

**Albemarle County Planning Commission
Final Work Session Minutes March 26, 2024**

The Albemarle County Planning Commission held a work session on Tuesday, March 26, 2024, at 6:00 p.m.

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

Other officials present were: Michael Barnes, Director of Planning; Andy Herrick, County Attorney's Office; Francis MacCall; Bart Svoboda; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Missel established a quorum.

Mr. Clayborne motioned to amend the agenda to add the item "Other Matters Not Listed on the Agenda from the Public," which was seconded by Mr. Murray. The motion passed unanimously (7-0).

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

Mr. Clayborne motioned the Planning Commission adopt the consent agenda, which was seconded by Ms. Firehock. The motion passed unanimously (7-0).

Work Session

ZTA2022-02 Zoning Modernization Phase 1

Lea Brumfield, Senior Planner II, said that she would like to note that, as always, these agenda times were approximate estimates. She said that the agenda for that evening would begin with an overview of project goals and their work on this phase of the zoning modernization project. She said that next, they would delve into the principles of their style guide in depth. She said that although these principles were still evolving, they guided their work throughout whenever they were drafting the ordinance.

Ms. Brumfield said that she would also discuss the format and layout of the proposed Article 3 on applications and permits. She said that she would illustrate some of the changes they had made in this draft and then move on to Article 10, which focused on non-conformities. She said that the draft changes for Article 10 primarily concerned formatting and organization. She said that finally, they would discuss the next steps in phase one of the project and briefly touch upon phase two of the project before answering any questions the Commission may have.

Mr. Missel asked if Commissioners should ask questions as they arose or wait until the end of the staff presentation.

Ms. Brumfield said that she would recommend holding questions for at least a few more slides than they might think was necessary. She said that she likely would answer the question within the subsequent slides, whatever the question may be.

Ms. Brumfield said that to refresh the Commission, the project goals of the Zoning Modernization Project included providing streamlined and user-friendly regulation, incorporating best planning practices and current state code requirements, addressing goals and strategies identified in the comprehensive plan, and considering citizen needs and issues identified through public engagement processes. She noted that whenever they referenced an article number, they were discussing the proposed ordinance, not the current one.

Ms. Brumfield said that the initial work session for the Zoning Modernization Project took place in August 2022. She said that at this time, they decided to update the ordinance using a broad, holistic approach, as recommended by their consultants, Berkeley Group, as a best practice. She said that in December 2022, they shared the initial findings of the first round of their public engagement zoning evaluation report prepared by Berkeley Group.

Ms. Brumfield said that in January 2023, they held an open house to present these findings to the public. She said that in March 2023, they held a work session with the Planning Commission, reviewing drafts of Articles 1 and 2 of the proposed zoning ordinance. She said that Article 1 focused on general provisions of the ordinance, while Article 2 established the powers and responsibilities of various officers and bodies enabled by the zoning ordinance.

Ms. Brumfield said that today they were presenting Articles 3 and 10, covering applications and permits and non-conformities. She said that Article 1, covering general provisions, included the establishment of the zoning map, the zoning ordinance itself, and references to enabling legislation for both. She said that it provided guidelines on how to interpret the ordinance in case of conflicts between different sections or even between their ordinance and the Virginia Code.

Ms. Brumfield said that Article 2 established the powers and responsibilities of the Zoning Administrator, Board of Zoning Appeals, Architectural Review Board, and the Planning Commission, per Chapter 2 of the current County Code. She said that it also included enforcement standards and how to apply fees to applications. She said that the draft ordinance they were examining today, Article 3, covered procedures and requirements for applications and permits.

Ms. Brumfield said that the first division of Article Three included common standards and procedures that may apply to multiple application types. She said that subsequent divisions addressed individual applications and the specific standards and procedures that only applied to that individual application type within that division. She said that the article also included requirements and legal standards for public hearings and public required notice.

Ms. Brumfield said that Article 10 covered nonconformities, including non-conforming uses, structures, improvements, parcels, and signs, and that it was straightforward. She said that they were currently in Phase 1 of their project, focusing on established practice, Virginia law, best practices, and general good principles of code writing.

Ms. Brumfield said that later phases would look at design standards, district standards, uses, and incorporate public feedback to make the best practices tailored to their community's ordinance. She said that in Phase 2, they would focus on community design standards, covering standards for lighting, landscaping, signing, parking, and more. She said that she would briefly discuss their initial plans for this phase at the end of her presentation.

Ms. Brumfield said that Phases 3 and 4 would cover standards that affected uses in districts, including which uses were permitted in which districts and what the primary makeup of each district's fabric would be. She said that later, they would delve into performance standards that governed different types of uses.

Ms. Brumfield said that in these phases, they would incorporate best practices from their community's needs and values, looking to the comprehensive plan for that. She said that in Phase 5, they would have multiple reviews of these guidelines, followed by a public hearing with the involved body and subsequent approval by the Board of Supervisors. She said that at this stage, they would also work on general information campaigns to ensure that people were not caught off guard by the adoption of the new ordinance.

Ms. Brumfield said that the style guide principles formed the basis for drafting the ordinance. She said that these guidelines aimed to achieve the project goals outlined at the beginning, primarily creating user-friendly regulation. She said that throughout the process, their Style Guide principles had evolved. She noted that most of the examples she was presenting today were from code they had written, specifically Articles 3 and 10, as well as Articles 1 and 2.

Ms. Brumfield said that they would apply the principles consistently throughout the drafting process. She said that they may expand them slightly, but they would always follow these principles in the draft. She said that their first principle, which guided many decisions, was to avoid jargon and simplify text. She said that this included reducing legalistic language while still retaining enforceability in the ordinance. She provided an example from Section 32.2 in their current ordinance, site plan applicability.

Ms. Brumfield said that they demonstrated that they were simplifying the language when a site plan was required, changing the wording from the current ordinance to the proposed language. She said that instead of referring back to requirements of Section 32 or other applicable requirements and laws, they simply stated that a site plan was required for new uses of development or changes or intensification of use; that was when a site plan was required. She said that this was a simpler way to convey all of these concepts.

Ms. Brumfield said that their second style guide principle was to be brief. She said that they had simplified specifications of when the agent may schedule work sessions and how they must determine appropriate times for requiring a work session. She said that this could be stated in one sentence. She said that the factors to be considered, which were described in the first example of current ordinance language, were a matter of zoning administrator policy and judgment. She said that this was an internal process, not a regulation. It could be excised from the proposed draft.

Ms. Brumfield said that their third principle was using logical and consistent organization. She said that in the current ordinance, it had the allowance of creating applications for zoning permits by the agent or zoning administrator in multiple places for every different kind of application. She said that all of these were fundamentally the same. She said that a more logical and consistent

organization would be to instead of repeating the statement, create common procedures under the proposed Section 3.1.4 that the application standard applied for all applications that may be regulated under the zoning ordinance. She said that this created consistency between application types as well.

Ms. Brumfield said that she had included a table of contents for Article 3; specifically, Divisions 3.2 to 3.7. She said that they followed a predictable pattern within each type of application so that the reader could understand what was coming. She said that the applicability for the division was shown, followed by the designation of the agent, followed by non-common standards and procedures for that application type, and then anything extra at the end. She said that this was simply easier to read and more straightforward, with a predictable structure.

Ms. Brumfield said that as would apply to the entire ordinance beyond what was here today, they had followed the Berkeley Group suggested format by starting with articles, followed by divisions and then sections and subsections across the entire ordinance. She said that another drafting guideline that shaped the way they had written was the prioritization of numbered lists. She said that the example text on the left of the slide depicted a wall of text in the current ordinance.

Ms. Brumfield said that it described when a nonconforming structure may be expanded despite noncompliance with a front yard setback. She said that the snippet of text on the right showed those same regulations in a numbered list instead of a paragraph. She said that none of the regulations had been removed, but the language had been simplified so it was shorter, easier to read, and in a list format, resulting in much more white space. She said that it was much more reader friendly.

Ms. Brumfield said that along those same lines, creating indented lists had been attempted. She said that they were trying to avoid more than three levels deep, so they did not have an overly complex structure. She said that in this case, the first level was the action in a public hearing, followed by the decision-making body's possible actions, and then they listed those actions.

Ms. Brumfield said that they had also created non-regulatory subheadings, which made the text easier to scan, easier to read, and more understandable. She said that the subheadings were not substantive but provided significant assistance for the reader in approaching the text. She said that, as may seem obvious, they were standardizing acronyms throughout the ordinance. She said that whenever an acronym was used, it was spelled out first at the beginning of a section and then referred to by the acronym for the rest of the section.

Ms. Brumfield said that their ninth style guide principle was to use active and inclusive voice wherever possible. She said that for example, in this current section of ordinance text, a special use permit may be revoked by the Board of Supervisors. She said that instead, they had reframed that to say the Board of Supervisors may revoke. She said that it was an active voice and just better English. She said that they had removed instances of gender-specific language and used titles instead of gendered terms throughout.

