the Planning Commission recommend approval of special exception SE202100037.

Mr. Keller seconded the motion.

Mr. Bivins asked if there was any further discussion on this. Hearing none, he asked the vote to be called.

The motion passed 6-0.

Mr. Bivins said to Ms. Williamson that they moved forward their special use permit and the elimination of condition two, but he would recommend that she and her counsel address those before meeting with the Board of Supervisors.

Ms. Williamson said as a small business operating in this area, adjacent to Martin Marietta that was a good partner to them but a giant company they had no control over, she appreciated the County's sensitivity to that. She said they had operated for three generations and would like to continue, and this was the perfect place for them to do so.

Mr. Bivins said as she and her counsel knew, this was one step in the process.

Ms. Williamson said she knew that, but this was a good first step and she appreciated it.

### **Committee Reports**

Mr. Bivins asked if there were any committee reports.

Ms. Firehock said she could say the CIP Committee had been meeting, but they were still in the middle of it and were struggling with the usual things. She said there was lots of need and not enough money. She stated that they were not done yet, and she didn't want to report in the middle of their efforts.

Mr. Bailey said there was an introductory meeting of the bike and pedestrian group. He said he missed it due to a work conflict, and there was a follow-up meeting that they were trying to get planned, at which their board detailed that they would dig into the SmartScale application. He said there would be more to come later this month, but the first introductory meeting for that SmartScale application had started.

Mr. Bivins commented that the grassy place in Stonefield looked like it soon might have a building on it, so if anyone were looking to have a last moment in that grassy lot across from the Hyatt and Champion Brewery, this would be the time to have a picnic or look at the Christmas trees.

Mr. Bivins asked if Mr. Rapp could give his report.

### **CDD Deputy Director's Report**

Mr. Rapp said they were supposed to have a hearing on Rio Point several weeks ago, and they ended up rescheduling it for later in December. He said they did have the meeting on December 1, and it was fairly light for Community Development. He said there was a public hearing for the agricultural and forestal districts, the three districts that came before this Commission, and those went forward as recommended.

### **Old Business/New Business**

#### **STA2021002 Maintenance of Improvements**

Mr. Bill Fritz introduced himself and stated that staff had identified a potential change to the ordinance that would significantly reduce the burden on applicants and County staff, improve the enforceability of the maintenance of improvements, streamline the review and approval process, and provide better information to property owners when looking at the approved plat for the property as to their obligations for maintenance of public and private improvements. He said what was required was that when there was a private improvement such as a street, sidewalk, or trail, the developer needed to submit a document that would ensure maintenance of that facility. He said that document then went through a review process with staff and Community Development, then to the County attorney's office, then back to the applicant, then back to the County, and back to the applicant again. He said this happened a lot and was potentially hundreds of hours invested into the project.

Mr. Fritz said an interesting aspect of this was that ultimately there was a document approved and recorded, but the County was not party to that document or enforced it whatsoever. He said the County put a lot of work into a document they could not touch. He said what they discovered was that other localities seemed to have come up with a better way where the requirements could be put onto the subdivision plat and clearly state the obligations; then if the facilities were not maintained appropriately, it became a fairly straightforward subdivision violation that the County could enforce. He said this would create a much more streamlined situation; for example, if a road were not maintained and emergency vehicles could not go down it, that the County could actually enforce that and cause the road to be upgraded.

Mr. Fritz said they were excited to bring forward this resolution of intent. He said usually, they did zoning text amendments, which went to the Board of Supervisors, but subdivision text amendments were different and were presented before the Planning Commission. He said he would point out that he did have a minor change in the resolution that they were asking to be adopted today. He said he shared Ms. Firehock's dilemma with her laptop, and in the process of switching computers, the Attachment was not updated properly, and referred to "residential proffers," and he had a revised version to present tonight. He said other than that, it was correct.

Mr. Randolph said to Mr. Fritz that he was thinking about what had happened on West Leigh. He asked if this also applied to dams with an HOA.

Mr. Fritz said it applied to any private improvement. He said he would like to point out he had been doing some research, as had Mr. Herrick's office, and the term "improvement" was not even defined in their ordinance. He said the ordinance currently said, "maintenance of improvements," where the improvement was a vague subject. He said it clearly did not refer to structures like a house, so they were going to try and come up with a definition of what they believed the improvements would entail. He said there were other localities that had some very good language they were going to borrow.

Mr. Bivins said he assumed Mr. Fritz would like them to look at his resolution.

Mr. Fritz said he would show it to them quickly.

Mr. Bivins asked if they would be moving the resolution of intent.

Mr. Herrick said that it would be a motion to adopt the resolution of intent, if the Commissioners were so inclined to make that motion.

Mr. Fritz stated that it now said, "maintenance of private improvements," and there were other very minor edits, such as italicizing "Albemarle County Code," to be consistent throughout. He said there was no content change, purely minor edits.

Mr. Bivins clarified that this was in their packet, and the changes were with the mention of the proffers and the stylistic changes.

Mr. Fritz said that was correct.

Mr. Randolph moved that they adopt the resolution of intent to adopt STA2021002 Maintenance of Improvements. Ms. Firehock seconded the motion.

The motion passed 6-0.

Mr. Fritz said they would be bringing it back before the Commission in January.

Mr. Randolph said he would not be there in January. He said he would be joining his colleague Mr. Keller in finishing his term on the Planning Commission on December 31.

Mr. Bivins asked if all they should say was "okay."

Mr. Randolph said he was looking for a new role with the County where he may be seeing the Planning Commission sometimes. He noted that it would not be a conflict of interest.

Ms. Firehock asked if next week's meeting was Mr. Randolph's final meeting.

Mr. Randolph confirmed that it was.

Ms. Firehock said she would save her comments for then.

Mr. Keller agreed.

Mr. Bivins asked if they had a hard or light week coming up.

Mr. Rapp said he thought they had at least two public hearings, although they were not up right now.

### **Adjournment**

The Planning Commission adjourned its meeting at 8:06 P.M.



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Charles Rapp, Director of Planning

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

Approved by Planning Commission
Date: 01/11/2022
Initials: CSS