Albemarle County Planning Commission
Draft Minutes Work Session and Regular Meeting November 26, 2024

The Albemarle County Planning Commission held a public hearing on Tuesday, November 26, 2024 at 4:00 p.m.

Members attending were: Fred Missel, Chair (absent from 6:00 p.m. meeting); Luis Carrazana, Vice-Chair; Corey Clayborne; Karen Firehock; and Lonnie Murray

Members absent: Julian Bivins; Nathan Moore

Other officials present were: Michael Barnes, Director of Planning; Andy Herrick, County Attorney's Office; Scott Clark, Conservation Program Manager; Khris Taggart, Senior Planner I; Bill Fritz, Development Process Manager; Francis McCall, Deputy Zoning Administrator; Frank Pohl, County Engineer; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Missel established a quorum.

Work Session

ZTA202300006, STA202300003, WPTA202300003, AND OTA202300002 Riparian Buffer Protection Standards

Scott Clark, Conservation Program Manager, said that this was a work session regarding the proposed riparian buffer protection standards. He said that to answer their questions, Mr. Francis McCall, the Deputy Zoning Administrator, and he believed Mr. Frank Pohl, the County Engineer, would be available online to provide information if needed. He said that as a brief overview of their agenda, they would review past and current buffer regulations, review the proposed buffer standards, and spend most of their time addressing the Commissioners' questions and discussion. He said that they would then conclude with the next steps.

Mr. Clark said that to provide context, this was project number one of 14 recommended by the stream health initiative's phase two. He said that he would not read all 14 projects, but he wanted to remind them that there were 14 different projects the County was being recommended to pursue. He said that this was the first of these projects. He said that he brought this up to emphasize that this was one of several tools they would use to consider improving water quality and stream health. He said that this project was focused and not the entire approach; it was just one of the tools.

Mr. Clark said that the scope of this project, which had been recommended to the Board and approved, was to alter the existing stream buffer regulations in the Water Protection Ordinance to move back towards pre-2014 requirements that stream buffers be retained County-wide, rather than just in regulated land disturbance. He said that however, they would keep the current exemptions for agriculture and forestry, as well as public utilities. He said that as part of this, they planned to move the buffer regulations from the Water Protection Ordinance to the Zoning Ordinance and update the Engineering Design Standards Manual with necessary guidance.

Mr. Clark said that before he delved into the history of their buffer regulations, he would like to note that the buffer locations throughout the past, current, and proposed ordinances were largely the same. He said that therefore, it was not included in the scope of this project to expand or contract the buffers beyond their current locations. He said that there were four categories that the buffers could fall into: development areas not in a water supply protection area, where they had 100 feet wide on perennial streams and wetlands; development areas within a water supply protection area.

Mr. Clark said that in contrast, other locations in the County, primarily rural areas not adjacent to a water supply impoundment, are subject to 100 feet of perennial and intermittent streams or the limits of the Flood Hazard Overlay District. He said that prior to 2014, riparian buffers were required to be retained and established where they did not exist throughout the County. He said that the main difference in buffer locations prior to 2014 was that there was a requirement for a certain level of management for 25-foot buffers on cropland, but not pastureland, to prevent concentrated water flows over the buffers into the streams.

Mr. Clark said that they acknowledged that out of the 690 square miles of rural areas, they only had about 600 acres of cropland. He said that by far, most of their agricultural land in the county was pastureland. He said that their existing buffer regulations came into place in 2014, with buffers being part of the Water Protection Ordinance. He said that however, the extent of the buffer regulations was reduced to only relate to regulated land disturbance activities.

Mr. Clark said that for development projects of 10,000 square feet or more, regulated stormwater management and erosion sediment control regulations applied, and the buffer requirements also applied. He said that they had vegetation retention requirements for these projects, and mitigation was required. He said that structures that required building permits were not permitted in the buffers, except for land disturbing activities.

Mr. Clark said that outside of those activities, changes to vegetation in the buffers were not currently regulated. He said that therefore, the proposal now was to revert to the pre-2014 regulations, requiring the maintenance of buffer vegetation outside of land disturbing activities. He said that the current project would maintain the existing exemptions for agriculture and forestry. He said that they originally intended for this project to be an overlay district, but there were many practical problems with its implementation. He said that as a result, it was now proposed as Performance Standards or Protection Standards for Section 4 of the Zoning Ordinance.

Mr. Clark said that he would point out that in staff research, most comparable localities above the tidewater range, where the bay ordinance was mandatory, but had buffer ordinances, adopted this approach rather than the overlay district approach. He said that the majority of these localities followed these standards. He said that while it was not 100% of them, it was the case for the comparable counties they surveyed, such as Loudoun, Fairfax, Fauquier, Roanoke County, and Powhatan County.

Mr. Clark said that he would not delve into the next detailed slide, but they could discuss it further in their questions, depending on their specific interests. He said that there were some new elements in this draft ordinance, including section 4.21.2, which expanded buffer requirements beyond just Local Development Areas to all buffers in the County. He said that the area of greatest interest may be section 4.21.6, which outlined the criteria for vegetation management. He said

that sections 4.21.7 and 8 addressed by-right uses and uses requiring mitigation plans, while section 4.21.9 provided the standards for those mitigation claims to be approved by the buffer administrator.

Ms. Firehock asked what the LDA was.

Mr. Clark said that it referred to land-disturbing activity. He said that for a quick comparison, under the current WPO regulations, vegetation changes were only regulated within land disturbing activities, but not elsewhere. The key difference with the proposed protection standards was that, except for permitted uses, native vegetation must not be disturbed or removed, and buffers must be maintained in as natural a condition as possible.

Mr. Clark said that there would be guidance in the design standards manual on how to achieve this. He said that when they said "except for permitted uses," there were two categories of permitted uses in these buffers. He said that one was uses that were by right, such as agricultural and forestry utilities, water-dependent facilities, and passive pervious recreation facilities like trails. He said that historic preservation and archaeology activities were also exempt from buffer regulations, as well as buffer planting and management and posts and poles.

Mr. Clark said that the second category included uses that required administrator approval with a mitigation plan, which included E&S facilities, roads, streets, and driveways. He said that these uses would require a mitigation plan to repair the impacts to the buffer. He said that in the draft, the mitigation plans would require replanting at a two-to-one ratio, as long as that fell within the buffer area.

Mr. Clark said that native species would be required for plantings, and there would be a design standards manual link providing the approved plant list sources. He said that planting standards would be included, and bonds could be required until the plants were established. He said that this was a new program that would require some level of staffing and enforcement. He said that the initial draft estimated that one full-time employee would be needed for enforcement and landowner assistance.

Mr. Clark said that the current plan was to start with half-time staffing, using existing staff, to evaluate the needs and establish procedures before pursuing full-time staffing. He said that staff had provided four discussion questions, and they were happy to respond to the Commission's feedback on these or any others, regarding whether the ordinance met its goals.

Mr. Clark said that if the Commission identified any regulatory measures that were missing from the proposal, he should have stated that they were within the scope of what was proposed and approved by the Board. He said that staff was asking if the Commission had feedback on the performance criteria, and if they agree that the by-right and by-approval uses were properly categorized. He said that he would leave these questions on the screen for discussion. He said that those were the Commission's questions for the work session, and they could proceed to the next steps after they had answered the questions.

Mr. Murray said that one thing he would like to point out was that on the slide was actually a two-page document, a handout from 2014 that summarized their water protection ordinance at the time. He said that this was just to demonstrate that they were not introducing anything new, but rather revisiting what they had before. He said that he thought it would be beneficial for them to return to simple guidance for the public, such as this, which provided clear and easy-to-

understand ways to implement and manage the buffer.

Mr. Murray said that upon reviewing the document, he noticed a few issues. He said that for example, Section 4.21.4 exemptions allowed the Riparian Buffer Administrator to grant an exemption from Section 4.21.4a if the development involved a single-family residence. He said that he thought this exemption was too broad. He said that in other places, it involved language that allowed for reasonable use of the lot. He said that if they could revise this or clarify it, or perhaps limit it to single-family residences or similar language, that would be helpful.

Ms. Firehock asked if Mr. Murray was envisioning a more specific scenario, such as how much encroachment into the buffer would be allowed by a single-family residence.

Mr. Murray said that typically, they would not allow any encroachment to the buffer. He said that an exemption could be made, for instance, if there was no other reasonable use of the lot except to build a house that would impact the buffer.

Ms. Firehock asked if he meant a situation in which the lot could not be developed in any other way, and it was already zoned for residential use, with someone having already invested in it.

Mr. Murray said yes. He said that the code language should specifically state something like that. He said that they had had situations in the past in which someone just wanted to build another house, but if they already had a lot, they should not provide an exemption for that.

Ms. Firehock said that somewhere else it talked about whether or not it would preclude any other use of the lot.

Mr. Missel asked if Mr. Murray was referring to Section §4.21.4C.

Mr. Murray said yes.

Ms. Firehock said that she believed she had found a similar statement elsewhere in the document, which stated that if there was no other reasonable use of the lot, that would be the criteria under which an exception could be granted.

Mr. Clark said that staff could try to make those areas of the document clearer or explain why it needs to be different.

Mr. Murray said that he wanted to make another point, which was that there was a significant amount of discretion granted to the riparian buffer administrator throughout the document. He said that he believed it was essential to maintain an objective stance for the public's benefit. He said that he recommended establishing a standard operating procedure manual to ensure consistency. He said that based on his understanding, some localities had a committee of public representatives who reviewed complaints, which could be a viable strategy for them as well. He said that by establishing a similar committee for review situations, they could provide public oversight and maintain objectivity. Mr. Murray said that there appeared to be a significant amount of discretion throughout the document. He said that if someone were to raise a question, such as why an exemption was granted, they should be able to provide a clear explanation based on their manual and relevant section, rather than relying solely on the discretion of one individual. He said that he was not suggesting that he did not trust the person involved, but rather that they should strive to make the process more objective and transparent for the public.

Mr. Missel asked if the individual in question was the County Engineer or someone else.

Mr. Clark said that staff approvals for this project fell under the purview of the Repair and Buffer Administrator, who was the County Engineer. He said that he was in cooperation with the Zoning Administrator on matters related to enforcement, including determinations about permissions and mitigation measures.

Mr. Missel said that there was a mention of "program authority" at one point. He said that it was unclear whether the engineer was the program authority, as it related back to the WPO.

Frank Pohl, County Engineer, said that the riparian buffer administrator was the County Engineer. He said that there was some overlap in duties with the Zoning Administrator, which was outlined in this document. He said that the main overlap was with regards to enforcement. He said that the idea was to maintain the current review process, which was handled through engineering. He said that they could consider adding oversight.

Mr. Pohl said that he understood about the committee, and while they did not want to create new committees, if they wished to do so, that would be a Board matter, unless he was referring only to staff. He said that he hoped this addressed the question regarding the administrator. He said that the program authority was not included in this document; it only included the riparian buffer administrator.

Ms. Firehock said that one alternative to a committee was to establish a standard operating procedure that outlined the criteria for reviewing exception requests and the considerations involved, such as a decision tree. She said that this would allow them to follow a consistent process, rather than relying on arbitrary decisions. She said that by documenting the process, it would be clear that a decision was made based on specific criteria, rather than simply relying on personal discretion. She said that this approach would provide greater transparency than simply relying on personal dislike or preference.

Mr. Murray said that he would strongly support that idea. He said that that was a key piece of this that he would like to see. He said that he had concerns about existing uses that were grandfathered in, which were mentioned in a late comment. He said that he understood that they wanted to permit those uses if they were currently occurring, particularly structures or features within the buffer area. He said that he had concerns about expanding those uses, especially if the expansions extended further into the buffer or if existing structures were derelict and not being used. He said that in some cases, it may be beneficial to demolish those structures and build new ones outside the buffer, where feasible.

Ms. Firehock said that she believed it already stated that those uses would be considered non-conforming. She said that according to the County code, there were already provisions for the expansion of non-conforming uses. She said that in essence, if a non-conforming use was partially destroyed, it could not remain unused for an extended period, even if it was only partially destroyed. She said that there were specific rules in place regarding non-conforming uses, and she believed those would apply in this situation since it was stated that the use would be considered non-conforming.

Mr. Murray said that that being the case, he wondered if they should carve out exceptions, specifically allowing for expansions. He said that he wondered whether that specific language

was necessary.

Ms. Firehock said that it was because those uses predating this which were not allowed were already stated as non-conforming.

Mr. Murray said that one of the other things mentioned as being allowed were lakes and ponds, and he understood that's because someone could obtain an Army Corps of Engineers permit to build a lake or pond, or someone could build a farm pond that did not require a permit. He said that they should have clarifying language in place to ensure that the new buffer extended to the perimeter of any new pond or lake, excluding ornamental ponds that had no business being inside the buffer. He said that this was particularly important given their problem with toxic algae blooms, which could create a public health hazard.

Mr. Murray said that without a buffer around some of their County lakes, they risked attracting geese and other wildlife that could contaminate the water, as well as bacteria that could enter the water. He said that in Albemarle County, they had seen pets die due to exposure to toxic algae blooms. He said that maintaining buffers, even if someone had created a lake or had a lake in their neighborhood, was still valuable. He said that limiting access to reasonable recreational areas and maintaining a buffer could help mitigate this issue. He said that permitting restoration activities by right was a step in the right direction. He said that if someone wanted to do a stream restoration, they should encourage that.

Mr. Murray said that however, for mitigation-type activities, particularly those requiring mitigation in their manual, they should also require a tree tube cleanup to ensure that these areas were properly restored. He said that once the trees were established, the tree tubes should be removed. He said that in Crozet, they had encountered numerous instances of excessive plastic waste, which ultimately ended up in the streams and contributed to garbage. He said that this, in turn, could harm the trees that the tree tubes were intended to protect. He said that as part of their project's closeout, it was essential that they ensured the removal of these tree tubes.

Ms. Firehock asked if it should be in the mitigation manual if it was not already.

Mr. Murray said definitely. He said that another concern he had was the 50-foot exception for water supply areas, particularly in Crozet. He said that this mainly affected the water supply protection area, which in turn impacted a significant portion of Crozet. He said that there was also a 50-foot buffer zone around intermittent streams within this protected area, which raised questions about the effectiveness of this provision.

Ms. Firehock asked what the 50 feet of encroachment were allowed for. She asked what they would do inside the 50 feet.

Mr. Pohl said that this provision originated from the current ordinance and was a carryover concept. He said that the idea was that in development areas, there were no buffers on intermittent streams, so additional protection was added for intermittent streams that had a water protection overlay. He said that this provision was a hybrid of a water protection overlay district and a development area, where there were no buffers, resulting in a reduced 50-foot allowance for those areas within a drinking water watershed. He said that he could find this section in the relevant documentation as well.

Andy Herrick, Interim County Attorney, said that it was in Section 4.21.8B.

Mr. Clark said that this section stated that approval was given only by the buffer administrator and with a mitigation plan.

Ms. Firehock said that this was because urban areas are more densely developed, and there is limited space for 100-foot buffers, practically speaking.

Mr. Murray said that on that note, he believed it was essential that they revisit the concept of transitioning from 100-foot buffers on intermittent streams in rural areas to no buffers at all in development areas. He said that although this was outside the scope of this discussion, he hoped they would revisit it in the future. He said that at a minimum, he thought they should consider having some buffer, such as 15 feet or 5 feet, to ensure that they were not completely erasing the intermittent streams. He said that the fact that they could simply remove the buffer and eliminate the streams had a devastating impact.

Mr. Murray said that it was comparable to the importance of capillary blood vessels in the circulatory system; without them, the body would not survive. He said that similarly, the small streams were crucial to the health of the larger streams. He said that for example, Moores Creek had already suffered greatly due to the loss of many intermittent streams that fed into it. He said that as a result, he had little faith that Moores Creek could recover. He said that he believed there was a strong case to be made for revisiting this policy to ensure that they were not irreparably harming their waterways.

Mr. Murray said that however, at least with the carve-out, there should be some additional guidelines in place to ensure consistency. He said that if they were going to allow something within the 50 feet, there should be some standard operating procedures in place. He said that perhaps this could be achieved through low-impact development practices, which would be beneficial. He said that if a developer was practicing low-impact development methods, allowing them to encroach on the buffer zone might make sense.

Mr. Murray said that however, they should provide guidance on when this was acceptable and when it was not. He said that one of the positive aspects of Crozet was that it had 100-foot buffers even on intermittent streams, resulting in more green space. He said that despite being more densely developed than other areas, Crozet still had more green space than other development areas. He said that this paradox highlighted the need to revisit the notion that they could not be dense and still have green space and water protection. He said that the buffers in Crozet ultimately led to the creation of the Crozet trail system, which was an integral part of the town's character. He said that without the trail network, Crozet would be a significantly different place.

Ms. Firehock said that the approach they took on this when writing the ordinance for Charlottesville, which she co-authored with Kristel Riddervold, was that they essentially copied it from Albemarle's ordinance. She said that to further explore the possibility of adding 100 feet of sidewalk along three major streams in the City, they conducted a GIS analysis. She said that they found it was feasible, but later, she conducted a more detailed analysis of the other streams, determining the maximum buffer width they could tolerate without encroaching on buildings or yards. She said that this analysis could be applied to Albemarle's development areas to assess what is possible.

Mr. Missel asked how they would address the potential impacts on the unbuilt environment if measuring from the nearest building,

Ms. Firehock said that they measured the distance from the stream outward and then examined various widths to determine whether existing structures were in the way or not. She said that they also assessed the presence of buffers, including miles or feet of stream had buffers and which were lawns, to gain a better understanding of the existing landscape.

Mr. Missel asked if the County was considering anything like that.

Ms. Firehock said that it was doable.

Mr. Murray said that he believed the UVA South Lawn project was a great example of integrating an intermittent stream into the project, having been engineered at that stage. He said that if they were in an urban area, allowing that stream to become more engineered, as long as it was not buried, he was comfortable with that outcome. He said that he believed they should have a more comprehensive approach to addressing this issue. He said that they had been aware of this issue since 2014, and it had taken them this long to revisit it.

Mr. Murray said that he was concerned that if they did not get it right, it would take them significantly more years to address this issue. He said that if they looked at Asheville's situation, he thought they could learn from their experience. He said that they knew this was a dire situation, and they should deal with it now, particularly as storms were becoming more severe. He said that they had seen the devastating effects of storms on roads during the recent weather events, and they had been fortunate to avoid the worst of it. He said that they could no longer rely on the federal government to protect streams and wetlands, so they may need to take a more proactive role.

Mr. Clark said that one of the 14 recommendations was a stream quality assessment program. He said that staff could follow up with more information about that specific item.

Mr. Murray said that he wanted to express some positive opinions about this proposal before he concluded and allowed others to share their thoughts. He said that there were some notable achievements in this document, particularly with regards to the manual. He said that the language regarding the allowed changes between different vegetation types was nuanced and well-executed. He said that he commended the staff for their hard work on this project. He said that overall, he believed that this would be a significant improvement.

Mr. Clayborne said that there were a couple of questions that built upon Mr. Murray's points. He said that regarding the recent intense rainfalls, he would like to know how these events might affect the distance of the buffer that they would propose in the ordinance, if at all.

Mr. Clark said that he believed the primary way it would impact this was that, particularly in rural areas, the buffers extended to the edge of the 100-year floodplain, as defined by the Federal Emergency Management Agency (FEMA). He said that as FEMA recalculated these floodplains in response to changing flow regimes, the buffers would expand in areas where floodplain regulations were in place.

Mr. Clark said that he did not have a specific proposal to expand the buffer sections, which were currently defined by a certain number of feet from the stream; they were sticking with the existing scope and extent. He said that one way to effectively address the concern was to have the flood hazard overlay zoning district expand, which would cause the buffer to expand with it, as defined

in the document.

Mr. Clayborne said that he recalled a slide that mentioned one full-time equivalent (FTE) to carry out this task. He said that he was curious about the confidence level in obtaining that FTE. He said that if it was not feasible, he would like to know if a consultant would be a suitable alternative. He said that he noticed two clocks on the slide, which represented an estimated 80 to 320 hours of work. He asked if it was possible that this task would not be an FTE, but rather a sub-contracted service if it could not be accommodated within the budget.

Mr. Clark said that he believed the time estimate was primarily related to the development of the ordinance and the procedures. He said that the estimate was that they would need a full-time staff member to handle complaints, enforcement, landowner support, and information distribution.

Mr. Clark said that as he had pointed out, they currently did not have that at their disposal. He said that they were hoping to find a solution among their existing staff for the initial implementation of the ordinance. He said that if they could not secure a full-time employee further into the implementation of the ordinance, it would likely be limited by the availability of staff to address the increased issues that would arise. He said that at some point, it would become critical.

Jodie Filardo, Community Development Director, said that the staffing question was a crucial point, and this proposal was a long time coming, as Mr. Murray had previously mentioned. She said that they did not anticipate starting this program with a fully allocated headcount. She said that they were uncertain about the exact number of staff required. She said that their current budget for the next year and the following year was exceptionally tight, which may limit their ability to add headcount.

Ms. Filardo said that if this proposal was approved, their commitment was to try it and assess the situation. She said that they hoped to initially accommodate the additional responsibilities with their existing staff, but they recognized that they would need more than their current staff to sustain the program. She said that they were optimistic that the program's needs and their ability to find and grow staff would align, but the next couple of years were particularly challenging for their budget.

Mr. Murray said that it was worth considering that not all situations were the same. He said that he believed it would be beneficial to establish a procedure for ranking and prioritizing violations, as even with a full-time staff, enforcing every minor infraction of the Water Protection Ordinance in Albemarle County would be impractical.

Mr. Murray said that removing the stream buffer off a two-mile stretch of a large parcel would be a more egregious offense than removing five feet from a five-acre property. He said that he proposed a worst-case-first policy, where violations were ranked in order of severity, allowing for a clear prioritization of situations. He said that this approach would enable the policy to stand regardless of available funding, ensuring that the most critical issues were addressed.

Ms. Filardo said that when they had limited resources for staffing, they made decisions based on scarcity, which meant they prioritized based on the severity of the issues. She said that this approach assumed that all complaints and problems were presented at the same time, but in reality, they tended to focus on the most severe cases first when conducting code enforcement.