Ms. Brumfield said that they were stating requirements in the positive instead of the negative, using "may" instead of "may not" wherever possible. She said that in the provided example, current regulations for owner initiation of a zoning map amendment or special use permit required a pre-application meeting unless circumstances were met. She said that in this proposed text, they had introduced a waiver allowing specific exceptions, and it was a positive waiver under these sections.

Ms. Brumfield said that as a brief digression, they had noticed an error in numbering during the creation of this presentation. She said that requirements for special use permits were required unless circumstances were met. She said that to digress, staff noticed the error in numbering, and the numbering formatting would be corrected before the ordinance was presented again.

Ms. Brumfield said that one of the first things they came to the table with in rewriting the ordinance was avoiding repeating state code. She said that they had removed language where state code was copied directly to avoid bulking up the text for no reason. She said that additionally, they aimed to avoid potential conflicts between their ordinance and future amendments of the Virginia Code.

Ms. Brumfield said that in the snippet pulled from Albemarle County Code Section 34.3, they described who had standing to appeal a decision by the zoning administrator. She said that the section of State Code 15.2-2311 was almost verbatim with the same words. She said that instead of repeating those, they included a link to the state code and stated that this section of state code applied.

Mr. Murray said that he was aware of past instances where the legislature had altered an ordinance while granting grandfather rights to localities that had previously passed relevant language. He said that he was curious if this might create a problem for them if they failed to include the code's language in their documentation, thereby preventing them from being grandfathered should there be future changes.

Mr. Herrick said that the County must still be mindful to adhere to the state code and avoid simply repeating state provisions in the local ordinance. He said that to the extent that the legislature has grandfathered or enacted existing provisions into law, the County could adopt an ordinance stating that. However, it was best practice not to merely restate what is already present in the state code.

Ms. Brumfield asked if that answered Mr. Murray's question.

Mr. Murray said yes.

Ms. Brumfield said that she only had two more style guide principles to discuss. Ms. Brumfield said that the twelfth one was to incorporate general best practices. She said that various best practices had been discussed, some of which were covered in the style guidelines and style guide principles they had talked about so far. She said that in addition, they would consider best practices moving forward, such as community design standards drawn from effective zoning ordinances across the state and country.

Ms. Brumfield said that they would apply these best practices by using staff research, communication with other planning professionals, and guidance from their consulting group for later drafts. She said that these best practices would also include items they would discuss later, such as removing application requirements from the ordinance and naming conventions for application types.

Ms. Brumfield said that finally, they were incorporating tables and graphics throughout the ordinance wherever possible as a style guide principle. She said that the illustration on the screen

demonstrated the application process for a site plan application, drafted by some of their staff. She said that although this illustration was more complex, it was business-like in nature.

Ms. Brumfield said that they wanted to ensure that every design was held to a standard and that all illustrations were not regulatory but rather illustrative and helpful for the reader. She said that they provided easier reading through the ordinance and allowed a general understanding of processes, concepts, and design standards. She said that in later phases, they would engage with design professionals to provide more detailed, illustrative regulations such as setbacks, tree canopy screening, and other relevant aspects.

Ms. Brumfield said that moving on to the actual drafts they had today, Article 3 covered the processes of applications and permits that were applied for under the zoning ordinance. She said that currently, these processes and standards were scattered throughout the ordinance. She said that this slide listed, although not exhaustive, primary locations from which they were pulling updates in the current ordinance, ranging from Section 5.2 to Section 30, 31, 33, etc.

Ms. Brumfield said that they would be consolidating references for items such as home occupations, Entrance Corridor Certificates of Appropriateness, and various types of applications into Article 3 instead of having them scattered throughout the document. She said that Article 3 addressed the processes of applications but not the requirements or standards for the actual uses themselves.

Ms. Brumfield said that when they brought in the process for applying for a home occupation, a type of zoning permit, they would follow the zoning permit process but would not specify the types of home occupations available or the regulations associated with them. She said that those details would be covered in Phase 4.

Ms. Brumfield said that the general principles outlined that start at Article 3 served as standardized procedures for various applications. She said that these procedures allowed different descriptions, standards, and processes to serve as a menu for the application divisions listed beneath them. She said that notably, Article Division 3.1 referred to actions by an agent.

Ms. Brumfield said that this was because the agent authorized by state legislation to enact different types of application processes varied depending on the type of application. She said that in some instances, the agent might be the zoning administrator; in others, it might be the planning director. She said that they used the term "agent" in this context to avoid repeating "zoning administrator, planning director, or designee" throughout Division 3.1, adhering to their second principle of brevity.

Ms. Brumfield said that the common procedures outlined in Article Division 3.1 applied to special use permit processes, including pre-application meetings, community meetings, application form submission standards, application fees, and more. She said that these procedures were described as applying under the special use permit division. She said that in contrast, the application standards and procedures for site plans specifically called out common procedures for form submission standards, application completeness, and the review process.

Ms. Brumfield said that the common procedures addressing pre-application meetings, community meetings, and public hearings by the Planning Commission or Board did not apply and were not highlighted in the site plan standards and regulations division. She explained that by delving into

the application of principles they had described in drafting the ordinance using special use permits as an example, they first called out the zoning administrator as the agent for special use permits.

Ms. Brumfield said that whenever Division 3.1 described a process and they used that process for a special use permit, the agent was the zoning administrator. She said that this distinction was based on the type of permit and was not included in standard procedures. She said that for example, a special use permit was the sole type of application for which an eligible easement holder or electric cooperative could apply for a special use permit without the owner's written consent. She said that this was specifically mentioned here.

Ms. Brumfield said that additionally, certain standards and procedures were exclusive to special use permits. She said that while the common procedures applied, as indicated here under Sections 3.1.11, 3.1.12, Division 3.14, additional or modified provisions also applied concerning public notices, hearings, and compliance with the Virginia Code.

Ms. Brumfield said that as they proceeded further in the division for Special Use Permits, they highlighted those unique sections pertaining to special use permits included factors to be considered, conditions of approval, the effects of such decisions, revocation, and voiding. She said that these aspects were highlighted in this section and pertained exclusively to special use permits. She said that removing specific application requirements from the ordinance was generally considered a best practice.

Ms. Brumfield said that it minimized the amount of text in the ordinance, prevented confusion for applications that may not necessitate every requirement, particularly for smaller-scale applications, amendments, or when application requirements evolved over time. She said that instead of maintaining a lengthy list in the ordinance, they had established minimum submission standards.

Ms. Brumfield said that application requirements were not vanishing; they remained, as previously provided, in a tailored checklist for each application. She said that this checklist was part of their pre-application process, wherein the applicant was provided with the checklist, as illustrated on the left of the current slide, detailing the specific materials they must submit with their application.

Ms. Brumfield said that this was generally considered best practice because it could reduce confusion, streamline the application process, and if necessary, they could modify it through their internal processes rather than through a zoning text amendment. She said that for example, if they decided that civic space design elements in form-based code should include electric charging stations, they could include that on the checklist instead of amending the ordinance unnecessarily.

Ms. Brumfield said that this checklist was fully required by the ordinance since the ordinance included provisions stipulating that a completed application form was necessary for each application. She said that the completed application form included these items, as highlighted by the agent in the special use permit process, overseen by the zoning administrator. She said that that was the legal requirement.

Ms. Brumfield said she would continue emphasizing this point until everyone was familiar. She said that special exceptions would be renamed to legislative modifications. She said that this was merely a change in terminology, but it eliminated confusion and ambiguity in their ordinance since the state code defined special exceptions as uses permitted by special use permit. She said that

in Article 3, they would clarify the standards for zoning permits, specifying the different types of certificates of appropriateness available.

Ms. Brumfield said that currently, zoning permits in their ordinance referred exclusively to buildings that did not require a building permit but were subject to setbacks. She said that this included primarily farm buildings and sheds, along with other small structures. She said that in practice, and as they had applied them according to the powers granted by the zoning administrator to administer this ordinance, a zoning permit should also include clearances, homestays, family day homes, commercial clearances for establishments such as restaurants or grocery stores, and home occupations.

Ms. Brumfield said that as they were currently in Phase 1, their focus was solely on the processes of these applications rather than the substance of the uses themselves. She said that they had been working closely with the Architectural Review Board staff to clarify that certificates of appropriateness could be obtained through two distinct methods. She said that both methods adhered to the same standards but had different review processes.

Ms. Brumfield said that one involved the Architectural Review Board reviewing the actual application, while the other involved staff reviewing the application if it met specific requirements. She said that previously, staff-reviewed certificates of appropriateness were referred to as County-wide certificates of appropriateness, which had caused confusion among developers and the public. She said that this clarification aimed to resolve that confusion and streamline the process.

Ms. Brumfield said that moving on to Article 10, which covered nonconformities including uses, structures, parcels, and signs, they had made efforts to remove unnecessary Virginia Code references and translate nonconforming language into plain English where possible. She said that they had retained Albemarle County-specific nonconformities such as critical slopes and country stores since they could not refer to other ordinances for these. She said that the structure of Article 10 followed a structure of division, followed by sections and subsections, including the actual regulations.

Ms. Brumfield said that this included repair and maintenance of structures, nonconformities in flood hazard overlay districts, and signs. She said that as they approached the end of Phase 1, their remaining steps involved continuing to solicit feedback from stakeholders during this work session, seeking input from community development staff on individual application types they handled, and meeting with Blue Ridge Home Builders Association and the Charlottesville Area Development Roundtable. She said that she needed to follow up on setting up these meetings via email.

Ms. Brumfield said that they would discuss the previously expressed goals by those two groups and obtain feedback for the current drafts to ensure that they covered all intended bases. She said that they anticipated completing these feedback sessions and edits by June or July of that year, after which they would return to the Planning Commission for a final review of all four articles: 1, 2, 3, and 10. She said that in August or September, they aimed to present all four articles to the Board of Supervisors for their follow-up work session before proceeding to Phase 2.

Ms. Brumfield said that the community development staff was also working on an AC44 Comprehensive Plan. She said that the zoning modernization project aimed to avoid leapfrogging the comprehensive plan. She said that staff hoped to incorporate the actual action steps being

drafted by the comprehensive plan into their ordinance as they became available, aligning with this timeline.

Ms. Brumfield said that they understood that the public and interest groups had significant interest in the project, and their feedback should not be overlooked. She said that to address this, they had created a feedback form on their Engage website at engage.albemarle.org/zoning-modernization, where anyone could provide feedback, suggestions, or report ordinances that needed investigation or clarification.

Ms. Brumfield said that as they progressed towards Phase 2 and worked on community design standards such as grading, visibility, and lighting, they were also working on defining the scope and budget for this phase, including requesting information for additional graphics work from an outside professional design service. She said that there was more opportunity for illustrations for landscaping and lighting standards than there were for the filing standards of the application process.

Ms. Brumfield said that staff would like to receive general feedback from the Commission regarding Article 3 Applications and Permits.

Mr. Missel asked if there were general questions from the Commission.

Mr. Moore asked if the digital version of the provided document would have links to access the relevant state code sections.

Ms. Brumfield said yes. She said that they currently had that in the code, and it would follow through as well.

Mr. Missel said that he had a few questions. He said that he would like to know the timeline for progression of this in terms of pairing it with the comprehensive plan. He asked if Ms. Brumfield could clarify what was meant when referring to funding requests in Phase 2.

Ms. Brumfield said that she meant inclusion in the general budget.

Mr. Missel asked if that would be the funding to perform the work of this project.

Ms. Brumfield said yes.

Mr. Missel asked if there was any potential that it would not be funded. He said that it seemed like a logical thing they would have to move forward with.

Ms. Brumfield said that she believed they had general support for it but were determining specific numbers.

Mr. Missel said that he understood. He said that it was mentioned that they were simplifying texts, which was evident in the examples provided. He said that as an applicant, to read the simplified text could come as a relief, but it also came as a risk in that it was so simple that more complicated details could be overlooked. He said that he understood that staff must have considered this as they looked into simplifying the text. He said that in a few areas in Article 10 and Article 3, there were opportunities for subjectivity due to vague wording. He said that for example, decisions like

skipping a pre-application meeting appeared ambiguous, leaving applicants wondering about the criteria for such choices.

Ms. Brumfield said that the specific example Mr. Missel had referenced pertained to instances where an application can or should be exempted, such as pre-application meetings or community meetings. She said that these currently represented codified versions of the zoning administrator's authority to take such actions.

Ms. Brumfield said that the general power of the zoning administrator to make these decisions was encompassed within this concept. She said that community meetings actually were not mandated anywhere in the state code. She said that their adherence to this practice was voluntary. She said that by not incorporating these factors into the ordinance as exhaustive requirements, they maintained flexibility. She said that they could apply these considerations selectively on an individual basis.

Mr. Missel asked if that would allow for conversations with the applicant at that time to address issues proactively.

Ms. Brumfield said yes.

Mr. Missel said that on slide 9, it mentioned adhering to a format acceptable to the County. He said that when reading this, he was uncertain about the meaning, but he assumed clarity was available for such comments.

Ms. Brumfield said that in particular corresponded with their third major undertaking, the comprehensive plan, zoning modernization, as well as their enterprise permitting and licensing software system currently being implemented. She said that as a result, the format acceptable to the County involved submitting an application through that permitting process.

Mr. Missel asked if it was clarified in the document.

Ms. Brumfield said that the application process walked the applicant through that. She said that it was formulaic and provided them with as much information as possible.

Mr. Missel asked if there were questions from the Commission regarding Article 3.

Mr. Bivins asked if the Chair would be amenable to asking questions about each of the article sections in order.

Mr. Missel said that there was consensus that the Commission would proceed in that manner.

Mr. Moore said that he particularly appreciated the active verb usage in place of passive verbs. He said that he still had one question regarding Section 3.1. He asked if they could define the term "agent" within that section, similar to how they did in 3.2, 3.3, and 3.4. He said that it did not seem to be defined early in Section 3.1.

Ms. Brumfield said yes. She said that it might indicate that they need to clarify that, but the agent was not defined in Section 3.1 because the agent may be different people.

Mr. Moore said that he wondered if they could say that because they had reached a point in 3.1, where it became apparent that the agent was involved, but it was unclear as to who it was. He said that it was a relatively small detail, but it would be great if they could determine who the agent was in that section, even if it could be a few different people.

Mr. Moore said that he appreciated that tables and graphics had been included in 3.1, as it demanded a flow chart for further clarity. He said that he was glad that this aspect was part of the plan. He said that he had one other broad question regarding section 3.1. He asked how the process would either change or remain consistent when the applicant was the County itself, for instance, when they developed new developments near Rivanna Station or constructed social housing communities.

Ms. Brumfield said that for example, Section 3.2 Zoning Text Amendments stated that only the County could apply for zoning text amendments. She said that consequently, the standards that applied were the initiation, or who followed it up. She said that if one referred to Zoning Map Amendments 3.3.3, they clarified that a pre-application meeting was not required if the Board of Supervisors or the Planning Commission initiated the process. She said that otherwise, the application itself was similar in most aspects. She said that there was the application submission, followed by staff review. She said that this process was generally publicized and was in accordance with state code standards, with no proposed changes under consideration.

Mr. Bivins said that on page 4 out of 24, Section 3.1.9, he would like clarity about the process that occurs after the application reviews have been completed, where County staff would schedule the application for review and action by the Planning Commission, the Board of Zoning Appeals, and the Architectural Review Board. He said that it appeared that the Zoning Board of Appeals was being integrated into a process where it would be one of the two options presented. He said that when reaching the end of the section and finding the word "or," he was confused about why the Zoning Board of Appeals would be scheduled up front. He said that he sought clarification on this matter.

Mr. Bivins said that regarding section 3.1.10(a), he had a query about whether the order of the Boards mentioned was significant in determining the purpose of a work session. He said that in the text, the Planning Commission was listed first, followed by the Board of Supervisors. He asked if they were setting people's expectations by ordering them in the order of the Boards in the review process.

Ms. Brumfield said that was not the intention. She said that she believed most work sessions would be scheduled with one of those bodies, not necessarily with multiple of them.

Mr. Bivins said that he appreciated Ms. Brumfield clarifying the intent of the language. He said that counsel had informed him that, according to the Planning Commission guidelines, they were not permitted to suggest proffers; but maybe someday they will. He said that his reference was to Section 3.1.11 (b), where he had hoped that they would be granted the authority to issue proffers. He said that he was quite enthusiastic upon reading this.

Mr. Bivins said that regarding Section 3.1.12, it stated that the decision-making body would take one of two actions: refer the application to an agent or the Planning Commission. He said that he was curious about which entity would be responsible for referring the application to either an agent or the Planning Commission. He said that he did not fully comprehend this part.

Ms. Brumfield said that the decision-making body was anyone who made decisions; this may include the ARB. She said that in rare instances, it could be the Planning Commission, the Board of Zoning Appeals, or the Board of Supervisors. She said that these entities could take various actions based on specific circumstances.

Ms. Brumfield said that for example, if the Board of Supervisors held a public hearing and determined that more information was required, they might refer the application back to the Planning Commission. She said that in such cases, the Commission must conduct another session to thoroughly discuss the planning implications. She said that if the application was incomplete or lacked necessary information, the Board might instead require a staff review and request additional data before making a decision.

Mr. Bivins asked if the decision-making body was the Board of Supervisors. He asked if the ARB would refer something to the Planning Commission.

Ms. Brumfield said that the ARB may refer something back to an agent.

Mr. Bivins said that was the point he wished to clarify.

