Albemarle County Planning Commission
June 26, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, June 26, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair, Julian Bivins, Jennie More, Karen Firehock, Bruce Dotson and Bill Palmer, UVA representative. Absent was Daphne Spain and Pam Riley, Vice-Chair.

Other officials present were Chris Perez, Senior Planner; Cameron Langille, Planner; Bill Fritz, Manager of Special Projects; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Sharon Taylor, Clerk to Planning Commission 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.

The meeting moved to the next agenda item.

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. Hearing none, Mr. Keller said the meeting would move to the next item.

Consent Agenda

SUB-2018-00066 St. Francis Avenue Subdivision – Road Plans
Request for private street approval in accordance with 14-232(A) and 14-234 of the Subdivision Ordinance (Cameron Langille)

Mr. Keller asked if anyone wants to pull the item from the consent agenda for discussion. Hearing none, he asked for a motion for acceptance.

Mr. Dotson moved, Ms. More seconded for acceptance of the consent agenda.

The motion was approved by a vote of 5:0 (Riley, Spain absent).

The Planning Commission approved **SUB201800066 St. Francis Avenue Subdivision – Road Plans**
From Section 14-232 and 14-434 - Authorization of two Private Streets within the Rural Areas with the following conditions:

a. The private street shall be bonded prior to final plat approval.
b. A private street maintenance agreement shall be recorded with the final plat.

Public Hearing Items.

SP-2017-00026 Western Albemarle High School - Tier III Personal Wireless Service Facility
MAGISTERIAL DISTRICT: White Hall
TAX MAP/PARCEL: 056000000017C0
LOCATION: Western Albemarle High School located at 5941 Rockfish Gap Turnpike, Crozet, VA 22932
PROPOSAL: Construction of a one hundred and forty five (145) foot tall steel monopole with three (3) antenna arrays. A special exception has been requested to allow the disturbance of critical slopes onsite and a special exception to the flush mount provisions of the ordinance to allow the closest point of the back of the antenna to project more than the permitted 12 inches from the monopole. However, all arrays will still comply with the 18-

inch maximum standoff distance for the farthest point of the back of the antenna. The tower is located behind the bleachers adjacent to the football field on the eastern side of the parcel.
PETITION: Section 10.2.2(48) of the zoning ordinance, which allows for Tier III personal wireless service facilities in the RA, Rural Areas district.
ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
OVERLAY DISTRICT: EC- Entrance Corridor
PROFFERS: No
COMPREHENSIVE PLAN: Rural Area 3 - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
(Chris Perez)

Mr. Perez reviewed the staff report for SP-2017-00026 Western Albemarle High School – Tier III Personal Wireless Service Facility in a PowerPoint presentation. This proposal is to install a 145-foot tall steel monopole, three flush mounted antenna arrays and associated ground-equipment on school property. Within the last few days the county has received 58 emails from the community and prior to that during the community meetings three adjacent neighbors made comments to me. He said 18 citizens were in favor of the facility and 43 citizens opposed to the facility and if we subtract those who were mentioning health effects as a primary reason for their opposition, 37 citizens remained opposed to the facility. Additionally, staff recently received a signed resolution from the Crozet Community Advisory Committee (CCAC) against the proposed facility.

Mr. Perez pointed out the site on Western Albemarle High School property tax map/parcel 56-17C, a 75 acre rural area zoned parcel in the Entrance Corridor. To the north of the facility is the Old Trail development, a high-density mixed-use residential development Neighborhood Model District. Also, to the north is Henley Middle School and Brownsville Elementary School (both properties are zoned R-1). The rest of the surrounding land near the school is Rural Area small lot residential development. The actual tower is located behind the bleachers adjacent to the football field on the eastern side of the parcel. The next slide shows the location of the tower on the property and the facility will be a 145' tower with a fall zone that comes right to the property line at the northern section, and they need to setback there and all the way around. The applicant is proposing a 200' tree preservation area just on the outside of that on the north and along the south. In order to also screen they are providing six evergreen trees along the southern border and an additional 200' tree preservation area of land on their parcel as well.

The next slide shows the profile of the tower along with the 3 arrays at the top of the tower at 145'. The facility is going to be dedicated to Western Albemarle High School to serve students of the school district. The array below that is going to be to Shantel and the array at the lowest point is unassigned at this point but they have had numerous interests from AT&T, Verizon and other carriers. As part of the request, the applicant seeks three special exceptions: 1) to allow antenna size to exceed the 1,400 square inch size limit, 2) For the flush mount provision of the ordinance to permit the closest point of the back of the antenna to exceed 12" standoff distance while maintaining the 18" standoff distance maximum. Staff is in favor of that second special exception because it does not increase visibility of the tower; however, staff is opposed to the first special exception for size.

Mr. Perez said how we got to the measurements were the Antenna Rad Center is 1,375 square inches and directly below that are 3 remote radio heads which combine to be 988 square inches for a total size of 2,388 square inches. He said for the purposes of measuring antenna size the RRHs are counted towards the antenna size as they are needed for the antenna to function and staff has been doing that continuously. He said it was logical to use this as one array because it all serves one provider. If the applicant did not get this special exception requested, they would have had to request a special exception to the number of arrays in that we would have counted the antenna rad center as an array and then each one of the radio heads as a different one.

Mr. Perez said the third special exception is for critical slope disturbance on site for the entrance road they are disturbing 14 percent of the disturbed area or .04 acres critical slope. Staff had no objections to this because those slopes were approved and fabricated on a site plan the county approved.

Mr. Perez said to get into the visibility of the site that a balloon test was conducted on Thursday, December 7, 2017 and a couple of views that were the most prominent are shown in the slide.

Mitigated View
View A - Entrance of Old Trail subdivision
View A1 - Along the frontage of the WAHS property/TMP 56-17C
Both of those views are mitigated through additional plantings that the applicant is proposing on this site to screen from the Entrance Corridor and the ARB thought that those would be sufficient for that view.

Unmitigated View
The unmitigated views continue as you go around the View B, B1, C, D, E and F.

- View B & View B1 - from Rte. 250 (the EC) fronting TMP 56-17F (5861 Rockfish Gap Turnpike).
- View C - from TMP 56-17G1 (5805 Rockfish Gap Turnpike).
- View D - from Savannah Court, from TMP 56-16E (479 Savannah Court).
- View E and F - from Emerald Court, from TMP 56-19F (5860 Emerald Lane).

Mr. Perez said that he would go through the slides of each view so you will see the visibility from each of the unmitigated views for B, B1, C, D, E and F. View B1 is taken from the driveway of 5861 Rockfish Gap Turnpike and you can see it is pretty skylit and tall above the home. He noted staff was unable to get a picture from View C; however, the actual citizen came to the community meeting and commented that it was highly visible so it was included even though he was unable to get a picture from their house. Regarding View D - from Savannah Court, from TMP 56-16E (479 Savannah Court) he noted from where he was taking the picture he was on the public road and so this is the kind of view we would want from the public road for it to be within the trees and to be screened. However, once you get on a person's property all those trees in the foreground are lost, what you have is a large tower behind their home, and so this was an unmitigated view from the property. He said View E - from Emerald Court, from TMP 56-19F (5860 Emerald Lane) we did not get a picture diagram of it, but it is visible on the left hand side. He said next one is a real predominant one from View F - Emerald Court, TMP 56-19F (5860 Emerald Lane).

Mr. Perez said next is the view shed/heat map developed by the County which utilizes the height of the tower, the county's data on topography and tree heights\canopy, and this is designed to do as shown in red you are going see if you are standing on that location to conservatively estimate where the tower will be visible. Based on the balloon test staff has high confidence in the accuracy of this map. Once we zoom in at one-third of a mile, we can start to subtract out distance as a mitigating factor. This was observed in the field at the balloon test all along the roads; however, you also see on citizen's properties there is a lot of red that is where it would be visible from. Staff does not have photographs from all of these locations, as many of these locations are in the middle of private properties, and he found there would be about 12 additional properties that would have a view of this facility.

Mr. Perez said with regards to the summary recommendations:

Factors favorable to this request include:

1. The applicant has proposed evergreen landscaping as suggested by the ARB, which will help minimize visibility from the EC/Scenic Byway.
2. Increase wireless coverage in the area allowing people to make emergency calls.

Factors unfavorable to this request include:

1. The proposal fails to meet section 5.1.40(b)(6) of the ordinance because the location and height of the monopole does not provide adequate opportunities for screening and the facility is not sufficiently sited to minimize its visibility from adjacent parcels.
2. The proposal fails to meet section 5.1.40(b)(2)(b) of the ordinance because the size of the Shentel antenna is larger than 1,400 square inches. This increases the bulk atop the tower, which increases visibility of a highly visible tower. (Note: Staff is not recommending approval.)

3. ARB does not support or recommend approval of the facility for reasons cited in the staff report.
4. Under FCC regulations if approved the monopole would be permitted to increase in height by 20 feet and install antenna extending up to 20 feet from the monopole, which would further increase the visibility of the facility.
5. The facility is inconsistent with the Comprehensive Plan, which is the Wireless Policy. (The County's Wireless Policy is designed to provide numerous smaller facilities that are less visible just above the tree line. However, this facility does the exact opposite and goes very tall above the tree line to provide three carriers and so for that reason it does not meet county requirements.

RECOMMENDATION: Staff recommends denial of SP201700026 and the SE to Section 5.1.40(b)(2)(b) (size) based on the unfavorable factors noted above. *Staff has no objections to the approval of the special exceptions* for Sections 5.1.40(b)(2)(c) (antenna projection), and Section 4.2.5 (disturbance of critical slopes).

If the PC recommends approval of this application, staff recommends the following conditions:

CONDITIONS OF APPROVAL:

1. The development of the site, and any modifications to the arrays, shall be in general accord with the plan titled *"Milestone Communications – Shentel at Western Albemarle High School 5921 Rockfish Gap Turnpike Crozet, VA 22932"* dated 6/06/18 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, including but not limited to all concealment elements, concealment technique, and concealment elements of the eligible support structure, as shown and described on the Conceptual Plan and mentioned below:

    a. Tower height (125 feet tall) **(Note: That could put a ceiling on the 20' additional height that the applicant could request administratively giving it the height of 145' which is the height that they have requested.)**
    b. Color (equipment and monopole – Sherwin Williams – Java Brown)
    c. Flush mounting of antenna (18-inch maximum standoff distance) **(Note: That would prevent the additional 20' standoff distance as permitted administratively under the FCC Regulations.)**
    d. Tree preservation areas
    e. Location of ground equipment

    Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Albemarle County Zoning Ordinance.

2. The facility shall comply with subsection 5.1.40(b), 5.1.40(c), 5.1.40(d), 5.1.40(e), and 5.1.40(f) – (j) of the Albemarle County Zoning Ordinance unless modified by the board of supervisors during special use permit review.

3. Prior to the issuance of a building permit a VSMP permit will be required.

4. The VSMP plan shall depict both County provided topography from the County GIS and the field run topography used for the concept plan. Each shall be labeled appropriately.

5. Prior to the issuance of a building permit the applicant shall submit revised landscape plans depicting a slightly modified location of the row of Eastern Red Cedars being planted along the frontage of the WAHS property in order to avoid interfering with the overhead lines. ARB staff shall review and approve this modification.

Mr. Perez said the last slides had the motions and that was the end of the presentation.

Mr. Keller invited questions for staff.

Mr. Dotson said in the staff report it indicates that 79 trees are to be removed and could you indicate whether those trees would have had any screening value.

Mr. Perez replied that he did not prepare a slide for that location but the site plan shows the exact location where they are with regards to sheets Z10 and Z11 and when he analyzed the height of them, they would not really have much screening potential for the tower being it is so tall.

Mr. Dotson said that the recommendation here is for brown and if the ARB recommended the color brown or a gray.

Mr. Perez replied that the ARB actually recommended the color silver; however, staff did not agree with that. He said based on the larger picture after you get out of the EC and into Old Trail and some of the adjacent neighbors that having this blend into the trees in the area was more advantageous then keeping it silver like the ARB had suggested.

Ms. More said in your report you talk about the dramatic impacts to specific properties and views from certain roadways but when you are approaching the school clearly, the tower is highly visible and so from a community perspective when we talk about visibility we need to consider all of the students, parents and staff that use the school. She said the school is used to host sporting events so we have a large part of our community and people who come from outside of our community who will be on the ground where the tower is clearly highly visible. She said staff was showing that on the map clearly it is very visible from the school grounds.

Mr. Perez said that he did not mention that in the staff report but it is a good point.

Ms. More said there are a lot of community uses on that property that your property shows but wanted to make that point.

Ms. Firehock said that she saw in the staff report that 79 trees would be removed for the construction of the tower and then she knows some trees will be added for screening but she did not know the number to be planted for screening to subtract from 79 to see the net disturbance.

Mr. Perez replied that he did not but could tell you how many trees there are going to be. He said there are 22 trees along the front of the property along 250.

Mr. Fritz noted that staff could see if we can come up with that while you are taking the other comments.

Mr. Keller opened the public hearing and invited the applicant to come forward to address the Commission and then for the members of the public Ms. Firehock will run that portion of the meeting.

Lori Schweller, attorney for Milestone Communications, said we are here to request your recommendation of approval for a special use permit and special exceptions as Mr. Perez has highlighted. She said the reason that we are requesting a Tier III Personal Wireless Service Facility is because this application will be taller than a Tier II which needs to be 10' taller than the tree line. Otherwise, we have flush mounted antennas painted brown so that it appears very much like a treetop antenna otherwise. She said Milestone Communications is a northern Virginia based company that partners with schools and local governments to build wireless facilities on public property. These facilities provide free service for the schools or our local government while giving room for commercial carriers and other fees are then given to the leasor that in this case is the Albemarle County Schools.

Ms. Schweller said the site would be located just north of the track behind the bleachers at Western Albemarle High School and it is approximately 1,270' to US Route 250. In a PowerPoint presentation Ms. Schweller pointed out this is showing you where the road would be, the gravel pathway to lead to the site and the access easement along the tree line behind the bleachers and this is looking right at the area where the site would be located. She pointed out you can see that most of these trees are very small trees, the ones that would be removed. Ms. Schweller said that in the elevation of the site you can see the entire driver for this height is what the Albemarle County Schools need to provide service to students in the western part of the county. She said the top antenna array is at 140', Shentel would be located at 130', the third carrier at 120' and we have interest from a couple of commercial carriers already.

Ms. Schweller said this project is proposed with flush mounted antennas so the schools, Shentel and any future carrier would be required to stick to an 18" standoff. She said the next slide is a schematic of what the schools would need, schematics of what Shentel is proposing and we are requesting a special exception because this does not strictly meet the ordinance requirements that are 12" at the closest point from the face of the monopole to the back of the antenna with 18" maximum. She said we are also requesting a special exception for antenna size though the antenna for Shentel is actually within the ordinance parameters of 1,375 square inches. She said the reason for that is when you add the square inch size at the face of the three remote radio heads to the face of the antennas that exceeds 1,400 square inches and we object to that interpretation since the ordinance provides for the size of each antenna and a remote radio head is not an antenna but we did apply for the special exception with that objection noted.

Ms. Schweller noted this photograph is of an existing Shentel site and this is exactly the same configuration that Shentel is proposing for this project but it would be both the pole and all of the equipment that you see there would be painted matte brown. She said Shentel has obviously existing coverage out in the western part of the county that is shown in green on the computer modeling maps and the little pinwheels show existing Shentel sites. However, where that arrow is pointing shows a significant area that needs better coverage that space between I-64 and 250. She said if the proposed site were built and Shentel were located at the 130' height they would be able to provide coverage in this area and with existing coverage you can see how that fills in the gap.

Ms. Schweller said we did notify all properties within a ½ mile radius of the proposed site based on staff's recommendation and we notified them of the two community meetings at the regular Crozet Community Advisory Council meetings. She said we had a couple balloon tests the second of which was a public balloon test. She said we received a number of supportive emails from the community specifically regarding better service for students who were trying to do their homework using the school's closed network.

Ms. Schweller said so the results of the balloon tests she was showing you again the county's map that shows where the proposed site might be located. She said this entire 75-acre parcel here belongs to the schools and is where Western High School is located and yes, you will be able to see the monopole from our leasor's site. She said it peaks above the trees based on our balloon tests visibility will be completely obfuscated by the 22 Eastern Cedars that would be planted. There is only one other location on the entire stretch of Route 250 where the balloon can be seen and it is right here immediately across from Brownsville Elementary. She pointed out this is the site where Mr. Perez pointed out the visibility would be completely screened by the proposed Eastern Cedars that would be planted along the front of the school. The Architectural Review Board was satisfied that did make this be not an issue once those trees were planted and there is a schematic of the location of those trees there. She said the other location where the site would be seen from the Entrance Corridor and the comments from the Architectural Review Board were that based on existing conditions when people are traveling along this road they would only see the site fleeting. She said their actual comments were that they were not concerned about this view but taking advice from the planner they did say that if conditions changed and trees between the site and the Entrance Corridor were cut then it is possible that the site visibility may not be minimized.

Ms. Schweller said she would like to show the current topography of the property between the site and Route 250; the location of the site; the Hollis property; and that steep slopes with a pond in the middle of the property that largely covers the property. As you know, the county has a 100' mandatory pond buffer so it is not likely under

current County Code that trees could be cut on a good portion of the Hollis property and certainly enough to retain a sufficient screening for this site from these properties to the north and Route 250. She said the applicant is proposing a 200' tree preservation buffer here with additional trees planted. She said this is the view from 479 Savannah Court, the Jackson's property and they did express their opposition to the site at the community meeting and so she wanted to be sure to show you this photo. She said because it would be seen through the trees we agreed with staff that the brown color was probably best from this point of view. She noted these are the photos that the Jackson's provided so you can see the balloon in each one of those photos and see that even without leaves on the trees we are talking about a situation where you are seeing the site through the trees. She said this is where the site can be seen the most visibly from Emerald Lane and we did speak to the gentleman who owns this property during the balloon test and he had no objection. She said just to give you a little more context you can see how close he is to the back of the football field, here is one set of lights here and one set of lights here and the balloon would be right in the center.

Ms. Schweller said that in summary the applicant strongly believes that this application does meet the requirements of the Zoning Ordinance, is consistent with the Comprehensive Plan and would most certainly improve public health, safety and general welfare and she would like to remind you of the financial benefit of the lease to the schools but won't belabor the point. She said what is most important is the benefit to the schoolchildren that this site would provide and for that she would like for the schools themselves to represent that information. Ms. Schweller thanked the Commission and offered to take questions during the rebuttal period.

Mr. Keller invited questions for the applicant. Hearing none, he asked Ms. Firehock to handle the public comment.

Ms. Firehock explained the public comment process and invited the first person signed up to come forward to speak.

Ira Socol, Chief Technology and Innovation Officer for the Albemarle County Public Schools, said in this brief explanation and he handed you a much longer presentation but the county planning staff has one set of concerns that they are responsible for and that is aesthetics. He said the schools have a different set of responsibilities and our first responsibility is to make sure that all of our children are connected so that they have an equal opportunity to get the education and get themselves on a path through life. There is no doubt that connected students do better and one of the things we have discovered is sort of a disturbing correlation between having broadband access and getting into our academies or even being labelled as gifted students. He said that is correlation not causation, but it is one of the things that is a significant concern to us because we know that students who do not have access to the broadband to do homework, to investigate their interest deeply when they are at home are at a substantial disadvantage compared to those who do. The other thing that we have to worry about is the health and safety of our students and our families. We know that there are vast areas of the western part of the county where stellular signals just do not exist. We know that because our bus drivers cannot communicate, our bus supervisors cannot communicate and he can sit in the Harris Teeter parking lot on 250 with two different cell phones in my pocket and not be able to make the call. In fact, we had to run fiber out to our softball field behind Henley Middle School simply because there was concern that no one could call for help if something happened during a game. So for us, our students, the future of our community, for the ability of our police officers to always communicate on a publicly controlled network and not commercial carriers we urge you to look at this proposal all favorably. We have already chosen because of staff reports a change in design, which will cost the schools more money and will lessen our financial return so we think that we have met the community at the best point but we need this tower and to be at 145'. Thank you.

Dan Meenah, resident of Albemarle County, said he resides at 9055 Critzer Shop Road in Afton and he is also a Vice-President at Shentel, a wireless company based in the Shenandoah Valley. He said if this proposal were to be approved my company would then become a tenant on this proposed monopole. He said my family has lived in the Crozet area for the past 23 years and all three of our children went to Brownsville, Henley and Western. In fact, my two younger children still attend those schools and over many years they had been active volunteers in the Crozet community with athletics coaching and the PTO most recently serving as co-chair of the successful Brownsville B Afterschool Enrichment Program that offers 120 classes to over 400 children annually. When this

opportunity was first brought to my attention he was initially concerned given the county's preference for treetop towers; however, my position changed when he better understood the benefits for our students, schools and for the community. Specifically underserved children will now have access to the internet; our schools will have more funding to help them close the funding gap and our community will get much needed communication services enhanced at our 3 local schools. He said think about all the community events that occur at these three schools such as graduation ceremonies, athletic events and parents trying to coordinate their lives with their children and God forbid emergencies. He said these are important community gathering locations that do not have reliable communications today. He said we could all agree that kids growing up in households that do not have access to broadband internet are not on a level playing field with their classmates that do have such access. While he appreciate and applaud the county's efforts to expand fiber through the remote regions of this county the fact is fiber will not get to every home and our kids can't wait 5 to 7 years for fiber to get there. He said the wireless that immediately bridges the broadband gap for the underserved in our county and this facility would make a very different in the children's lives. As an example, there is not cable or DSL where he lives in my part of the county and thankfully my family and neighbors can rely upon a tower just across the county line in Nelson County that provides us with wireless broadband; it is reliable and it makes our lives tolerable. We have no complaints, are all able to get our homework done and still feel very much connected. From a siting perspective, this is a large parcel of land with sufficient tree buffering already impacted by large light poles. He said in my opinion the costs are minimal compared to the community benefits.

Doug Barrese, property owner in Albemarle County, said that he had two students that will be at Western next year and does not understand what a monopole is or square inches on arrays and he was going to simplify this for you. He said one of the yellow dots on the west side of that map represents my home that would receive service should this tower be erected. He said the way we have to approach homework in our home because we do not have access to reliable broadband in our home, and it is not for lack of the desire to purchase that service every 6 months he contacts Comcast and always get the same reply service not available in your area. He said we are just outside a central link service area that will never expand into my home. He said every 6 months he researched the available wireless carriers and there is only one that serves my home and at this time, he gets between one and ½ Megs per second, which is not considered broadband. He said my kids for the last 3 years have enrolled in the summer PE at Western so that they can have a study hall when they attend school in the following year so that they have time at school to do homework using the WIFI within the schools. He said both of his kids go to school at 8 a.m. every morning in order to have access to WIFI to do their homework. As a junior this year my son spent over 20 hours at the Crozet library to use reliable WIFI to be able to prepare for his exams. It is an everyday consideration in our lives and it is for many of the 400 yellow dots on that map that do not have access, cannot purchase access and seek access to high-speed internet. He said there is a lot to consider here but should you approve this tower it would greatly enhance the lives of both my children, other children at Western and of my entire family.

Thomas Jackson, student at Western Albemarle, said View D mentioned in the PowerPoint is my yellow house and the construction of this tower really poses a significant aesthetic threat to our property since you can see it is going to be right above the tree line. He said as a duty of your committee this should be the first and foremost thing that you should consider that this does pose a visual impact negatively on surrounding properties, and my property is the second most adjacent after the Hollis'.

Loretta Dubova, lifelong resident of western Albemarle County, said she went to Murray Elementary, Henley Middle School and Western Albemarle High School and lives in Highlands in Crozet, has a 3½-year-old son and came to voice opposition to the tower. She said there are issues that are hard to understand like access to wireless, but did not think anybody in our area is opposed to that, but wanted to talk a little bit about how she feels as a parent and the impact it will have on the daily life of a student or a parent of a student. She said having graduated on that field; running track at Western Albemarle; that area is very special to me and she is imaging running around the track and seeing the beautiful mountain views; it is an incredibly beautiful spot and she could not imagine how impactful this tower is going to be. She said another concern is the impact on the community's access to the trail system behind the bleachers; where they are going to put the tower is a cross-country trail and

this would eliminate that ability to use that area. She said the tower would negatively impact our use and enjoyment of that area and for the students their ability to enjoy the track and cross-country trails going forward.

Allie Pesch, Chair of the Crozet CAC, said that she wanted to summarize the resolution that we passed in March after the two community meetings with Milestone and the public schools. She said our resolution says that we do not support the special use permit and have five reasons the first is concern that approving this tower does not comply with the ordinance and it would set a precedent for more towers and overall negatively impact the visual landscape. The second is the visual impact of the tower. The third is a desire for exploration of alternative site even at the school that would not be right on the football field where all the community events happen and concern over potential lack of benefit. This map did not convince us, the data is unclear how many students would really benefit, and how many students would require these devices and what that obstacle would mean for actual benefits. The arguments about emergency response were unconvincing because we have a representative from the Fire Department and Rescue Square who both said they did not see any reason that would be necessary and there is already the Buck's Elbow ECC tower that was just approved. The last reason we had was citizen's concerns about health effects. She asked to emphasize the resolution since it was not included in the packets but we did approve it back in March.

Amanda Alger said she was a mother of three kids and next year she will have one at Brownsville, Henley and Western and did not want to repeat but agreed with the last two speakers. She said we moved here for these schools and my husband works remotely. She said the staff report says that it does not meet the ordinances, it is inconsistent with the Comprehensive Plan and we hope that you will uphold that. Thank you very much.

Atiaono Bird said that she had two kids in the school system and moved down to Crozet from DC when my husband got a job that he can do from anywhere. She said that people are not going to want to live in Crozet for the schools if they know their kids are going to be Guinea pigs if we need a cell tower right next to our children when we don't know what the health effects are; however she was aware of the federal law that says you can't consider those health effects when you make decisions about this. She said we don't know what the long term effects are but that is a voluntary choice to have to send your kids that they have no control over their exposure to potentially dangerous effects and there have been all kinds of studies about powerlines and leukemia and we don't know these things and would rather be safe than sorry when it comes to our kids. She said access is very important and was not convinced that this is the way to get access to children and does not understand why school property is the target of this need for a new cell tower.

Kate Acuff, Chair of the Albemarle County School Board, said she understands that your job as is our job on the School Board often to weigh the benefits and burdens of any specific proposal. In this particular case, extending broadband high school internet service to our students is one of our highest priority. As Mr. Socol pointed out there is a deep divide in terms of access depending on where you live in the county but even more so between higher income and lower income students and then has a direct impact on our initiatives to promote equity across the school division. We have in the general area of Western Albemarle High School where the site is proposed about 2,500 students with close to 1,200 at Western Albemarle, 800 at Henley, 700 at Brownsville and she was not exactly sure about the reach and will have to ask Ira but about 400 students at Crozet Elementary School. We have in our policies at the school to provide 1 to 1 internet laptops for students from third grade all through high school and make expectations with that homework that they are going to be able to access the internet and those who cannot are at a distinct and consistent disadvantage to those who can. She said sometimes as one of the speakers noted there is no commercial availability but it is particularly burdensome for low-income students who cannot more easily drive to the Crozet Library. She said this is a significant piece of our equity initiative that we have been working on for several years and urges them to vote in favor. Thank you.

Valerie Long said she works with Shantel and represents them on their wireless approvals and so is here tonight on their behalf certainly in favor of this application and ask that you will support it. However, she is also here as a resident of the Crozet area and of a parent of students at the Western schools. She said obviously we are very interested in ensuring that there is emergency communication services for all of the types of community events that were mentioned that take place at all of those schools. She said half of my life is going back and forth to those

schools for various events and lived in Old Trail because of the convenient access to the schools. As a resident of Old Trail we are very fortunate that we have access to robust broadband and robust wireless service but she knows that a lot of my children's friends as have been mentioned here tonight do not have that benefit. We have had kids come over to our house to use our internet service and knows many of my kids friends are at the library. It is so unfortunate that in this day and age that we even have to struggle as hard as we are to provide the equity because she thinks all the students in our community deserve to have that access. She knows there are challenges and tradeoffs to obtain that service and to provide that level of equity but she would contend that it is very much worthwhile. With regard to concerns about having antennas near the students, Ms. Long said she would like to remind you that there is wireless antennas all over Crozet and some of you do not see because they are the treetop towers that are fortunate enough to be able to be hidden in the trees. She said that part of the challenge may be that some of them are so well hidden that a lot of people in the community don't know that they are there; they are all over Route 250 and Route 240 and she has worked on the zoning for many of them. There are all five-licensed wireless providers have their antennas attached to the building on top of the senior living facility in Downtown Crozet right across from the Square. Those antennas provide service to Downtown Crozet to the library to everybody that is enjoying all the businesses and benefits that we have in Downtown Crozet and she thinks other parts of the Crozet area deserves that coverage as well. There are also antennas attached to the water tanks at the Water Treatment Facility on Route 240 and those are just a few of the examples; there are many wireless antennas. Because of the treetop facility policy, literally, by definition, those are shorter, you need to have so many more of them, and then they have to be closer to our homes, schools and businesses in order to be effective.

Dara Bonham, President of Albemarle High School, said first of all he is very proud that when he comes to a meeting like this and he sees one of my students Thomas Jackson come and exercise his civic engagement opportunities and so applauds that when he sees my students come and be a part of this conversation. He said that he was not an expert in the aesthetic component but knows what that means to be the principal of the building in terms of the whole component of the aesthetics athletically and from the building itself but he does not live in the neighborhoods and does not know the impact as much as the folks here would nor the concerns over the safety piece. However, what he would say is what he does know because he has been there three years and has lived what it means to be connected to my phone and to realize that he cannot carry on a conversation essentially in my office with my school issued phone because of the lack of connectivity. He said that he was aware of that both when he lives the building and drive home when he is trying to connect and make phone calls; it is an inconvenience for me now but also knows that it is also the potential of what some of my students experience when they are outside the building in how they are having a need to connect. He noted that the workload of the students and what is anticipated and expected of them to be able to connect and the need to be having access to technology to do some of the work and he was very empathetic to a notice that some of them do not have that connectivity. Therefore, in my work he is always looking for solutions to figure out how do we, as the adults need the access to connect and how do our kids make sure that they have the same connectivity as all of our students in our school.

Mr. Jackson, Thomas Jackson's father, said he was also the owner the property where the wireless tower is literally in my back yard. He said we have investigated with realtors to try to understand the impact of this ugly being that is of modern technology in what effects it would have on our property value. Since we are speaking of equity he wanted to offer that the considered opinions of several realtors that we have consulted with is that, our property would suffer tremendous loss in value with this eyesore behind it. He asked that to be taken into consideration because he thinks it is an important element of our civic duty as landowners, as people who own property and as people who participate in the process that while we have spoken to the public good the effects that are visited upon the individuals cannot and should not be ignored. Mr. Jackson said he would offer this both for myself and for several of my neighbors who are unable to attend this meeting. He said that those of us on Savannah Court are organized and prepared to see this out through the end. He said we have not been able to provide you with expert legal counsel or glossy brochures but we will not accept this tower as configured as an eyesore in our neighborhood.

Ms. Firehock invited further public comment. Hearing none, she invited the applicant back for five minutes of rebuttal.

Mr. Blair said before the applicant speaks he would like to just remind the Commission that the Telecommunications Act and its prohibit on considering radio frequency emissions or interference that may cause a health effect that has in fact caused reversals of denials of special use permits within the Fourth Circuit of Virginia with the most recently a case T Mobile Northeast versus the Loudoun County Board of Supervisors; the Board in fact denied a request for a special exception but in its discussion it did talk about the health effects of the tower and in fact the Fourth Circuit reversed the Board of Supervisors denial and ordered the Board to in fact permit the construction of the tower. He said in this portion of the meeting with the applicant coming back up and your discussions among yourself at this point he would as your council urge you not to at all address health effects or anything even touching on that issue because it could put your decision either way in some legal jeopardy.

Mr. Keller invited Ms. Schweller to speak.

Lori Schweller said that she would like to respond to some of the questions and comments that came up from the community and we did have a question about the cross-country trails and looked into that so we could provide you with a very clear answer. She said what we are required to do on that access road is to pave the entrance and to put gravel on the rest of the access road to the site. She said that access road during the access portion it is synonymous with the trail at that portion but the site itself is setback 16' or 17' from the trail so there is no interference whatsoever with the cross-country trails at Western. We have confirmed that definitively; in fact there will be improved for that very short stretch with some gravel. She noted that was the response to that. Ms. Schweller said she also wanted to point out when we were talking about the Albemarle County High School site people were concerned about how that would look and we represented to you that it would look like one of the light poles that you see in the parking lot and the ballfield poles and to circle back on that there it is and there it does. She said people would be surprised how these things do blend in. My son does also run cross-country and track at Albemarle High School, we were standing on the field at one of his recent track meets, she said there is the wireless facility that we worked on, he said where since he had never noticed it before, and there it is. She said that people get used to seeing necessary infrastructure in the landscape and Albemarle High School is a very beautiful high school with beautiful mountain views. She said we had two community meetings with the Crozet Community Advisory Board but their resolution was passed in March and our application was significantly modified after that resolution and she was not saying that it would have changed the resolution but just wanted to point out that we conceded to a lot of concern after that. She said all of our antenna is flush-mounted whereas before they were full arrays like we did at Albemarle; the pole would be painted brown and we originally had five carriers and now only proposing three carriers and it is a big difference in what we were proposing. She said the one thing that we just cannot concede on because this is what the schools need is that 145' height and just wanted to make sure you understood that. She said also that is the reason for our deferral contrary to what she saw in the press that we were certainly not trying to circumvent public comment; we were trying to respond to public comment by making this application better to listen to the concerns of the community and of staff. Ms. Schweller said she would stop there unless you have questions.

Mr. Keller invited questions for the applicant.

Ms. More asked if the image she was showing of Albemarle High School as it currently appears today.

Ms. Schweller replied that is how it appeared when she took the picture and that does not have all of the arrays on it as you can see it is the monopole so that is not going to be the final product. However, as we pointed out these lights have a horizontal aspect as well so it does not change my comments but you are exactly right.

Ms. More said that she just wanted to be clear because she thinks people have attempted to view this to make reference in real life of what we might see and that is not what it will look like. She asked Ms. Schweller if she had an image of what it will look like but it does not have all of the arrays on it.

Ms. Schweller said she could put those images back up if you want to see those.

Ms. More said she just wanted to be clear to people because she was there a couple months ago and then realized that none of the arrays were on there at that time.

Ms. Schweller pointed out the arrays proposed for Albemarle High School looked like this in a cross-section.

Ms. More said she means an image that shows you in the context of the surrounding.

Ms. Schweller noted that you are looking for photo simulations of the Albemarle site and did not have those with me.

Ms. More said that she just wanted to be clear that pole does not have the arrays on it that it will.

Ms. Schweller replied that is correct.

Ms. More said she also wanted to make a comment about the CCAC resolution and you were there for a community meeting, had a deferral and made changes that were not substantial enough to require you to come back for another community meeting. She said the advice that the CCAC resolution was based on the ordinance and visibility finding that staff still found those same things to be of concern was still relevant since another community meeting was not triggered by the changes you made and so she just wanted to offer that explanation as to why that resolution is the same.

Ms. Schweller replied that was understood.

Mr. Bivins said he would like to have some discussion that the 145' height is a function of trying to replicate the spread that one might be able to get to those students who are underserved right now because they don't have access to fiber optics.

Ms. Schweller replied that is correct and Mr. Socol did not have time to show you his maps but the schools did create these propogation maps to give you some computer modeling imagery of what coverage at 145' would look like for the schools and the students in the western part of the county. She said they are showing you with that colored area the reach of their signal, and Mr. Socol went a step further to put yellow dots on his map for every street address where students of the schools are located, which is where we get that 400 number that we have put in our application. We are saying we have 400 students who currently do not have the closed county wireless service who would get it from this site.

Mr. Bivins said on the 400-student level is that 400 across the three schools since he was trying to get a sense on the shelf life of the 400 people so are we talking about in 2 years a third of them will be gone or there will be more. He said if the terrain is rough as such that you can't easily get fiber to these households and the only way to equip them to have the same kind of out of the box access to the information that the school system is pushing, why can't we do fiber. He said if you tell me you can't do fiber because it would cost this much and it will only cost this much, then he has a better understanding. He said if you tell me we only have 400 households and in 2 years it will be 200 households then he understands; however, if you tell me in 2 years we will have 800 households, then he knows it is larger. He said he was trying to get a sense of scale of the issue and an idea of whether if ever anything will serve those households.

Ms. Schweller replied that was a great question and that can probably be answered by the team of people behind me; however, the answer to your first question is we are talking about 400 Albemarle County school students and that number in my mind is only going to increase as our student body increases. She said speaking as a representative of wireless industry, not players, getting fiber to every one of those homes is never going to happen in my lifetime and that is my own personal opinion as someone who works in this industry. She said there are many people here that can speak to that with more detail but this site is needed to provide service to these

students as soon as possible and fiber will not do that as soon as possible, in fact, will not do that while they are still in school. However, if anybody would like to address that it would be helpful.

Mr. Keller said no, the Commission would talk to staff about it because we have a representative of the broadband community here. He invited further questions for the applicant. Hearing none, he closed the public hearing to bring the matter back for discussion and action.

Ms. More said she would like to ask Mr. Fritz to answer that question for the other commissioners but first she would like to point out that the map on the screen was shown at the Crozet CAC with the 400 addresses shown with dots and when a member asked if all these homes don't have access that the answer was the school did not actually ask the 400 addresses if they have or do not have access. Ms. More said some of the dots are in large well-established neighborhoods that are very new and wanted to be clear that this map is not showing you 400 dots that do not have access. She said we were not able to hear from the school how many of these students here currently do not have access and whether it is because of the lack of the ability to connect or a financial barrier. She pointed out unfortunately, there still would be students that would not be served and that the 400 dots do not all lack service.

Mr. Keller asked is there a representative from the school group that can speak to that question and limit it to the number of students.

Mr. Socol said as you pointed out we have about 2,500 students in the area and about 600 do not have internet service right now that is from our surveys, our speak up data and we do ask people continuously. He said the goal of this tower would be to reach 400 students, which is a rolling number since we have new students every year, new homes being built in remote places every year and students graduating every year. He said right now he thinks that is a pretty stable number that we can look towards going forward and we hope that it does not increase,

Ms. More said you are reaching for 400 that does not have access and that is what these dots are showing.

Mr. Socol replied yes, you are looking at part of the dots there and we are reaching about 400 who do not have access now out of about 600 in that feeder pattern that do not have access.

Ms. More said that is a different answer than you gave in the community meeting and it is hard for me to believe that looking at some of the neighborhoods that they do not have the ability to access the internet.

Mr. Socol said the answer that he gave you then was that 400 is not an exact number, we have different number of students year-by-year and day-by-day and there are Comcast cables crawling through some of the neighborhoods that will help things out. He said getting fiber to everybody that he would just add that the massive expensive of running fiber to everything outside say the City of Charlottesville and the City of Waynesboro, the two places that have it, and those are very compact cities.

Mr. Keller said that we actually have a representative from our Broadband Authority who has worked with them that can speak to that specifically. He asked do you have any more on Ms. More's question.

Mr. Socol replied no, he did not.

Mr. Keller thanked Mr. Socol and invited Mr. Fritz to speak.

Mr. Fritz said speaking as a member of the Broadband Authority that any information the schools may have on lack of service the Broadband Authority would be very interested in acquiring that since we are investigating some aggressive ways to identify where service is lacking. He said one thing we would point out is that the Electric Coop in this area have announced that they have a five-year build out plan to bring fiber to every home they pass by and they announced that a few months ago and that would serve portions of Crozet and some of these areas also. He

said the Broadband Authority also is attempting to work with service providers for federal and state grants that might be available to expand service as is currently going on particularly in the Greenwood area where that is going to be completed fairly soon. Mr. Fritz said he did not remember the number of pass bys it has, but that service is being upgraded in that area and there are some others. He said the Broadband Authority is actively trying to identify where to drive service and then to find funding sources for those services.

Mr. Keller thanked Mr. Fritz and invited further discussion.

Mr. Dotson said that he had a question partially perhaps of the Broadband Authority and partly of the school staff, but if fiber optic were available would the household have to pay for that and there might be economic issues. He asked if this tower were in if students currently not served be provided access free of charge since he just does not know how that works.

Mr. Fritz replied that is our understanding, but you would have to ask the schools how they are going to do that. He said one thing the Broadband Authority has also looked at is the potential of constructing towers itself where the Broadband Authority could potentially construct a tower and then make that vertical real estate available. Mr. Fritz said that was one of the things he was challenged with by being a member of the Broadband Authority and one of the authors of the Wireless Policy. He said a 140' tower has a larger coverage footprint than a 100' tower but it also has less than a 180' tower so our Wireless Policy has been to achieve the same coverage objection with multiple sites. He said there is that conflict that the Broadband Authority has also. He said wireless is seen as a go between from where we are now and potentially fiber in the future and may be a solution for some of the most difficult to reach places for the foreseeable future.

Mr. Dotson said the other question is for the school division and the question is how do students hook up to the tower such as at Albemarle High School and are they given some sort of special modem along with their modem and laptop at no cost to them or is there a cost from Shentel.

Mr. Socol replied that our system is designed to be entirely free to students and we provide free and appropriate education for every child, which is our goal. He said students get their laptop and depending on the range whether they are in the green or the blue area on the map, they get either a my fi device, a small device that takes the signal and then connects to their laptop, or the equivalent box with an antenna that goes out the window if they are in a more remote area further from the tower to then connect to their laptop. He said this would all be provided with their laptop to go home and as we try to expand our take home 1:1 throughout all the grades we know that this connection system is vital and so all of this will be provided free.

Mr. Dotson said so you would provide the laptop and modem and then the household would have to pay for a service plan.

Mr. Socol replied no, we broadcast on what is called the educational broadband spectrum that was provided by the federal government specifically to address these issues and we broadcast on that. He said everything we are doing is free to every student and we do not charge students in any way for access to the technology they need to do school work.

Mr. Dotson thanked Mr. Socol.

Ms. More said she supported the idea and did not want what she is going to say next to sound like she does not think that every student should have access, she absolutely does. She said unfortunately, there would still be students who still would not have access with what you are able to provide and she thinks all students are given tablets; it is a matter of their ability to connect at home. She said there are other technologies and Mr. Fritz spoke to that a little bit, and she would like the majority of our conversation be about our ordinance and not a perceived or real benefit to the school and the rest of my comments will focus on that. She said it is not because she is not sensitive to the need and did think and hope that there are other ways that we can address connectivity for our students that are lacking and even in a plan like this there will be students who live in remote areas where they will

not have access. She said the Commission is being put in a situation where we are asked to make a recommendation and we have two very opposing points of view both of which are very strong. She said in listening to the June 6 Board of Supervisors meeting and this was a 150' tower Tier III that had 5 arrays but she certainly is not going to compare one tower proposal to another because they all have huge differences, but they voted to deny this 6:0. Ms. More said the reason she is bringing this up is that one of the Supervisors spoke a lot about feeling that we are going to see more of these applications and we are going to be put in this position where we have to make these tough decisions. She said we have our county ordinance and the visibility in the things we are trying to protect and the need for technology to expand. She said this particular supervisor, Supervisor Randolph, spoke about our role in honoring our ordinance, Code and Comprehensive Plan and thinks that is this body's job. She said as hard as it is to put aside some of the things that she feels really strongly that if this were a private property owner, they were solely to benefit from this that would not even be part of our discussion, and it would simply be about the ordinance. Ms. More said that is my perspective and thinks we need to be very careful about making sure that we are looking at the things that she thinks we are supposed to be looking at and staff's report has outlined those in my opinion very well in the unfavorable factors.

Ms. Firehock said she would like to concur with Commissioner More and wanted to add that she is sympathetic to people who lack service; she had no cell service at house and pays a lot of money to get satellite internet because otherwise she would have no communication. She said one of the challenges for me is the fact that this does have adverse impacts to individual property owners around the site; it is not simply that you can see the tower from the Entrance Corridor on 250. She noted that she voted for the cell tower at the high school on Hydraulic Road specifically because in looking at the visual impacts there was very large lighting structures around the field that when you looked at that tower in the context of all the lighting structures it really did not have much visual impact. She said this is a different scenario; this is not an urban location but a rural location and people move there for the scenic quality of that area.

Ms. Firehock said she was very careful for our council's benefit to let people know who wrote about health that she could not consider health in the deliberations and she was not. She said in looking at the context of this particular site, again she is extremely sensitive and sympathetic to the students who do not have access but thinks that we are going to have to as a county continue to look for ways to find access and concurred with all the factors found unfavorable in the staff report. She said lastly, one of the comments made in the staff report was it was not evidenced by this application that exhaustive efforts were made to find other locations for this with only one option to consider and yet even with my sympathies to the students that the way it is proposed now looking at all the staff review and other bodies that have considered this and have not found it favorable that she has to concur with them.

Mr. Bivins said he had wrestled with this proposal and every proposal about towers for the last three months and he starts from the point that we are making decisions based on an ordinance established in 2000. He said we are applying an ordinance from 2000 to technology and to situations in 2018 and was trying to figure out how does one reconcile standing at a place that is over 18 years ago and standing in a place where we are trying to predict and figure out where technology is going to go 18 years from that. He said we are neither there or here 18 years ago. He said that while the ordinance was something he has had before, wrestled with and understands it rationale particularly in 2000 but has struggled with it relevance today in 2018. He said that he had particularly struggled with its relevance when he believes from the Albemarle County School's report is they need to figure out a way to get coverage to whatever number of households, more than 100, that they would not even be in this discussion if we could write a check of if there was a bond issue that would allow us to write a check to be able to put fiber as far out into as many places as we could do that he thinks that would have been the answer and we would probably would not have this before us. He said for a whole host of reasons topography, finance and just the way people have come to live in our beautiful county they cannot get there with what they have today. He said my focus is turned on how do we given that he understand the Jackson's view, but my concern is today as this community is saying that it wants to attract businesses here that will appreciate and call out technology capable employees that we give as many options to our students so they can stay here and become employed to stay here. He said that is why he is leaning towards in this particular situation in support of it. He said if someone could tell me how we could get coverage to those households either with a My Fi or through a direct antenna outside he

would say no thank you let's do that. He said short of being told how do we get coverage into those houses or to some significant portion of those houses he would ask the Commission to say to the Supervisors could you ask staff to look at our ordinance in spite of some of the things you spoke to in anticipation of some of the technology that has changed and that we do that sooner than later because every month we are going to have this type of question before us and make a decision based on an ordinance that was passed in 2000.

Mr. Keller said in light of that and because he served on the Broadband Committee before the Broadband Authority was established and a lot of those things were discussed and there were school representatives, Planning Commission representatives, Supervisor representative and Mr. Fritz was staff to that. He asked Mr. Fritz to address that one point made about fiber optic going to a point and then the delivery to there or anything related to that he would like to speak to and where we are in that process.

Mr. Fritz said the Central Virginia Coop are looking at the entire state; they have 300,000 customers and several thousands in Albemarle County and they are taking fiber to their substations and made a business decision to extend fiber beyond their substation to everyone and make it available to their customers. He said it is five-year build out and was many millions of dollars.

Mr. Keller asked which portion of the County that would be.

Mr. Fritz replied that the number of 3,000 people in the county stands out, but he does not remember the exact number.

Mr. Keller said that is more south and west.

Mr. Fritz replied no, it is to the north and east with some to the south and west but it is sort of pockets. He said whether other cooperatives would choose to do the same thing we do not know. He said another issue that is coming up that we do not fully know the impact of it is a system called First Net, which is a public safety cellular network for the public emergency services. He said AT&T was awarded the contract in Virginia and for every other state. He said they are going to be starting to do that buildout and part of the interesting program for how they will be doing that is they have stated when the system is not being used by the emergency service providers the surplus capacity will be made available to the general public as a subscription basis. He said we are looking at that yet another mechanism to build-out some broadband services there and there are different grants from federal and state organizations. He said some of that would be fiber and some upgrading existing copper lines, DSL and so it is a variety of mixes. He said the Broad Band Authority is looking at potential vertical real estate and whether or not internet service providers wireless could move in to the county. He said the Wireless Policy was adopted in 2000; the ordinance was adopted in 2004 and we have had some amendments over time. He said we amended our ordinance to reclassify wireless internet service providers as a wireless service so they actually get the more beneficial ordinance. He said that is a brief summary of some of the things that we are looking at doing.

Mr. Bivins asked Mr. Fritz to explore what those various options that you just shared with us how that might impact this area.

Mr. Fritz said that a portion of Crozet is served by the Electric Coop but he does not remember the exact boundaries of it but a portion of it is and to the north. He said that right now there are no federal or state grants that are being pursued in the immediate area that he was aware. He said we do not know what First Net would do since they have not developed their plans but simply stated the umbrella of what they are talking about doing. He said the vertical real estate owned by the Broadband Authority or the County we do not know yet where that would go since we would be soliciting bids for that.

Mr. Keller said they are in this interesting time period where we have wars going on in how to deliver this and we consistently hear from the lobbyists for both sides, the fiber optic and the wireless. He said personally it is frustrating that we cannot talk about and have research for gun violence, we cannot have research for health benefits and detriments to this sort of thing, and that is as far as he would go with that because that is where he is

limited. He said that out of lack of action by our governmental bodies across the country it has been fascinating to watch school boards and in a few individual communities that we all know of around the country that have gone and in most of those cases it is because they own the utility company that allowed them the right-of-way so that they could bring that fiber optic ability to every household. He said we don't have that and so we really have to compliment and applaud the Albemarle County School Board and staff for coming up with a system to deliver this to every household and to sort of push back against all of us and challenge all of us in the county for how this is going to happen. He said if they were not doing that we would not be having this kind of discussion and we would have fewer people in the schools that did not have the benefit. He said that it reiterates that we have the committee; the Authority, the School Board and the Supervisors that need to get together and direct all of us on what the priorities are going to be. He said we have the Comprehensive Plan that is directing us and as Ms. More said, we have constraints that do not allow us to jump into the educational arena in a major way other than we want workforce development and want good education for all of our students so it could be with a reach that we would do that. However, we have the other components that are specifically in the ordinance and we have staff direction on how if we do not go along with the support with staff we are not supporting our regulations. Mr. Keller said at this point he can't support this but would hope that in the near future could see the discussions that would get us to the next level – is fiber optic going to be an option and if fiber optic is not going to be an option then how are we going to deal with the cells. He said 5G is coming and 5G is going to require a lot more in the way of support through more towers or higher towers. He said this needs to be thought through so that is where on with my colleague that we need to either have a policy decision that does not necessarily change regulations or that we change the regulations so that we can meet these needs in a quicker manner instead of this piecemeal approach that we are doing right now. He said there appears to be logic in what we are supporting and not supporting and in other times not. He said that is my conflicting feelings on this and asked if we are ready for a motion and final discussion.

Ms. More said she was prepared to make a motion.

Mr. Dotson said my comment is to remind us that the county policy made a choice, the choice is to have lower towers rather than fewer taller towers, and the staff report and the comments from some of the citizens have noted that no evidence has been if this is the only way to provide service. He said there is no evidence that multiple towers at other locations perhaps in conjunction with a less tall tower at this location might not be able to provide equal service and our policy leans that direction.

Ms. More said there are two separate motions in front of us, staff have given us the first motion for the special exceptions and the second motion for the special use permit, and she would like to ask Mr. Blair if it would please me to make the second motion first. She asked is there any reason why.

Mr. Blair replied that she could make the second motion first.

Ms. More moved to recommend denial of SP-2017-00026 for the following reasons all of which are outlined in staff's report:

- The proposal violates the County's ordinance.
- The facility is inconsistent with the Comprehensive Plan.
- The ARB does not support or recommend approval.

Mr. Dotson seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

The motion was approved by a vote of (4:1) (Bivins nay) (Riley, Spain absent).

Mr. Blair noted there was a second motion.

Ms. More moved to recommend denial of the Special Exceptions to Sections 5.1.40(b)(2)(b), (size), and denial of section 5.1.40(b)(2(C) (projection), and denial of the Special Exception to section 4.2.5 (disturbance of critical slopes) for the reason we should not approve the special exceptions or the disturbance of the critical slopes since we are recommending denial of the special use permit.

Mr. Bivins seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

The motion was approved by a vote of 5:0 (Riley, Spain absent).

Mr. Keller said this request would move forward to the Board of Supervisors for their deliberation, the Planning Commission is only an advisory body.

The Planning Commission took a break at 7:44 p.m. and the meeting reconvened at 7:52 p.m.

Mr. Keller called the meeting back to order at 7:52 p.m.

Public Hearing

ZTA-2017-00010 Farmers Markets

The Planning Commission will hold a public hearing on June 26, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, to receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: Amend Section 18-5.1.47 to establish regulations for by right farmers' markets including prohibitions on amplified sound and lighting, limiting by right farmers' markets to twice a week, prohibiting by right farmers' markets from operating when the primary use of the property is occurring, and limiting by-right farmers' markets to properties subject to approved site plans pursuant to Section 18-32 and limiting parking to the parking areas shown on the property's approved site plan; Amend Sections 18-10.2.-1, 18-11.3.1, and 18-12.2.1 to permit farmers' markets as a by right use. A copy of the full text of the proposed ordinance amendments is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

Mr. Fritz said in May the Board of Supervisors adopted an amendment to the ordinance clarifying and simplifying the type of plan that had to be submitted with an application for a farmers' market. During both the Planning Commission review and Board of Supervisors' review of the amendment staff has suggested that it may be appropriate to allow some farmers' markets by right. The Planning Commission did not support making farmers' markets by right at that time. The Commission did state that it may be appropriate to consider by right markets in the future and the Commission listed some issues that should be included. Those included changes to vendor definitions to ensure Albemarle products are sold, hours, days of the week, size of structure, number of vendors, size of lot used, number of parking spaces, lighting and screening. There were other issues but those were some of the big ones.

Mr. Fritz said during the May meeting the Board of Supervisors directed staff to consider ways to allow farmers' markets by right. The Board echoed many of the same concerns raised by the Commission and the proposed amendments addressed the impacts a farmers' market may generate by limiting by right markets to those properties that have approved site plans. This is because the site plan addresses access, setbacks, screening and a variety of other issues. The ordinance also includes limitations designed to minimize those impacts, and these includes that the market is in operation for only one or two days a week and that the market is not in operation when the primary use of the property is in operation which is to prevent over intense occasion of use. There is no lighting and there is no amplified sound. The market occurs only on property with an approved site plan and the market complies with the requirements of the site plan. The last provision effectively prohibits wineries, cideries, breweries and distilleries from having by right markets because the majority do not have site plans and even if

they do have site plans the market cannot be in operation when the winery, cidery, brewery or distillery is open. Both the Commission and the Board discussed strengthening the requirements that only agricultural products from Albemarle and surrounding localities be offered at farmers' markets. We were not able to identify any amendments that would be easily written or enforced. There already are regulations limiting it to Albemarle products, agricultural products and accessories or value added products. It may be possible to develop additional requirements but that would take time and delay in enacting this particular ordinance and new requirements could be developed as a separate text amendment.

Mr. Fritz said markets proposed on undeveloped sites are unaffected by this amendment and they will still be permitted by special use permit. We did receive one comment on this and staff thinks it is a very good one made by SELC (Southern Environmental Law Center) and those changes have been noted here. He said it is very clear that farmers' markets are an accessory use where there is an approved site plan and they have to comply with all the provisions of the site plan regarding the building and parking that may help to avoid some confusion. He said staff looked at it and if it helps, we can support this change. He said it also makes it very clear that farmers' markets are an accessory use when you have a site plan they are not a primary use. Again, that is what the regulations had said and the intent was so we thought it was a clarifying statement so we can support that also. He said staff is recommending approval with these changes.

Mr. Keller invited questions and comments for staff.

Mr. Bivins said he was wondering how you reconcile where it says the Board of Supervisors adopted a zoning text amendment to eliminate the requirements of a site plan required for a farmers' market, but staff's report outline says the market occurs only on property with an approved site plan. He asked staff how they reconcile those two things.

Mr. Fritz replied that the change we actually did back in May was not to eliminate a site plan, it was to clarify what content would be on a plan when someone was applying for a new market. He said what happened was either they would have to do a full-engineered site, which is a very costly thing, or they would apply for a site plan waiver, which would have to be processed along with the special use permit application. He said basically what you are doing there is you are saying "I am going to use this property, but I am not going to do any grading so I am not going to show any proposed grading, but you had to apply for a waiver from that." Therefore, what we did was turn that on its head in May we said instead that the applicant has to submit a plan showing any information we request. Therefore, if you were proposing a brand new farmers' market we would request show where the entrance is going to be, show where your parking is going to be, and show where your structures are going to be. He said this particular process, what we are doing here today, the site plan has already been approved for the property and we are essentially saying that the farmers' market can have the benefit of that previous review.

Ms. More said that she gets that undeveloped sites still need a special use permit and that for those sites that have a site plan already in place this would become by right.

Mr. Fritz said that was correct.

Ms. More said as an example there is a new church and they want to have a farmers' market so what would be their process.

Mr. Fritz replied that the church would go through the special use permit process as an undeveloped site and then they would get their site plan through the review process. The site plan would be where we would make sure that they have an entrance, which VDOT is okay with, they have adequate parking and any screening that needed to be done to mitigate the impact on the adjoining property is taken care of. He said it would also include the storm water, runoff and all those land development impacts have all been addressed. He said if they wanted to lease out their parking lot to have a farmers' market on Wednesdays and Saturdays when the church is not open and in operation they could then do that provided that the farmers' market parked in the parking lot; they only use the building that is shown on the site plan and could not build a new building. He said they could not build a new

building that would be something different they would have to go through the special use permit process because what we said is that farmers' markets are accessory to what the primary use is. He said if the church then said we want to have a big large farmers' market here five days a week, then it would require a special use permit.

Ms. More said just adding on top of that question if there is a new church that already requires a special use permit can they ask for a farmers' market as part of the same special use permit or does it have to be a separate process.

Mr. Fritz replied that the church could come years later after the special use permit approval provide they meet the two days a week and other requirements.

Ms. More asked if they would have to pay for that separately then, and Mr. Fritz replied no, because it would be a by right use of the property.

Ms. Firehock said the advantage of the way this is being proposed now is that there is an already a developed site and it does not necessarily trigger a full special use permit process, it is just a site plan amendment that makes it easier.

Mr. Fritz replied that there is no site plan amendment at all; they can simply use the site.

Ms. Firehock said so they come to you and say they want to do this. She said if the church was on a small lot and did not have a lot of parking so staff wants to know more about how you will provide parking.

Mr. Fritz replied if that church has a site plan they would have already been reviewed to determine whether they had adequate parking for the church use and the parking was appropriately designed, situated and located so they could then use it. If that church predated the requirement for a site plan, they would not be able to use that property for a by right farmers' market because there has been no review to determine whether or not the site is appropriate for that level of use.

Ms. Firehock said that helps a lot and so just staying with the pretend church for a moment let's say that the church is in session three nights a week and so then the farmers' market comes along as another use and not it has the other two nights a week. She noted that if she was a resident in the community and moved near a church that had three nights of church bells and people coming and going but now it is like five nights and she was trying to understand what the public review process is for that.

Mr. Fritz replied that there would be no public review process for that.

Ms. Firehock said so it just automatically gets to establish another use with people coming and going.

Mr. Fritz replied yes, and we thought about that also and there is no limit on whether or not the church would have the activities on those nights. He said so the other uses could expand to be in those same time frames and that is debatable but they certainly could. He said the two primary places we see this happening, and one we are somewhat excited about, is at the schools where the schools could make use of their property. He said the school could lease it out and we see that as a partnership and bringing together at the school property the agricultural things that we are promoting and then of course the churches. He said there really are not any other uses out there that have site plan. He said there are a few other ones, but they are somewhat scattered and too small to do anything.

Ms. More said the farmers' market is outdoors in the parking lot typically so how do you balance the size of the market and how the site plan has said there is adequate parking if the parking lot is where they are setting up the market. She said it could be a big setup and then the parking might not be adequate for the customers.

Mr. Fritz replied there would be some obligation upon the farmers' markets because they have to comply with the site plan; they cannot be parking in areas outside the parking lot. If they say, we have 100 parking spaces and the market gets to be in all 100 of those spaces, great but there is no room for you to go so there would be some obligation upon them to organize their markets themselves also. He said we have not seen these markets that large so we do not foresee that as an issue.

Ms. More pointed out that there is nothing in here that speaks to size and would hope that would not become an issue. She said if you were managing a market, you want your people to come and go safety and just worries.

Mr. Fritz replied that one mechanism if you were concerned about that is you could propose an additional regulation to say something to the effect of not more than X percentage of the available parking shall be devoted to the vendors. He said for example you may say not more than 20%, 25%, 30% or whatever number you might think is appropriate, which would be leaving the rest available for customer parking.

Ms. Firehock noted that is hard to do without actually seeing the space and asked could we limit the number of vendors at a high number like 20 but that would keep it from getting out of hand.

Mr. Fritz replied that you could limit the number of vendors or limit the size of the parking space.

Ms. Firehock said it is already stated in the report that the Board of Supervisors did not know how to limit it to local providers. She noted there are other farmers' markets in America that have it limited and have set up protocols.

Mr. Fritz pointed out that we do have regulations that say it so some of the frustration may be not necessarily an issue with what the ordinance says but potentially an issue with enforcement of the ordinance. He said the ordinance says that it involves agricultural products, value added or accessories for people engaged in production out agriculture in Albemarle County. He noted the difficulty may be the disconnect between the Board's desire and what they are concerned about how do you know where that tomato came from.

Ms. Firehock said that she understands there is no tomato police and we are not going to genetically test it; but, for example, the Scottsville farmers' market has signs saying where everything comes from in front of that basket of blueberries or whatever. She said I would like to find some way to try to do that or at least to give more voice to that. She said at the Charlottesville farmers' market they have the big white tents that are run by people who come in from Prince William and other counties and it is really unfair competition. She said what I am seeing at other farmers' markets is that vendors are dropping off because there is one farm and they have to be in Charlottesville, Scottsville and everywhere and they don't have enough people who work for the farm to actually staff these things. She said so we have that problem locally, but if you are an outside vendor with your mystery white truck and white tent, you can send your paid employees all over the state to set up tents and unfairly compete so it defeats the purpose of our ordinance.

Mr. Fritz said the way our ordinance is written that is not permitted right now and you can see exactly why we did not touch this. He said it is not necessarily an issue of what the ordinance says as much as it might be an enforcement issue. He said by allowing the farmers' market they can just utilize sites that are scattered throughout the county instead of going to Scottsville, Nelson or the city and it might make it a little easier for those small scale farms to go to a farmers' market one day a week where it is fairly close to where they are. He said that was one of the things brought up.

Ms. Firehock said that she did not know that there would ever be a problem with having tons and tons of vendors that are overrunning an area. However, she was sensitive to small rural sites even if they have a site plan with all of sudden an influx of vendors and traffic and would be comfortable if we could limit the number of vendors at the site to make it 20.

Ms. More said I am a little reluctant to limit the number of vendors.

Ms. Firehock noted it would not be limiting them overall but it would be automatically by right or they had to go through a special use permit. She said when considering the impacts of a larger farmers' market versus saying smaller markets are okay without having them go through all that extra review; that is my point.

Ms. More pointed out that some people sell just a few specific special things with just one little table and so she would hate to count them by vendor.

Mr. Fritz said because of the way it is written it is in the supplemental regulations so if you put a limit in there that said limit to 20 vendors and they wanted 21 vendors; it does not actually kick them into the special use permit category but into the special exception category that is a little bit faster to process and still is discretionary on the part of the Board of Supervisors.

Mr. Keller opened the public hearing and invited public comment.

Travis Pietila, from the Southern Environmental Law Center, asked to personally thank staff for considering the comments we sent in and for proposing them tonight. He said I want us to provide some more of the rationale for why we proposed these particularly changes. "We generally support the county's efforts to identify appropriate opportunities to allow farmers' markets by right in the rural area. We believe the general approach outlined in the staff report is a reasonable one, although we do appreciate some of the questions raised by the Commission tonight. In the past, the primary concerns with allowing farmers' markets by right have been the potential impacts of large-scale markets in terms of both traffic impacts as well as the construction of large new buildings in the rural area. As we understand the proposed changes, they are intended to allow farmers' markets by right only on properties with their approved site plan in place for a primary use such as a church or a school. The market would essentially be an accessory use that is required to comply with the terms of that site plan and could only occur when the primary use is not taking place. The idea is that by fitting it into the site plan for the existing use the impacts would be no greater than what is already there. We believe these are reasonable perimeters to allow farmers' markets by right; however, we have shared a few recommendations with staff that would clarify the ordinance language to better achieve this intent. First, we recommended explicitly stating in the performance standards that the by right farmers market use must comply with the approved site plan for the primary use of the property."

Mr. Pietila said, "As originally drafted the ordinance simply stated that an approved site plan must be in place on the property. It is important to take the extra step to make that connection that the farmers' market use has to actually comply with that existing site plan. Second, the draft ordinance provides that parking shall only be allowed in the areas shown for parking on the site plan. This is helpful, but we have some concerns with only calling out this one aspect of site plan consistency. Another key elements of site plans is location of any proposed buildings or structures on the property and we recommended making it clear that a by right farmers' market must comply with this element as well. Therefore, we recommended adding a sentence that farmers' markets may only utilize buildings or structures that are shown on the approved site plan. We think this is needed to ensure compliance of the site plan and give clear guidance about what is expected for this use. Lastly, because these by right farmers' markets must be tied to a primary use of the property we recommended making it clear in the list of by right uses that these are farmers' markets as an accessory use. Without that qualifier the ordinance would simply list farmers' markets in both the by right and special use permit list making it hard to distinguish up front between the two versions of this use."

Neil Williamson, with the Free Enterprise Forum, said that first a farmers' market is a great idea; however, the language proposed tonight and asked to not over complicate it a little concerned him. He said there have been times in Albemarle history when structures were defined as tents and let us talk a little about the reality of a farmers' market. The reality is whether it is a big white truck, my old red truck or a pop up canopy so let us make sure that canopies are not considered structures and they could use the word permanent structures. Regarding the concept of being in full compliance with the site plan he was not sure having 15 vehicles selling vegetables out of the back in a parking lot is compliant with the site plan as it was drafted since you are utilizing the parking area

as a shopping area and was concerned with that real boots on the ground issue. He said this is a great idea and prevents additional asphalt. He said there is one other what if – what if we have this imaginary church with a parking lot and for whatever reason it stops having services but still owned by the church and they want to continue to hold farmers' markets. The primary use is not in use but the farmers' market is still a secondary use to a primary use that is not active but is primary use of the property. He said it is a great what if but he did not think this is going to be a huge problem and would think it would be a fabulous thing if some of the small churches and high school parking lots put up the tents every Thursday and had all of these local folks coming in. Mr. Williamson said he does not see the limitation for vendors as a positive and hopes that is a problem that we have since what we see with smaller farmers' markets is they get down to three, four or five vendors and they just can't make it. Therefore, he would strongly encourage the Commission to move forward, encourage the permanence with regard to the structures or perhaps Mr. Blair's definition that a pop up tent is not a structure.

Mr. Keller invited further public comment. Hearing none, he closed the public hearing to bring the matter back for discussion and action.

Mr. Blair asked to clarify a few things, and Mr. Keller said the Commission would be glad for you to do that.

Mr. Blair said first he would ask Mr. Fritz that he knows when we are saying by right we are saying you can go ahead and do it but there would be a zoning clearance, and Mr. Fritz replied yes a zoning clearance would be required.

Mr. Blair said just to allay some concern there still would be a zoning clearance required before the use could commence. He said Mr. Dotson had asked me and he thinks this is very interesting about our current definition but beyond the current definition, there are a couple other elements at play here when we get to Ms. Firehock's question about vendors and their location. The current definition of farmers' markets requires that each vendor selling the products and merchandise is engaged in production agriculture in Albemarle County and that is for farmers' market. Now farm stand, which is the smaller aspect of this agricultural sales question, deals with the sale of local agricultural products. He said local agricultural products are defined as those products grown or produced in Albemarle County or its abutting localities. Mr. Blair said he understands Ms. Firehock in there are a number of markets that advertise where people are from and he has seen with the little signs beyond Scottsville in another farmers' market in Virginia where each booth they seemed to recognize the location of the farm. However, it is important that in our own ordinance there are two ways in the sale of agriculture products that we have looked at the farmers' market requires production in Albemarle requires that the vendor be engaged in production agriculture in Albemarle County and it is vendor based. He said the farm stand is product based and that is grown in the county or its abutting counties. He said maybe that helps, but maybe it does not and he just wanted to make it clear that this issue as Mr. Fritz has explained it, it has been vetted before and there are distinctions within our own ordinance when it comes to the sale of farm products.

Mr. Keller thanked Mr. Blair and invited further discussion.

Mr. Dotson said that he was trying to think of on the ground kinds of questions. In the case of a school, property and Mr. Blair just clarified that the farmers' market would still go through a zoning clearance. An application usually requires the property owner sign the application.

Mr. Fritz replied the owner would sign either the application or something authorizing someone to sign the application.

Mr. Dotson said but probably that is not a blank check authorization; it is well you cannot do it on these days because we have planned events and we are having a soccer tournament on these days and the church is having something. He asked does that put us in a position of enforcing those owner stipulations.

Mr. Fritz replied no, what we would be doing when the zoning clearance came in was ask what site or property it is; we would make sure that it had an approved site plan, do you have permission from the owner or are you the

owner to do it; and make them aware these are your limitations. He said they would be given a copy of the ordinance and what it says not more than twice a week and we may not even ask them what days of the week they are going because it might be Mondays and Tuesdays in the spring and Thursdays and Fridays in the fall for whatever reason. Therefore, we would simply say you are limited to two days a week.

Mr. Dotson said so that is between the property owner and the applicant for any of those kinds of stipulations. Mr. Dotson said that he liked the suggestions made by the Southern Environmental Law Center and just asking the question about calling farmers' markets an accessory use. He asked do we define accessory uses as customary because he did not know that we have that custom yet and maybe it should be secondary use or some other terminology.

Mr. Blair said that was a very good question and he had been sitting here thinking kind of along similar lines and did not want to turn this into a planning seminar. He said part of this also gets back to the old question can a parcel have more than one primary use and he brings that up because you are right the way we define an accessory use it says, "a subordinate use, building or structure customarily incidental to and located upon the same lot occupied by the primary use. He said is a farmers' market truly customary to a school or a church.

Mr. Dotson said that it might be nice someday if it was and agreed with the spirit of it.

Mr. Fritz said we could make sure that we clarify that to use the appropriate or right term.

Mr. Dotson said that was fine and that his other question was just the terminology by right farmers' market and was thinking of the person who does not customarily deal with our zoning ordinance would something like joint use, collocated or just some other terminology. Mr. Dotson said the point of by right is to say other than a zoning clearance there is no additional approvals, which was something to think about.

Mr. Fritz said when we have a by right use that is subject to additional regulations we always put that reference to the supplemental regulations behind it and we do that throughout the ordinance. He asked Mr. Dotson if that answered what he was asking.

Mr. Dotson replied that he was splitting hairs here but if the vocabulary is by right farmers' markets and then we look in the RA district, yes it is under by right but then it says farmers' markets and the naïve mind may say I could go ahead and start a farmers' market and not pick up on the nuances. He asked to take it back since he was splitting hairs.

Ms. More said she would sweep back through to address some questions that were brought up by the public comment and asked would the pop up tents not be considered a structure.

Mr. Fritz replied that there is a size where they are considered a structure, but the pop up tents you see at a farmers' market would not be considered a structure.

Ms. More pointed out in Nellysford they set up one giant tent; and Mr. Fritz replied that would be a structure.

Ms. More said so we would not allow something like that.

Mr. Fritz replied that it would not be on a site that had a site plan for the primary use.

Ms. More said that would not go in a parking lot because they have to stake it in.

Mr. Fritz replied that it could be done; it is just more complicated.

Ms. Firehock asked would they ask for a special use permit to have the tent.

Ms. More said that we are not eliminating them, but a pop up market tent would be allowed and we do not need to clarify to say permanent.

Mr. Fritz replied no, this was developed with the zoning administrators and we talked about those kinds of things and how they obviously would want to do that because it gets hot.

Ms. More said along the lines of the church that closes and then not saying secondary use because there may be already two uses on a church that has a preschool. She asked how that would work.

Mr. Fritz replied that it would still be permitted because the property would have had a site plan for an approved primary use so if the use is no longer there it has one. He said the key here is that the property has a site plan approved and that you are not using it at the same time as a primary use on the property even if the primary use is different from what that site plan that had originally been approved.

Mr. Keller asked Mr. Blair to read the definition of the farmers' market again.

Mr. Blair replied sure that a farmers' market is, "the sale of agricultural products, value added products and accessory merchandise either outdoors or within a temporary or permanent structure by two or more vendors in the rural areas district or by one or more vendors in any other zoning district where the use is allowed where each vendor selling the products and merchandise is engaged in production of agriculture in Albemarle County regardless of whether it is on or not on the lot on which the farmers' market is located."

Mr. Keller said that he thinks we all have been to a farmers' market where there is a craft component that people develop at home that is not necessarily value added but might actually add an interesting component to a variety of sales that occur. Therefore, one could stretch it and say a person who makes leather products like belts and purses are getting their product from agriculture somewhere along the line if they are using real leather. If they were making jewelry, it might be stones, teeth or bones that come from agriculture; but there might be other things that are not. He said my question is in the spirit of one of our speakers who would like it to be more open and more representative of what sales could be does the way this is written preclude the sale of items, which are a real stretch to have come from agriculture. He said his second question is about the lack of design review of a structure that is being repurposed as a secondary structure and he was thinking about places all over the country where there have been these little villages and farms that have been sort of recreated. He said if somebody wanted to come in and do an Austrian Alp kind of look and redesign, and since there is no design review if this is by right.

Mr. Fritz replied that it is not because they do not have a site plan approved for it already.

Mr. Keller asked what if they had the site plan approved for the building and structure just the way it is and they want to add that façade to everything there. He asked if they would need ARB or staff review.

Mr. Fritz said that he would try to put it into a potential real world scenario. He said if you have a church that has been sold that had an approved site plan and someone wants to now use that as a farmers' market and redesign that church to look like something it is not. He said it is highly unlikely that a farmers' market that can only be in operation twice a week would do that, but could they – potentially yes. It would be interesting because it would be a site plan amendment and we would have to decide what is the use you are amending this plan for. If they said it was for a farmers' market we would not approve that because the farmers' market is not the primary use, it is an accessory use and we approve site plans for the primary use. Mr. Fritz said we would have to look at it and he cannot give you a definite answer right now but he could say the likelihood of somebody doing that is low for a market that is only allowed to be in operation twice a week.

Mr. Keller said he would assume that we have no way that staff could turn to the ARB if there was a question.

Mr. Fritz replied that is a completely issue since the county's ability to regulate the appearance of the structures is limited to Entrance Corridor districts exclusively unless we have an historic district. He said our ability to put in Entrance Corridor districts and historic districts is limited and the basic answer is if someone wanted to come in right now and design a church to look like an Alpine Village.

Mr. Blair said to Chair Keller's question about the different goods that farmers' markets are limited to the sale of agricultural products, value added products and accessory merchandise, but our Code does in fact define accessory merchandise and so here is what is included in that definition. He said it is not agricultural merchandise that is subordinate and customarily incidental to agricultural products sold at a farm sales use or farmers' market such as pottery, baskets, canning jars, pumpkin carving kits, wreath making supplies, floral arranging supplies, garden accessories, hand tools for gardening and handmade crafts.

Mr. Keller said so they are all there.

Ms. Firehock said that she still has heartburn with this idea of farmers' markets as an accessory to the primary use as a church or a school and unless the school is engaged in some kind of agricultural program, where the children have a greenhouse. Ms. Firehock said she does not mind if a farmers' market is added to a school, but does not think it meets the definition as being accessory.

Mr. Fritz replied that he thinks that is correct and we would work on that to have it be secondary or some appropriate term to make it now.

Ms. Firehock asked was a site plan approved for the farmers' market we approved on 29 South with the fishing pond.

Mr. Fritz replied no, they were the ones that generated the desire to amend the ordinance because they had to do a site plan or request the site plan waiver, and you may have remembered that a local engineer volunteered his services. So they flipped that on its head and instead of saying you have to ask for relief from it instead the zoning administrator said this is what your plan needs to show and we have the opportunity to raise it all the way up to a level of a site plan depending on how complex the market. He pointed out what they May amendment did it lets us match the complexity of the site plan to the complexity of the project.

Ms. Firehock said that was a very simple site and the poor people had to do a lot of work to get us a plan for a field.

Mr. Fritz replied that is true and was what generated that text amendment.

Mr. Bivins asked if he is to understand that there is no way that if he wanted to establish a farmers' market that he could not have that as a seven day a week use.

Mr. Fritz replied that you could if you had a property that had a site plan and you asked to be there seven days a week and to be in operation while the primary use is in operation you could go before the Board of Supervisors and ask for a special exception. He said the Board would hold a public hearing on that; however, right now staff would probably not support that which means it would come to the Planning Commission and then to the Board of Supervisors.

Mr. Bivins said to follow up on that if we were willing to quarter off a parking lot because of size why we would not also be willing to look at quartering off a parking lot at a winery or at some other part. He said that he does not particularly care for the point to point shopping so if you tell me I can go to Henley's Orchard on White Hall Road and get my peaches, apples and also get some vegetables at the same time that makes a lot of sense to me. However, if I have to go there one day and there another day most of the time I am not going to do either because I am going to go to Whole Food because I get a prime discount. He asked why it has to be related to be able to quarter off some space.

Mr. Fritz pointed out that they could ask for the special exception and the Board could set aside that provision here. He said farm sales or farmers' markets at the wineries, which is a separate issue, was discussed with the zoning administrator and because they are an agricultural operation they do not get site plans, but they can have special events that are associated with them and there are some limitations on that. He said one of the things we talked about is they may already be able to have some farm market type sales associated with the winery.

Mr. Bivins said that he was concerned that if they ever do the Water Street project and they put a permanent farmers' market that will preempt a bunch of opportunities and would hope we are thinking about a place in the county where if someone wanted one that there would be a way to do facilitate that.

Mr. Keller noted that Fluvanna has a very successful one right now.

Mr. Dotson asked are farmers' markets a permitted use in commercial, and Mr. Fritz replied it would just be retail sales and so it would be permitted by right.

Ms. More said what we are discussing would not preclude any of that, but would just have a separate process.

Mr. Fritz replied that was right if you wanted to find a vacant site and build a farmers' market with a permanent building it would require a special use permit. He said to your point about a church that had a lot of surplus parking and they wanted to be in operation the same day they are having the church event they could go before the Board of Supervisors for a special exception. He said so there are public processes to do more than what is in here. He said staff tried to come up with a minimum threshold that if you do this you are probably not going to have adverse impacts but if you want to do, more you can do it but there is going to be maybe more than one route to get there. He said there are going to be routes that involve public participation.

Mr. Keller asked what does the application for a special exception cost.

Mr. Fritz replied that it was much less around $140 and were much easier to schedule. He said farmers' markets are often done time sensitive.

Mr. Keller asked staff if they have a recommended motion.

Mr. Fritz replied staff recommends approval of the zoning text amendment with the changes that we have shown you this evening with the correction of the accessory to a more accurate term.

Mr. Dotson said that he would so move.

Ms. More seconded.

Mr. Keller asked if there was further discussion. Hearing none, he asked for a roll call.

The motion was approved by a vote of 5:0 (Riley, Spain absent).

Mr. Keller thanked staff and noted ZTA-2017-00010 would be forwarded to the Board of Supervisors to be heard on a date to be determined.

The meeting moved to the next item.

ZTA-2018-00004 Beekeeping

The Planning Commission will hold a public hearing on June 26, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, to receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: Amend Section 18-3.1 to add a definition of urban

beekeeping; Amend Sections 18-12.2.1, 18-13.2.1, 18-14.2.1, 18-15.2.1, and 18-16.2.1 to list urban beekeeping as a by right use, and add Section 18-5.1.63 to establish supplementary regulations for urban beekeeping to establish setback regulations for beehives, a warning sign requirement, prohibition of wax combs and other material left on the grounds that might encourage robbing by other bees, beekeeping equipment regulations, and establishing a maximum number of bee colonies pursuant to a lot's size. A copy of the full text of the proposed ordinance amendments is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

Mr. Fritz said in interest of full disclosure that he was a beekeeper in the city. He presented a PowerPoint presentation to summarize the staff report for ZTA-2018-00004 Beekeeping. This amendment would allow beekeeping on residentially owned property subject to performance standards. The amendment does not impact beekeeping in the Rural Areas zoning district. To develop this we reviewed regulations in other localities in Virginia and across the country. The proposed ordinance is a collection of best practices utilized in other localities. Because of the habits of bees in the regulations in the ordinances across the country were very similar. we went to Alaska, New York, Mississippi and Texas and they were very similar regulations. He thanked the County Attorney's Office for the help they provided in doing that.

Mr. Fritz pointed out that the diagram borrowed from another locality helps show where the hives could go and includes and establishes setbacks from the property lines and structures; 30' setback from structures that are not under the control of the beekeeper; provisions for physical barriers if the hive is between 10' and 30' from the property line; standards for the orientation of the hive entrance; prohibits hives from being located in the front yards; requires signage to notify people of the present of bees; prohibits improper storage of equipment and requires maintenance of hives and it limits the number of hives based on lot size.

Mr. Fritz said there are also some interesting provisions for elevated hives, which would be rooftop hives or like the one at the White House a few years ago where you raise bees on elevated platforms. He noted that it mimics them being in a tree and we have regulations for that also and he would be happy to answer any questions.

Ms. Firehock said she was always thinking of the public safety and that this is just simply allowed as long as put your hive in the right place. She asked what if you have a neighbor that is allergic to bees and is there a way that the public can be notified that their neighbor wants to keep bees.

Mr. Fritz replied that there would be no notice other than the signage that would be on the property to alert people to the presence of bees and a contact number. He said "what we are trying to do with these regulations because of the habits of bees by placing the hive following these regulations the impact on the adjoining property, yes there are going to be more bees in the neighborhood but you are not in the fly way or in the immediate environment of the bee colony so there would be no interaction. But, it does increase the overall population of bees."

Ms. Firehock asked about the barrier.

Mr. Fritz replied that he would describe the setup that he had. If you are more than 10' but less than 30' from the property line you have to put a physical barrier up and that physical barrier can take the form of a vegetative barrier at least 6' tall or a solid fence at least 6' tall. He said for a fact he can run his lawnmower on the other side of the fence adjacent to the bees and they have no idea that I am there.
He pointed out by the time the bees are flying in that direction they have had to climb up to at least 6' tall so they are going over the heads of anybody who is on the other side.

Mr. Bivins asked how one handles attracted nuisances. He said we also, if not in the city, the sort of bear going across at Hydraulic over to 24th and if you live in the developed part of the county, which I do, I have a bear that comes across my property every two years, a male, and a female whichever number of cubs she has the other two. Therefore, one year it is a male and the other year it is a female and two cubs and I live near Albemarle High School. He asked how would one deal with a hive being an attracted nuisance.

Mr. Fritz replied that it does not treat it any differently than the garbage can that is also an attractive nuisance to the bear, skunks and raccoons.

Ms. More pointed out in our neighborhood we have at least three people that have hives and have at least one bear and never heard of trouble with their hives since it is the trash that the bear goes after.

Mr. Fritz said that he was unaware of any and had done some reading on this and never heard of any urban bear incidents but rural bear incidents yes.

Ms. Firehock said this is only for the officially designated urban area, and Mr. Fritz replied that it would only be for the residential districts; the rural areas would still be because it is considered agriculture and they could have an unlimited number of hives without any limitations on location or anything else.

Mr. Keller opened the public hearing and invited public comment. Hearing none, he closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Dotson said seeing that the city does not have any stipulations that makes me look, ask do we really need them, and so let me ask you about three of them. He said the physical barrier that his experience with bees is my son in a suburban quarter acre lot in Richmond, the person next door has two hives and no problem, and there are no barriers, signs or none of the things we are talking about. He asked why we need barriers.

Mr. Fritz replied that most beekeepers try to be responsible and do not want to impact their neighbors. However, there may be instances and we wanted to make sure that we had provisions if they were a nuisance and they were orienting their hives in the wrong direction or placing them too close that we did have ways to address that conflict between two neighbors.

Mr. Dotson asked why not in in the front yard.

Mr. Fritz replied we found that to be a regular consistent regulation across the board and I will tell you that I hesitated with that yes you could theoretically do it you are starting to get closer to areas where people are active and where they are going to be doing it. Again, like the farmer's market that we discussed and if someone wanted to do it and they had a great setback or something they would be able to go before the Board of Supervisors and ask for that special exception to say my house sets so far back that I should be allowed to do this in this particular case.

Mr. Dotson said the third one is improper storage and maintenance of equipment and it says like peeling paint of the hive. He would expect that was getting into new territory since we do not regulate peeling paint in other structures.

Mr. Fritz replied that he almost took that section out; that, again, was a common provision that we found elsewhere. He said part of what you are doing there by having the proper storage is you are trying to prevent robbing by leaving equipment out since you can encourage other bees to come and they can potentially get into a frenzy, which you are trying to prevent that. The other thing is that by improperly storing hive equipment, you can inadvertently capture additional hives and you then have too many hives where they would be in the wrong place. He noted if you leave an empty hive out a swarm goes out looking for a new place to live and they find this empty hive and decide to live here and so that is part of the proper storage of equipment.

Ms. Firehock asked if this would be enforced by zoning inspectors.

Mr. Fritz replied that it again is more likely to be an issue where someone has left equipment out and you are going to have other issues of improper storage on the site that you are getting towards a junkyard kind of thing.

Mr. Blair said the provision we had talked about when constructing this is every now and then you have a hobbyist who simply abandons the hobby and leaves the equipment out and that can attract some more.

Mr. Fritz agreed and so what you want is to have it put away and properly stored, which comes from similar language in the State Code for purposes of potential disease that would be transmitted between the hives. He said there are State regulations also and so we did not try to pare at those like having to have moveable frames, inspections and so forth. He said there were very few localities that required a permit; we decided not to go that route.

Mr. Keller said our Comprehensive Plan says in terms of natural resources that one of the primary categories is in their roles in ecosystem functions. In the January 2018 Volume of Science there is an abled piece that challenges many of our standard feelings about bees. If I might read this, "there is widespread concern about the global decline in pollinators and the associated loss of pollination services. This concern is understandable given the importance of pollinators for global food security – 75% of all globally important crops depend on some degree of pollination and the additional yield due to pollination adds 9% to the global crop population. Yet concern is focused on one species of all the western honey bees, this is unfortunate because research shows that managed honey bees can harm wild pollinators species providing an urgent incentive to change honey bee management practices." Mr. Keller said that he throws that out because we have talked a lot about natural systems and the importance of those in the county, however, we most likely are talking about such a small number that this really is not an issue. However, just in terms of best practices we should be aware that there is starting to be an international dialogue about beekeeping and whether it is a positive thing for the various ecosystems that we have been led to believe.

Ms. Firehock said it is true that honeybees are not native to the United States and she did not think there would be so many beekeepers that it would disrupt the habitat.

Mr. Keller said he tends to agree that we are talking about a small number and certainly would not hold this up but certainly much more complex when you delve into it than it just seems on the surface.

Mr. Fritz pointed out that particular item that the State actually promotes beekeeping to the point of they offer grants for purchase of bee equipment.

Mr. Keller asked if there was a motion.

Mr. Bivins moved to recommend approval of ZTA-20180-00004 as staff recommended in the report this evening.

Ms. More seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

The motion passed by a vote of 4:1 (Keller nay) (Riley, Spain absent).

The meeting moved to the next item.

Committee Reports

Mr. Keller invited committee reports.

Ms. More reported that the Crozet CAC met last week and had a community meeting and discussion on Beaver Creek Reservoir in a follow-up assessment in whether it would be able to keep up with the demands. The presentation was interesting about the capacity to give water by the dam and high hazards with timelines moving forward implementing programs to enhance the spillway. They were projecting to 2075 and predicting that we would use one and a half million gallons a day at full build out. She said that is the growth area and a maximum

day demand could be up to two and a half million gallons by 2075. She said they are saying as long as the facilities can process it the dam can have capacity to give water, which was an interesting presentation that had the timelines they had in implementing the different projects.

Ms. Firehock reported the Historic Preservation Committee met and there was a group, Friends of evening to try to consider the different alternative of uses for the school because the county still retains use of that building even though the school board has decided they no longer want to use it as a school there are a lot of different uses being consider.

The meeting moved to the next item.

Old Business

Mr. Keller invited old business.

- Discussion held on progress of communications in terms of the resolution of intent adopted previously and how to improve communications with the Board of Supervisors only on those things the Commission feels are urgent and needs to get to the Board to make sure that it does.
- After discussion, the Chair appointed a committee of Bruce Dotson and Karen Firehock in consultation with Mr. Blair and the senior staff; then report back to the Commission on July 17

There being no further old business, the meeting moved to new business.

New Business

Mr. Keller invited new business.

Mr. Dotson asked staff to measure the dimension of the auditorium including the distance from the chair's seat to the back wall just so they have some metric of spacing that might be useful information to have on some occasions. He asked for consistency that the staff report pages be numbered and have the grid on the front page.

Ms. Firehock said she would not be able to attend the meeting the first week in August.

Mr. Keller asked for thoughts and coordination on the upcoming gathering.

Hearing no other new business, the meeting moved to old business.

Item for follow-up.

Mr. Keller invited items for follow-up.

Mr. Bivins said that perhaps a resolution of intent would be helpful to the planning commission to the board of supervisors asking them in their wisdom to have staff begin a dialogue that would move towards a full review and perhaps an update of our Wireless Policy.

Mr. Keller said on follow-up he was going to talk about a number of these bodies that we have supposedly have had a joint meeting set for and have not. He asked before the Commission makes that resolution that we have some input at least from the Broadband Authority and then we think about what that resolution of intent might be.

Mr. Bivins said he would welcome having a more formal introduction to their work.

Mr. Blair asked to offer something to the discussion tonight and many comments that have been made about the policy, "I believe the School Board executed a contract with Milestone Communications to explore these school sites, and this is the second you have seen and my guest is you will probably see more in the future as well."

Ms. Firehock said that they are going to keep coming and it is a school site but not necessarily an analysis of alternative sites.

Mr. Bivins said when we think about cell towers we typically think of a company wanting to locate a tower somewhere and we go through the analysis of what sites have been looked at, but these school sites are coming through that contract. He said there is a contract with Milestone, and therefore they are coming up with sites at schools and bringing them without any other analysis for alternatives.

Ms. Firehock said it was problematic.

Mr. Blair said it is problematic but to all of your points, "I think there obviously is this tension between coverage, aesthetics and other values as well. Maybe it is time at least to look at that policy and have a discussion with the new technology and what is it we want the policy to say because I don't think this will end tonight."

Ms. Firehock said those are excellent points but thinks it is a Board of Supervisors level of conversation on what policy they want to have about cell service at schools.

Mr. Keller said the Broadband Committee that has recently become the Authority has done a tremendous amount of work as well and we need to be aware and understand what that is as well

Ms. More said the direction to move forward needs to come from the Supervisors about how they want to move forward.

Ms. Bivins said perhaps then there is space to have a resolution of intent that is pointed towards the Board of Supervisors, School Board, the Broadband Authority and staff for a work session around those issues.

Mr. Gast-Bray said he was trying to suggest items for follow up on a number of topics including the cell tower consistency the Commission asked about last time and trying to find a date tentatively on the 24th. Other topics are Cell Tower consistency, Regional Housing Study and Update and Biscuit Run and Community Assessment Needs. He noted the joint meeting with the School Board is being focused on for October.

Mr. Keller said he supported a resolution of intent.

Mr. Dotson asked if it was a resolution of intent or a request for direction. He suggested it should probably have three or four points almost like a resolution request and some whereas and we can use the points that Karen was making and whereas the points that you were making and formulate that document as perhaps part of the follow-through for the meeting of July 24.

Mr. Keller said what he was saying was there are at these two sets of times when we want to direct communication or a truly quickly expedited one through the Planning Director who sits as secretary of this body. He said one is when we have a suggestion and the other is when we have a request for direction potentially to go into the by-laws so we can separate out these two things. He said one is the official mechanism that is already in our regulations and the other one is this other entity that is of great importance to us.

Mr. Blair said since this is the second time this issue has come up he would suggest to go to the Board of Supervisors meeting when they discuss the Western tower since it would be interesting to hear that conversation from them as a body. He said you have an ordinance and policy in front of you that does not mention coverage in terms of school children or funding for schools and the arguments being made were about those and there is no guidance that if the Board wishes you to consider that. Therefore, it might be helpful for you to listen to the

Board's dialogue on that when they consider the petition to see what they are discussing. He agreed that to asking for a resolution and their input but it is never a bad idea just to see where the tenor of their conversation goes as well.

Mr. Gast-Bray said most likely it will be scheduled in September and the updated schedule will be decided on Monday.

Hearing no further items, the meeting moved to adjournment.

Adjournment

There being no further business, the meeting adjourned at 9:34 p.m. to the next meeting on July 17, 2018 at 6:00 p.m. at the COB-McIntire, Auditorium, Second Floor, 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: 10-16-2018
Initials: sct