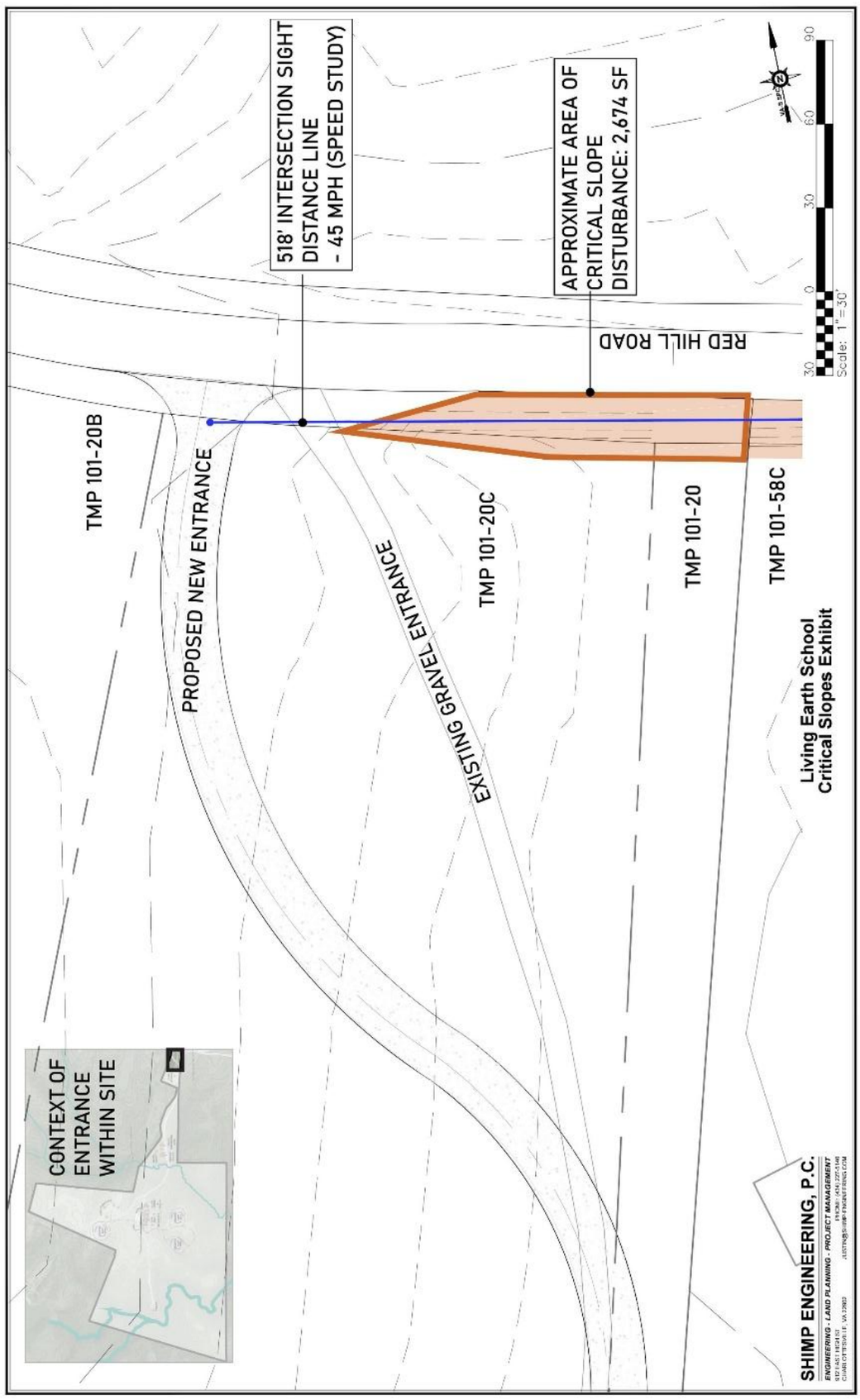


Agenda Item No. 18. **Public Hearing: SP20240026 Woolen Mills Industrial.**
PROJECT: SP202400026 Woolen Mills Light Industrial Park (Signs#34&35)
MAGISTERIAL DISTRICT: Scottsville
PARCEL ID: 07700-00-00-040B2
LOCATION: Franklin St., south of 475 Franklin St. and south of Moore's Creek Ln.
PROPOSAL: Grading activities, including Fill in the Floodplain (Section 30.3.11)
ZONING: LI Light Industrial, Flood Hazard Overlay District.

The Executive Summary forwarded to the Board states that at its meeting on April 22, 2025, the Planning Commission (PC) voted 4:3 to recommend approval of SP202400026, for the reasons stated in the staff report. Several residents expressed concern at the public hearing that this proposal could increase flooding along Franklin Street. Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

At the PC meeting, some Commissioners expressed concerns that the proposal (a) did not align with the comprehensive plan, which designated the subject parcel as Parks and Green systems, and (b) did not support the comprehensive plan's goals for protecting natural resources. Concerns were also expressed that the applicant could purchase off-site water quality credits and not treat the water quality on-site.

Following the PC meeting, staff added a recommended condition of approval (now #4) to address the Commissioners' concerns regarding water quality. Other conditions were re-worded by the County Attorney's Office:

1. The fill in the floodplain must be shown on a site development plan and must be in general accord with the "Special Use Permit Application Plan for Woolen Mills Light Industrial Park, Tax Map 77, Parcels 44B2, Scottsville District, Albemarle County, Virginia," dated December 20, 2024, except as may be modified in order to meet the requirements of the County's Water Protection Ordinance, as determined by the County Engineer. The site must be elevated/filled to at least one foot above the Base Flood Elevation.
2. Prior to commencement of the use under this Permit, the owner(s) must demonstrate each of the following:
   a. The County Engineer's approval of an erosion and stormwater management plan.
   b. The County Engineer's receipt of proof of compliance with Federal and State regulations of activities affecting wetlands and watercourses. The applicant must obtain and provide to the County Engineer a letter of map revision for fill in the floodplain (LOMR-F), as required, from the Federal Emergency Management Agency.
   c. The County Engineer's approval of a mitigation plan outlining mitigation measures for any encroachments into the stream buffer.
   d. The County Engineer's approval of computations and plans documenting changes to the floodplain. Computations must demonstrate compliance with Albemarle County Code § 18-30.3 (flood hazard overlay district). Plans must show the existing and proposed floodplain boundaries and elevations along with the applicable "No Rise" signed certification statement.
3. A phase I archeological survey must be conducted prior to approval of a floodplain development permit.
4. Stormwater treatment must be provided on-site and for phosphorus reduction equal to twice the total phosphorus load reduction provided by 1.496 acres of forest cover, as calculated using the Virginia Department of Environmental Quality's Runoff Reduction Method-New Development Compliance Spreadsheet (Version 4.1).

Staff recommends that the Board adopt the proposed Resolution (Attachment D) to approve the special use permit SP202400026 with the updated conditions.

Ms. Rebecca Ragsdale, Planning Manager, stated that she was joined here by their Deputy County Engineer, Tony Edwards, who had been very involved and served as the lead for engineering on the review of this request. She explained that this was a unique request, so staff wanted to take some time this evening to thoroughly review the floodplain characteristics and the location of the fill. She said that the fill request was for 1.496 acres located on a 7-acre site. She said that she would like to orient the Board to the location, and then they would take them through the Comprehensive Plan information, with a specific focus on the floodplain analysis, which Mr. Edwards would walk them through.

Ms. Ragsdale said that provided on the slide was the vicinity map to help them understand the location of the property, which was situated along Franklin Street, which was within the City limits. The property was located on the edge of the City-County line, between Interstate 64, the Rivanna Water and Sewer Authority (RWSA) facility to the north, and the Woolen Mills neighborhood to the south. She said that the next aerial view showed the location adjacent to Franklin Street, where the fill was requested. The yellow line outlined the site. There were RWSA facilities to the south and east of the site, as well as the RWSA property where the wetlands project had taken place.

Ms. Ragsdale stated that to the north, also referenced in the Planning Commission information, was the area where the Woolen Mills Industrial development was currently underway. She explained that there was a site plan approved for that area, and although the parcels had the same owner, they were separate parcels. She said that the City neighborhood across Franklin Street was zoned residential. She said that the next aerial view provided a more detailed view of the site, highlighting the existing industrial development that was already underway.

Ms. Ragsdale said that in terms of the neighboring property, it was an existing industrial use that has undergone a floodplain fill request, approved in 1997 or 1998. The following pictures showed the area, looking south, across, and adjacent to the residential, undeveloped, and nearby industrial uses. She said that on the zoning map, the blue on the map indicated the industrial zoning, which encompassed much of Woolen Mills. She said that the historic Woolen Mills was zoned commercial, located in the pink area on the map. Additionally, the Flood Hazard Overlay District was applicable to this review.

Ms. Ragsdale said that the floodplain map highlighted the critical resources, including the floodplain in blue and purple, the stream buffer in yellow and green, and the tan was the steep slopes and critical slopes. She said that Mr. Edwards would focus on the unique characteristics of this floodplain location in his upcoming slides. She said that this map referred to the backwater area of the floodplain, which would be explained in more technical detail by Mr. Edwards.

Ms. Ragsdale stated that the Comprehensive Plan designated much of the area, including sensitive environmental sites, as green systems. This included properties with floodplain slopes or stream buffers, as well as parks. She said that in this case, the parks designation was primarily due to environmental features. The area included developed properties and outside of the floodplain, so there was a significant amount of green space designated that included existing improvements. She said that this particular parcel did not receive specific recommendations in the recent review of the area with the Broadway blueprint.

Ms. Ragsdale stated that staff wanted to review the flood hazard overlay and light industrial (LI) zoning features, because the focus of this application was on the fill and floodplain request, which sought to allow grading and fill activities within the Flood Hazard Overlay District. She said that provided was a list of some of the other uses that were allowed in the light industrial district. Any fill or development in this area must be approved and occur before any light industrial uses could be developed. She said that this included manufacturing and processing, storage, warehousing, laboratory, and research and development.

Ms. Ragsdale said that the light industrial district had broad categories of allowed uses, but it also came with additional regulations. She said that the next slide aimed to clarify where they were in the process of considering the floodplain and to provide that information for the Board and the public. She noted that the applicant had submitted to the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision (CLOMR), which FEMA did not have any concerns about. Now, the County must review it under their local ordinance and Flood Hazard Overlay District to allow fill of the requested 1.496 acres. This would need to be addressed in the conditions of the special use permit, if approved.

Ms. Ragsdale said that after that point, they could conduct the fill and work with FEMA to amend the floodplain map. She said that Mr. Edwards would explain in further detail that any prior map revisions approved by FEMA on other sites in the County or City had been considered in the engineering analysis. They had already discussed the light industrial allowances, and they could revisit those if needed. The focus was on the issues surrounding the flood hazard overlay district.

Ms. Ragsdale stated that if the applicant moved forward with those next steps, they would need to comply with the light industrial district, as well as their ordinance. For industrial districts, they had many layers of regulations, including special use permits and supplemental regulations. She said that these regulations may include additional setbacks, buffers, and screening, as well as prohibiting certain outdoor activities. Any industrial uses that they had concerns about in the LI district would need to occur indoors. They also required a certified engineer's report to ensure that any industrial activity complied with the ordinance and applicable regulations, such as those related to materials, vibration, and noise.

Ms. Ragsdale said that if all necessary processes were completed, the final steps would be the building permit and zoning clearance process. Next, she would review the concept plan. She said that the site was shown in green, with the outer limits of the parcel in light green and the stream buffer area along Moores Creek in dark green. She indicated that the area between the floodway and the floodplain fringe was the only area where fill could be requested, so that 1.496 acres of that area were generally drawn on the map. She said that retaining walls would be necessary to add the fill.

Ms. Ragsdale said that Moores Creek Lane provided access to the RWSA property, and in this case, the request had the potential for the County to dedicate the stream buffer for a public greenway trail; however, it was not specifically mentioned in their Comprehensive Plan or in the County's current development. The criteria applicable to all special use permits was what they want to ensure they cover in their staff reports and discuss with the Board this evening. When it came to floodplain requests, the health and safety, as well as the potential detriment to abutting properties, were of paramount concern.

Ms. Ragsdale stated that staff had reviewed the Comprehensive Plan in this case and considered the nearby character of the area, as well as the industrial uses if it were to be developed. Staff did not believe the character of the area would be significantly altered, although it would be a change to this property given the other industrial uses. In the floodplain section, Mr. Edwards would focus on the substantial detriment and explain how they arrived at their conclusion that they did not find any in this case.

Ms. Ragsdale stated that they held a community meeting to receive feedback about this application, and the Board had received a summary of that meeting and other emails from constituents, but that was not included in the staff report. She said that they had taken into account the concerns raised during the meeting and addressed them in the special use permit conditions they had recommended.

Mr. Tony Edwards, Deputy County Engineer, stated that as depicted on the screen, they were referring to two sections of the floodplain, specifically the floodway fringe and the regulatory floodway. The floodway fringe was the outer limit, as depicted on the previous slide that Ms. Ragsdale had shown. He explained that the floodway itself was the channel that the river needed to carry the capacity for, in the adjacent area, that would be in reserve to handle the discharge from a base flood event, and any account of increasing the water surface area no more than one foot. The floodway fringe allowed for extra capacity on the outside, but it was not necessarily the area that was needed just to carry the floodway during a 100-year event or 1% chance flood.

Mr. Edwards stated that in the Planning Commission meeting, there was some concern about the

terminology of backwater conditions, so he provided this information to give the Board some grounding on what that would entail. This was a somewhat unique situation, as it discharged in close proximity to the Rivanna River. The Rivanna River acted as a constriction for this 1% flood event, creating a backwater condition, essentially slowing the flow that was coming out of Moores Creek.

Mr. Edwards said that provided on the slide were some characteristics of this backwater area. Considering placing fill in this backwater area may not cause a greater rise because the backwater area was typically a low-energy zone, and it had minimal flow connectivity to the main river channel, which would be the Rivanna in this situation during normal or potentially flood conditions. He noted that some of the characteristics to consider for this area were the hydraulic isolation characteristics, which was common in backwater areas such as oxbow lakes and wetlands, offering a disconnected, limited interaction with the main river flow.

Mr. Edwards said that this created a backward flow direction in Meadow Creek. He said that adding fill to this area did not significantly alter the main channel's capacity to convey the floodwaters, so the floodplain water elevations remained unaffected. Another characteristic was a low flow velocity, which was stagnant or slow-moving water, mainly because the area did not contribute substantially to the floodwater movement. This slower velocity often resulted in a very slow-flowing situation, reducing the risk of erosion and other damaging effects that sometimes occurred during a massive flood.

Mr. Edwards stated that floodplain storage capacity was primarily determined by the main channel, the Rivanna in this situation, and adjacent low-lying areas actively involved in floodwater conveyance. Backwater zones such as this often lay outside of the active zone and modifying them with fill did not reduce the floodplain's ability to store or convey the water. He said that this information was a broad overview of the potential situation.

Mr. Edwards said that next, he would provide information more specific to their location. He said that as they could see at the top of the satellite map, there was the parcel location. He said that overlaid on the satellite image was a FEMA floodplain map, which had also been provided in their study of this area for this proposal. The location was well within the Rivanna River, where the backflow condition began, up to the elevation line of 324, which was well upstream of the site.

Mr. Edwards clarified that the cross-sectional line indicated a 324 elevation. He said that this elevation marked the point where the backwater extended into Moores Creek, and subsequently, all the way down to the Rivanna River. The leveling or equilibrium of the elevation occurred at this 324 elevation point throughout the reach of the river. This was due to the restrictive force exerted by the Rivanna River in this scenario.

Mr. Edwards said that the next slide showed the floodplain without the backwater condition, used for comparison purposes. This was not the situation they were currently discussing; however, he wanted to highlight the difference between the two was primarily the difference in elevation. He said that if one looked at the site's location, just upstream from there, the elevations tended to decline as one got closer to the Rivanna River. He said that this information was based on new data from FEMA, which was currently producing new FEMA maps for all localities. These maps were expected to be adopted, hopefully within the next year, but may take longer.

Mr. Edwards said that the goal was to illustrate the point that the water surface elevations would decline as they approached the Rivanna River. In this scenario, one was actually at a lesser elevation than one would be with a backwater condition. He said that the key distinction was that the backwater condition was uniform, whereas the elevations in this scenario declined as one moved towards the river.

Ms. Ragsdale said that this information explained the unique characteristics of that property and why they wanted to ensure that the significance of the term "backwater" was explained. She said staff had reviewed the Timmons report, which was based on the most current floodplain information, as they had mentioned earlier. If any fill was allowed in the floodplain, there were the criteria that must be met in terms of minimizing obstruction, which were provided on the slide.

Ms. Ragsdale stated that they had discussed not being able to place the fill in the regulatory floodway, and the importance of the base flood elevation in any floodplain analysis, limiting it to one foot above 324 if they filled it. They also had provisions to protect against erosion and pollution. The floodplain administrator, which was the County Engineer, had the authority to require any additional documentation, engineering studies that may be needed in a certain circumstance. In addition, there was a requirement for a site plan. This was all in addition to the FEMA process.

Ms. Ragsdale explained that staff had recommended approval of the special use permit request, while the Planning Commission recommended approval with a vote of 4-3. The Commissioners had serious concerns regarding the green systems designation in the master plan and protection of the floodplain as it related to water quality. She said that when the item was presented to the Planning Commission, it was recommended for approval with Conditions 1 through 3, as Condition 3 added to address concerns regarding potential archeological resources.

Ms. Ragsdale clarified that they had the information from their Historic Resources planner and the state database, and based on those comments, staff had recommended a phase one archeological survey. Conditions 1 and 2 covered everything they had discussed in terms of the engineering aspects of the project and the limitations and additional requirements that must be met to conduct the fill and develop the site. Condition 4 required stormwater treatment to be provided on site and for the phosphorus

reduction to be twice what would normally be required for that 1.496 acre area that was requested for disturbance.

Ms. Ragsdale stated that staff felt that this condition was an appropriate way to mitigate and offset the proposed disturbance and fill in the floodplain. They had previously seen a similar condition in a proffer, but they were able to require it as a condition because they believed it addressed the concerns regarding impacts of the loss of that area of the floodplain to fill. She reiterated that staff had recommended approval and wanted to ensure that they had the updated conditions that they had discussed, including the one that was added.

Ms. Ragsdale said that they had reviewed the findings from the engineering study that was prepared by Timmons. She said that the applicant's team was also present and they would discuss this further. She said that as they had previously discussed, the property was already zoned light industrial, which would enable the use of the 1.496-acre area. She noted that there was a concern that this use was not consistent with the current green systems designation; however, the majority of the site, approximately 5.5 acres, would remain consistent with this designation. This was part of their recommendation and analysis for approval.

Ms. McKeel said that she needed some clarification regarding the regulatory process. She asked if there would be further steps in this process after the special use permit was approved and before the development began.

Ms. Ragsdale said that the first two steps in the regulatory process were where they currently were with this application, so they were considering whether or not to allow the fill. If they allowed the fill, that was when a lot more engineering would happen.

Mr. Edwards clarified that the Conditional Letter of Map Revision (CLOMR) was a revision based on fill. This had undergone review by FEMA, who had examined the same documentation that County staff had and reached consensus with them, concluding that it had no impact. He explained that however, it was conditional, meaning a final determination would not be made until the Letter of Map Revision (LOMR) was applied for, which was a subsequent review process.

Mr. Edwards said that this would occur later and would also be determined based on the County’s reviews of the Water Protection Ordinance (WPO) and any decisions made tonight, as well as other requirements related to the site plan and floodplain permit. In this case, the County would be responsible for verifying that the fill was constructed in accordance with the approved design, and FEMA would then review that to approve it.

Ms. Mallek asked if this was the only chance the Board would have to review this application

Ms. Ragsdale answered that the special use permit was the only legislative action required for this application. There were no other steps subsequent to tonight that would require the matter to return to the Planning Commission and the Board, unless it was related to the industrial district regulations, or if they were requesting something else that needed a special use permit or another waiver from another section of the Zoning Ordinance. In terms of tonight’s public hearing, the Board ultimately had the options to approve, deny, or defer action on the item.

Ms. Mallek asked when the FEMA conditional letter had been received.

Mr. Edwards replied that it was in 2024, but he did not have the exact date.

Ms. Mallek stated that that was fairly recently. She noted that right next door to this site was the remediation planting project for the Ragged Mountain, with the remaining portion of the project located at Buck Mountain Creek. She said that she was trying to comprehend how filling an acre and a half to a depth of four to six feet would not significantly increase the water flow into the backwater area, which was adjacent to the forest that was planted at great expense by the RWSA and ratepayers. She was struggling to understand why this proposed solution would not have a more substantial impact, considering there was nowhere else for the water to go.

Mr. Edwards said that his attempt at explaining what a backwater condition was meant to better define what it was like as opposed to a normal flow during a flood event. Due to the restrictive nature of the Rivanna, the backwater it created was a low-velocity, almost stagnant flow that establishes an equilibrium of elevation throughout the area. The hydrology of that condition was not influenced by the proposed fill, which was supported by the findings of the engineering study, FEMA's review, and their own assessment, so this fill would not displace and cause a rise in elevation in this backwater area.

Ms. Mallek said that if there was a lot of rain at the headwaters while there was also high water in the Rivanna, there would be a lot more water coming in while the Moores Creek water could not leave. She emphasized that the water would not just sit there; it would rise. She noted that the whole reason why the lower level of the Woolen Mills renovation had nothing in there was because it was designed to fill up with water, and that was eight feet above the creek’s banks. She was trying to understand this when it seemed so counterintuitive to her own knowledge of hydrology, specifically in their local waters. She expressed great concern at the potential impacts this would have, because she was not convinced the waters would always be moving slowly.

Mr. Edwards clarified that it would be relatively slower compared to if the restriction was not there.

Ms. Mallek acknowledged that it was in comparison to if the neck was not present at the river, but even then, she considered that it was possible that even more Rivanna River water could enter. She said that that was a bit speculative. She said that another counterintuitive aspect was the relationship between grading activity, including fill, and floodplain fringe. She said that this was illustrated in one of the slides. She said that it was a flood hazard area, and she did not understand how filling in the area with soil would not impact that.

Mr. Edwards said that it should be kept in mind that the floodway was the carrying capacity that FEMA assessed to manage the flow of water needed to be transported through the area during a 100-year storm event. The floodway fringe was an additional factor to the capacity. Even if fill was placed within the fringe, it may only have minimal effect on the floodway capacity no more than one food in elevation. That was the basis for their analysis, which FEMA and the County used to evaluate the situation.

Ms. Mallek asked if she understood that the conclusion was that if the fill were placed there, it would impact the rise of water no more than one foot in elevation.

Mr. Edwards replied that if floodway fringe were to be entirely filled, not just this site, but every location, it would be less than one foot.

Ms. Mallek noted that there was a large drop in elevation as the river flowed southeast, going from 324 feet to 316 feet.

Mr. Edwards added that with the new data FEMA was proposing regarding floodplain mapping, they were seeing more accurate data on existing conditions, so it was possible that some of the elevations they were currently using, such as the 324 elevation, may be reduced. He said that this was due to the availability of more accurate data.

Ms. Mallek said that a transit was a transit, so she did not fully understand the distinction, but she would leave that alone.

Mr. Frank Pohl, County Engineer, said that he wanted to expand on Mr. Edwards' statement. He explained that the backwater condition began at the Rivanna River. He said that if they examined the provided floodplain map, the 324-foot elevation was located at the confluence of the two rivers. It ran all the way from the Rivanna River to the back of this site. The reason for the lack of a rise in the floodplain due to fill was because the flow was controlled by the Rivanna River; it was not controlled by riverine flow through the channel in front of the site.

Mr. Pohl said that instead, the hydraulic head controlled the elevation in the backwater area. He said that he believed the Timmons engineer may be able to explain this concept in simpler terms, but essentially, the site was not subject to riverine flow due to the backwater condition. It was controlled by the head created from the confluence of the Rivanna and the creek.

Ms. Mallek stated that she understood the explanation, but in her experience of driving down Franklin Street, she had the intuitive feeling that it was very prone to flooding, especially considering the new houses there were built on stilts.

Mr. Pohl clarified that flooding would continue to occur on Franklin Street. He explained that this specific request for fill would not exacerbate the flooding, as the model indicated and as FEMA approved. He said that County staff agreed with the model, which was a standard in the industry and was being met in this request. The County's regulations permitted this type of filling in a floodplain, although it did require a special permit. He summarized that this was the basis on which County staff made their recommendation.

Ms. LaPisto-Kirtley asked if the adjacent property had filled in part of the floodplain on their land.

Ms. Ragsdale confirmed that was correct.

Ms. LaPisto-Kirtley asked what elevation it was filled in to.

Mr. Edwards replied that he was unsure of the exact number, but he believed it was the same base flood elevation.

Ms. LaPisto-Kirtley asked if staff was aware of any problems on that neighboring industrial site due to filling in the floodplain.

Mr. Edwards replied that there were none that he was aware of.

Ms. LaPisto-Kirtley said that regarding the zoning map, the light blue area was zoned light industrial. She asked if the green systems designation overlapped with that area.

Ms. Ragsdale said that they had two slides, one covering the comprehensive plan and one on the broader category of parks and green systems. She said that the adopted Comprehensive Plan did not specify any particular park or trail amenity for the area. She noted that this was one of their master plans that had not been updated to reflect their current preference for green systems and parks designations. It

was essential to recognize that this designation did not necessarily distinguish between public parks and private green systems, which may include parks but were primarily designated as green systems due to their environmental critical resources.

Ms. LaPisto-Kirtley said that she understood the industrial zoning was for warehousing and research and development as allowed uses.

Ms. Ragsdale said that the light industrial district allowed for a broad range of uses, including manufacturing, processing, assembly, fabrication, recycling, and storage, warehousing, distribution, and transportation. Additionally, labs and research and development facilities were allowed by right. However, they also had uses that were prohibited, as well as those that required special permits, which were discussed in the slide referring to the Certified Engineer's Report. They did not know the specific use that would take place on the 1.496 acres of fill in the floodplain, although the owner may be able to provide more specific information about potential future users on this site. They also had a site plan showing the footprints of the development.

Ms. LaPisto-Kirtley acknowledged the identified need for light industrial space in the County, which was part of their Economic Development Authority's (EDA) planning. She understood the CLOMR was approved by FEMA without issue, and once the subsequent steps in the process went through, it would eventually receive a regular LOMR, and then the landowner could begin development.

Mr. Edwards confirmed that the owner was required to demonstrate that the construction met the required standards.

Mr. Pruitt said that regarding the overlays in relation to their floodway, floodplain, and fringe areas, he wanted to clarify that these terms and designations were not assigned by the County, but rather by FEMA.

Mr. Edwards confirmed that they were FEMA designations and terminology.

Mr. Pruitt said that he would like to know if they had an estimate of the total tonnage of fill that would be required for this request.

Mr. Edwards replied that he did not have information about the total tonnage required.

Mr. Pruitt said that he was attempting to ascertain the intrusiveness of the fill operation itself and the number of truck trips involved. They had become familiar with the concerns surrounding the number of truck trips for fill operations, so he wanted to bring it up as a point to consider.

Mr. Andrews said that they were exploring the impact on nearby areas, as analyzed by the County. He said that specifically, he was wondering if the County's analysis considered the area on the other side of Franklin Street. He asked if they had examined the entire area, regardless of whether it fell within the County's jurisdiction or the City's jurisdiction.

Mr. Edwards confirmed that they were looking at the area the floodplain currently occupied, evaluating whether there was any change or impact to that, which would include Franklin Street and the other side of it.

Mr. Andrews said that it appeared the goal of this request was to prevent a massive erosion event that resulted from fast-moving water and did not prevent the rising of the water from the confluence of the river and creek at 324 feet.

Mr. Edwards explained that the concept of the backwater is that it was the controlling factor. Yes, it slowed it down and reduced the risk with erosion. The County's review process with the Water Protection Ordinance would do the same, so they would be looking at that in finer detail. What it was saying was that this proposed fill would not increase that surface water elevation any more during a storm event.

Mr. Andrews asked how the applicant would achieve the proposed condition for phosphorous load reduction at this site.

Mr. Edwards said that they would need to develop their site with the necessary stormwater management systems that could handle the increased phosphorus. He said that it was possible that a variety of measures could be considered, but at this point, they did not have that information.

Mr. Andrews asked if it would be inside the retaining wall.

Mr. Edwards replied that it could be. They would want to limit it to the edge of the floodway.

Mr. Andrews asked if the wall would be built before the fill was put in.

Mr. Edwards said that, yes, however, the applicant may have more information on the context because they had also considered sloping options before deciding on the retaining wall.

Mr. Andrews said that there was also discussion about the buffer being enabled for use, and he was wondering if there was any access. He noticed that there was green space being maintained, but he

was not seeing any indication of access to the preserved area along the stream buffer zone, which was intended for future dedication. He asked what the access to that area would be.

Mr. Pruitt said that there was a road along where the bakery was located.

Mr. Andrews asked if that was the only way in.

Mr. Pruitt said yes; he remembered talking about it at the community meeting.

Mr. Andrews said that according to his understanding, Franklin Street was already at approximately 324 feet in this area, which meant that this project was essentially bringing the fill up to street level, and the homes were mostly located higher than that on the other side.

Mr. Edwards said that one of the conditions for the special use permit stipulated that they must elevate the site one foot higher, so it had a freeboard of one foot in relation to the flooding.

Mr. Pruitt said that he had one other question to ask. He said that the point had been made that the pressure head of the Rivanna regulated Moores Creek, which meant it did not increase the elevation of the flood fringe during a flood event, even with this fill. He said that he understood that. He said that it was also being asserted that the footprint of the flood fringe was not altered by this. He was having trouble understanding how the pressure head of the Rivanna would regulate the footprint, so he wondered if it was simply because the footprint was negligible.

Mr. Edwards confirmed that it would be negligible.

Mr. Pruitt said that it seemed that the displacement of water was occurring laterally, but in a way that was negligible and therefore not measurable.

Mr. Pohl clarified that it would change the footprint, because raising it above the elevation meant that the line that used to go along the bread company building to Franklin Street would now jog around the site and the fill area. He reiterated that it would change, and that was related to the LOMR. The LOMR had to be issued prior to the applicant doing anything on the site, because until the letter was issued, the regulatory floodplain would remain at its current location on the site.

Mr. Pruitt asked if they already knew what the redesignated footprint would be after the fill was put in.

Mr. Pohl said that it was indicated roughly by the yellow line on the concept plan map. The floodplain would still flow between and into Franklin Street, as depicted on the other map that showed flooding on Franklin Street.

Mr. Pruitt asked Ms. Mallek if that was the issue she was trying to understand earlier.

Ms. Mallek said that it was nice to know the water would actually be higher than what she thought would result from the change. She asked if the wall would be located at that yellow line.

Mr. Edwards confirmed that it would be located at that yellow line.

Ms. Mallek said that this meant that high water in the floodway would be constrained by the wall, resulting in higher velocity once it went past the wall. She asked how that was taken into consideration in terms of impacts.

Mr. Edwards explained that the constriction would not be the primary influence on that reach because it was still in the backwater conditions. He reiterated that it was still the Rivanna River that was mostly controlling the flow of the water.

Ms. Mallek said that she was considering the scenario of a flood stage in Moores Creek, and that was where her questions lay. She was trying to distinguish between the ordinary day's facts and the potential outcomes on another day, which she was attempting to understand.

Mr. Andrews opened the public hearing.

Ms. Rebecca Ragsdale, Planning Manager, stated that she was joined here by their Deputy County Engineer, Tony Edwards, who had been very involved and served as the lead for engineering on the review of this request. She explained that this was a unique request, so staff wanted to take some time this evening to thoroughly review the floodplain characteristics and the location of the fill. She said that the fill request was for 1.496 acres located on a 7-acre site. She said that she would like to orient the Board to the location, and then they would take them through the Comprehensive Plan information, with a specific focus on the floodplain analysis, which Mr. Edwards would walk them through.

Ms. Ragsdale said that provided on the slide was the vicinity map to help them understand the location of the property, which was situated along Franklin Street, which was within the City limits. The property was located on the edge of the City-County line, between Interstate 64, the Rivanna Water and Sewer Authority (RWSA) facility to the north, and the Woolen Mills neighborhood to the south. She said that the next aerial view showed the location adjacent to Franklin Street, where the fill was requested.

The yellow line outlined the site. There were RWSA facilities to the south and east of the site, as well as the RWSA property where the wetlands project had taken place.

Ms. Ragsdale stated that to the north, also referenced in the Planning Commission information, was the area where the Woolen Mills Industrial development was currently underway. She explained that there was a site plan approved for that area, and although the parcels had the same owner, they were separate parcels. She said that the City neighborhood across Franklin Street was zoned residential. She said that the next aerial view provided a more detailed view of the site, highlighting the existing industrial development that was already underway.

Ms. Ragsdale said that in terms of the neighboring property, it was an existing industrial use that has undergone a floodplain fill request, approved in 1997 or 1998. The following pictures showed the area, looking south, across, and adjacent to the residential, undeveloped, and nearby industrial uses. She said that on the zoning map, the blue on the map indicated the industrial zoning, which encompassed much of Woolen Mills. She said that the historic Woolen Mills was zoned commercial, located in the pink area on the map. Additionally, the Flood Hazard Overlay District was applicable to this review.

Ms. Ragsdale said that the floodplain map highlighted the critical resources, including the floodplain in blue and purple, the stream buffer in yellow and green, and the tan was the steep slopes and critical slopes. She said that Mr. Edwards would focus on the unique characteristics of this floodplain location in his upcoming slides. She said that this map referred to the backwater area of the floodplain, which would be explained in more technical detail by Mr. Edwards.

Ms. Ragsdale stated that the Comprehensive Plan designated much of the area, including sensitive environmental sites, as green systems. This included properties with floodplain slopes or stream buffers, as well as parks. She said that in this case, the parks designation was primarily due to environmental features. The area included developed properties and outside of the floodplain, so there was a significant amount of green space designated that included existing improvements. She said that this particular parcel did not receive specific recommendations in the recent review of the area with the Broadway blueprint.

Ms. Ragsdale stated that staff wanted to review the flood hazard overlay and light industrial (LI) zoning features, because the focus of this application was on the fill and floodplain request, which sought to allow grading and fill activities within the Flood Hazard Overlay District. She said that provided was a list of some of the other uses that were allowed in the light industrial district. Any fill or development in this area must be approved and occur before any light industrial uses could be developed. She said that this included manufacturing and processing, storage, warehousing, laboratory, and research and development.

Ms. Ragsdale said that the light industrial district had broad categories of allowed uses, but it also came with additional regulations. She said that the next slide aimed to clarify where they were in the process of considering the floodplain and to provide that information for the Board and the public. She noted that the applicant had submitted to the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision (CLOMR), which FEMA did not have any concerns about. Now, the County must review it under their local ordinance and Flood Hazard Overlay District to allow fill of the requested 1.496 acres. This would need to be addressed in the conditions of the special use permit, if approved.

Ms. Ragsdale said that after that point, they could conduct the fill and work with FEMA to amend the floodplain map. She said that Mr. Edwards would explain in further detail that any prior map revisions approved by FEMA on other sites in the County or City had been considered in the engineering analysis. They had already discussed the light industrial allowances, and they could revisit those if needed. The focus was on the issues surrounding the flood hazard overlay district.

Ms. Ragsdale stated that if the applicant moved forward with those next steps, they would need to comply with the light industrial district, as well as their ordinance. For industrial districts, they had many layers of regulations, including special use permits and supplemental regulations. She said that these regulations may include additional setbacks, buffers, and screening, as well as prohibiting certain outdoor activities. Any industrial uses that they had concerns about in the LI district would need to occur indoors. They also required a certified engineer's report to ensure that any industrial activity complied with the ordinance and applicable regulations, such as those related to materials, vibration, and noise.

Ms. Ragsdale said that if all necessary processes were completed, the final steps would be the building permit and zoning clearance process. Next, she would review the concept plan. She said that the site was shown in green, with the outer limits of the parcel in light green and the stream buffer area along Moores Creek in dark green. She indicated that the area between the floodway and the floodplain fringe was the only area where fill could be requested, so that 1.496 acres of that area were generally drawn on the map. She said that retaining walls would be necessary to add the fill.

Ms. Ragsdale said that Moores Creek Lane provided access to the RWSA property, and in this case, the request had the potential for the County to dedicate the stream buffer for a public greenway trail; however, it was not specifically mentioned in their Comprehensive Plan or in the County's current development. The criteria applicable to all special use permits was what they want to ensure they cover in their staff reports and discuss with the Board this evening. When it came to floodplain requests, the health and safety, as well as the potential detriment to abutting properties, were of paramount concern.

Ms. Ragsdale stated that staff had reviewed the Comprehensive Plan in this case and considered the nearby character of the area, as well as the industrial uses if it were to be developed. Staff did not believe the character of the area would be significantly altered, although it would be a change to this property given the other industrial uses. In the floodplain section, Mr. Edwards would focus on the substantial detriment and explain how they arrived at their conclusion that they did not find any in this case.

Ms. Ragsdale stated that they held a community meeting to receive feedback about this application, and the Board had received a summary of that meeting and other emails from constituents, but that was not included in the staff report. She said that they had taken into account the concerns raised during the meeting and addressed them in the special use permit conditions they had recommended.

Mr. Tony Edwards, Deputy County Engineer, stated that as depicted on the screen, they were referring to two sections of the floodplain, specifically the floodway fringe and the regulatory floodway. The floodway fringe was the outer limit, as depicted on the previous slide that Ms. Ragsdale had shown. He explained that the floodway itself was the channel that the river needed to carry the capacity for, in the adjacent area, that would be in reserve to handle the discharge from a base flood event, and any account of increasing the water surface area no more than one foot. The floodway fringe allowed for extra capacity on the outside, but it was not necessarily the area that was needed just to carry the floodway during a 100-year event or 1% chance flood.

Mr. Edwards stated that in the Planning Commission meeting, there was some concern about the terminology of backwater conditions, so he provided this information to give the Board some grounding on what that would entail. This was a somewhat unique situation, as it discharged in close proximity to the Rivanna River. The Rivanna River acted as a constriction for this 1% flood event, creating a backwater condition, essentially slowing the flow that was coming out of Moores Creek.

Mr. Edwards said that provided on the slide were some characteristics of this backwater area. Considering placing fill in this backwater area may not cause a greater rise because the backwater area was typically a low-energy zone, and it had minimal flow connectivity to the main river channel, which would be the Rivanna in this situation during normal or potentially flood conditions. He noted that some of the characteristics to consider for this area were the hydraulic isolation characteristics, which was common in backwater areas such as oxbow lakes and wetlands, offering a disconnected, limited interaction with the main river flow.

Mr. Edwards said that this created a backward flow direction in Meadow Creek. He said that adding fill to this area did not significantly alter the main channel's capacity to convey the floodwaters, so the floodplain water elevations remained unaffected. Another characteristic was a low flow velocity, which was stagnant or slow-moving water, mainly because the area did not contribute substantially to the floodwater movement. This slower velocity often resulted in a very slow-flowing situation, reducing the risk of erosion and other damaging effects that sometimes occurred during a massive flood.

Mr. Edwards stated that floodplain storage capacity was primarily determined by the main channel, the Rivanna in this situation, and adjacent low-lying areas actively involved in floodwater conveyance. Backwater zones such as this often lay outside of the active zone and modifying them with fill did not reduce the floodplain's ability to store or convey the water. He said that this information was a broad overview of the potential situation.

Mr. Edwards said that next, he would provide information more specific to their location. He said that as they could see at the top of the satellite map, there was the parcel location. He said that overlaid on the satellite image was a FEMA floodplain map, which had also been provided in their study of this area for this proposal. The location was well within the Rivanna River, where the backflow condition began, up to the elevation line of 324, which was well upstream of the site.

Mr. Edwards clarified that the cross-sectional line indicated a 324 elevation. He said that this elevation marked the point where the backwater extended into Moores Creek, and subsequently, all the way down to the Rivanna River. The leveling or equilibrium of the elevation occurred at this 324 elevation point throughout the reach of the river. This was due to the restrictive force exerted by the Rivanna River in this scenario.

Mr. Edwards said that the next slide showed the floodplain without the backwater condition, used for comparison purposes. This was not the situation they were currently discussing; however, he wanted to highlight the difference between the two was primarily the difference in elevation. He said that if one looked at the site's location, just upstream from there, the elevations tended to decline as one got closer to the Rivanna River. He said that this information was based on new data from FEMA, which was currently producing new FEMA maps for all localities. These maps were expected to be adopted, hopefully within the next year, but may take longer.

Mr. Edwards said that the goal was to illustrate the point that the water surface elevations would decline as they approached the Rivanna River. In this scenario, one was actually at a lesser elevation than one would be with a backwater condition. He said that the key distinction was that the backwater condition was uniform, whereas the elevations in this scenario declined as one moved towards the river.

Ms. Ragsdale said that this information explained the unique characteristics of that property and why they wanted to ensure that the significance of the term "backwater" was explained. She said staff had reviewed the Timmons report, which was based on the most current floodplain information, as they had

mentioned earlier. If any fill was allowed in the floodplain, there were the criteria that must be met in terms of minimizing obstruction, which were provided on the slide.

Ms. Ragsdale stated that they had discussed not being able to place the fill in the regulatory floodway, and the importance of the base flood elevation in any floodplain analysis, limiting it to one foot above 324 if they filled it. They also had provisions to protect against erosion and pollution. The floodplain administrator, which was the County Engineer, had the authority to require any additional documentation, engineering studies that may be needed in a certain circumstance. In addition, there was a requirement for a site plan. This was all in addition to the FEMA process.

Ms. Ragsdale explained that staff had recommended approval of the special use permit request, while the Planning Commission recommended approval with a vote of 4-3. The Commissioners had serious concerns regarding the green systems designation in the master plan and protection of the floodplain as it related to water quality. She said that when the item was presented to the Planning Commission, it was recommended for approval with Conditions 1 through 3, as Condition 3 added to address concerns regarding potential archeological resources.

Ms. Ragsdale clarified that they had the information from their Historic Resources planner and the state database, and based on those comments, staff had recommended a phase one archeological survey. Conditions 1 and 2 covered everything they had discussed in terms of the engineering aspects of the project and the limitations and additional requirements that must be met to conduct the fill and develop the site. Condition 4 required stormwater treatment to be provided on site and for the phosphorus reduction to be twice what would normally be required for that 1.496 acre area that was requested for disturbance.

Ms. Ragsdale stated that staff felt that this condition was an appropriate way to mitigate and offset the proposed disturbance and fill in the floodplain. They had previously seen a similar condition in a proffer, but they were able to require it as a condition because they believed it addressed the concerns regarding impacts of the loss of that area of the floodplain to fill. She reiterated that staff had recommended approval and wanted to ensure that they had the updated conditions that they had discussed, including the one that was added.

Ms. Ragsdale said that they had reviewed the findings from the engineering study that was prepared by Timmons. She said that the applicant's team was also present and they would discuss this further. She said that as they had previously discussed, the property was already zoned light industrial, which would enable the use of the 1.496-acre area. She noted that there was a concern that this use was not consistent with the current green systems designation; however, the majority of the site, approximately 5.5 acres, would remain consistent with this designation. This was part of their recommendation and analysis for approval.

Ms. McKeel said that she needed some clarification regarding the regulatory process. She asked if there would be further steps in this process after the special use permit was approved and before the development began.

Ms. Ragsdale said that the first two steps in the regulatory process were where they currently were with this application, so they were considering whether or not to allow the fill. If they allowed the fill, that was when a lot more engineering would happen.

Mr. Edwards clarified that the Conditional Letter of Map Revision (CLOMR) was a revision based on fill. This had undergone review by FEMA, who had examined the same documentation that County staff had and reached consensus with them, concluding that it had no impact. He explained that however, it was conditional, meaning a final determination would not be made until the Letter of Map Revision (LOMR) was applied for, which was a subsequent review process.

Mr. Edwards said that this would occur later and would also be determined based on the County’s reviews of the Water Protection Ordinance (WPO) and any decisions made tonight, as well as other requirements related to the site plan and floodplain permit. In this case, the County would be responsible for verifying that the fill was constructed in accordance with the approved design, and FEMA would then review that to approve it.

Ms. Mallek asked if this was the only chance the Board would have to review this application

Ms. Ragsdale answered that the special use permit was the only legislative action required for this application. There were no other steps subsequent to tonight that would require the matter to return to the Planning Commission and the Board, unless it was related to the industrial district regulations, or if they were requesting something else that needed a special use permit or another waiver from another section of the Zoning Ordinance. In terms of tonight’s public hearing, the Board ultimately had the options to approve, deny, or defer action on the item.

Ms. Mallek asked when the FEMA conditional letter had been received.

Mr. Edwards replied that it was in 2024, but he did not have the exact date.

Ms. Mallek stated that that was fairly recently. She noted that right next door to this site was the remediation planting project for the Ragged Mountain, with the remaining portion of the project located at Buck Mountain Creek. She said that she was trying to comprehend how filling an acre and a half to a

depth of four to six feet would not significantly increase the water flow into the backwater area, which was adjacent to the forest that was planted at great expense by the RWSA and ratepayers. She was struggling to understand why this proposed solution would not have a more substantial impact, considering there was nowhere else for the water to go.

Mr. Edwards said that his attempt at explaining what a backwater condition was meant to better define what it was like as opposed to a normal flow during a flood event. Due to the restrictive nature of the Rivanna, the backwater it created was a low-velocity, almost stagnant flow that establishes an equilibrium of elevation throughout the area. The hydrology of that condition was not influenced by the proposed fill, which was supported by the findings of the engineering study, FEMA's review, and their own assessment, so this fill would not displace and cause a rise in elevation in this backwater area.

Ms. Mallek said that if there was a lot of rain at the headwaters while there was also high water in the Rivanna, there would be a lot more water coming in while the Moores Creek water could not leave. She emphasized that the water would not just sit there; it would rise. She noted that the whole reason why the lower level of the Woolen Mills renovation had nothing in there was because it was designed to fill up with water, and that was eight feet above the creek's banks. She was trying to understand this when it seemed so counterintuitive to her own knowledge of hydrology, specifically in their local waters. She expressed great concern at the potential impacts this would have, because she was not convinced the waters would always be moving slowly.

Mr. Edwards clarified that it would be relatively slower compared to if the restriction was not there.

Ms. Mallek acknowledged that it was in comparison to if the neck was not present at the river, but even then, she considered that it was possible that even more Rivanna River water could enter. She said that that was a bit speculative. She said that another counterintuitive aspect was the relationship between grading activity, including fill, and floodplain fringe. She said that this was illustrated in one of the slides. She said that it was a flood hazard area, and she did not understand how filling in the area with soil would not impact that.

Mr. Edwards said that it should be kept in mind that the floodway was the carrying capacity that FEMA assessed to manage the flow of water needed to be transported through the area during a 100-year storm event. The floodway fringe was an additional factor to the capacity. Even if fill was placed within the fringe, it may only have minimal effect on the floodway capacity no more than one food in elevation. That was the basis for their analysis, which FEMA and the County used to evaluate the situation.

Ms. Mallek asked if she understood that the conclusion was that if the fill were placed there, it would impact the rise of water no more than one foot in elevation.

Mr. Edwards replied that if floodway fringe were to be entirely filled, not just this site, but every location, it would be less than one foot.

Ms. Mallek noted that there was a large drop in elevation as the river flowed southeast, going from 324 feet to 316 feet.

Mr. Edwards added that with the new data FEMA was proposing regarding floodplain mapping, they were seeing more accurate data on existing conditions, so it was possible that some of the elevations they were currently using, such as the 324 elevation, may be reduced. He said that this was due to the availability of more accurate data.

Ms. Mallek said that a transit was a transit, so she did not fully understand the distinction, but she would leave that alone.

Mr. Frank Pohl, County Engineer, said that he wanted to expand on Mr. Edwards' statement. He explained that the backwater condition began at the Rivanna River. He said that if they examined the provided floodplain map, the 324-foot elevation was located at the confluence of the two rivers. It ran all the way from the Rivanna River to the back of this site. The reason for the lack of a rise in the floodplain due to fill was because the flow was controlled by the Rivanna River; it was not controlled by riverine flow through the channel in front of the site.

Mr. Pohl said that instead, the hydraulic head controlled the elevation in the backwater area. He said that he believed the Timmons engineer may be able to explain this concept in simpler terms, but essentially, the site was not subject to riverine flow due to the backwater condition. It was controlled by the head created from the confluence of the Rivanna and the creek.

Ms. Mallek stated that she understood the explanation, but in her experience of driving down Franklin Street, she had the intuitive feeling that it was very prone to flooding, especially considering the new houses there were built on stilts.

Mr. Pohl clarified that flooding would continue to occur on Franklin Street. He explained that this specific request for fill would not exacerbate the flooding, as the model indicated and as FEMA approved. He said that County staff agreed with the model, which was a standard in the industry and was being met in this request. The County's regulations permitted this type of filling in a floodplain, although it did require a special permit. He summarized that this was the basis on which County staff made their recommendation.

Ms. LaPisto-Kirtley asked if the adjacent property had filled in part of the floodplain on their land.

Ms. Ragsdale confirmed that was correct.

Ms. LaPisto-Kirtley asked what elevation it was filled in to.

Mr. Edwards replied that he was unsure of the exact number, but he believed it was the same base flood elevation.

Ms. LaPisto-Kirtley asked if staff was aware of any problems on that neighboring industrial site due to filling in the floodplain.

Mr. Edwards replied that there were none that he was aware of.

Ms. LaPisto-Kirtley said that regarding the zoning map, the light blue area was zoned light industrial. She asked if the green systems designation overlapped with that area.

Ms. Ragsdale said that they had two slides, one covering the comprehensive plan and one on the broader category of parks and green systems. She said that the adopted Comprehensive Plan did not specify any particular park or trail amenity for the area. She noted that this was one of their master plans that had not been updated to reflect their current preference for green systems and parks designations. It was essential to recognize that this designation did not necessarily distinguish between public parks and private green systems, which may include parks but were primarily designated as green systems due to their environmental critical resources.

Ms. LaPisto-Kirtley said that she understood the industrial zoning was for warehousing and research and development as allowed uses.

Ms. Ragsdale said that the light industrial district allowed for a broad range of uses, including manufacturing, processing, assembly, fabrication, recycling, and storage, warehousing, distribution, and transportation. Additionally, labs and research and development facilities were allowed by right. However, they also had uses that were prohibited, as well as those that required special permits, which were discussed in the slide referring to the Certified Engineer’s Report. They did not know the specific use that would take place on the 1.496 acres of fill in the floodplain, although the owner may be able to provide more specific information about potential future users on this site. They also had a site plan showing the footprints of the development.

Ms. LaPisto-Kirtley acknowledged the identified need for light industrial space in the County, which was part of their Economic Development Authority’s (EDA) planning. She understood the CLOMR was approved by FEMA without issue, and once the subsequent steps in the process went through, it would eventually receive a regular LOMR, and then the landowner could begin development.

Mr. Edwards confirmed that the owner was required to demonstrate that the construction met the required standards.

Mr. Pruitt said that regarding the overlays in relation to their floodway, floodplain, and fringe areas, he wanted to clarify that these terms and designations were not assigned by the County, but rather by FEMA.

Mr. Edwards confirmed that they were FEMA designations and terminology.

Mr. Pruitt said that he would like to know if they had an estimate of the total tonnage of fill that would be required for this request.

Mr. Edwards replied that he did not have information about the total tonnage required.

Mr. Pruitt said that he was attempting to ascertain the intrusiveness of the fill operation itself and the number of truck trips involved. They had become familiar with the concerns surrounding the number of truck trips for fill operations, so he wanted to bring it up as a point to consider.

Mr. Andrews said that they were exploring the impact on nearby areas, as analyzed by the County. He said that specifically, he was wondering if the County's analysis considered the area on the other side of Franklin Street. He asked if they had examined the entire area, regardless of whether it fell within the County's jurisdiction or the City’s jurisdiction.

Mr. Edwards confirmed that they were looking at the area the floodplain currently occupied, evaluating whether there was any change or impact to that, which would include Franklin Street and the other side of it.

Mr. Andrews said that it appeared the goal of this request was to prevent a massive erosion event that resulted from fast-moving water and did not prevent the rising of the water from the confluence of the river and creek at 324 feet.

Mr. Edwards explained that the concept of the backwater is that it was the controlling factor. Yes, it slowed it down and reduced the risk with erosion. The County’s review process with the Water

Protection Ordinance would do the same, so they would be looking at that in finer detail. What it was saying was that this proposed fill would not increase that surface water elevation any more during a storm event.

Mr. Andrews asked how the applicant would achieve the proposed condition for phosphorous load reduction at this site.

Mr. Edwards said that they would need to develop their site with the necessary stormwater management systems that could handle the increased phosphorus. He said that it was possible that a variety of measures could be considered, but at this point, they did not have that information.

Mr. Andrews asked if it would be inside the retaining wall.

Mr. Edwards replied that it could be. They would want to limit it to the edge of the floodway.

Mr. Andrews asked if the wall would be built before the fill was put in.

Mr. Edwards said that, yes, however, the applicant may have more information on the context because they had also considered sloping options before deciding on the retaining wall.

Mr. Andrews said that there was also discussion about the buffer being enabled for use, and he was wondering if there was any access. He noticed that there was green space being maintained, but he was not seeing any indication of access to the preserved area along the stream buffer zone, which was intended for future dedication. He asked what the access to that area would be.

Mr. Pruitt said that there was a road along where the bakery was located.

Mr. Andrews asked if that was the only way in.

Mr. Pruitt said yes; he remembered talking about it at the community meeting.

Mr. Andrews said that according to his understanding, Franklin Street was already at approximately 324 feet in this area, which meant that this project was essentially bringing the fill up to street level, and the homes were mostly located higher than that on the other side.

Mr. Edwards said that one of the conditions for the special use permit stipulated that they must elevate the site one foot higher, so it had a freeboard of one foot in relation to the flooding.

Mr. Pruitt said that he had one other question to ask. He said that the point had been made that the pressure head of the Rivanna regulated Moores Creek, which meant it did not increase the elevation of the flood fringe during a flood event, even with this fill. He said that he understood that. He said that it was also being asserted that the footprint of the flood fringe was not altered by this. He was having trouble understanding how the pressure head of the Rivanna would regulate the footprint, so he wondered if it was simply because the footprint was negligible.

Mr. Edwards confirmed that it would be negligible.

Mr. Pruitt said that it seemed that the displacement of water was occurring laterally, but in a way that was negligible and therefore not measurable.

Mr. Pohl clarified that it would change the footprint, because raising it above the elevation meant that the line that used to go along the bread company building to Franklin Street would now jog around the site and the fill area. He reiterated that it would change, and that was related to the LOMR. The LOMR had to be issued prior to the applicant doing anything on the site, because until the letter was issued, the regulatory floodplain would remain at its current location on the site.

Mr. Pruitt asked if they already knew what the redesignated footprint would be after the fill was put in.

Mr. Pohl said that it was indicated roughly by the yellow line on the concept plan map. The floodplain would still flow between and into Franklin Street, as depicted on the other map that showed flooding on Franklin Street.

Mr. Pruitt asked Ms. Mallek if that was the issue she was trying to understand earlier.

Ms. Mallek said that it was nice to know the water would actually be higher than what she thought would result from the change. She asked if the wall would be located at that yellow line.

Mr. Edwards confirmed that it would be located at that yellow line.

Ms. Mallek said that this meant that high water in the floodway would be constrained by the wall, resulting in higher velocity once it went past the wall. She asked how that was taken into consideration in terms of impacts.

Mr. Edwards explained that the constriction would not be the primary influence on that reach because it was still in the backwater conditions. He reiterated that it was still the Rivanna River that was

mostly controlling the flow of the water.

Ms. Mallek said that she was considering the scenario of a flood stage in Moores Creek, and that was where her questions lay. She was trying to distinguish between the ordinary day's facts and the potential outcomes on another day, which she was attempting to understand.

Mr. Andrews opened the public hearing.

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Mr. Bill Emory, 1604 Woolen Mills Road, City of Charlottesville, said that water was an elixir essential for life, and rivers served as the circulatory system. He said that owning property in the James River watershed in close proximity to a stream or river came with a responsibility. He said that while industrial polluters could purchase nutrient credits to cover their bad behavior, these purchases were of little value to local and downstream riverine fauna. He said that he had a lifelong dream to bike to the Bay, stand in the water, and see his feet.

Mr. Emory said that when Europeans first arrived, the bottom of the Bay was visible 50 feet down, and the water was crystal clear. Therefore, they had not been doing a good job. They were 27 years past the Rivanna River Basin Project and nine years since the 2016 Charlottesville-Albemarle Memorandum of Understanding (MOU) on the environment. In 2017, the localities' Planning Commissions agreed in a joint session to support the Rivanna River Corridor Renaissance. In line with these commitments, he prayed they would continue with these river-supportive behaviors, as the Albemarle Board had an exemplary record of water quality protection.

Mr. Emory said that they had not approved floodplain fills in 28 years. He implored the Supervisors to do the good work and continue to support the river, the Bay, and their natural and cultural heritage. This project would cause substantial damage to quality of life on adjacent parcels. He said that the character of adjacent parcels would be changed by the proposed special use, and public health, safety, and welfare would not be improved. He said that the proposed fill was inconsistent with the Comprehensive Plan. He said that he would like to read some abstracts and comments from Commissioner Firehock.

Mr. Emory read, "There were lots of things we can do with engineering with big machines and modern equipment, so we do have the ability to build up soil and help create an island of elevation that would put the structure in a 100-year floodplain. We could also pipe the creek and pave it over so we wouldn't have to have a buffer. We could actually get a permit from the Army Corps of Engineers to do things like that. But should we? I'm also looking at this from two perspectives: one is death by a thousand paper cuts, which is all the little fills accumulating together. I don't have the confidence we're looking at it from that perspective. I think that zoning can be old, zoning can be wrong, zoning can be a bad idea. I think this zoning is outdated. Today, putting industrial zoning along our rivers is a bad idea. I don't think the zoning is good. We're not here tonight to decide about the zoning; we're here to decide whether to fill in the floodplain. I'm going to stick with the Comprehensive Plan; I think this site is best designated as a green system."

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Ms. Jenny Mikulski, 718 Franklin Street, said that her driveway was approximately 200 feet from the driveway of this project. She said that the first-floor elevation of her home was 322 feet. She said that she had heard several inaccuracies tonight and did not have time to address them, but she would appreciate the opportunity to send some comments after this meeting. Notably, one of the photographs presented was misquoted; it was actually Moores Creek Lane, not Franklin Street, so the Board actually had not seen a photograph of Franklin Street.

Ms. Mikulski emphasized that this was the third meeting she had attended where she had heard no mention of their homes or the vibrant environmental conservation area that was set aside by the RWSA, which was immediately abutting to this site. She said that in fact, there would only be a culvert shared by this site and the conservation area. She said that this area was a critical urban habitat, serving as a hotspot for migratory birds, and there was a popular Christmas bird count conducted by the Audubon Society in this exact area.

Ms. Mikulski said that locals had affectionately referred to this neighborhood as "Hogwallers," a term that could be either a slur or a badge of gritty pride, depending on who they asked. She said that historically, Hogwallers were stockyards near railroads for livestock exchange. She said that in the 2000s, one in Lenoir, North Carolina, had been transformed into a historic district with recreational trails, commerce, and culture. She said that they could achieve a similar revitalization in this neighborhood.

Ms. Mikulski said that, however, tonight, they were discussing reckless development in a floodplain. She said that the plot she had shown them, with the blue highlighted areas, dated back to 1891. She said that the culvert adjacent to the proposed project was depicted on the map as the stormwater diversion system for Franklin Street in 1891. She said that this 135-year-old system was being flippantly proposed to change. Additionally, Ms. Mallek had made a valid point about the RWSA's elevated location, which would create a canyon.

Ms. Mikulski said that she did not understand how it would be feasible to build a 13-foot floodwall with heavy equipment on a 312-foot elevation floodplain without compacting and damaging the shoreline. She said that they knew the FEMA line maps were outdated, and they had seen national disasters where backwaters met with runoff from heavy storm events, with the collision resulting in catastrophic

consequences. She said that upstream of this parcel, they had the Wegmans Plaza construction, the steep slopes off Old Ridge, new homes on Stonehenge, and the new homes on Nassau, built on fill on this same floodplain. The City View Apartments on Carlton and the three-tier Woolen Mills parking lot were also all impacting this floodplain.

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Ms. Alanah Horning, 720 Franklin Street, said that she was a five-year resident of this neighborhood and situated approximately 100 feet from the land being proposed for this industrial development. As a licensed clinical social worker and someone trained to understand how environmental stressors impact the well-being of communities, particularly those who were low-income and underserved, she wanted to raise concerns about this proposal in regards to the social injustices to their vulnerable community that had been overlooked in this planning process.

Ms. Horning said that it was well-known that construction in residential areas not only negatively impacted the environment but also affected the people who lived there. She trusted that each of the Supervisors chose to be on the Board of Supervisors because they cared about the people they represented. Although their community, which was being most impacted, may not fall fully within their County lines, she hoped that their concern did not end there. In the Planning staff report, there was a list of requirements that the project must align with public health, safety, and welfare. The comment provided within the report stated that no issues with public health, safety, and general welfare had been identified.

Ms. Horning said that however, she was unsure of what research of analysis was conducted to support this determination, because she had identified several significant issues that warranted further consideration. Research showed that vulnerable communities often lacked physical and mental safety due to systemic inequality. This proposal would deepen those vulnerabilities by disrupting the limited safety and stability their community had worked hard to build. She explained that environmental safety would be compromised, noise pollution would increase, and there would be more trucks and tractors clogging up the only accessible road, which was already extremely narrow.

Ms. Horning said that additionally, there would be a loss of sunlight due to the proposed building's height, which was essential for general well-being. Economic safety was at risk, as property values of their homes would drop. These homes were ones that they had worked hard for as a working-class community. Social safety would be damaged, as there were no large backyards in the trailer park community, which were evident if they had reviewed photographs of visited the neighborhood. The roads were used for families to gather and children to play; it was a communal space. Without social support systems, mental health and well-being could weaken.

Ms. Horning said that in the previous Commission meeting, there were hypothetical claims of job creation and financial gain, but these claims were unsubstantiated, lacked community input and had not been properly examined. It was unclear how such assumptions could serve as a valid basis for approving this proposal. She said that if caring about their community's well-being wasn't enough reason to reject this proposal, she would like to ask the Board to consider their own home and the peace and comfort they had. She asked if they would they rather live next to a natural space full of life that supported flood prevention or an industrial building that disrupted their daily life. She assumed they would choose the former. Therefore, she urged them not to impose something on their community that the Supervisors themselves would not want in their own neighborhoods.

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Ms. Sabrina Juliano, resident of Fluvanna County, urged the Board to vote against this proposal. Over the past three years, she believed without the County’s knowledge, the floodplain in question had been subjected to demolition, rubble crushing, and stockpiling by this developer. The developer's activities raised serious legal, environmental, public safety, and planning concerns. She said that the crushing and stockpiling of demolition dust, which may contain hazardous substances like asbestos, lead, and silica, pose significant health risks. She said that prolonged exposure, especially to silica dust, was known to cause silicosis and increase the risk of lung cancer.

Ms. Juliano said that furthermore, these operations risk contaminating soil and nearby waterways and destroying sensitive floodplain habitat essential to urban wildlife. She said that the unauthorized fill of the floodplain likely violated several regulations, including the County's water protection ordinance, the Clean Water Act, and national flood insurance program requirements. She said that the developer has also stockpiled construction material in piles exceeding 25 feet high, placed dangerously close to the stormwater infrastructure.

Ms. Juliano said that additionally, this activity increased flood risk by displacing flood waters and accelerating runoff, overwhelming drainage systems. She said that the FEMA requires hydraulic modeling before any fill was approved, but that safeguard was bypassed. She said that this behavior undermined the public planning process by preempting community input, bypassing environmental review, and disregarding proper technical assessment. She said that it set a troubling precedent of “build first, ask later,” eroding public trust and making it harder to enforce rules equitably.

Ms. Juliano said that finally, this could impact the entire community's eligibility for federal flood insurance and disaster relief. Noncompliance with flood plan regulations may jeopardize the County's standing in the national flood insurance program, leading to higher premiums for residents and potential disqualification from future federal assistance. In summary, the developer attempted to reverse engineer approval by acting first and seeking permission later. She respectfully urged the Board to reject this proposal.

Ms. Kristen Davis, said that she was here to respectfully urge the Board to vote against this proposal. She said that she would like to extend a few thank-yous. She said that she appreciated her neighbors for bringing this issue to her attention. She said that she was unsure of what the County's requirements were for notifying people on the other side of the City-County line, but if it were not for her neighbors, she would not know about this application nor be able to speak to their community's concerns.

Ms. Davis said that she wanted to thank Ms. Mallek for her desire to understand this was the Board's one chance to act on this proposal, thank Mr. Pruitt for being the first to bring attention to human impact, and thank Mr. Andrews for his questions about FEMA and how to interpret FEMA's conclusions about this proposal. She said that she wanted to provide a few thoughts she had regarding this application. She said that in the Charlottesville area, they often talked about being good neighbors, particularly in regards to the relationship between UVA and their community.

Ms. Davis said that she believed that voting yes on this proposal would not be neighborly. She said that Mr. Rogers would not approve. Another point to consider was the Planning Commission's vote of 4 to 3. She said that out of respect for those who voted against it, she hoped the Board would ask, what is the true benefit of this and if it was really worth it. She believed a lot of the people here tonight were wondering why they would take this chance.

Ms. Davis said that the word "fill" may seem harmless, but in this case, it was definitely not. She said that it was going to lead to the destruction of these wetlands, which had not been mentioned in the presentations and was only brought up by another public speaker. She emphasized that the zoning for the parcel was light industrial, but the zoning did not reflect its ecological value. It was not a vacant lot; it was a rare and thriving pocket of urban wilderness that had developed over a very long period of time. She said that losing it now would be a serious failure of planning and environmental responsibility. She hoped the Board would keep this in mind.

Mr. David Slezak, 722 Franklin Street, City of Charlottesville, said that he previously was a 40-year resident of the White Hall District, where his son was currently a farmer. He said the closest residential house next to the trailer park. He said that as he watched the light industrial development on the hill above, to the left of his house, he was pleased to learn that it would be used as a drain field for that structure. He said that he wondered if this was always the intended plan, rather than simply putting it off until a later date.

Mr. Slezak said that he also noticed that the word "groundwater" was rarely mentioned anymore, which he believed was the original reason for this 1.4-acre field being left as it was, intended to mitigate the other light industrial site. He said that he found it concerning that they were still discussing a 100-year flood plan, given the reality of global warming, which had led to more frequent 500-year floods. He said that, in his opinion, considering 100-year floods was not the most prudent approach. Therefore, he did not support this project.

Ms. Peggy Gilges, Jack Jouett District, said that she was present this evening to ask the Board to deny the special use permit to add 11 feet of fill to one and a half acres of the Moores Creek floodplain to create a building pad for light industrial use. She said that she had been present at the Weldon Cooper Cost of Community Services presentation in Lane Auditorium just a few weeks ago. She said that while she understood that industrial development may contribute more taxes to County coffers with fewer service costs than residential development, open space also had significantly fewer service costs than residential development.

Ms. Gilges noted that furthermore, the Weldon Cooper study did not take into account the value of the ecosystem services provided to a community by natural systems such as floodplains. She said that recently, the World Meteorological Organization reported that global temperatures were rising faster than expected, and the world would officially pass the 1.5 degrees Celsius temperature mark in the next two years. They added that there was now more than a 1% chance of at least one year exceeding 2 degrees Celsius, or 5.4 degrees Fahrenheit, in the next four years.

Ms. Gilges said that for every 1 degree Celsius of warming, the atmosphere could hold 7% more moisture. As they were aware, Albemarle's 2022 Climate Vulnerability and Risk Assessment stated that due to climate change, the County would see less predictable patterns of precipitation and more extreme weather events, resulting in increased flooding. The risk of human fatalities was of serious concern to her and it was much on her mind that they had now experienced three flash flooding deaths in Albemarle County in the last seven years.

Ms. Gilges said that development of this lot may seem tempting, but she reminded the Board that they were not in the 20th century any longer. They could not continue to make land use decisions as if they were. She urged the Board to carefully consider engineering reports based on typical or current models that may not be relevant to their rapidly warming future. She noted that as Karen Firehock had pointed out during the Planning Commission's review, creating an industrial site on this lot was inconsistent with the Comprehensive Plan because floodplains served important roles ecologically and in mitigating the effects of flooding. She urged the Board to be proactive in protecting their community and improving their resilience in the face of climate change.

Ms. Robin Hanes, 1709 East Market Street, City of Charlottesville, said that she lived just around the corner from this property. To continue the previous speaker's point, she wanted to emphasize that floodplain was floodplain. It was a fairly scary designation. She said that while there may be specific issues with the confluence of the Rivanna and Moores Creek, they were experiencing extreme storms now. She said that she had moved from Asheville to here, and she still had family there. The hurricane was a totally bizarre thing that happened in Asheville, and Albemarle had been lucky. The river was nearby and could become a giant.

Ms. Hanes said that this was a small area of land, only 1.5 acres. However, acreage could make a significant difference in drainage and stormwater management. The owner had already begun using the land in question for dumping fill, and they noticed the large machinery and debris piles, driving by them on a daily basis. If this was temporary, she would request them to remove it now. The stormwater from this property would flow to adjoining land and across the street. As the number of residences would soon grow with Habitat for Humanity's plan, she worried that this issue would become more pressing. She asked if all of this was truly of no concern to the Board of Supervisors.

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Ms. Katie Chester, 812 East Market Street, City of Charlottesville, said that she lived just across the railroad tracks from this proposal. She said that she was deeply struck by the significant difference in the presentation's thoroughness and research compared to the previous one, as well as how many people came out to speak against it. Notably, the prior owner had not had a fire call in 23 years, and the current property owner had already had mounds of debris that he had not disposed of properly. He had offered to donate a certain area of the stream buffer, probably because it was unusable.

Ms. Chester said that the applicant did not notice the stormwater offsetting had to be on-site. She was surprised that Mr. Edwards did not do his homework about the elevation of the bakery site and was just assuming it was filled to the BFW (base flood elevation). She asked how he could not know that. She noted that the gentleman in the blazer called this a unique situation, but the slide said that backwater area may not cause a rise in floodplain, backwater areas such as lakes or wetlands, were often disconnected, and fill placement here may have had little impact on the overall floodplain, and backwater zoned often laid outside.

Ms. Chester emphasized that this type of vague language was not a substantial basis for justification when considering filling in floodplains. She was reminded of the concept of slow violence, which involved crimes committed slowly and incrementally, such as allowing lead to contaminate water, which was often discovered after the fact. Filling in floodplains was reckless and egregious. The homes across the street were not elevated, and many were trailers on cinder blocks. She urged the Board to deny the special use permit request.

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Mr. Kirk Bowers, Rivanna District, said that he had been a resident for 38 years and lived 33 miles from this site. He said that he had submitted comments this morning. He said that he had not been informed until yesterday, so he was not able to complete a full review of this site. He said that as a licensed principal engineer (PE) since 1989, he currently worked for an engineering company reviewing stormwater plants and stormwater inspection reports. He said that he had a couple of comments to share. He said that he would highlight the key points from his comments.

Mr. Bowers said that the historic resources in this area warranted full exploration due to its proximity to Piraeus. He said that the port of Charlottesville, which was once billed as the Athens of the South, and the presence of Native Americans who lived along Moores Creek, may have been a burial ground for early residents, settlers, and slaves. He said that before receiving approval, he strongly recommended a thorough exploration of this site. Secondly, the computations should be based on future impacts from climate change, including higher flow rates and frequency of storms. If the current computations were not based on future projections, they should be revised and submitted up to the year 2050.

Mr. Bowers said that he also recommended changing the grading elevation to 325.5, not 324, as shown in the application. Furthermore, the floodplain fringe was not accurately represented. He recommended revising these aspects. Additionally, he noted the proposal to create a public park in the remaining 5.6-acre parcel or encourage a conservation easement on the remaining site. In light of this, he recommended delaying approval for the SUP until after the LOMR was approved by FEMA. It appeared that they were putting a cart before the horse, and further action and submittals were needed.

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Mr. Andrews apologized to Mr. Kent Schlussel, Rio District, who they were unable to hear clearly over Zoom. His comments were unable to be heard.

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Mr. Andrews asked if the applicant had a rebuttal to public comments.

Mr. Miller stated that they did not have a rebuttal at this time but would be glad to answer questions.

Ms. McKeel asked if the applicant could address the numerous concerns regarding this proposal’s impacts to flooding on Franklin Street and the residents of the area.

Mr. Cichocki said that Franklin Street was not part of their specific study regarding the homeowners and the potential impact to them. He said that their evaluation indicated that they would not affect the floodplain. He said that if the homes were currently in the floodplain, they would remain in the floodplain, and the water surface elevation on their property would remain unchanged due to the fill placed with this proposal. Therefore, there was no impact, no effect, and no exacerbating condition, as certified by Timmons, reviewed by FEMA, and concurred by the County.

Ms. McKeel said that some residents voiced concerns regarding storage and the current situation on adjacent properties. She said that she was not entirely sure which specific properties they were referring to, but she believed they were concerned about the accumulation of debris and storage issues. She asked if the applicant could address the situation on that other site.

Mr. Miller explained that the site was approved for use as a stockpile area for the construction of the industrial site. He said that the County was monitoring it for erosion control measures, and RWSA contracted with them to help grind up the concrete that was removed from the treatment plant improvements. He said that this was done to prevent the concrete from having to be transported across the County.

Mr. Miller said that the owner, Chris Donaldson, agreed to transport the concrete to his property, where it could be crushed and recycled, and then used for the construction of the Woolen Mills Industrial Park. He said that it was intended for a temporary stockpile, and that the stockpile was to be removed once the construction was completed. He said that currently, it was allowed to be used as a temporary stockpile area, and recently, an amendment to the WPO plan was required to show that area as a stockpile as well.

Ms. Mallek asked if staff could speak to the zoning impact of crushing being allowed in a place where stockpiling was permitted. She said that the area was a wetland right now, so she would like to understand the relationship between all of these factors.

Mr. Edwards said that in the light industrial area, having a stockpile or staging area like this was permitted. He said that it was later determined that it was not located in the floodplain, which was identified at a later date. He said that the decision tonight would guide the action taken regarding that stockpile, determining whether it should be permitted through the existing special use permit or if not, it would need to be removed.

Ms. Mallek asked if, before any work began, all necessary permits were obtained from the County, before materials were transported to the site uphill before any construction took place.

Mr. Pohl said that this area was not included in the original permit, so when the modifications were submitted for the new permit, it was required to include the stockpile area. He said that upon review, staff determined that it was located in the floodplain, which prompted them to advise the owner that they needed to either remove it or obtain a Special Permit. He said that they were currently working with the owner to bring the site into compliance.

Mr. Pohl said that as Mr. Edwards had mentioned, if this was denied, they would assist the owner in achieving compliance. He said that regarding the crushing of rock, he understood that it was allowed on the site by the owner for use in their own site, provided they utilized the materials for that purpose. He said that he was unsure of the situation regarding other materials from other sites being brought in to be crushed at this site.

Bart Svoboda, Deputy Director of Community Development and Zoning Administrator, said that this was where the special permit would help them determine the compliance issues here. He said that without the SP for the fill or activity within that floodplain, the uses were limited, and the storage of dirt or other materials was not permitted. When they discovered the issue, they told the applicant to stop and there had been no additional activity since the initial discovery of the materials on site. He said that as a result, this would determine, as they had done in other cases, if the SP was granted, there were certain steps to come into compliance with the SP and the regulation. He said that if it was not, then there were certain steps to come into compliance, including removal of materials and activities must cease in that area.

Ms. Mallek asked if materials coming from a different location and different owner onto this site played a role in their considerations.

Mr. Svoboda replied that as it related to this subject application, it was probably a different issue. If the SP were approved tonight, it was incorporated into the plan, even though it was a different parcel, because it was part of the project. If they were crushing something on site and using it for something outside of the specified plan, that was a different scenario.

Ms. Mallek asked if staff would investigate and determine whether that had been occurring or not.

Mr. Svoboda replied yes.

Ms. Mallek thanked Mr. Svoboda for the clarification. She said that she believed it was time to review the math, and Mr. Pruitt had also inquired about the number of trucks. She said that if she had done the math correctly, 1.5 acres was approximately 64,000 cubic feet, which was 2,364 cubic yards,

equivalent to 168 trucks per foot of fill raise, totaling 1,800 trucks.

Ms. Mallek said that while she was glad that the proposed route may not involve traveling down Franklin Street, she was deeply concerned about the impact that trucking had on street conditions, neighborhood quality of life, and overall community well-being. She believed this was a pressing issue that warranted careful consideration. She said that while they had a good understanding of the environmental aspects, they seemed to be lacking in their understanding of the human impact.

Ms. LaPisto-Kirtley said that she was cognizant of the fact they would have to bring in fill, but it was good that it would be from a nearby location. She said if they based everything on the amount of fill they had to move for different sites, they would not be building anything.

Mr. Gallaway said that he would like to ask the applicant about their plan for meeting the on-site stormwater treatment requirement. He said that specifically, he would like to know where the facility would be located. He noted that in their previous experience with similar applications, they typically asked about the location of on-site water treatment systems when off-site nutrient credits were not an option.

Mr. Gallaway said that the special use permit condition required on-site treatment, and now that the applicant had been given that information, he would like to know how the applicant planned to implement on-site treatment. He said that although the applicant had just been informed of this requirement, he assumed that they had some general knowledge of the site and potential locations for the facility. He said that he believed it was pertinent to know more about the applicant's concept for a location and what they could potentially do there.

Mr. Miller said that they would put pervious pavers, biofilters, and other on-site practices to meet the condition.

Mr. Gallaway said that he was inquiring about what the applicant believed might be the most viable option for the site, given that on-site treatment was currently the only approach allowed.

Mr. Miller said that he was not in a position to design the site within the last 30 minutes. He said that he would address this issue when the site plan process was typically conducted. He said that there were various options to use, and they would have to determine which one would be best for this site and their project.

Mr. Pruitt said that members of the public had referenced a lack of notice given. He said that his understanding was that their notice would apply to all residents within half a mile of the subject property, regardless of jurisdiction.

Ms. Ragsdale said that notice of the public hearing was required for the abutting property owners.

Mr. Pruitt asked what the notice requirement was for the community meeting.

Ms. Ragsdale said that they did have guidelines regarding the radius for that, which was 500 feet in the development area. She would need to review what notice was given for this particular project.

Mr. Pruitt said that he knew several individuals who were notified of the community meeting, but apparently, some were not. He said that he wanted to clarify what that was. He asked how they determined when stockpiling became fill.

Mr. Edwards said that one possible answer was that the fill would be a compacted material, properly placed in lifts, and inspected as it was being done.

Mr. Svoboda said the County defined fill in the Zoning Ordinance, so within the confines of the ordinance, there were some qualifiers on what fill was based on for a project. For instance, if he were to backfill along a house for zoning purposes, that would not be considered fill. However, from an engineering and building perspective, it would be considered fill because it was associated with the construction of the house. Within the County regulations, if something was associated with a site plan, the cut and fill, as referred to in engineering terms, would not be considered fill for zoning purposes; it was part of the project.

Mr. Pruitt thanked Mr. Svoboda for clarifying that distinction. He said that he also wanted to seek further clarification on a point, which was mentioned in one of Timmons Engineering's final comments, that the floodwaters would not be elevated by the fill project, but that the impact would not be increased. He said that however, Mr. Pohl had mentioned that there would be a shift in the location of the floodplain. These statements appeared to be mutually exclusive, as one asserted that the floodplain would remain unchanged, while the other suggested the floodplain footprint would be altered; however, that alteration had negligible impact.

Mr. Cichocki clarified that both statements could be true. He said to clarify what Mr. Pohl had said was that he anticipated a change down the road, after the construction was completed and a letter of map revision was processed to remove the area that had been elevated by fill from the floodplain. He said that this change would only affect that property, not the surrounding areas across the stream, either upstream or downstream. He said that the floodplain limits for other properties would remain unchanged. He said that the only change would occur on this property, and it would follow the conditional approval FEMA had given them for the amount of fill and its location, which would essentially carve out an island from the

floodplain on that property.

Ms. Ragsdale reiterated that the floodplain map would change once the fill was placed. The main point staff was trying to convey was that even with this elevation change from the fill, it would not change where the water would go during a flood event. It would not increase the velocity of the water nor make flooding worse; so, the floodplain would not change for other parcels, but based on the elevation change on the subject parcel, the map would change around the area where the fill had been put in.

Mr. Svoboda acknowledged that they would assume that by shifting water away from this area, it would come out in another place. However, their engineering analysis concluded that there was not enough of a change to result in different flooding patterns.

Mr. Pruitt asked if they were impacting the hydrological system of the Rivanna River, rather than that of Moores Creek.

Mr. Svoboda said yes. He explained that the net result of this was that, despite the area being removed from the floodplain due to elevation, it did not create a push that expanded the floodplain elsewhere. In fact, the engineering showed that it did not expand the floodplain at all and did not cause it to rise. He said that this was demonstrated in the submittals to FEMA. He said that while it may be slightly outside the zoning realm, his attempt to explain it in simpler terms was that it was essentially a unique situation where they did not see the typical push and pull dynamic at play.

Ms. LaPisto-Kirtley asked if the fill done on an adjacent parcel in 1998, which was subsequently removed from the floodplain, and what was proposed for this subject property, would make those filled levels the same elevation and therefore they would have the same negligible impact.

Mr. Svoboda said that he did not have the elevations, so he did not want to agree that they were the same. However, he agreed with the second part, which was that based on the current engineering, the non-net result of no change would be the same. He said that the issue was that their minds tended to focus on the area of the parcel, rather than the larger area that included the backwater region where Moores Creek and the Rivanna converged.

Mr. Svoboda said that this larger area was what they should be considering when analyzing the situation. He said that as a result, they may struggle to accurately assess the impact. He noted that staff faced the same analytical problem when working on this project. He said that the issue was that when they expanded the scope of the area, the net impact of the change became less significant or even negligible.

Mr. Andrews expressed concern that a number of issues raised by public speakers had not been adequately addressed. He said that he found some of the comments difficult to understand, particularly those from Kirk Bowers regarding the different levels of floodplain elevation, specifically 325.5 versus 324. He said that some speakers mentioned insurance and this project’s potential impact. He said that he believed they stated that because it did not affect the location of the floodplain, it could not affect their insurance, but he did not know that for certain because it was not addressed directly.

Mr. Andrews said that his second question was regarding the proffer to double 1.56 acres on site, which he understood they could not engineer it within 30 minutes, but he was fundamentally worried that treating twice of 1.56 acres did not make sense to use permeable pavers or other types of treatment in the spot they were going to develop to treat that. Therefore, they would have to put it somewhere else on the site, but the rest of the site was already in the floodplain and could not be built on. He did not see how this condition could realistically be met.

Mr. Cichocki said that regarding FEMA and flood insurance, typically, FEMA assessed localities for flood insurance rates, and it was the localities' responsibility to maintain their maps. He said that they had followed a process of submitting a Conditional Letter of Map Revision based on fill to FEMA at the request of County staff. He said that this process was essential to keeping maps current. Once the fill was placed, revising the map with a letter of revision ensured that Albemarle County received the highest grade for the lowest insurance rates.

Mr. Cichocki said that the impact on insurance rates due to this project was negligible, as they were updating the maps and keeping them current. He said that they did not affect other properties. He also said that he recalled another question about climate change, which he believed they could all agree was a shared concern. He said that FEMA regulated today's conditions, not future projections. He said that they did not want to require people to pay flood insurance on areas that were not expected to flood today.

Mr. Cichocki said that as climate change evolved, FEMA and localities would update regulations, which would be reflected in their evaluation and planning for projects. He said that if they had submitted a proposal to FEMA with a projection of hydrology to 2050, they would not have accepted it, as they did not want to force people to pay flood insurance on future conditions for today's dollars.

Ms. McKeel asked if the applicant could address a question from a citizen regarding how the wall would be built.

Mr. Cichocki said that typically, for a fill wall, the process began at the toe of the wall. He said that he imagined it would likely be a block wall made of concrete. He said that in essence, the wall was built

and then fill was placed behind it. The operation started near the edge of the work and filled the grade, gradually working its way back in. He said that the outcome largely depended on the contractor's methods and means. He said that he did not see any concern with a wall near a floodplain. It was similar to those seen in adjacent areas, such as the walls near the Woolen Mills development, which had been channelized to redirect Moores Creek. He said that in general, this was the approach taken for fill walls, but he did not have many specifics to provide.

Mr. Miller said that there were 14 different DEQ-approved options for on-site water quality treatment. They must determine the required pounds of phosphorus removal, an extensive calculation process had to be undertaken and then determine the method that would best remove them. A 1.5-acre site may not seem like a large amount from a water quality standpoint, but without doing the calculations, he was uncertain. He said that after 30 years of designing, he had never had an issue. He could confirm it was more expensive, which was why purchasing nutrient credits was often the more cost-effective option for sites of this size. He agreed that it would be better to treat the phosphorous on-site at this location, but it was also more expensive.

Mr. Andrews said that at the existing site that was raised up around 1998, it was about the same size, approximately 1.6 acres. He asked if anyone knew the history of how the fill at this site was achieved at that time.

Mr. Edwards said that he did not have the history of that site.

Mr. Miller clarified that that site had no walls; it sloped down.

Mr. Andrews said that he was trying to determine what disruptions the proposed fill operation would have on the neighborhood.

Ms. Mallek said that multiple times in the various staff reports and responses, people had discussed the significance, which meant that there would indeed be an impact, but it seemed that they did not care. She said that it was not enough to sound alarm bells, but she could not determine exactly what it was. She asked if there was a definition of significance to give them a concrete standard or criteria that could be applied consistently across different properties, areas, and situations.

Ms. Mallek asked if, alternatively, they were simply relying on the fact that they had not found anything yet and therefore labeling it as having no impact. She said that she was not trying to be confrontational, but there appeared to be a significant gap in understanding regarding the meaning and implications of these changes. She said that public comments mentioned that the language in the analyses for this project downplayed the potential risks, but they also did not give a sense of confidence. It was not reassuring when people's quality of life could potentially being dramatically changed. She said that she would appreciate it if more concrete information could be provided about that.

Ms. Ragsdale said that the criteria was substantial detriment, and they may use alternative phrases to describe these concepts and impacts. State codes also may define these terms, and each special use permit was unique in its specific circumstances and ordinance provisions. In this case, they were focusing on the criteria they had previously discussed. She said that they were considering the fill-in floodway fringe standards and evaluating the potential consequences of filling this area.

Ms. Ragsdale said that they were heavily relying on the engineering analysis, which indicated that filling this area would not make flooding worse or push water towards other properties. So, when examining this area in terms of its current functioning and its relationship to the floodway, they were looking at the expected outcomes of placing the fill in this area. This was why Mr. Edwards and she wanted to ensure the Board understood their reasoning in this case, given that it was a backwater area and the analysis they had conducted.

Ms. Ragsdale said that as a result, they concluded that there were no significant impacts specific to the engineering analysis. This area was already experiencing residential development near industrial uses, so if it were a completely undeveloped corridor with no other non-residential uses or was not adjacent to industrial uses, they would consider it more significant. She said that they looked at these factors to determine the potential impact of changes.

Ms. Mallek asked if they were considering this area as already being impacted by the bakery, which was the only thing nearby this site.

Ms. Ragsdale said that she believed that it was subjective, and there was no clear-cut definition or bright line test for special use permits. However, they did have an ordinance that provided criteria to guide their decision-making. She said that this was why they carefully evaluated the level of change, which was where they were focusing on this specific site and comparing it to others. They did not extend their review all the way down to Franklin Street but rather concentrated on this area because the proposed activity was being introduced there. She noted that they also considered the nearby industrial site.

Ms. LaPisto-Kirtley asked if the proposed fill would raise the level by 24 feet or 34 feet.

Mr. Miller said that their final grade of this site would be at 325, one foot above the 324 elevation.

Ms. LaPisto-Kirtley said that there had not been any reported problems or significant impacts

from the previous fill development on the adjacent property, which was no longer in the floodplain.

Mr. Edwards said that he was not aware of any.

Ms. LaPisto-Kirtley said that they were talking about doing the same thing on a parcel of the exact same size and bringing it up to the same elevation.

Mr. Miller confirmed that was correct. He noted that one of the main favorable aspects found by the Planning Commission was the creation of jobs that would result from this project, especially because it was nearby residential areas.

Ms. LaPisto-Kirtley said that this property was currently zoned for light industrial use, and it could not be redeveloped as residential due to its current zoning designation.

Mr. Miller said that it could be used for the purposes that they had previously discussed, including manufacturing, processing, and storage.

Ms. LaPisto-Kirtley asked if the rest of the property would be dedicated to the County as greenway.

Mr. Miller said that currently, the stream buffer along Moores Creek was proposed to be dedicated, while the remaining property within the floodway would remain as-is.

Ms. Mallek said that in the middle zone of the property, it was mentioned that it would be forested. She asked if that was temporary or would be a condition that they would uphold in the future, so that they would preserve the tree canopy between the floodway line up to the stream buffer. She asked if they would be planning to return in a few years to request fill of that area.

Mr. Miller clarified that current floodplain regulations would not allow fill in the floodway, so it could not possibly be disturbed based on those current regulations.

Mr. Cichocki said that if there was any increase to the work they wanted to do within the floodplain or floodway on this site, they would have to request that allowance by the Board of Supervisors. They likely would not be doing that because they understood the potential for the site in terms of what fill could be placed without impact to the floodplain. If they were to increase it, they would expect impact and therefore would not be seen as a viable option to the site.

Mr. Pohl reiterated that filling in the floodway was not allowed in their ordinance at this time.

Ms. Mallek explained that the references to “at this time” was what worried her.

Mr. Andrews closed the public hearing and said the matter rested with the Board.

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Ms. McKeel said that she agreed with everyone in the room that this was a challenging issue. She said that it was complicated and involved numerous variables, making it difficult to navigate. She said that they had been discussing this area for years, and the Board of Supervisors had been exploring ways to utilize it. She said that she appreciated the audience members who had shared their concerns, and it had been good to hear their perspectives.

Ms. McKeel asked if staff had any further relevant information for the Board to consider, even if the Supervisors had not asked for that information directly.

Mr. Pohl said that someone had raised a question regarding the fill and placement of the wall. He said that there was a similar fill operation at the Starbucks location on Fifth Street, where a similar wall was built in the floodplain. He said that the wall at this site was shorter, but it was a wall that enclosed the development. He said that this type of fill was done infrequently, but that was one similar one he was aware of. He said that it also was an area where two creeks converged near 5th Street Station.

Mr. Pruitt said that he was aware of the difficulties the developer faced during that process.

Mr. Pohl confirmed that it was a much longer wall; the site was much more exposed to the floodplain in that area. He believed it was approved before his tenure in the County but did not undergo fill and construction until much later. He believed there was a 0.1-foot rise in that case, as well.

Ms. Ragsdale noted that deferral was an option if the Board felt that they needed more information before making a decision on the request.

Mr. Herrick said that it would depend on the timeline for review of the application.

Ms. Ragsdale said that they had 32 months to process the application, and since this was submitted at the end of 2024, they had time to review it further before they reached that time limit.

Mr. Pohl added that a no-rise FEMA evaluation was measured down to the hundredth of a foot, resulting in a value of 0.00. He said that if there was a rise of even a hundredth of a foot, it was considered a rise. He said that to clarify, when the engineer certified that there was no rise, that was what

they were specifically referring to.

Ms. McKeel stated that she was inclined to support this application with the assurances from the well-respected Timmons Group and their County staff. She sympathized with those folks who lived in this area, because she understood that any construction could be disruptive and difficult. However, she had heard repeatedly from staff that this proposed development would not make the flooding worse. She said she would still like to hear what other Supervisors had to say, but at this point she was leaning towards supporting the application.

Ms. Mallek stated that during the last Broadway Blueprint update, the planning area stopped at Moores Creek Lane, and she did not recall any discussions about this particular area. She said that the high ground from Rudy's dry cleaners to the Woolen Mills was the area of consideration with that update. She emphasized that they needed to be careful about how that was characterized. She said that construction was one thing, but there was also the ongoing impact on the area for future operations of the industrial building. She said there was also the issue of the fill that was placed on the neighboring property and the rock crushing that was done.

Ms. Mallek said that they were asking for forgiveness, but these were things that residents would be stuck with, because a special permit would make them allowable. She said that this was a great concern because it eroded trust in their community when those things happened, and there did not seem to be any accountability for that. She said that there was no clear response about the 1,800 trucks, and she wanted to note that even 100 trucks was a lot.

Ms. Mallek said that the damage to City and neighborhood streets would likely be the same as in the White Hall District that was not built with pavement to the standard of Interstate 64, because she knew that was true for Franklin Street and the other connections down there. As a result, she was inclined to vote against this proposal at this time. She had not been convinced, and she did not see how pervious pavers or other methods could substitute for the process of removing phosphorus, because that was a plant activity that took phosphorus out of the water. She said that she would need a lot more information about the details of these things before she could vote yes.

Ms. LaPisto-Kirtley said that they had addressed the paver issue by stating that there were approximately 15 alternative methods to deal with phosphorus, and the applicant was simply providing an example. She said that it was possible that pavers could be used in conjunction with another solution, but they were highlighting an example. She said that she was not aware of the other 14 alternatives, and the applicant was not prepared to decide on a method at this time.

Ms. LaPisto-Kirtley said that in terms of their economic strategic plan, their strategy included increasing light industrial development. She said that this was currently limited to a light industrial zone, and it was not intended for residential use. She said that even if it was considered for residential use, there would still be construction going on, and that would impact the community in the same way as the fill work. She said that she had experienced this firsthand in her own neighborhood.

Ms. LaPisto-Kirtley said that if they decided as a County not to build or moved forward with light industrial or affordable housing due to impacts from the construction of those types of projects, they should clearly state their intentions and put up a “closed for business” sign up. She said that in contrast, they already had a proven track record with the existing facility, which had been operating successfully since the late 1990s without issues.

Ms. LaPisto-Kirtley said that they were now proposing to do the same thing on this site, and staff, the Planning Commission, and other agencies had all approved this plan. She said that she believed the proposed solution had been thoroughly vetted, and she was confident in its execution. She said that otherwise, this land would lay fallow, and that was not a good use of their land. She said that she was in favor of this project.

Mr. Gallaway said that this was not an easy situation for anyone involved. He said that he would like to ask a follow-up question that Mr. Pohl had addressed earlier. He said that on other applications for which they included conditions, such as those related to sound, they often required that the activity cease if the condition was not met. He said that when Mr. Pohl stated that the hundredths of a foot could not move and was certified by the engineer, he was wondering if that certification was absolute. He asked what the outcome would be if they measured it and it was determined that there was a rise in elevation. He asked if they would ask them to cease operation after the facility was built.

Mr. Pohl said that they would need to measure storm events to demonstrate that they were 100-year events. He said that he was not sure how that was done. He said that it could be a 110-year event, and it was not a guarantee that it would happen every 110 years, but it was a percentage, a 1% chance that it could occur in a given year. He said that the question was, how would one measure it and prove it? He explained that they relied on the modeling and processes developed by FEMA to weigh the risk and identify potential hazards.

Mr. Gallaway said that Condition 2D stated that computations and plans documenting the changes were required. He said that the computations had to demonstrate compliance, which was being provided by the applicant's engineer. The plans had to show the existing and proposed floodplain boundaries and elevation, along with the applicable “no rise” signed certification statement. He asked if there was a factor in this condition that they could not verify due to the potential for the 100-year or 110-year level to be movable.

Mr. Pohl replied no; his point was that if they had a 100-year storm event, or a 1% storm event, they should see no rise.

Mr. Gallaway said that their sound ordinance stated that if a noise exceeded a certain decibel level, it was considered out of compliance and could be shut down. He asked if a flood event occurred and exceeded the specified level, they would shut it down due to the violation.

Mr. Pohl said that measuring noise was significantly easier than measuring a rain event. He said that in a rain event within this channel and watershed, it would be necessary to accurately identify that this was a 1% storm event to consider shutting them down, according to his understanding.

Mr. Gallaway said that he would make his other comments and then ponder on that. He said that he would like to speak to the Broadway Blueprint. He clarified that this area was located within the red outline of the study blueprint for the Broadway Blueprint. He explained that for those unfamiliar, the 2022 Broadway Blueprint was their comprehensive plan for the entire area, which took into account feedback and concerns from neighboring areas in the City.

Mr. Gallaway said that based on that information, the County had consistently stated that they did not want residential development or large multi-use projects in this area, as it would compromise the current character of the LI. This area was the most affordable location for commercial activity in the entire County, and it was essential that they preserve it because they did not have any other comparable areas for those uses.

Mr. Gallaway said that their concern was that if they allowed other types of development, it would lead to gentrification, increasing property rates and changing the character of the entire area. He said that they had been committed to maintaining the status quo, and their plan included exploring tax incentives and overlays to keep rents affordable for commercial users and property owners. He said that this had been their plan since 2022, when the final plan was adopted. He said that to understand the context, they should review the process that led to this plan, which began several years prior.

Mr. Gallaway said that during this time, they had held community meetings and considered the potential impacts on the neighborhood. He said that he was reminded of this tonight when someone mentioned that property values would drop if this site were developed differently. He would like to respond by saying that if another use were allowed there, it may increase their property values and make it unaffordable, which they had seen this happen in other areas, and it was essential that they conduct thorough due diligence. He said that the plan for this property aligned with their previous statements and the Broadway Blueprint.

Mr. Gallaway said that he often tried to provide a clear explanation of how he might vote, and when engineers came to an agreement and he had to decide whether to trust their assessment or not. He said that in the past, he had trusted the engineers and the studies that had been conducted; however, there was disagreement between them. He was concerned about the fuzziness in the discussion tonight, so he would take some time to think about it and hear what others had to say.

Mr. Gallaway said that this also applied to staff, because the green area in the current Comprehensive Plan map was a prime example of why they were changing these designations in the new Comprehensive Plan. He said that the issue was that this designation suggested that it was public land that County controlled and could dictate the use without using zoning, but that was untrue because it was private property, and the County was not the owner. He said that the County’s method of control was provide allowed land uses, and this one was light industrial, which was in accord with the rest of the area’s zoning designations.

Mr. Gallaway stated that he was leaning towards support of the application, but he would need to take some time to consider what happened if conditions were not met. He said that he was not supportive of requiring conditions that could not be met or enforced.

Mr. Pruitt acknowledged Mr. Gallaway’s point about the texture of the Broadway neighborhood and the sympathetic relationships between property values. He said that he wanted to mention the concerns that people wrote to the Board, as well as those who spoke to the Board today, regarding the historically working-class nature of this neighborhood and the need to protect it. He said that it was also worth noting that the neighborhood's proximity to light industrial areas could impact property values and contribute to naturally occurring affordable housing. He said that he knew this as someone who lived in a relatively affordable owner-occupied home next to light industrial.

Mr. Pruitt said that he had found this issue to be particularly challenging to consider as a Supervisor. He said that initially, he was likely to oppose the project, but it did appear that the consensus among staff and engineering reports that the impact was negligible. He said that he recognized that the applicant had made a concerted effort to prepare a proposal that met the zero-impact standard. Despite this, there were still several elements of the project that gave him pause, particularly the construction's potential for intrusiveness to the neighborhood. He said that this concern was not unique to this project, as it applied to all proposals that came before them.

Mr. Andrews agreed that this project was particularly challenging for him because of the engineering certifications that suggested it was not as impactful as it may initially appear. He said that for instance, a project in the City that was proposed in the floodplain had significantly different impacts due to

its relationship with the Moores Creek floodplain versus the Rivanna River and its backup patterns. He did trust the engineers, and he found their explanations somewhat plausible, yet difficult to fully understand in terms of the hydrology.

Mr. Andrews said that he would reiterate the question of whether they should pursue this development simply because they could do so. He said that regardless of whether it was dark green or light green, it was a green space designation on the Comprehensive Plan, and he questioned whether they should take it out of that designation, as it was currently zoned light industrial. He said that he was concerned about the impacts on the neighbors, but he also was reminded of more affluent areas that were concerned about developments destroying their neighborhoods, and in those circumstances, he had to acknowledge on the fact that the property was zoned for this type of development, despite it being unpleasant to live next to.

Mr. Andrews said that this project would affect a group of people who he felt more affinity for and worried about impacts to their community, but that was primarily the impacts of the process. He was daunted by the number of trucks and the amount of work that would go on, and he wished he knew how long it would be going on for, as it had the potential to be between six months or a number of years. Depending on how that process was handled, it could become unlivable for their neighbors. He said that this was a very difficult decision, and he could see that they may not get any results.

Ms. Mallek said that something that alarmed her was Mr. Pohl’s remark that it was difficult to measure storms. She would like to remind everyone that on May 29, 2018, they experienced 11 inches of rain in four hours at her home, which was equivalent to a thousand-year storm. She said that since 2018, they had several other storms, referred to as 500-year storms by the National Weather Service. She said that this was not just her own opinion. This made it difficult for her to have confidence that they were adequately addressing the issue.

Ms. Mallek said that she was worried that they were setting themselves up for potential problems, similar to those seen in Asheville and other unlikely areas that had been severely impacted in recent months. She said that she respected the engineers' training and diligence in being as objective as possible, but she agreed with the concerns about the 'should we' element that had been raised by Ms. Firehock. She emphasized that as the Board, it was their responsibility to manage that aspect.

Ms. Mallek said that she was becoming increasingly opposed to this project, and she did not agree that denying this application would be “closing them for business,” because they had hundreds of acres of light industrial land available that did not have the same constraints in terms of flooding or impacts to neighbors, and she believed they needed to give more credibility to the ecosystem services provided by open space and the health benefits it offered. She emphasized that places that had neglected these aspects had suffered greatly, and she would not want to bring that problem here.

Ms. Mallek said that she appreciated the efforts made to explain things to her, and she was glad that she understood the concept of the backwater area. However, what she could not bring herself to do was set aside the human impacts. As a child, she used to take livestock to the livestock market in this area. It was a place that had been home to people to work and live for years, and it had a loyal and active community of residents who were working to keep the area alive. The walks she had taken around the Woolen Mills property and learning about the Monacan sites had shown her the complexity of the issues and impacts.

Ms. McKeel disagreed with Ms. Mallek’s remark that they had hundreds of acres available for light industrial, especially because they had often talked about the lack of availability for those uses in past meetings. She said that she wanted to thank the people involved in this proposal for addressing the Planning Commission's concerns. Upon reviewing the document, it appeared that several of their concerns had been addressed, and she appreciated that.

Ms. McKeel said that looking back at the regulatory process and the checks and balances they would be implementing after this point, she found it reassuring. She particularly appreciated what Mr. Gallaway said, as they had been discussing this area for years, and it had been a priority to avoid gentrification, preserve jobs, and provide affordable living options. She understood that some of the citizens in the audience may have personal connections to the area and had jobs, but what they were aiming for was a place that could offer more jobs, allowing people to walk to their jobs and have a better quality of life.

Ms. McKeel said that over the past 27 years, they had made significant progress in understanding hydraulics, water treatment, and stormwater management. While they were not perfect, they had learned a great deal. She acknowledged that tonight's discussion had been counterintuitive, but she had come to accept it. She wished they could lessen the impact but based on what she had heard from staff and experts, she felt more comfortable with this proposal now than she did initially.

Mr. Andrews said that upon reviewing the GIS maps and elevation data, he had noticed that most of the properties on the other side of the river were slightly higher, at least after the first level. He said that there were some areas down the street that may be below the 324 line, which meant they already were at some risk. He expressed his concern regarding the other operations taking place without approvals, and he had also observed that the GIS data, property information, and current assessed value of the 7-acre property were $14,200. If fill operations were allowed, this valuation may not be fair. However, if the property could not be used for anything, the assessed value may be more reasonable. He said that would all change if the project before them was approved.

Ms. LaPisto-Kirtley moved that the Board of Supervisors adopt the Resolution attached to the staff report as Attachment D. Ms. McKeel seconded the motion.

Roll was called and the motion failed by the following recorded vote:

AYES: Mr. Gallaway, Ms. McKeel, and Ms. LaPisto-Kirtley.
NAYS: Mr. Pruitt, Mr. Andrews, and Ms. Mallek.

Mr. Herrick asked if the Board wished to consider a resolution to deny the application.

Mr. Andrews said that he did not think it would make a difference, but they could take it up if it was the will of the Board.

Mr. Pruitt asked what the outcome of this vote would mean for this application.

Mr. Herrick clarified that the Board had taken action and duly considered the application by taking up the motion to approve.

Mr. Pruitt asked if the public understood what had just happened.

Mr. Andrews clarified for the public that with a Board of an even number of members, a tie vote resulted in a no, meaning that the application was denied. The application must require a majority vote to be approved.

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Non-Agenda Item. Discussion of Board-to-Board reports from the School Board to the Board of Supervisors.

Mr. Andrews said that he would proceed with committee reports, but before he did so, he would like to bring to the Board's attention one item that he wanted to be aware of and consider. He said that originally, the agenda had included an in-person Board-to-Board report from the School Board, but due to numerous commitments and reasons, the School Board representatives were unable to provide the presentation and instead provided the Board-to-Board report, which was placed on the Consent Agenda for information as Item No. 8.5.

Mr. Andrews said that this raised the issue of whether continuing to require quarterly in-person reports was still necessary, or if they should consider reducing the frequency to three times a year, twice a year. This had been discussed by the Chair of the School Board, and he said that he would like to bring it to their attention. He said that he raised this matter for discussion, and he said that he would like to open it up for everyone to share their thoughts.

Ms. McKeel said that she believed it was valuable for the School Board to provide them with quarterly reports, personally. She said that she was not willing to make this a contentious issue, but if the Board wished to adjust the frequency, such as moving to twice a year, she understood. She said that she did think there was value in receiving reports from them. She said that personally, she wished the Supervisors could provide the School Board with reports more frequently.

Ms. McKeel said that to be honest, in her conversations with the School Board, she often found that they were not well-informed about the Board of Supervisors' work and discussions. She said that she understood that and was not placing the blame on them, but she felt it would be beneficial for the Board of Supervisors to provide the School Board with reports, and for the School Board to continue giving regular reports to the Supervisors. She believed the two-way communication was most beneficial to their work.

Ms. Mallek said that she very much appreciated having the in-person reports from the School Board, and she felt that quarterly was a good frequency for receiving them.

Ms. LaPisto-Kirtley said that she would support them coming twice per year instead.

Mr. Gallaway asked why the School Board could not attend the Board meeting to give the presentation.

Mr. Andrews said that they were busy with graduations, so the timing was not the best for them. He said that it was the first time it had been brought up.

Mr. Gallaway recalled that when he was Chair of the Board, the School Board provided updates every other month. He asked if he had missed when it transitioned to quarterly reports.

Ms. McKeel said that she believed there had been some confusion between both Boards.

Mr. Gallaway said that based on his experience as both the Chair of the School Board and giving reports to this Board, as well as receiving reports as a member of this Board, he had found that the in-person report often provided additional information beyond what was included in the written report. He said that this had been particularly valuable for matters that required a higher level of attention from both the School Board and the Board of Supervisors. He said that he also appreciated the opportunity to