Andy Herrick, Deputy County Attorney, noted that the guidelines stated that, for applicable cases, referrals would be made to the agent or the Planning Commission, as appropriate. He said that consequently, the ARB would continue referring its applications to the agent instead of the Planning Commission.

Mr. Murray said that the streamlining of the process and removal of forms in this proposal raised a concern. He said that he wondered if there should be some mention or link provided for locating the forms or obtaining a list of them.

Ms. Brumfield said that it was something they could look into. She said that she was uncertain about the best practice for linking out of an ordinance into the website, considering their website addresses changed quite frequently.

Mr. Murray said that even if they just mentioned the form name and code found on the County website or where appropriate, people could easily search for and find the correct form when needed.

Mr. Herrick said that one of the philosophical discussions that staff had had concerned the appropriate amount of information to include in the County Code. He said that specifically, they had considered what should be codified and what information for the public should be located elsewhere. He said that to guide this decision, staff had considered removing some of the information from the County Code and placing it on the County website instead.

Mr. Herrick said that Mr. Murray's suggestion was an excellent idea; however, it may be best presented as an editor's note or similar notation. He said that for example, currently in the County Code, there were state law references that were helpful to users but not part of the Code itself. He said that staff may consider including an editor's note or reference to applicable forms at the end of each section.

Mr. Clayborne said that regarding Section 3.1.3, community meetings, he would like them to consider whether they had taken all necessary steps to ensure these meetings were equitable

and accessible for everyone involved. He said that this query was not necessarily related to an established policy but rather served as a prompt for them to reflect upon their current practices. He said that when imagining a scenario where meetings had traditionally taken place at 6:00 p.m., individuals working night shifts, those with multiple jobs, or those without childcare, attending such meetings may pose challenges.

Mr. Clayborne said that the question posed was whether they had adequately addressed these potential barriers to participation. He said that it was possible that their current approach was sufficient; however, he believed it was crucial for them to pause and critically evaluate their methods. He raised this point not with the expectation of reaching a conclusion that night but rather to encourage self-reflection and identify potential areas of improvement.

Ms. Brumfield said that it was definitely something they were prioritizing as a department. She said that changing policy and procedures was difficult. She said that they did not want to codify the procedures because if they decided to alter a format, such as using Zoom for online meetings or if everyone had a phone embedded in their heads, they would need to change the codification of the language and the ordinance. She said that prioritizing this issue in their policies and actions while enacting the written code was something they had emphasized.

Mr. Clayborne said that the only other question he had pertained to 3.1. He said that he proceeded to examine section 3.1.10, which focused on work sessions. He said that under the purpose of a work session, it stated the purpose was for receiving public comments on the application. He said that he was unsure if they had historically done that, so he would like to know if this was the intention of the proposed language.

Ms. Brumfield said that they did discuss that topic. She said that it was one of those philosophical questions they deliberated upon. She said that they left it open-ended, and she was curious to know what the Planning Commission felt about whether that should serve as a purpose.

Mr. Missel said that one aspect to consider is that there are various methods for receiving public feedback. He said that the term "public forum" is not explicitly mentioned; instead, it discusses public comments in general.

Mr. Herrick said that in certain public hearings, public comment is mandated to be accepted, but only in those specific hearings. He said that generally, the Planning Commission is not required to accept public comment unless it is during the mandated public hearings.

Mr. Missel said that they currently received lots of public comment prior to work sessions.

Mr. Herrick said that the Commission also sought public comment as a practice, but his clarification was that it was not a requirement of the Virginia Code.

Mr. Missel said that here, it could be taken not only at a public forum but as comments sent via email or another method.

Mr. Herrick asked what section Mr. Missel was referring to.

Mr. Missel said that the text read "to seek direction of the Planning Commission and/or Architectural Review Board to receive public comments on the application." He said that he had received public comments, but not tonight, for example.

Ms. Firehock said that she could see someone pointing to that statement and arguing that its purpose is to receive comments. She said that it was talking about the work session, which implies the session. She said that she believed that it should be changed to specifically allow for in-depth analysis of issues as the work session's primary function.

Mr. Barnes said that he had thoroughly reviewed their recent discussion regarding the integration of public comment into work session business this week. He said that it was a little bit different than what they were thinking about earlier.

Ms. Firehock said that the work session's purpose was to allow the Planning Commission to perform in-depth analysis on an application or initiative. She said that this was different than a public hearing.

Ms. Brumfield said that staff would clarify the language to indicate that the primary goal of the work sessions were not to receive public comment.

Mr. Bivins said that it was a fact that, although he did not often reflect on his past experiences when he was Chair, during that time work sessions were genuinely dedicated to work. He said that they were not open to the public but could be observed by them. He said that rare opportunities arose for the Commission to convene and discuss matters without grappling with external comments.

Mr. Bivins said that although these comments were appropriate and necessary for the process, he said that there were instances when they needed a platform to openly discuss issues, challenge staff, and challenge themselves on specific matters. He said that his colleague had mentioned including language referring to an in-depth analysis, which he would appreciate and looked forward to seeing.

Ms. Firehock said that there had been times during work sessions when the Commission had asked for public input, but she believed that it should not be codified.

Mr. Missel said that there were also times during work sessions where they considered comments received from the public, so perhaps rephrasing to review public comments rather than receive them would be better.

Ms. Firehock said that she would rather it be focused on the performance of an in-depth analysis, because if it is focused on the public comment, it will read like the work session's purpose is to review public comments.

Mr. Carrazana said that regarding Section 3.1.11, the conditions of approval had come up every now and then, and they struggled with limitations on implementation. He said that some of the items made sense, such as impacts on public lands and appropriate screening. He said that something that struck him was regarding the performance guarantees or bonds. He asked if Ms. Brumfield could provide more information of what an example of that might look like.

Ms. Brumfield said that the example staff discussed for requiring a condition of approval, which would involve a performance guarantee or bond, would not be part of the site plan process but would be required for the specific use itself. She said that in cases where a special use permit is

requires screening due to the reuse of a building, it may not trigger a site plan that would typically involve the bonding process.

Ms. Brumfield said that if a hearing took place in January, with the Planning Commission reviewing it in January and the Board in February, planting could not occur at that time. She said that one could recommend a condition of approval for the bonding of the screening. She said that this would ensure that when planting season arrived and there was potential for the screening to be effective, the requirement could be enforced.

Mr. Carrazana asked if the performance guarantee would include limiting the amount of water usage.

Mr. Bivins said that they had done that before. He said that in cases where an organization was not connected to a public water supply, they had offered a solution: installing a meter in the hydrant they were using. He said that it was crucial that this meter did not exceed the specified X amount, ensuring accurate measurements were maintained.

Mr. Carrazana said that that was a restriction. He said that he understood the bond, but he wanted more information about the performance guarantee.

Mr. Herrick said that that provision primarily focused on guaranteeing that specific required improvements would be constructed rather than compliance with the zoning ordinance. He said that there were other methods for enforcing water restrictions. For example, if a user exceeded the permitted water amount under a special use permit, the zoning administrator could enforce a zoning violation. He said that section 3.1.11(b) primarily was declarative of existing law. He said that Planning Commissions could generally require these types of bond or performance guarantees. He said that ultimately, the main purpose was to ensure that required improvements were constructed.

Mr. Carrazana said that another point, which had been mentioned but required clarification, concerned depth. He said that this was because some individuals might only visit a specific section if they were interested in a particular area. He said that given that terms like "agent" had been discussed previously but could be defined differently across sections, providing definitions for readers to reference might be helpful. He said that doing so would ensure that they understood the meaning of such terms, as they might not always be familiar with them. He said that offering explanations for lay people to comprehend these definitions and associated terminology would be beneficial.

Ms. Brumfield said that they would include a definition section in the document, following their current practice. She said that the intention was to maintain all definitions within this dedicated section, separate from individual articles. She said that this would result in the section functioning as a standalone article, where definitions could be accumulated during the drafting process.

Ms. Firehock said that she had a few questions regarding Article 3. She said that specifically, Article 3, Division 3.1, 3.1.2, Pre-Application Meeting, (d), Requirements Prior to a Meeting. She said that the question raised was whether a conceptual plan, as mentioned in Article 3, needs definition to clarify its inclusions. She said that she was asking if they should define what a conceptual plan is somewhere within this documentation, even though she personally understood the concept. She said that she acknowledged variations in interpreting the conceptual plan and felt that establishing standards would be beneficial for decision-making purposes.

Ms. Brumfield said that she believed that the usage of the term throughout the rest of the ordinance would determine whether they could define it or if this was one of those policy matters. She said that at present, there was a process in which an applicant submitted either a paper application or a PDF application that outlined the requirements for a conceptual plan, such as including a sketch plan demonstrating general dimensions of the proposed project. She said that conceptual plans could range from a simple square, proposed to be 100 feet from the property line to more complex designs involving engineered designs for a slope grade, topography lines for a retaining wall, and other adjustments. She said that they could vary wildly.

Ms. Firehock said that it was even vaguer than Ms. Brumfield alluded to, as they had received some that were just numbered blocks and blobs with vague zoning descriptions. She said that she understood that the application checklist and details would be separate, but the conceptual plan should either be defined better, or the application checklists should have a detailed list of what was expected in the concept plan.

Ms. Firehock said that they had turned down applications for rezonings and other things because they had enough information to determine reasons why, while making those same decisions on poorly defined and vague concept plans. She said that making the decision with completely different information in each application was an issue.

Mr. Carrazana said that he believed there had been several instances where this issue had arisen, primarily concerning the quality. He said that whether it was a conceptual plan or a request for a special exception, such as step backs, they had not been provided with adequate information about the topography or any relevant sections to understand the situation fully.

Ms. Firehock said that several others had provided them with extensive information.

Mr. Carrazana said that some had provided more data than necessary, but he believed that there must be a minimum requirement, especially when seeking exceptions. He said that this was to ensure that sufficient information was available for making informed decisions.

Ms. Firehock said that she was unsure about the preferred method for addressing that situation. She said that staff could deliberate.

Ms. Brumfield said that she believed that a significant portion of this would be addressed through policy and application form procedures. She said that it should become clearer in their EPL process via the actual application checklists.

Ms. Firehock said that they had discussed checklists multiple times and were assured that they would receive more detailed and comprehensive information without unnecessary accumulation.

Mr. Carrazana said that it may be beyond the scope of what they were doing there, but he believed that it could certainly help reinforce it.

Ms. Firehock said that she had a different comment now regarding section 3.1.3, specifically the community meeting. She said that the text stated that the purpose of a community meeting was to answer, present, and address questions from the public. She said that this was not the sole purpose of a community meeting. She said that it was more accurately described as providing an opportunity for the applicant to present their plans and for the public to provide feedback on local

concerns and site considerations that may influence the applicant's design, land use, site conditions, or other location-specific contexts.

Ms. Firehock said that in essence, it was not just about saying, "Yes, I plan to build 30 units per acre"; it was about hearing from the public and considering their input. She said that while the applicant was not obligated to make modifications based on public feedback, the purpose of the meeting was to facilitate communication between the applicant and the community. She said that she recommended scheduling the community meeting far enough in advance of the hearing to allow the applicant time to make any necessary changes based on public input.

Ms. Firehock said that if it was merely about answering some questions and demonstrating what they had already accomplished, then they would not require any time in between for modifications. She said that she knew that many valuable modifications had taken place due to community meetings, even in cases where the community was initially opposed to the site. She said that these changes occurred after several meetings with the applicant, where they were able to listen and make appropriate adjustments.

Ms. Firehock said that she would like to add a statement acknowledging that they should also inform the applicant about the site-specific context or any other relevant information. She said that there had been instances where crucial information was shared by community members, such as the presence of a pocket wetland or a runoff problem affecting their property, which the designer or engineer was unaware of. She said that it was essential to inform them about such details they would only learn through public input. She said that she played a part in making public meetings mandatory in the County, so she felt strongly about their purposes.

Mr. Missel said that he had just a few brief inquiries regarding section 3.1. He said that they had 13 items to go. He said that in regards to section 3.1.2 (b), specifically points 4, 5, and 6, they discussed subjectivity in the required pre-application process. He said that he was curious to know under what circumstances was a pre-application meeting not necessary.

Ms. Brumfield said that a pre-application meeting would not be necessary, for instance, if a meeting had already been held with staff for a pre-application review and they were merely reactivating a new application. She said that if it were a pre-application meeting involving a proposal that was both simple and minor, and the staff had no concerns about it, such as a typo or a technically required change through a zoning map amendment, this would be the kind of situation they would consider.

Mr. Missel asked whether an applicant would contact staff for a pre-application meeting.

Ms. Brumfield said that their requirement was that a pre-application meeting was required, after which staff would examine the submitted materials and determine that they did not need the meeting.

Mr. Missel said that it was potentially misleading listing those three factors when, in reality, the pre-application meeting seemed to be required in all cases. He said that after discussions, there might be a relaxation of this policy.

Mr. Herrick noted that only three items required pre-application meetings. He further noted that the proposed amendments were consolidating various matters within this title. He said that appeals to the BZA, architectural review board matters, what were currently referred to as special

exceptions (but soon to be known as legislative modifications), and numerous other types of applications did not necessitate pre-application meetings. He said that these three items were listed specifically due to their requirement for pre-application meetings.

Mr. Missel said that in Section 3.1.6, specifically discussing Application Completeness and addressing Incomplete Applications, 1 and 2 mentioned timelines of 14 days and 90 days. He said that although timelines were present in other sections, such as Section 3.1.9, which covered Application Review and Action, Staff Review, Review by Commission, and Board, no explicit timelines were provided in that section.

Ms. Brumfield said that the staff review would cover numerous aspects, making it seemingly impossible. She said that currently, she had a zoning clearance for a homestay that had been operational for one and a half years, as the property was under construction during that time. She said that she could not inspect the property until it was built.

Mr. Missel said that now they should continue to Section 3.2, Zoning Text Amendments.

Ms. Firehock said that she had no more comments for Section 3.

Mr. Clayborne said that he had comments for Section 3.7.

Mr. Bivins said that he would like to suggest that in section 3.3.3(b), either insert hyphens between all pre-applications or remove them altogether.

Mr. Moore said that he would like to compliment the consistent use of the Oxford comma throughout the document. He said that the employment of the Oxford comma did indeed provide additional clarity.

Mr. Bivins said that regarding Section 3.3.3b, he had a question as to whether an agent had the authority to forego a pre-application meeting for a zoning map amendment.

Ms. Brumfield said that this would be referred back to Section 3.1.2, as it was required in accordance with 3.1.2. She said that upon reviewing that section, it could be waived under C if the agent determined that it was not necessary. She said that although this scenario was quite rare, it was legally permissible.

Mr. Missel said that he had one question regarding Section 3.3.3(d)(3), which stated that action on such applications would not be invalidated solely due to a failure to timely mail the notice. He said that he wanted to confirm if the notice mentioned was the one sent by the County.

Ms. Brumfield said that was the notice that was mailed in compliance with Virginia Code 15.2-2204.

Mr. Missel said that he was curious about the reason for it. He asked if it was merely to safeguard the applicant in case someone failed to mail something.

Ms. Brumfield said that the copy provided was from their current ordinance, which had not changed. She said that any issues in mailing would be addressed by staff, who would always attempt to mail items correctly. She said that such snafus in mailing would not invalidate the application.

Mr. Missel said that he had a question on Section 3.4.3(d)(1) regarding the last sentence pertaining to the Planning Commission's public hearing proffers. He said that this section stated that proffers must be submitted to the Department of Community Development at least 14 days before the Commission's public hearing on the zoning amendment. He said that it appeared that this may leave little time for submission.

Ms. Brumfield said that in the application process, the Application Requirement Checklist specifically required the signed proffers. She said that these proffers had been thoroughly reviewed and finalized, making them the definitive versions required for the application.

Mr. Herrick said that proposed Section 3.4.3(d)(1) was a requirement of the current County Code. He said that the County Code already mandated that proffers be submitted at least 14 days prior to Planning Commission consideration. He said that these proffers could be signed or unsigned at that time. He said that subsection (d)(2) would further require that signed proffers be submitted at least nine calendar days before the Board of Supervisors hearing.

Mr. Herrick said that that proposed amendment was a change from the existing Code, but it was consistent with the Board of Supervisors' Rules of Procedure. He said that the proposed action involved codifying one of the Board's Rules of Procedures to notify applicants that their signed proffers would be required at least nine calendar days before the Board of Supervisors' public hearing.

Mr. Murray said that these proffers represented an area where incorporating the Virginia code within the ordinance could be advantageous. He said that historically, impact fees had been enabled by the legislature, only for localities to lose this ability later. He said that those who had not already included the relevant provisions in their ordinances could no longer adopt impact fees. He said that consequently, he was somewhat concerned that if they did not include their preferred language on proffers or other significant aspects within their ordinance, they may lose these protections in the future.

Mr. Herrick said that the County generally had been attempting to maximize the enabling authority of the Virginia Code. He said that currently, staff's focus was on referring to the specific sections within the Virginia Code that outlined requirements for localities, such as "localities shall do this" or "localities shall do that." He said that Albemarle had been progressive in taking advantage of the opportunities provided by the state code, specifically where it stated localities "may do this" or "may do that." He said that through these efforts, the County had not altered the County Code beyond what state enabling authority currently allowed.

Ms. Brumfield said that Mr. Herrick had been very cautious in stating which sections to retain because of the enabling language and differences between "may" and "shall".

Mr. Herrick said that they had only removed information in instances where state law was self-executing. He said that regardless of whether the County Code includes or excludes certain provisions, state law applies when the County Code remains silent on the matter. He said that Mr. Murray's observation was valid, but would not pertain to the discussions they had just had regarding timelines. He said that the state code had been silent on the specific timing of proffer submissions.

Mr. Bivins said that his only question pertained to 3.5.3(i)(2), where, unless otherwise specified in this chapter or specified as a condition of approval, they were discussing the situation when they transitioned land from commercial to residential use. He said that this had been done particularly north of town on several occasions, such as in the case of Hollymead, where the commercial area was converted into residential space. He asked that the term "district" be defined, as the text mentioned that signed requirements and other related matters would be the same as for other uses in the district.

Mr. Herrick said that the zoning district would be the relevant factor. He said that this provision was to convey that unless the special use permit specified conditions, all other applicable provisions of the zoning district would apply. He said that in such cases, the zoning district standards would prevail within that district, unless modified by a special use permit.

Mr. Bivins said that when they transitioned a zoning from commercial to residential, it must then adhere to or follow the guidelines of the residential district.

Mr. Herrick noted that this provision was in the special use permit section of the Code. He said that if there were both a zoning map amendment and a special use permit, the restrictions of the new district would apply, in addition to the special use permit conditions.

Mr. Bivins said that adding a more descriptive entry would be helpful. He said that regarding 3.6, they observed that in certain regions, if action was not taken by a specified deadline, the permit became void. He said that in this instance, if the SUP did not materialize by a particular day, the permit became void. He said he would like to implement this policy, as they had successfully done so in other places.

Ms. Brumfield said that this was a provision that they had. She said that they were permitted to implement this. She said that currently, this aspect had not been codified in their ordinance; however, it was allowed under state law. She said that the specific provision stated that if a use must commence by a certain time within the conditions of approval and it did not, then the special use permit became void. She said that a general rule was that a special use permit did not expire, and its fundamental characteristic was that it ran with the land. She said that the special use permit defined and established that specific use, and they believed that they had strong opinions about this matter.

Mr. Bivins said that they knew that they would eventually regain the Field School from someone else. He said that the Field School had a five-year plan, but it did not achieve its goal within that timeframe. He said that it came up with a series of reasons why it did not happen, and the supervisors added two additional years to complete this part of the project. He said that this was a good idea that took place around 2010, and 14 years later, they still had a piece of property held under the dream of 2010.

Mr. Bivins said that either the owner of the property or the agents of the property, or perhaps the contracted individual for the property, should take responsibility for the lack of progress. He said that he was thinking about the piece of property across from the North Side Library where the person came in and shared their emotional story about their family, divorce, and the breaking up of their partnership, which was seven years ago. He said that since then, no development had taken place on that property.

Mr. Murray said that he believed that was actually a very good point. He said that he raised this issue when discussing situations where certain items were approved but then remained indefinitely. He said that as time passed, ordinances changed, and their County procedures evolved. He said that someone may return after 20 or 30 years and see the past approval and begin development. He said that they would be working under decades-old standards.

Mr. Bivins said that in 3.7.8(a), they had a time period for site plans. He said that if a site plan was not completed by the deadline, it became invalid. He said he was suggesting that the special use permit and the site expiration should run together.

Ms. Brumfield said that she believed that including (k) within the guidelines was the primary reason for specifying time-sensitive conditions when special use permits were presented before legislative bodies. She said that generally, due to the diverse nature of special use permits, they avoided applying a blanket time limit across all cases. She said that most special use permits did not require such a time restriction; however, some had faced delays in enactment.

Ms. Brumfield said that they included this provision to address those exceptional cases where time-sensitive action was necessary. She said that when encountering such situations and identifying an up-and-coming development area, traffic concerns may arise. She said that they would impose a condition of approval that set a time limit for enacting the proposed development.

Ms. Firehock said that an example of this situation occurred in Howardsville, near the fish and game boat ramp. She said that the owner requested a canoe livery, which sparked much controversy. She said that the Planning Commission granted a special use permit for the canoe livery. She said that the special use permit would be valid for three years, after which they would reassess whether it was appropriate.

Ms. Firehock said that the canoe livery never commenced; there was no equipment or infrastructure set up, just a sign posted. She asked if she were to search the County's website for information about that specific canoe livery and its special use permit, would she still find that information. She said that it seems to her that the records indicate a specific timeframe for the permit, but she was curious if that condition was ever revisited or enforced, given that no one appeared to have reported it.

Ms. Brumfield said that this would refer back to (j), located directly above (k), where the Board of Supervisors can revoke the special use permit at a public hearing if they are not compliant with those conditions.

Bart Svoboda, Deputy Director of Community Development, said that for repeat zoning violations, the Board had the authority to revisit and revoke a special use permit if necessary. He said that the processes they were implementing would help track approval dates and other historical events. He said that as they discussed the past 15 years or more, it was essential to consider that the housing crisis extended all site plans, rezonings, and special use permits. He said that COVID-19 had a similar effect.

Mr. Svoboda said that some of the issues they were encountering now had an additional grace period of over a decade. He said that it was challenging to measure these unique circumstances. He said that he wanted to emphasize that this was the beginning of their efforts to enforce expiration dates for special permits while acknowledging the atypical length of plans due to the housing crisis and COVID-19.

Mr. Missel said that discussing the next steps in the staff memo, particularly regarding reaching out to CADRE and the Blue Ridge Home Builders Association, would be informative. He said that considering the potential impact of a special use permit process on land value, it would be beneficial to explore alternative approaches. He said that adjusting timelines or tying the process to a site plan could provide flexibility while accommodating market fluctuations. He said that he would be interested in hearing their opinions on this matter.

Mr. Clayborne said that regarding Section 3.7.1(c), he was curious about why religious assemblies were a specific exemption.

Ms. Brumfield said that the RLUIPA stated that they cannot treat a Religious Assembly use any differently or more harshly than other uses in the zoning district. She said that since they allow assemblies at farm wineries, breweries, and distilleries for up to 200 people by right, this means they must extend the same permission to religious assembly use.

Mr. Clayborne said that since it was by-right, a site plan was not required.

Ms. Brumfield said that was correct, those uses were exempt from site plan requirements.

Mr. Missel asked if any of the six changed.

Ms. Brumfield said no.

Mr. Clayborne said that Section 3.7.6(b) mentioned any and all applicable laws and regulations for practitioners, which was unsettling.

Ms. Brumfield said that they did not add additional federal requirements to the zoning ordinance. She said that they applied regardless of whether they included that provision or not.

Mr. Bivins asked if it was possible to combine sections (b)(2) and (c)(3) on page 15 of 24 by incorporating a linguistic modification. He said that this was because the document must be signed and sealed, but it was stipulated in two different sections. He asked why they could not be combined.

Ms. Brumfield said that they do not need to be signed and sealed upon submission, and they did not want them signed and sealed during that process. She said that instead, they wanted them signed and sealed after they had implemented the changes they had requested.

Mr. Bivins said that Section 3.7 stated that maintenance of improvements must be maintained indefinitely by the owner. He questioned who the reference was referring to, and if it was each successive owner. He said that it appeared that by any owner was meant to mean the current owner. He said that it was not the owner who performed the action, as that person could have passed away or been removed from their position.

Ms. Brumfield said that when discussing the owner, they did not employ the phrasing such as referring to previous presidents as "Mr. President." She said that the owner, in this context, referred to a singular individual or entity who possessed the property.

Mr. Bivins said that they had the opportunity to discuss bonding with the team on multiple occasions. He said that he was curious if there was an in-house department or specialist within the organization that specifically focused on analyzing bonding strategies.

Ms. Brumfield said yes.

Mr. Missel said that he had a few questions, specifically regarding Section 3.8.3: Administrative Certificate of Appropriateness. He asked if any changes had been requested in this section or if there were any pending changes being considered.

Ms. Brumfield said that there have been some changes regarding consolidation, where certain uses have been described using a single sentence instead of two. She said that the actual standards being requested there had not altered. She said that they had copied and pasted the current ordinance into this document, incorporated it, and made necessary adjustments where tightening was possible. She said that as far as granting permissions was concerned, there had been no change.

Mr. Bivins said that he was unaware that tenants could request a zoning permit. He said that it was the sole location in the article where they had tenants.

Ms. Brumfield said that this would include a situation, for example, where a restaurant requests a zoning clearance. She said that they did not own the building, but they were permitted to request such clearance.

Mr. Missel said that they should proceed to Article 10.

Ms. Firehock said that there was one point that she found confusing in Article 10.2(d)(1)(a), which stated, "becomes less nonconforming than the original nonconforming use." She asked what this meant.

Ms. Brumfield said that this was one of those situations where they made considerable efforts to ensure clarity but were limited by the requirements. She said that if there was a use located on a parcel that would not normally permit that use, but it was a non-conforming use, it could become less non-conforming over time.

Ms. Firehock asked why it could not be stated as more conforming rather than less nonconforming.

Ms. Brumfield said that was because the use may not become more conforming, but it may become less non-conforming.

Ms. Firehock clarified that the non-conforming use was abandoned and could not resume if it became less non-conforming.

Mr. Herrick gave an example of a two-bay commercial garage in a residential area as a legally non-conforming use. He said that if the property owner decided to cease using one of the bays and continued operation with only one bay going forward, the owner could not revert to using two bays at a later time. He said that the owner could continue using the single bay, as it represented a lesser non-conformity compared to the original two-bay operation.

Ms. Firehock said that one cannot become more nonconforming after they were less.

Mr. Herrick said that Ms. Brumfield's argument highlighted that from a usage standpoint, the subject property would not yet have become conforming. He said that it would have remained in the non-conforming zone.

Ms. Firehock said that if she could not understand it, she believed that other people would also struggle with this concept. She said that she attended planning school and understood the example provided; however, merely reading the text posed challenges. She said that she believed that if staff could offer any further clarification, it would be beneficial.

Mr. Carrazana said that he would remain in the non-conforming category. He said that regarding 10.2.1(b), the establishment of non-conforming use required more than just casual, intermittent, temporary, or unlawful use of land or structures. He asked if an unlawful function could still be considered conforming because it said "or".

Ms. Brumfield said that the section indicated that merely initiating the use of something does not guarantee its classification as a nonconformity. She said that one example provided was homestays that have existed for 10-15 years without obtaining a permit for a bed and breakfast (B&B) permit, which would have been required at that time. She said that long-standing practice does not automatically equate to nonconforming status.

Ms. Brumfield said that these establishments were initially noncompliant with the rules, and thus they cannot be considered nonconforming and continue their operation under this status. She said that they remain in violation. She said that if a homestay had obtained a B&B permit and subsequently the regulations for homestays changed, it could then be considered nonconforming and allowed to continue its operation under this new classification.

Mr. Herrick said that subsection B merely stated existing law. He said that subsection B was not essential, that its primary purpose was to assist users, and that Ms. Brumfield's observation was valid: for a use to be considered legally non-conforming, it must initially be a legal use. He said that one cannot create a legal non-conformity through a long-standing pattern of unlawful land use; the use must be legal from the beginning in order to attain legal non-conforming status.

Mr. Carrazana said that if it was illegally used land, then it could not conform or even non-conform because it was unlawful.

Mr. Herrick said that some individuals may present this argument, and the purpose of including this provision was to address those types of creative arguments.

Mr. Murray said that under 10.2.1(c)(3), it was evident that this rule was part of the existing code. He said that the regulation stated that a non-conforming use, excluding a quarry or cemetery, may continue only on the designated portion of the parcel. He said that a non-conforming quarry or cemetery may be enlarged or extended to occupy or use additional areas of the parcel. He said that after further consideration, he believed that in their GIS, there was a natural resource extraction layer. He said that this presented an opportunity to amend the rule so that instead of referring to parcel, it specified the natural resource extraction layer.

Mr. Murray said that the expansion of mining operations in Augusta County were visible from space. He said that it was crucial to avoid similar situations in Albemarle County by ensuring that

property purchases and expansions were properly authorized and regulated by the Commission and the Board.

Ms. Brumfield said that she believed that the last sentence in that section, specifically "identify other abutting parcels under identical ownership as of the effective date of this article," encompassed this point. She said that upon the adoption of this ordinance, such acquisitions would no longer be permitted. She said that owners had until the effective date, typically one or two years from the ordinance's passage, to acquire additional parcels; however, expansion was not allowed thereafter. She said that the Extraction Overlay District would not necessarily apply to these non-conforming quarries, as they would be considered non-conforming.

Mr. Murray asked if the effective date of this article was also part of their previous ordinance.

Ms. Brumfield said that they had included that in various sections of the current ordinance; however, it would merely be a matter of affixing a time stamp on it.

Mr. Murray said that in this situation, he thought that it would be better to revert to the previous date as of the original date they initially recorded. He said that this way, they would not inadvertently grant permission to everyone who had established that in the interim, when they were not allowed previously.

Ms. Brumfield said that she could examine that matter. She said that she was not overly familiar with this particular section of the existing ordinance; therefore, she would need to conduct research to determine its exact contents.

Ms. Firehock said that she still argued that the phrasing in the text was unclear for her.

Mr. Herrick said that the general rule regarding non-conforming uses was that they could not be enlarged or extended. He said that the Code identified two special instances based on the nature of the use: cemeteries and quarries. He said that over time, both cemeteries and quarries would naturally expand, unlike, for example, a garage. He said that the County Code allowed for this inherent expansion in these particular uses and did not consider such expansions as enlargements or expansions for purposes of legal non-conforming uses, even if they took up more space for their core functions or uses.

Ms. Firehock said that it seemed as if they would have established a boundary for their quarry.

Mr. Herrick said that under the current code, the boundary was defined by properties under the same ownership as of a specific control date. He said that the alternative would be to prohibit further expansion, which would represent a significant departure from the current ordinance's allowances in those two instances.

Mr. Bivins said that the exemption for quarrying or burying quarried materials appeared to be a policy matter that warranted further examination. He said that why these specific actions merited an exemption was a question that needed consideration. He said that in this context, their discussion did not pertain to granting existing cemeteries. He said that it concerned a scenario where an existing cemetery, initially owned by person A and currently owned by person D, could accumulate additional land up to a certain point without needing to revisit the legislative process for expansion.

Mr. Herrick said that cemeteries and quarries, due to inherent nature of their use, had required more land over time compared to establishments like auto garages or restaurants. He said that when there was an increase in burials or quarry operations, expansion of land was necessary, whereas McDonald's selling more hamburgers would not necessitate restaurant expansion.

Mr. Murray said that he had fewer issues with the expanded portion of the parcel, but more concerns regarding the other adjacent parcels under identical ownership. He said that this situation appeared more problematic to him.

Mr. Herrick said that staff could take that under consideration; however, he added that such a policy change would require approval from the Board as well.

Mr. Bivins said that while Albemarle County was somewhat different due to its 95% rural composition, most cemeteries generally had distinct boundaries. He said that in the areas where Albemarle County was not rural, there were clear boundaries surrounding cemeteries. He said that this has led to the practice of burying individuals on top of one another rather than having side-by-side plots.

Mr. Herrick said that the distinct boundaries in this case would be the parcel lines rather than the extent of the current burial area.

Ms. Firehock said that they were encountering difficulties where the owner remained the same. She said that this seemed to lead to an owner being able to acquire the adjacent parcel, allowing them to expand the cemetery without needing approval from anyone for the establishment of a cemetery on the parcel.

Ms. Firehock said that she believed that the most direct approach to address this would be to postdate this back to whenever this was initially adopted for the adoption of this article. She said that she thought that would likely involve putting an end to land purchases, and it would focus on what had been bought prior to that specific date.

Ms. Firehock said that for the record, she was not entirely opposed to burials or quarries; however, if someone intended to make a significant expansion, she believed it should be brought before the Commission.

Ms. Brumfield said that she did not have the current ordinance pulled up, but this would be something that they would investigate further.

Mr. Bivins said that for (d)(2), he asked if it was necessary to determine if the non-conforming use has been discontinued for two or more years when assessing whether its non-conforming status is lost.

Ms. Brumfield said that this statement seemed to align with Mr. Herrick's argument that people engage in creative disputes.

Mr. Bivins said that his interpretation would be who cares about the available equipment if it had not been used. He said that if a use ceased for more than two years, then it did not matter.

Mr. Herrick said that because section was declarative of existing law, they could delete it entirely without affecting the application of the law concerning nonconforming uses. He said that the

purpose of this section was, as Ms. Brumfield suggested, to aid the user and to preemptively defuse creative arguments to the contrary.

Ms. Brumfield said that it was one of those situations where the statement was there because someone previously did it.

Mr. Bivins said that he had a general question regarding a discussion they had previously about setbacks for construction. He said that he recalled discussing a minimum of 25 feet from the right-of-way and from the side, which would establish the size of the house. He said that he remembered mentioning that they would engage in a conversation about the Planning Commission's and supervisors' preferences regarding side setbacks, as well as rear setbacks.

Mr. Bivins said they should discuss whether they should be more generous or more restrictive. He said that he had a disagreement with Mr. Fritz over this because Mr. Fritz proposed 100 feet setbacks on the sides and 200 feet setbacks from the front and back. He said that essentially, they were discussing that one could only build a house if it was on a lot of a certain size. He said that he wanted to confirm that this was not an attempt to bypass that.

Ms. Brumfield said that this was only for nonconforming structures and improvements, and it was not a change. She said that she believed that the 25 feet requirement had actually been changed from a previous requirement of 75 feet, as evidenced by prior ordinances. She said that they had reduced it at some point in the past. She said that in phase three, they would be examining setbacks in the district standards.

Mr. Moore said that regarding the legal nonconforming uses, he would like to clarify that they were not planning to add more of these.

Ms. Brumfield said that it is possible to include a non-conforming use whenever an ordinance was changed. She said that if a use currently conforms, it is legally conforming; however, they could choose not to allow this use in Albemarle County. She said that once removed, such uses can still continue because they are legally nonconforming.

Mr. Moore said that he was wondering whether they possessed some form of database or map detailing nonconforming uses.

Ms. Brumfield said that they maintained individual lists of very specific non-conforming uses. She said that they kept records of all their country stores. She said that they had some lists of historic properties; however, they did not possess a comprehensive list of non-conforming uses.

Ms. Firehock asked whether the SUP checklist was a final draft.

Ms. Brumfield said that the current example was on the Albemarle County Community Development website, which was used during pre-application meetings with applicants. She said that it served to clarify which items must be included in the forthcoming application and which could be omitted as they did not apply. She said that when staff members reviewed applications in these meetings, they provided this checklist for reference, ensuring that applicants understood the necessary components of their submission while also highlighting those that were optional. She said that they sent the revised checklist back to the applicants for their records.

Ms. Firehock said that she had a question and was curious; she noticed that there was no information regarding significant vegetation, stream buffers, or similar aspects. She asked if this was because these elements were only required on the site plan.

Ms. Brumfield said that was only one page of a three page application. She said that was just an example. She said that vegetation and landscaping were required for those particular kinds of applications.

Mr. Missel asked if staff needed anything more from the Commission.

Ms. Brumfield said that they had numerous comments to review and she had noted down several pages worth of them. She said that they would collaborate to incorporate these comments into the draft ordinance.

Recess

Mr. Missel said that they would take a five-minute recess.

Committee Reports

Mr. Moore said that he had attended the MPO CTAC meeting. He said that they received a presentation regarding the progression towards the Long Range Transportation Plan for 2050, a plan they intended to adopt in May. He said that among the higher priority projects on this plan were several that already had applications submitted as a precautionary measure in case funding was not secured. He said that these included the Rio Road Peanut, a double roundabout, Barracks Corridor between Georgetown and Kroger, general Rio improvements between Huntington Road and Greenbrier, and Fifth Street multimodal improvements, which ranked higher in priority.

Mr. Moore said that the committee also received a presentation on the selection process for Smart Scale alternatives that were submitted, similar to those previously discussed in reports such as the I-64 and Fifth Street interchange, sidewalks along US 250 on Pantops, and Barracks Corridor. He said that with some new members in attendance, there was considerable commentary emphasizing the need for a more visionary approach to bicycle planning and increased weighting for bike and ped in the applications submitted for funding.

Mr. Murray said that during the CCAC meeting, they received an informative report from the fire chief regarding the fire rescue operations. He said that this information proved to be quite intriguing. He said that among the lesser-known facts shared was that volunteer firefighters underwent extensive training, which many people were unaware of. He said that despite a high number of applicants interested in becoming firefighters, there were limited positions available for volunteers, resulting in intense competition for these slots.

Mr. Murray said that the discussion also touched upon the anticipated transition of volunteer fire departments like Crozet's towards professional fire departments over time. He said that this shift raised certain tensions and concerns about ensuring a fair and transparent process in implementing such changes.

Mr. Carrazana said that the MPO TAC met, but it had the same agenda as the MPO CTAC.

Ms. Firehock said that there was a meeting of the Historic Preservation Committee of Albemarle County, and they managed to achieve a quorum and elect the officers. She said that there was a curious issue resolved involving a difficulty regarding the group's process. She said that one of their responsibilities was to photograph and document historically significant structures scheduled for demolition, attempting to persuade property owners to reconsider.

Ms. Firehock said that they had successfully convinced some individuals against demolition. She said that due to quorum rules, only one member could attend these documentations, as the presence of two members triggered a requirement for declaring a public meeting. She said that this was undesirable for property owners who did not wish to announce a public meeting for potential protesters or other onlookers.

Ms. Firehock said that they abandoned the subcommittee in order to prevent situations where, if two members of the committee were documenting properties, they would not form a quorum. She said that she found this approach quite creative. She said that they recognized the need for new members on the committee. She said that they had six members, but twelve would constitute a full committee. She said that having more members would facilitate the establishment of quorum.

Ms. Firehock said that people were encouraged to apply to be on the committee. She said that this work was genuinely significant. She said that she hoped anyone who knew professionals in the architecture field, real estate field, or simply history enthusiasts well-versed in County history would recommend them for consideration.

Mr. Clayborne said that he suggested connecting with AIA Central Virginia. He said that he was more than happy to facilitate that introduction. He said that they could then forward it to their membership, ensuring a targeted audience.

Ms. Firehock said that connecting with the historic and architecture faculty at UVA would be a good idea, as well as with the Blue Ridge Home Builders. She said that she would be drafting a message this week and sending it out for distribution.

Mr. Missel said that the Pantops Community Advisory Committee and the 5th and Avon Street CAC met. He said the meetings covered three main areas of interest. He said that the County staff briefed the attendees on the 2025 budget, highlighting fiscal matters. He said that traffic and safety were discussed by the assistant police chief and the chief of police. He said that they presented data on accidents, particularly those involving impaired drivers and resulting in fatalities. He said that the accident data collection process was more accurate for accidents that led to deaths.

Mr. Missel said that transportation projects were addressed, including updates on various initiatives. He said that one point of interest was the roundabout planned for the intersection of Old Lynchburg Road and 5th Street, near the Albemarle Police Station. He said the necessity of this roundabout was due to sufficient traffic volume. He said that the assistant chief of police stated that speed cameras will soon be installed in the area, starting in Commissioner Bivens' district near Albemarle High School.

Review of the Board of Supervisors Meeting

Mr. Barnes said that during the past month, there had been numerous budget meetings. He said that the meeting of interest to them all occurred on March 20, during which they held a lengthy

work session discussing development areas and rural area land use, transportation issues. He said that community facilities would be returning to the Board. He said that the final session regarding goals and objectives would be held on April 3, focusing on community facilities.

Mr. Barnes said that the meeting also touched upon land use matters, which would be addressed later. He said that the County had adopted guidelines in accordance with the Public-Private Transportation Act, allowing other entities to approach the County with proposals to build infrastructure that the County had specified. He said that the Gray Star property (Old Ivy Residences) had sought expansion of central sewer services, which had been approved by the Board of Supervisors on March 20.

AC44 Update

Mr. Barnes said that regarding the AC44 update, the calendar was coming. He said that in the upcoming stages, they would present them with goals and objectives, along with actionable steps. He said that they would also speculate potential major moves in the background. He said that this would assist them in discussing how these elements unfold, allowing them to write more actionable steps. He said that their focus was on being intentional and considering the big picture.

Mr. Barnes said that upon releasing the action steps, all eight chapters' steps would be presented simultaneously. He said that they would then work through these with them. He said that initially, they planned to prioritize the development and rural areas before addressing other aspects, which would provide better context. He said that they would also explore the concept of activity centers, which they believed could be an engaging concept for them. He said that regarding timelines, he anticipated presenting some of these action steps to them in May. He said that June, July, and August would be busy months, as previously mentioned.

Mr. Missel said that through the scheduling review, they had been examining potential avenues for public input and integrating them accordingly to identify where they stood.

Mr. Barnes said that there would be a comprehensive engagement. He said that he believed it was crucial to emphasize that they were also in the midst of another working group. He said that they had held several meetings. He said that he was aware that they were scheduling another gathering, reaching out to community members, promoting the concept of empowering individuals associated with this working group to extend their influence to their church groups or homeowner associations, and so forth. He said that this initiative was currently underway.

New Business

Mr. Bivins said that he was unsure if this was related to new business; however, he assumed that everyone had been receiving postcards featuring the Crozet insignia. He said that these postcards had arrived at his residence, and he found that the tone of the messages was not particularly helpful in understanding the intentions of the individuals distributing them regarding Crozet, as they remained anonymous. He said that they merely raised issues without providing clear directives.

Mr. Bivins said that their current approach was unproductive, and their choice of inspirational quotes, such as one from Henry Ford, was troubling. He said that Henry Ford was known to be a Nazi sympathizer, and his ideas influenced Hitler's approach to the persecution of Jews in Germany at that time. He said that he requested that they cease sending such materials to his

residence and seek alternative sources of inspiration that did not carry such a dark historical legacy. He said that if people had any insights into these individuals, he asked them to share them so that they could address this issue appropriately.

Items for follow-up

Mr. Murray said that he was wondering if they had received any information regarding when the riparian buffer overlay district would be brought back.

Mr. Barnes said that he would follow up with that information.

Adjournment

At 8:30 p.m., the Commission adjourned to April 9, 2024, Albemarle County Planning Commission meeting, 6:00 p.m.



Michael Barnes, Director of Planning

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

Approved by Planning Commission
Date: 04/09/2024
Initials: CSS