Albemarle County Planning Commission
Draft Minutes Work Session August 23, 2022

The Albemarle County Planning Commission held a work session on Tuesday, August 23, 2022, at 4:00 p.m.

Members attending were: Karen Firehock, Chair; Corey Clayborne, Vice-Chair; Julian Bivins; Luis Carrazana; Lonnie Murray.

Members absent: David Bailey.

Other officials present were: Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office.

Call to Order and Establish Quorum

Ms. Firehock asked each present member to state their name. She established a quorum.

Work Session

a. ZTA202200002 Zoning Ordinance Modernization

Mr. Rapp thanked the Chair. He said there had been several work sessions with the Commission about setbacks and land use matrix, during which they found new insights into their process and some additional information that was needed, as well as things that should be reconsidered and other impacts that potential changes to those sections might have throughout their ordinance. He said with the feedback from the Commission, staff, and with everything learned, there was an opportunity to reset and think about the approach, knowing that it would be a multi-year endeavor. He continued that this must be paired with the comprehensive plan, and they should reassess what sections would be affected and the different changes so that it would be in a much more comprehensive and effective format.

Mr. Rapp said staff had been meeting with consultants from the Berkley Group, several of whom were present at this work session to discuss the several phases of the process and what the phases and their engagement would look like and how they planned to accomplish this. He said they looked forward to hearing the Commission's feedback. He said now, Darren Coffey from the Berkley Group.

Mr. Firehock asked for the speaker to state his name for the record.

Mr. Coffey introduced himself as Darren Coffey, Principal with the Berkley Group. He said also with him were Rebecca Cobb and Chris Musso, who were present at previous work sessions. He said they had held several meetings with staff, during which they "dove into the deep end", which was a very difficult thing to do with a zoning ordinance update. He said due to the complex nature of the projects, reevaluating it at this level was the appropriate thing to do. He said he believed the Commissioners would agree that it was sensible. He said the Planning Commission, who was the group responsible for land use in the County, was also working on the comprehensive plan update, which was another major project. He said they were allowing the comprehensive plan to get further ahead in construction because it informed the land use policy, so when changing the

zoning ordinance, they would understand what the County leadership desired within that framework. He said that way it would be done correctly the first time.

Mr. Coffey said the Berkley Group was a local consulting firm formed in 2010 by Drew Williams and himself. He said they consulted with local governments and assisted in many facets of local government, not only in land use, however, he himself was a land use planner and the team working on this was composed of land use planners who had worked throughout the Commonwealth. He said they were committed to strengthen and support localities in a holistic manner. He said they had consulted on comprehensive plans before and understood what EPR was doing with the Planning Commission and what that process entailed. He said their bias as planners was that these were the two most important things they could do as a community, not only with regard to land use but in terms of transportation, economic development, and other things that these projects touched on.

Mr. Coffey said they believed that local government had the greatest impact on citizens' lives. He said many of the employees of the Berkley Group had previously worked as public servants in local government job positions. He said they were not consultants who would simply hand them a plan and exit; they were going to do a good job and partner with the County to achieve more with their work. He said their position was as an extension of their own staff so that they would be able to get these projects done in a meaningful, holistic, and transparent way.

Mr. Coffey said the project team included himself, the Principal-in-charge, Kelly Davis, Planning Director, Rebecca Cobb, Project Manager, and Catherine Redfearn, Chris Musso, and Darla Orr serving as project support. He said that Ms. Redfearn had been a land use consultant for her entire career, but the rest of the members had direct experience working in local government. He said Ms. Cobb would be giving the rest of the presentation, with time for any questions or dialogue they may want to have.

Ms. Cobb introduced herself as Rebecca Cobb. She said she would begin by discussing the overall project intent. She said as mentioned, this was a large, multi-year project, so overall, they were looking to accomplish several things. She said one was to make sure the ordinance was in compliance with the Code of Virginia, so that would be the first that they made sure accomplished. She said in terms of modernization, making the ordinance user-friendly for staff, the Commission, and the general public. She said in those terms, they wanted to clarify language. She said they wanted to address modern zoning issues; the old ordinance was missing data related to current development, and they also wanted it to be able to reach potential future development.

Ms. Cobb said that was where they wanted to ensure there was flexibility to readdress or reamend a new business when it occurred. She said they wanted to make sure it worked with the comprehensive plan; they understood they were working on the comprehensive plan currently, so they tried to stage this project so that it could address the work being done in public engagement and the decision-making related to land use. Ms. Cobb said another intent was to have a good structure so to the ordinance so that it was easily accessible.

Ms. Cobb said the ordinance was a mandatory document that would mandate land uses, size, and height of buildings, ensures light and air, and was there to protect citizens. She said it also needed to achieve the vision they were working on and the goals they were creating for the comprehensive plan. She said that throughout the process, they would assess what those goals were so they could make sure this was working to bring that to fruition.

Ms. Cobb said the project overview had three main phases. She said there was an investigation that began with their current meeting with the Planning Commission. She continued that they may have community engagement throughout the other phases of this project that may include interviews with Commissioners and staff, as well as focus groups that could discuss specific topics. She said they would also host open houses and a county tour in order to see in person the subjects that were being discussed so that they would have a more intimate knowledge when drafting.

Ms. Cobb said that content development encompassed that drafting portion; the first two items listed, which were ordinance diagnostic and table of contents were items that they would be working on right away, and the other items were the other articles of the zoning ordinance to be drafted. She said adoption would be later and include additional public engagement, hearings, and a public hearing before the Board of Supervisors.

Ms. Cobb said when looking at the project phases, they were beginning the first phase with interviews of the Commissioners, staff, and a focus group, as well as a review of the ordinance in comparison to state code to see where there may be misaligned or could be improved. She said they would draft the table of contents, which would be the table of contents for the full ordinance, so that they could see sections of the existing ordinance and where things should be changed or removed along the course of the project.

Ms. Cobb said the first four articles were general administration, permits and applications, and nonconformities. She said these articles were easier to address because they typically were heavily related to the Code of Virginia, so there was little room in choosing advertisement and decision-making timeframes, whereas there may be nuance in permits and applications articles. She said that concluded phase 1, and she would discuss it in further detail later in the presentation.

Ms. Cobb said that phase 2 would have some investigation, but at this point, they had not determined what that was. She said they believed it would include a focus group, likely a group familiar with the landscaping and lighting requirements so they could add their input to that. She said this would focus on design standards. She said it was different in that they would allow time before they got into the districts to allow the comprehensive plan to be developed further so that when they began talking about the district standards such as setbacks, lot size, density, and the zoning map during Phase 3, they would have the context of what had been gained through the comprehensive plan process.

Ms. Cobb said Phase 4 would be the use matrix they looked at a little bit, and they would talk about performance standards, such as when the uses were going to be allowed by right and if there were impacts, they needed to address through performance standards. She said they would also look at specific uses and discuss different areas of the County. She said Phase 5 was where they would conclude drafting with a final compilation to take to the public to receive input, and then would bring it back to the Planning Commission for final drafting and then could be moved forward to adoption. She said these phases would take approximately three years to complete. She said there may be additions or rearrangements, contingent upon the comprehensive plan's progress.

Ms. Cobb said she would further discuss phase 1. She showed a slide with the timeline of the Phase 1 schedule, beginning in August, holding interviews in October and November, followed by another work session with the Planning Commission in December to discuss the diagnostic report, look at the ordinance in detail, and plan the path forward. She said that would be shared in January as an open house with the public to let them see what the plan was, what had been discovered so far, and allow them to give feedback. She said the ordinance and articles would then be drafted in February and April work sessions, and in June, they would have an additional investigation, discuss with the focus group what had been drafted so far, and work with the Planning Commission so that it could be revised once more before moving forward to the Board that month.

Ms. Cobb said that community engagement and investigation for Phase 1 would be staff interviews. She said several interviews were planned with groups of staff because they were most familiar with the ordinance, working day-in and day-out as well as hearing complaints from the public, so they could shed light on those matters and any administrative difficulties that they had, process improvements that could occur, so that those things could be incorporated in the ordinance. She said they also wanted to have interviews with the Planning Commission in a two-by-two format, with two Berkley Group staff and two Commissioners to sit down and bring insight and voice concerns, as well as what they liked about the ordinance so that as they moved forward in the drafting, they could apply that knowledge.

Ms. Cobb said the focus group sessions for Phase 1 were going to be with people who were applying for permits and going through the administrative process so that their concerns and opinions could be voiced as well. She said in the future, they would likely have focus groups composed of different people having a particular interest or experience with a particular topic. She said with Phase 1, there would also be an open house where the diagnostic would be presented, and the public would be made aware of the process. She asked if there were any questions about the engagement or investigation.

Mr. Murray said that a lot of this concept seemed backward, because they had not yet had discussions about the natural resources chapter of the comprehensive plan, so they could not discuss ordinances until they looked at the natural resource section and decided what the goals were with natural resource conservation. He said the same could be said for many parts of the plan; without understanding what their objectives were, they could not effectively talk about how to change ordinances to meet those objectives.

Ms. Cobb said that they wanted to hear about the flaws of the current ordinance. She said they wanted to hear the concerns of the community about the existing ordinance, and they were phasing the process so that they were not making land use decisions before the comprehensive plan was addressed. She said the decisions made right away would be Planning Commission duties, Zoning Administrator duties, and what things needed to be supplied in a permit. She said those things could happen prior to getting community input from the comprehensive plan process, and then they would come in and get that information in order to make those decisions.

Ms. Firehock said that for example, they did not have a lot about utility-scale solar facilities in the comprehensive plan, which was an environmental issue. She said they may say there was a hole in the plan there, but they did not yet have comprehensive plan guidance, so that must be created. She said she did not disagree with anything that Mr. Murray just said. She said it seemed it would

be an iterative process with a starting checklist that began with the staff, and the Commission may have different opinions on what needed to be done.

Mr. Rapp said this first phase was avoiding the topics that Commissioner Murray just mentioned to let the comprehensive plan guide them when they got to those sections in the zoning ordinance. He said this first phase of sections was more about the specific requirements, such as how long a site plan should be reviewed, what was the Commission action, what type of materials were submitted, and other process-related things, not substantial topic-related material, so that that progress could be made with the comprehensive plan. He said some of the topics they had tried to broach were premature because the comprehensive plan did not have guidance for them, so this phased approach would let them set out a framework and table of contents for how everything would be addressed.

Ms. Cobb said if there were topics that were very important that must be addressed, they should be discussed as such. She said it did not mean that they would immediately have to draft it a certain way because it was mentioned, but it would allow them to know when they got to the related section that they should look at comprehensive plan comments and goals to glean information from that and draft it appropriately.

Ms. Firehock asked if there were any other questions.

Mr. Missel said he appreciated the previous comments about diving into the deep end. He asked if there was any previous public engagement that could be implemented moving forward, or if there had not been any community engagement to date.

Ms. Cobb said they had not done any community engagement. She said that was identified as a missing component and needed to occur, which was why it was planned to happen early in the process.

Mr. Bivins said that this was easier to understand the path they were embarking on. He suggested that there be specific interviews with Board of Supervisors members before the end of the process so that they had an opportunity to see it or weigh in. He said that the Supervisors were the ones who fielded complaints from the public, so all of the issues he discussed with his Supervisor were issues that had come to her about particular “zoning perceived issues,” so listening to people about their experiences might be helpful to them.

Mr. Bivins said when they sat down with staff, they should consider issues that were complaints that they had no way to address. He said there were a number of things that happened in their community that they had no control over. He said a good portion of the Jack Jouett District was in the development area, so there were many complaints about unkempt property. He asked what the proper term for those areas was.

Ms. Firehock asked if Mr. Bivins was referring to entrance corridors.

Mr. Bivins said yes. He said those areas happened to be in entrance corridors. He said if they were engaged in a conversation about how to ensure the development area was attractive to people and businesses, yet there was nothing they could do about a property that was neglected or turned into something else, not only did it have an impact on the people around it, but also had a broken window effect on the neighborhood. He said staff had no obligation and no way to solve

it, so looking at issues that linked to other things that the Supervisors would like to see happen here was important.

Mr. Bivins said in public engagement, they tended to hear from well-organized, well-funded contractors who could hire lawyers, consultants, and advocates, and had a mechanism to navigate the zoning ordinance, particularly when it came to new development, in ways that other people did not. He said they also had a large population of medium-sized contractors who were more likely to struggle with the zoning ordinance and may benefit from additional guidance from staff throughout the process.

Ms. Firehock said she understood why the Commissioner interviews were being held two-by-two so that they would not be considered a public meeting so that people could speak frankly, but she would still require that after all of those interviews to be brought back together for a full discussion and summarize what developed during the interviews. She said she wanted to ensure that was part of the process.

Ms. Cobb said that it was.

Ms. Firehock said those perspectives gained during interviews may change with a full discussion. She said that the Phase 2 community design standards included items “such as, but not limited to” so she assumed that if two Commissioners came up with an issue that was not on the horizon, they would bring that forward as potentially something to add to the list.

Ms. Cobb said as they approached each phase, they would consult with staff and determine what topics they needed to address. She said they would work out what they would talk about in each phase prior to it, so as of right now, it was a loose list that would be tightened as they approached it.

Ms. Firehock said that for example, lighting standards had a history. She said the comprehensive plan called for them to update their lighting ordinance; they had a dark skies goal. She said the fodder was there in the comprehensive plan and that was not the issue, but since they did the last comprehensive plan, stakeholders had been calling for the County to modernize their ordinance, had volunteered to help with roundtables, and had gotten experts in lighting to volunteer services, yet the County’s response had been that the issue did not deserve priority. She said this in turn made people upset, because the comprehensive plan said that they were going to do it, so lighting standards might need a more robust sub-process to bring up all the issues that needed to be addressed and potentially more work involved.

Mr. Rapp said they had discussed that with certain topics there would be interest groups or people who were passionate about individual topics. He said they had received emails about landscaping that day. He said that VDOT would be an obviously heavy stakeholder when they discussed streets and sidewalks, so they would tailor it to each individual section and its stakeholders.

Ms. Firehock said that particular process might require some additional thought because it was not pre-cut. She said along those lines, she assumed that tree preservation also referred to planting trees, because it should not be about only protecting existing trees.

Mr. Rapp said that it was their new authority to put into an ordinance format and regulate tree replacement in the state. He said both he and Ms. Firehock had served on that committee for a period and there were new opportunities that could be explored with that.

Ms. Firehock said that historic preservation was an issue that she wanted to bring attention to. She said there were some people who wanted a historic preservation ordinance; they currently had no way to protect a historic building from being torn down. She said whether or not to have the ordinance at all was also a big topic.

Mr. Rapp said that was a comprehensive plan-dependent discussion, and they wanted to have a discussion about land use as well as historic preservation.

Ms. Firehock said this might be another process that required a lot of input and effort.

Mr. Rapp said yes.

Ms. Firehock said to summarize, there were some of these that had a vested interest and not equal to others and might require different processes. She said she hoped this was recognized by others, and as background information was given by staff, they may realize what elements required more work.

Ms. Cobb said that was why those topics were not scheduled at this point; they would talk with staff and create a plan for how to approach those.

Ms. Firehock said there were other plans they had worked on that had goals and objectives that must be acknowledged during this work. She said there was a map of habitat cores and corridors for the County that had not been fully integrated into planning. She said more would be learned during interviews, but she wanted to make sure the graphics shown did not lead them into a cookie-cutter process, because some topics would get complicated.

Ms. Cobb said yes.

Ms. Firehock asked if there were any other comments.

Mr. Clayborne said he would encourage that part of the process was proactive and not reactive in order for there to be equitable participation.

Ms. Cobb said absolutely.

Mr. Murray said that when he saw “zoning modernization,” red flags were raised, partially because they just found out that their Water Protection Ordinance was eviscerated through a code cleanup modernization process, where neither the Board of Supervisors nor the public understood the clear implications of what that code cleanup was. He said it was important as they went through the process of cleaning up the ordinances, they needed to understand the implications of that and if they were taking away or adding protections to certain things.

Mr. Murray said another comment he had heard from the public was that discussion of the rural area always seemed like an afterthought, when in fact the majority of Albemarle County was the rural area, and a significant amount of their population lived there. He said in this process, the

first mention of the rural area was at the very end, so he would encourage that discussion about the significant issues in the rural area to happen much earlier in the process.

Ms. Cobb said it would be talked about during the district standards and the uses. She said in terms of administration in this first phase, there was not a need at this point to talk about the rural area, plus they wanted the comprehensive plan to move along so that they could hear what people in the rural area had as concerns so that when they got to district standards and uses, they could apply those comments to the text of the zoning ordinance.

Mr. Bivins said he had heard that there was a hope that the County would increase in its building code the number of R-factor and houses and enforce solar panels on homes. He said he was concerned about that approach. He said he understood there was a significant amount of people who thought that was appropriate, but there were many people in the community who could not afford that. He said that when putting building requirements on, it should be done with a sense of how it would affect the entire community.

Mr. Bivins said he was sensitive to the fact that the median price for a household in the County was $465,000, and while that was a lot of money, it meant there were many houses that were likely not in good shape. He said Ms. Firehock and others had mentioned how there were lots of opportunities in the community to do rehabilitation in order to have affordable housing, and he would not want the County to have zoning that made the houses would be extraordinarily expensive. He said he knew they could encourage people to do things by giving incentives like density or tax rebates, so that they could achieve a balance in a community that had an eclectic group of incomes.

Ms. Cobb said she was hearing great ideas that they should bring to the interviews to discuss, and some of these items were great comprehensive plan goals, such as the maintenance of property.

Mr. Missel said he would hold his comment until the end of Ms. Cobb's presentation.

Ms. Cobb continued that in the Phase 1 work sessions, there would be four work sessions. She said that work session one was review of the diagnostic, and part of the diagnostic would be a summary of the engagement from the staff as well as the Commission, so they would be able to see the discussions and points that everyone had brought up. She said this was also where they would look at the table of contents and the crosswalk between the new structure and the current ordinance to see where everything fit together in the new ordinance.

Ms. Cobb said work session two would be for drafting; at that point they would bring them drafted articles, the general provisions, and the administration. She said at that point, the Commission could edit the text. She said in work session three, they would move onto permits and applications, then onto nonconformities. She said in work session four, all of those four articles would be brought back to be looked at again to ensure the changes were incorporated and make final changes before moving into Phase 2. She said it would be fast paced, but they needed to be efficient and work together through this process to make it successful.

Ms. Cobb said at the end of Phase 1, deliverables would include a table of contents, crosswalk, the diagnostic report, and the engagement results. She said when they came to the Commission at first, they would have the diagnostic report and what was heard from staff and the Commission,

but they wanted to include the open house and what they learned from that. She said they would also have a draft of the four articles: general provisions, administration, permits and applications, and the nonconformities.

Ms. Cobb said to make this a successful project, they must agree upon some ground rules. She said those included staying engaged from start to finish, review the material, and be prepared to participate and discuss. She said they must strive for consensus, and that would be very important. She said sometimes, they heard lots of ideas from different people, but if there was not a consensus that a majority of the group wanted that change, she could not go back and draft anything that they would be able to move forward with. She said at each meeting, they must come to some agreement on what should be changed and what should be kept.

Ms. Cobb said in form, they should listen to constituents and the community. She said lots of engagement was happening through the comprehensive plan. She said also to reach out to neighbors and others to hear what they had to say, and seek input from staff. She said this was something they would be doing as well, drafting chapters that they thought fit Albemarle based on what they knew as planners and as best practice around Virginia. She said they would then send it to staff to review and give feedback on, and any further changes would be incorporated before the text came to the Commission, so that when they received it, if there were things, they had questions about, they could reach out to staff about that and get their opinion on some of those items. She asked if anyone disagreed with these rules.

Ms. Firehock said she did not disagree. She said in terms of being prepared and asking questions, they needed adequate time to review material between meetings. She said sometimes she spent eight hours on a Sunday reviewing material and ran out of time to get things done. She said for a major zoning rewrite, two weeks was more appropriate than four days. She said they all were planners, so they thought about zoning constantly, but most members of the public did not think about zoning until it affected them locally and then asked questions.

Ms. Firehock said she would like to establish greater public awareness of zoning and its influence in Albemarle County. She said she was unsure of how to get people to attend their planned meetings beyond the usual environmental groups, planning groups, and neighborhood associations. She said they should think about how to make zoning an exciting topic to get involved with, because as Mr. Murray had experienced in his district, people were now analyzing County ordinances and seeing their effects. She said Mr. Clayborne said something similar earlier about making sure it was accessible and relatable to people who may know little about planning.

Ms. Cobb said that was true and was a difficult challenge. She said there would always be some constituents who were unaware of a specific item, but they would work with staff to have a presence online and advertise and educate as much as possible, because they did want people to be aware and make effort with this.

Ms. Firehock said radio station promotions might be useful. She said people went on the website, but it was not a normal activity. She said she knew firsthand that community engagement was a difficult job. She said the County did a survey when there was a water shortage, and all of the responses received were from people with a master's degree or Ph.D., indicating that they had only reached the wealthy members of their community. She said they should think about how to reach every person. She said it was a challenge that lay with the consultants.

Ms. Cobb said they would work with staff to see what they could come up with there.

Ms. Firehock said that she would do her best to make sure the announcement was well-distributed, but she lived in a very rural area.

Mr. Murray said that with the stormwater conservation district, they had great success advertising on social media.

Ms. Cobb said that the first homework assignment for the Commission was to consider the applications and consider that when they got applications and made decisions before them, did they feel they had what they needed to make an informed decision, or were there things missing that they wished were included? She said that was something to think about and bring to the discussion when they had their interviews in October and November. She said any general ordinance issues, such as what was working or was not working, and other important items that the Commission wanted to make known as they moved throughout the process.

Ms. Cobb said the next steps were to perform the interviews in October and November. She said staff would be organizing and choosing dates for that. She said then, there would be a County tour in November, where if Commissioners had examples that related to their earlier discussions, she would like to see them in person and understand. She said she hoped to see some of those important items. She stated that December would be when the first work session would be held, and continue into January 2023. She said December was the diagnostic review and table of contents, and January would be the open house for the public. She said that concluded her presentation and she could take any other questions.

Mr. Missel said he thought Commissioners should accompany the consultants on the County tour. He said in his experience, it was important to have a dialogue when going on a tour.

Ms. Cobb said it was, and they had done it several times with staff leading the tour and showing concerns of Board members, and they had also all hopped into a van or small bus and looked at things. She said if they were concerned about it being considered a meeting, only two members could go. She said it would only be a one-day tour, so she would let staff figure out the logistics of that.

Mr. Missel said that an overlapping schedule for the comprehensive plan and the zoning ordinance would help show how these projects align and help each other.

Mr. Rapp said they could work on that. He said the comprehensive plan had been very similar to this as a learning experience. He said because it was a very engaged community, they had to adapt to both of these projects as they received feedback, learned new things, and began to explore ideas. He said preparing for Phase 2 of the ordinance and the comprehensive plan was when they discussed more specific topics, while the first phase of the comprehensive plan was more about what they wanted to allow.

Mr. Missel said it would be helpful to review this schedule at the CAC meetings as part of the community outreach.

Mr. Rapp said that could be helpful to update people.

Ms. Firehock said at a CAC, the presenter could call into the meeting and tell them.

Mr. Missel said perhaps there was a location on the website that could put the most updated progress, similar to the comprehensive plan.

Mr. Rapp said they had been discussing creating a website for the ordinance update so that everyone could engage on the same platform. He said they would be working with the Communications and Public Engagement Department to do that.

Mr. Missel said that was excellent. He said related to what Commissioner Murray said about modernization, he had also wondered what modernization technically meant.

Mr. Rapp said it was acknowledging the zoning ordinance was about forty years old and had never been updated.

Mr. Missel said that they mentioned solar and other uses that were new, but he wanted them to focus on process and how to create an efficient process. He said there may be some things learned that would help them become more efficient for the development community or others working through the rezoning process.

Mr. Murray said that when writing computer code, the first thing done was to set up a list of requirements, or the needs of the community they were trying to meet. He said that was the most important thing and they should be coming up with that first before writing it in code.

Mr. Bivins said he hoped they could use and enhance their localized credibility so that people looking in at the process and not only see outsiders. He said he thought it was necessary for the process to be appreciated and to be accepted. He said some of his colleagues discussed how they managed the knowledge, but they should also think about how they managed as a company within this specific environment so that the process did not get out of sync with a vocal community.

Ms. Firehock said as they worked with the development community, there may be differing opinions as to what was wanted within the context of zoning and process. She said if they had better information on a number of applications received in the past year, those applications would have gone forward, but because they could not make a decision, those were deferred. She said if they were done correctly with the correct information, that was helping the developers because they were either moving forward or being given a definitive no, and either way, they knew where they stood and could make the next decision.

Ms. Firehock said a better process could result in more defined decision-making that could be done at the dais instead of deferrals or withdrawing applications. She said many people called her and asked when deferred items would come back, and there was no answer for that question, so she would like to limit the number of items being deferred by having better information supplied. She asked Ms. Cobb if she needed any further information from the Commission.

Ms. Cobb said she did not. She said she would see the Commission again in October.

Mr. Rapp said that it was a very long process outlined that they would be embarking on over the next couple of years, and there were quite a few opportunities for improvement within the ordinance. He said there was no perfect zoning ordinance; the best practices were to revisit the

zoning ordinance every two years and make updates annually. He said it was important for them to find consensus and not let deliberations go on forever.

Ms. Firehock asked if anyone in the audience would like to make a comment. She asked the speaker to state their name for the record.

Mr. Williamson introduced himself as Neil Williamson. He said in the Commission's discussions, they had referred to this as being a zoning ordinance update. He said there was some concern about modernization, but he did not think anyone wanted to have auto-laundromat in their zoning ordinance; it was a modernization issue because it was a car wash. He said the discussion about revisiting tree canopies, the historic preservation ordinance, and a number of other items were beyond an update. He said those were large items that deserved a lot of discussion. He said if they could whittle it to just a zoning ordinance, it would be more effective. He said they should have those other discussions, but he did not believe they belonged with this one. He thanked the Commission for the opportunity to speak.

Ms. Firehock said she agreed with Mr. Williamson. She said some of the items might require a much more involved process than could be dealt with in what was couched as an update.

Mr. Bivins asked if someone would send the questions to the Commissioners.

Ms. Firehock said that would be helpful.

Recess

The Commission recessed its meeting at 5:07 p.m.

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Charles Rapp, Director of Planning

(Recorded by Alberic Karina-Plun; transcribed by Golden Transcription Services)

Approved by Planning Commission
Date:
Initials:

Albemarle County Planning Commission
Draft Minutes Regular Meeting August 23, 2022

The Albemarle County Planning Commission held a regular meeting on Tuesday, August 23, 2022, at 6:00 p.m.

Members attending were: Karen Firehock, Chair; Corey Clayborne, Vice-Chair; Julian Bivins; Luis Carrazana; Lonnie Murray.

Members absent: David Bailey.

Other officials present were: Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office, Alberic Karina-Plun; Bill Fritz; Rebecca Ragsdale.

Call to Order and Establish Quorum

Ms. Firehock asked each present member to state their name. She established a quorum.

Other Matters Not Listed on the Agenda

There were no speakers.

Consent Agenda

Mr. Bivins moved to approve the Consent Agenda. Mr. Missel seconded the motion. The motion passed unanimously (6-0). Mr. Bailey was absent from the vote.

PUBLIC HEARING

SP202200011 and SE202200030 Verizon Scruby Property Tier III PWSF

Ms. Firehock asked if Mr. Herrick was present on Zoom.

Mr. Herrick said he was online and present.

Ms. Firehock asked for the staff report.

Mr. Fritz introduced himself as Bill Fritz, part of the Community Development Office and lead planner on this project. He said he would do a brief presentation; the staff report went into detailed discussion about each of the factors to be considered when reviewing a special use permit and a special exception, and he would not restate everything in the report. He said his presentation focused on the key issues. He said this was an application for a personal wireless service facility, more commonly known as a tower. He said the proposed tower was 142 feet tall and the applicant had submitted a request to allow the antenna to be mounted 18 inches from the tower face instead of 12 inches.

Mr. Fritz said the ordinance allowed for the top of the antenna to be 18 inches from the tower, but the base had to be 12 inches from the tower. He said in other words, it tilted the antennas downward, and they wanted those antennas to be parallel at 18 inches. He said in the packet

were also emails and letters from members of the public, and he knew the Commission had additional ones. He said they would all be forwarded to the Board of Supervisors as well.

Mr. Fritz said he wanted to clarify how these types of applications were reviewed, because they had not done many special use permits for towers recently and they had some very specific regulations. He said there were both federal and state limits on what they reviewed and how they reviewed it. He said Attachment 9 included the detailed information on federal and state law. He stated that in short, the Telecom Act limited some of the things they could do. He said they could not base their review on service or discriminate on functionally equivalent service providers, and in the state law, there was a provision that, in paraphrase, no decision would be based on a business decision of the applicant such as the need for coverage. He said the County could not require information such as coverage maps and they had not requested that information.

Mr. Fritz said the review was based on the criteria for all special use permits and was contained in Section 33; this section also referred to Section 5 in the comprehensive plan, which was also reviewed. He said the personal wireless service facility was a component of the comprehensive plan and adopted many years ago, and there had been discussions about potentially amending that plan. He said no changes had been made, therefore staff had reviewed this request against the adopted comprehensive plan. He said the Board of Supervisors was the ultimate decision-maker in interpreting and implementing the comprehensive plan, and comments from the Planning Commission, applicants, staff, the public, and anyone else would be given to the Board to assist them in making a decision about this application's consistency with the comprehensive plan.

Mr. Fritz said the application itself was a project located west of Yancey Mills on the south side of I-64. He said it was about 100 feet away from the eastbound travel way and 750 feet from Greenwood Station Road. He showed a slide with the topography of the property and stream buffers. He said it was meant to show where this particular tower was. He said it was at the edge of a field and the property lines were highlighted, and there were no critical resources, slopes, or stream buffers that were impacted by this project. He said there was the Septenary Winery to the south.

Mr. Fritz showed a map that displayed the Greenwood-Afton rural historic district and some contributing structures. He said the green color was the contributing properties and the pink color was for non-contributing properties. He said this was in and surrounded by the historic district. He said there were many photographs in the packet, and he was showing only a few of them that were photo simulations based on images the County took. He said the map in the upper righthand corner showed the site and where the photograph was taken, on the other side of Route 250 in the southwest. He showed an image of over the road on I-64, an image taken going down I-64 east of the site looking west, and another image looking from Route 250, east of the property.

Mr. Fritz said part of the review of the special use permit was evaluating if the proposed use would change the character of the area, and as part of that review, staff considered the character of the I-64 corridor in the western part of the County and along I-64. He said the red star on the map on the slide showed the location of the proposed facility. He said the green circles indicated the locations of approved facilities or towers. He said they had identified 15 facilities in seven separate locations between Nelson County and the Ivy interchange; all of the facilities were treetop towers and had limited visibility.

Mr. Fritz said he wanted to provide this because many people did not realize that there were 15 towers between Ivy and Nelson because they were hidden from view. He said this tower was not a treetop tower and would be clearly visible from I-64 as well as some surrounding areas. He said the other facilities along I-64 had limited visibility and it was the recommendation of staff that this particular facility would change the character of the area.

Mr. Fritz said staff's recommendation was that the special use permit be denied. He said if the SP was approved, staff supported a special exception for increased standoff. He said the reasons for these recommendations were contained in the staff report and he would be happy to discuss any of those in detail. He said in order to comply with state law, staff did attempt to identify changes to this application that would permit approval. He said staff recommended that with these three changes to the project, the unfavorable changes could be addressed, and staff would be able to support this application. He said that concluded his presentation. He said he would be happy to answer any questions they may have.

Ms. Firehock asked if there were any questions for staff. Hearing none, she asked to hear the presentation from the applicant.

Ms. Schweller introduced herself as Lori Schweller, Attorney with Williams Mullen, representing Verizon Wireless. She said this site had a long history and she would be happy to elaborate on that as they went through the presentation, but she would focus first on the site presented to them tonight, especially on the visibility analysis, the most important analysis under the comprehensive plan and zoning ordinance. She showed a map of the location, and the area to the west was also Scruby property that was not brought forward to the County but may be mentioned later. She showed an image of the site plan, with the location shown near the I-64 corridor.

Ms. Schweller said the radius was the fall zone, not the tree preservation zone, and was 140 feet in diameter. She said the challenge with this site was that it was in the Greenwood Historic District, so all of the parcels needing service were within that historic district, and there were many avoidance areas for wireless service, another challenging district being in the Scottsville District southwest mountain historic district.

Ms. Schweller said this area was particularly challenging because all the parcels were contributing or not contributing to this historic district, but what they needed to do was to provide service to the district of Greenwood and that stretch of I-64 where there was a hole in service. She said this was an attempt to connect a site that existed on a building in Crozet, notated with the 1 on the slide, and a site on the side of the mountain approaching Afton. She said their target area was very small. She said if they wanted to get to the property closest outside of the historic district, namely a rest area, they were too far to the west. She said as they moved farther east on the Scruby property, it was lower and lower in elevation.

Ms. Schweller said one of the things the County looked at was conservation easements. She showed a slide with a map of Mirador in the easement and Septenary Winery was under easement. She said they had not had much feedback from property owners besides these two, who were concerned about visibility from these two properties.

Ms. Schweller said they both were under Virginia Outdoor Foundation conservation easements, and the Virginia Outdoor Foundation had recitals in their easements for what conservation resources were being preserved as well as restrictions, and they were in contact with them early on about this project. She said the wireless ordinance in the County looked at conservation

easements in a very specific way that was somewhat confusing. She said if a site were on a parcel that was within a mile of a conserved or eased property, the County in its visibility analysis would identify those resources specifically identified for protection in the easement. She said it was not the entire property but specifically identified resources for protection.

Ms. Schweller said that a conservation easement was given by the owner for the benefit of the public, and in exchange for that, the owner received federal income tax deductions and state tax credits, and the purpose of the easement was to provide open space views, forests, watersheds, and wildlife habitats. She said that was the purpose, and it was not so that the owner could tell everyone around them what they could do with their property. She said she wanted to make sure that was clear in the context of reviewing the visibility of the site.

Ms. Schweller said in the Mirador Farm conservation easement, the only protected structure was the manor house, and the site was not visible from the manor house; that was an accepted fact by all parties. She said all the other structures on that property and the landscapes were not protected in the sense that the ordinance was discussing.

Ms. Schweller said she would next talk about tree buffers. She showed an aerial image of the site and gestured to a large, forested area on Seven Oaks property. She said most of the screening provided for both Seven Oaks and for Mirador was from the forest shown. She indicated the structures on the property of Mirador and along the Scruby property a line of trees and additional patches of trees that he had no intention of removing because the cows in the fields needed shelter and shade in the area.

Ms. Schweller said the property owner had an agreement with the previous owner of Seven Oaks Farm to keep the trees there, and she wanted to point this out because under the terms of the conservation easement for Seven Oaks, those trees were to remain, so they would protect Mirador and Seven Oaks. She said there were trees there that could be cut down, but the tower would still be shielded by the trees at Seven Oaks, which would not be removed.

Ms. Schweller said she wanted to focus on those two properties first when viewing the last balloon test for the site done earlier in the summer. She said when at Mirador, the tower was 1000 feet away, and all that was seen was the antennas over the tree line, which was the exact goal of the wireless policy. She said it had to be tall enough so that the antennas were above the tree line so that customers south of Route 250 would receive service. She said that per an excerpt from the wireless policy, if the antennas were in the trees, it did not provide good service.

Ms. Schweller showed an image from Greenwood Station Road, looking over Septenary Vineyards and seeing the antennas peeking above the trees. She said they moved the site to its current location because the previous location allowed part of the pole to be seen, so they wanted to achieve better visibility for the historic sites. She said however, the tradeoff was that when traveling east on I-64, the pole would be more visible than typically planned for sites, and going west on I-64 showed that it was much closer to the entrance corridor than normally designed. She showed an image of the I-64 exit to Crozet, where there were very large power towers and other structures. She said to alleviate the concerns for the historic property owners, this was a reasonable tradeoff.

Ms. Schweller said to summarize, under the special use permit and policy analysis, they believed it was not a substantial detriment to adjacent parcels and that it did not change the character of the nearby area. She said it was in harmony, as now cited with permitted uses in the district and

in the purpose of intent of the ordinance and policy. She said service was needed in the area and the visibility had been mitigated from the historic structures as much as possible. She asked if there were any questions.

Ms. Firehock asked if there were questions for the applicant.

Mr. Missel said Ms. Schweller mentioned one of the views when entering Charlottesville, there was also a view from the top of Greenwood Station Road. He asked if that was correct.

Ms. Schweller said that was right. She said Greenwood Station Road crossed the interstate to the west of the site.

Mr. Missel said realizing that it was an elevated view, it was pretty awful. He asked if there were any images that showed a lower view of the entrance corridor.

Ms. Schweller said she did not include Greenwood Station Road because it was not where a traveler on the entrance corridor would be.

Mr. Missel said he was saying that if one were actually on I-64 looking towards town, he would imagine the visibility would be more extreme than in the image shown.

Ms. Schweller said she believed the view that was shown was representative of what would be seen going eastbound. She said for an entrance corridor, it was good, but as an exit corridor site, there was a problem.

Mr. Missel said it was a bit tucked back.

Mr. Fritz said the County took these pictures and he did not recall many pictures that were very usable due to the traffic or because they were too far going either east or west.

Mr. Missel said also mentioned was that the applicant could apply for a one-time increase in height by 20 feet. He said that was a significant change in height, and he imagined that would arise due to technological change or need to reach a broader service area. He said there was a potential it could go up another 20 feet.

Ms. Schweller said they had already discussed that issue with Mr. Fritz, and Verizon would be willing to forgo that federal right if the 120-foot tower would be approved with the knowledge that they could build to 140 feet in their site plan drawings, placing a cap at 140 feet and no ability to take advantage of the federal law Mr. Missel cited.

Mr. Missel asked if the cell tower could be moved further to the east.

Ms. Schweller said it could be moved further to the east, but it would have to be taller.

Mr. Missel asked if that was because they were going down in elevation.

Ms. Schweller said they were going down in elevation. She said originally, this site was 740 feet west of where it was now. She said by moving it to the east to address some of the visibility issues to the historic resources, they lost 35 feet in elevation and had to have a taller pole to reach over the trees to reach south, west, and east along the I-64 corridor, which was forested. She said

moving further east to an area with potentially more trees meant that it was even lower and required a taller monopole.

Mr. Missel said it looked like they were moving to do a water protection ordinance buffer.

Ms. Schweller said it did look like that.

Mr. Missel said he had no further questions.

Mr. Bivins said in staff's report, it was stated that the height was 142 inches, but the applicant's application stated that it was 140.

Ms. Schweller said they discounted the 2-foot lightning rod because it was a given.

Mr. Bivins asked if staff was including the lightning pole.

Mr. Fritz confirmed this.

Mr. Bivins said staff's report also said it would be helpful to have a treetop tower. He asked for some narrative about why or why not that could be possible for this site.

Ms. Schweller said a treetop tower was a tower only 10 feet taller than the closest tree within a certain radius, with the idea that using a reference tree and completing a tree survey in order to keep the monopole no taller than 10 feet above the reference tree height, in ASML not AGL, the pole would appear to peek just above the trees from most locations, but that depended on the topography. She said the balloon tests were meant to test these views, and originally, they did have a treetop tower in another location, still classified as a Tier 3 because it was an avoidance area.

Ms. Schweller said they still would have come to the Commission to present this. She showed the photo-simulation from that location. She said that site received an enormous amount of opposition, not only from neighbors but 100 Septenary Farm wine club members who did not like the fact that there may be a cell tower at the entrance to Septenary Farm winery. She said at that point they worked with the winery owner to shift it to a location that was not at the entrance.

Mr. Bivins thanked Ms. Schweller.

Ms. Firehock said the two feet of the lightning rod did not concern her, but she wanted to clarify that they were asking for permission to build a 140-foot-tall tower. She asked if that was correct.

Ms. Schweller said yes.

Ms. Firehock asked if they could go to 160 feet because they could add 20 feet.

Ms. Schweller said yes.

Ms. Firehock asked if they were considering not having that.

Ms. Schweller said that was right. She said they recognized that under federal law, they could use that statue to extend that height, but they did not want to do that and build it at 140. She said

at the Western Albemarle High School site, the County approved the site at 20 feet lower than the application said.

Ms. Firehock said she understood. She asked if that at this time, this was not a condition proffer.

Ms. Schweller said it was not in writing, but they would be happy for it to be a condition of the special use permit.

Ms. Firehock said for the record, the applicant offered that earlier on their own.

Mr. Fritz said to clarify, this was a special use permit and was not a proffer that could have conditions imposed, and consistent with state law, if they found that a 140-foot facility was acceptable, but 160 feet was not, they could say that if it were approved at 120, they could go up to 140.

Ms. Firehock said she understood. She said the average tree height in Virginia was 67 feet, so this height would be double the average tree height. She asked if they could explain why that exact height was necessary.

Ms. Schweller said it was necessary. She said she believed the pole was 104 feet. She said when they proposed the treetop tower for this location, the trees were taller, and they should keep in mind the reference tree was what was used.

Ms. Firehock said she understood.

Ms. Schweller said the trees shown were of all different heights, so it was not uncommon to go to 120 as a treetop tower, but they tended to be lower than that. She said in this case, they needed a certain height to get above these trees, so when they moved it east on the Scruby property to the lower elevation, their radio frequency engineer at Verizon said it must have 140 feet to solve the problems in the area.

Mr. Fritz said that state law did not allow the County to base decisions on the business needs or decisions of the applicant.

Ms. Firehock asked Ms. Schweller to discuss the trees that were a part of the conservation easement.

Ms. Schweller said in a standard VOF conservation easement, there were several restrictions, such as not subdividing or only subdividing a certain number of times, the number of structures allowed to be built, no dumping, no signs, and other things in a standard easement. She said in this easement, there was a no timbering provision; there were exceptions such as if there were diseased or fallen trees.

Mr. Fritz said he had the language from VOF as they had provided comments on the easements.

Ms. Firehock asked for Ms. Schweller to conclude her comments first.

Ms. Schweller said that the conservation easement was not on Mirador but was on the Seven Oaks conservation easement.

Ms. Firehock asked if it was Seven Oaks' trees they were seeing on the slide.

Ms. Schweller said that was correct. She indicated the boundary line and the trees that were on either property.

Mr. Fritz said the images did not explain as much as the language did.

Ms. Firehock said that they should see the text, because whether those trees remained in place was directly germane to the ability to have screening and whether the applicant could have some surety that the trees would remain.

Mr. Fritz said he had a portion of a letter sent to them by VOF. He said it stated that no timbering shall be permitted on the property other than for the grantor's successor's domestic consumption. He said they could remove all the trees if they wanted to have firewood or use the trees. He said he did not have the full language, but he believed they could also be removed for permitted uses in paragraphs 5 and 6, which were agricultural purposes. He said he did not think that the easement prohibited the removal of those trees and there were ways that they could be removed.

Ms. Firehock said they could not be removed for commercial purposes such as a logging operation and selling the timber, but the applicant could decide to create lots of wood-burning stoves.

Mr. Fritz said it could be timbered for use on the property and that would be domestic consumption. He said this also required enforcement by a third party, VOF.

Ms. Schweller said she had the easement language if they wanted to read that as well.

Ms. Firehock asked if it differed from what Mr. Fritz shared.

Ms. Schweller said she believed it was a bit different.

Ms. Firehock said she would like to hear it if there was different information.

Ms. Schweller said the restrictions start on page four, and paragraph four said "no timbering shall be permitted on the property other than for the grantor or his successors' domestic consumption, except for the cutting of trees which have died naturally, or which are removed for the permitted uses in paragraph five and six hereafter." She continued that it said "or, if removed, would jeopardize the character of the forest on the property or adjacent properties, or which presented an imminent hazard to human health or safety. It was the intent of the grantor that the woodlands remain in their natural state."

Ms. Schweller said paragraph five discussed grading, blasting, or earth removal, and went on to detail best management practices for mining, which was not permitted other than for things such as utilities. She said paragraph six was the restriction about not building any permanent or temporary buildings other than what was there. She said it was a long paragraph and she was paraphrasing. She said perhaps they had a different interpretation, but her interpretation of the easement was that they could not timber this area.

Ms. Firehock thanked Ms. Schweller.

Mr. Murray said he would be interested in hearing Mr. Herrick's interpretation.

Mr. Herrick said he agreed with Mr. Fritz's interpretation of this due to the allowance of domestic consumption by the owner. He said the other salient point was that these restrictions were not under the control of the owner of the property in which the tower would be located, which was a point made in the staff report. He said in other words, they were dependent on restrictions on neighbors' properties. He said this row of trees not only protected the Seven Oaks property but the Mirador property as well. He said the lack of control over the row of trees by the owner of the property on which the tower would be located was the salient point.

Mr. Murray asked if there were sufficient trees over the line on the other property.

Ms. Firehock asked Ms. Schweller to return to the podium.

Mr. Murray asked if the applicant were willing to preserve those trees in perpetuity, would that satisfy staff, and would that be something the applicant would consider?

Ms. Schweller said it was often that they did not have control over neighboring properties in any type of development. She said in the wireless ordinance, they were required to preserve a 200-foot radius around the lease area, and that area could never be cut. She said Mr. Murray was referring to the entire strip of trees, and her understanding from Mr. Scruby was that he was not interested in cutting those trees, and if that were a condition the Planning Commission wanted to impose, they could certainly discuss it with him before agreeing to it.

Mr. Murray asked if that were a condition that staff would find admittable.

Mr. Fritz said it was staff's recommendation that the trees solely on Mr. Scruby's property were insufficient to provide the necessary screening in that 200 feet.

Ms. Firehock said the image was difficult to look at because the white line was the property boundary and angled from the satellite, so it may not be perfectly placed, and it was difficult to see that the trees on the ground were on the other side of the line. She said she would have to stand in that field to see if it was a row of trees. She said staff said and the application stated no trees would be cut, but their size and density resulted in insufficient screening.

Mr. Fritz showed a diagram from the submitted site plan from the application; the tree line and property line were more accurate.

Mr. Murray said it took a very long time for trees to grow. He asked if tree planting was an option. He said his other comment was that staff showed them a large number of towers that had been permitted along that corridor, and he would like to know if all of those towers complied with the County's ordinance.

Mr. Fritz said the 15 facilities or towers were approved as treetop towers. He said one might be in an avoidance area, but he could not recall from memory. He said they had proved a number of treetop towers, some among the first completed when they began installing treetop towers. He said the ones that could be seen were the three towers opposite the overlook on I-64.

Mr. Murray said he was thinking in the long-term. He asked if additional tree planting could be an option.

Ms. Schweller said it was done regularly on these sites, and normally they would plant around the site itself outside of the compound area fence. She said they often asked for a waiver of that requirement when there were existing trees close in. She said if there were room on this property to plant trees around the site, they could certainly look at that. She said the question was if there was room. She said it was also something they would consult with Mr. Scruby about, because he accessed the property through that area and used it for agriculture, so they would need to ensure they were not blocking the access. She said generally, the idea was welcome, and Verizon was always willing to plant trees to mitigate visibility.

Mr. Missel asked if the original location of the cell tower was on the Scruby property.

Ms. Schweller said it was on the western side of the Scruby property.

Mr. Missel said it had always been on the Scruby property. He said there was an image with the fall zone, which was 140 feet.

Ms. Schweller said the monopole had to be the distance of the pole to the boundary line or there must be an easement over that property.

Mr. Missel said that 140 feet had been stated, but there was also a 200-foot radius around the lease area. He said the 140 feet went to the property boundary, so this was implying that another 60 feet was part of that preservation radius that went onto the adjoining property.

Ms. Schweller said it would only apply to the subject property because the owner did not have control over the neighboring properties.

Mr. Missel asked if they could move the cell tower 60 feet to the east so that the 200-foot radius would be entirely on the Scruby property and save whatever tree, or was it implied that that would be the case anyway because it overlapped the property boundaries.

Ms. Schweller said that because there were no extra trees that would be preserved by moving it east, it did not save more trees, and all of the trees would be within that 200 feet anyway.

Mr. Missel said that made sense.

Mr. Carrazana asked how far the evaluation of the site went.

Ms. Schweller said they had a Historic Resources Committee, a community meeting, an Architectural Review Board meeting, an Agricultural Forestal Committee meeting, and then they decided to have a private balloon test with the owners of the Septenary Winery to see if moving it further east would allay some of their concerns, and when they did that, they seemed so much more in favor of that, and they thought it was so much better for that property and for Mirador's property that they paused and withdrew the initial site and built the next site.

Mr. Carrazana asked if to do that, it had to grow by approximately 25 feet.

Ms. Schweller asked Mr. Carrazana to clarify.

Mr. Carrazana asked if the tower had to grow by 25 feet to do that.

Ms. Schweller said it had to be taller, even when taking into consideration that it had to be taller because of the loss of elevation.

Mr. Carrazana said it became much more visible from other areas.

Ms. Schweller said that was true. She said it became more visible along the entrance corridor.

Mr. Carrazana thanked Ms. Schweller.

Ms. Firehock said she would open the item for public comment. She asked speakers to approach the podium and said there would be three minutes for each comment. She said the yellow light meant there was one minute remaining and the red light meant to stop. She said to raise one's hand if agreeing with a speaker and to keep signs from blocking others' views.

Mr. Scruby said he had a PowerPoint he would like to share with the Planning Commission. He introduced himself as Tim Scruby, a lifetime area resident. He said he currently lived in western Albemarle, a few miles between the hole in cell towers. He said the farm where the proposed cell tower was located was his family's century farm. He said he supported the proposed monopole on this farm and would state his reasons why. He said while he had lived in this area his entire life, he had seen I-64 bisect his family's farm, the ownership of the adjacent properties, including Mirador, Seven Oaks, and now Septenary change, wineries built on farms and forested mountains in the area, and housing developments built on orchards and farms.

Mr. Scruby said all of this had resulted in an increased population and demand for cell towers and community needs. He said they needed improved cellular-based emergency communication to support emergency calls from area residences and interstate travelers. He said when there were traffic jams on I-64 at high traffic times, sitting at home he could barely make a phone call because the service was not good.

Mr. Scruby said he further wanted to encourage the Commission to consider the true context of their rural historic district. He said the current slide showed a view to the Greenwood post office, the Gentry house, old barber shop, and Greenwood school. He showed an image of Mirador and the powerlines on that property served the adjacent developments and Mirador house, and they were all overhead. He showed an image of Route 250 along the entrance corridor with overhead powerlines. He showed another image of westbound I-64 with the Dominion transmission line.

Mr. Scruby displayed an image of the communication tower at the rest area. He said the last two slides were within one mile of the proposed location. He said in summary, the need was known. He said he wrote a letter to this Commission and to the Board of Supervisors explaining his personal experiences over the last 25 years. He said he implored them to approve this special use permit and to consider this cellular infrastructure part of critical infrastructure just like powerlines to their area community.

Mr. Scruby introduced himself as Brian Scruby, owner of the farm on which Verizon would like to locate this proposed cell tower. He said some of the reasons that the benefits to their community greatly outweighed the negatives included that many people in the outlying areas had poor or no cell service, and this tower would hopefully extend service to many others currently underserved, this tower should also improve the reliability of service in areas that had been experiencing a decline in access due to increased demand placed on existing towers.

Mr. Scruby said the third reason was that he believed the interests of the traveling public on Interstate 64 and US-250 needed to be taken into consideration. He said he strongly believed it was in their best interest to have reliable cell service. He said traffic jams on Afton Mountain on 64 and 250 were becoming an increasingly common occurrence. He said these travelers who were experiencing long delays waiting for traffic to move again needed to be able to communicate this situation. He asked if they had a child driving back to college and their vehicle broke down on Afton Mountain, would they want them to have a reliable cell network so they could call for help?

Mr. Scruby said the fourth reason was that his understanding was that children in their school system were unable to attend classes in person due to the pandemic and some children were able to keep up at home using computers that received communication signals from cell towers. He said the fifth reason was that cell towers allowed many people to work from home rather than commuting long distances; working from home rather than commuting was a tremendous benefit in reducing greenhouse gas emissions from vehicles and helping to address the issue of climate change. He said page 8 of the staff report contained a section dealing with "the public health, safety, and general welfare, including equity."

Mr. Scruby said quoting the report directly, "The County's participation in the VATI 2022 program with the Thomas Jefferson Planning District Commission would bring universal fiber to this area within five years." He said he must point out that fiber broadband was not the same service provided by the cell towers. He said if he were by himself in a remote area and injured in a farming accident that required a call for help from his cell phone, fiber broadband was not going to be of use, however, Verizon's cell tower could be a potential lifesaver. He said the staff report went on to say the proposed facility was not in harmony with the public health, safety, and general welfare, including equity. He said he completely disagreed with the report on that point for the reasons he just stated. He thanked Verizon, their representatives, and his family.

Ms. Scruby asked if she could be heard.

Ms. Firehock said she could.

Ms. Scruby said she lived near the proposed site in the Whitehall District. She introduced herself as Alice Scruby, and the landowner of the proposed site, Brian Scruby, is her brother-in-law. She said her husband and she owned the property directly across from Brian's farm. She said the farm was registered by the state of Virginia as a century farm, meaning it had been in the family and continuously farmed for over 100 years, and it actually was closer to 200 years. She said they cared very deeply about Greenwood and supported the Verizon monopole as proposed. She said the 2022 strategic plan had nine mission statements, and one of those goals was simply stated: expand broadband. She said the Albemarle Broadband Authority was founded specifically to "extend broadband internet service access to every customer in Albemarle County."

Ms. Scruby said considering the goals and extreme need for connectivity for many rural residents, she found it disturbing that staff recommended against approval entirely on the basis of aesthetics, that is, visual impact. She said she gathered that this finding arose from the personal wireless facilities policy, which was published in the year 2000. She said that policy included a recommendation that the most important principle for siting a wireless facility in Albemarle County was visibility. She said this guideline was nearly a quarter of a century old. She asked who could have imagined the fundamental importance of connectivity 25 years ago.

Ms. Scruby said the need for improved cellular and wireless service was undeniable. She said staff mentioned other possible sources within five years, and they had heard that five years ago. She said five years was a long time for a 5th grader trying to do her homework, a long time for a rural resident with a home office trying to perform their job and make a living. She said the staff report summary, in her estimation, understated the need for service and the significant improvement in service that the monopole would provide.

Ms. Scruby said the report failed to acknowledge that the benefits to the community came at zero cost to Albemarle. She said instead, the report grossly overvalued the visual impact. She said interstate motorists were very accustomed to infrastructure along the highways, as were the residents of historic Greenwood, which had hundreds of utility poles and even transmission towers that were scattered across its lovely estates and roads. She said this monopole was simply one more piece of critical infrastructure to provide a fundamental service to rural residents and offer more reliable service to travelers. She said the Planning Commission and Board of Supervisors had the latitude to serve out these conflicting interests and the authority to approve this facility as proposed. She said she urged them to do so.

Ms. Schlichting introduced herself as Nancy Schlichting, representing Burkhart and Mirador Farm. She said she provided a written submission, but she wanted to provide a few things that she felt were being overlooked. She said she understood Mr. Fritz's comments that the County could not ask about coverage, yet that was the very argument that Verizon and the Scruby family were using, that there was a necessity for coverage in this area, and she would like to dispute that. She said this infrastructure was not necessary and there was rural broadband that had been brought to the community that would be able to assist students and workers in being able to do things remotely.

Ms. Schlichting said the Scruby property was not under a conservation easement, and the trees that were there did not adequately screen this tower, and while the present intention was not to develop the property, that was not a restriction included on this property. She said conversely, the conservation easement on Seven Oaks and Mirador properties did allow for trees to be brought down if they chose so long as it was not done commercially. She said the other thing that was not being considered was that when power was brought to this cell tower and perhaps brought overhead or underground, that would compromise the existing trees that may provide some screening from the site, but it did not completely screen the property. She said to say that the trees would be there forever was not correct.

Ms. Schlichting said the comment that Seven Oaks and Mirador in particular were fine with this particular site was not accurate. She said the cell tower in the simulations could be seen and was skylit from Seven Oaks and from Mirador, and the statement that only the manor house of Mirador was protected was not accurate because there was Sam Black's Tavern and barns that were part of the historic registry. She said beyond that, it was important for the Commission to remember that Virginia and Albemarle County valued their historic and rural areas, and they decided a long time ago to protect them for the benefit of the community. She said it was not only these farms that would benefit from the aesthetics, but the zoning laws and codes would not include those protections. She said this particular tower began at 94 feet and then grew to 140 feet, even though the elevation only changed by 35 feet.

Mr. Feigenoff introduced himself as Charlie Feigenoff, resident of 721 Greenwood Road. He said he had lived in Greenwood for 33 years since the year 1989. He said he lived not far from the post office and within about half a mile from the proposed tower. He said he loved living in this

area, and the opposition to this single cell phone tower was a flagrant case of NIMBYism. He said it was based on the idea that Greenwood was a pristine, rural community that was untouched by anything but the gentlest human intervention, but when looking at Google Maps, it could be seen that Greenwood was anything but untouched. He said that 60 years ago, I-64 was blasted through this area, and in the evenings, he could hear trucks downshifting as they went down the mountain.

Mr. Feigenoff said that I-64 ran right through the northern end of Mirador, and people drove over the two bridges crossing I-64 on a daily basis. He said perhaps the biggest scar on the landscape was the clearcut that followed the high-tension distribution lines that cut across Chile's Orchard and up the Blue Ridge. He said those dwarfed the cell phone tower; they just did not see them anymore. He said there were scores of telephone poles and wires along their roads, and while no one gave them a second thought, they were hardly natural. He said that compared to all of these changes, a single cell phone tower seemed, to him, insignificant, and the significance of the tower in terms of improving communication far outweighed the slight impact the tower may have on the viewshed.

Mr. Feigenoff said for most of his 33-year-long residence, he had operated a successful small business from his home, and the cell phone service on the ground floor was inconsistent. He said the poor quality of their service was an inconvenience, but for other members of the community, service quality could interfere with the ability to educate their children, manage finances, and communicate with friends and loved ones. He said there had been HUD and PEW Foundation reports that stated that the prime obstacle to access was affordability.

Mr. Feigenoff said those who could not afford both cellular and home internet tended to opt for cell phones because they could be used elsewhere for their home internet access. He said for them, having the best possible wireless connectivity in their homes was critical. He said if having better cell phone service benefited them, he was all for it. He said for the last year, he had to contend with large posters at the intersection of Greenwood Station Road and 250, and next to the post office opposing the cell phone tower and urging people to come to a meeting that happened a year ago in August 2021.

Ms. Firehock said she would now allow the applicant their time for rebuttal.

Ms. Schweller said she would like to address what Ms. Alice Scruby stated. She said they knew the 2000 wireless policy was out of date and since that time, the need for wireless had grown so much that it was very difficult to provide what was needed to the County and apply that policy. She said she also wanted to state that it was only a policy, and like with any application, they were always trying to show how they were consistent with the comprehensive plan. She said as she had been told by the planners, not every application met every single principle in the comprehensive plan and there were tradeoffs. She said they were in compliance with the huge wireless zoning ordinance, which was the largest one she had ever worked with in Virginia.

Ms. Schweller said Albemarle County was very careful with its siting, and they had complied as best they could to minimize the visibility from the historic resources in the area. She said there was a tradeoff for that with the I-64 corridor, but there were many things in that corridor they needed to see because they needed service. She asked the Commission to accept her statement that they were in compliance with the zoning ordinance and believed they had provided a good argument for the special use permit criteria, even if they did not show a treetop tower in the photos of the wireless policy.

Ms. Firehock asked Ms. Schweller if it was possible for them to have three treetop towers to take the place of the one tall tower. She asked if those connections could be made with multiple towers spaced apart.

Ms. Schweller said that was a question that was more specific to an RF engineer, but the map she showed the existing sites were not very far apart. She said it was a small area, so doing three projects within that small area would not necessarily be impossible but would be a challenge, and due to the historic district, it may mean triple the challenge.

Ms. Firehock said she wanted to bring it up as an alternative.

Mr. Carrazana said one of the speakers brought up the question of how to service these sites. He asked how they were bringing power to the site.

Ms. Schweller said it was not something that Dominion usually gave a final answer on unless the site had already been zoned and the process was underway. She asked Mr. Nate Holland to elaborate.

Mr. Holland introduced himself as Nate Holland, representing Verizon. He said normally, from the public right-of-way back to the site on Mr. Scruby's property would be placed underground in conduit. He said in the past, for other projects, they had spoken to Dominion, and it normally was brought underground from the closest transformer. He said in this case, the closest transformer was likely on Route 250. He said there was one on the Seven Oaks property, but that would require a separate easement and Dominion would have to get that separate easement from Seven Oaks.

Mr. Holland said on the other side of I-64, there were some power poles as well, so there were several options. He said in some cases, they may have to set a pole, but normally, everything was brought underground from wherever they were bringing it to the site because then they would connect to the conduit at the public right-of-way underground. He said he did not know for certain how that would be placed at this time from the public right-of-way to wherever it was closest.

Mr. Carrazana asked if anything aerial required cutting trees.

Mr. Holland said he could not answer for certain, because it depended on Dominion.

Mr. Carrazana said it was Dominion's guidelines for design that it would be a significant swathe of land, and none of these models showed that.

Mr. Holland said their request to Dominion would be to bring it underground to avoid cutting any trees. He said Verizon paid for that to be done, so if they needed to ask Dominion what the cost involved was, Verizon would work with them to place it underground and avoid placing poles.

Ms. Firehock said she would close the public hearing portion of this item and bring the item back before the Commission for discussion.

Mr. Murray said he wanted to know if anyone else had thoughts about tree planting.

Mr. Missel said he thought it was a good comment. He said he had been involved with a lot of these while serving on the ARB, and he thought they often required it for the ground equipment,

but to expect it to be an impact, even 100 years from now, he imagined technology would change that tower five times before a tree reached maturity.

Ms. Firehock said to provide service to this underserved area, it required a much taller pole, and they made that case convincingly. She said the County had a policy to not have towers above the tree line because they wanted to preserve the rural aesthetic, but they had a property that provided some significant screening, and while it was not owned by the applicant, it sounded like that tree line was likely to remain. She said it was difficult to believe they would take down those trees and use it in their fireplace when it was providing screening to their own property. She said when she went to another County, it was clear their policy was not in place there.

Ms. Firehock said it was obvious what a difference it made to have this policy in place, but with that being said, it was the Planning Commission's place to adjudicate on these sites that were not ideal. She said she was sympathetic with the argument of needing cell phones for emergency services. She said she lived in an area where, if a car accident happened, people would knock on her door because they could not call for help, and if she was not home, they had to go much farther for help. She said public safety was a part of the comprehensive plan that must be considered.

Mr. Murray asked if the consideration of the public service they would provide was not one of the considerations they should use.

Ms. Firehock said they were not to consider the business model of whether Verizon wanted to provide more coverage, but they could consider the public health, safety, and welfare of motorists passing through the area and if they should have access to cell coverage, or if five years was too long to wait for DSL service. She said the County had several grants, and her rural community was a beneficiary of one, but she still had an $85 bill to pay, which not everyone could afford. She said she had voted against various cell towers.

Mr. Murray said he was concerned about the precedent. He said there was a huge number of towers that were approved in compliance with the policy, and this would be something new, which meant they would potentially set a new precedent by approving this. He said he wanted to get a feeling of what made this one special compared to others.

Ms. Firehock said it was a good point to raise, but in terms of precedent, Mr. Herrick was careful to let them know they were not setting precedent. She said they were not adopting court cases that were setting precedent; each case was unique and that was why they performed this duty.

Mr. Herrick said the Chair was correct in that this was not legal precedent for subsequent applications, and he would also echo the Chair's comments about not considering the business needs of the provider, however, it may be appropriate to consider the general public's health, safety, and welfare. He said the staff analysis was guided largely by the wireless policy, and as Mr. Fritz pointed out, this was not consistent with the County's wireless policy. He said Mr. Fritz's presentation had a slide that showed three ways in which the applicant could have this considered as being consistent with the wireless policy. He said many of the applicant's arguments this evening were couched in that the applicant needed this, and he would say to Mr. Fritz's point of alternate designs that would make it more likely to be approved.

Ms. Firehock said Mr. Murray asked what was unique about this site. She said they approved a taller tower at a school site, because when they looked at the site, there were even larger field

lights there that diminished the height of the tower, and the children needed the service to complete online assignments. She said with the visual clutter, it would not make much of a difference. She said this site being discussed was mostly seen from the interstate.

Mr. Carrazana said it seemed there was potentially a site that met the needs of a treetop tower, and that was rejected or moved because there were neighbors that complained about that. He said now it was in a much more public view within the entrance and exit corridors. He said it seemed to be possible to achieve a lower tower and provide the added service in this area, which was unquestionably needed. He said one of the ways to do that was laid out for them in the three different recommendations that staff provided. He said there was a site that met those, and he was unsure how much those sites were evaluated, but because of the complaints of neighbors that had enough clout to move the tower, it was moved.

Ms. Firehock said the statement she heard about the neighbors was that the complaints originated from a large number of patrons of the winery. She said there were not hundreds of wineries but one winery with patrons who did not want to look at a cell tower while sipping their wine, which was ironic, because some of the complaints were that when the winery was busy, they used a lot of bandwidth. She said she could not verify that claim, but that neighbor was one single neighbor that was a winery, rather than many neighbors.

Mr. Carrazana said with the image shared, there was not enough information about the site, and he was unsure if staff had evaluated that. He said that was not something they were considering today, but he wanted to bring up the fact that everything could be achieved with service and reducing the tower to be at the treetop if it was in a different location. He said that location potentially existed, and while it had not been evaluated, it seemed to be an option. He said what was before them was something he had a difficult time supporting.

Mr. Murray said two other conditions that could be imposed were to keep the trees that were inside of that line, and as the applicant suggested, lowering it by 20 feet. He asked if that were something they could do.

Ms. Firehock said she did not think it would be functioning if it was lower.

Mr. Missel said if it were lowered, they could take advantage of the federal advantage to go to the maximum build.

Mr. Fritz said no. He said the FCC rule said about exempt co-location was that they could increase the height of the tower by 20 feet and/or extend the antenna to be 20 feet from the face of the tower if it did not defeat concealment elements. He said the FCC did not define concealment elements, but the County ordinance did define those. He said a concealment element was height relative to trees, so a treetop tower was a concealment element, and they could not increase the height of a treetop tower because it would be defeating the concealment element. He asked if that made sense.

Mr. Murray said it did. He said they were saying they were willing to forgo the ability to increase it by 20 feet, and he wanted to know if that could be made a condition.

Mr. Fritz said no. He said if the applicant wanted to reduce the tower height to 120 feet or if the County wanted to limit it to 120 feet, they would say that height was not a concealment element, and that would allow the applicant to take advantage of the FCC rule to automatically extend.

Ms. Firehock said that would go up to 140 feet.

Mr. Fritz said yes. He asked if that made sense. He said it was a confusing part of the law.

Mr. Murray said that seemed to be a reasonable condition.

Ms. Firehock said that would keep it from being at 160 feet, which they were not requesting anyway.

Mr. Missel said another condition would be to limit it to 140.

Ms. Firehock said they could always go up the extra 20 feet.

Mr. Fritz said his advice would be not to do this. He said they could not say 140 feet was a concealment element.

Mr. Missel said he understood.

Mr. Carrazana said the recommendation was that it was a treetop, so they could approve it with all the recommendations. He said they may say the height did not work at that particular site and then come back with a site that did work with that height.

Ms. Firehock said her understanding was that it would work at 140 feet.

Mr. Carrazana said that was correct.

Ms. Firehock said their decision was whether they wanted to recommend for approval a tower that could be seen well above the tree line from the interstate. She said there had been a number of times where she voted in a certain direction that she personally did not want to, but she had to follow the comprehensive plan. She said she understood the comprehensive plan policy was out of date, but it was still a policy, so until they updated the comprehensive plan, that remained the policy. She said if they wanted to make the recommendation to approve it against what the comprehensive plan policy said, the rationale must be explained. She said the example of the tower installed at the school site was not only because of the preexisting visual clutter but because of a compelling public need.

Mr. Murray said they could approve it at 120 feet.

Ms. Firehock said that was correct and would still be above the treetop as shown in the photographs.

Mr. Carrazana said the recommendation was to be at the treetop, which was an unknown height.

Mr. Fritz said there might be two issues going on here. He said they did not know what the treetop was, but that information may be in the plan. He said staff recommended it be a treetop facility, which could not be increased in height. He said the other option was to condition the tower at 120 feet, which was not a treetop facility or a concealment element, which would allow the applicant to go to the 140 feet, which was what the plans and photographs showed. He said 120 might be

getting close to a treetop, but if it were stated that it was not a treetop concealment element, it would free up the exempt co-location rule.

Mr. Clayborne said he agreed it was difficult to go against the policy, whether it was correct as it stood today or not. He said that was their guide.

Ms. Firehock said they were not setting a precedent, but they had to have a good reason for it. She said she was unsure if there was a compelling reason to ignore the County's policy.

Mr. Bivins said he would support the application as presented this evening because he acknowledged the policy was 20 years old. He said it was neither appropriate nor good business to be tying this current activity to a policy that they had not updated. He said it was bad land use and policy. He said he was concerned about a few things that happened recently. He said he had a conversation with someone on a cell phone, but they lost service because of the new arrival of students on UVA campus. He said the bandwidth was saturated to such an extent that they could not have cell phone conversations. He said where he lived, near Albemarle High School, they did not have good cell coverage.

Mr. Bivins said that was reasonably close to the development area to the community and there was no cell coverage. He said he was concerned about the storm they had in January where I-64 was closed down for four days, and many people were stuck on that highway without any way to get off the road or have a conversation on the phone. He said that gave him new insight into how important cell phones were in this community. He said Afton Mountain had terrible weather throughout the year, and if someone was stuck there, they should be able to call someone for help or at least call information. He said he struggled with the preservation of historic visuals and vistas.

Mr. Bivins said he did not understand why Monticello and the protection of its view were in their comprehensive plan, or why Highland or Albemarle House were not in there. He said Mirador and Seven Oaks were built in the 1800s, and there was nothing special about why they should protect their vistas. He said perhaps the history of Mirador was significant enough because of Lady Astor's political career and her sister, who was an imprint for the Gibson Girl. He said it was not enough to keep people from having cellular coverage in that community. He said he followed the conversation taking place when the towers were shifted, and all hell broke loose in the privileged Greenwood.

Mr. Bivins said numerous proposals had brought out the privileged people who disapproved and utilized lawyers, language, petitions, and signs that could be persuasive to those who did not want to have to fight that resistance. He said they had lost good projects because certain community members did not want them nearby. He said this was not equivalent to broadband, so the argument that it would be there in five years did not solve the problem that there was no way for people in this area to be able to communicate. He said it would be helpful to have input about this issue from first responders, because they also relied on these networks, and he was concerned about this. He said it was a project that should go forward and not be subject to the 20-year-old policy.

Ms. Missel thanked the members of the public for the context and photographs presented. He said it came down to compromise and tradeoff, as well as weighing the subjective and objective. He said after being part of many cell tower conversations through the ARB process, he came 180 degrees on this. He said he initially was not in support, primarily because of the westward view of

I-64. He said he took great pride in the way the County controlled cell towers, and to Ms. Firehock's earlier point, when leaving the County, it was clear that one was leaving that controlled area. He said when thinking about the number of hours and resources involved working on this one cell tower, it shocked him. He said it was all necessary, but the resources were unbelievable.

Mr. Missel said during those many hours, there had been a concerted and focused effort to compromise and find the best balance between aesthetic and public health, safety, and welfare. He said the decision for him was about how much effort had gone into trying to do the right thing and working through the process to come up with what appeared to be most satisfactory on all levels. He said he would recommend that in terms of conditions, due to the wine club members being the motivators behind moving the tower, perhaps Septenary Winery would be amenable to providing an easement on their property to protect the trees on their property that they heard were already protected under a conservation easement. He said that should be made permanent.

Mr. Missel said he agreed with the 120 feet and the realization it would go to 140. He said he understood staff's reasoning and would follow it. He said in terms of power and accessing it with electricity was a huge consideration, and he wondered if there would be a way to place a condition that would require the applicant, Verizon, to have underground electrical to come to this property to minimize, to the satisfaction of staff, the impact to the trees and tree canopy. He said it came down to public health, safety, and welfare, and he was in support of this.

Ms. Firehock said Dominion preferred to underground things for reduced maintenance. She said Verizon also wanted it for the same reason, so the only thing that would prevent that would be some sort of geologic issue that would make it too expensive to happen.

Mr. Fritz said they did not need to do that. He said the applicant was correct in their presentation that it would be brought underground, and the ordinance did not allow tree removal, and if trees must be removed, they would need an exception. He said if it would be above ground, it would be back before the County. He said they did not need to worry about that.

Mr. Bivins said they discussed preserving trees, and there was no given about what tree stand was going to exist.

Ms. Firehock said trees would die.

Mr. Bivins said after the winter storm, the stand of trees on either side and in the median of I-64, it looked disastrous. He said VDOT spent so much money removing debris from that road that they spent their entire budget. He said as they came to Commissioner Murray's conversation about climate control, they did not know what would happen to those forested places. He said there were weather events that could devastate those large stands of trees. He said he hoped they would not settle into the idea that those trees would be there forever.

Ms. Firehock asked if the Commissioners were leaning toward support of this applicant.

Mr. Murray said he could support it with the conditions imposed.

Mr. Missel said when he thought of the condition to have an easement on Septenary Winery, that was exactly where he jumped. He said that would not happen.

Ms. Firehock said they could not do anything on someone else's property.

Mr. Missel asked if there could be a condition of approval that the applicant obtain an easement from the adjoining property owner.

Ms. Firehock said it was highly impractical and perhaps illegal.

Mr. Fritz said they could put it as a condition, but whether or not they could achieve that was the question.

Mr. Missel said he would not make it a condition.

Mr. Bivins said that could ensure that the project never happened.

Mr. Missel said he had the same thought.

Mr. Herrick said that the Commission anticipated where he was going with this, but he wanted to clarify that if there was a condition for tree removal, it would be imposed on the applicant, and they could not impose conditions on neighboring properties. He said they could impose a condition on the applicant to obtain that, but that outcome was predictable.

Ms. Firehock said she went back and forth on this.

Mr. Carrazana asked if it would have to be a resubmittal if the site was relocated.

Mr. Fritz said yes. He said if they were to go back to the previous location, it would need to be a new application.

Mr. Carrazana said that solved the issue in his opinion. He said it would be a lower tower and would still provide service.

Mr. Bivins said he agreed. He said they tried to achieve that but received a level of pushback on that idea that stalled the project while they came up with a new plan.

Ms. Firehock said they were recommenders and would not pass this, so with the Board of Supervisors being a political body, putting it back into the location with a lot of opposition may sink it.

Mr. Missel said that if this were all true, it was a shame that the one hundred wine club members who opposed the location that likely would have worked potentially would now be staring at that cell tower every time they drove on I-64, which they likely did more often than sipping wine.

Ms. Firehock asked if anyone was prepared to make a motion.

Mr. Murray said he was.

Mr. Fritz said there was a motion for recommendation of approval with the conditions outlined in the staff report, and a motion for denial, which had specific language of the three other options.

Ms. Firehock asked if the special exception would be dealt with separately.

Mr. Fritz said no. He said the Planning Commission was not required to make a decision on the special exception, but if they chose to do so, he had specific conditions.

Mr. Murray asked if there was consensus on any other conditions besides the 120 feet that was not a treetop tower.

Mr. Herrick said there were two conditions in the staff report.

Mr. Fritz displayed the two conditions recommended. He said that could simply be replaced with 122, which was the measurement of the entire facility and antenna.

Mr. Herrick said Mr. Fritz had two conditions, and to the extent that there was a motion for approval, he suggested it be with the condition modified to reduce it to 122 feet and that it be in compliance with the plan that Mr. Fritz had suggested in the report as well.

Mr. Murray moved for the Planning Commission to recommend approval of SP2022000011 Verizon Scruby Property Tier III PWSF with the conditions outlined in the staff report, with the exception that it would be for 122 feet maximum. Mr. Missel seconded the motion.

Mr. Carrazana asked if this would allow the maximum of 142 feet.

Ms. Firehock said that was correct.

Mr. Carrazana asked if the final height would be 142 feet.

Ms. Firehock said that was correct.

Mr. Bivins said they had done that with other projects.

Ms. Firehock asked to call the vote.

The motion passed (5-1), Mr. Carrazana dissenting. Mr. Bailey was absent from the vote.

Ms. Firehock said this item would be before the Board of Supervisors on October 5, 2022.

Mr. Herrick asked if the Chair would like to address the special exception.

Ms. Firehock said they did not have legal authority on the special exception. She asked if anyone wanted to take it up. She said no, and that they were taking the break.

SP202100004 Clifton Inn & Collina Farm

Ms. Firehock asked to hear the staff report.

Ms. Ragsdale said this was both a special exception and a rezoning for expansions at Clifton Inn and Collina Farm. She said these two items could be held in a combined public hearing, but separate actions would be taken. She said there was a special exception for a critical slopes waiver that was also before the Board, which could have an action as well. She said this was a proposal that involved four separate tax map parcels that were shown on the current slide. She

said Clifton and Collina were the parcels that had development. She said the parcels were very wooded, and the parcel between the two was the one requested for rezoning.

Ms. Ragsdale said they also owned a property along the Rivanna River where the Old Mills Trail was proposed and the Milton boat launch. She said this SP would cover all four of these parcels to allow for some activity on each one. She said the adjacent parcels were the Rivanna River, the historic village of Milton to the south, the edge of Glenmore in the Rivanna Ridge development area. She said parcels along Richmond Road and North Milton Road. She said Stone-Robinson and Luck Stone were across the street.

Ms. Ragsdale showed another location map that gave a sense of the residential development nearby, the people who received notice of the community meeting, and abutting property owners they had heard from north across Richmond Road that they had received an email from. She said there were four separate parcels totaling 94 acres. She said some characteristics outlined in the staff report were critical resources including the flood hazard overlay district, stream buffer, critical sloped, Southern Albemarle Rural Historic District, and the Monticello viewshed. She said the current zoning was Planned Residential Development and the request was to rezone it to Rural Areas in an area of 28.04 acres. She said surrounding parcels were the Rural Area district, natural resource overlay district for Luck Stone, and a triangle of commercial zoning at the location of Shadwell Market.

Ms. Ragsdale said the proposed changes would be accommodated across the four parcels if the rezoning and special use permit were approved. She said Clifton had some small incremental changes over the years that got them to 15 guestrooms, the most recent being in 2002. She said there was also a 52-seat restaurant and a 200-person cap for events and activities. She said when reviewing that, they realized there would be a point where expansions might be beyond what was appropriate in the rural area. She said this aspect was mentioned in the staff report.

Ms. Ragsdale said there were five guestrooms at Collina that were approved under the bed and breakfast provisions, which were now homestay provisions, within the existing farmhouse. She said the request was up to 71 guestrooms total, with 35 more at Clifton and a total of 100 seats at the restaurant, 16 cottages at Collina. She said there was also a request for building a 5,000 square foot event space for up to 75 people, with the request they could go up to 200 people until the Collina structure was built. She said Collina requested 10,000 square feet for an events building for up to 300 people, 12 times per year, with no other limitation proposed with up to 200 people on other days.

Ms. Ragsdale said the rezoning between the two parcels was a planned residential district that was most recently amended in 2015 and established an application plan shown to the right on the slide and in the packet. She said it was up to seven residential lots, each with a drain field, reserve, and private road coming off North Milton between Clifton and the sensitive environmental areas. She said a concern with this application plan was that there were environmental buffers that were going to be on residential lots where perhaps the owners would not realize there were restrictions. She said rezoning was appropriate because it would rezone the property to Rural Areas, consistent with the comprehensive plan. She said there would no longer be the ability to do the development on the application plan. She said the entire area was within the Rural Areas of the comprehensive plan, so the recommendation was for approval of that rezoning.

Ms. Ragsdale said for Clifton, there were properties within the Southern Albemarle Rural Historic District and also registered individually, and that included the manor house and other outbuildings

indicated in white. She said the proposed event structure and additional guestrooms were shown in orange on the map on the slide. She showed a side-by-side of the proposed changes between the older plan and the new concept plan. She said the concept plan offered an easement over the floodplain to allow for the Old Mills Trail and perhaps that would help with the establishment of an improved Milton boat launch, which was consistent with the comprehensive plan. She said Parks and Recreation was supportive of that. She said some parking areas were preexisting, and some of this special use permit would bring some things the new owner inherited from the prior owner into compliance with the zoning ordinance.

Ms. Ragsdale showed a side-by-side example for Collina that showed the existing house, parking, and outbuildings that had been partially removed, although they still appeared on GIS. She showed the proposed event space for 10,500 square feet and 300-person occupancy, the relocation of the entrance to move it further away from that intersection of Route 250 and North Milton which would make it safer, the parking areas, and the cottages around the edge of the stream buffer. She said there would be 16 rooms, but fewer structures built because they were double units. She said the tree clearing was needed to accommodate the drain field and support everything that would be proposed on this property. She said the staff report stated that this was a significant change in character and out of scale with the rural area.

Ms. Ragsdale said the Collina property had not been evaluated and was not designated a historic resource but was generally considered historic in terms of the age. She said this property was rural and residential in character, and they felt this level of development changed that to commercial. She said mentioned in the staff report was that there was much analysis done for the property in terms of noise and feasibility for drain fields and wastewater. She said the final designs of that would come with site plan if this were approved, but it looked like this would need a central system to support the additional structures, which was discouraged in the policy and would require Board approval.

Ms. Ragsdale said evaluating this proposal as a whole, they were supportive of the rezoning but with concerns about the special use permit request. She said tripling the operation and scale in terms of noise impacts was a concern, and there were decibel levels in the ordinance for amplified music, which was part of the sound study to establish those could be met. She said staff felt that the best way to mitigate would be to have no outdoor amplified music. She said they recognized it was an improvement for Clifton to replace their tent with a permanent structure.

Ms. Ragsdale said the size and scale of the proposed improvements at Collina were changing the character of the district. She said they recognized the comprehensive plan had many objectives and strategies that supported tourism and lodging because they were in line with the economic development goals of the comprehensive plan. She said they indicated in the report the strategies and objectives related to preservation of historic structures and having them as economically viable properties to perpetuate the preservation. She said that they wanted to recognize that and that it was supportive of the request, but because this was the rural areas, it was out of scale and not consistent with the Rural Areas section of the comprehensive plan.

Ms. Ragsdale said there were supplemental regulations primarily related to historic preservation and maintaining the listing of the structures. She said in order to have this use, there must be a structure that was historically used as an inn, tavern, or restaurant, which this qualified for and was on the register. She said any additions would have to be reviewed by the Department of Historic Resources, who had already looked at part of the work the applicant had been doing and

they had not indicated any concerns yet, but the final review would take place before any building permits would be issued, or possible at site plan stage of development.

Ms. Ragsdale said there were a lot of critical slopes and wooded areas. She said the request for the Clifton property was about 659 square feet where additions in parking would go, and on Collina, it was on the entrance that would be closed and replanted where those slopes were. She said the applicant provided diagrams of the proposed improvements and a detailed analysis in their request. She said staff had no objections to the critical slopes waiver if the special use permit was approved.

Ms. Ragsdale said they were not able to recommend approval of the special use permit. She said a positive aspect was that the applicant provided on their concept plan the shared use path that Transportation Planning indicated was part of the long-range plans with the trail. She said given the size, scale, and nature of the planned changes and impacts for noise and traffic, the recommendations about water and sewer in the rural areas resulted in no recommendation for approval. She said as far as water and sewer service, the jurisdictional area map provided for water service only to existing structures, so anything new would need to be served by a potential central system.

Ms. Ragsdale said there were draft conditions if the special exception was approved. She said one was the prohibition for outdoor amplified music. She said another was the request to change the time period from 24 months to five years or 60 months. She said staff did not object to that, but the conditions were that if they were to approve it as proposed by the applicant, they had to address that. She said these conditions were considered drafted at this point because they recommended denial. She said as she mentioned, there could be a combined public hearing for the two that required it.

Ms. Firehock asked if Ms. Ragsdale could repeat what she said about the public hearing.

Ms. Ragsdale said they could have a combined public hearing for the special use permit and the rezoning, but they required separate actions when voting.

Ms. Firehock said she understood. She asked if there were questions for staff.

Mr. Carrazana asked if he understood correctly that the water and sewer was not a question that could be brought to the Board until after this vote today.

Ms. Ragsdale said that would be something that would be taken to the Board during site plan review on a central system request.

Mr. Carrazana said there had to be action here.

Ms. Ragsdale said no.

Mr. Carrazana said not for the water and sewer, but they must approve it to move onto the next phase.

Ms. Ragsdale said they would be approving the general uses and shelters.

Mr. Carrazana said that would bring them to the water and sewer issue.

Ms. Ragsdale said that was the next step.

Ms. Firehock said they would still require permission from the Department of Health.

Ms. Ragsdale said they would need drinking water for the well.

Mr. Bivins said right now, Clifton had public water and sewer.

Ms. Ragsdale said it had public water only.

Mr. Bivins asked if that was true for Clifton.

Ms. Ragsdale said yes.

Mr. Bivins asked about Collina.

Ms. Ragsdale said just well, and septic were at Collina.

Mr. Bivins asked if the applicant was asking for public water on both properties or the extension of public water at Clifton.

Ms. Firehock said neither.

Ms. Ragsdale said a central system was a private system, and if there were three or more connections to different things, it required a higher level of review and scrutiny with the Board but would still be maintained. She said there was no request to change the jurisdictional area to establish more public water service or public sewer.

Mr. Bivins asked if, for Clifton, there were additional rooms.

Ms. Ragsdale said there were 35 rooms.

Mr. Bivins asked if those were part of the original structure.

Ms. Ragsdale said they were away from the manor house.

Ms. Firehock said they were small cottages.

Mr. Bivins said he was referring to the Clifton property.

Ms. Ragsdale said the new rooms would be away from the house.

Ms. Firehock said they could not get service because they were new buildings.

Ms. Ragsdale said that was intentional as far as historic resource preservation.

Mr. Bivins asked where the cottages were at Clifton currently.

Ms. Ragsdale said there were other buildings identified. She said those were what were referred to as the livery stable and the garden cottages in addition to the main house.

Mr. Bivins asked if the cottages had system water.

Ms. Ragsdale said yes. She said those were structures described in the jurisdictional area approved for water service. She said it was limited to the manor house and garden cottage and livery.

Ms. Firehock said they were existing and had water service, but anything new could not get water service.

Mr. Bivins asked if they would need higher permission.

Ms. Ragsdale said the Board would have to change the jurisdictional area.

Mr. Bivins said he understood. He asked if there was a possibility of having 200 individual guests at an event at Clifton today.

Ms. Ragsdale said yes. She said it was 200 total onsite.

Mr. Bivins asked if he could invite 200 people to that site.

Ms. Ragsdale said yes.

Mr. Bivins asked if at Collina, he could only have what was inside the house.

Ms. Ragsdale said for event activity, that would be limited to people staying in the guestrooms.

Mr. Bivins said they were adding an additional guest opportunity for an additional 200.

Ms. Firehock said Mr. Bivins was asking if they could have 200 guests at Collina under this new application.

Ms. Ragsdale said she did not think that situation would exist.

Mr. Bivins said that he was trying to understand how the 200 at Clifton would shift over there when they built this event pavilion.

Ms. Ragsdale said they were redoing everything in terms of the upper limits. She said typically these facilities focused on the number of special event attendees, but the way it was done for the special use permits at Clifton with the prior amendment, it was a cap on all activities.

Mr. Bivins asked if that included the restaurant and all other uses.

Ms. Ragsdale said that was right. She said it was more limiting than a number for special event guests.

Mr. Bivins asked what would happen when they built the 10,500-square-foot structure at Collina.

Ms. Ragsdale said the proposal was for 300 people allowed at special events, with an embedded assumption that most of the guests would be people staying in the lodging facilities, but absent a condition, they did not know how many were off-site or were staying there.

Ms. Firehock said they could not all stay there.

Mr. Bivins said he hoped the applicant understood there was confusion on the dais and could help them understand. He said in total, there were 15,500 square feet of event space between Clifton and Collina that this proposal was bringing forward. He asked for clarity as to whether it was 200 people at each location.

Ms. Ragsdale said there were limits that had not been proposed with this. She said there would be an increase from 52 seats to 100 seats and no counting of people. She said there would be an opportunity for 75 attendees for special events. She said there was an interim request for up to 200, but that would be in the interim until the Collina structure was built.

Ms. Firehock asked if at that point the 200 did not happen at Clifton Inn and only at Collina.

Ms. Ragsdale said the limit would be up to 300 at Collina, 12 times a year, but 200 all other days of the year.

Ms. Firehock said if they recommended that and it was approved, it could stay at 200.

Ms. Ragsdale said it could be 200, 12 times per year.

Ms. Firehock said Mr. Bivins was asking if 200 people could be at each venue at the same time.

Ms. Ragsdale said with everything built out, there would be 375 people.

Mr. Rapp said there would be up to 375 people up to 12 times per year.

Ms. Ragsdale said it did require scrutiny to understand.

Mr. Murray asked if these two properties were developed by-right, how many cumulative residential units could be built?

Ms. Ragsdale said she did not do the development rights analysis, but there was a determination that Mr. MacCall might be able to provide that. She said she did an analysis for the PRD property, which would only be able to have one residence, but she did not do the analysis for the other properties. She said there was a letter of determination that included all these properties.

Mr. Murray asked if all these riparian and forested areas visible in the proposal would be dedicated in an easement to the County.

Ms. Ragsdale said the only easement on the concept plan was the area along the Rivanna River floodplain.

Mr. Murray said based on current policy, if this development plan were approved and the construction completed, they could remove that riparian area and there would be nothing stopping it.

Ms. Ragsdale said she was having trouble hearing Mr. Murray.

Mr. Murray said currently, their water protection ordinance came into effect when construction was underway, and erosion of sediment was occurring. He said once that was over, the water protection ordinance, as currently written, no longer applied, so there would be nothing stopping the removal of that buffer. He asked if that was correct.

Ms. Ragsdale said the stream buffer ordinance was not changing and they were not putting easements for the purpose of riparian buffers. She said the easement was for public trail access and public access on that portion. She said the concept plan showed development outside of the stream buffers; there was a lot of forested area adjacent to those buffers, but they had not offered any additional easements over those stream buffer areas. She said it had been handled as showing limits of disturbance, which was an important element to stay in accord with the concept plan and why they asked for detail on this so that the sensitive areas were in relation to these proposed improvements. She said stormwater was not shown, and there was a small amount at Clifton but none at Collina.

Mr. Murray asked if they had any guaranteed stormwater facilities would stay out of the riparian area.

Ms. Ragsdale said they had to.

Mr. Murray asked if there would be permanent protection of those riparian areas.

Ms. Ragsdale said this concept plan showed what could happen in terms of the activities tied to the special use permit; everything else would be covered by the ordinance.

Mr. Murray asked if that could be required as a condition.

Ms. Ragsdale said she noted in the staff report some of the natural resource goals and that this was a special use permit and a sensitive site, so that could be appropriate, but there was no specific language and it had not been thoroughly vetted with the applicant. She said it was on the list of discussion topics.

Mr. Rapp said with a special use permit application, they were strictly tied to reviewing the proposed use and not the other elements of the site plan. He said it was strictly about the impacts of the proposed use, and tree and stream buffers were not under question with this application and its proposed use.

Mr. Murray said there was a comment in the application about the sensitivity of the site being next to the Rivanna River, and there may be enhanced stormwater controls and measures necessary to consider their natural resources.

Ms. Ragsdale said there was a difference between the use and what was needed to support this type of use, which was why they had a concern that there was a lot of impervious surface in the rural area. She said landscaping would be required as part of any site that had a parking lot as a part of the ordinance, but there were many natural resource objectives in the plan.

Ms. Firehock said they were not proposing any uses in the buffer.

Ms. Ragsdale said that was what Mr. Rapp was trying to say.

Ms. Firehock said if they were putting a boat landing in the buffer or a parking lot, they would talk about the use's impact on the buffer, but as shown, they were not in the buffer.

Ms. Ragsdale said that was correct.

Mr. Murray said there was nothing stopping them from removing the buffer once construction was completed.

Ms. Ragsdale said they would be held to this concept plan in the ordinance, so they would not be allowed to put guestrooms or anything like that there. She said those were major elements of the plan and much of it was already covered by the ordinance.

Ms. Firehock said they were not designing the site plan. She said if they wanted to do a forestry operation in the buffer, by state code, forestry was exempted, so they would be able to do that. She said she would hope they would not.

Mr. Murray said if one of those cottages wanted a beautiful view of the river, those trees were obstructing the river.

Ms. Firehock said she hesitated to give information as to how to get around the buffer ordinance.

Ms. Ragsdale said there were 13 development rights in total, and they were broken across the other parcels into groups of 4, 4, and 5. She said those were theoretical because of building site requirements and other things.

Ms. Firehock asked Ms. Ragsdale to repeat herself.

Ms. Ragsdale said there were 13 theoretical development rights.

Mr. Murray asked if that was on both sites.

Ms. Ragsdale said 24B was five development rights, which went to Collina, 36 had 4 development rights, which was the parcel near the river, and the Clifton property had only four. She said there were no development rights associated with the one in the middle because it had been zoned planned development since 1980 so it was never assigned any development rights and only had one.

Ms. Firehock requested the applicant come forward.

Ms. Kelsy Schlein, Planner for Shimp Engineering, said Mr. Justin Shimp was the civil engineer for the project, and Elliot Estes was with Clifton Ownership, and both were present at the meeting.

Ms. Schlein said Clifton Inn had been operating as an inn since the 1980s, and it had hosted weddings and other special events on the property. She said for the majority of the inn's existence, it was owned and operated by a single owner, and in 2017, the property was acquired by Clifton Inn LLC. She explained that since acquiring the property, the LCC had made significant improvements to the property in response to long-deferred maintenance issues. She said an

interior renovation of the manor house and guest structures had been completed, and many structural issues had been rectified. She said the core of the building was over 200 years old.

Ms. Schlein said an expansion at the inn was appropriate and necessary for many reasons. She said the main reason why the expansion was requested was due to the burden placed on the manor home during special events. She said special events were the main economic driver for the inn and were critical for its operations and success. She said within the bounds of the existing special use permit, ownership was limited to where and how the special events could be hosted.

Ms. Schlein said when events took place on the property, the existing restaurant had to shut down to accommodate the events. She said the catering and all other operations were sourced from the manor house to support 200-person events. She said the events were sited onsite in a tent structure, so it was difficult to mitigate noise impacts and for staff to travel between the workspace and the event space. She said the ownership saw itself as a steward of the property, and the property itself was historic. She said the historic nature of the property was its main economic driver. She said the owners wanted to build a permanent structure for events at another location on the property.

Ms. Schlein said the context of the site was important. She said the property was sited between two development areas—the edge of the Pantops development area and the Village of Rivanna development area. She said Luck Stone and Stone-Robinson Elementary were adjacent to the site, and industrial and commercial uses and preschool uses were in the vicinity. She said there was a lot of activity in the area. She mentioned Keswick Hall.

Ms. Schlein said there was no better location or infrastructure to support the type of use. She noted the property had frontage on Route 250 and was about 0.2 miles from Route 22 and 2.2 miles from the Exit 124 interchange of I-64. She said the site was accessible from major transportation corridors with adequate infrastructure to support the transportation needs of the events. She noted travel for the events typically happened in off-peak hours. She said VDOT did not express concerns during its review other than a favorable review of moving the entrance on the Collina property further away from the intersection of Route 250 and Milton Road.

Ms. Schlein said the Clifton Inn had operated on TMP-79-23(b) and the former ownership acquired an additional three properties adjacent to the Clifton Inn. She explained the Clifton property was named to the Virginia Landmarks Register in 1988 and to the National Register of Historic Places in 1989. She said there were four contributing structures and two contributing sites in historic designation. She said the owners were committed to maintaining the designation. She said there were ongoing discussions with DHR through the review, and as a result, one of the proposed conditions called for an archaeological study on the site.

Ms. Schlein said there had been incremental changes to the property over its history. She said the changes were due to the way the original special use permit was drafted—she said the restaurant and inn were not permitted to expand outside of the historic structure and the uses were limited to the manor house. She said the ZTA of 2013 and 2015 were critical to allow the expansion, and they only applied to the Clifton Inn property. She said Section 10-22.27 of the zoning ordinance had two qualifiers for properties that could apply for that type of use in the rural area. She said Section A related to the historic structures, and Clifton Inn was the only property that operated under that designation. She noted the tavern could be eligible if it wanted to expand.

Ms. Schlein explained Keswick Hall currently operated due to the ZTA Section 10-22.27(b). She said the zoning ordinance specifically allowed the present application. She displayed an aerial view of the site and noted the location of the proposed expansion—it would expand one of the garden cottages and wrap around the nearby courtyard in a U-shape. She said the new special events structure would be built where the existing tent was located. She said the special events structure was for special event and spa use, and it was limited to 75 attendees.

Ms. Schlein said the existing farmhouse on the Collina Farm property would remain. She displayed an aerial image of the Collina Farm site and noted where parking would be constructed. She said there would be a 100-foot buffer along Route 250 after productive conversations with the neighbors. She noted the location of the new special event structure at Collina Farm and said it would host events with up to 300 attendees 12 times per year and events with up to 200 attendees would occur at other times per year.

Ms. Schlein said the condition that stated, “no outdoor amplified music was permitted” was incredibly restrictive. She said the other historic inn operation did not have a similar limitation, and it was more restrictive than conditions for a winery or special event operation. She requested the Planning Commission consider the language in the ordinance for winery events. She said for Condition 8 addressing the archaeological study, they requested additional language to note the study was occurring specifically in and around the historic core of Clifton. She noted Condition 9 and that it was especially difficult to complete construction within 24 months, and the applicant requested an extension from 24 months to five years.

Mr. Missel noted how the entrance to Collina Farm was moved. He asked why the entrance was moved, and if a traffic study had been performed.

Ms. Schlein responded that the entrance was close to the intersection of Milton Road and Route 250, so they were attempting to meet entrance spacing standards. She said Clifton Inn owned the land on the inside of the curb, so they were able to get site distance. She said the spacing was based on VDOT entrance spacing standards.

Mr. Missel asked if a traffic study was performed to show the impacts of events at full capacity.

Ms. Schlein said a turn lane warrant analysis was performed. She said the turn lane would be triggered at the site plan depending on the scale of events. She said VDOT would evaluate the need at the time of the site plan.

Mr. Missel asked if the applicant had considered a limitation on volume for outdoor amplified sound. He said it could be determined by the maximum decibel level at the property boundary.

Ms. Schlein said they worked with a sound consultant who recommended a house sound system. She said an issue with controlling noise was that people brought their own equipment, so a house sound system would mitigate the impacts.

Mr. Elliot Estes said he was one of the owners and asset managers responsible for operations at the property. He said the wedding receptions were currently held in the tent structure which was higher than the rest of the site and was not enclosed. He said with the transition from the tent to a permanent structure, the site would be lower, and the proffers were meant to mitigate impacts.

Mr. Murray said staff noted there were opportunities to revise the concept plan to further define and minimize such things such as clearing for drain fields, new cottages at Collina, and limiting the internal access road. He said a noted could be added to the concept plan regarding the use of local, native plants and enhanced storm water strategies as well. He asked if the applicant had a response to those suggestions from staff.

Ms. Schlein said in regard to the riparian buffers, there were notes in the concept plan that had been adopted and specific areas of the plan called for wooded areas to remain. She said to operate the use consistent with the concept plan, the wooded areas had to remain. She said Clifton ownership would be willing to include the specification to use native plants.

Mr. Schimp said stormwater management discussion happened on a lot of projects. He said there were instances where there was concern for erosion, such as on a riverbank. He said for the proposed project, the footprint was light on the land, and there was not a lot of clearing and grading. He said the nature of the use was light, so they did not feel the need for enhanced stormwater management.

Mr. Schimp mentioned the buffers. He said if a stream buffer was established for a project, then the buffer would continue to exist after use. He said there were projects that were developed prior to the stream buffer ordinance, so the ordinance was not applicable. He said the stream areas would already be preserved by the ordinance and the concept plan stipulation to maintain the wooded areas.

Ms. Firehock clarified the concern with Condition 8 was that the archaeological study should only happen where there was archaeological significance.

Ms. Schlein said there was no issue with performing an archaeological study, but the condition should specify the area where the study would take place.

Ms. Firehock said the condition was currently broad and would require the evaluation of the whole property. She mentioned the outdoor amplified music. She asked if music was played in the tent structure and if sound leaked out.

Ms. Schlein said yes. She said it was not a walled structure.

Ms. Firehock said a structure would help mitigate noise. She said 10 p.m. was late to be hearing music from an event. She said she did not support a late hour for noise. She said 200 people outside at a garden party was loud. She said they needed to consider the noise level condition.

Mr. Carrazana said the structure would be enclosed and the condition only applied to outdoor music.

Ms. Schlein said it was explained in the sound study. She explained the sound study was evaluated because the idea with the architectural design was to allow the outside to come in. She said the walls moved so the event could happen inside and outside at the same time.

Mr. Carrazana clarified the structure would not be a tent, but it would be open.

Ms. Schlein said the structure could be opened, but it could also be entirely closed.

Mr. Missel said the applicant would not want to overlook historically sensitive areas by limiting the scope of the archaeological study to areas near contributing structures. He said there were areas that could be sensitive archaeological sites that had not been identified. He said the area of study should be more defined.

Mr. Bivins said he wanted clarification about what development would happen at each of the sites. He clarified that the current tent structure would turn into a permanent event space and spa. He asked if the total capacity for the space—the spa and the event space—was 75 people.

Ms. Schlein said the application presented it as 75-person events at Clifton. She said if there was a luncheon being hosted, then the spa would not be operating.

Mr. Bivins said event space and spa space did not work well together.

Mr. Estes said the space that would replace the tent was similar to a pool house or an event center in a neighborhood.

Mr. Bivins asked if there would be facials at the spa.

Mr. Estes said yes. He said there could be treatment rooms. He said when the property was purchased, the owners inherited the operations and opportunities. He said spa treatments were currently available, but they were moving massage tables from room to room. He said they wanted to create more private, intimate, and professional settings for guests.

Mr. Bivins asked how old Collina Farm was.

Ms. Schlein said they believed the farm was built around the 1930s.

Mr. Bivins clarified the property did not yet qualify for historic designation.

Ms. Schlein said the qualification was 50 years.

Mr. Bivins said the new structure built on the farm would be an event space and only event space.

Ms. Schlein confirmed it would be only an event space.

Mr. Bivins clarified events that used to be held at Clifton would instead be held at Collina.

Ms. Schlein said that was correct.

Mr. Bivins asked how people would be fed at the events and how food would be prepared.

Ms. Schlein said the event space would include a kitchen.

Mr. Bivins clarified there would be a commercial kitchen at the event space. He asked what the source of Hearts Pond was. He said the pond was completely enclosed within the two parcels.

Ms. Schlein noted on a map where the stream crossed and where it came into the property. She noted the location of a dammed structure. She said the pond was stream fed.

Mr. Bivins confirmed the pond was a created body of water.

Ms. Schlein said that was correct.

Mr. Bivins asked if the applicant knew what restrictions were on the Boars Head Inn in Keswick because it was a similar use.

Ms. Schlein said she believed Keswick did not have an outdoor amplified music condition as part of its use. She said Keswick also did not have a condition limited the number of attendees at events.

Mr. Bivins said the Keswick use was more similar than a winery, brewery, or distillery. He noted that 17 additional houses could be constructed on the entire property by-right.

Staff confirmed that it was 13 development rights plus the PRD unit, so 14 total.

Mr. Bivins asked the applicant how many new structures they proposed.

Ms. Schlein said between both locations, about 11 new structures were proposed. She said there would be 16 guestrooms.

Mr. Bivins clarified the applicant was requesting an additional 10 structures, but the by-right allowed 14 structures.

Ms. Schlein said that only included the rural area parcels and did not include the PRD.

Mr. Estes said there were seven residential sites on the Clifton site and four on the Collina site. He said the intent was to relocate the same number of sites and lessen the environmental impact. He said the sites were moved to higher ground and accessible by golf cart or a narrow trail instead of an access road. He said they wanted to decrease the footprint of the site.

Mr. Bivins asked how people with limited mobility would navigate the site.

Mr. Schimp said because it was a commercial structure and new construction, all aspects had to meet ADA requirements. He said building code would dictate 95% of the Commission's requests. He said there would be a trail between the two properties that would be accessible by golf cart.

Mr. Bivins clarified that the foot trail would be turned into a trail that could be used by a golf cart.

Mr. Schimp said that was the intention. He said someone with a disability could travel between the sites.

Ms. Schlein clarified the new path would not follow the exact path of the existing foot trail. She said the foot trail would remain, and there was an old roadbed that could be utilized. She said the service road alignment was closer to Milton Road.

Mr. Murray asked if the applicant knew the average gallons-per-day usage of the site and if they had the anticipated figures once the buildout was complete.

Ms. Firehock clarified that was not a topic taken up by the Commission.

Mr. Murray noted staff brought up concerns about the additional water and sewer capacity. He asked how much water 13 houses would consume. He said he wanted to know if the water used by the site was more than the water used by 13 houses.

Ms. Schlein said the hotel use was a typically higher water use than residential uses. She said a comprehensive water-lease study was performed. She said if a high level of pretreatment were provided, then all of the development could be accommodated onsite. She said it was more water usage than 13 homes. She said it was only comparable for the guest rooms. She said the event spaces had short times of peak demand and typically did not have high volumes of water usage.

Ms. Firehock opened the hearing for public comment. She said people in attendance in person will speak first followed by the people wishing to comment remotely.

Mr. Ricky DeJesus said he was speaking as the Manager of the Clifton Inn and as a Charlottesville resident. He said the approach of the proposal was to be a better community member. He said the proposal would provide the inn with business viability and sustainability, and it would continue to preserve the historic nature of the property. He said the weekends were occupied by frequent weddings. He said the house needed delicate and careful attention to maintain. He said lessening the impact of foot traffic from guests would help to preserve the structure. He said hosting wedding guests frequently closed the cocktail bar and restaurant. He said the proposal would provide more jobs in the community. He said they were committed to a healthy work culture.

Ms. Liz Russel said she was Director of Planning at Monticello, and she was speaking on behalf of the Thomas Jefferson Foundation. She said Monticello appreciated the opportunity to work with property owners to ensure the historic views of Monticello were protected. She said they appreciated the County's consideration of the impacts on the viewshed. She said in March 2021, she met with the owners and operators of the Clifton and Ms. Schlein to discuss the application, concept plan, and narrative.

Ms. Russel said at discussions, the facility was conceived of having an inward focus as opposed to clearing trees to take advantage of views. She said they discussed the use of muted colors to mitigate visibility from Monticello. She said the structures did not intend to distract from the historic property. She underscored that trees would screen many of the views of the proposed modern structures and additions.

Ms. Russel added that Monticello supported the intended dedication of river frontage and affiliated parking. She said the area was not a viewshed item, but it would increase public access to the Rivanna River. She encouraged the Commission to consider the Parks and Recreation request for the proposed public easement to be expanded to include the area adjacent to the parcel owned by the County to allow better parking and trailhead access.

Ms. Lorie Hackney said they were [inaudible 04:20:24] of Clifton and Collina. She said they had worked with the applicants and County staff to express their concerns. She said there were still concerns. She noted the site on Collina had shifted, but there was a concern regarding the open sides of the event space. She said they heard all of the events from Clifton since they were in tents. She said if the sides were open, then they would still hear the events.

Ms. Hackney noted they were able to view the farmhouse at Collina, and they would be able to hear noise from the parking and see lights. She said the new facilities would potentially be visible.

She said they were concerned because it would change the character of their property. She said her dad had lived on the property since he was 7—about 68 years. She said it would increase traffic in the area. She said Ms. Ragsdale forwarded her concerns via email to the Commission.

Ms. Firehock closed the public hearing. She said the applicant had the chance for rebuttal.

Mr. Estes clarified the nature of the structures. He said there would be four walls, and three or two of the walls may be moveable, garage doors, or collapsible, but they would have the ability to enclose the structure. He said they started closing operations at 9 p.m. to meet the 10 p.m. shut-off time in the conditions. He said a sound moderation system was evaluated as part of the sound study. He said the structure would have walls and be at a lower elevation.

Ms. Schlein clarified that there was an existing flat pad for the tent, and it would be reused for the replacement event structure. She said surrounding the pad were critical slopes, so all of the surrounding trees would remain as wooded areas. She noted a tree line and the 100-foot buffer along Route 250. She said one of the major elements of the plan was the preservation of the wooded areas and buffers.

Ms. Firehock closed the public hearing. She noted several conditions were discussed and there were two items to rule on. She clarified that they only needed one public hearing but two votes.

Ms. Ragsdale said that was correct. She said she had suggestions and information regarding the topic of outdoor amplified music.

Ms. Firehock summarized the request was to rezone the area to Rural Area to expand the use at the Clifton Inn and Collina Farm.

Mr. Murray said it was a more intensive use than the by-right development. He said had concerns about the additional water and sewer capacity as noted by staff. He said there could be ways to mitigate those impacts.

Ms. Firehock asked Mr. Murray what forms of mitigation he was considering.

Mr. Murray said there were lots of ways to reduce water use.

Ms. Firehock mentioned low-flow appliances, conservation measures, and cisterns to capture rainwater.

Mr. Murray said demonstrating conservation measures would be helpful. He said it would show a willingness to meet the comprehensive plan.

Ms. Firehock said it would require them to treat less wastewater.

Mr. Clayborne said he was in support of the rezoning, but he grappled with the scale of the project.

Mr. Bivins said he was in support of the project. He said he supported the 200-person event limit but struggled with the 300-person event limit. He said the capacity could be increased because there would be a nicer facility that would allow operations 12 months of the year. He mentioned Running Deer Lane. He said a project was brought forth that proposed a large development that was radically scaled back. He said the proposal before the Commission did not match the scale

of the proposal on Running Deer Lane which would have just below 100 houses. He said the intensity when compared to the area was less, and it would freeze the utilization of the area. He said he was not concerned about the intensity. He said the property would easily be able to accommodate the cottages.

Mr. Bivins said the County was morphing as a tourist destination. He said he wanted the tourist dollars to stay in the County, not go to the City. He said he wanted to create an environment with opportunities for a host of local people to have jobs. He noted CATEC had culinary training. He mentioned part of the ownership group of the property was from Virginia. He said he was still concerned with the 300-person event sizes. He said he would be more comfortable with a 200-person limit. He said he supported the project.

Mr. Missel said the site was on the fringe of the development area, and it was a good benchmark. He said the fact that the site was somewhat buffered was helpful. He said he was initially concerned about the traffic generation, but he considered that the trips would not be occurring all at the same time. He said there would be mitigating factors that would be helpful. He mentioned the Health Department would have a report on the water and sewer, and the capacity would be informed by that. He said compared to a PRD development, the site was light on the land. He said it was important to not limit the archaeological study. He said the conditions regarding sound limitations needed to be clarified. He said he was supportive of the proposal with the staff's proposed conditions.

Mr. Carrazana said the applicant should consider ways to mitigate light and water pollution. He said minimizing the footprint on the site would make for a better project and a better experience for the guests. He said in regard to the archaeological study, areas of major disruption should be studied. He said it should not be limited to adjacent to the historic property.

Ms. Firehock said she was leaning in favor of the proposal. She said in regard to the archaeological study, she suggested the language, “to conduct archaeological studies for any areas to be disturbed for construction or access.” She said the language included any activity on the site. She noted cemeteries of enslaved people were often located in out-of-the-way locations. She said in terms of outdoor amplified sound, she could not support outdoor amplified sound and she thought it would cause too much disturbance.

Ms. Firehock agreed with the staff recommendation that there be no outdoor amplified sound. She said amplified was a key term, and music was still allowed acoustically. She said there would be some disturbance to the neighbors because 200 guests generated a lot of noise. She mentioned the property was well-buffered. She said it sat across from an elementary school, a quarry was nearby, and Milton Landing received a lot of use. She said she appreciated the applicant’s contribution of access to the County.

Mr. Bivins said the property used to be Peter Jefferson’s home. He said there was a high possibility that enslaved people were buried somewhere on the property. He said he hoped the management group would identify those spaces.

Ms. Firehock said she agreed with Mr. Bivins’ comment. She said she agreed that if 13 houses were constructed on the property, they would be large, expensive real estate with 3 to 4 car garages. She said the proposed use was less intense than the potential residential use.

Mr. Carrazana said the road access alone would be intense.

Ms. Firehock said Monticello did not get to say, they got to ask. She clarified the number of motions required.

Ms. Ragsdale explained there would be three separate motions—the rezoning, the special use permit, and the critical slopes waiver.

Ms. Firehock allowed the applicant to approach the Commission.

Mr. Estes clarified the 300-person event limitation. He said they were only in season 6 months of the year. He said 300-person events were permitted for 12 days a year to allow events to occur two days per month during the regular season.

Ms. Firehock clarified that 300-person events would occur twice a month six months out of the year.

Mr. Carrazana clarified events were limited to 200 people for the rest of the season.

Ms. Ragsdale clarified that events with 300 people were rare. She said there were other event categories, and a number of special events had been approved with over 300 attendees.

Ms. Firehock mentioned there were other projects and applications that wanted to host large events, but they were on sites with much larger impacts. She said the proposal before the Commission was a much more insulated site. She said the new site would be even more recessed and buffered.

Ms. Ragsdale said the proposal was site-specific.

Ms. Firehock said because of the location and the traffic access, it was a good use of the site.

Mr. Missel moved to recommend approval of ZMA 2021-00003 Clifton Inn for the reasons stated in the staff report. Mr. Clayborne seconded the motion. The motion carried unanimously (6-0).

Mr. Missel requested to view the draft conditions and the requests from the applicant.

Ms. Ragsdale said the Commission appeared comfortable with Condition 5. She said the Commission needed to determine if it would prohibit or allow in some manner outdoor amplified music. She said staff would work on the condition language that would address hours, sound monitoring, and decibel levels. She said they discussed the 60-month extension. She said the condition for the archaeological survey was intended to cover all the properties where there would be a disturbance. She said they were draft conditions, and the final versions would have to be reviewed by zoning and the County Attorney's Office before the Board of Supervisor's hearing.

Ms. Firehock said she had recommended for Condition 8 a revision to change "in the project area," to "any areas to be disturbed for construction or access."

Ms. Ragsdale said that was good.

Mr. Missel said for Condition 6, his recommendation would be to allow for outdoor amplified music with restrictions. He said the restrictions could be determined by staff as appropriate.

Ms. Ragsdale said the restrictions would address hours of operation and sound monitoring at a minimum.

Mr. Herrick said the form of the motion may be to move to recommend approval with the conditions presented by staff as modified by the Commission. He said Mr. Missel could list the additional modifications to the conditions.

Mr. Missel moved to recommend approval of SP2021-00004 and SE2022-00014 with the conditions as presented by staff and amendments to include Condition 6, where amplified music is permitted with conditions formed with staff input, and Condition 8, to replace "within the project area" with "any areas to be disturbed for construction or access," and Condition 9, to change "24 months" to "60 months" from the date of Board approval.

Mr. Herrick suggested the outdoor music condition be made more specific and the special exception for the steep slopes be separated into its own motion.

Mr. Missel asked what the applicant's recommended hours were.

Ms. Ragsdale responded that the applicant suggested hours that mirror the provisions in the Farm, Winery, Brewery, and Distillery section of the ordinance.

Ms. Firehock said the applicant stated it would be until 10 p.m., and the practice was to be stopped by 9 p.m.

Ms. Ragsdale explained more recent use categories had a number of things in them, and for special use permits, there was a separate noise clearance performed for farms, wineries, breweries, and distilleries, and the hours of operation were in the ordinance. She said there were requirements for neighbor notification if there was a sound complaint. She said the motion could state the amendments be consistent with the farm, winery, brewery, and distillery regulations. She said those regulations included sound monitoring via a sound meter or permanent equipment.

Mr. Bivins said they should not use the farm, winery, brewery, and distillery nomenclature.

Mr. Missel said it could be used as a reference point.

Ms. Ragsdale said it was where the code was in the ordinance. She said it was in there for agricultural operations as well.

Mr. Bivins said in terms of agricultural operations, he was fine with it.

Mr. Missel clarified that Condition 6 should state outdoor amplified music was permitted consistent with farm, winery, brewery, and distillery regulations.

Ms. Ragsdale said that would cover it.

Mr. Murray asked if it was possible for Condition 1 to include use of local native plants and enhanced stormwater strategies.

Mr. Bivins explained the Commission did not have oversight of such conditions, and they typically occurred at the site review stage.

Mr. Murray asked if it were a condition that could be added.

Mr. Rapp explained the condition could not be added to the concept plan. He said Condition 1 represented the concept plan and what had been submitted. He said native plants were not included in the concept plan; it was not for the Commission to recommend. He said they could encourage the applicant to use native plants.

Ms. Firehock said sometimes they encouraged applicants to consider certain items before appearing before the Board. She said it was not germane to the impacts of the use.

Mr. Murray said it was germane because of the additional water usage on the site.

Ms. Firehock said she was referencing the native plant part.

Mr. Murray said it was a water conservation strategy.

Mr. Missel clarified they were recommending native plants and enhanced stormwater management be considered.

Ms. Firehock said they could make a comment, but it would not be in the motion.

Ms. Ragsdale said it would be in the transmittal memo but not in the motion.

Mr. Missel moved to recommend approval of SP2021-00004 with the conditions as presented by staff and amendments to include Condition 6, where amplified music is permitted consistent with farm, winery, brewery, and distillery regulations, and Condition 8, to replace “within the project area” with “any areas to be disturbed for construction or access,” and Condition 9, to change “24 months” to “60 months” from the date of Board approval. Mr. Carrazana seconded the motion. The motion passed unanimously (6-0).

Mr. Missel moved to recommend approval of SE2022-00014 to allow the square footage of critical slope disturbance as provided in the staff report. Mr. Carrazana seconded the motion. The motion carried unanimously (6-0).

Ms. Firehock said the item would appear before the Board at a date to be determined.

Committee Reports

Mr. Missel said the 5th and Avon CAC met the previous Thursday, and they were presented with ZMA2022-00002. He said Ashley Davies from Riverbend Development gave the presentation. He said the proposed development was over 1,300 units. He said the primary points of conversation were traffic and schools. He said there were 28 people outside of the CAC who joined the meeting.

Mr. Bivins said the Hydraulic/Rio CAC met, and they received a presentation from the Parks Department Director, Amy Smith. He said they learned about the various parks in the rural part of the County. He said there needed to be more parks in the developed part of the County so people

could access the parks without vehicles because the buses did not go to the rural parks. He said Arrowhead Park was a 400-acre undeveloped park.

Mr. Murray said the Crozet CAC met and received a presentation from the Downtown Crozet Initiative. He said it was a glimpse into the future of Crozet.

Ms. Firehock said the Historic Preservation Board had to cancel its meeting, and it was the second or third time in a row because there was not a quorum. She asked when they would move to in-person meetings. She said there were rules about missing meetings and being a committee member. She said the committee needed to meet, but she was not in charge. She said the comprehensive plan had a number of upcoming meetings. She said she would like to attend the Community Roundtable at Yancey on September 15. She said there was another roundtable on September 1 hosted on Zoom, and there was another hosted in Lane Auditorium on August 29 from 6 p.m. to 7:30 p.m.

Mr. Bivins encouraged people to attend.

Review of Board of Supervisors Meeting

Mr. Rapp said the Board approved the ZMA for Old Dominion Village in Crozet, and they approved the special exception to allow the veterinary office to remain in the center of the development. He mentioned the Certified Planning Commissioners' Program. He said there were new Commissioners who may have not attended the program. He said it was hosted at VCU, and the upcoming session was from September to November, and it was three different virtual meetings before moving to in-person attendance. He said he would provide the Commission with the link with more information. He said if they wanted to participate, then he would help them signup.

Ms. Firehock asked whether the County would support the cost of the tuition.

Mr. Rapp said the County would support the cost. He said the training was valuable. He said it was one or two days of intensive training followed by reading assignments for a couple of months ending with a follow-up meeting. He said attendees left as certified planning commissioners.

Old Business/New Business

Ms. Firehock brought up the topic of meeting with applicants outside of Planning Commission meetings. She said it was not illegal to do so, but the Commission's role was to conduct business in public, and they were different from the Board of Supervisors because the Commission was quasi-judicial.

Ms. Firehock said the Commission wanted to ask questions and receive answers in a public forum. She said when applicants requested more information from her in private, she requested the applicant bring the information as part of a public presentation or a public application. She said the practice was to avoid the appearance that deals were made on the side or certain applicants were receiving preferential treatment. She said she could not prohibit Commissioners from meeting with applicants, but she highly discouraged it. She said an exception would be with site visitations.

Mr. Bivins asked that the reports and paperwork the Commissioners needed to review be provided in one instance. He said he often received duplicates of the same reports.

Items for follow-up

Mr. Missel said he would not be present for the September 13 meeting.

Adjournment

At 10:20 pm the Commission adjourned to September 13, 2022, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.

Charles Rapp, Director of Planning

(Recorded by Alberic Karina-Plun; transcribed by Golden Transcription Services)

Approved by Planning Commission
Date:
Initials: