Albemarle County Planning Commission
DRAFT Minutes Regular Meeting
September 27, 2022

The Albemarle County Planning Commission held a public hearing on Tuesday, September 27, 2022, at 6:00 p.m.

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

Members absent: None.

Other officials present were: Charles Rapp, Director of Planning (via Zoom); Jodie Filardo (via Zoom); Andy Herrick, County Attorney's Office; Bart Svoboda; Rebecca Ragsdale; Kevin McCollum; Alberic Karina-Plun; and Carolyn Shaffer, (via Zoom) Clerk to the Planning Commission.

Ms. Shaffer was present electronically via Zoom call.

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Ms. Firehock established a quorum.

Matters Not Listed on the Agenda

Ms. Firehock said this item was for matters not currently scheduled for a public hearing, so if there was anything that was not on the public agenda for this evening that a member of the public would wish to speak to, now would be the time. She said she saw no one approach the podium.

Ms. Shaffer said there was no one signed up remotely.

Ms. Firehock said she would move to the next item.

Consent Agenda

Ms. Firehock asked if any Commissioner wished to pull an item from the Consent Agenda.

Mr. Missel moved that the Planning Commission adopt the Consent Agenda, which was seconded by Mr. Carrazana. The motion passed unanimously (6-0).

Public Hearings

Ms. Firehock said there were two public hearings even though there was one site being considered because there were two specific items that had to be addressed separately.

SP202200003 Daylily Preschool

Mr. Kevin McCollum, Senior Planner in the Planning Division of Albemarle County Community Development, said he would be giving the staff presentation on the application SP202200003. He

said it was a proposed special use permit amendment for an existing preschool facility. He said the subject property was located at 4281 and 4297 Old Three Notched Road, located east of the Crozet development area and north of the intersection of Three Notched Road, Rockfish Gap Turnpike, Ivy Road, and Browns Gap Turnpike. He said the property was two separate parcels, one was home to an existing church and the other was an existing dwelling. He said they were at the intersection of Browns Gap Turnpike and Old Three Notched Road.

Mr. McCollum said the subject preschool currently operated at the Sunday School building at the church. He said the existing zoning of the property and the surrounding area was zoned Rural Areas, and the character of the surrounding area included rural area uses including low-density residential, agricultural, and some vacant, undeveloped land. He continued that the applicant requested a special use permit amendment to move the preschool from the Mountain Plain Baptist Church to the existing dwelling and increase the maximum number of children from 20 to 35 with a maximum of five teachers. He said the proposed preschool would operate from 8:30 a.m. to 5:30 p.m. Monday through Friday, utilizing the existing structures and playground areas.

Mr. McCollum said the conceptual plan provided an overview of the proposed site layout, with minimal site changes being made. He said parents and teachers would utilize the existing parking areas, and parents would escort their children to the preschool. He said a “Do Not Enter” sign would be provided at the entrance to the preschool to prevent parents from turning in. He said there was an existing playground behind the church, and one would be added behind the preschool.

Mr. McCollum said the factors favorable were that the use was consistent with the Comprehensive Plan and Rural Area Plan, the proposal provided a preschool/daycare option for people who lived and worked in the area, there were no detrimental impacts to adjoining properties are anticipated, and the parking lot striping would increase safety. He said that staff did not identify any unfavorable factors and had concluded by recommending approval with conditions, with the conditions detailed in the staff report.

Mr. Bivins asked what staff’s position was on having 50 students.

Mr. McCollum said Transportation Planning had a large comment on that and expressed concern about the amount of existing parking and the potential for cars to back up onto the existing road. He said their first comments were suggesting a decrease in the number of students, and when the applicant resubmitted with the number of 35 students, they felt there was sufficient space for pickup and parking for those students.

Mr. Bivins asked if the modification was because the applicant heard the concerns expressed by staff. He said he assumed there was not a traffic study performed.

Mr. McCollum said no traffic study had been done at this time.

Mr. Bivins said it was an isolated area with not much traffic. He said he did not understand why they could not have 50 students.

Ms. Firehock said in two years they may come back and ask for 15 more people.

Mr. Bivins said if it could handle it, he did not see why they should force the applicant to come back, but he would not push that point right now.

Mr. Clayborne said he agreed. He asked if this would go to a site plan review.

Mr. McCollum said there was no existing site plan on the site.

Mr. Clayborne asked if it did not, who would be responsible for ensuring accessibility with the parking and building.

Mr. McCollum said building permits would be required before the preschool opened as well as zoning clearance. He said the Inspections department and Zoning would be out to inspect the site to make sure it was safe and accessible.

Mr. Clayborne thanked Mr. McCollum for the answer. He said the sketches provided were minimal, so he would like to know how many handicap spots and other factors were accounted for with the information given.

Mr. McCollum said some of the reviewers had provided comments to the applicant already and discussed potential building permits they would need, but they could certainly follow up with the applicant if there were other concerns. He said at this time, staff did not note anything that was typically concerning.

Ms. Rebecca Ragsdale said the zoning clearance process would include another site inspection and verification that any of the conditions were met. She said that there was nothing triggering the need for a site plan in this case.

Mr. Missel said his question referred to water and sewer. He said in the information given, there was correspondence back in June and July on this, and it was not much of an increase in the student body, but he would like to know if they had the water and sewer necessary and at what point that would be confirmed.

Mr. McCollum said with the second submittal, the Health Department provided their approval of up to 50 students and at least five staff.

Mr. Missel asked if that was what was referred to as non-transient.

Mr. McCollum said yes, it was for water and sewer consumption.

Ms. Firehock said they would now hear from the applicant.

Ms. Elizabeth Claman said she was currently the Director and lead teacher at Daylily Preschool. She said they had operated for over 10 years. She said the proposed program would run from 8:30 a.m. to 5:30 p.m., Monday through Friday, throughout the school year. She said the ages of the children would be 16 months to 5 years old, and she was looking at a maximum of 35 children at this time and 5 teachers. She said the parents would park in the front of the church and the teachers would park at the side and behind. She said Daylily would play a central role in the community because it would prepare children socially, cognitively, and physically for kindergarten. She said they learned reading, art, math, and social skills in a safe and nurturing environment.

Ms. Claman said they would be actively involved in daily, small-group activities and instruction. She said as a reading specialist, she would individualize the lessons for all enrolled children and

implement them with the 4- and 5-year-old children. She said the children would be immersed in a language-rich environment; they were read multiple books daily, alphabet would be taught through exposure to letters and letter sounds, writing, rhyming, and poetry. She said the intention was to serve Western Albemarle's community. She said the preschool would be operating from an existing building with no major exterior or parking lot changes planned. She said a preschool in Western Albemarle would reduce the traffic from Crozet area into Charlottesville, and Daylily would continue to provide a local option for a fast-growing area.

Ms. Firehock asked if there were any questions for the applicant at this time.

Mr. Bivins said he assumed they were talking about the house behind and to the right of the church.

Ms. Claman said yes.

Mr. Bivins asked if there would be a path from that house to the existing playground, or if they would only have activity centered at the house's new daycare center.

Ms. Claman said the plan was to use both and allow the younger children to use the current playground and the older children to use the larger backyard in the back.

Mr. Bivins asked if there would be paths to get the younger children there without using the driveway.

Ms. Claman said there was no traffic or anything there and there was only grass that went across.

Mr. Bivins said he understood that the applicant responded to the comments from staff to reduce the number of students from 50 to 35. He asked if they could accommodate 50 students with what Ms. Claman envisioned the staffing and structure to be.

Ms. Claman said that was the original plan and she had worked through all of that thinking it would work, but after meeting with everyone at the County, it seemed that the parking and traffic could be an issue. She said other than that, she felt she could make it work in this space.

Mr. Bivins said he assumed when they had church on Sundays, there were more than 50 people.

Ms. Claman said absolutely.

Mr. Bivins said he wanted to note that point.

Ms. Firehock said they could return to it.

Mr. Clayborne asked how far in the future the limit of 35 students would last at the school.

Ms. Claman said the area was growing so much that she thought that she had a full waiting list until January of the following school year. She said that was why she decided to move forward with this project, so she did not have an issue filling it and it could be a possibility that she could try again.

Mr. Clayborne said that he was wondering if she would need to come back to get requests for an increase. He asked how many of the 35 to 50 kids were being picked up throughout the day.

Ms. Claman said she estimated about 60% would be picked up at 12:30 p.m.

Mr. Clayborne said he was trying to understand the traffic flow in the afternoon. He asked if Ms. Claman could discuss the demographics of the students with gender, socioeconomics, or race.

Ms. Claman said her school was a representation of the Western Albemarle area, and a majority of her children went to Crozet Elementary, Merriweather, or Brownsville, so it was representative of the demographics who attended those elementary schools.

Mr. Clayborne asked if there were any goals to change that.

Ms. Claman said she would be happy to change that. She said part of it was getting the travel to the school, but she would be happy to look into that.

Mr. Missel said one of the conditions of approval that staff gave was that the hours of operation for the preschool shall be limited to 8:30 a.m. to 5:30 p.m. Monday through Friday. He said before that was permanently made a condition, he would like to know if those hours were suitable. He asked if there were other events where the hours may need to be more flexible.

Ms. Claman said she had not done so in the past. She said usually when there was a special event, it was held during the school week.

Mr. Missel thanked Ms. Claman.

Ms. Firehock asked if there was anyone from the public who would like to speak.

Ms. Shaffer said there were no speakers signed up via Zoom.

Ms. Firehock said she saw no members of the public who wished to speak. She asked Ms. Claman if she had any final remarks.

Ms. Claman said she enjoyed what she did, and she learned so much from the children. She said the goal was to get them into kindergarten, and the majority of her children left knowing their letters, letter sounds, and how to read. She said that was their plan to continue.

Ms. Firehock thanked the applicant. She said the matter was now before the Planning Commission for discussion. She asked if Mr. Bivins wanted to discuss the number of students. She said it sounded like there were constraints with parking, but they were also sympathetic to small businesses having to go through the process multiple times.

Mr. Bivins asked to see the photographic site plan.

Mr. McCollum asked if Mr. Bivins wanted to see the conceptual plan.

Mr. Bivins asked where the issue was. He said they knew that 60% of the students would be leaving at noon, so he did not understand what the traffic issue was. He said he did not understand why they could not offer 50 students.

Mr. McCollum said Transportation Planning was cognizant of the fact that many students would be picked up at different times, so they were not concerned with afternoon traffic as much as they were with the morning traffic. He said when staff visited the site, the parking lot was not striped at the time, but they had since attempted to stripe it, and there was a large concern that if there were 50 students, the number of cars that may be in a line trying to drop off students may leak into the public roads. He said he was unsure if there would be space for stacked parking. He said that based on the site visit, it appeared to be an area where one would park perpendicular, facing the buildings, and it did not appear that multiple cars could park in that space.

Ms. Firehock asked if anyone discussed the idea of carpooling with the applicant. She said if children had siblings in the district they could carpool.

Mr. McCollum said they had a meeting, and he could not remember the numbers specifically, but carpooling was discussed as a possibility to alleviate some of that.

Ms. Firehock said there did not seem to be a solution at hand to the stacking problem at this time, but it sounded solvable.

Ms. Ragsdale asked Ms. Firehock to repeat herself.

Ms. Firehock said it sounded solvable.

Ms. Ragsdale said they mentioned this incremental increase did not trigger a site plan, so if they expand parking and need expanded parking, that would trigger the site plan process and delay the incremental increase, add expense, and while she would not speak for the applicant or Mr. McCollum, this allowed for that incremental increase with the existing parking areas and buildings, but they were approaching the threshold where the next increase would be substantial and would require an engineered site plan.

Ms. Firehock said that was helpful information.

Ms. Ragsdale said they tried to keep that in mind when working with these facilities, because they had some that came back multiple times.

Mr. Murray said looking at that intersection when Route 810 was closed, the road between Whitehall and Crozet was one of the only alternate routes to get back into Crozet, and that turn was difficult. He asked if there were any plans from VDOT to improve that turn. He said it was difficult to see oncoming vehicles at that turn.

Ms. Firehock said that Mr. Bivins was saying that he was satisfied it had all been considered, and they may eventually get to 50 students, but it would be a slow planning process. She asked if there were any other questions or concerns about this development. She said it was a great service when anyone was willing to offer more schooling opportunities for their young people.

Ms. Firehock said there were conditions associated with the motion.

Mr. Murray asked if the conditions were different than those in the staff report.

Ms. Firehock said no.

Mr. Murray said okay.

Mr. Murray motioned to recommend approval of SP202200003 Daylily Preschool with conditions as recommended in the staff report. Mr. Carrazana seconded the motion, which carried unanimously (6-0).

Ms. Firehock said the item would now be scheduled to be heard by the Board of Supervisors. She said they would now move on to their next public hearing item.

Mr. Herrick clarified that these were two related SP applications. He asked if there was an intent to make a single hearing for the two items.

Ms. Firehock asked if there were two coming up.

Mr. Herrick confirmed that there were. He said they were associated, so his recommendation was that they clarified from the onset that it was a single public hearing if that was the will of the Commission. He said there would be separate votes on each of the special use permit applications.

Ms. Firehock said that was fine. She asked if they would hear both presentations and then hold the public hearing.

Mr. Herrick said that would be his suggestion if it worked for the presenter, the applicant, and the Commission.

Ms. Firehock said they would hear the first presentation.

SP202200009 Virginia Institute of Autism
SP202200003 Virginia Institute of Autism (VIA) Stand Alone Parking

Ms. Ragsdale said there would be two separate actions for the two separate SPs. She said the first was SP202200009 for the school expansion to locate the elementary school programs beside where the existing high school and adult programs were, and the associated special use permit for standalone parking across the street.

Ms. Ragsdale showed the location map of the existing Virginia Institute of Autism facility at the corner of Greenbrier and Hillsdale Drive that was approved in 2019, and next to it to the south was the proposed expansion of the school so that the elementary school could move from its current location in the City, allowing all the facilities to coexist in one location. She said across the street was the vacant parcel that had an existing entrance and would be used for extra employee parking. She said the existing zoning of the site in this area was C-1 Commercial, private schools and standalone parking were by special use permit, with nearby residential planned unit development shown in blue.

Ms. Ragsdale said that currently, the adult program served 52 participants and approximately 69 staff members, and with the addition of the elementary school, it would bring the total across the two properties to 137 students and approximately 158 staff members. She said the existing buildings would be utilized, there was a proposed outdoor play area that would be added to the site, and the standalone parking consists of approximately 166 spaces and would be across the street, accessible by the existing sidewalks and crosswalk on Hillsdale Drive.

Ms. Ragsdale said showed a slide with an overview of the concept plan. She said there would be a very detailed site plan for the parking area that would include landscaping requirements for street trees, parking lot landscaping, and tree canopy that was not shown at the concept plan stage. She said there would also need to be a minor amendment to allow for parking lot adjustments, a review of the final bus queueing, and the location of the playground if the proposal was recommended for approval.

Ms. Ragsdale said there were three different designations for future land use for the site. She said the existing school facility was designated as Institutional, and the area was surrounded by Urban Density designations, which could include secondary uses such as schools. She said the parcel proposed for expansion was designated as Office/R&D/Flex/Light Industrial with residential suggested as a secondary use. She said staff felt this was an appropriate location, an analysis was performed that included Transportation Planning and VDOT. She said the community meeting was held, with some questions and comments raised about transportation, noise, and several supportive comments about the facility and its important services for the region.

Ms. Ragsdale said staff recommended approval with conditions for the school expansion that addressed the concept plan, maximum enrollment, hours of operation, and other typical items for these uses, along with a carryover from the prior SP for signage for the bus queueing. She said there was a similar condition for the special use permit for standalone parking, and in general accord with the concept plan, reflecting the major elements to include the location of the parking areas.

Ms. Firehock asked if there were questions for staff.

Mr. Missel said on the front page, it talked about proffers and conditions. He asked if there were no proffers associated with this application.

Ms. Ragsdale said that was correct.

Mr. Missel said he missed the information regarding the timing of the implementation of the off-site parking. He said it noted that the proposed parking would only be necessary when the school expansion created a need for employee parking. He asked if there was a time for that.

Ms. Ragsdale said the applicant would discuss the timing of the different phases of expansion in their narrative.

Mr. Missel thanked Ms. Ragsdale.

Mr. Bivins said they were losing a C-1 spot to a parking lot. He asked if staff in Economic Development were part of the discussion about losing that spot. He asked if there was some way, they could put relegated parking under a building.

Ms. Ragsdale said they were not losing it, and this would allow the school the option to use it for just parking, but it did not preclude it from future development either by-right.

Mr. Bivins asked if the C-1 Commercial designation would remain on the land use map and would have a special use as a parking area.

Ms. Ragsdale said that was correct and that would have the additional use option. She said it was actually shown as Urban Density Residential in the master plan.

Mr. Bivins said there were few places with access to commercial property and he had to bring it up if it were being lost.

Ms. Firehock asked to hear from the applicant.

Ms. Valerie Long said she was with Williams Mullen, representing the applicant, Virginia Institute of Autism. She said she would allow Ethan Long, President and CEO, to discuss the plans for the property. She said she would address questions and provide clarity if needed.

Mr. Ethan Long said this was his 12th year at the Virginia Institute of Autism, a nonprofit organization that had existed since 1996 and was founded in Charlottesville. He said the mission of the organization was to serve individuals struggling with the challenges of autism, which was done through evidence-based practices. He said they were one of a handful of programs across the country and internationally, and this was a culmination of a vision that had been held since he arrived at the organization. He said they were building off of the site for adolescent and adult autism services. He said all the students who came to their school program had a diagnosis of autism or a related development disability and were experiencing significant challenges in areas of communication, social interaction, and learning.

Mr. Long said this student population was different from when entering any other public school. He said they were an extension of the public schools and were licensed by the Department of Education, and families did not pay private tuition because it was funded by the school districts and localities, as well as the Office of Children's Services, to provide a free and appropriate public education to the student population. He said about a third of their students came from the Albemarle County and Charlottesville City communities, but they also took students from as far away as Fauquier County, Harrisonburg, and other areas about an hour away from their location.

Mr. Long said the current school they had was on Westwood Road and the school had outgrown some of those facilities. He said the opportunity to be able to renovate their Jordan Building was exciting for them, partly because of the synergy it would bring. He said it was a unique model because they had more staff than students at a 1:1 model, and all of their staff members were specialists, with registered behavioral technicians, special educators, licensed behavioral analysists, social workers, and psychologists to create a multidisciplinary team to work with the students. He said the goal for all the students was to get them back to public schools in a condition they could maintain in their public schools and communities. He said it was a unique opportunity because when parents received their child's diagnosis, it was often at an early age, and they did not know what resources they needed.

Mr. Long said they had been able to design their current building's space for autism for sensory needs, including reinforced walls, egresses to make spaces wide, safely unloading buses, certain classrooms designed to teach functional living skills, and other spaces, which they would be able to create more of at their new building. He said they would aim this to more of their elementary school-aged children, ages 5 to 14, and they would have special learning spaces where they would focus on getting ready to learn in public school and spaces where they could have individual working activities.

Mr. Long said they were looking to have nine to 10 classrooms focused on that, and then a special unit that would be a neurobehavioral classroom, utilizing the expertise in the Neurology and Developmental Pediatrics Department, for students having significant challenges of behavior including self-injury and destructive behaviors be able to stay in their homes but come in for education, stabilize behavioral needs and medication, and as they become successful to be able to transition and matriculate them into the right classes in the program. He said it would be continuing support and services that would be offered. He said this model was a culmination of a professional career and a dream, and to be able to bring that to the community and leverage the power at the University of Virginia to share the model across the United States was exciting. He said he would let Ms. Long answer some of the detailed questions.

Ms. Valerie Long said that the existing site was what used to be the senior center. She said there was an existing site, existing SP, then a proposed new location for the elementary school, the shared parking area, and roughly the location of where the new playground would be located, and the standalone parking for if and when it was needed. She said to Mr. Bivins' question, the C-1 zoning would stay in place, and hopefully this would be developed with a commercial use of some sort, and the parking could be integrated. She said as they moved forward with their planning, they would have enough parking for their unique staffing and ratios.

Ms. Long said Hillsdale Drive was recently improved with sidewalks, bike lanes, crosswalks, and a bus stop. She showed a slide of the two sites together. She showed an image of the field where the overflow parking would be needed, and to answer Mr. Missel's question, there was no set time, and it was dependent on if and when they needed it. She said the timing for the capital campaign to raise money for the second phase of the elementary school was uncertain at this time.

Ms. Long said they had lots of information about how they arrived at the number of parking for teachers and staff. She showed a conceptual plan and indicated the site of the existing building and where the elementary school building would go. She said there was a detailed bus drop-off, a playground area, and a fence and sidewalk designed carefully to keep the children separate from buses and cars. She showed a slide of examples of the indoor and outdoor play areas at the existing elementary school and said it would be similar to that, and that the new playground would be larger than the existing one.

Mr. Murray said that very near the site was Meadow Creek, and they were converting a permeable surface into an impermeable one. He asked if there were any measures to capture stormwater onsite, including vegetative islands in order to keep the water in the landscape instead of washing it out.

Ms. Long asked if Mr. Murray was discussing the future standalone parking site.

Mr. Murray said yes. He said anything that could be done to capture stormwater onsite, and he was sure staff had many ideas they could work with.

Ms. Long said she would imagine the new stormwater regulations would probably incentivize that.

Mr. Murray said they would.

Ms. Long said Jonathan Walter with Timmons Group was present. She said that if and when they got to the point of needing that site planning stage, they would keep those in mind.

Mr. Bivins asked if there would be a site-specific or site-contained way for people to walk between the two buildings without using the external sidewalk.

Ms. Long said yes. She said they had not really gotten to that point. She said there was a bus circulation route.

Mr. Bivins said that was fine.

Ms. Long said they had not gotten to that part, but they recognized that would be an important issue to help everyone walk through the parking lot safely.

Mr. Bivins said to keep people off the road.

Ms. Long said yes.

Mr. Bivins asked if they were not changing the use of the building on Greenbrier. He asked if that building would remain for them.

Ms. Long said that was correct.

Mr. Bivins said many geese lived in that area.

Ms. Long asked what area Mr. Bivins was speaking about.

Mr. Bivins said he was referring to the proposed parking lot.

Ms. Long said she was familiar with the geese problem on the opposite side of Hillsdale.

Mr. Bivins said there was a group of geese that occupied that field.

Ms. Firehock asked if there was a second presentation for the Commission to hear.

Mr. Herrick said there was only one presentation by staff and the application.

Ms. Firehock asked if there was no further presentation.

Mr. Herrick said that was correct. He said the intention was to combine them.

Ms. Firehock said she understood.

Mr. Herrick said the only separate issues were the motions for each special use permit.

Ms. Firehock said she had overcomplicated the matter.

Ms. Firehock asked if there were any public speakers.

Ms. Shaffer said there was not.

Ms. Firehock asked if the applicant had any further comments. Hearing none, she brought the matter back before the Commission for discussion.

Mr. Bivins said he was pleased to know they were not losing inventory from the commercial land use. He said at some point, there would be a connected route, so this became an alternative.

Ms. Firehock asked if Mr. Bivins was referring to the future traffic volume increase.

Mr. Bivins said yes. He said this would be a perfect place for commercial office space on the other side of that development.

Mr. Murray said it could be an apartment building with commercial on the bottom.

Ms. Firehock said she was pleased to see the use of existing urban space and the work on an existing footprint. She said she hoped the playgrounds they put in were as environmentally friendly as possible. She said there was a lot of research about the access to green space for people with learning disabilities or behavioral issues, and it was a paved area except for the space across the street. She asked if it could be made a calming environment for arriving or playing outside. She said it seemed an appropriate use that helped a business combine and become more efficient in their provision of services, with a very worthwhile mission.

Mr. Missel moved to recommend approval of SP202100009 Virginia Institute of Autism Expansion for the reasons stated in the staff report and with the staff recommended conditions.

Mr. Herrick asked Ms. Ragsdale for clarification that it was SP202200009.

Ms. Ragsdale said that was correct.

Mr. Missel apologized.

Mr. Herrick said there was a typo on the screen. He said the SP number was 202200009 with conditions stated in the staff report. He asked Mr. Missel if that was correct.

Mr. Missel said yes, that was correct.

Mr. Clayborne seconded the motion, which carried unanimously (6-0).

Mr. Bivins moved to recommend approval of SP202200010 Virginia Institute of Autism Stand Alone Parking.

Mr. Herrick said the form of the motion suggested it be with the conditions stated in the staff report and for the reasons stated in the staff report. He asked if that was Mr. Bivins' motion.

Mr. Bivins said yes.

Ms. Firehock thanked Mr. Herrick and Mr. Bivins for clarifying that.

Mr. Carrazana seconded the motion, which passed unanimously (6-0).

Ms. Firehock said both SPs passed unanimously by the Planning Commission and would be heard before the Board of Supervisors at a date to be determined.

Committee Reports

Mr. Carrazana said the NPO met last week and began to meet in person again. He said he was unable to attend in person but was present virtually. He said they held elections for new officials. He said they looked at the schedule and how they integrated with the comprehensive plan for their activities.

Ms. Firehock asked if there needed to be a conversation between Mr. Rapp and their representative to figure that out.

Mr. Carrazana asked for clarification.

Ms. Firehock said that Mr. Rapp could schedule with them.

Mr. Carrazana said Mr. McDermott was a part of it and would help coordinate that.

Mr. Missel said that he was unable to attend his 5th Street and Avon Street meeting.

Mr. Bivins said the first in-person Places29 meeting was held, during which they received an update from Mr. Lance Stewart on sidewalks and school items. He said they also had a conversation about the master plan for the Lambs Lane campus. He said the plan was under the school's jurisdiction, but at an appropriate point, it would come before the Planning Commission so they would have knowledge of what was going on in the community. He said it was a major step forward if it was able to be funded through the schools' CIP. He said he could share the online information about the plan with the Commission members. He asked Mr. Herrick if he should send it to a staff person to send as a link.

Mr. Herrick said no. He said it would be fine to send it to planningcommission@albemarle.org and it should go to all the members of the Commission.

Mr. Bivins said he did not want to do anything to cause a meeting.

Mr. Herrick said reply all was fine.

Mr. Carrazana said that was great to hear. He asked if they looked at relocating some of the services that perhaps did not need to be there.

Mr. Bivins said they had. He said they looked at how they moved through a package of changes, and one of the key changes was moving the bus garages and maintenance and fueling of County vehicles off of the campus to a different location. He said that freed up a good amount of space and also allowed the bus depot to exist independently of the high school location. He said he hoped there would be support from an environmental perspective to move those facilities from that campus.

Ms. Firehock said she missed her CAC meeting because she wanted to attend the comprehensive plan meeting held at Yancey School. She said she was impressed with the attendance and the robust conversations. She said she had follow-up comments for staff. She said there were a few

instances where she felt they could have better explained what the comprehensive plan was. She said because it was called a comprehensive plan by their legal language, it sounded like a plan to do something, whereas their comprehensive plan was really an aspirational guide.

Ms. Firehock said people were saying they would like to have their utilities undergrounded, so there was a disconnect. She said there was a lack of knowledge of several things happening in the southern part of the County such as their new convenience center. She said people were asking for that and some of the facilitators did not know that one was already approved and planned. She said she had notes for those facilitators, and it was a good discussion and she enjoyed it.

Ms. Firehock said the Historic Preservation Committee should have met yesterday, but they had their third meeting canceled due to a lack of quorum for the third time in a row, so they had not met for three months. She said she suggested they needed to meet every other month, which might require changes to the charter, but also might suggest that a stern letter be sent to participants to remind them that they needed to be able to attend these meetings, otherwise there should be new members who were able to show up. She said three people came from Scottsville, Staunton, and Crozet to attend the meeting and took off work to do it, so people lost time and money.

Mr. Clayborne said the Pantops CAC met in person yesterday, but he was unable to attend the meeting.

Mr. Murray said the Crozet CAC met and had a presentation from Albemarle Parks and Recreation about various greenways and events happening. He said there was also a brief update on the Montclair Stream, in which they were informed that an independent contractor was hired to evaluate the status of the stream and they were waiting for those results.

Ms. Firehock said she was glad to hear they were hired. She said she heard they were going to find an independent consultant to increase trust for whatever that opinion was. She said it had to do with whether it was a perennial or intermittent stream. She said there had been a lot of strange claims about the stream.

Mr. Herrick said that was an item that would be before the Planning Commission, so they could have a fuller discussion about it at that time.

Mr. Murray said he also met with Albemarle County Natural Heritage Committee for review of the Biodiversity Action Plan and wished their staff representative goodbye, Kim Biasioli.

Mr. Bivins asked for Mr. Murray to repeat who he was speaking about.

Mr. Murray said it was Kim Biasioli. He said she was leaving the County, and their new staff representative was Scott Clark.

Ms. Firehock asked if they were going to refill the position. She said Ms. Biasioli was a natural resource management specialist for the County and did a lot of different things. She asked if they knew if the County was rehiring.

Mr. Murray said that was their hope.

Ms. Ragsdale said yes.

Ms. Firehock said that was great.

Ms. Firehock said the last report they were supposed to have was from Mr. Rapp, who could not be there this evening. She asked if anyone else would give the presentation.

Review of Board of Supervisors Meetings September 7 and 21, 2022
Ms. Ragsdale said she would review items that the Planning Commission had acted on from the September 7 and 21 meetings of the Board. She said on September 7, the Board approved the Ferdyiweck-Deal rezoning for an additional lot on Old Lynchburg Road.

Ms. Firehock said that was from a long time ago.

Ms. Ragsdale said it was from June. She said the action at the September 7 meeting was The Heritage, more recently from July, which the Board approved as well.

Mr. Bivins asked if they were still calling it The Heritage.

Ms. Ragsdale said they noted they would be rebranding and was a placeholder. She said that was approved for residential rezoning. She said the Southwood public hearing had been held on September 21, and there was a lot of discussion. She said the item had been before the Planning Commission in April and the applicant submitted some revisions since then to address some of the concerns.

She said the Board held the public hearing, had discussion, requested more information, and the item was scheduled for action no later than November 2. She said the changes included an increase in the school site size and a revision to the sunset clause. She said there was a lot of discussion about the sales price. She said at the meeting, there was an offer to establish a not-to-exceed sale price. She said staff would be bringing back information about funding implications for the public hearing.

Mr. Murray asked if Ms. Ragsdale could describe the sunset clause in more detail.

Ms. Ragsdale said it was extended until July 2027. She said the site would be available for purchase by the County until that date, which worked with the school's planning.

Mr. Bivins asked which school site Ms. Ragsdale was discussing.

Ms. Ragsdale said it was the elementary school proffer. She said she went into more detail with that because she thought they may be interested, but they could see it when it was online.

New Business

Draft Planning Commission Rules of Procedure Discussion
Mr. Andy Herrick of the County Attorney's Office said he wanted to thank the Commission for allowing him to participate remotely last month. He said the rules of participation did not apply to him as a non-ruling member of the body, but as they may recall, pre-Covid rules for the Planning Commission did not have an allowance for remote participation, but as the Planning Commission was one of the first public bodies in Albemarle to return to in-person meetings, they thought it

appropriate to try to adopt a remote participation policy as soon as possible, even though they saw ahead that the state law was going to be updated as of September 1 of this year, which now had occurred. He said the Commission had in effect right now a remote participation policy that allowed for individuals to appear remotely for certain reasons.

Mr. Herrick said that was in effect and he understood they may need to invoke it at the October 11 meeting, but in the meantime, as he indicated, the state law had been updated effective September 1. He said they had proposed some updates to the rules of procedure to reflect the latest changes in state law. He said substantively, there were not a lot that affected the Planning Commission. He said there was an allowance in state law that said if a public body was meeting more than 60 miles away from the residence that it was reason enough to allow someone to appear remotely. He said that state law applied to all public bodies in the state and was primarily applicable to state public bodies rather than County public bodies.

Ms. Firehock said 60 miles away from there was in the middle of nowhere.

Mr. Herrick said he could not imagine a Planning Commission meeting that would take place 60 miles away from any of the Commissioners' homes, but it was there and was added so that if there ever was such a meeting that it was allowed. He said state law was also amended to allow all-virtual meetings, but it did not apply to the Planning Commission. He said there were two types of meetings that had now been liberalized, one of which was the individual remote participation and the other of which was all-virtual meetings. He said unfortunately, the new state law specifically excluded local governing bodies, Planning Commissions, Board of Zoning Appeals, Architectural Review Boards, and School Boards from engaging in all-virtual meetings.

Mr. Herrick said hopefully that would be an item for the Board to pursue in upcoming General Assembly sessions to allow encourage the Assembly to allow local governing bodies to meet virtually, but for the time being, it was simply not allowed and was not part of the rules amendment. He said staff had drafted a suggested rules amendment to continue to track state law. He said if the Planning Commission chose to proceed with the rules amendment, it could not be adopted in this meeting; under the rules of procedure, any amendment to the rules required one meeting's notice, so the soonest this could be adopted would be at the next meeting if the Commission chose to pursue it. He said if the Commission was interested, his recommendation was that a motion be made to put the approval of the revised rules on the next meeting's agenda.

Ms. Firehock asked if a motion was required to put this on the October 11 meeting agenda.

Mr. Herrick said there should be a motion to put this on the agenda for the next meeting, not naming it October 11 in the event that October 11 failed to occur due to a lack of quorum or some other event. He said the next available meeting, presumably October 11, was when there would be a vote on the revised rules if the Commission was interested in pursuing it.

Ms. Firehock asked if the vote would take place at the beginning of the meeting and then be in effect before that meeting.

Mr. Herrick said no. He said the existing rules would be in effect for that meeting. He said it could be that if it needed to be, and other counties' public bodies had, to adopt rules that allowed remote participants in. He said the Planning Commission already had a remote participation policy that allowed that, so it was not necessary to make that first on the next meeting's agenda.

Ms. Firehock asked if they required a meeting to put it on the next meeting's agenda.

Mr. Herrick said yes.

Mr. Missel motioned for the item to be put on the agenda for the next meeting. Mr. Murray seconded the motion, which carried unanimously (6-0).

Ms. Firehock said the item would be placed on their next available agenda.

New Business

Ms. Firehock said she was unable to attend the Commission's next meeting, which was scheduled for October 11, 2022, and she would not be able to participate remotely. She said Mr. Clayborne would also be away but would be participating remotely. She said she believed Mr. Rapp would have to open the meeting as the secretary, then they would have to vote to let Mr. Clayborne in remotely, then vote on whether it was acceptable for Mr. Bivins or another Commissioner to Chair the meeting. She said she had already asked Mr. Bivins if he was willing and able.

Mr. Herrick said Mr. Clayborne could Chair the meeting remotely.

Ms. Firehock said they could decide that at the time of the meeting dependent on the situation of Mr. Clayborne's remote participation.

Mr. Herrick said there must be a physical quorum for the meeting.

Ms. Firehock said it would be a small quorum.

Mr. Carrazana said he would also not be present on the 11th.

Mr. Herrick said there was no quorum so there was no October 11 meeting. He said he was unsure of what the Board's schedule was for appointing the vacant Commissioner.

Ms. Firehock said that part of the issue was that the position was not filled.

Mr. Herrick said if that position was filled before October 11, they could fill the quorum, but he could not speak to that.

Ms. Firehock said she would communicate with the Board member who was aware of the situation and inquire as to whether there was any hope for that position to be filled in a timely manner. She said she did not know what was scheduled for their October 11 meeting.

Ms. Ragsdale said the legal ads had already run for the October 11 meeting.

Ms. Shaffer said it could still be canceled.

Ms. Ragsdale said there was a cell tower, Scottsville substation expansion, Crown Orchard farmworker housing, and the rules of procedure. She said they had a full October 25 meeting, but they would reschedule and communicate with the applicants. She said they had six SPs come in at one time and there were more preschools they were able to move through the process and the

ordinance indicated that must be done within 90 days if they wanted to go straight to public hearing.

Ms. Firehock said she would ask about the vacant position to see if there was some movement. She said perhaps someone had already been appointed.

Mr. Clayborne asked if there was some room in the rules to move the meeting to the third Tuesday.

Mr. Herrick said he would need to look into how much advanced notice was required to move a meeting. He said as Ms. Ragsdale indicated, if the ads had already run for October 11, they may not be able to do it at this stage, but they would look into it.

Ms. Firehock asked if there was any Old Business.

Mr. Bivins said he remarked that their Supervisors for Southwood were able to give themselves some space after the public hearing to consider their vote on Southwood away from the emotions. He said he wondered how they would begin to think about being able to create some space for them to have a public hearing but move on the item the next meeting. He said there would be numerous issues heard before the Commission as they moved deeper into the comprehensive plan, and he would like to be able to hear the public hearing and then vote after having a moment to reflect on it privately and away from the emotional conversation.

Ms. Firehock said that could be accomplished through a work session where public comment was allowed, but it could be decided at the work session they were not taking votes but having a discussion. She said there would still be a public hearing later when they would vote, but much of the thoughts had already been discussed and time was had to research and ponder.

Mr. Missel said that from the position of an applicant, that would be a better scenario than having a delay from when the public hearing occurred and the deliberation and the vote.

Ms. Firehock said there were some items that made sense for a work session, and comprehensive plan policies were a perfect example of that.

Mr. Herrick said from his perspective, it was working back from the deadline. He said if the deadline was 90 days from referral to the Commission, the Commission was given 90 days to make a recommendation. He said if the Commission wished to build in additional time for consideration, he would suggest, with the coordination of staff, they should schedule a public hearing further back.

Ms. Firehock asked if Mr. Herrick meant further back from the deadline.

Mr. Herrick said that was correct. He said it would, instead of scheduling a public hearing at the last available date before the 90th day, schedule the vote on the last available day before the 90th day, but the public hearing may be at the Planning Commission meeting before that.

Ms. Firehock asked if it was possible to segment a public hearing and a vote on an item.

Mr. Herrick said it was as long as the deadlines were met.

Ms. Firehock said that was interesting.

Mr. Herrick said a public hearing must be held, but the vote need not take place on the night of the public hearing.

Ms. Firehock said that was intriguing. She said she could think of several items she wished she had more time to research.

Ms. Ragsdale said staff could look at that. She said there were development applications and there was the comprehensive plan, which they controlled the schedule for. She said they were mindful of when an item was ripe for a work session, and they may have some of those come forward. She said some applicants were willing to extend the time for action beyond the 90 days with the resubmittal process, but when an application was submitted, the applicant was driving the clock and in control of it until the Planning Commission took action.

Mr. Bivins said he used the comprehensive plan because he did not know the full suite of things before it developed. He said there were historical pieces where he felt he needed time to digest the public comment heard before taking a vote, and he did not want a delay in the process but wanted to give the Commission the time that allowed them to vote within the 90-day timeframe, but backed them up as their counsel said. He said they knew what to expect from CACs and from staff to decide whether or not to have a separate public hearing from the vote, so there were many different ways to signal this. He said due to what they dealt with at Southwood, he knew they would have benefited from having space between the public hearing and the vote.

Mr. Herrick said the way the calendar worked was that the Planning Commission had to make its recommendation within 90 days of submission, but the Board of Supervisors had to make its decision within a year of when it was referred to the Planning Commission. He said the Board had one year minus the 90 days of the Planning Commission.

Mr. Bivins said if issues were coming before the Commission, it would be nice to have more time to process public hearings.

Ms. Firehock said there were multiple applications where people had made claims about research and facts, but the Commission had no way to verify what they were saying.

Mr. Herrick said they had no control over whether the applicant agreed or did not agree to a deferral. He said if the applicant did not agree to a deferral, the Planning Commission. Had no choice but to take the vote.

Ms. Firehock said a way to reasonably handle this would be if they knew something was coming up that would be complicated, they would ask the applicant to do a work session with the Commission. She said they had done that with some, and it gave them a chance to work with issues where a vote was not before them, and it gave the applicant the ability to look into it and come back with ideas. She said it had helped with complex things, but there had been some items that she did not believe were controversial, but the day before they received a lot of correspondence about it.

Mr. Carrazana said that with Southwood and a few others, after four or five hours, they were trying to craft language to send to the Board on recommendations, and it could be difficult after so many hours of deliberation, so the County and Board may be better served if they had space to think

about that and held the work sessions. He said with work sessions there may not be as much input from the public.

Ms. Firehock said they had some good participation in past work sessions. She said she would talk about this with Mr. Rapp.

Mr. Carrazana said if there were some that they knew about ahead of time, having space to craft their thoughts would give them better preparation for deliberation at the next meeting.

Mr. Missel said that they should be cognizant of the applicant, especially with large groups that had many people present to speak with them. He said he did not know how the process would play out if the applicant did not decide in that meeting to defer.

Ms. Firehock said that this was not a deferral but something they would work out ahead of time.

Mr. Carrazana said this was within their 90 days. He said they needed to work with Mr. Rapp.

Ms. Ragsdale said this was something they could bring up again. She said she understood they were put in that position with Southwood, but right now they could go over the process more. She said they were limited in the 90 days and what they had to accomplish with advertisements within the 90 days. She said the community meetings at the CACs were only happening every other month.

Ms. Firehock said they could discuss this in the future.

Mr. Bart Svoboda, Director of Zoning in Zoning Administration, said that he wanted to be sure they were careful in managing their expectations correctly once the applicant submitted the application. He said as Ms. Ragsdale pointed out earlier, they had about eight applications backing up right now, so discussing delaying the advertising meant that 30 days came off of the 90-day timeline immediately. He said they should discuss what the expectations were and staff resources with Mr. Rapp.

Ms. Firehock said they would discuss it with Mr. Rapp at their planning meeting on Monday next week.

Mr. Svoboda said the deadlines were in place to make sure the applicant moved through the process so they should stay conscious of that.

Ms. Firehock said Mr. Svoboda was heard.

Ms. Ragsdale said the November 22 meeting was scheduled, but an applicant wondered if the meeting would be held.

Ms. Firehock said they would all be there for the meeting.

Adjournment

At 8:00 p.m., the Commission adjourned to October 11, 2022, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.

Charles Rapp, Director of Planning

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

Approved by Planning Commission
Date:
Initials: