Albemarle County Planning Commission
August 8, 2017

The Albemarle County Planning Commission held a public hearing on Tuesday, August 8, 2017, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Karen Firehock, Vice-Chair; Daphne Spain; Mac Lafferty; Pam Riley; Jennie More; Bruce Dotson; and Bill Palmer, University of Virginia Representative.

Other officials present were Tim Padalino, Senior Planner; Andrew Gast-Bray, Assistant Director of CDD/Director of Planning; Sharon Taylor, Clerk to Planning Commission; Mark Graham, Director of Community Development and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

Mr. Keller, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

From the Public: Matters Not Listed for Public Hearing on the Agenda

Mr. Keller invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next agenda item.

Public Hearing Item

SP-2017-00009 UVA Indoor Golf Practice Facility Amendment
MAGISTERIAL DISTRICT: Samuel Miller
PROPOSAL: Amend SP2015-19 to construct a 2 story, up to 14,000 sq. ft. building addition, use three existing smaller structures and provide associated parking and infrastructure for an indoor/outdoor golf practice facility for use by University of Virginia golf teams, Birdwood members, and Boar's Head Resort guests. The proposed location of this facility is approximately 400 feet to the west of the previously approved location and is adjacent to the existing Birdwood Golf Course.
TAX MAP/PARCEL(S): 07500-00-00-06300
LOCATION: 480 Birdwood Dr., Charlottesville, VA 22903
PROPOSAL: PETITION: Swim, golf, tennis, or similar athletic facilities under Section 13.2.2.4 of the zoning ordinance. No new dwellings proposed on this 544-acre parcel.
ZONING: R1 Residential, which allows residential use by right (1 unit per acre).
OVERLAY DISTRICT(S): ENTRANCE CORRIDOR, AIRPORT IMPACT AREA, and STEEP SLOPES – MANAGED and – PRESERVED.
COMPREHENSIVE PLAN: Institutional use which allows for schools, libraries, parks, major utilities, hospitals, universities, colleges, ancillary facilities, and undeveloped publicly owned property; and Parks and Green Systems which allows for parks, playgrounds, play fields, greenways, trails, paths, recreational facilities and equipment, plazas, outdoor sitting areas, natural areas, and preservation of stream buffers, floodplains, and steep slopes adjacent to rivers and streams in Neighborhood 6 of the Southern and Western Urban Neighborhoods. (Tim Padalino)

Mr. Tim Padalino addressed the Commission and said that staff had been before them two

weeks earlier for a work session on this application, and he has taken that recent report into consideration when preparing this meeting's slides and presentation notes. He stated that he would share some brief comments on the application, including the subject property and the requested SP amendment; as well as briefly highlight the public review process to date and provide an update on the review process since the July 25 work session; as well as provide updated staff analysis and recommendations.

Mr. Padalino said that, as discussed in July, this parcel is a 544-acre parcel just west of Charlottesville and the University of Virginia. He stated that it is identified as Tax Map Parcel 75-63 in the Samuel Miller Magisterial District, located within the Development Area in the Western Urban Neighborhood. He pointed out the parcel's property boundaries as highlighted on a map, noting that the northeast portion has road frontage on Route 250 or Ivy Road, which is an Entrance Corridor, and the southwest portions of the property adjoin the Ragged Mountain Natural Area and Ragged Mountain Reservoir. Mr. Padalino mentioned that the Ragged Mountains are identified as an important site by Albemarle County's Natural Heritage Committee, and in the 2004 report entitled, "Albemarle County Biodiversity." He said that while the project site for the UVA golf indoor practice facility was not located near this portion, the County's natural resources manager emphasized that the undeveloped southwestern portion of the property is worthy of protection and conservation.

Mr. Padalino reported that the subject property is zoned Residential R-1, and zoning overlays include Entrance Corridor and Airport Impact Area. He stated that this property is subject to existing conditions of approval that were put in place through SP-1996-00053, and also SP-2015-00019. Mr. Padalino then presented a map showing adjacent uses, including residential properties such as Bellair to the east, Kenridge and White Gables to the north, and Ednam Village, Ednam, and Ednam Forest to the west. He stated that the Boar's Head Resort and Boar's Head Sports Club are also located to the west, and to the northwest is the Ednam Business District – which is zoned Commercial Office. Mr. Padalino said that the existing uses onsite include Birdwood Golf Course and Clubhouse, which are used by the UVA varsity teams, and Boar's Head guests, as well as Birdwood members; and the Birdwood Estate historic site as depicted in photographs presented.

Mr. Padalino presented an image of the project site as viewed from the Birdwood Pavilion looking southwest, and a long-range view of the project site, which shows a brick barn that would be a central component of the proposed project site. He presented another view of the project site from the west, looking across Golf Course Drive, and noted the location of the brick barn, the stone carriage, the granary, and the silo. Mr. Padalino said the proposed indoor golf practice facility would be located where a stand of trees currently exists, and would have a physical integration with some of these existing historic structures.

Mr. Padalino reported that the request is to construct a new indoor golf practice facility to become the new home of the UVA Golf Program, for use by student athletes, and with limited use by Birdwood members and Boar's Head guests. He said it would be a very similar project to the facility that was previously approved with conditions via SP-2015-00019. Mr. Padalino stated that it would be a two-story building, would be up to 14,000 square feet in size, and would be moved about 400 feet to the west of the previously approved location. He said this current iteration would include adaptive reuse of some of the existing historic structures and would also include approximately 20-24 new parking spaces. Mr. Padalino presented a few images that were provided by the applicant, which they have shared at community meetings, and he noted an image of the illustrative site plan. He highlighted how the proposed new facility would integrate with the existing stone carriage house; and he explained that under the original

proposal, the parking and access road would be located between the complex of historic buildings and Birdwood Pavilion.

Mr. Padalino reported that staff previously did not recommend approval of this special use permit amendment as shown in this configuration, due to concerns about the proposed layout's impacts to historic resources. He stated that in April, the SP amendment application was received; in June, the Historic Preservation Committee reviewed it; and in July, the applicants conducted the required community meeting at Boar's Head. Mr. Padalino stated that the Commission and the Board of Supervisors took a field trip to Birdwood, and on July 25, the Commission conducted a work session. He said that tonight is the Commission's public hearing, and there is a confirmed date of September 13th for the Board public hearing, but that is tentative and subject to change.

Mr. Padalino then provided an update of the review process over the past two weeks since the July 25th work session. On July 27th County staff met with the UVA Foundation to discuss multiple different concept plan options and possibilities, and later that same day, the Foundation provided draft CAD drawings for six different options – and actually went out onto the site and flagged options E and F in the field. He added that the Foundation asked staff later that day by email to refrain from conducting any site visits without being hosted by Foundation staff, and that County staff did refrain from visiting the site for the next three business days. Mr. Padalino then stated that on July 28th staff provided the applicants with concept sketches of "Alternative Option B," which was an attempt to clarify how staff envisioned that site potentially working better as a single-loaded parking lot, as opposed to the double-loaded parking lot as shown in Option B submitted by the applicant. Mr. Padalino noted that this was also an attempt to ensure that the applicants considered a different parking lot location as well as a different parking lot configuration.

Mr. Padalino said that the following week, staff met with Foundation staff and further discussed the different concept plan options, which allowed an opportunity to initially discuss in detail the Alternative Option B sketches that were provided to the applicants. He stated that this meeting focused primarily on Option C, and at that meeting the Foundation staff also provided a large format print of the Birdwood Golf Course concept plan. Mr Padalino said that on August 2nd the Foundation hosted County staff for a site visit primarily to evaluate the recently proposed Option C parking lot location. Mr. Padalino said the following day staff completed and distributed the staff report update.

Mr. Padalino then displayed the six different parking lot options primarily for reference. Those include Option D, which is the original illustrative site plan, and five other variations. He noted that they also discussed one other conceptual option, known as Alternative Option B. Mr. Padalino stated that the staff report provided a detailed updated review of these scenarios, including narrative descriptions, as well as a table that compared the three possible options which seemed to receive the most attention. He said those are Option D, which is the original location; Option C, which is the parking lot shifted to the north in an attempt to preserve views of the historic building complex both from Birdwood Pavilion and from Golf Course Drive; and Alternative Option B, which would have the parking lot located between Golf Course Drive and the brick barn and proposed indoor golf practice facility. He stated that County staff and the Historic Preservation Committee believe Alternative Option B would eliminate the adverse visual impacts from Birdwood Pavilion which disrupt the historic ornamental farm landscape design, and would minimize adverse physical impacts that diminish the integrity of an intact historic landscape with layers that date back to the early 19th Century.

Mr. Padalino presented a slide of Option C superimposed over the original Option D. He stated that after being able to conduct a site visit the previous week, County staff concluded that Option C would be an improvement over the original proposed layout, because this option partially mitigates – but does not fully resolve – historic preservation issues, and because it creates less visual impact to the historic landscape as viewed from Birdwood Pavilion and from Golf Course Drive. He stated that this would seemingly still accomplish the applicant's stated goals of providing an adequate number of safe parking spaces proximate to the indoor golf practice facility. However, staff have also concluded that this location – similar to Option D – would not minimize impacts to the intact historic landscape of the Birdwood Estate, and would not fully address Historic Preservation Committee and staff interests to carefully preserve the site's historic resources.

Mr. Padalino referenced a slide showing Option B as originally presented to the County, and noted that this location did address County concerns about avoiding adverse impacts, and would be relegated in relation to the Birdwood Pavilion itself. He stated that the applicants have indicated that this option was not acceptable due to the adverse visual impacts relative to Golf Course Drive – and due to engineering and design considerations as presented in this drawing, which would be a double-loaded parking lot with two sets of retaining walls.

Mr. Padalino mentioned that staff had provided some conceptual sketches of an Alternative Option B that looked at a different location as well as a different configuration for the parking lot. He emphasized that these were simply conceptual sketches primarily drawn for internal discussion, but the concept has been informally reviewed by the Engineering Services Division, which has confirmed general feasibility of this layout. He noted that it shows a parking lot located in the moderately sloping area between Golf Course Drive and the brick barn and proposed location of the indoor golf practice facility. Mr. Padalino said that it is a single-loaded lot with one point of entry and egress off the proposed access drive, and a small hammerhead turnaround for emergency vehicles or other large vehicles at the end of the lot. He said that this would seemingly provide parking in close proximity to the proposed facility, and would preserve the historic core both visually and physically.

Mr. Padalino noted that this was only conceptual, but there is approximately 90 feet from the edge of Golf Course Drive and the edge of the brick barn – and there appears to be adequate space to implement a single-loaded parking lot with landscaping and screening and storm water management in between the parking lot and Golf Course Drive, as well as enough space on the interior or uphill side to construct a moderate retaining wall in such a way as to preserve a decent amount of the existing slope around the brick barn. He said that County staff has been aware that providing alternative designs or concepts is somewhat uncommon, and recognize that these sketches are conceptual and not engineered, but regardless this is one possible option presented to the applicants for their review and discussion. Mr. Padalino stated that presently, to staff's knowledge, the applicants did not consider this Alternative Option B to be under consideration.

Mr. Padalino stated that, overall, the proposed project does have elements and characteristics that are positive and favorable, as well as some that are negative or unfavorable; and County staff acknowledge the project's multiple favorable factors, including staff agreement with the Department of Historic Resources assessment that the rehabilitation and adaptive reuse of existing historic structures is a very good thing, and that the proposed new facility is not inherently problematic or inappropriate from an historic preservation standpoint. He said that views from the Entrance Corridor are not expected to be impacted, and the site is partially

visible during winter, and rather minimally visible when trees have foliage – and any remaining visual impacts should be able to be addressed with appropriate landscaping or other screening. Mr. Padalino stated that the proposed facility was not expected to generate additional vehicle trips, and that the proposed facility is an expanded use of the existing golf course, which would be consistent with the future land use designation in the Comprehensive Plan.

Mr. Padalino stated that County staff continue to share the concerns identified by the Historic Preservation Committee, and when County staff considered different factors, their analysis has ultimately prioritized the protection and preservation of the overall integrity of the site's historic resources – including the assemblage of historic structures as well as the historic landscape features and characteristics. He said that although the applicant's planning and design process and proposals are partially sensitive to historic preservation issues, staff has concluded that the proposals seem to ultimately prioritize the importance of the entry and approach sequence as experienced from Golf Course Drive – which would be the future entrance to both Birdwood and the Boar's Head Resort and Sports Club. He stated that this prioritization resulted in the different parking options being sited in areas of high historic importance and high sensitivity to change, and resulted in the applicants not wanting to site the parking lot closer to Golf Course Drive in a way that would be relegated from the Birdwood Pavilion itself.

Mr. Padalino said that in preparing recommendations, staff has noted the substantial efforts made by the applicants to accommodate County concerns about impacts to historic resources; and staff acknowledges attempts by the applicants to provide optional site layouts that would entail reduced impacts to historic resources – and which have some merit when evaluated using broader planning objections. He stated that despite those positive aspects and acknowledgements, staff cannot support any of the site layout proposals presented to date, due to the physical and visual disruption of an intact historic rural landscape and the resulting diminished integrity of the site's exceptional historic resources.

Mr. Padalino said that staff does not recommend approval of the requested SP amendment, either as configured using Parking Lot Option D, which is the original illustrative site plan, or as configured using Parking Lot Option C or the other options prepared by the applicant. He stated that staff would recommend approval with conditions of the requested SP amendment, if a revised illustrative site plan was submitted that was representative of the Alternative Option B layout, and if associated conditions specified in the staff report were included. Mr. Padalino said that if the Planning Commission evaluation concludes with an intent to recommend approval of the SP amendment as requested, using the Option C layout, staff had provided recommended conditions in the staff report for their consideration, should that be applicable. He stated that none of the recommended conditions contained in the staff report include modifications to the existing condition, which currently requires that a special use permit amendment be obtained for virtually all new construction on this property.

Mr. Padalino then commented on the applicant's request for one of the existing conditions of approval to be modified. He said that this request from the applicants was initially presented to the Commission on July 25 during the work session; and although County staff have labored to develop some recommended modifications for Commission consideration, staff were genuinely unable to do so at the present time. He reiterated that everyone involved with that particular issue remained committed to continuing to work towards some possible modifications to that existing condition of approval at the appropriate time. He said that concludes the presentation and he would be happy to answer any questions.

Mr. Keller invited questions for staff.

Mr. Dotson asked if Option C was the current proposal the applicant was making in lieu of Alternative D, or if both were open for consideration.

Mr. Padalino responded that he did not think it had been narrowed down to one or the other at this point, as it was a fairly swift-moving review since the work session – and all options were on the table, with C and D being the primary options under consideration during the July 27th and August 1st meetings with the Foundation staff.

Mr. Dotson commented that he would like to see Option C again, but he assumed the applicant would be presenting that.

Mr. Keller opened the public hearing and invited the applicant to address the Commission.

Ms. Valerie Long, an attorney with Williams Mullen, addressed the Commission on behalf of the University of Virginia Foundation. Ms. Long introduced Foundation representatives President Tim Rose, Fred Missel, Director of Development; and Chris Schooley, who is the lead project manager on this site. She said that Brian Hogg, the University's chief historic preservation planner, is also present and has some comments during the public hearing. Ms. Long stated that the Foundation team has been working diligently to find a solution that will work for them in this project. She said that the Foundation's broader plans for the Birdwood and Boar's Head property, especially in light of questions raised at the work session on July 25, have been included on a small version of the master plan, which has been shared with staff.

Ms. Long said Commissioners had asked why the facility was being moved from the location at which it was originally approved and whether there was another plan for the area. Ms. Long explained that the reason for this is the renovation and realignment of some of the golf course holes, as well as ensuring that the golf course facility is in an area that protects and enhances the viewshed from the Birdwood Mansion. She said that with the original location, the access road to reach the facility would have crossed between the mansion and the viewshed of the mansion, so we feel this location is preferable and it sounds like staff is also. Ms. Long stated that the applicant got the impression at the July 25 work session that the Commission was generally comfortable with the location, provided they receive more information about the precise location of the parking lot and the reasons for it.

Ms. Long explained that with regard to the master plan for the property, in a few years the plan is for Golf Course Drive – which is the current access to the golf course itself – to become the primary entrance to the golf course and to the resort as a whole. She said they are working on plans to blend Birdwood, the Boar's Head Sports Club, and the Boar's Head Inn together into a unified resort. Ms. Long stated that by relocating the entrance road, the goal will be met more effectively and would provide a much nicer and efficient access point to both the golf course, the golf practice facility, and the future tennis courts – which would require a special use permit (SP) amendment. She noted that the applicant has already been in discussions with County staff about that, and they are shown here for reference. Ms. Long pointed out the Boar's Head Sports Club, the indoor tennis court area approved in 2004, and the squash facility approved just a few years ago. She noted the proposed location of an expansion of the squash facility, which would provide the opportunity to host the NCAA championships. She stated that the applicant does not have any plans for any other structures in this area, and it does reflect the realignment of the golf course.

Ms. Long pointed out the location of a short course or par 3 course, and stated that part of the importance of this plan is the preservation of the pastoral landscape as visitors, guests, student athletes, and other golfers and visitors to the resort enter the property. She said that just as the County cares a lot about development occurring along its Entrance Corridors, the Foundation cares very much about development along its Entrance Corridors – and they spent about $600K in 2016 on maintenance and repairs to the larger Birdwood Mansion and the property around it. Ms. Long stated that they have been repairing bricks that had fallen, making structural repairs, cleaning out some non-native vegetation and other overgrown vegetation, all in an effort to reveal the historic landscape in a way that was not before. She emphasized that the site looked much better now than it did six months go before that work was done.

Ms. Long presented images of the area as the property is accessed on Golf Course Drive, noting the existing pastoral landscape and the garage, as well as the Birdwood Mansion. She said that as part of the process, the Foundation from the very beginning has taken great pains to ensure that all of the planning is carried out in a way that is very sensitive to the existing historic resources onsite as well as industry standards and guidelines for historic preservation and renovation. Ms. Long mentioned Rachel Lloyd, who is a local landscape architect with the firm of AECOM, and said the Foundation commissioned her to prepare a landscape study as part of the planning for this project. Ms. Long said that Ms. Lloyd has a strong commitment to the Secretary of the Interior's rehabilitation standards for historic structures, and helped plan the project to ensure consistency with those guidelines. She stated that the Foundation has also worked very closely with representatives from the UVA Office of the Architect, and worked hard to address concerns from the County's Historic Preservation Committee, with regular communication with representatives from the Virginia Department of Historic Resources (DHR) to ensure that the plan as proposed would not have any adverse impacts either on the property's continued designation on the historic listing, nor on any of the cultural resources onsite. Ms. Long said that the applicant had received a letter from DHR just before the work session, which was very positive with regard to the original proposed parking lot location, and subsequent conversations with Mr. Mark Wagner, who sent a follow-up email to the applicant yesterday, which was forwarded to staff. She stated that the email essentially confirms that Option C was acceptable to DHR and would not have an adverse impact on the property's listing or any impact on the historic resources. (Attachment from Mark Wagner)

Ms. Long referenced photos of the existing site conditions, stating that the Commissioners were all present for the field trip on July 18. She noted the applicant's original proposal which she would call Option D, pointing out the parking lot, and said that staff's concerns had been that this location would impact the viewshed and detract from the cultural landscape – and proposed screening measures would be too much and overdo it. Ms. Long said the applicant took the Commission's comments and suggestions from the work session, and felt their direction had been for the applicant to do a better job of studying the locations staff suggested and come back with input. Ms. Long pointed out the Alternative Option B location that staff recommended, noting the location of proposed parking, biofilter, and landscape screening. She said that while this did help relegate the parking away from the viewshed from the Birdwood Mansion and uses those historic structures to screen it, it has the opposite effect from the entrance corridor of Golf Course Drive. Ms. Long stated that it would put the parking in the foreground of the view of these historic structures from Golf Course Drive, and would require a 300-foot-long single-loaded parking lot – with a retaining wall of an estimated four to five feet tall for the entire span, and would require a significant amount of grading. She said that there were stairs proposed for pedestrian access up, and they would need to establish a handicapped access – but in general, they did not view this as a workable solution from the Foundation's perspective.

Ms. Long stated that they need to look at it from the broader context, including the view of the historic resources from the resort's entrance corridor, and did not feel this was a location that would further those goals, as it would break up the view too severely. She said this was a relatively narrow patch of ground, which was why there must be a single-loaded parking lot, which wasn't very efficient from a sustainability and environmental perspective – but their main concerns were about having the parking right there in the viewshed, as there is very little space for any screening and it would require more severe screening to be effective.

Ms. Long stated that by contrast, Option C strikes a good balance between all of the goals, continuing to preserve the views between the mansion and the other historic outbuildings and contributing structures, and also preserving the viewshed from the entrance corridor. She said that there was much more space and this location was down in a slight bowl, and there would be room for grasses and other plantings that will look much more natural and screen the vehicles from the entrance corridor without providing the adverse impacts or imposing and infringing on the views in this direction. Ms. Long stated that as you are driving down Golf Course Road and approaching this area, because of the curvature of the road, by the time your vehicle gets to the turn, a driver would have almost passed the parking lot before they see it – and the applicant feels this will be very effective when combined with screening. She said they have also proposed having some very subtle, gentle berming to help screen it further, and some berming to help provide screening of the parking lot from the mansion, which will strike a balance between County staff's goals of avoiding disruption with the viewshed and providing the parking in a location that is safe and convenient for student athletes and other users of the facility, while balancing the goals of the Foundation's views of these historic structures from the entrance corridor.

Ms. Long presented some additional images that were taken when the applicant was out with staff the previous week, and she noted the location of the garage building onsite, as well as Golf Course Drive. She presented a view from the opposite direction with the garage structure in one location and the mansion in another. Ms. Long reiterated that the original proposal had this tucked into the hillside, noted staff's proposed location, and pointed out the approximate location of Option C – which is probably a preferable location, as it strikes the balance a bit better. Ms. Long said that the applicant had received an email from Mark Wagner of the Virginia Department of Historic Resources, and it confirmed that Option C is acceptable and would be a design solution that they are comfortable with. She stated he said that Option C would not alter the landscape of Birdwood to the degree it would impact the National Register eligibility at a significant level, among other things. Ms. Long said they also have a letter from our landscape architect, Rachel Lloyd, of AECOM, who likewise weighed in as response to staff's comments about historic preservation and made some interesting points. She read aloud several of Ms. Lloyd's comments, which had been submitted to staff for the record. Ms. Long asked to read two sentences that she thought was very helpful to use as a landscape architect and not being a historic preservationist. Ms. Long said Ms. Lloyd said, "The introduction of new paved parking to a historic landscape is often one of the most challenging aspects of a site's rehabilitation. The views of parked cars are rarely desirable yet are a feature of contemporary life that often accompanies compatible reuses of an historic property. We believe the proposed design for the golf facility parking identified as Option C is compatible with the historic character of the property." Ms. Long noted Ms. Lloyd's letter goes on, and was submitted to staff for the record. (Attachment from Ms. Lloyd)

Mr. Keller invited public comment. Hearing none, he asked the Commissioners if they wanted to hear from the rest of the team on this. He invited Mr. Hogg or anyone else who cared to weigh in on this to address the Commission.

Mr. Brian Hogg, Senior Historic Preservation Planner in the Office of the Architect for the University of Virginia, addressed the Commission noting that much of what he was going to discuss has been mentioned already. He stated that since the Foundation took over Birdwood a few years ago, we have been working with them extensively. He said they hired a very well-respected historic landscape architect – a person who has a practice in working with historic landscapes – and she created this report that sets priorities and hierarchies and identifies the significant features of the Birdwood landscape as a way of helping to guide the planning and redevelopment. He said that it was especially gratifying that the Foundation followed a lot of those recommendations, and the landscape and the buildings look much better than they did three or four years ago. Mr. Hogg stated that in terms of historic context, it was interesting to look at the landscape being discussed, because it is not a delicate early 19th Century landscape – it is an early 20th Century landscape, which focused on showing the property owner's position and aspirations. He commented that this was a "show-off" landscape, with a folly in the form of a water tower, swimming pools, a garden – and a lot of it was centered on the house itself and the area to the east. He said the area to the west where the garage is located was also about showing off, focusing on the cars that were new for that era, and it was historically a fairly large paved area that spanned the space between the stone garage, brick barn, and a smaller wooden barn just to the east of the brick barn that had been removed in the last few years. Mr. Hogg stated that he did not think the presence of vehicles or visible vehicles is necessarily alien to the site. He said he was not arguing that a large parking lot was part of the plan, but it is not a fully pastoral view that we were talking about as the historic context of this particular structure – this was a vehicular corner. He said there had been some discussion of the Gillette landscape design, and the plan showed an attitude about how the landscape was going to work. Mr. Hogg stated that Gillette designed the area immediately south of the house and to the east of it as an ornamental garden, with the area to the west of the house not even shown, so there was a clear emphasis on certain portions of the landscape as it was developed, with gardens built there; whereas this corner of the property was treated more casually and is less of a priority. He said that in Rachel Lloyd's proposal to the Foundation, she set the exact same priority for significance, with the center area around the house property being the highest. Mr. Hogg said that Ms. Lloyd indicated in her letter that change was possible even though the site is sensitive to change. He pointed out it was a question of finding something that is appropriate. He stated that Option C, which minimizes the presence of cars in both directions, and which has little effect on views of the house and little effect on views from the house, was an appropriate way of modifying the landscape here.

Mr. Fred Missel said to answer a question that came up at the work session he stated that the amount of UVA Golf student athletes per team fluctuates slightly, with an average of about 10 per team, which is why they arrived at 20-24 as the number of parking spaces. He said that was all he had to add.

Mr. Keller invited other speakers. There being none, he invited questions from Commissioners.

Ms. Spain said that in the email confirming that this location would still comply with historic designation, it mentions protecting a root ball of the tree, but she did not see it on her drawing.

Ms. Long presented a slide showing it, stating that if this application is approved at the site plan stage, it would need to be engineered and more specific – but the goal is to shift the whole lot south and essentially have a notch out of the parking lot so that tree can be retained and preserved if at all possible. She pointed out that was the tree he was referring to and that they share the goal of preserving the large tree.

Ms. Firehock said they had previously discussed why parking was even needed there, and she wanted to get some of those specifics. Ms. Firehock asked what the actual distance was riding in a golf cart from what would end up being the parking, the closest parking lot that an athlete could park in and then ride the golf cart to the new facility – if there were no options A–E. She stated that she was trying to establish what the added convenience is by having it.

Mr. Missel pointed out the location of the existing parking area.

Ms. Long stated that it is not an insurmountable distance, but it would require a bit of a route – and the goal is to provide safe and convenient parking access for the student athletes, coaches, visitors, and guests.

Ms. Firehock stated that she is very familiar with UVA grounds, and it is very unusual to be able to park near the sports facilities. She said she was trying to understand the necessity of this.

Mr. Missel responded that the challenge students have is they have to drive to this site, because it is not on the grounds and there is no bus transportation to get them out to the site. He said that once they get there, and part of the reason they are building the facility is because it will be all-weather and will be used, with a good chance they will be outside on golf courses during good weather, whether it's this course or another one. Mr. Missel stated that this facility would be used primarily in the winter, and for them to drive to a parking area and then get in a golf cart when it's pretty cold out then drive back to the facility, would be a bit untenable. He said they were going to have a golf cart going down there, and initially when this was approved on the eastern side, there was a direct connection back to the parking area. Mr. Missel said there is potential that they might decide to go down to that area, park their car, and take a golf cart – or decide to go there and park and take care of it.

Ms. More asked if they were expecting the existing parking lot to handle parking needs for the proposed tennis courts.

Mr. Missel responded that when there are so many facilities and parking spaces onsite, there is the potential for shared parking – so there is the potential for some of the spaces here, when there is no golf usage, to be used by the tennis facility. He stated that they were also anticipating the need to take out four of the hard courts and create parking adjacent to the sports club to serve the sports club but also serve these courts.

Ms. More said she was adding to what Ms. Firehock said in terms of the need for other parking that could be a shared location with a shorter ride to the proposed facility.

Mr. Missel stated that one of the things they have used the parking area for is relocation of staff to this area when there are events in the area that require visitors and guests to fill the existing parking spaces. He said this acts as an overflow parking lot at this point, but that is the benefit of having enough spaces. Mr. Missel stated that the Foundation completed a comprehensive study with VSB, a parking and transportation planner, to help them understand how many spaces they have onsite and how to manage the events that occur that cause overflow into other locations for parking lots.

Ms. More stated that there was another slide showing Concept C and talking about minimizing views from the main home, and she asked if Concept C was sitting up higher or was tucked down into the landscape.

Mr. Missel said that there was a little bit of a bowl or low point, and as they come in off Golf Course Drive, the landform blocks the view of the parking area – and the recess helps with the arrival on Golf Course Drive but also from the view shed of the mansion itself. He mentioned that Supervisors and Commissioners onsite noted that this area was better in terms of its recess, from an elevation standpoint.

Mr. Dotson stated that there is a table of pros and cons in the staff report, but asked staff to critique Option C and summarize what caused the staff to have concerns about it.

Mr. Padalino explained that this was a bit more nuanced than what staff had provided earlier, and in general, staff openly acknowledged that Option C was a better solution from a visual impact standpoint. He stated that as has been discussed, there is a depression in the landform that could be utilized to tuck the parking lot in and somewhat out of sight – and that landform is aided by the fact of the configuration of Golf Course Drive. Mr. Padalino said that from a visual impact standpoint, this is a good solution, especially when utilizing the things that have been discussed tonight and as crafted in the conditions. He emphasized that the hesitation by staff is just the fundamental impacts to the historic landscape, which they feel should not be scratched.

Mr. Dotson stated that there was a diagram presented at the study session that showed sort of the primary historic core, then a peripheral area, then a distant area. He asked which of those areas the parking lot fell within.

Mr. Padalino responded that it would be the outer precinct, which is the moderate sensitivity area, in between the historic core and the former agricultural landscape. He confirmed that all of the options fell in the outer precinct area.

Mr. Dotson stated there had been mention of future use of and connection of Golf Course Drive into the Boar's Head Sports Club and so forth, and asked what kind of approval that would require being undertaken.

Mr. Padalino replied that a formal answer to that question would need to come in the form of a zoning determination from the Zoning Administrator, and initial discussions have indicated that would be a substantial change to a major element of the site and therefore would require an SP amendment, but that is not a final answer.

Mr. Lafferty asked if they were limiting the options to B and C alternatives for consideration.

Mr. Padalino responded that there have been multiple options laid out, staff has tried to evaluate them based on their pros and cons, and it might be best for the applicant to answer that question.

Mr. Lafferty stated that the verbiage says that if the Commission recommends approval, and he was not sure if they needed to specify which option. He said that it sounds like the UVA Foundation wants the C option, and staff wants the alternative option.

Mr. Gast-Bray said that staff was trying to do its due diligence in terms of presenting the proper information from which the Commission would make a judgment, and technically they could choose any option they wanted – but from an historic preservation standpoint, something like Option B would be considered, and the applicant's best option was C.

Ms. Firehock stated that the picture the Commission saw for Option C was slightly different from what is in their packets, and she wanted to know which of the options it would be.

Mr. Missel said that if there is a significant change, it is probably something that happened recently.

Ms. Firehock clarified that the large tree is depicted in the Commission's packets is in the parking lot, but in his it is preserved.

Mr. Missel stated that the tree was always meant to be preserved in either option. He said when they met staff on site we paced out the distance between that tree and another tree to the north, and that distance is exactly 120 feet – and he was curious to make sure that we were able to preserve that tree. He said if that parking area, as Ms. Long eluded to, has shifted at the site plan level we will work with the grades, landscape, and the distance that this is from the barn to come up with the best specific location. He pointed out it was not their intention to put forward a different option C; we were thinking that more generally speaking maybe this illustrates the screening a little bit better. He said this was a timing thing and had been coming together quickly over the last few day.

Mr. Keller asked Mr. Missel what the Foundation's preferred option is, because that was not what was shown onsite.

Mr. Missel responded that it was Option C, stating that they feel it strikes a great balance between the preservation of the views from the historic resource and the cultural landscape, as well as the views from Golf Course Drive.

Mr. Blair made a suggestion based on the applicant's statements that the Commission should keep the slide showing the current Option C on the screen. Mr. Blair then stated that, while not being presumptive, if the Commission were to make a motion he thinks the proper reference would be to refer to Option C as depicted on the screen.

Ms. Riley asked for a further description of Option C because we have a chart that gives a description, but she did not know if that is actually what the depiction intends – for example, the size of the lot and number of spaces – since if the Commission is recommending something that we know the specific configuration.

Mr. Missel replied that the configuration shown is approximately 120 feet long so in round numbers we are looking at probably 12 spaces on either side – so a total of between 20 and 24 spaces is what we are anticipating with this application. He said the location of the trees shown here, it is intended that we keep both of those trees – the one to the south is the largest and most prominent tree that we would be focused on. He said if the ability to slide that parking area slightly to the south, if that were possible, we would maybe do that to help to preserve as much of the viewshed as possible. He said other than that he thinks they would be the same.

Mr. Keller said he was referring to the piece that is showing the spaces as opposed to the gray area, and you are now in the opinion that shifting it is better.

Mr. Missel agreed that is correct.

Ms. Firehock stated that she had not yet heard how storm water was going to be treated.

Mr. Missel responded that the Foundation has not had it engineered yet, but they would use bio-retention filters. He said they would look at the benefit of a bio-retention filter, but also potential surface runoff and filters that they could take advantage of. He pointed out the other thing to consider is that because it is part of this historic landscape we do not want to necessarily do something that is going to screen parking lot and bio-retention filter – we are going to try to do something that is more appropriate and suitable for the site.

Ms. Spain questioned the necessity for 20 to 24 parking spaces because he said there are about 10 members of each team and if they always practice at the same time.

Mr. Missel replied that it could be that they practice at the same time or hosting as varsity teams combine; however, it was not necessarily about having one space per car - it just provides us a little bit of a buffer.

Ms. Spain questioned if having so many spaces would discourage them from carpooling to the site on a daily basis; and Mr. Missel replied that he did not know due to the quick review, but they have not thoroughly reviewed this with Virginia Athletics yet and so we need to get some feedback from them to better understand those details.

Ms. Spain said it seems like a smaller space would be more advantageous all the way around and defensible in several ways for less impervious surface, etc.

Ms. Long pointed out that Chris Schooley who is the main project manager just reminded me that the original special use permit for this facility that was approved in 2015 had 34 parking spaces, and so they have already reduced the number of spaces with this proposal compared to the original one. She said that was kind of along the lines of your point knowing this is a little tighter site over here. Ms. Long pointed out the varsity teams do practice every day and so we obviously want to make sure there are no constraints that they can all get there with their schedules and so forth.

Ms. Spain said in the pros and cons in the chart under Option C the conclusion that it "partially mitigates but does not fully resolve historic preservation issues" – and asked if that conclusion was at all affected by the email that the Commission was just shown from the State Department of Historic Resources, and does that address and alleviate that concern?

Mr. Gast-Bray replied that staff was representing to the best of our ability the opinion and the pursuit of the Historic Preservation Committee's judgement and assessment of this and they have not weighed in having seen that – therefore we had not taken a position on the letter. He said we are encouraged by it, but if you make a decision clearly, it is better than if they had come out negatively; however, we just do not have an official position based on that letter.

Ms. Spain noted that she was not talking about the letter, but the email that just came yesterday to the applicant.

Mr. Padalino noted the email came from Mark Wagner at 4:13 p.m. yesterday afternoon. He pointed out that the chart was prepared rapidly after a site visit on Wednesday and prepared for distribution on Thursday; and again that email came in on Monday. Mr. Padalino said that he thinks there has been a lot of consideration given from staff of the opinions of a lot of different historic preservation experts who have weighed in on this as well as the Historic Preservation Committee members. He noted that it would not be unfair to say staff agonized over this recommendation with a lot of different opinions and learning a lot from each other. Mr. Padalino

said it came down to more of a principled matter of it is such a unique and special historic resource that putting this type of infrastructure at that location just could not be supported. He said he would defer to Historic Preservation planners on staff – who are true experts on that, whereas he was not – who might provide more context and background to this conclusion.

Mr. Keller asked if there were any other questions for the applicant.

Ms. Firehock asked if they were considering variable spaced sizing, as it may be possible for students driving smaller vehicles to fit into a smaller space.

Mr. Missel responded that it is something they would consider.

Ms. Firehock stated that they also discussed the surface treatment, and asked if he looked into reinforced grass and paving half the parking lot, as she has seen grass parking lots work well.

Mr. Missel replied that it was something they would consider, and the Foundation has thought about it in terms of being able to get an emergency vehicle in and backing it out, without having a large radius to turn it around.

Ms. Firehock said that when there are not enough spaces at a UVA building such as the Miller Center, people park on the sides of the drive and on the grass, and are tearing up the landscape – and she would rather them park on a structured space rather than under-designing and having to re-sod.

Mr. Keller stated that with the changes that are going to focus on the circulation to the west of the historic axial entry road, he wanted to know if the historic axial relationship would be maintained in some form or another.

Mr. Missel responded that that would be Birdwood Drive and the intention is to preserve it in some way, but they don't believe it would be able to be preserved as a vehicular access – nor did the Foundation think it was safe.

Mr. Keller commented that he has been involved with treatment of cultural landscapes from the beginning, including having co-authored the guidelines, and he was excited to have staff who were thinking about this and weighing in – and it would have been helpful to have that degree of staff input. He said that he disagreed with staff, and felt that the original parking scheme was not a bad solution. Mr. Keller stated that when trees get very old, all sorts of things can affect them, and this is an applicant that is willing to think about the historic landscape. He said that he felt too much weight was placed on that one tree on this site. Mr. Keller stated that from a staff standpoint, they still have a bit of the great house focus, and cultural landscapes are about the totality of that – more than just that one house. He said that when the parking lot is moved to the location as proposed by staff, there is a significant visual impact from the areas of Route 250, the golf cart path, and pedestrian access. Mr. Keller applauded the fact that staff came back with an alternative and with visuals for the alternative, and they could have benefited from this from staff over the last 3.5 years he has been on the Commission.

Mr. Keller emphasized that staff did not do anything wrong, but there are so many nuances to this, and the question is whether an applicant coming forward with the right pieces – and there has been lots of expertise involved – and has been supported by the state office the way they have been, he wasn't certain that it warranted the amount of time and effort that has gone into it and the amount of time the County has asked the applicant to spend by going back to the

drawing board. He mentioned that it would have been highly beneficial to have the expertise the Foundation brings when they were talking about zoning changes for artists' communities. Mr. Keller said what the DuPonts had done to James Madison's home and noted that preservation changes allowed them to go back to an earlier era. He stated that the proposal with the Birdwood property was revocable, if there was a desire to take it back to an earlier form. Mr. Keller reiterated that he is supportive of the original proposal from the applicant and the modification that they are still interested in that modification, adding that he is comfortable with Option C or Option D.

Mr. Lafferty agreed that a lot of scrutiny had been given to this, and his preference would be Option C because the Foundation has expressed that is the best for them, and the state has said they are not going to have impacts regarding the accreditation.

Ms. Spain stated that Option C was her preference.

Ms. Firehock said that she also supported Option C.

Ms. Riley agreed with Option C, stating that she appreciated all the work staff and the applicant has put into this. She expressed surprise that this option wasn't considered initially, but she felt it was the questions raised that brought people to what might be the best compromise and best preservation of the views for what became the main entrance to the complex and to those folks that are experiencing this historic landscape on the ground in a pedestrian way as well.

Ms. More stated that her original thought was to use the parking lot in the back, but she was sensitive to the desire for all-weather travel for athletes from their cars, and that was a bit further than she had originally imagined. She thanked staff and the applicant for all of their work, stating that Option C seems to strike a balance out of their matrix of choices, and she appreciated the point about people parking wherever they can when there is bad weather – which could do even more damage. She stated that she is in favor of Option C.

Mr. Dotson agreed with Option C as the best choice.

Mr. Keller asked staff to go back and address the open-ended component of the original request to modify the existing conditions of approval.

Mr. Padalino stated that staff has had extensive discussions internally about this, as well as several meetings and discussions about the issue with applicants and their representatives – and they have generally agreed that it would be best and necessary to decouple discussions about all those future possible approvals from this request. He said that considering it was first raised on July 12, which was the day staff sent out the initial staff report, it was not something that had been brought up as part of the initial application or even the resubmittal. Mr. Padalino noted that given that timeframe and the geographic scope of the request, it seems that more permissive conditions would have to be evaluated in a different context, perhaps at a slightly different time. He said that as of today, they are meeting with staff from different departments and divisions trying to determine what would be appropriate and reasonable for this particular site, and those conversations need to continue at this point and need to be dealt with in a subsequent application.

Mr. Keller asked Mr. Gast-Bray how the Commission should proceed with the two pieces in light of that.

Mr. Gast-Bray stated that he gleaned from the applicant that the key issue is being able to move forward with this application without making that change, knowing that staff is in discussion with the applicant in an effort to come up with a better system of wording that would be more appropriate for the second piece – keeping condition #4, as it was originally without the change so the applicant could continue to go forward.

Ms. Long clarified that the reason this wasn't raised at the beginning of the special use permit application, which was submitted in April, was because the team had held conversations with staff prior to that regarding these same questions: will the connector road require a special use permit amendment; and will the plans to realign the golf course holes require any special use permit amendment. She stated that the applicant was trying to plan for this issue, with emails from staff showing that they came back in late March to say the applicant did not need to amend the special use permit to build the connector road and did not need to amend the special use permit to realign the golf course. Ms. Long said that as a result, the applicant did not raise the issues with the application, and the applicant submitted the site plan application for the golf facility because it is on a tight schedule for construction. She stated that there have been a lot of discussions as to whether they can pursue the two applications concurrently – which is not atypical, although it is at the applicant's risk because if the Board does not approve a special use permit, they have wasted a lot of time and money with a site plan application that's no longer of any use. Ms. Long stated that this applicant knew it was a risk and decided to move forward regardless, but as part of the site plan review process, which was occurring at essentially the same time as the very early stages of the review of the new special use permit for the golf facility in its new location.

Ms. Long said the applicant had started receiving comments from staff saying that they had to wait for approval of the special use permit approval before getting the site plan approved, and that they would need to amend the special use permit again for the connector road and possibly even for the golf course realignment. She said they decided to sit down and try to figure out how they might be able to revise this existing condition in a way that would provide a bit more flexibility for these two projects, but they could also be workable for staff, so they submitted the language to staff as soon as realizing it was necessary. Ms. Long stated that the applicant hopes to continue to work with staff between now and the Board meeting to craft some language that could be a bit more flexible – and they are not asking for a "blank check" to do everything here, but as staff and Mr. Keller indicated that virtually any new construction will require an amendment to the special use permit. She said that was not the applicant's interpretation of the condition, as they felt it was more flexible than that and could be better written for clarity so the Foundation, County staff, Board members and Commissioners can all understand what will or will not require an amendment to the special use permit.

Ms. Long stated that the connector road has been discussed for a long time and is an element on the comprehensive plan, and the applicant understands the need to coordinate with VDOT on the connection at Route 250, but that is always an issue even for other site plan issues. She said that the applicant would like to request that they continue to work with staff on some language between now and the Board of Supervisors hearing on this item in mid-September.

Mr. Keller asked if staff wanted to make a suggestion for a wording modification at this point.

Mr. Padalino responded that they would not at this point, as they have labored diligently to develop final recommendations, and it would be out of place to recommend anything prior to finalizing the process. He said they are very close to having something that they would

recommend with confidence, and that they were confident the applicants would be in agreement with it.

Ms. Firehock clarified that if they did not know what the language would be, and if they were to recommend Option C, they would not have staff's condition #4 included in that recommendation.

Mr. Keller confirmed this.

Ms. More then said they do want condition #4 in there.

Mr. Gast-Bray stated that it would be #4 as it was in the staff report.

Mr. Blair confirmed that #4 should remain the same as it was in 2015.

Mr. Padalino noted that the majority of those were carried forward from SP-2015-00019, with the only changes being #1 and #2.

Mr. Keller asked if fellow Commissioners supported him in Option D being a viable alternative as well as C. Hearing no support, Mr. Keller stated that as a landscape architect, he sees a place for a cut that has less visual impact than many places.

Ms. Long clarified that if it were the Commission's preference, the applicant would be comfortable looking at either C or D, and if they cannot preserve the tree in the way they hope, they would be comfortable with that greater flexibility were the Commission so inclined.

Mr. Keller thanked Ms. Long, but said he has heard from his fellow Commissioners there was not support for that, so they would go with C.

MOTION: Ms. Firehock made a motion to recommend approval of Option C for SP-2017-0009 UVA Indoor Golf Practice Facility Amendment as depicted on the screen this evening, and would also like to add a Condition #7 to include language that a certified arborist sign off on a tree protection plan for trees intended to be preserved as part of the parking lot design.

Mr. Blair asked staff to put Option C on the screen from the applicant's presentation.

Ms. Spain seconded the motion.

Mr. Keller invited discussion and asked if this handled the issue of the broader special use permit.

Ms. More responded that it was, because #4 was in the condition, but she wanted to be clear that if the applicant intends to work with staff to make suggestions prior to going in front of the Board that anything done between now and then would be presented to the Commission.

Mr. Keller said that happens consistently, and then the Commission doesn't get to weigh in to the Supervisors.

Ms. More said that she personally felt that was something they should get to weigh in on and not something that should be worked on quickly in a month's time – and she felt that Condition #4 was saying that.

Mr. Keller asked if there was any further discussion and asked that the motion be restated one more time.

Mr. Blair said the Commission has moved to approve special use permit 2017-0009 Option C as depicted on the screen, with a modified Condition #7.

Ms. Firehock restated that Condition #7 was that a certified arborist be required to sign off on any plans for preserving trees as part of the new parking lot design.

The motion was passed unanimously by a vote of 7:0.

Mr. Keller noted that SP-2017-09 UVA Indoor Golf Practice Facility Amendment would move on to the Board of Supervisors. He thanked everyone for their work on this project.

Recess

The Planning Commission recessed at 7:37 p.m. and the meeting reconvened at 7:41 p.m.

Work Session: ZTA-2017-0005 Personal Wireless Regulations

Work Session to discuss possible Zoning Text Amendment to address §15.2-2316.3 and §15.2-2316.4 of the Code of Virginia. These sections limit the County's ability to regulate small cell facilities. (Bill Fritz)

Mr. Fritz reported that this item was dealing with small cell tower facilities, and said the General Assembly had adopted new regulation that was opposed by VACO and VML but took effect in July, and this significantly reduced the County's ability to regulate small cell facilities. He explained that small cell facilities are typically small antennas that are, by definition, attached to existing structures. He said they are not intended to provide additional coverage but were intended to provide capacity, where there were a lot of people using a lot of data in a confined or dense space. Mr. Fritz stated that these could be attached to buildings or telephone poles, or any kind of vertical structure. He noted that a macro cell such as cell phone towers would cover miles, and the small cells can cover from a few dozen yards to a quarter mile and they are typically located in areas where there is dense development. Mr. Fritz said there are a few in downtown Charlottesville, including one across from the Water Street Parking Garage, and they are found in stadiums and at shopping centers with dense activity.

Mr. Fritz explained that the law set up an application standard and a review standard, and the County partially complies with the application standard – which means it does not require a special use permit or special exception or variance, and does an administrative process. He said the code *allows* the County to have an administrative review process but did not *require* the County to have one. Mr. Fritz stated that the code is saying if they choose to regulate small cells, it needs to be done this way. He noted that the County did not comply with the application standards because it allows one site per application and collects a few of $113.60 for each site. Mr. Fritz said what the code does with those fees is knocks it down to $20 for each site, as they can be packaged together. He stated that a locality's ability to deny an application is extremely limited, and the County does not review for interference currently and doesn't have the expertise to do so. Mr. Fritz noted that the public safety review is for the structure the small cell is attached to and not the small cell facility itself, and the current ordinance regulates the color of the antenna – which they will have to stop. He said the County has no historic overlay district,

and the EC regulations have no specific guidelines for wireless facilities, but in the future it could adopt those types of guidelines.

Mr. Fritz stated that this leaves two very distinct options: to review the small cell facilities and exercise the limited authority the County has, or allow small cell facilities by right without review, provided they comply with state code provisions. He said this was a case in which the County could control wireless facilities more if they regulate less. He presented an image of a small cell facility, stating that by approving that one, they would also be approving a base station. Mr. Fritz said that due to the Middle Class Tax Relief and Job Creation Act of 2012, and FCC interpretation of that law, a colocation on a base station must be approved unless the colocation results in a substantial change – and a substantial change occurs only if it increases the height of the structure by more than 10% or 10 feet, whichever is greater; the antenna protrudes more than 6 feet; and the colocation defeats concealment elements. He said the way the law reads is "must approve and shall not deny" unless it defeats the concealment elements or is a substantial change. He said if the site was an historic district or Entrance Corridor overlay district, and if the district regulations or guidelines had specific design standards that can be interpreted as concealment elements, then it is possible that colocation could be denied.

Mr. Fritz said that what staff is recommending now is for the ordinance to be amended to allow small cell facilities by right, provided they comply with state code. He noted that if a facility was constructed that did not comply with state code, they would be in violation of the ordinance and an enforcement action could take place. Mr. Fritz stated that if the County later amended the EC district or established an historic district – and established guidelines in those districts that create concealment elements for small cell facilities, then amend the ordinance so they can review the small cell facilities in those locations and not be subject to the colocation language. He said this was a case of being able to control more by regulating less, and if the County reviews and approves a small cell facility, it becomes a bay station and colocation becomes a right. Mr. Fritz stated that if they don't approve a small cell facility, then it's not a bay station by definition, so colocation is not a right. He added that the County could write an ordinance that says they have to comply with the state regulations, and the state regulations set some size limits for the facilities.

Ms. Firehock asked if there were limits on the height of the small cell facilities.

Mr. Fritz responded that by their nature, they tend to not be located very high because they get far away from the people they are serving and they don't have a lot of penetrative power.

Ms. Firehock said that in the Portland, Oregon area there are cells shaped like small clock towers that are aesthetically pleasing.

She also asked if there was anything in state regulations about distance to a road – from the edge of a property line.

Mr. Fritz responded that there was not, and there were provisions in the state code that give the wireless industry access to the public rights of way – and this really was an effort by the state to roll out 5G by promoting and restricting localities' abilities to regulate small cell facilities. He mentioned that there were no setback parameters, and that was not a criteria the County would regulate.

Ms. Firehock asked if these would need to be located near larger towers to boost them.

Mr. Fritz responded that they could be set up standalone, with fiber optic leading to it.

Mr. Keller noted that County schools were considering this under the broadband authority, with that option being for areas that are completely dead to signal.

Ms. Riley said that Mr. Fritz had suggested in his report that an advantage would be establishment of an historic overlay district with criteria for review of small cell facilities, and asked him to elaborate further.

Mr. Fritz explained that the County could come along at some point in the future and adopt standards for small cells like those for the Tier 1, 2, and 3 facilities. He said they could come along and stipulate how small cell facilities within the EC district must be attached to structures – and they would have to sit down and try to figure out whether or not they could craft them in such a manner they would qualify as concealment elements. Mr. Fritz stated that Albemarle has stretched that definition farther than anyone else in the country, and currently defines the relationship of the top of the tower to the trees as a concealment element. He said that no other place has prescribed mounting standards and other relationship factors as concealment elements, and the County would have to look and see what they could require as a design guideline and then determine whether or not that would qualify as a concealment element. Mr. Fritz stated that the code provision has already taken effect, there just have not been any applications yet. He emphasized that they need to either go ahead and adopt the ordinance and try to exercise the limited authority available – but the risk would be creating bay stations that the County would not have the authority to limit for colocation; instead staff is recommending that the County say they are by right now, then come back in the future and look at the EC district issue and pursuant regulations as a separate matter.

Mr. Dotson asked about the base stations and referenced the illustration shown with a steeple, as well as the simulation, and it did not appear that it was attached to an existing structure.

Mr. Fritz responded that the Middle Class Tax Relief and Job Creation says the height of the structure can be increased by 10% of the height of the existing structure or 10 feet, whichever is greater – so it's very specific as to being able to go up on an existing structure.

Mr. Dotson asked for confirmation that the whole building would become a bay station.

Mr. Fritz confirmed that it would be.

Mr. Dotson stated that the staff report shows a small cell facility of six feet and one foot by one foot, noting that it was not that small – particularly if it were mounted lower.

Mr. Fritz confirmed that would be the six cubic feet allowed.

Mr. Dotson said the other equipment that went with it at 28 cubic feet was 4 x 7 x 1 foot deep, and asked if there was such equipment with every small cell.

Mr. Fritz responded that it depends on what the operator is trying to accomplish at a particular site and how many carriers might be at the particular site, and that's the maximum that the industry got out of the General Assembly. He mentioned that VACO and VML opposed that particular language, with localities including Albemarle feeling it was too large and that the ability of the locality to limit the location was too limited.

Mr. Dotson said that if something were flush-mounted on a building, that seems different than something that was sky-lighted up above. He recalled the LL Bean store and the canoe displays, stating that he didn't have too much trouble with sky-lighting, although it could be problematic with these on every building.

Mr. Fritz stated that the state code is written so as not to allow the structure to be increased in height, and staff interprets it as small cell facilities attached to the existing structure. He said that having been at the meetings where this was discussed, that was the intent all along. Mr. Fritz stated that if they can figure out how to write that into a guideline or ordinance, the County could start regulating based on that.

Mr. Dotson commented that with a case study like Stonefield, they could project what this would look like in terms of visibility, not aesthetics.

Mr. Fritz responded that he had given this some thought, and Stonefield is what he thought of – and the only place they could likely locate any of those would be interior to the development to serve customers at the theater, restaurants, etc. He said that depending upon how they chose to provide it, it could be that the small cells visible would work within Stonefield and could be mounted on an existing structure or potentially inside of a structure and broadcasting out. Mr. Fritz stated that it was not certain whether a carrier would mount on top of a pole, but it is possible. He added that the most likely scenario is what he presented, or as in Charlottesville where it is a fairly narrow antenna – six feet tall and four to six inches wide – mounted in the crease between two signs and very difficult to see.

Mr. Dotson stated that using the middle illustration of a pole, assuming it's the six cubic feet, he wasn't sure if there was something at the base of the pole that would be the 28 cubic feet.

Mr. Fritz responded that the way the state code is written, it could be – or it could also be vaulted, which was often done with these small cell facilities because they are being put in very urban locations and can't block the sidewalk.

Ms. Spain said under the zoning regulations under #6, it talks about the locality being able to remove abandoned wireless support structures or wireless facilities, and asked if the County had rules like that now.

Mr. Fritz replied that the ordinance has a provision that required the removal of wireless facilities, and asked to what she was referring.

Ms. Spain noted that it was #6, attachment A.

Mr. Fritz said the provision simply says a locality can require removal, but cannot require a bond for it. He confirmed that the County could say it was by right in every zoning district, subject to compliance with that provision of the state code, and that it be removed within set number of days if it was no longer being used.

Ms. Spain asked if the County was responsible for doing that or the company.

Mr. Fritz replied that the company would be responsible.

Ms. Spain asked if the County had had any such situations like that yet.

Mr. Fritz replied that he wasn't aware of any, as nobody has abandoned any sites, and the only opposition the industry had to that provision was that very few localities were requiring a bond to be posted and were opposed to posting the bond. He said that most localities were also opposed to holding a bond because the term for holding it was indefinite. Mr. Fritz stated that localities had no opposition to the language about removal because they did not need to remove any – they instead needed to build more.

Mr. Keller stated that the County did not have historic district overlays but we did have Entrance Corridor overlays, and asked if there should be recommendation that the ARB develop standards then for the overlay.

Mr. Fritz pointed out that would be a second part of the conversation – but the first part of the conversation is what they needed to do in the immediate, either to utilize the authority granted currently by the state code or just not review it. He noted that with either option the second part was whether they wanted to work on regulations within the EC district, and that was a separate question.

Mr. Keller responded that it was and it wasn't.

Mr. Fritz noted that he believed that it was either way because if these are made by right, the County would not be issuing them a permit, and they were not a base station and were not subject to colocation. He stated that if the County regulated them and issued the permit, then it would become a base station – but if there were approvals that limit the design such that those conditions constituted a concealment element, that would restrict further colocation. He said until the County develops those regulations, they were base stations that could be collocated on without restriction.

Ms. Spain asked if that were true even in the Entrance Corridor.

Mr. Fritz replied that it would pertain to the Entrance Corridor, noting that the recommendations didn't require a permit for these. He said the advantage of that is that if the County can develop regulations in the EC District in the future and those regulations can qualify as concealment elements, the County could then come back and amend its ordinance.

Ms. Riley asked Mr Fritz if he could describe what he meant by "if they were considered concealment," and why they would not be.

Mr. Fritz replied that the industry has stated with absolute opposition that the types of things that the County has done in the past qualified as concealment elements – such as fake trees or concealment within fake chimneys and other things that make apparatus look like something else. He stated that they believe that is what a concealment element is so there is opposition there, but the County did not believe that, and instead believed that mounting standards and size limits could qualify as concealment elements that would prevent or minimize colocations that were not consistent with the Entrance Corridor district.

Mr. Keller invited public comment. Hearing none, the public hearing was closed and the matter before the Planning Commission. Mr. Keller asked if staff wanted the Commission to make recommendations.

Mr. Fritz replied that staff would like to know what to bring back to the Commission because the State Code provisions have already taken effect and we just have not had any applications and

would like to move forward on getting something in our ordinance because we are not consistent with the State Code right now. He said staff would like to come in compliance with the State Code one way or the other.

Mr. Keller asked if staff has a proposal for the Commission.

Mr. Fritz replied that staff's proposal would be to bring back to the Commission a zoning text amendment based on what he had heard them say so far. He said they would bring back a zoning text amendment that would make small cell facilities a by-right use in every zoning district, subject to and complying with the provisions in the State Code, and that they be removed within a reasonable period of time. He noted that the County would define a reasonable period of time if they are no longer up and being used. Mr. Fritz stated that the Commission could also move forward with Entrance Corridor regulations that might qualify as concealment elements.

Mr. Keller said this would also give them an opportunity to explore historic district regulations.

Mr. Fritz replied that it would.

Mr. Dotson asked what would be the consequences if, since it is not in the work plan, it took then three years to get it in the work plan – and what would happen in the interim.

Mr. Fritz replied that someone could come in and construct a small cell facility within the Entrance Corridor that was 6 cubic feet with a 28-cubic-foot base station on an existing structure.

Mr. Dotson said so doing nothing sounds like the same thing as making it by right, because no one had gotten around yet to defining Entrance Corridor standards.

Mr. Fritz responded that it would create a bit of a problem for us if somebody came in and applied for five sites on one application, because the current ordinance did not permit that. He said they would have to get something from the County Attorney's Office in terms of how to ignore the existing ordinance because it stipulates submitting one per application – it is a Tier I; it gets reviewed this way; it is $113 and this is what must be considered – so they would have to shoehorn a review into the existing ordinance. He pointed out that they could do it, but it would not be a particularly clean way of doing it.

Mr. Keller asked if he could put the resolution of intent up on the screen.

Mr. Fritz replied that he did not have a slide; but pointed out the resolution of intent was adopted by the Board of Supervisors, and at the time he wrote the report it had not been yet adopted by the Board of Supervisors. He noted the Board had adopted the resolution of intent, which is why he had a zoning text amendment number.

Ms. Riley asked what timeframe they had to comply with the statute.

Mr. Fritz replied that the County was not in compliance right now and it would need to be done before the first application is made. He said he did not know when it would happen or if it ever would.

Mr. Blair pointed out that just like other provisions in the State Code, this took effect July 1, 2017.

Mr. Keller asked if anyone had wording just to make sure everyone was on the same page.

Mr. Dotson asked to go a little further on the Entrance Corridor idea, stating that it does not seem that complicated to adopt some standards that said if it was on a red building it needs to be red, if it was on a yellow building it needs to be yellow – and maybe nothing much more complicated than that.

Mr. Fritz said that it may not be, but the focus right now is to just get something in compliance with the State Code. Mr. Fritz said that is part of the reason for the recommendations he gave the Commission was that they could come back and develop those recommendations and then do a text amendment too. He said that would not be hard if they had the guidelines done already.

Mr. Dotson pointed out the fear he had was whether they would ever get back to it, and there was pressure on them now because they were out of compliance with the state.

Mr. Fritz said if the guidance the Commission wanted to provide to staff was to move forward with a mixed review process whereby they could potentially be by right in every zoning district but be subject to the Entrance Corridor overlay district, which could be done. He said they could work with the ARB to develop those standards, and might have to work with the Board also.

Mr. Dotson responded that it also sounded like it was necessary to change the procedures on fees and a number of applications, and that would not be true if it was by right because there would not be an application.

Mr. Fritz agreed, but said there would be within the EC District. He said that it was just text and was not that complicated to do.

Mr. Dotson said his leaning was towards by right except in the EC district, and the simplest possible, least time-consuming review.

Commissioners Riley, More, Firehock, Keller, Spain and Lafferty all agreed with Mr. Dotson's recommendation.

Mr. Fritz stated that staff would work with the ARB to see what they could come up with, and then also work with the County Attorney's Office to see whether or not what they've developed is defensible in terms of being a concealment element.

Mr. Keller thanked staff.

Committee Reports

Mr. Keller invited committee reports.

Ms. Spain reported that the Places 29 CAC discussed the NIFI distribution and chose to make their first priority improvements at the Baker Butler Elementary School to improve the ballfields, add a running track, and improve connectivity with Forest Lakes. She said those are the ideas that the Boy Scouts had come up with, which she mentioned last time. Ms. Spain noted that

they had also wanted a pool at the school, but that was a bit out of bounds in terms of budget. She said they found that those improvements could be done within the $250,000 budget, and Supervisor Dill wrote to the scouts to tell them that the CAC had adopted their idea and that it would probably move forward.

Ms. Spain reported Pantops CAC has also met to discuss the NIFI priorities and decided on compatible priorities – greenway improvements, access to the river, and walkability at Pantops. She said that she and Mr. Dill had met with a representative of Great Eastern Management, who runs the Food Lion Shopping Center on Pantops, and he pointed out some possibilities and parcels near the shopping center that might be developable if there were either public interest and money to buy the land or a public/private partnership. She stated that these were two parcels she had not been aware of and were hoping that they might be able to pursue that with increasing commercial, recreational and residential access to the Rivanna.

There being no further committee reports, the meeting moved to the next item.

Old Business

Mr. Gast-Bray announced that a week from tonight would be a joint meeting of the Board of Supervisors for a work session following up on the results of the second charrette for Phase 2 Rio 29 work. He stated that there was a series of explanations of findings and things that came out of that session and he would loved to have said they have the perfect thing that was already 100 percent done, but they did not. Mr. Gast-Bray said that of the key things he thought the Commission would find very interesting was that there were many lessons from each individual piece discussed.

Mr. Gast-Bray reported that there was an August 22 meeting, but no meeting scheduled for August 29; in September, there would be no meeting scheduled for the 12th, but there was nothing scheduled for September 19.

Mr. Gast-Bray stated that stream buffer review would be coming to the Commission in the fall, as well as the Biodiversity Action Plan, which was being reviewed by the Natural Heritage Committee.

Ms. Firehock noted that the September 5th meeting was the day after the Labor Day holiday, and typically the Commission did not convene when there was a holiday the previous day because staff did not have the opportunity to get comments or prepare any last-minute items.

Mr. Blair noted that the Commission would need a motion to amend their calendar.

Mr. Dotson moved, Mr. Lafferty seconded to amend the 2017 Planning Commission public meeting schedule, changing the November 7 meeting to October 31.

The motion carried by a vote of 7:0.

New Business

Mr. Keller invited new business.

Director of Community Development Mark Graham said that as the County's representative on the Hydraulic Advisory Panel, he would provide an update to the Planning Commission on some

things coming forward. He reported that the panel would have a meeting on August 16 at 6 p.m. at the Holiday Inn near Hydraulic, to display a concept that they were planning to refine and get to the Board and Planning Commission in late September or early October. Mr. Graham said that concept for public input would be reviewed by the advisory panel on Thursday, August 24 at 2 p.m. the UVA Transportation Center. He stated that the planning commissions of both the City and the County were invited to attend, and he would send this out in an email. He noted that it was not a required event, but the panel was trying to provide this opportunity for the planning commission. He stated that this would give an advanced look at the concepts on Rio 29, in an effort to give the planning commissions an advanced opportunity to look at the work coming forward with Hydraulic and 29.

Mr. Keller asked if there were any questions for Mr. Graham. He asked if there was anything new on the public-private partnership and where all of that is going on the greater 29 north.

Mr. Graham replied that there was nothing at the moment to share.

Adjournment

There being no further new business, Mr. Keller asked for a motion to adjourn.

MOTION: Ms. Firehock moved for adjournment to August 15, 2017 at 6:00 p.m. in Room 241 of the County Office Building for a joint work session with the Board of Supervisors. Mr. Lafferty seconded the motion, which passed by a vote of 7:0.

With no further items, the meeting adjourned at 8:24 p.m. to the August 15, 2017 Planning Commission meeting at 6:00 p.m., Room 241, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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Andrew Gast-Bray, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)

Approved by Planning Commission
Date: 10-10-2017
Initials: sct