Ms. Firehock said that they were basically trying to return to their previous policy regarding stream

buffers. She said that she had a minor comment on page eight regarding additional purposes, regarding the importance of protecting fish and wildlife habitat under D. She said that she knew that they might assume wildlife included fish, but it did not. She said that she was wondering if they could add fish to that section because they were primarily trying to protect water quality.

Ms. Firehock said that additionally, when they disseminated this ordinance to the public, she thought it would be beneficial to remind everyone that there were impressive statistics available about the effectiveness of 100-foot wooded buffers in removing nitrogen, phosphorus, and sediment. She said that it was not just about having trees and streams; in fact, more than 90% of these pollutants would be removed by such buffers. She said that she could provide the exact numbers if staff would like.

Ms. Firehock said that furthermore, she believed it was essential to let the public know that this was not just another regulation, but rather a crucial measure to ensure the health of their waterways. She said that as someone who had worked with landowners across the country, she had seen firsthand how education could change attitudes. She said that by explaining the benefits of these buffers, she had been able to turn many landowners' perspectives around and encourage them to support conservation efforts. She said that while they had discussed enforcement, she was confident that people would be more likely to comply once they understood the significance of this policy.

Ms. Firehock said that their commitment to protecting the Chesapeake Bay was rooted in Albemarle's heritage as a leader in this effort, thanks to the Chesapeake Bay Preservation Act, which allowed localities west of I-81 and north of I-64, including Loudoun, to adopt this provision voluntarily. She said that they were proud to continue this tradition of going above and beyond to protect their environment. She said that a robust education program was crucial to this effort, as it was essential to inform landowners about the importance of preserving their natural resources.

Ms. Firehock said that she did not want to be seen as targeting specific individuals, as many people may unintentionally harm the environment due to a lack of knowledge. She said that she recently purchased a house in Albemarle County, and the stream was already dammed by someone. She said that she had attempted to remove the dam, but it was too difficult. She said that climate change ultimately led to the dam's collapse. She said that now, the stream was healthy and babbling. She said that people often made mistakes when it came to their creeks, not out of malice, but simply because they were not aware of the consequences.

Ms. Firehock said that she was very supportive of this initiative and hoped that they could implement a comprehensive education program to inform their community about the importance of preserving their environment. She said that she had noticed that some of her neighbors were taking steps to improve their properties, such as installing stone patios and barbecue grills. She said that some had even set up unauthorized campsites, which could be detrimental to the environment.

Ms. Firehock said that these campsites often involved clearing vegetation, building fire pits, and installing picnic tables, which could harm the natural ecosystem. She said that this was happening. She said that there were issues occurring in the rural area. She said that she did not believe this was a case of malicious intent, but rather a desire to utilize their land for a specific purpose without understanding the consequences.

Mr. Clark said that Mr. Murray's mention of the old brochure they had was a good point. He said

that at the moment, they were focused on the content of the ordinance, but he believed that the expectation had always been that they would have more outreach and education materials available, especially as they got closer to adoption.

Ms. Firehock said that it would almost certainly require additional funding. She said that there might be a grant opportunity that they could pursue to fund a large community buffer planting campaign or an awareness campaign. She said that she did not think they needed to think outside the box; rather, she believed they should consider the possibilities within their existing framework.

Mr. Murray said that one of the benefits of this approach was that it aligned more closely with the language in the Bay Act, which was a positive development. He said that keeping to this language would also allow them to utilize the materials already developed by the state for the rest of the state. He said that the Department of Conservation and Recreation (DCR) and the Department of Environmental Quality (DEQ) had already created a number of educational handouts, and he recalled that the one they had previously discussed was developed in partnership with them. He said that to the extent they could leverage these existing educational materials, the better their outcomes would be.

Ms. Firehock said that she believed it would take proactive educational outreach, rather than just a website with explanatory definitions of the terms.

Mr. Murray said that he agreed. He said that he believed that focusing on enforcement was necessary for addressing bad actors, but he thought that most people would do the right thing. He said that they could look at the Stonewater Conservation District, where he used to work and still served as an associate director.

Mr. Murray said that it was truly impressive. He said that he encouraged those who may not have attended one of these meetings to witness the number of farmers and other individuals who came forward to voluntarily invest their own money in planting trees and implementing conservation measures. He said that there were many people spending significant amounts of their own money to make positive changes.

Ms. Firehock said that the James River Association had a significant amount of funding to assist landowners with riparian planting. She said that although she did not have the exact figure, it was substantial. She said that her neighbor across the street, who initially had invasive species, was able to remove them and replant the stream buffer with the Association's help. She said that the Association even returned multiple times to manage the site and remove new invasive species. She said that her neighbor had a successful restoration project, and all she had to do was agree. She said that the James River Association was undertaking projects across the region, and they offered this assistance at no cost to landowners who were interested.

Mr. Murray said that he had another question regarding the benefits of moving this into the Zoning Ordinance. He said that while there were many advantages to doing so, he would like to know what they would lose in terms of enforcement. He said that specifically, he was wondering if this change would affect their ability to issue stop work orders or other tools they currently had, such as those related to erosion and sediment control. He said that currently, these were bundled together, but he was concerned that moving this into the Zoning Ordinance might impact their existing enforcement mechanisms.

Francis McCall, Deputy Zoning Administrator, said that it may be challenging to provide a detailed

answer, but they did have standard enforcement techniques outlined in the ordinance. He said that he was not aware of any additional techniques that may be available to them. He said that currently, they operated on a complaint-based system, where they would need to receive complaints and investigate them online or on-site, depending on the location of the complaint. He said that they would then make determinations about what actions could be taken. He said that he was not aware of any new approaches that might be feasible.

Mr. Pohl said that staff had discussed this a little bit. He said that the zoning regulations would undergo a different process than the WPO process for stop work orders. He said that however, if the activity was associated with an active land-disturbing activity that was also permitted, there were two possible approaches. He said that they would have a zoning violation and a stop work order for exceeding the approved limits of land disturbing activity. He said that this would provide an additional layer of enforcement for land disturbing activities.

Mr. Pohl said that for activities that did not involve land disturbing, they would follow the typical zoning appeal process, which involved a violation and a 30-day time limit. He said that Mr. McCall may have more details regarding that process. He said that additionally, for those activities below the land disturbing threshold, there would be another process in place. He said that notably, tree clearing was considered land disturbance and would be covered under the ordinance if it exceeded 10,000 square feet in a stop work order.

Mr. McCall said that they were able to pursue the full range of civil penalties and, if necessary, seek an injunction.

Mr. Murray said that he assumed there would also be triggers for checking buffers, such as when a building permit was submitted to Albemarle County. He said that this would provide an opportunity for them to verify that the buffers were in place.

Mr. McCall said that was correct; this process currently applied to individuals who were closing their building permits for their new dwellings.

Ms. Firehock said that in the case of an existing stream crossing, such as where a number of people's driveways had collapsed in recent high water events, and they required new stream crossings, it raised concerns about encroachment into the buffer zone. She said that although this was an existing encroachment, she was wondering if it triggered any additional review or requirements. She said that this had been a topic of discussion recently, and she was not certain about the outcome.

Mr. McCall said that there may be some potential for that, but there would likely be considerations regarding nonconforming uses, as it is currently listed in the Zoning Ordinance.

Mr. Pohl said that those projects would not have a significant impact on the existing buffer. He said that what he had observed was that they did not add any additional buffer beyond what they had already impacted. He said that it would essentially be a maintenance project.

Mr. McCall said that staff could potentially add more language to address that specific instance.

Ms. Firehock said that she did not see it as a concern, as long as the proposed development did not expand the existing footprint.

Mr. Pohl said that such a crossing was also classified as a water-dependent structure or facility, as it required a bridge to cross a stream, under number 5 of permitted uses.

Mr. Missel said that on page 11, it mentioned installing signage to identify the landward boundary of the buffer. He said that this was where development included a riparian buffer. He said that he was seeking clarification whether this was a new requirement, or if there had been a requirement to install signage in the past regarding riparian buffers.

Mr. Pohl said that it was not explicitly stated as a requirement, but it had been done in the past.

Mr. Murray said that if they referred to the pamphlet he previously created, there was a picture of one of the signs included in the pamphlet.

Mr. Missel said that he was wondering if preserving this area, with the numerous signs in place, was the most effective approach. He said that the signs were relatively small.

Mr. Pohl said that they had comments regarding the need to better define this concept, and they would be working on developing clearer guidance to be included in the design standards manual for this purpose.

Mr. McCall said that this provision provided future landowners with a buffer zone, as described, which was typically created by the developer during the subdivision process. He said that as a result, three houses later, when a new owner purchased the property, they could observe the buffer zone and were less likely to install features such as patios or fire pits within the buffer.

Mr. Murray said that made sense. He said that there were some places in Crozet where individuals had cleared the buffer zone. He said that it appeared that they had simply cleared the area down to the pond, likely for aesthetic or accessibility reasons.

Mr. Missel said that on page 15, number 8, it mentioned a lot that was recorded prior to February 11, 1998, and the development of a single building site. He said that he was unclear about how the riparian buffer would affect the building site. He said that he would like clarification on how they defined a building site.

Mr. McCall said that Section §4.2 defined a building site as areas that lacked buffers, were not located within floodplains, and did not have critical slopes.

Ms. Firehock said that they were the areas they were allowed to build in.

Mr. Missel said that on page 16C, it stated that the Riparian Buffer Administrator conclusively determined that the proposed facility location within the riparian buffer was necessary for reasonable use, and Mr. Murray also touched on this point. He said that he was seeking clarification on when a biofilter could be placed within a buffer, or if there was a specific water quality measure that could be implemented inside a buffer.

Ms. Firehock said that stormwater management was typically one of the exempted items.

Mr. Pohl said that Ms. Firehock was likely referring to a stormwater outfall, since they needed to discharge water into streams. He said that stormwater management facilities were prohibited. He said that the stormwater flood control and stormwater management facility, which was number

nine in the section Mr. Missel was referring to, had the conditions that must be met. He said that there were instances where stormwater facilities could be constructed, but they were subject to these conditions.

Mr. Missel said that moving on to number 13, any building or structure that existed on February 11th, 1998, may continue in its current location on that date. He said that the continuance, repair, replacement, expansion, or enlargement of any such building or structure may be allowed, unless prohibited. He said that he believed the community had raised a question about grandfathered uses and whether they would be phased out over time.

Mr. Pohl said that this came from the current water protection ordinance, which allowed a structure to expand as long as it did not encroach on a setback or floodplain, or violate other zoning requirements or restrictions. He said that using a house as an example, under this ordinance, an expansion would be permitted as long as it did not exceed the allowed boundaries.

Mr. Pohl said that the intention behind this provision was not to condone or condemn the practice, but rather to acknowledge that many houses were built before the ordinance was established, and that the original buffer zone ordinance allowed for such expansions. He said that this provision would have allowed homeowners to expand their kitchens, even if they were adjacent to the buffer zone, and that this was a carryover from the current ordinance.

Mr. McCall said that according to 18-6, there were prohibitions that stated that they could not do something because of this. He said that if it did not affect those prohibitions, then it would be permissible for them to make those additions.

Mr. Missel said that they used to be able to obtain an early grading permit based on a WPO approval, but he wondered if that was still an option once this update was in effect.

Mr. Pohl said that the water protection ordinance requirements and regulations remained unchanged, except for the buffer section.

Mr. Missel asked if there were any further questions or comments on this topic.

Mr. Pohl said that regarding Mr. Murray's comment regarding the exception in Section 4.21.4C, the exception allowed for single-family residences to be exempt from submitting a site-specific evaluation. He said that this meant that single-family homes that were far enough away from the buffer that they did not require a site-specific evaluation to build a house on the property.

Mr. Murray asked if that meant that the exemption did not exempt them from the buffer requirement, but rather it exempted them from the evaluation.

Mr. Pohl said that that was correct. He said that if it did not read as such, he would like to know, because it should state that.

Mr. Murray said that the issue of farm roads had been a problem in the County, particularly with those who had "grandfathered" in existing roads. He said that some individuals would build a substantial amount, then create what they called "farm roads" or "logging roads," sometimes even with cul-de-sacs. He said that these roads often violated their standards for roads and then applied for subdivision approval, only to request that they allow these non-compliant roads to remain.

Mr. Murray said that this was a concern because they had rules in place for new roads, but they also wanted to accommodate pre-existing roads. He said that the question was, how could they prevent people from exploiting this loophole within the ordinance? He said that specifically, what period did they allow for grandfathering in existing farm roads, and how could they ensure that people could not simply circumvent their rules?

Mr. Pohl would appreciate any suggestions they may have, but they could also consider requiring a change in land use. He said that he believed they had a chart that outlined this option.

Mr. Clark said that no, the chart focused on changing vegetation types, not about infrastructure.

Ms. Firehock said that there had been developments in Virginia, including one in her neighborhood, that resembled this situation. She said that she was aware of a case in which someone had installed a very wide entrance for their logging project and attempted to gain access to the roads. She said that they then proceeded with what she called "faux forestry," where they claimed to be conducting a timber project, but in reality, they were simply clearing the land to lay out a subdivision without obtaining the necessary land disturbance permit.

Mr. Herrick said that there was a protection in the water protection ordinance that would remain in place. He said that this provision, which was part of the water protection ordinance, had not been moved and would continue to be part of the water protection ordinance. He said that Mr. Pohl and he had been responsible for significant revisions to Section §17-300D of the County code over the past six months to bring it in line with the state water control law. He said that in this section, the agricultural road conversion provision remained subject to review under the Virginia Environmental Stewardship Management Program (VESMP). He said that therefore, it would not be moved to the Zoning Ordinance, but would instead remain in the County code under the water protection ordinance.

Ms. Firehock said that some communities had implemented a three-year waiting period to discourage clearing land for supposed forestry purposes, when, in reality, the intention was to create a development lot without obtaining a grading permit.

Mr. Murray said that he believed that three years was too short a timeframe. He said that he thought it should be at least 10 years, or possibly longer. He said that there appeared to be a line beyond which they should not grandfather existing infrastructure. He said that he may have made a similar case before, that if a road had been in place for 100 years, the impacts were already established and they should consider continuing to use it.

Mr. Murray said that he also believed that there was a reasonable threshold beyond which they should not exempt existing infrastructure from new regulations. He said that this would be a significant deterrent to doing so. He said that even if a road had been in place for 100 years, he considered his own experience with Sugar Ridge Road, where many rural roads were built very closely to streams. He said that if a new subdivision was proposed, perhaps they could take the opportunity to improve the situation and relocate it slightly, away from the stream.

Ms. Firehock said that she was not opposed to that idea. She said that they did have standards for road construction and grade, and many of these unusual roads, such as the one she recently came across in Nelson County, on the other side of the Rockfish, were once built in non-standard ways. She said that the road used to extend all the way up to Schuyler, but it was now closed. She said that she believed the County would not permit such a road in a development plan,

especially if it was not up to standard and was in a poor location, within the buffer zone.

Mr. Murray said that there had been instances in the past where certain items were allowed, and he would not speculate on whether that trend continued. He said that he believed codifying standards and guidelines would be beneficial to ensure that no one was tempted to circumvent them.

Mr. Clark said that he believed they had covered all the discussion questions on the screen.

Recess/Reconvene

The Commission recessed at 5:05 p.m. and reconvened at 6:00 p.m.

Ms. Shaffer called the roll.

Mr. Carrazana established a quorum.

Ms. Shaffer said that Mr. Bivins, Mr. Moore, and Mr. Missel were absent from this 6:00 p.m. meeting.

Public Comment on matters pending before the Commission, but not listed for a Public Hearing on this agenda

Emily Dreyfus said that she was a resident of the Rio Magisterial District, and that she was representing the Legal Aid Justice Center and the Charlottesville Low Income Housing Coalition. She said that she would like to elaborate on the affordable housing needs in the County, citing County publications and the Orange.6.0 report as her resources.

Ms. Dreyfus said that her reasoning for this was that she believed the AC44 plan required a dramatically different approach due to the severity of the affordable housing crisis. She said that over the past five years, rents had increased by an average of 34%, with a 7% increase between August 2023 and August 2024. She said that mass evictions were being seen in the Albemarle County area, including Cavalier Crossing, which led to displacement and housing shortages that were likely to continue due to the incredibly pressured market.

Ms. Dreyfus said that this also had a negative impact on climate change, as people were forced to commute from distant locations, such as Buckingham County and Louisa, which put a significant stress on their carbon footprint and reliance on cars. She said that the Orange.6.0 report stated that of the 27,330 families living in Albemarle County, approximately 18%, or 5,000 families, did not earn enough to provide for their family's basic needs, which was defined as the self-sufficiency standard.

Ms. Dreyfus said that to be self-sufficient in Albemarle County, an individual needed an annual income of over $63,000. She said that furthermore, over 80% of earner households earning less than $50,000 were cost burdened, with four out of every five households struggling to make ends meet, with wages averaging around $24 an hour. She said that the comprehensive housing affordability strategy data revealed some additional needs, including that there were only 1,948 publicly supported housing units and 500 housing choice vouchers in the County, indicating that over 50% of very and extremely low-income individuals had unmet housing needs.

Ms. Dreyfus said that nearly 20% of Albemarle residents were now over 65 years old, yet efficiency units comprised only 1% of the County's housing stock, making them the most affordable option for most single people and seniors. She said that she encouraged the Commission to take a dramatically different approach to AC44, including the possibility of incorporating a transitional area. She said that this could involve expanding the urban ring and increasing density, while also upzoning the current development area. She said that by doing so, they may be able to create a more comprehensive and inclusive solution.

Consent Agenda

Ms. Firehock motioned that the Planning Commission approve the consent agenda as presented. Mr. Clayborne seconded the motion, which passed unanimously (4-0). (Mr. Bivins, Mr. Moore, and Mr. Missel were absent.)

Public Hearing

SP202300023 Buck Island Solar

Bill Fritz, Development Process Manager, said that as he reviewed this request for SP202300023 Buck Island Solar, he would outline the two key aspects that needed to be addressed by the Planning Commission. He said that since this was a solar facility, it must be reviewed for compliance with the comprehensive plan and the special use permit review criteria. He said that the Buck Island Solar project involved approximately 11 acres of solar panels, with about 30 acres of disturbed land, generating approximately 3 megawatts of power.

Mr. Fritz said that to begin, he wanted to address the broader question of the appropriateness of solar facilities in rural areas of the County. He said that according to Section §15.2.22.32 of the state code, the Planning Commission must review the project for consistency with the comprehensive plan. He said that this project was located in a rural area of the County, as indicated on the provided map. He said that there were two other approved solar projects in this map area, Woodridge Solar and Rivanna Solar, both located near the proposed Buck Island Solar facility.

Mr. Fritz said that the comprehensive plan did not directly address solar facilities. He said that during the review of the special use permit, staff had found that the facility would promote conservation and efficient use of energy resources, and demonstrate leadership in energy and carbon reductions at the local level, concepts included in the plan. He said that the approval of other solar facilities in rural areas indicated that these types of facilities were generally appropriate in these areas.

Mr. Fritz said that after reviewing the property, staff had found no resources or features that would indicate this use was inconsistent with the comprehensive plan. He said that staff was recommending that the Commission find this project substantially in accord with the adopted comprehensive plan. He said that the map provided more detail on the character of the area and the location of the proposed Buck Island solar facility, as well as the approximate panel area of the Rivanna solar project. He said that to provide a clearer view, he had attempted to go around the areas that were actually in the panel. He said that this allowed the viewer to see the scale. He said that for the purpose of this discussion, he had used a circle as an approximate representation.

Mr. Fritz said that this plan showed the design of the solar facility. He said that the panel area was

approximately 11 acres. He said that access was to Campbell Farm Lane, a public road. He said that the limits of disturbance were shown, along with the buffer to adjacent properties. He said that the panel area was well removed from any stream buffer area and no disturbance occurs within a stream buffer. He said that no critical slopes were impacted, and staff opinion was that the design of this facility substantially minimized visibility from adjoining properties and public streets.

Mr. Fritz said that the project had been reviewed for compliance with the criteria for a special use permit, and staff was able to recommend approval of this application. He said that there had been some changes in some of the conditions. He said that he had made a mistake on Condition 1 when he was writing it. He said that they generally stated general accord with the comprehensive plan. He said that he had mistakenly continued to reference the entire narrative, which was attached to the application plan. He said that however, it should only be the concept plan.

Mr. Fritz said that regarding Condition 14, over the years they had refined their conditions to make them better, and one of them was to prohibit above-ground wires except when necessary to avoid stream buffers or wetlands. He said that he had copied an old condition, so they would like to replace it with this. He said that this would allow them to be avoided if any were identified. He said that staff recommending approval, recommending that the Planning Commission find this substantially in accord with the adopted comprehensive plan, and recommending approval of the special use permit with the changes to Conditions 1 and 14 as recommended by staff.

Mr. Clayborne said that as they were looking to the future, he was wondering what percentage of their energy they aimed to generate from solar power. He said that he was referring to their climate action plans and other relevant documents, but he could not find that information readily available.

Mr. Fritz said that he was unsure if there was a specific number mentioned in the climate action plan. He said that the comprehensive plan did not contain this information, and it was not part of their review. He said that therefore, he was unable to provide an answer to the question. He said that he would have to research whether it was contained in the climate action plan.

Mr. Clayborne said that he could not find the information, but it was something that they all needed to be aware of as more of these applications came forward and as they began to cast their future plans.

Ms. Firehock asked, when staff reviewed these applications, if the scale of the project influenced their evaluation. She said that for example, the solar project they had shown them as a reference point nearby was utility-scale, whereas this project was not. She asked if they treated them differently. She said that she believed that utility-scale solar projects, like the one they had shown for reference, generated significantly more power. She said that in contrast, this project, although it did generate power, was smaller and less impactful.

Mr. Fritz said that staff had considered several factors for this particular project, including the 11 acres currently under panel and the 30 acres being disturbed, which were located in rural areas. He said that the minimum lot size in these areas was 21 acres. He said that as a result, it was possible to divide the land, build a house, and remove it from agricultural production, which would be permissible by right. He said that this was comparable to the scale of potential removal of agricultural production that could be done by right.

Ms. Firehock said that it appeared there was not much difference in this case.

Mr. Murray said that he was aware that in the past, they had discussed guidelines related to vegetation, particularly those put forth by the Natural Heritage Committee, which emphasized the importance of encouraging planting for pollinators and native species. He said that he was curious to know what guidelines the staff had discussed regarding the encouragement of planting for these sites.

Mr. Fritz said that there were two parts of the answer to that question. He said that through their experience with past solar projects and working with the proposed solar ordinance, they had gained valuable knowledge about what was available and best practices in other parts of the Commonwealth. He said that one of the conditions recommended by the state was that this project be certified as a pollinator-smart project.

Mr. Fritz said that this certification involved not only promoting pollinator species but also addressing soil regeneration, stormwater retention, and wildlife habitat for animals other than pollinators. He said that they had also included a condition that recommended fence heights, as specified by the state, which excluded deer passage, or allowing easy access to deer as well as smaller animals. He said that the fence must either be short enough for the deer to get over, or tall enough that they cannot get over, with a 4-inch gap at the bottom for small animals to get through. He said that this recommended fencing standard originated from the state.

Mr. Carrazana said that this project required 10 acres per megawatt, which seemed high compared to other facilities. He asked if there was a reason why.

Mr. Fritz said that he was unsure about the acreage of land disturbance per megawatt in past projects, so he could not compare this proposal to those projects in that way.

Mr. Carrazana said that he was reviewing a few examples across the state and the nation. He said that it appeared that 10 acres was a significant number compared to the average, but perhaps the applicant could discuss this further.

Mr. Carrazana opened the public hearing. He asked if the applicant had a presentation.

Laurie Schweller said that she was an attorney with Williams Mullen, representing Buck Island Solar LLC, the applicant. She said that she was joined by Eric Alves de Sa, who would present the request for a special use permit in substantial accord with the comprehensive plan on behalf of Nexamp. She said that Buck Island Solar LLC, which is wholly owned by Nexamp Solar, was also represented by Ryan Yauger from Bohler Engineering, the civil engineering firm for the project.

Ms. Schweller said that this project was located in the southeast part of the County, and the proposed solar facility would be situated in the northeast corner of the subject property, which spanned approximately 105 acres. She said that the site had been carefully sited to minimize impacts on neighboring residences. She said that although the project was located off Buck Island Road, it was abutted by Campbell Farm Lane, and therefore, there were residential properties along the eastern side of the project. She said that Mr. Alves de Sa had worked closely with the neighbors to ensure sufficient buffering. She said that the site entrance was located on Campbell Farm Lane, and the project was accessible through this entrance, which was behind the trees.

Ms. Schweller said that she would like to take a few minutes to discuss community engagement.

She said that the SUP application had been submitted last December, and they had promptly reached out to Monticello to obtain the necessary evaluation. She said that the facility was approximately five miles away, and they had not anticipated any negative impact. She said that Mr. Alves de Sa had immediately begun reaching out to the neighbors, and they had held a community meeting in February. She said that since then, they had been discussing with several neighbors, including those marked with blue dots on the screen, concerns such as buffering, access easements, and tree removal.

Ms. Schweller said that these concerns were largely a result of the Rivanna solar development, and therefore, neighbors were concerned about insufficient screening and stormwater runoff. She said that Mr. Alves de Sa had worked diligently with the neighbors to address these concerns, and their application concept plan had been modified to increase buffers.

Ms. Schweller said that they were currently working with Rob Nicholson, who owned Rooks Ford Farm, to address these issues. She said that the 3,500-acre farm was located north and west of the project, and they were currently working with him on buffer zones. She said that additionally, the property was held in a conservation easement by the County. She said that she would like to turn the discussion over to Mr. Alves de Sa, who could provide more information about the project.

Eric Alves de Sa said that he is the development manager for Nexamp, based out of their Washington, D.C. office. He said that their company adhered to a high standard when it came to site selection, site design, and community engagement. He said that each project was unique, and he hoped that by the end of this presentation, the Commission would largely agree that this was a well-designed community-scale solar project. He said that he would click back and pause on the view from Buck Island Road.

Mr. Alves de Sa said that if they looked down Campbell Farm Lane and followed the yellow arrow on the slide, they would see a wall of trees that appeared dark. He said that 150 feet of trees would be preserved and remain standing throughout the project. He said that this had been a topic of many conversations with the Fewell family, whose home they saw on the slide, and the Bazzarre family, who was to the right and north of this photo. He said that they had expressed a desire for at least 150 feet of forested buffer to remain, and they had a tree preservation easement with their landowner to ensure this was protected not only in the special use permit but also via easement.

Mr. Alves de Sa said that the only break in this 150-foot buffer would be for the site entrance, which would continue forward into the project area behind the cleared site. He said that in their current design, there was a slight S-shaped bend in the access road as it cleared through the 150 feet, and they intended to make this bend even more pronounced before presenting to the Board of Supervisors. He said that this would ensure that, from Buck Island Road or the Fewell family's driveway, there would be no direct line of sight to the site without passing through trees.

Mr. Alves de Sa said that he would like to discuss some of their site selection criteria. He said that this site was fully screened. He said that the property had flat topography throughout, providing ample space for them to avoid any wetland features. He said that they were utilizing Campbell Farm Lane, as he had previously shown, to minimize the creation of new impervious surface area. He said that although approximately 30 acres of trees must be cleared for this 3-megawatt project, these were the same 30 acres that would be timbered regardless.

Mr. Alves de Sa said that this property had a history of timbering, with the last timbering occurring

about 10 years ago. He said that the tree clearing areas were part of their regular periodic tree clearing. He said that the clean power generated by this project displaced fossil fuels, and the avoided greenhouse gas emissions would require 2,200 acres of U.S. forest to sequester.

Ms. Alves de Sa said that although 30 acres was a considerable portion, in answer to the question of why there were more limits of disturbance on this project for a smaller megawatt system size capacity, it was due to the tree clearing. He said that looking at the panels per acreage of megawatts, this was on par with other typical systems. He said that looking at the areas of disturbance, due to the need to clear trees so there were no shadows cast on the panels, it swayed the metric to a certain degree.

Mr. Alves de Sa said that when comparing their project to the nearby Rivanna Solar, their project was farther from the road and smaller in size. He said that they were also out of public view, whereas the Rivanna Solar project would be visible from the road at some point in the future. He said that in addition to the project benefits, solar energy provided a quiet neighbor with no traffic, noise, or burden to public services. He said that while this project generated revenue for the City through real estate tax increases, machinery and tools taxes, and potential rollback taxes, it also aligned with the state's clean energy goals, climate action plans, and concepts outlined in the County's comprehensive plan.

Mr. Alves de Sa said that he wanted to take a moment to discuss Nexamp, the company behind this project. He said that as an industry leader and veteran of the solar space, Nexamp had been a driving force in community solar for over 15 years. He said that they had developed end-to-end expertise at every step of the process, from development to construction, ownership, and maintenance. He said that as the developer, Nexamp oversaw the construction, was the long-term owner and operator, and handled energy sales with Dominion and customer subscriptions.

Ms. Alves de Sa said that in fact, for the past couple of years, Nexamp had been the top community solar provider in the country. He said that this partnership would provide the County with a long-term collaborator and single point of contact. He said that to summarize, the project's construction duration was approximately 12 months, with an operating term of at least 25 years, but potentially up to 40 years, followed by a six-month decommissioning period. He said that there were no plans for future expansion or energy storage.

Mr. Alves de Sa said that he would like to note the landscaping plan, particularly the 150 feet of tree preservation on the east side and the 75 feet of existing trees on the north side. He said that as they awaited feedback from the US Army Corps on their wetland delineation, they would explore opportunities to expand these preservation areas. He said that the west and south sides of the site also featured ample vegetation.

Ms. Alves de Sa said that he would like to provide a more detailed walkthrough of the site. He said that the red border indicated the special use permit area. He said that to the west, one would see floodplains, creek delineation, and the WPO buffer. He said that they were taking steps to avoid those buffers and stay beyond the setbacks. He said that currently, their limits of disturbance were essentially the worst-case scenario for the extent of tree clearing. He said that they had received good early indications from the Army Corps on their wetland delineation, which should allow them to make the site more compact and potentially reduce the limits of disturbance as they moved through the site design phase.

Mr. Alves de Sa said that the access road in brown, which came in from Buck Island Road, had

a curve to it. He said that they planned to make this curve more pronounced. He said that the access road as it entered the site and went south would be where their Nexamp and Dominion utility poles would be located. He said that they intended to place these poles behind the 150-foot buffer, with the last overhead wire coming in here and then crossing. He said that a neighbor's parcel already had an existing pole and wire, and they would need to upgrade to bigger poles and wires due to the amount of electricity coming through the project. He said that the final slide was an aerial image without true color, providing a visual representation of the site.

Mr. Murray said that they had included stormwater facilities in his plan. He asked if they could elaborate on his approach to implementing these facilities. He asked if they would primarily consist of retention basins, or biofilters would also be used. He asked if they had a clear plan in place for how these facilities would be designed and implemented at this point.

Ryan Yauger, Principal Engineer with Bohler Engineering, said that they intended to be retention basins. He said that he would meet both the state and County codes, as well as the WPO and Virginia Stormwater Management Program (VSMP) plans, when they reached the site plan stage.

Mr. Murray said that they often suggested, but did not require, that it was a good idea to incorporate biofilters into these systems. He said that this approach provided not only quality treatment, but also the opportunity to create a wildlife habitat, which retention basins alone could not offer.

Mr. Yauger said that he understood. He said that there were varying levels of retention basins between level one and level two, and these could be further explored in addition to other measures, as he had mentioned.

Mr. Alves de Sa said that this stage, this was their conceptual site plan, and what they had currently included was the conceptual stormwater management facilities. He said that it was still a preliminary concept, but he appreciated the feedback and would take note of it.

Ms. Firehock said that in the application, they had mentioned setbacks and stepbacks from the road and screening for the neighbors. She said that she would like to know more about the northern part of the site. She said that specifically, she noticed that it was only 25 feet from the property boundary. She asked if that was that measurement from the actual boundary of the property. She said that given that, it appeared to be a slightly narrower area.

Mr. Alves de Sa said that the existing green space should be preserved, as the site currently featured a mature loblolly pine that had been growing for over 10 years. He said that the adjacent parcel to the north was also expected to remain under conservation easement. He said that the setback in question was approximately 75 feet. He said that they would like to improve that to at least 100 feet.

Mr. Carrazana asked if the 75 feet was from the fence line or to the edge of the buffer.

Ms. Firehock said that it was difficult to read.

Ms. Schweller said that it was 75 feet of trees, but the distance from the boundary line to the fence was approximately 130 feet. She said that there was a 20-foot demarcation for landscaping.

Mr. Carrazana said that the 10 acres per megawatt was what initially caught his attention. He said

that the reason for this was primarily due to the number of trees that needed to be cleared to provide adequate exposure. He asked if topography was also a factor in this calculation, and if there was a stream or other water feature that ran through the site.

Mr. Alves de Sa said that there was a stream that ran nearby, and he could see the hatching. He said that there was a branch that came this way. He said that the main creek follows the west boundary. He said that it terminated here as well. He said that their first preliminary wetland assessment from last year indicated that the wetland terminated there. He said that they had previously believed it extended further, which is why their current site layout was positioned slightly north of where it originally was.

Mr. Alves de Sa said that their most recent delineation with the Army Corps for approval had significantly reduced the extent of the wetland. He said that as a result, they believed there would be an opportunity to shift the entire array south, extending the wetland approximately 75 feet at the top and potentially up to 100 feet, thereby addressing the needs of their neighbors to the north and west.

Mr. Murray said that one issue they recently encountered was that many places were assessed for stream locations, but they experienced an extended drought over the past year or more. He said that as a result, many intermittent streams that would normally be apparent were no longer visible. He said that he hoped that this was taken into account when conducting the assessment. He said that specifically, he hoped that the drought that occurred over the past year was considered when evaluating the streams, as many places where streams were previously evident were now dry due to the drought.

Mr. Alves de Sa said that the assessment was completed in the springtime.

Ms. Firehock asked if the site required extensive grading to get these panels on the site.

Mr. Alves de Sa said that the dark gray areas on the map were critical slopes. He said that based on the visible areas, it was clear that the vast majority of their site was free of critical slopes, and they did not anticipate extensive grading or removal of topsoil in these areas.

Ms. Firehock said that this was in order to work with the current slopes and construction of the panels.

Mr. Alves de Sa said that yes, their racking providers and the racking systems they used to support the panels could accommodate tolerances of up to 20% grades.

Mr. Clayborne said that his earlier question was focused on the County's goals regarding their ability to claim a certain amount of energy from renewable sources, such as solar power. He said that he was seeking some guidance as they planned for the future.

Ms. Schweller said that based on her reading of the County's policy, it was intended to support the Virginia Clean Economy Act. She said that the goals of the act included achieving 73% of the Commonwealth's energy from renewable sources by 2035 and 100% by 2050. She said that in Dominion’s territory, where they were located, this was a Dominion shared solar project. She said that as part of the shared solar program, they were required to provide 100% of their electricity from renewable energy sources by 2045. She said that this project would contribute to that goal.

Mr. Carrazana asked if any members of the public wished to speak on this item.

Ms. Shaffer said that there were no speakers signed up online or in person.

Mr. Carrazana asked if the applicant had any closing remarks.

Ms. Schweller said that she would like to touch on a couple more conditions. She said that Mr. Fritz had discussed some of the special use permit conditions, and she would like to discuss two additional conditions recommended in the staff report. She said that one was regarding the validity period, meaning how long the special use permit would be valid if approved by the County. She said that usually, this referred to when they would begin construction. She said that currently, the condition was written to commence three years after approval.

Ms. Schweller said that Nexamp would fully comply with that, but they would like to have it to be more in line with the recent Woodridge approval, which would be a five-year period. She said that they noted that Rivanna had a two-year period in the 2018 approval, which was later extended to five years. She said that they recognized that there were multiple state approvals, including site plans, local water protection ordinances, and others. She said that they believed that having a longer period for the special use permit would be more efficient. She said that they would like to request a five-year period, rather than the current two-year period, to allow for more time to complete the necessary approvals.

Ms. Schweller said that additionally, they would like to request that the Zoning Administrator consider the Pollinator Smart certification. She said that while the applicant would make every effort to obtain the certification, it was not guaranteed. She said that the applicant proposed language that was identical to the language used in the Woodridge solar project, which would allow the Zoning Administrator to approve a project that was consistent with the vegetation plan provided by Buck Island Solar, even if the Pollinator Smart certification was not obtained within the specified period.

Mr. Carrazana closed the public hearing and the matter rested with the Commission.

Mr. Fritz said that regarding the request for a five-year special use permit, he would discuss the history of the referenced solar projects. He said that Rivanna Solar was initially approved for a two-year period, but the applicant later amended their special use permit to extend it by three more years, resulting in a total of two separate approvals. He said that Ivy Solar was approved for a three-year term. He said that there is also the Midway Solar Project, which was approved for a three-year period. He said that Woodridge Solar was initially intended for a three-year duration, but due to the project's scale and size, it was ultimately approved for a five-year term.

Mr. Fritz said that they are recommending a three-year approval period for this project. He said that as their comprehensive plan is currently under review, they do not know what its final recommendations will be. He said that staff did plan to introduce a proposed ordinance for solar energy systems in January, which will also be subject to change. He said that given this uncertainty, they recommend that permits expire after three years, allowing for flexibility in case the plan or regulations change. He said that the applicant will always have the opportunity to request an extension if needed.

Mr. Carrazana asked if Mr. Fritz could address the request regarding the Pollinator Smart certification.

Mr. Fritz said that they preferred to avoid conditions that implied diligence, as it could lead to differing interpretations of what constituted diligent effort. He said that he understood the applicant's concerns. He said that they had spoken with the individuals at the Virginia Pollinator Smart Program, which they believed would continue to exist and could be achieved. He said that as a result, they had written the condition in a way that reflected this.

Mr. Fritz said that if the applicant was unable to meet the condition for any reason, they could apply for an amendment to the special use permit and demonstrate their efforts to the Board of Supervisors, who could ultimately determine whether the actions had been diligent. He said that therefore, staff were not recommending a change to that condition.

Mr. Carrazana asked if the Commission had any further discussion regarding this application.

Ms. Firehock said that she believed the application was well-prepared and fell within a reasonable size scale. She said that she remained perplexed by the fact that their County did not currently have a solar policy in place. She said that although they did have the climate action plan, which discussed reusing rooftops, brown field sites, and already developed sites, it did not address solar farms in rural areas. She said that instead, it emphasized utilizing disturbed land first.

Ms. Firehock said that she thought that when the County updated its solar policy, it would address this omission. She said that in light of this, she did not feel that the comprehensive plan provided sufficient guidance, except for their goals for sustainable energy and climate. She said that despite this, she was inclined to support the application. She said that at the scale of this project and considering the extra effort put into stepping back from the borders and working with the neighbors, it did not appear to be a glaring issue that would cause a nuisance to the neighbors. She said that at this point, she was supportive of the application.

Mr. Clayborne said that he was happy to share his thoughts on the project and he appreciated the applicants' response to his question. He said that he felt strongly that the County should establish its own goals for mitigating greenhouse gas emissions, whether through solar or other renewable energy sources. He said that it was possible that a large number of these proposals could be submitted.

Mr. Clayborne said that just because a proposal was feasible and beneficial did not mean it should be widespread throughout the County. He said that having a clear roadmap or goals for reducing emissions would be helpful in answering the question of how this project contributed to the County's overall goals. He said that, in other respects, he was in favor of the proposal and viewed it as a positive project.

Mr. Murray said that he agreed with everything that had been said. He said that one of the key factors here was that the land had previously been a timber farm. He said that for those unfamiliar, loblolly pine was not a native tree species in most of Albemarle County. He said that therefore, removing this non-native tree did not even constitute removal of a native tree planting.

Mr. Murray said that if they could replace some of the cover with native plants through the Pollinator Smart Program, they may actually be improving habitat for this area over the long term. He said that he was in support of the project. He said that he also appreciated staff's comments regarding the conditions. He said that often, these projects were resold to other parties, and having firmer commitments rather than looser ones was likely a good thing, particularly if the

project did get resold.

Mr. Carrazana said that he would like to offer a few comments to provide more context to this discussion. He said that his comments were centered around the fact that they currently lacked a policy that took into account many factors. He said that to better understand this, he would like to share some information. He said that there was a tool called iTree, developed by the US Department of Agriculture, which measured the value of forests, including their intrinsic values such as mitigating flooding, moderating temperatures, and sequestering carbon. He said that it was an emerging science that put an actual value to the numerous benefits of forests.

Mr. Carrazana said that Virginia's forests were among the top performers in the country, ranking third in carbon uptake and 24th in total forest acres. He said that this meant that their forests were playing a significant role in mitigating climate change. He said that according to iTree, Virginia's forests stored 550 million tons of carbon, equivalent to $94 billion in avoided climate change costs. He said that this highlighted the importance of understanding the value of their forests, which extended beyond just trees to include soil and other ecosystem components that were part of agricultural lands as well.

Mr. Carrazana said that he was not taking a stance on this particular project, but rather aiming to provide context and emphasize the significance of this issue. He said that specifically, he would like to note that the carbon uptake represented 40% of Virginia's total carbon emissions, which was a substantial portion nationwide, accounting for 60% of the state's total carbon uptake. He said that he believed these points were crucial, and that they could all become more familiar with this information to better understand its implications.

Mr. Carrazana said that staff, the Planning Commission, and the community should be aware of this. He said that he would like to share a couple of additional pieces of information he had gathered. He said that they were all familiar with the trend of data centers in Virginia, but he was surprised to learn that Virginia now had the largest concentration of data centers in the world. He said that Singapore was second. He said that this subject facility was a 3-megawatt site, spanning 30 acres. He said that they had discussed why this was.

Mr. Carrazana said that to put this into context, in 2023 numbers, there were 1,900 megawatts, or 1.9 gigawatts, of multi-tenant data centers and 2,100 megawatts of single-tenant data centers, with 1,300 megawatts currently under construction. He said that some of these may have been completed by now. He said that the total capacity was over 5 gigawatts, with projections indicating it would double to 10 gigawatts by 2028 and reach 5 times that amount by 2030. He said that this did not account for the potential impact of AI.

Mr. Carrazana said that to better understand the scope of this, they should consider the implications of using solar energy to meet these needs. He said that he thought it was essential that they become aware of these factors and incorporate them into their policy development. He said that as with any energy source, there were pros and cons to solar energy. He said that they had a lot of vilification of certain energy sources, such as gas, petroleum products, coal, and natural gas, but each had its pros and cons.

Mr. Carrazana said that he was thinking about the various ways they could obtain energy, and he estimated around 10-12 different methods. He said that solar energy, for instance, had its advantages, but it also emitted other greenhouse gases, including carbon dioxide, nitrogen trifluoride, sulfur hexafluoride, and hexafluoride. He said that the latter two had a significantly

higher impact on greenhouse gases, ranging from 12,200 to 22,800 times worse than carbon.

Mr. Carrazana said that these gases were emitted during the manufacturing process of solar panels. He said that notably, 78% of solar panels were produced in China, and it was likely that many of these panels would be either made entirely in China or contained components sourced from China. He said that there were concerns about the manufacturing process, labor practices, and greenhouse gas emissions associated with these panels. He said that additionally, the transportation of these panels from China to their location contributed to further emissions.

Ms. Firehock said that they would eventually be decommissioned as well.

Mr. Carrazana said that the use of caustic chemicals such as sodium hydroxide, water, and electricity during production, as well as emissions of greenhouse gases, toxic waste, unsustainable mining practices, and habitat loss, were significant concerns. He said that the production process involved high energy input, soil degradation, water pollution from silicon mining, and challenges with recycling and shelf life. He said that it was unclear what would happen once the facility was decommissioned.

Mr. Carrazana said that he was not speaking specifically about this particular project, but rather to provide context for the County's benefit. He said that this was not a simple solution, and they needed to think critically and comprehensively about the issue. He said that rather than focusing on individual projects or facilities, they should consider the broader implications and take a holistic approach. He said that this information was readily available online, including from government sources such as Jones Lang LaSalle.

Mr. Carrazana said that there was ongoing debate about using farmland, agricultural land, and forest for solar and wind energy, and both sides of the argument had been extensively discussed. He said that in Virginia, they were likely to be at the forefront of this issue due to their projected energy demands, which were expected to double in the next 15 years. He said that nationally, solar energy accounted for only 8% of the energy mix, providing context for their efforts.

Mr. Clayborne said that he appreciated the context that had been provided, and he had just been reading an article in Virginia Business the other day. He said that Dominion had set clear climate action goals to fully electrify by a certain date, but there were concerns about the demand for data centers and their impact. He said that they had signed a memorandum of understanding with Amazon to explore nuclear energy options.

Mr. Clayborne said that he believed the pace was not sustainable in the current manner. He said that this was why he had asked a question about the County’s own goals, as he thought they could face a significant number of applications with no clear guidelines to determine how to proceed and make informed decisions. He said that he very much appreciated the context because it was real and unsustainable. He said that therefore, they must be more diligent and intentional in how they moved forward.

Mr. Murray said that he thought that some of the points made were relevant, particularly when they discussed the lack of a rural area plan. He said that the removal of land from commercial forestry as part of this process raised questions about their desired level of commercial forestry in Albemarle County. He said that if they had not established an optimal mix of land uses for the rural area, then any changes they made were altering the existing mix.

Ms. Firehock said that some localities had adopted a percentage of land they were willing to dedicate to solar energy, ensuring a balance between different land uses such as agriculture, forestry, and wildlife habitats. She said that this approach allowed for a more comprehensive evaluation of the site's potential. She said that she was concerned that Albemarle County was taking a long time to develop its solar policy, despite the fact that they were conducting a zoning review and comprehensive plan.

Ms. Firehock said that she was frustrated because she had recommended her consultants to James City County, and they had successfully developed a policy with their recommendations and adopted it last fall. She said that in contrast, they were still struggling to create a policy. She had said in the past that she heavily considered the current land use when making decisions on a potential change in use. She said that if this site were a mature hardwood forest, which would sequester more carbon than a forestry site, she would view it differently. She said that she would likely vote against disturbing a mature hardwood forest.

Ms. Firehock said that additionally, she wanted to note that the carbon sequestered in the forest was primarily stored in the soils, more so than the trees. She said that given that this site had been repeatedly timbered, she was concerned about the lack of a thick duff layer and the potential for thin topsoil. She said that she would like to see more information on the grading requirements for this site, as the staff reports suggested that it could be returned to farmland in the future. She said that when the top foot or more of topsoil was scraped off in other projects, the soil was often gone.

Ms. Firehock said that those agricultural soils were irreparably damaged and would take 50 to 100 years to return to active, productive farmland. She said that simply removing the panels would not restore the land to its former use. She said that instead, they were permanently damaging the soils through the scraping process. She said that she was glad to hear that the applicant’s site had minimal grading, as this would likely result in a lighter footprint on the land.

Mr. Murray said that, while it was preferable that this land be pine plantation rather than an oak forest, for example, which would sequester more carbon, it would have been even better if this land were a low-quality hayfield. He said that it appeared that they had secured several solar projects on pine plantation lands.

Ms. Firehock said that it was likely a market consideration. She said that perhaps someone would make more money from a solar field than the pine trees. She said that that was likely the driving factor.

Mr. Murray said that, in terms of prioritizing solar versus this option, they should focus on sites that were already cleared for development.

Ms. Firehock said that they could establish a solar overlay zone in the desired location. She said that there was already a map available. She said that she believed that they should give their applicant a break and proceed to the vote, but she wanted to highlight the Department of Energy's existing map, which identified prime locations for solar installations. She said that this data was readily available, as it showed where solar panels could be connected to the grid.

Ms. Firehock said that in her work in forest conservation, she utilized these maps to track the threat of mature forests. She said that Albemarle County could access this information to determine the prime spots for solar in their area. She said that by combining this data with their

existing habitat cores map and other relevant information, they could create a map that outlined their preferred locations for solar installations and areas where they would like to discourage them. She said that they already possessed the necessary data to move forward.

Ms. Firehock said that however, she did not agree that their current comprehensive plan provided clear guidance on this issue. She said that nevertheless, she was not willing to hold up this project due to this lack of clarity. She said that she was confident that the new comprehensive plan would address this matter, and their policy would eventually provide the necessary guidance. She said that she did not want to delay this business person's project, which was taking far too long in her opinion. She said that she believed they should vote on this matter.

Mr. Herrick said that there would be two separate votes. He said that one would be on compliance with the comprehensive plan, and the other would be on the special use permit.

Mr. Clayborne motioned to recommend approval of SP202300023 Buck Island Solar is substantially in accord with the adopted comprehensive plan. Ms. Firehock seconded the motion, which passed unanimously (4-0). (Mr. Bivins, Mr. Moore, and Mr. Missel were absent.)

Mr. Clayborne motioned to recommend approval of SP202300023 Buck Island Solar, with the conditions outlined in the staff report, with changes to conditions 1 and 14 recommended by staff. Ms. Firehock seconded the motion, which passed unanimously (4-0). (Mr. Bivins, Mr. Moore, and Mr. Missel were absent.)

Ms. Firehock said that she would like to make one additional comment. She said that she wished the applicant luck with the Board of Supervisors. She said that she hoped the County would move with alacrity in developing their solar policy, in fairness to the business people who want to develop solar so they know what the County expects of them and what the comprehensive plan actually says about where solar facilities would be appropriate in the County.

Mr. Carrazana said that he hoped it would be a fully-informed policy.

SP202300020 Carter Machinery

Khris Taggart, Senior Planner I, said that he was joined tonight by Margaret Maliszewski, who assisted with the review. He said that he would be presenting staff's presentation for this special use permit application. He said that the subject property is located at 721 Rio Road West, adjacent to the North Side Library, located to the west, and primarily commercial buildings in the immediate area. He said that both Rio Road and Rio 29 served as entrance corridors. He said that the parcel contains warehouses, consisting of multiple structures at the front of the property, and was surrounded by paving. He said that the special permit request was for outdoor storage, display, and sales of construction equipment and vehicles in the Entrance Corridor Overlay District.

Mr. Taggart said that the plan showed the demolition of the eastern portion of existing warehouse buildings, a storage area to the south and east of the brick-faced building, as indicated in blue on the concept plan. He said that the storage area would be enclosed with a combination of security and chain-link fencing, and new planting areas would be established along the west side of the building and along the front of the property. He said that additionally, new parking would be provided along the north side of the storage area.

Mr. Taggart said that machinery and equipment sales, service, and rental were permitted by-right

uses in the zoning district, but outdoor storage was a special use in the entrance corridor. He said that special permits for outdoor storage were reviewed under Section §30.6, which limits factors to be considered to determine whether the outdoor storage was consistent in the entrance corridor design guidelines. He said that the Architectural Review Board (ARB) reviewed this proposal in October and requested revisions focused on increased landscaping to align with the design guidelines.

Mr. Taggart said that a revised proposal, which included revisions to create planting areas along the frontage and west side of the building, and increase landscaping along the northern perimeter of the storage area, were reviewed at the November 4 ARB meeting. He said that the ARB voted unanimously to recommend an approval with conditions, which were listed in the report and on the slide. He said that a required community meeting was held on November 18, where questions were raised regarding equipment visibility, the type of equipment that would be stored at the site, and impacts to site access.

Mr. Taggart said that staff did not identify any unfavorable factors, and the favorable factor for this request was that the outdoor storage use would be consistent with the entrance corridor design guidelines if the ARB's recommended conditions were upheld. He said that based on this, staff recommended approval of the special use permit for outdoor storage. He said that he was available to answer any questions and could provide the motions and conditions of approval when the Commission was ready.

Ms. Firehock said that the parking area and the use of the slab from one of the buildings being demolished for additional outdoor equipment storage were understandable. She said that she did want to consider the standards for trees in parking lots. She said that although this site may not be being used as a traditional parking lot, she was concerned that it might not be triggering their requirement for treed islands. She said that the Home Depot project at the mall had required the installation of treed islands, even though there were none previously, as they did not previously require it.

Mr. Taggart asked if Ms. Firehock was referring to the actual storage area.

Ms. Firehock said that she was looking at the equipment icons and the lack of indication of vegetation except at the perimeters of the entire project.

Mr. Taggart said that it was the difference between the storage area versus the true parking area.

Ms. Firehock asked if the difference was that since there was equipment parked, it was technically equipment storage and not a parking area.

Mr. Taggart said that that was correct.

Ms. Firehock said that this was unfortunate, because it was a massively paved site. She said that she understood the applicant was not creating more pavement, but it was not an improvement either. She said that she understood that tree islands may be a factor in moving the equipment, but it was disappointing that they were redeveloping this site without significant upgrades to the existing infrastructure. She asked if they were also not receiving additional stormwater management measures, or since there was no additional stormwater created, they would leave it as is.

Mr. Taggart said that that would be accurate.

Ms. Firehock said that she was wondering if the site's stormwater was being treated or if it was still flowing directly into storm drains. She said that she was not aware of the site's history, but she was guessing it may have been paved before stormwater regulations were implemented in the County in the late 1980s or early 1990s.

Mr. Taggart said that the applicant likely could answer the question more specifically, but he understood the site plan approval was from the 1970s.

Ms. Firehock said that her concern that the site may not have adequate stormwater management, with all the runoff from the pavement ultimately flowing into the Rivanna. She said that she believed that the equipment was being properly cleaned and the grease and other contaminants were being captured and contained. She said that however, she would like to hear more about how they planned to contain the general runoff from the equipment stored on site when the applicant presented their plan. She said that she wished that they were seeing better stormwater management in this redevelopment.

Mr. Carrazana opened the public hearing. He asked if the applicant had a presentation.

Connor O'Donnell said that he was a planner with the law firm Gentry Locke, working closely with Carter Machinery on this project. He said that joining him was Carter Berkey, who serves as the facilities manager and could assist in answering the questions from the Commission. He said that at the community meeting last week, the focus of the questions centered around gaining a better understanding of the project and its introduction.

Mr. O'Donnell said that this special use permit was currently limited to meeting entrance corridor guidelines, they were happy to expand and answer any questions they may have. He said that for some overall context, they were currently applying for a special use permit for outdoor storage, but they were still in the early stages of the process. He said that the order of things is a bit unusual. He said that what they saw in the concept plan was likely about two years away. He said that they still needed to obtain land disturbance permits, demolition permits, and complete a major site plan amendment. He said that the process of obtaining these permits could be confusing.

Mr. O'Connell said that he would do his best to provide answers based on the information available to him, although a full site plan would not be available for some time. He said that he would focus on the landscaping, but will try to address other questions as they have them. He said that they did take the ARB's comments into consideration and made substantial changes to the landscaping near Rio Road. He said that the visual impact of the project will be primarily seen at the western part of the property, where there is a double layer of evergreen trees on a nine-foot planting buffer, as well as additional landscape islands for trees in the front.

Mr. O'Connell said that on the east side of the property, which was adjacent to the library, they proposed a 20-foot-wide landscape island to break up the pavement on a private drive between the library and the building. He said that additionally, it was worth noting that the property has an elevation difference of about five feet from Rio Road to the rear of the property, near the evergreens. He said that the property extends approximately 504 feet to the rear, resulting in a significant slope.

Mr. O'Connell said that the tallest equipment types would be approximately 12 feet tall, and the

slope from Rio Road down was already partially obscured by the evergreens as they grow. He said that regarding the trees in the back, they had a landscape plan that must be incorporated into the site plan, which would both be presented again to the ARB, but it would not be presented to this Commission again.

Ms. Firehock said that the buildings themselves were not particularly visually appealing. She asked if they were planning to make any improvements to the facades of these buildings to enhance their appearance. She said that she understood that they served a functional purpose as storage facilities for equipment and gear, but she was wondering if there were any plans to address their aesthetic.

Mr. O'Donnell said that the existing buildings were not particularly aesthetically pleasing. He said that minor facade changes would be made to the front of the building. He said that currently, there were no windows. He said that it was possible that some small windows might be added, and then some type of modification would be made to the overhang area, which would result in some minor changes rather than substantial ones, intended to make the building appear slightly more appealing.

Mr. Carrazana said that regarding stormwater, he would like to know if they planned to make any improvements to stormwater management on the site.

Mr. O'Donnell said that although he was not the engineer on this project, he had reviewed the GIS data, and it appeared that the property sloped towards the south, but there were no streams running through the parcel line or nearby.

Ms. Firehock said that there were surely inlets on the site which led to a storm drain.

Mr. O'Donnell said that yes, he would imagine that everything on the site was going into the stormwater system. He said that as part of the land disturbance permit, they would need to address erosion and sediment control, the water ordinance, and runoff. He said that this would require them to go through the entire permit process with the major site plan amendment. He said that at this time, he did not have any details on what the stormwater system would look like. He said that as they moved forward with the permitting process, they would work with the County to develop the necessary components.

Carter Berkey, Director of Facilities at Carter Machinery, said that they currently had 38 locations, and they maintained a zero-tolerance policy for washing equipment outside of designated wash bays. He said that their wash bays utilized an oil-water separator to treat the water before it was discharged to sanitary facilities. He said that as a result, every vehicle that entered their facility, whether it was new, used, or rented, would be thoroughly washed through their system before being taken into service.

Ms. Firehock asked if the vehicles, after being returned, would be cleaned inside the wash bay and they would not be sitting out in the rain.

Mr. Berkey said that yes, that was correct. He said that this applied to all new equipment, including generators purchased directly from Caterpillar. He said that they had to wash them due to the carbon emissions released through the exhaust, which could contaminate the groundwater. He said that they took this concern very seriously.

Mr. Carrazana asked if any members of the public wished to speak on this item.

Ms. Shaffer said that there were no speakers signed up online or in person.

Mr. Carrazana asked if the applicant had any closing remarks.

Mr. O'Donnell said that he believed that this concept plan was where they wanted to go, but they would be presenting it to the ARB again once the final changes were made, and they had worked closely with them to ensure it met their requirements. He said that moving forward, one or two years from now, once they completed this entire process, he hoped that the building would be improved and would be a nicer structure to drive by.

Mr. Carrazana closed the public hearing and the matter rested with the Commission.

Mr. Carrazana said that this site plan was originally approved in the 1970s, and they had had many significant changes in both the quality and quantity of the stormwater management systems. He asked if there would be any requirements made during the site planning process.

Ms. Firehock said that they had the same level of imperviousness before, so there was nothing that would trigger them to require additional stormwater management.

Mr. Barnes said that as he was not the County Engineer, he could not give a qualified answer, but he believed that was a safe assumption.

Mr. Carrazana said that since there was no change, he wondered if the previous changes in policy would apply to this request.

Mr. Firehock said that they could not request proffers from the dais, but it would be nice to see things like permeable parking spots and other environmental improvements to the site. She said that better corporate stewardship than just the screening from the entrance corridor would be a greatly beneficial improvement. She said that it could only get better, and she understood the additional landscaping would certainly make it better than it currently was. She said that to be frank, it was ugly now. She said that she would love to see the applicant make more environmentally-focused improvements for the future. She said that she had rented heavy equipment herself, so she understood the function of the facility, but it could definitely be more sustainable for the future.

Mr. Murray said that given that the impervious surface already existed, there may be incentives available if people wished to utilize them.

Mr. Carrazana motioned that the Planning Commission to recommend approval of SP202300020 Carter Machinery, with the conditions as recommended in the staff report. Mr. Clayborne seconded the motion, which passed unanimously (4-0). (Mr. Bivins, Mr. Moore, and Mr. Missel were absent.)

Committee Reports

Mr. Murray said that he attended the Crozet Community Advisory Committee meeting, where a presentation was given about the Beaver Hill mobile home community. He said that there was a large audience present to hear about this item. He said that the proposal was quite interesting,

as it would involve rezoning a currently rural area to accommodate more mobile homes adjacent to Crozet. He said that there was not a lot of support for this proposal in the audience, which was surprising given that they already had a mobile home park located in the middle of Crozet.

Mr. Murray said that this particular proposal also received a request for expansion, and there was broad support for that. He said that however, they had the exact opposite response from neighbors, who showed up in large numbers to express their opposition to this new proposal. He said that they expressed a clear understanding that when they bought their homes in this area, they were aware that it was a rural area and that the Crozet Master Plan was in place. He said that now, they felt that the proposed change was not in line with the Crozet Master Plan, and it was interesting to hear the discussion on this topic.

Ms. Firehock said that she recently had a meeting of the Historic Preservation Committee. She said that during the meeting, they reviewed the comprehensive plan goals and objectives, which was their primary task. She said that the review will be presented to the Commission in February. She said that the challenge of the review was that it did not introduce any new ideas, but rather reemphasized the need for a dark skies ordinance, which is crucial for preserving their cultural landscape and allowing them to appreciate the night sky and countryside.

Ms. Firehock said that they also discussed the role of the Historic Preservation Committee and the fact that they need a historic preservation ordinance, as they spend a significant amount of time on demolition permits. She said that currently, they lack an ordinance that prevents demolition without proper authorization. She said that this was a recurring issue, as the previous comprehensive plan also addressed similar concerns. She said that what struck her as particularly interesting was that the previous comprehensive plan was more clearly articulated, and she felt that they could have simply copied and pasted it into this new comprehensive plan, making it more cohesive and clearer.

Ms. Firehock said that during staff discussions, it became clear that the document underwent multiple drafts, with each staff member contributing and revising the content. She said that as a result, it requires significant editing to eliminate redundancy, clarify objectives, and streamline language. She asked the group to consider why they were rewriting the document when it largely mirrors the previous chapter. She said that they need to instead focus on completing the work. She said that staff will revisit the document, and she noted that County staff mentioned that many of the committee's recommended changes were how it was originally written, so they would go back and un-edit it to make it clearer.

Ms. Firehock said that it can be challenging when multiple people contribute to a collaborative writing project. She said that she was sure many of them had experienced similar situations in their careers. She said that staff would work on refining the document for clarity and eliminating duplicate statements. She said that however, her primary concern was that they need to expedite the process to finalize an ordinance and implement the necessary measures.

Ms. Firehock said that one key emphasis they want to put in this comprehensive plan was the need for staffing resources to address historic preservation's educational and outreach responsibilities. She said that unfortunately, they were still without a dedicated staff person for this purpose, despite having requested it in the previous comprehensive plan. She said that they were concerned that without adequate resources, they would struggle to prevent the destruction of historic structures and scenic views due to a lack of education.

Ms. Firehock said that education was crucial in this regard, but they were hamstrung by their limited resources. She said that they would have that information before the Commission in February. She said that she was hoping that the work of their committee the previous day would provide a clearer and more concise result, but in a large respect, it would still boil down to the same thing: they still needed those things they had requested in the last comprehensive plan.

Mr. Murray said that he was disappointed to hear that it would look similar to what they already had, because Mr. Bivins often mentioned how they had historically given undue consideration to large estates owned by wealthy landowners in the County. He said that there was a great opportunity to broaden the concept of what constituted historical structures and landscapes.

Ms. Firehock said that it did address telling the narratives of all different peoples from all walks of life. She said that she had mentioned the past reports of the committee which noted having a historic recognition program to acknowledge all different vernaculars and stories, so as not to solely recognize plantations in Albemarle County. She said that they had agreed they should look at general stores, farms, and other different types of structures, places, and people. She said that this was certainly the emphasis and was strongly represented in those reports.

Ms. Firehock said that again, without the resources to do that work and to tell those stories, such as collecting narratives and documenting them, with the goal of creating a database for historic resources such as cemeteries, it would be another eight years and someone else would be sitting here stating that the historic chapter looked exactly the same. She said that to Mr. Murray's point, they did emphasize those different stories and had done so for the last year and a half. She said that again, they needed the resources to actually make it a reality. She said that she could share the version she received to review for the committee meeting if the Commission wanted to see the state it was in. She said that she would recommend they wait until the edits were made.

Mr. Murray said that he had been thinking about the historic account of the Ragged Mountains, which, although extremely biased, provided valuable insights into the lives of the people who once inhabited the area. He said that the account, produced by UVA, highlighted the prevalence of interracial marriage, self-reliance, and the types of businesses and communities that existed in the Ragged Mountains in Albemarle County. He said that this aspect of history was often overlooked or lost. He said that he appreciated the diversity of Albemarle County's rural area and believed that they could learn from its rich history. He said that he hoped that they could find a way to incorporate this diverse perspective into their approach to historical landscape preservation and policy-making.

Ms. Firehock said that she wholeheartedly agreed. She said that for the sake of order and her own sanity, she would like to bring something to their attention. She said that she attended the Planning Commission meeting, which was about a week ago, and it coincided with the community meeting that was scheduled in her district.

Ms. Firehock said that as a result, she received numerous emails from upset residents who expressed their discontent with what they learned at the community meeting. She said that the situation was particularly awkward for her, as she was unable to attend the community meeting due to her presence here. She said that she kindly requested that staff ensure that such conflicts were avoided in the future, especially for contentious sites, as it would be challenging for her to explain her absence from the community meeting.

Review of Board of Supervisors Meeting: November 20, 2024

Mr. Barnes said that the items the Board discussed at the November 20 meeting were related to the Development Area Land Use Action Chapter, which led to an interesting conversation with the Board. He said they discussed the structure of the document and the proposed actions therein. He said that this may cause a slight adjustment to their schedule, and he anticipated having more information to share with the Commission at the December meeting.

Mr. Barnes said that they planned to go back to the Board to bring back the Development Area and Rural Area Land Use Chapters for one additional review.

AC44 Update

Mr. Barnes said that moving forward, on December 10, they would be discussing rural area land use actions, and on December 17, they would be discussing the Environmental Stewardship Chapter.

Ms. Firehock asked if she could send some comments ahead of the December 17 meeting since she would not be attending.

Mr. Barnes said that that would be helpful.

Mr. Carrazana asked if any applications were presented before the Board of Supervisors.

Mr. Barnes said that no; there was one homestay application which was approved by the Board.

New Business

There was none.

Old Business

There was none.

Items for follow-up

Mr. Murray said that he no longer needed to ask when they would review the Water Protection Ordinance.

Ms. Firehock said that they still did not have the ordinance to vote on. She asked Mr. Barnes when it was expected to be presented to the Commission.

Mr. Barnes said that he did not have a specific date for when it would be presented to the Commission yet.

Adjournment

At 7:38 p.m., the Commission adjourned to December 10, 2024, Albemarle County Planning Commission meeting, 4:00 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:
Initials: