**Albemarle County Planning Commission**
**FINAL November 12, 2019**

The Albemarle County Planning Commission held a public hearing on Tuesday, November 12, 2019, 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; Daphne Spain; Jennie More; Karen Firehock; Bruce Dotson; and Pam Riley.

Members absent: Julian Bivins, Vice-Chair; and Luis Carrazana, UVA representative

Other officials present were David Benish, Planning Director; Carolyn Shaffer, Clerk to Planning Commission; Scott Clark; Rachel Falkenstein; Michaela Accardi; Andrew Knuppel; Andy Herrick; and Bart Svoboda.

**Call to Order and Establish Quorum**

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

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

Mr. Keller invited comment from the public on other matters not listed on the agenda. Hearing none, he moved on to the Consent Agenda.

**Consent Agenda**

Mr. Keller asked if any commissioner cared to pull an item from the consent agenda. Hearing none, he asked if there was a motion for acceptance.

Ms. Riley **moved** to approve the consent agenda. Ms. More **seconded** the motion, which was carried by a vote of 6:0. (Mr. Bivins was absent from the vote.)

**Public Hearing Items**

**Agricultural and Forestal District Reviews and Additions**
Mr. Keller said there would be a series of public hearing items for the Agricultural and Forestal Districts (AFDs) and asked Mr. Herrick if he needed to read them all in.

Mr. Herrick replied that there could be a single public hearing but that there should be separate motions for each of the items.

Mr. Keller asked if he needed to read all of them.

Mr. Herrick replied that Mr. Keller should identify the eight matters. He said if the intent was to have a single public hearing, it would be good for him to identify each of the matters that will be the subject to the public hearing.

Mr. Keller read aloud the list of AFD reviews: AFD201900003 Buck Mountain District Review;

AFD201900004 Bucks Elbow Mountain District Review; AFD2019000005 Chalk Mountain District Review; AFD201900006 Fox Mountain District Review; AFD201900007 Jacobs Run District Review; AFD201900008 Sugar Hollow District Review; AFD201900009 Yellow Mountain District Review; and AFD201900011 Yellow Mountain Addition-Albert.

Mr. Scott Clark said the list included the final seven of the eleven districts that had been up for review in 2019. He said they also had one addition, which was a review of the situation with the policy on district reviews. He recalled that in November 2018, the Board of Supervisors directed staff to look at five-year district reviews (rather than ten-year) for those districts that contain parcels that have no development rights and that are in the Open Space tax category. He said staff has been following this since the earlier round of review that came through earlier in 2019, in the summer. He explained that for districts that are in this situation, staff will recommend a five-year review period for the districts that are not going to stay in the standard ten-year period.

Mr. Clark said that after the Board approves the district reviews, for those districts that are in the five-year group, the Finance office will notify those particular landowners of their options for qualifying for use evaluation in the intervening period before the Board chooses to act, or not, on the possible withdrawals or removals five years from current time. He noted that during the current year's round of reviews, no one is being removed from the districts, but that the possibility was being set up for 4-5 years from current time.

Mr. Clark said he would quickly cover the seven districts under review and would leave time for questions from the Commission.

Mr. Clark said Buck Mountain AFD is a 627-acre district that was originally created in 1989. He said there was a withdrawal request for the two parcels totaling 151 acres. He said there were some parcels that are in the Open Space tax category and have zero development rights, and therefore this AFD was up for a five-year review. He said the District Advisory Committee recommended renewal for the five-year period.

Mr. Clark said the Buck's Elbow Mountain AFD was created in 2009 at just over 3,200 acres. He said there were four parcels in this district that are in the Open Space category and have no development rights. He said this was a five-year review with no withdrawal requests for this, or any of the other remaining districts. He noted that landowners can withdraw up until the Board acts, and so there could be further withdrawals between current time and the December Board meeting around that matter. He said the District Advisory Committee recommended renewal for the five-year period.

Mr. Clark said the Chalk Mountain AFD was located south and southwest of Crossroads and is about 1,600 acres. He said the only parcels in this district that are in the Open Space category have development rights and therefore, this AFD could be renewed for a ten-year period, at the committee's recommendation.

Mr. Clark said the Fox Mountain AFD is located in the northwest of the County near the intersection of Brown's Gap Turnpike and Blackwell's Hollow. He said it was a 436-acre district with one parcel of 26 acres that is in the Open Space category without development rights. He said the District Advisory Committee recommended renewal for the five-year period.

Mr. Clark said the Jacob's Run AFD was just over 1,000 acres and is located northwest of Earlysville. He said there are four parcels in this district in the Open Space category and no

development rights, and therefore is another five-year review period. He said the District Advisory Committee recommended renewal for the five-year period.

Mr. Clark said Sugar Hollow AFD is one of the County's larger districts at 5,000 acres located near the Sugar Hollow Reservoir along Sugar Hollow Road. He said there is one parcel of 21 acres with no development rights in the Open Space tax category. He said the District Advisory Committee recommended renewal for the five-year period.

Mr. Clark said Yellow Mountain AFD was 748 acres, and all the parcels that are in the Open Space tax category have development rights. He said therefore, the appropriate review period is ten years. He said the District Advisory Committee recommended renewal for the ten-year period.

Mr. Clark said there was one addition request for the Yellow Mountain AFD which would add a parcel that is directly adjacent to the district, which is 14.5 acres and contains almost 9 acres of important soils. He said the property has four development rights and is therefore eligible to be added, on top of its soil quality. He said at the District Advisory Committee meeting in October, the committee recommended approval of the proposed addition.

Ms. Firehock said she was not sure that she entirely understood Mr. Clark's memo. She said Mr. Clark had mentioned the Board of Supervisors directing staff to implement a plan to review districts for a five-year period rather than ten years, notify the landowners that their parcels may be removed at the end of the five-year period, and that they have the option to withdraw from the Open Space Use Evaluation now to avoid rollback taxation and fees when the parcel are removed. She said she understood how the law works in that if one prematurely withdraws from the designation, they must pay back taxes. She said she did not understand the way the statement was written because it implied to her that in five years, the landowners could be denied renewal and would then have to pay five years of back taxes.

Mr. Clark explained that the five-year period was precisely to avoid the rollback problem. He said people have been accepted into the districts and if the Board removed them immediately with no warning, they would be hit with the five-year rollback.

Ms. Firehock asked if the five-year period was then to let the landowners know that the Board intends to remove them and was giving them a five-year notice.

Mr. Clark replied yes, adding that they can either find another way to qualify through Agricultural and Forestry, or they can go back to paying full-rate taxes so that, at the end of the five years, they've paid full-rate taxes, but they don't have to pay the rollback fees.

Ms. Firehock said that, to be clear, in five years, a landowner has not found a way to qualify for a renewal, for example. She asked if the landowner was out at that point and did not have to pay rollback taxes. She said the County was saying that they didn't think this landowner was qualified, as they had no development rights and therefore it wasn't the landowner choosing, but the County choosing.

Mr. Clark replied that it is the Board's choice.

Ms. Firehock said she was literally taking the statement the way it is written and asking if Mr. Clark was saying that, in five years, if the landowner cannot come up with a way to qualify, they then must pay rollback.

Mr. Clark replied that this was the reason why the County was notifying them immediately after the Board's action to say that if they don't have another way to qualify, their other choice is to return to paying full-rate taxes now, year by year. He said they would be paying one full year's payment per year rather than, at the end of five years if staying in Open Space and then getting pulled out, they will be paying five years at once of back taxes plus fees.

Mr. Clark said that the original thought was that the Board wanted to simply remove the landowners but realized in looking at the taxation regulations that if they did this, they would have no authority to excuse them the rollback. He said they must give the landowners the opportunity to pay regular taxes for five years, year by year, rather than having to pay everything all at once at the end of the five years.

Ms. Firehock asked if the Board would like them removed, but that the Board didn't have a way to simply remove them.

Mr. Clark replied no, stating that the Board could simply remove them, but the Board did not want to, without warning, hit people with the equivalent of 6-8 years of taxes. He said the Board could end the entire district, if they so choose, as part of their legal ability, but did not choose to do it that way.

Mr. Dotson said this answered his question.

Mr. Keller opened the public hearing.

Mr. Neil Williamson (Free Enterprise Forum) that as this had become a five- or ten-year tradition, he mentioned that there was a public hearing for AFDs and no such hearing for a conservation easement. He pointed out that both have equal taxation benefit and that it seemed as though it would be logical to involve the public when taking land off the rolls.

Mr. Williamson said the Free Enterprise Forum has grave concerns with the issue Ms. Firehock spoke of. He said the idea of the conservation districts, originally, was to protect the areas and was similar to renting rather than buying, making the conservation easement last forever. He said this wasn't forever, but was for ten years, and the ideas that are enumerated in the Comprehensive Plan talk about habitat fragmentation.

Mr. Williamson expressed he was lost, explaining that if there are 100 acres in the middle of Forestal District that have no development rights, and it has been a part of the Forestal District but perhaps the development rights were parceled off as they could, that piece goes under regular taxation and is prime for mega-mansion development. He said it would result in habitat fragmentation, which was the very thing that the Comprehensive Plan speaks of not wanting to have happen. He said the cost-benefit analysis was lost on him, acknowledging that the numbers were not that great for what the County was gaining, and that the acreage was not insignificant.

Mr. Williamson said he was betwixt and between because those property owners have done everything they were supposed to, and the County changed their mind. He said he didn't think it was beyond the Planning Commission's purview, since it is charged with reviewing the districts, to say that they have concerns about the policy. He expressed appreciation for the proactive way that the County was trying to notify landowners, but that notifying them that they are going to be hit in five years with rollback taxes wasn't what he was expecting out of local government.

Mr. Keller closed the public hearing and brought the matter back for discussion and action.

Ms. Firehock said she often reminds herself that she is not the policymaker of the County, but merely the advisor. She said for many years, she has said that the purpose of AFDs is not merely to protect the County from excess development in the rural area, but to provide a district or region where people can practice agriculture and forestry in the same area. She said this means that things such as the noise of tractors and logging trucks going down the road are understood to be appropriate and helps ensure there is a market or commonality of use in one region.

Ms. Firehock said when someone signs up for the AFD, under the County's guidance and state-enabling authority, and then is informed by the County that they are only interested in the districts if they have to do with development rights, would mean that the County is letting people down. She said the County would not be upholding the spirit, nor the letter of the law, as it pertains to the purpose of AFDs. She said she was deeply opposed to the idea of the five-year setup that the Board has. She said again that while she didn't make the policy in the County, she was not in support of enabling someone to only have five years.

Ms. Firehock noted that the Planning Commission does not decide whether people stay in or out of an AFD, and that they make recommendations. She said the Board has made it clear that they want to get rid of those that they say do not have value. She pointed out there were other values provided rather than simply keeping or moving a development right by keeping the land in agricultural and forestal use, even if they are not making a giant profit or preventing a development right.

Ms. Firehock said that as someone who lives in the rural area and cares about it, she was very upset about the way the County has gone about this. She said she was not blaming staff, as they were working within what the Board has advised them to do, but that she simply did not agree with it, and that she said this the last time it came up. She said she did not know what she could do about it because she was not the policymaker, but wanted to register her deep disappointment in it, adding that it was a disservice to the rural landowners.

Mr. Keller asked if staff could provide more background. He said at the Agricultural and Forestal Advisory Committee meeting, there was a lengthy discussion about this, and Mr. Clark had provided a thoughtful background on where staff has been and how they have been continuing to work to see if there would be a way to solve the dilemma of a case where a person has property in the Open Space category and is doing something that is positive and supportive of the environment, yet is still being removed, as opposed to individuals who are not meeting the spirit of what the Open Space category was about.

Mr. Clark said he would back up to several years before and how the County got into the situation. He said the origin of the problem was after the County began doing its use value taxation revalidation every other year, there were many more people who were motivated to find ways to qualify for use value taxation. He said many of those people were not farming or doing forestry. He said they had 21-acre to 25-acre parcels, most of which had been fully developed with no development potential left.

Mr. Clark said that for several years, a large proportion of the parcels that were added to the districts were those already-developed parcels that were not being farmed because this gave people a route to the Open Space tax category. He explained that whether or not they were

actually limiting development in the rural areas by being in the district, and whether or not they were doing farming (which most were not), if they met the criteria that they were in the district and had the minimum acreage, they qualified for the Open Space tax category.

Mr. Clark said the concern became that this wasn't equitable to the people who were actually doing farming, forestry, or Open Space protection and getting the conservation-related tax benefit. He said it wasn't fair that other people whose land was already fully developed were getting that same benefit.

Mr. Clark said that about two years before, the County changed the criteria for adding new land to the districts. He said this was how this began -- that it wasn't a matter of looking for people to pull out but was a matter of changing the County's practices for how they add people to the districts.

Mr. Clark said as part of the recodification of Chapter 3, which administers the AFDs, the County added criteria about development potential. He said the districts mainly operate through limiting subdivision, but that their goals are much higher and broader than this in trying to protect areas for agriculture. He said they work is by preventing subdivision, and so parcels that don't have any subdivision potential don't make a difference when they join the district as far as the operation of the code goes. He said they are not being prevented from doing anything because they have already done it. He said this was the first step -- ceasing to take parcels that didn't meet that criteria.

Mr. Clark said the second step with the Board became that some Board members wanted to undo those steps and remove those parcels. He said that as part of that, Ms. Mallek asked staff (he, Mr. Kamptner, and Mr. Lynch) to look for other ways that people might qualify, perhaps by staying in the districts or staying in the Open Space tax category, so that the Board wouldn't have to follow up on the option of pulling them out.

Mr. Clark said the problem was that, while there are clear and consistent qualifying criteria for all of the other use value taxation categories (e.g. certain amount of income, acreage for farming, forestry plan, certain amount of acreage for forestry, horticultural business for the Horticulture category), there weren't any programs that were consistent over time in their application and effects that the Finance office could look at a form and determine that one would be doing Open Space conservation while another was not. He said it was all too inconsistent and changed too much too frequently, with programs that came and went.

Mr. Clark said one example was having a conservation plan in a soil and water district, but that this could mean many different things because they were not all the same and was not something the Finance Department is equipped to analyze and make judgment calls about, whereas every other category has very clear, qualifying criteria.

Mr. Clark said that, if staffing permits, they hope to pursue more options for finding ways for people to qualify for the Open Space category for landscape protection, habitat restoration, native meadows, and other things that the County likes to see people doing, but that there wasn't a way to work this into the AFD program, which mainly operates by limiting subdivision in the rural area zoning district. He said there are limitations to how much can be adjusted within the restrictions of the AFD program but that, longer term, staff has hope of opening more options for supporting people who are doing conservation work in the rural areas.

Mr. Keller asked if there was a motion.

Mr. Herrick again suggested that the items be considered separate. He said it was his understanding that Mr. Clark had separate suggested motions for each of the eight items.

Ms. Spain **moved** that the Commission recommend renewal of Buck Mountain District for a five-year period, minus the requested withdrawals.

Mr. Dotson **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Ms. Riley **moved** that the Commission recommend renewal of Bucks Elbow Mountain District for a five-year period.

Ms. Spain **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Mr. Dotson **moved** that the Commission recommend renewal of the Chalk Mountain District for a ten-year period.

Ms. More **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Ms. More **moved** that the Commission recommend renewal of the Fox Mountain District for a five-year period.

Mr. Dotson **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Ms. Riley **moved** that the Commission recommend renewal of the Jacob's Run District for a five-year period.

Ms. More **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Ms. More **moved** that the Commission recommend renewal of the Sugar Hollow District for a five-year period.

Mr. Dotson **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Ms. More **moved** that the Commission recommend renewal of the Yellow Mountain District for a ten-year period.

Ms. Spain **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Mr. Dotson **moved** that the Commission recommend approval of the addition of AFD201900011 Yellow Mountain Addition-Albert.

Ms. Firehock **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

Mr. Keller thanked staff for their work. He commented that the organizational framework for seeing how the process works was much clearer in the staff report, and that he appreciated the organizational format they evolved to, which was helpful.

Ms. Spain said that the last time a group of AFD reviews came before the Commission, they had also approved what the Advisory Board recommended. She asked why this was a legislative decision and not an administrative decision.

Mr. Kamptner explained that it was set up in the state code that every addition or review to a district requires a public hearing. He said it is a very detailed process and was set up in the 1970s when the state code was originally written, which was mandated to follow that every single step requires a public hearing and legislative act.

**SP201900010 Rivanna Solar**

Mr. Clark presented the staff report. He said this was a request to amend a previously approved Special Use Permit (SP201700018) to extend the expiration time by three years for that already-approved solar energy facility, with solar panels occupying approximately 90 acres on a 149-acre parcel.

Mr. Clark said the facility is located at the intersection of Thomas Jefferson Parkway, Milton Road, and Buck Island Road. He said it is directly adjacent to the existing substation that is near that same intersection.

Mr. Clark presented a panorama image of the property as it looked like a couple years before. He also presented the conceptual plan for the use, noting it was unchanged and was still the same plan from the previous permit application. He indicated to gray areas, explaining that they are envelopes in which the panels themselves might fall, and the landscaping area out by 53 on the Entrance Corridor to help protect that area.

Mr. Clark said the original request was approved in March of 2018 and since that time, the applicants have been pursuing necessary permits at the state level with the Department of Environmental Quality. He said that, as it turns out, any such facility must go through that process, and it is very time consuming and more than the two years of the County's standard approval process. He said the applicants are requesting a three-year extension to allow them to finish their state permitting process and begin construction before their permit expires. He said nothing else about the proposal was changing.

Mr. Clark said given that the proposal was not changing, the County's policy for the rural areas have not changed, and the area is significantly the same, there is only one recommended change, which is to the last condition to change the date of expiration.

Mr. Clark said that, in summary, the conditions have not changed, and extending the permitted time for three years will not introduce new impacts. He said staff did not find any adverse public impacts from extending the approval of the already-approved permit.

Mr. Clark said he had all the conditions for the Commission to review. He noted that the element changing was the last condition (Condition 11) to change the expiration date. He presented the

possible motions to the Commission and offered to answer any questions.

Ms. Spain asked if the delay was because the permitting at the state level took longer than the applicant had expected.

Mr. Clark replied yes, adding that the applicants found that getting through the length of the permitting process, with the documentation they must provide and the public input process for that, was taking longer. He said if they do not get the work done within the two-year period, their permit will expire. He said they would not be able to get through the permitting process and arrange for construction in that amount of time.

Ms. Spain asked if the applicant could not have started the state process before they got the decision.

Mr. Clark replied no. He said the applicant had to get the local approval and then the County had to document that.

Ms. Spain asked if this had to come before the state process.

Mr. Clark replied yes, adding that it would have been unwise of the applicants to go into the state process without having the detailed conditions already in place and knowing what they were held to. He said the County had to provide County signatures on documentation of the approval before they could get through their process.

Mr. Keller invited the applicants to come forward.

Mr. Charlie Johnson with Apex Clean Energy Charlottesville addressed the Commission, noting that he was joined by Francis Hodsoll of SolUnesco, a partner on the project.

Mr. Johnson said that Apex Clean Energy consists of about 200 employees located in Charlottesville. He expressed that Rivanna Solar was an exciting project for the company, as it was a local project. He said Apex travels across the country to build renewable energy facilities, take them to construction, and ultimately operate them throughout the life of the projects.

Mr. Johnson presented a map showing the amount of facilities Apex has under development, construction, and operations for both wind and solar. He noted they were very active in Virginia, with solar and wind projects in Southwest Virginia.

Mr. Hodsoll said he founded SolUnesco with his business partner, John Hillis, in 2015 when they saw the market in Virginia starting to open up. He said during the period of the past four years, they started 13 different projects in Virginia. He presented a slide about the project, noting that he had started it 3-4 years before and that they sold the project to Apex in 2018 to jointly develop the project with them. He said generally, SolUnesco's role in development is to get projects started to identify land that makes sense, work with landowners, and then bring in companies like Apex.

Mr. Hodsoll said the applicants were before the Commission in February 2018. He said the project is a 12.5-megawatt project that is roughly equivalent to 2,500 homes being powered. He said the parcel is 150 acres, but the development envelope is 90 acres where, based on the conditions at the County level, the applicants are allowed to place solar panels. He said they would expect a project like this to have about a 35- to 45-year life.

Mr. Hodsoll said that one of the benefits of the project and why they think it is a very good project is that the substation is located nearby, and so the costs to interconnect to the transmission system are competitive.

Mr. Hodsoll said the only other feature he would point out is that Ms. Sweeney (the landowner) has entered into an agreement to not harvest any trees within her parcel, which also is the parcel along Thomas Jefferson Parkway to the left of a dark buffer. He said they were basically completely buffering along Thomas Jefferson Parkway between the planting right along the road and the conservation easement they have with Ms. Sweeney.

Mr. Hodsoll presented a slide showing more detail that goes into the buffering plan that they worked with County staff on to make sure that the plan meets the County's requirements.

Mr. Hodsoll presented the conditions, offering to go through the details but noting that the Commission had already reviewed and approved the project. He pointed out the only condition that was changing, which was the expiration piece.

Mr. Johnson said that Mr. Clark had provided good details about the applicants' request. He said he would highlight a few things that the applicants have been working on specific to the permitting process. He said in 2018, they received approval from the County for the Special Use Permit and that since that time, the applicants have worked closely with DEQ. He said they were currently in permit review with DEQ through their permit-by-rule process. He said this was not the only timeline item, but that the applicants expect to have approval by the end of the year.

Mr. Johnson said that along with this, the applicants have also worked with the Army Corps of Engineers to delineate the site for wetlands. He said they have since committed, with their application to DEQ, to also adhere to the 100-foot buffer from other fingers on the property, which is the 100-foot buffer that is set in the County ordinance. He said the applicants were actually buffering from all wetlands that they delineate, not just the County-recognized stream through the project. He said the applicants have received determination that the wetlands have been confirmed by Army Corps.

Mr. Johnson said that another set of details the applicants must work on in the meantime is a set of expensive studies to allow for the design of the project. He said they have performed geotechnical studies on the site and that they have flown the entire site for detailed imagery and topography for aiding in the design of the project. He said the applicants have worked with third-party consultants to help design the site.

Mr. Johnson presented some high-level construction target dates, noting that there was much work to be done between the permit-by-rule approval and construction including final engineering, securing offtake for power purchase from the project, lining up the financing (whether through a sponsor or construction financing for purchase of the equipment), and final engineering for the project. He said the hope was to be operational by mid-2021, at the very latest, adding that it would hopefully much sooner than that.

Mr. Keller opened the public hearing. Hearing no comments from the public, he closed the public hearing and invited the applicants to come forward again for questions.

Ms. Riley asked the applicants to further describe the power purchasing plan for the project.

Mr. Johnson said that traditionally with utilities projects, utilities in the past have been most logical purchaser for power, but as of late, they have seen a big push from the corporate market (e.g. Facebook, Google) as those big corporate power consumers are very interested in solar and wind. He said that specifically where they are on the grid, solar in Virginia and PJM is currently very competitive. He said Apex has been reaching out too many parties and have been making some headway, but that it was another step along the way to get into construction.

Ms. Riley asked if there was joint ownership at that point and if the intent for the future was that Apex would be the sole owner.

Mr. Johnson asked if Ms. Riley was referring to joint ownership between Apex and SolUnesco.

Ms. Riley replied yes.

Mr. Johnson said that currently, Apex owns the project as the sole owner, but SolUnesco is working with them as a contractor to finish out the development. He said at that point, it was tough to say if Apex would own the project, expressing that they would love to be able to, but that they pride themselves on being flexible with the market, as many customers would like to own the projects themselves. He said it came down to the capital to be able to construct it themselves. He said future ownership was unknown at that point and depended on the structure of the power purchase agreement or potentially utility, if a customer wanted to own the facility in their market. He said that no matter who the owner is, they would have to comply with the same permitting regulations.

Mr. Keller closed the public hearing and brought the item back for discussion and action.

Ms. Riley **moved** to recommend approval of SP201900010 Rivanna Solar with the conditions outlined in the staff report.

Ms. Spain **seconded** the motion, which carried unanimously 6:0. (Mr. Bivins was absent from the vote.)

**Work Session**

**ZTA201900006 Rio-29 Form-Based Code**

Ms. Rachel Falkenstein (Principal Planner) and Ms. Michaela Accardi (Senior Planner) presented.

Ms. Accardi explained this was the last of four work sessions that year to receive the Planning Commission's feedback on the Rio-29 Form-Based Code. She said they would be presenting the draft framework with the document (which an outline or structure for the ordinance) was essentially, followed by a series of discussion questions. She said staff would also close with a reminder of the next steps for the process.

Ms. Accardi presented a list of project goals. She said the first goal is to support and incentivize development that aligns with the vision in the Rio-29 Small Area Plan, which includes allowing development that meets the vision through a by-right development process, developing a code that works for the present day, and also allows for the area to transition over time.

Ms. Accardi said the second goal is to establish clear expectations for residents, property owners,

and developers in the County for new development in the area.

Ms. Accardi said the third goal is to find the appropriate balance between regulation and flexibility, and the goal in regulation is to achieve the desired form with the flexibility to accommodate market changes, creativity in design, and a mix of uses.

Ms. Accardi said the fourth and final project goal is to develop a draft ordinance through an inclusive and transparent community engagement process. She said staff is aiming to foster an understanding of zoning and form-based code across the public through the process.

Ms. Accardi said that this originated from the Small Area Plan in that there are several recommendations related to this, including updating the zoning ordinance to allow for the desired form and mix of uses and pursuing form-based code as a mechanism to promote the desired form.

Ms. Accardi presented the project timeline, explaining that they had worked through a series of staff technical working groups that have conducted research and case study analysis. She said they have a steering committee that has met several times and held the summer engagement process while collaborating with the Board of Supervisors and Planning Commission.

Ms. Accardi presented the outline of the document that staff shared with the Commission. She said the first section includes the Regulating Plan consisting of the zoning map, use table, a series of drafted definitions (noting they may differ from existing definitions), and an affordable housing requirement.

Ms. Accardi said the second section of the document has General Standards, which is the largest section and the bulk of the document with a range of standards from building to architectural and amenity standards.

Ms. Accardi said the last section of the document, Incentives, is the newest section staff has worked on between the last work session and the current one, noting that staff would provide more information on this later in the presentation.

Ms. Accardi said the Regulating Plan includes the zoning map that contains several character areas: The Core (noted in red), Flex (noted in white), Edge (noted in blue), and Amenity Space (noted in green). She said the idea behind it is that the character areas dictate permitted uses and general standards applicable to each property.

Ms. Falkenstein said regarding the topic of use, there was a work session with the Commission about that topic, among others, in August, and staff brought to the Commission a couple topics of interest that they felt were key decision points. She said the first was around the topic of Light Industrial, explaining that they had heard a lot of interest from stakeholders and from the public about having a more refined definition of Light Industrial that might allow some of the employment-type uses that would have a small fabrication component, but not impact adjacent residential.

Ms. Falkenstein said they had also discussed ground level uses and whether they felt there should be a requirement for retail commercial on the ground level. She said at the time, staff was recommending that the ground level be constructed to allow those uses, but not requiring the uses in the immediate code.

Ms. Falkenstein said there was broad support from the Planning Commission for the recommendations and that staff had also brought to the Commission a broad list of categories of uses rather than the very specific uses they have in the draft framework. She said in the framework, it was represented in a table, adding that staff had also updated some use categories and definitions that will need to be further refined, but serve as a starting point on some of the new topics that were discussed for uses.

Ms. Accardi said the first section also included an affordable housing piece and, reflecting on community engagement staff had heard in August that year, they heard from 68% of respondents that they were in favor of an affordable housing requirement, noting that this group was largely based in community members and not people from the development community. She said in September, staff brought the question to property owners and developers in the area and that 47% were in favor of a 15% affordable housing requirement, while 33% were not in favor, and 20% were unsure or wanted more information.

Ms. Accardi said that following the community engagement, staff's recommendation was that, if adopted as an optional overlay, one of the following categories or percentage of units at a certain AMI would apply. She said this would provide for some amount of flexibility for property owners and aims to provide a range of affordability in a development. She said staff heard general support from the Planning Commission for the approach, but some uncertainty about the appropriateness of the specific percentages.

Ms. Falkenstein said Section Two of the framework covered building standards and that it was one of the lengthier sections that includes the topics of height, ground floor ceiling heights, block length, build-to lines, and stepbacks. She said these standards would be applied to the character areas, so there would be different standards for each based on which character area a property fell under.

Ms. Falkenstein said staff's engagement around those topics included support for smaller block sizes and taller heights (especially in the Core area). She said there were discussion with the focus groups about what an appropriate height would be, and staff brought to them what the Commission had discussed a by-right height of four stories. She said there was pushback on this because the focus groups felt that this would have some negative implications. She said the steering committee also felt that a more appropriate by-right height would be 5-6 stories, which reflected building code requirements and code construction for stick-built architecture.

Ms. Falkenstein said that when staff brought to the Commission in August the topic of building height, staff had initially recommended a five-story by-right height with up to six stories for bonus factors. She said that most Planning commissioners had said that a more appropriate height would be four stories by right, five stories for bonus, and six for special exception.

Ms. Falkenstein said that based on the feedback staff heard from the focus group, staff revised the height recommendation and was a question they wanted to engage the Commission on. She said that within the draft framework, staff recommended that buildings in the Core must be at least three stories tall and that five-story building will be allowed by right, with up to six stories with bonus factors and possibly up to seven stories with bonus factors and special exceptions. She noted that they have held questions that evening until the end of the presentation and that staff would come back and discuss this with the Commission, as it was different than what it had recommended initially.

Ms. Accardi said that in reflecting on street standards, in July, staff had worked with community members to identify key street amenities that should below on each street type. She said that with the focus group, they talked about funding redevelopment and streets, with 35% of respondents citing that funding redevelopment in the area would be the most significant financial impact, which was largely related to building out an internal street network in Rio-29. She said that related County infrastructure was cited as the most meaningful incentive to stimulate development.

Ms. Accardi said that with this engagement and research in mind, staff's recommendation was to use the Small Area Plan street sections as standards in the form-based code and use the information from community engagement for the amenities on each street type. She said local streets inside the Core are recommended to be subject to higher street improvement requirements, as this is the area that would be more pedestrian friendly and have mixed use. She said staff had received support from the Commission on their recommendation, though they had introduced a new term called "destination streets" and were told not to add a new term. She said staff has dropped this and instead state, "local streets inside the Core are subject to higher street improvements."

Ms. Accardi said that in the draft framework, staff outlined the four street types that are included in the Small Area Plan: boulevard, avenue, local street, and through corridor (Route 29). She said the draft framework also includes a street section components table, which breaks down the street sections that are in the Small Area Plan, as well as a new streets amenities table that reflects community engagement and staff research.

Ms. Falkenstein said that the topic of parking is also addressed in Section Two. She said with community engagement with this topic, staff talked more broadly about what appropriate types are and received good feedback from them. She said in the focus group, they talked about staff's approach for minimum versus maximum parking and that there was a mix of feedback. She said broadly speaking, the focus group's developers and property owners wanted maximum flexibility and so there was pushback on a maximum parking standard.

Ms. Falkenstein said that when staff came to the Commission in September, they had talked about removing parking minimums, which was staff's recommendation, and instead creating parking maximums for the Rio-29 area as a reflection of the fact that the area is currently overparked. She said this was to also encourage shared parking and the "park once" approach. She said the Commission had supported this concept in theory, although they thought of it as more of a long-term goal and were concerned that the County's infrastructure for alternative modes of transportation other than driving wasn't quite there to do away with parking minimums altogether.

Ms. Falkenstein said staff's recommended parking approach is to have a minimum parking with a lower threshold that what the County currently has, of one space per 1,000 gross square feet of development, or one-half a space for hotel rooms, with a maximum not to exceed 150%. She said the maximum would only be applicable to private, on-site surface parking so that if the parking will not be shared, it will be surface parking that is capped but if there is willingness to share structured parking, there will not be a cap. She said they would also allow for the minimum parking to be met off-site so that if there is a shared parking agreement with a neighbor or if district parking available for use, it could be counted towards the minimum parking.

Ms. Accardi said regarding architectural standards, staff began community engagement by conducting a visual preference survey with the community in August. She said this was a

recommendation in the Rio-29 Small Area Plan and helps to identify appropriate architectural styles for the area. She said staff had also brought a question to its focus groups in September about the ARB review process, since many of those people move through the process with their development projects. She said staff consistently heard that those who attended the focus groups recommended codifying Entrance Corridor guidelines as part of the form-based code process.

Ms. Accardi said when staff came before the Commission in October, they had recommended incorporating Entrance Corridor guidelines into the form-based code to eliminate the need for ARB review and, as an interim approach, adopting a County-wide Certificate of Appropriateness for the area that would focus on the topics of transparency, materials, and color; façade manipulation; and lighting which are topics that are currently in the Entrance Corridor guidelines.

Ms. Accardi said this recommendation was brought to the ARB before the Planning Commission and that staff heard overall support and willingness to work collaboratively with staff to develop the County-wide Certificate of Appropriateness. She said from the Commission, staff heard concern about architectural standards being too prescriptive that could limit creativity and flexibility in the area, and that also eliminating the ARB would be a loss in valuable input and expertise.

Ms. Accardi said in reflecting on those different perspectives that were heard throughout the process, staff has updated the recommendation and was a question that they would have at the end of their presentation. She said staff recommended developing a new category of Certificate of Appropriateness that would provide architectural standards on the topics that are in the Entrance Corridor guidelines with a modified recommendation that parcels with frontage on Rio Road continue to be reviewed by the ARB for a first review, while other interior parcels are reviewed administratively.

Ms. Falkenstein said that regarding amenity spaces or standards (the term staff is using to reference public open space), through the community engagement process, staff worked with the community to identify what the appropriate components of amenity spaces would be. She said they then spoke to the focus groups of the development community about how they think about flexibility in amenity spaces and what some options could be for allowing flexibility. She said there was strong support for a cash-in-lieu-of option for people developing near the amenity spaces that were identified on the plan to provide some funding to support development of adjacent amenity spaces rather than providing it all on site.

Ms. Falkenstein said staff's recommendation was that they use the framework from the Rio-29 Small Area Plan to identify required amenity spaces but in addition to that, to have a percentage of amenity space required on site on each development, along with the cash-in-lieu-of option discussed. She said the Planning Commission had supported this overall, but there was some concern that there wasn't enough amenity space identified in the Rio-29 Small Area Plan. She said there was also a discussion about the importance of design standards so that the spaces were not just unprogrammed, green lawn spaces.

Ms. Falkenstein said the revised recommendation is to incorporate some additional amenity spaces within the Regulating Plan, pointing out that these were included in attachments to the staff report as well as in a presented screenshot. She indicated that there were spaces in the southeast and northwest quadrants that were added by staff, as well as supplementation of existing spaces. She said they would continue to have the requirement for all developments that they must have a minimum area on site dedicated to open amenity space.

Ms. Accardi said the last section was Incentives and that staff worked with the focus groups in September to understand what key incentives would be beneficial to the development community that were also aligned with project goals. She said this helped generate the first table in the Incentives section.

Ms. Accardi said staff presented the draft idea to the Steering Committee for a points-based system that is proposed in the framework and conceptual matrix and that they heard overall support for it, though there was acknowledgement that perhaps the strongest incentive would be tax incentives in public-private partnerships for some of the buildout of the spaces, such as streets and public spaces in the area. She said, however, that this was not something that can be included in a zoning ordinance, so staff has this in mind as adjacent policy that people have mentioned is necessary.

Ms. Accardi said the draft framework includes a bonus points table, which includes a list of additional non-required building elements where an applicant could warrant additional development rights. She said the proposed points-based system would make them eligible for the second table with bonus categories. She noted that the points allocations are a first draft and are illustrative, and that they aim to solicit feedback on the approach. She said staff anticipates working further on this.

Ms. Falkenstein said staff had five questions for the Planning Commission that evening, noting they had also been included in the staff report. She asked if there were first any clarifying questions the Commission had for staff.

Ms. Firehock said she was looking at the schedule for when staff would be developing some of the other standards, generally running from January through June 2020. She said she didn't think the County had standards for street tree planting and if this would be lumped in.

Ms. Falkenstein replied that if there was a desire for this, it could be included. She said currently, there is a planting strip requirement and a list of species. She said if there was a desire for something more specific, it could be incorporated.

Ms. Firehock said she would like to recommend this, and that this could be done as part of looking at LID and other things in 2020. She said about 50% of urban trees last only 8 years, and the reason is that they are planted in "tree coffins" that are too small. She said there were many ways that the County could ensure that the trees that are planted in this new development are more likely to last (unlike the ones at Stonefield that are dying).

Mr. Keller said he was recently in Falls Church and that with several developments that have occurred in the public-private realm in the past decade, the vegetation is in dismal condition. He said it was important to have vegetation that would live on.

Mr. Keller asked what the pleasure of the Commission would be as far as having members of the public weigh in.

The Commission agreed to hear from members of the public.

Mr. Keller asked if there were members of the public who cared to speak.

Ms. Nancy Hunt said she was on the Steering Committee for form-based code. She noted that the optional overlay issue is a major one, with several people on the Steering Committee who spoke up in favor of making it mandatory because if the County wants this to happen, mandatory does have a bigger impact that optional overlay. She said this was with the understanding that the affordable housing issue complicates a mandatory (or makes it impossible).

Ms. Hunt said if the County goes for the optional overlay (which was the staff recommendation), it becomes very important to make sure that there is a sufficient structure that supports the attractiveness of using form-based code.

Mr. Neil Williamson said the Free Enterprise Forum has been adamant in its support of an optional overlay from the beginning of the process. He said he tended to agree with Ms. Hunt regarding the need for incentives because if it doesn't "pencil out," it doesn't get built. He said if the County makes it mandatory and it doesn't "pencil out," it doesn't get built.

Mr. Williamson said that by creating an optional overlay and allowing for some level of creativity by the development community, this was the goal following the understanding that any form-based code must have some form-based. He said ABG referred to it as a "form-mometer" that talks about how high the dictates are, and allowing some flexibility would be helpful.

Mr. Williamson said there had been some concerns raised that day regarding the phasing of projects. He said he didn't believe the concept has bene presented in the four work sessions and throughout the process, intends to prohibit the phasing of projects based on his understanding. He said he was still trying to dig into where that concern came from. He said if the concern is a reality, it is a concern for his organization, but that he hadn't found it yet. He said there is a recognition that phases are how things happen, and they need to allow for the development to happen in phases. He said if it was required by an entire superblock, it was not going to happen.

Mr. Williamson said from his discussions with staff and others, he believed the intent was phasing, but that he wanted to make sure this is what they get to when they codify it. He said he sincerely appreciated the outreach staff had put forth in meeting with several groups that were not all sycophantic regarding planning and being open to the often-critical critiques of centralized planning. He expressed that the project had been successful thus far.

Mr. Morgan Butler (Southern Environmental Law Center) said he would start by picking up with where Mr. Williamson left off, which was offering kudos to staff. He said the point he wanted to raise was that the clarity of the information that had been presented was very impressive. He said form-based code is a complicated topic and one that is hard to get the average member of the public to engage on to understand. He said that though there was much work still to be done, the way that staff went about the project was impressive and easy to follow.

Mr. Butler said he also wanted to add one point regarding the building standards section of the draft. He said that building standards are very essential in trying to accomplish many of the goals the County has with form-based code, particularly in the Core areas where walkability, urban vibrancy, and human scale are important. He said one component of this that the SELC believed was worth considering was the size of the building footprint. He said the County has very large buildings that sprawl across a wide area, making it much harder to achieve that walkability or to have that human scale.

Mr. Butler noted that in Places29, there are land use charts that apply to the Center, as well as to

the areas around the Center. He said that depending on the category (whether a community center, destination center, in a center, or an area around a center), those include maximum single building footprints that range between 25,000 and 80,000 square feet. He said SELC wanted to suggest that as part of the building standards discussion, considering some sort of maximum building footprint might be worthwhile. He said that perhaps there was an argument that the block size in the building standards section starts to get at this, but based on the block sizes that were being presented, these would be far beyond what Places29 had recommended for areas like this.

Mr. Butler acknowledged that there was still much to work out and that SELC looked forward to being involved in the process. He expressed his appreciation for the work and clarity that staff has provided thus far.

Mr. Keller asked the Commission if there were questions for staff before going through the discussion questions.

Ms. Riley said she would be interested in the staff response to Mr. Williamson's and Mr. Butler's comments regarding the ability to do phased development as well as having a standard for maximum building footprint.

Ms. Falkenstein said that with regard to the question on phased development, it was staff's intent that phased development be allowed so that if there was a large multi-acre property that only wanted to do a portion of the property under the form-based code, that this would be allowed to happen that way. She said staff understands that there are very large parcels in the area that may not all develop all at once. She noted, however, that staff's recommendation for the form-based code being optional is not so that the developer can pick and choose pieces of the form-based code to apply to their property. She said a developer could pick a piece of their property to apply the form-based code to, but not the other way around.

Ms. Falkenstein said regarding the second question about the building size, staff's intent was to get at this by capping the block sizes. She said if this was a topic that there is interest in staff looking into, they could see if it would make sense to have a building size maximum there. She said staff did not think it was necessary in their work so far with the required street network and the maximum block sizes with pedestrian passage breaks. She said there would be architectural requirements along the street frontage to ensure there is not a feel of a massive building. She said staff has not included a footprint maximum so far.

Ms. Falkenstein said the first discussion question was about building height. She said the question for the Planning Commission is, *"Do you support staff's recommendation of a by-right height of five stories in the Core, with up to seven stories for bonus factors and special exception? If not, what revisions do you recommend?"*

Ms. Falkenstein said in the Core, there is a three- to five-story by-right building height, six stories with bonus factors, and seven stories for bonus factors and special exception. She said the reason for this was due to the strong response staff heard from the development community, property owners, and the Steering Committee about general building code and construction and that 5-6 stories was the natural building cutoff. She said if they cut it off at 4, it would be limiting the redevelopment potential and could potentially prohibit people from wanting to redevelop.

Ms. Falkenstein said the recommendation was also due to the current zoning allows a building height of 65 feet, which was the current underlying commercial zoning that exists today, so there

was concern about taking away potential developability with a form-based code, and especially if it were optional, it might be a disincentive.

Ms. Falkenstein invited the Commission to offer their thoughts and if they support the recommendation.

Mr. Keller asked how the process was moving along with the affordable housing policy and plan. He said the reason he was asking this question was that within the Commission, there were several different feelings about whether there should be bonus density given for affordable housing or not, and whether this should be a separate issue possibly with an affordable housing overlay to the whole area as opposed to allowing for density bonuses. He said he had also heard from the commissioners about being able to target more distribution, and about revisiting the cash payment in-lieu-of and whether this should be an opt-out.

Mr. Keller said that if the form-based code project was going to be concluding while the housing is coming towards a conclusion, he had no problem with answer the discussion questions as written. He said if not, he would take a more conservative approach.

Ms. Falkenstein replied that both processes were tracking concurrently, and that form-based code was slightly ahead of the affordable housing policy and where they are with recommendations. She said she believed they would have preliminary recommendations in early 2020 but wasn't sure when they would have final recommendations. She deferred the question to David Benish (Chief of Planning).

Mr. David Benish said he did not know the exact date for the affordable housing policy but that the projects were tracking at about the same time and within one year. He said there would be time to monitor housing as it moves forward with the development of the ordinance.

Mr. Keller asked if the affordable housing policy comes in with points that could be incorporated with form-based code, that there would be enough of a correlation in the schedule to take this into account.

Mr. Benish replied that the Housing Director wants to come back to the Planning Commission after her initial round of public input in February. He said she would be reporting back to the Board of Supervisors in January and then back to the Commission. He said by that time, staff will have a better sense of what the schedule is moving forward.

Mr. Keller said the reason he brought this up at this point was because, given the interest in affordable housing the community, getting the bonus points for that would allow for a higher building height and could sway himself and others on their answer on that. He said this was why he was interested in how those might coordinate.

Ms. Accardi noted that staff was working directly with Stacey Pethia on this portion of the project and that she would help bridge the gap, if there is one, between the housing policy and the form-based code.

Mr. Dotson said that on the question of height, he was willing to support the staff proposal. He said that, in some ways, it was academic, recalling back to the 1980s and West Main Street. He said the City conducted many studies and programs trying to achieve higher density there. He said it had not been until recent years that this has happened, pointing out that this was 30 years

later, and that the City has UVA and the UVA Hospital there. He said he supported the proposed heights and that though he hoped it wasn't academic, it could be in the short term.

Mr. Dotson said he had a question about what the staff proposed. He said he supported six stories, and perhaps seven by special exception, but that he wondered that stories five and six (two stories) for bonuses was worth at least considering in the sense of the County wanting to provide more opportunity for people to volunteer to do good things. He said he couldn't truly advocate this because he hadn't thought it through entirely, but that he merely wanted to put the idea forth.

Mr. Dotson said that he thought it was ironic that when staff met with developers, one of the problems they brought up was the high cost of land. He said that by allowing six stories, the price of the old suburban land goes through the roof. He said the landowner would see this and try to capitalize on it. He said it would be popular to those who own the land and less popular to those who would have to buy the land. He said that nonetheless, he supported it.

Mr. Dotson said he had somewhat of a fear that, looking at the Core and Flex area, they could end up with a "donut" because the Core has a few more requirements than the Flex area, but both of them offer much more density than will be needed for quite a few years.

Mr. Dotson expressed that he felt there was a mismatch between this staff work on form-based code and Andrew Knuppel's work on residential holding capacity. He said staff was talking about having six stories, and five stories in the Flex area, yet when Mr. Knuppel projected residential holding capacity, he is very low and anticipating little to no redevelopment in the same area. He said he wished a conversation could take place about this to reconcile the two.

Ms. More said she agreed with most of what Mr. Dotson said. She said she had a separate question about the incentives, acknowledging that the chart that staff had presented was for the sake of discussion. She said she thought she had read that if there are points, one of the incentives would be to take away the need for a stepback. She asked if this was correct.

Ms. Falkenstein replied that it was.

Ms. Accardi said that staff recently went to a form-based code training in between their two work sessions with the Commission and reflected on whether architectural standards could accomplish the same things as a stepback in terms of making a building more in a human scale in its design. She said this was something that hadn't been fully developed at that point, but that staff had proposed the idea of being able to no longer have to do a stepback and perhaps being able to do façade articulation or a higher degree of transparency (i.e. more windows) to avoid blankness and towers. She said sometimes a stepback doesn't accomplish this either and was related to incentives, but that staff had more work to do on this.

Ms. More said this was the only thing that stuck out to her other than some of the things Mr. Dotson mentioned, such as incentivizing for allowing more stories but then potentially take away some things that might make that taller building not appear as looming over pedestrians. She said she otherwise supported why staff was headed the way they were in that section.

Ms. Firehock said that she was all about height, expressing that height was a positive thing because the County needed to have enough density to make this area vibrant and thriving.

Ms. Firehock said she wondered about Mr. Butler's comment about massing and the block size (not just the height). She said a situation where there is a lot of height by right, and long blocks with big chunks of buildings, could create a more intimidating landscape. She said she hoped that within this district, they would end up with various heights along the road so that there would be diversity along the streetscape instead of just giant massing. She said that some on City Council have complained about what West Main Street turned into, but that it looked just like what the City put in their Comprehensive Plan many years ago. She said it was as if they got what they asked for, and that she was cautious to find some way to not allow all the buildings to be one giant monolith.

Ms. Firehock said that one thing that struck her was that there were some topographic changes. She asked if it made sense to allow taller buildings in places that are already dipped down more. She asked if staff could investigate this, because a taller building in a dipped-down place wouldn't have the same effect as a shorter building closer to the rise where Rio Road and Route 29 intersect.

Mr. Keller said that Mr. Dotson had summed up his feelings. He said he would be more comfortable if everything was a story lower to begin with and then the County could see what the success is over time. He said he could be convinced that one story was not worth fighting over. He said there were several cities around the world that have kept themselves to six stories and that they have a great deal of density from having six stories. He said if the County were to build out a significant portion of the area at six stories, they would be able to allow for many people.

Mr. Keller said he could see the thought process that staff went through. He asked staff to remind him what the developers were saying about two stories of concrete with four stories stick built on top. He asked if this was the break point and why there was talk about six stories or less and then higher than that, one would use a different construction technique.

Ms. Accardi replied that staff had heard that the first story could be podium structured with four stories on top of stick built and, in some cases, five stories. She said the argument for a more natural mixed-use environment would be a first-floor podium built and then four stories above it, which is where the five-story to six-story range was advocated to be crucial for a mixed-use pedestrian area.

Mr. Keller said that if staff hadn't already done so, it might be worth looking at some of the apartment building standards that have been coming out of Germany for the past decade in which every unit has light from multiple directions. He said he was thinking about what Ms. Spain was talking about with views, which brought the Commission to the other discussion of shorter views versus longer views. He said there were many psychological studies that have shown the importance of daylight coming from different directions, depending on the climate and orientation. He encouraged staff, in thinking about the block size and building form, to do a quick search for Munich and Berlin because he believed that this, along with a zero-run-off standard, would be worth looking into.

Ms. Firehock said they could consider a green rooftop.

Mr. Keller said Germany had figured out many ways with cisterns and didn't have to only be green roofs. He said he knew that they were discussing buildings but that those things he mentioned did have some relation to size and possibly other things that one may want to consider for bonus.

Ms. Riley said she appreciated many of the comments from other commissioners and that she didn't have anything to add. She said she supported the staff recommendation.

Ms. Spain said when she initially saw the seven-story recommendation initially, it was a knee-jerk reaction against it because of her concern about the viewshed. She said she could see the reasoning behind it and appreciated Ms. Firehock's comment about the topography being figured in. She said she didn't know how this would be included as far as directions to the developer (e.g. a way to tell them they can build a seven-story building if it was below a certain topographic level).

Ms. Falkenstein said if they were doing seven stories by special exception, they could develop some criteria that they would look at, and that topography could possibly be one of them.

Ms. Spain said she agreed with her colleagues' comments.

Ms. Accardi said the next question was about amenity spaces. She said Ms. Falkenstein had shared earlier that staff revised the Regulating Plan, and the question was, *"Does the revised Regulating Plan and associated framework address the Commission's desire for additional and connected amenity space in Rio-29?"* She said the recommendation was that staff added additional amenity space in the southeast and northwest quadrants in order to achieve a more distributed network of greenspace across the four quadrants. She said that there are site requirements for amenity space and in 2020, staff anticipates working on standards for each of the types of amenity spaces so that they are programmed according to their use.

Ms. Spain asked where staff mentioned taking cash-in-lieu contributions for the greenspace. She asked if this was part of what was being discussed.

Ms. Falkenstein replied that it wasn't part of the discussion question, as staff felt there was strong support for this at the last work session. She said within the framework recommendations, staff included that, within a certain radius, properties could opt in to pay some funding to develop amenity space rather than putting it on site.

Ms. Spain said her concern was that developers don't all put their greenspaces together to create something large and unmanageable as opposed to having the smaller pocket park spaces distributed throughout the area. She said she thought this was the only possibly drawback of allowing the in-lieu contribution.

Ms. Riley said she appreciated staff adding the additional amenity space and distributing it. She said it did seem counterproductive to allow a cash-in-lieu that would work against this. She recognized that this was also hypothetical, expressing she was unclear as to if they were requiring that a certain amount of amenity space be provided. She asked if staff for clarification.

Ms. Accardi said the Regulating Plan has the greenspaces that are the areas staff determined needed to be there. She said they could potentially move, depending on a site plan, but that this portion and type of amenity space needs to happen in addition to per-parcel requirements. She said what the Commission was seeing on the Regulating Plan was scaled back from actual buildout. She said the cash-in-lieu option would not take away the amenity spaces but would simply provide money to develop those spaces on site.

Ms. Falkenstein referred to page 15 of the framework, pointing out that the cash-in-lieu was drafted so that a maximum of 50% of the required gross acreage of on-site amenity space may

be substituted. She said if there is a property in the Core, there is a 10% amenity space requirement, and only 5% of the requirement could be provided as cash-in-lieu-of so there would still be a 5% requirement on site for amenity space. She said one couldn't opt out of all of it the way the requirement was drafted.

Ms. Riley said the question staff was asking the Commission about wasn't approval or recommendation of the approval for the table on page 15, but if they were asking something much more general. She said she was asking for clarification about what staff really wanted feedback on.

Ms. Accardi replied that the discussion question was responding to feedback that there wasn't enough amenity space shown in the area. She said staff wanted to check in about that. She encouraged the Commission to share their perspective and input on the other components of amenity spaces, as staff could incorporate those in the next draft.

Ms. Riley said she was in general accord with the staff recommendation in the area. She said she now understood that the cash-in-lieu wouldn't be counterproductive, so she was in support of that as well.

Mr. Keller said he was supportive of the recommendation as well. He said he would be interested in how staff develops cash-in-lieu across the board. He said that reflecting on Ms. Firehock's earlier comment, he wondered whether the cash-in-lieu could be used in conjunction with Parks to have something that would be a way to keep the system alive.

Ms. Firehock said she was in support of the recommendation but that she had a question for staff to consider. She said the map showed chunks of greenspace and that she was wondering how the County could thread some pathways across the landscape. She said by that, she was not talking about skipping through the woods. She said in very urban areas where pathways have been created between two buildings with benches and plants, it gives enough of a park-like feeling and gives pedestrians a way to traverse the landscape without having to walk on the road. She said there were nice sections in the draft about the streets, and that she was not asking to have greenways everywhere, but that there should be some ways to thread between the buildings, which would get at the massing problem.

Ms. Firehock offered the example of the Chicago River, where they required that buildings provide access to the river, and that no one could build right to the lot line. She said one hotel did and was made to take down part of the hotel and put the access in. She said she didn't want to mandate that everyone has a passageway, but perhaps the green passageway could be an example of a linear park.

Ms. Firehock said she works in an office building that is two stories, located about a block from the County Office Building. She said there is no place for her staff to take a walk, sit on a bench, or get under a tree. She said they tried to figure out a way to walk to the park that is far behind them and determined it was a far and dangerous park. She said in thinking about luring people to the area, finding greenspace or an "oasis" was very important.

Ms. More agreed with most of what had been said, as well as with staff's recommendation.

Mr. Dotson asked if the area the northwest of Berkmar Drive, adjacent to Agnor Hurt, was a piece that was added, or if it had been there for years.

Ms. Falkenstein replied that this space had always been in the Small Area Plan and is a piece of property the County owns. She said it is currently undeveloped wooded parcel. She said that Schools owns it and she wasn't sure what the plan was for it, but that staff thought it made sense to have as a greenspace.

Mr. Dotson said all the other spaces are central or connected and that this space seemed like an island. He said he questioned its utility in terms of contributing to the kind of place being discussed. He said if it was to be used as expansion for the school, this was fine, but that it seemed like a big piece of land in a poor location for being central greenspace.

Ms. Falkenstein said the next discussion question, relating to architecture, was, *"Does the framework and revised staff recommendation capture the Commission's desire for increased flexibility in architectural standards?"* She said staff was recommending a new category of County-wide Certificate of Appropriateness that would apply to Rio-29 Entrance Corridor parcels. She said it would provide architectural guidelines on the topics of transparency, materials, color, façade articulation, lighting, parking structures, and equipment service areas.

Ms. Falkenstein said staff recommended that parcels that front on Rio Road be given one round of ARB review under the revised Certificate of Appropriateness, with final approval by staff. She said this was in response to the concern from the Commission of losing the expertise of the ARB, and that these were the high-profile properties in the area. She said all the other properties interior would be reviewed and approved by staff in this proposed process.

Mr. Keller asked if Route 29 would still be under Architectural Review.

Ms. Falkenstein replied that the portions within the Rio-29 Small Area Plan would not be.

Mr. Keller asked if Rio Road would be, but Route 29 wouldn't be.

Ms. Falkenstein replied this was correct.

Mr. Keller asked for the rationale behind this.

Ms. Falkenstein replied the rationale was that Rio Road is the more walkable, pedestrian corridor and that Route 29 is more of an auto-oriented corridor and will likely continue as such.

Mr. Keller said that this was under the Amenity category and so one would think it would be about what someone is seeing as they are driving into the County.

Ms. Falkenstein said that staff could amend the recommendation.

Mr. Keller said they can think about it.

Mr. Dotson said in terms of the description that speaks about the Steering Committee's view that the process of the ARB was too subjective, uncertain, and lengthy, not all members of the committee shared that view. He pointed out that he believed it was the case that the ARB has a member who is required to be a developer, which offers a certain kind of perspective on the decision making whereas if it was simply one staff architect, that component would be missing. He said that those people who were beating up on the ARB perhaps won't like the result if it is a

single staff architect doing the review.

Mr. Dotson said the compromise to have Rio Road be under the ARB the first time felt, to him, like a "camel." He said they either keep the ARB, or they get rid of it, including on Rio Road (which he noted used to be the "Urban Core" and that he was glad they were no longer using that term). He said he would not support having ARB on Rio Road because the whole area should be treated the same.

Ms. More said this was discussed in the last work session and asked staff to remind her what, at the time, the ARB suggestion was.

Ms. Falkenstein replied that the ARB supported a Certificate of Appropriateness that was simply staff approved, but staff felt there was pushback from the Commission on doing away with the ARB. She said staff's compromise was to keep the ARB on some properties and not the others.

Ms. More said she felt that, with the exception of what staff was suggesting that was specific to Rio Road, this was what was discussed last time where the ARB would work with staff in developing what the expectations would be so that there would have been something the ARB would have had a hand in to serve as a guide.

Ms. More expressed that she would still very much like to see the ARB involved. She said she could understand the feelings about the lengthy process and though she didn't know what the turnaround for everyone was, she knew that for some, it has been too long of a process. She said perhaps this was because applicants weren't coming with the things they needed to have, and thus they had to keep coming back. She said she has heard other stories where the process moved swiftly, and so she wouldn't say that this was the fault of the ARB process itself. She said she supported staff's recommendation.

Ms. Firehock said she agreed with Mr. Dotson's comments. She noted that part of the point of form-based code is to make it easier to do what the County wants people to do. She said she would like to see more innovation and diversity of architectural styles in the area.

Mr. Keller said he thought they had worked this out the last work session. He said he didn't think they were talking about having the "camel" continuing after a year or so, but that it was a short-term transition period in which he believed there was still merit.

Mr. Dotson said the "camel" was cobbled together to assuage competing points of view and that it didn't necessarily fit or make sense.

Ms. Riley agreed with Mr. Dotson's position that they should treat the whole area similarly and Rio Road would not be given one round of ARB review. She said otherwise, she agreed with the staff recommendation.

Ms. Spain said she concurred with what others said. She reminded everyone that they worked to get the area of Rio Road around the Meadowcreek Parkway declared an Entrance Corridor so that ARB review would apply. She asked if there would be a significant gap between the edges of the Small Area Plan and the beginning of where the Entrance Corridor is. She noted she didn't know where the Entrance Corridor begins or whether it even matters.

Ms. Falkenstein said ideally, the criteria in the new Certificate of Appropriateness would reflect

the current design guidelines, or that perhaps an updated design guideline category might allow for different, more modern types of architecture. She said this had not yet been vetted. She said there was some potential that it could look different in other portions of Rio, but there would still be a level of architectural control.

Ms. Accardi said the next discussion question, regarding incentives, was, *"Are the proposed incentives and corresponding bonus categories appropriate for Rio-29?"* She said staff was recommending bonuses be provided for several categories including affordable housing units, public and cultural amenities, underground parking facilities, bicycle storage, low-impact development, or green infrastructure features, additional amenity spaces or trails, pedestrian alley improvements, and green building design. She said that for those provisions, recommended incentives include an additional story of building height, reduced stepback requirements, reduced parking requirements, or reduced application fees.

Ms. Accardi noted that further work was needed to refine the specific point allocations. She said staff wanted the Commission's feedback on the different categories for incentives and what they would be able to accomplish for additional development features.

Ms. Spain said the plan looked good to her and that perhaps she was overlooking something. She said the affordable housing units would be the most controversial, and the more time that is spent on this, the better. She said she didn't think that the other incentives were particularly controversial, although she would assume that low-impact development was simply part of the development plan. She mentioned seeing green infrastructure as part of amenity space and that she saw this as summing up the other topics that were already discussed.

Ms. Riley said she agreed with the staff recommendations on incentives. She echoed Mr. Keller's earlier comments about the importance of the timing of the development of affordable housing policy so that it is in step, or correlated with, whatever the definitions of the affordable housing strategies are.

Ms. Riley said she knew that staff presented some general approaches to what percentage of housing might be required (5, 10, or 15%, based on the level of AMI of the target population), but that there were likely other areas that the County would be addressing in affordable housing regarding longer terms that those properties are held affordable. She said they could be looking at housing typology or some other ways that the housing strategy might impact what the ultimate output is and what the incentives are regarding affordable housing.

Mr. Keller said he supported the staff recommendations and echoed Ms. Riley's statements about affordable housing. He acknowledged that staff was thinking about this and that the "devil would be in the details" of all of it. He said staff was giving it a good first shot after looking at many other places.

Ms. Firehock said she didn't have a problem with any of the incentives. She said she knew there was an advisory group for the project. She recommended that staff has a focus group with many different developers and ask if these were truly incentives. She said as a planner, she has created what seemed to be appealing incentives only to meet with developers and hear that they were not good enough. She said the incentives should be vetted to see if they would move the needle.

Ms. More said she supported staff's recommendation. She agreed with Ms. Firehock about vetting the incentives. She said she knew the points system was only presented for the purpose of

discussion and would need much more work, but that when she looked at it, she didn't know what it meant or how many points a developer would need to get another story on a building.

Ms. More suggested the points system be approached very carefully because although she liked the idea of a very direct and clear points system, she wondered how easily it might be to do some of the extra things and how many extra stories a developer would get, or if there would be a situation where a developer got so many points, they couldn't even use them all. She asked staff to consider all the scenarios and how they would translate.

Mr. Dotson said he supported the staff recommendation and that he had three things for them to consider. He said there was mention of underground parking and asked if "structured parking" should also be included, as this was preferred to surface parking and perhaps should be incentivized.

Mr. Dotson said in terms of affordable housing, an interesting point to consider would be what he calls "employee housing" as the County wants the area to be a place where people live and work. He asked if there was some way to give incentive to provide housing appropriate to the wage structure of the business going in so that someone could live upstairs over the store they work at, for instance.

Mr. Dotson reiterated his earlier thought about building height, which could mean that stories five and six are bonus stories, which would give more opportunities for bonuses.

Ms. Accardi said that, following up on Mr. Dotson's comment, staff has "live work" included in the Residential Use category and could look at ways to incentive those that live above the work space because theoretically, a live-work space was the style of the unit and wouldn't have to correlate to the business owner being on the first floor and the person above as the employee, as they were traditionally developed. She said staff would investigate this further.

Ms. Falkenstein asked the Commission to provide any other feedback they wanted to share before going into the last discussion question (regarding the type of zoning), as staff would be taking the draft to the Board in December. She said these discussion questions were targeted ones where there was some disagreement between staff and stakeholders or that involved more work as requested by the Commission. She said one thing that staff hadn't engaged the Commission on yet was the type of zoning. She said the discussion question was, *"Should the Rio-29 Form-Based Code be implemented as an optional overlay, or should it replace the current base zoning in Rio-29?"*

Ms. Falkenstein said staff's recommendation is that Rio-29 be structured as an optional overlay district, meaning that the County would create a new overlay for the entire area that would be optional. She said the base zoning would stay and that most of it is currently commercial zoning or planned development (i.e. shopping center) zoning. She said when a property owner wishes to develop their property, they would have the choice to opt into form-based code or develop under the current underlying zoning.

Ms. Falkenstein said staff was recommending this for a couple reasons. She said firstly, as heard in the public comment from that evening, there is strong support from the development community and property owners for the overlay to be optional to allow for flexibility. She said staff believes it provides some incentives so that people may want to opt into it, and first and foremost is the additional use and development rights being allowed with the recommended form-based code.

She said currently, most properties cannot be developed with any residential without going through a legislative approval process, so the proposed form-based code would allow for additional uses and heights.

Ms. Falkenstein said that mixed use on site was something that most of the County's by-right zoning doesn't allow for as it is separated by uses, so this was also an incentive. She added that with an optional overlay district, the County can require a percentage of affordable housing in the optional overlay because it is something that is enabled by the state legislation if it is optional and not mandatory.

Ms. Falkenstein said lastly, an optional overlay is consistent with the project goal of development that works for the current conditions of today but allows for transition over time.

Mr. Dotson said he was persuaded by the optional overlay.

Ms. More agreed, expressing that it would be a terrible mistake to not have it be optional.

Ms. Firehock agreed and said she had more comments about general topics after discussing the last question.

Mr. Keller agreed with the optional overlay, adding he assumed that everyone was following what was happening in Austin with form-based code and it being pushed back and out. He said that thanks to TomTom, many people in the area like to think of Charlottesville as the "baby Austin," so it may merit thinking about this. He said when he reflected on much of what was heard that evening, and Mr. Dotson's concern about the Center, the thought was around having transition zones with height being considered. He said there were two ways to approach this, and staff was choosing the optional overlay. He said the other thing to think about was different density zones within this, and as they are exploring it (and depending on whether they get pushback on it), they may want to reflect on this one last time.

Mr. Keller acknowledged that staff went through much of this when it was a Small Area Plan, but since it has come up in a big way in another city, it may be worth staff going back and reflecting on this.

Ms. Riley said she agreed with the staff recommendation of an optional overlay.

Ms. Spain said she also agreed with the staff recommendation.

Mr. Dotson said he agreed with what was described earlier, that the form-based code as an overlay would be County-initiated. He said the landowner, developer, or builder would then not need any further legislative approvals but would opt in to either the basis zoning or the form-based code. He said they could do this for less than the whole parcel, but they could not cherry pick provisions on the form-based code and combine those with standard. He said he wanted to be clear about what the other features of the staff proposal are.

Ms. Falkenstein said this was correct.

Ms. Firehock said that Arlington has done a good job with in-fill development and increasing density, but they also have some very tall buildings jarred right up against single-family structures. She expressed that she felt for those people who lived in a neighborhood that is now

overwhelmed. She said staff should consider adjacency and what some of the tall structures would do, depending on where they are located, to adjacent communities. She said even if it was a view from someone's backyard of a large tower that was not touching their property line, it should be considered.

Ms. Firehock said there were interesting standards in West Palm Beach regarding their thinking in terms of the lifecycle of buildings and trying to make it so that buildings can turn into other uses. She said she had two examples of how they did this -- one being that with parking garages, they required the heights within the garages to be at a certain height in the design such that structured parking could be turn into residences. She said the County has dreams about alternative transportation and though they were not there yet, down the road if there were structured parking and the standards for how it was built such that it could be turned into a condo without having to tear it down, it would complement the new transportation infrastructure later on.

Ms. Firehock said that West Palm Beach required hotels to have a higher height inside the rooms because that meant that a hotel could be turned into condos later and give the building a greater lifespan. She said considering standards could allow the zone to be a truly transitional one, expressing that it would go through many iterations in her lifetime and beyond.

Mr. Keller said these were good ideas and were the types of things that could be bonus points in trying to incentivize developers.

Ms. Accardi explained the next steps for the project. She said staff would bring an updated draft (with the Commission's input incorporated) to the Board of Supervisors on December 18, and that staff would be working through a draft scope that refines the January to July timeframe that they have shared with the Commission. She said pending the Board's feedback, if staff hears they can move forward with the draft framework, staff will move into drafting an ordinance.

Ms. Accardi asked if the Commission had any final comments that staff should incorporate to the Board.

Mr. Dotson said he had a comment about the term "Flex" and about the description of that area on the Regulating Plan. He said they have the "Core" and "Edge" areas, which give a mindset, and what they need is a term that says it is in between the Core and Edge. He said "Flex" was talking about something else and was a different vocabulary. He said that while "Flex" is frequently used in New Urbanism, he thought it was weird, and that he would prefer a term such as "Transition Area."

Mr. Dotson continued that "Flex" seemed out of place, and that the description says it is the highest amount of flexibility in building form and use. He said this description partly gives him concern regarding his "donut" fear. He said he would rather see it described as being the link between the Core and Edge, and less intensive while still allowing mixed uses, rather than deeming it to be the "Wild West."

Ms. Spain suggested "Burgess Zone" due to it being a zone of transition.

Mr. Keller thanked staff for their work. He said when he speaks to his fellow commissioners about things they are working on, every time form-based code comes up, people have smiles on their faces and express that this has been one of the most fun parts to be able to provide input into something that is as well-organized and as well-directed as staff has done with this.

**Recess**

At 8:15 p.m., Mr. Keller announced there would be a five-minute break.

At 8:21 p.m., Mr. Keller resumed the meeting with Old Business.

**Old Business**

**2019 Growth Management Report Revisions & Findings**

Mr. Andrew Knuppel (Community Development) said this item was pursuant to the prior meeting on September 24 at which staff first introduced the 2019 Growth Management Report. He said he would briefly recap some of the topics that came up the last time, walk through the revisions that were made to the report, and then present recommended findings as requested. He noted the information was in the staff report and would not be any new information but would help start the discussion.

Mr. Knuppel recalled that on September 24, staff presented the Commission with a draft report for its review. He said they received a lot of feedback from the Commission about clarifications to language, improving the clarity in the report, and helping better communicate the methodology. He said there was some discussion of the report methodology and potential applications of the data, as well as how to use the information in the future for other planning projects and considering capital planning in a way that is consistent with the report.

Mr. Knuppel said that later, staff requests return for discussion about the Commissions' desire to establish some findings from the report and talk about next steps. He said staff did outline some proposed recommendations and next steps as far as continued performance reporting for the Commission, which also includes the annual report that staff has been creating as well.

Mr. Knuppel said he would run through some of the revisions staff made since the last meeting. He said the report was substantially the same and that staff had not made any tweaks to the methodology, stating that that "ship had sailed" as far as staff capacity and their ability to re-run the model. He said they added some background information about the statistical area in response to a concern that was raised about the nomenclature.

Mr. Knuppel said Neighborhoods 1-7 have been used since the 1970s in the Comprehensive Plan and that Pantops has its own name covered in the Master Plan. He said otherwise, staff uses these terms to refer to the neighborhoods as statistical areas. He said there were some slight boundary changes over time, but that these were intended to stay static in what it serves.

Mr. Knuppel said staff added some additional letters to table columns in the report to help add some clarity about how each column was multiplied or added, which would help people do the mental math about how units and population multipliers are added.

Mr. Knuppel said for the Crozet text, there were edits made there around concerns that were heard, and staff added an additional estimate. He said later, they received confirmation that Old Trail is looking at closer to a 1,200-unit buildout, and there has now been a second estimate added to Crozet. He said that system wide, they had an estimate that removed 1,000 units from the pipeline in Crozet, but because this was a significant chunk of development capacity in the area, a second estimate was added to look at this scenario as well.

Mr. Knuppel said staff added notes throughout the document to make sure that it was clear where they received the pipeline project information from and where they used an adjusted estimate to account for a lower potential buildout. He said this was specifically noted. He added that there were some minor stylistic tweaks made throughout the document.

Mr. Knuppel said the recommended findings were found in Attachment B of the staff report. He said he pulled some takeaways from the report for consideration in the future that were identified as potential applications or in other words, how the data can be used to plan more effectively.

Mr. Knuppel said that staff's potential number one finding was that, in looking at the three scenarios in the report, there are inconsistencies between land use plan scenarios and zoning ordinance, and takeaways to consider as far as how the County can better align its zoning ordinance with land use planning efforts. He said this was something that would take a couple steps to make it happen, as the zoning ordinance did not line up with the Comprehensive Plan's land use categories, and staff wanted to make sure they are considering other on-going efforts such as the housing policy update, Climate Action Plan, and other equity/inclusion initiatives in the County.

Mr. Knuppel said the County would need to update its land use designations to reflect the other initiatives and current best practices. He acknowledged the difficulties in regulating a 6-34 dwelling unit range and creating a zoning code that supports this. He said in the long run, the question was about what the update of the Zoning, Subdivision, and Water Protection Ordinances look like.

Mr. Knuppel summarized that staff's first finding was about the need to align the land use plans with the zoning ordinance, which was a takeaway that they could look at in the long run as a potential implementation to a staff-added application of what they are seeing in the report.

Mr. Knuppel said the main discussion points from the last meeting was about how the County can use this data to inform planning for future needs and capital investments. He said staff had just identified a few potential uses of this, such as the Capital Improvement Program (CIP), which is a major consideration of how the County prioritizes projects. He said the question was about if the County is responding to where development is currently happening, if they were catching up or planning for where those things happen. He said the Hollymead community came out as an example in the last review in that the County knows there will be development there in the future, and the question was if the County should be looking for potential there with the CIP.

Mr. Knuppel said staff discussed the Transportation Projects prioritized and that they used a land use factor in this and the development tracking information to determine how many potential units would be served in new development by the potential transportation projects in the most recent prioritized. He said staff also looked at the Schools' long-range facility planning to ensure they have school facilities in districts that are sized appropriately to meet the expected population growth. He said to ensure the County has adequate recreational facilities, they know there will be a certain number of people and there are current standards that focus on a service ratio based on acreage per resident.

Mr. Knuppel said there is a transportation analysis zone forecasting as well, noting that the MPO takes a lead on this process and that it was completed a couple years before. He said in the future, this could be something that could be added into the model.

Mr. Knuppel said the takeaway is that there is a great deal of data staff has in a more structured way than before. He said the question was about finding ways to use this data and plan.

Mr. Knuppel presented on the topic of performance management, stating that staff will ensure they will use the data to evaluate the effectiveness of their land use planning policies. He said a performance management strategy could evaluate their planned versus actual usage of land area. He said, for example, that a parcel could be designated for a certain number of units in the Comprehensive Plan, but developed at a different number, and that the performance management could provide a feel for how effectively the development community is utilizing the County's land area and whether they are building out to the expected potential or losing potential capacity.

Mr. Knuppel said that staff being able to use the data requires a strategy to ensure that they can sustain it in the future as far as from a staff capacity standpoint. He said they would ensure that the data is accessible to the public and that currently, a great deal of manual staff time is spent to clean, sort, and process data. He said they currently did not have an open data policy, but that some potential strategies could include looking at organizational data policies and providing staff support and resources to have staff capacity to continue to analyze, process, and apply the data in the future, as this was a concern.

Mr. Knuppel said staff had recommendations for future reporting and how they approach the next iteration of their annual report. He said in 2017 and 2019, staff put together the longer indicators of a progress report that accompanied the Commission's annual report, which is required by the state code. He said this included the longer discussion of the metrics from the Comprehensive Plan and that staff did these two years apart. He said they would likely like to continue to do this again in 2021, noting that they were not yet at a point where they could do this on a yearly basis.

Mr. Knuppel said as staff looks to the next iterations of that report and of the residential capacity analysis, two years apart, they believe it would be prudent to dedicate some meeting time in 2020 to discuss the desired updates to the reporting framework to consider this in the work program and ensure that staff has the support to look at any updates to their methodology and to the indicators they are considering for the 2021 report.

Mr. Knuppel said in the meantime, staff will continue to conduct analyses and include as many performance management efforts in their ongoing plans as possible. He said they would make sure to do more analysis of capacity when looking at the County's Master Plans, come up with potential land use scenarios and then, in their plan recommendations, make sure they have ways to track implementation and the performance of the strategies.

Mr. Knuppel ended his presentation, stating that this was an overview of the staff report and an overview of the broad themes that staff had identified as potential findings, applications, and takeaways for how the report is used moving forward. He reminded the Commission that no action was required from it and that last time, the report was provided for information, they had a fruitful discussion from it, findings were presented, and should the Commission choose to make findings and communicate them, staff recommends considering the potential findings in Attachment B of the staff report.

Mr. Dotson asked what the next stop was for the report and if it was the Board of Supervisors.

Ms. Falkenstein said they did not yet have a date because they wanted to see what would happen with the Commission. She said ideally, they could get it to the Board in December and that typically, it is a Consent Agenda item for information with no action required from the Board.

Mr. Dotson said on page 12 of the report, under the heading, "Do We Have Room to Grow?" the second paragraph under "Redevelopment" talks about the economic filters used in the scenarios, which provide for limited redevelopment of existing commercial areas. He said a few lines later, it indicates that the potential for redevelopment is significantly underestimated in the analysis. He said before Mr. Knuppel had arrived that evening, the Commission had been discussing form-based code and, at least at the Commission level, they agreed to six-story structures, many of which will be residential above commercial or, in some cases, entirely residential. He said there was a lot of holding capacity in this area and was something they were working on.

Mr. Dotson asked, if looking at Neighborhoods 1 and 2, if the numbers in the report reflected an amount of redevelopment potential. He said from the earlier conversation, he had the impression that very little redevelopment was reflected in the numbers. He asked Mr. Knuppel could comment on how much redevelopment was reflected by the report in Neighborhoods 1 and 2 (the Small Area Plan area).

Mr. Knuppel replied that the economic filters used for Neighborhoods 1 and 2 were conservative and as mentioned, the methodology was found in the appendix. He said that for the properties that were assessed as commercial or industrial users, instead of several dwelling units on the parcel, staff used a property evaluation per square foot figure. He said staff had looked at the way the Oregon Metro assessed the redevelopment potential and if the values of that property were below a certain threshold, it was considered eligible for redevelopment. He said the rationale for this was that if the property values are low enough, there could be an economic benefit by redeveloping the property.

Mr. Knuppel said staff calibrates the numbers mostly based on what had come through past capacity analyses as far as what they had identified as being able to be redeveloped, noting that there was not a strong methodology to this but rather, an eyeball test. He said staff tried to adjust the values they used based on market areas such as Neighborhoods 1 and 2 of the northern urban ring, Pantops, southern urban area, western urban ring, Hollymead, etc.

Mr. Knuppel said staff used a conservative estimate because they didn't have a chance to vet this externally. He said they also had a pro forma that was done as part of the Rio-29 Small Area Plan and looked at this to add additional context and get a feel for some of the land values in the area. He said the report does not capture the fact that in the Rio-29 area, several large landholdings there could be redeveloped and support housing. He said that because the threshold they used was conservative, it did not show many results for this. He said staff knew there was capacity that could be there, but that it was not counted in the report.

Mr. Dotson stated his opinion that the property value per square foot data that staff was using was current data, and the report was about 20 years in the future. He said hopefully, this would change and that redevelopment (or some of it) would take place. He said he would like for staff to discuss this again. He said that given what is being done with the form-based code, there should be some kind of "crosswalk" between the intensities the County is trying to achieve and the forecasts, which basically deny this as a possibility.

Mr. Dotson said the solution could be (since staff has the Comprehensive Plan, low, and high

scenarios) that "low" would be deemed what they have now and "high" would be what it could be if the aspirations of the form-based code are achieved. He said he was troubled that the report did not reflect the work that was being currently done.

Ms. Riley asked Mr. Dotson to clarify exactly what his recommendation was. She asked if he was suggesting that on page 15, under the "Residential Capacity Estimate" table, the low-high under Pipeline Units and Full Buildout have some additional notation and/or numbers changed to reflect the densities that will be allowed under the new form-based code.

Mr. Dotson said that what he would like to see (perhaps under the "high" scenario under the Comprehensive Plan) would be some figure that anticipates perhaps not full development in 20 years, but at least some share of it that is a realistic expectation. He said his concern was that the filter that was used in the model is based on current data as if that same data will be true in 20 years. He said hopefully, it wouldn't be. He said this was a substantive request and comment and that he was not saying this needed to come back to the Commission, but that he hoped that staff would have a conversation on how to bridge between the two things they are working on simultaneously.

Ms. Spain commended Mr. Knuppel for his last point about creating the databases and how this requires extensive staff time and resources as in this case, staff is trying to institutionalize this type of reporting and data-gathering. She said this would be an important point to make to the Board of Supervisors because often, when people who aren't familiar with the data crunching see reports such as this, they have no idea at all about what is involved in producing it. She suggested staff develop estimates of staff time required (hours spent, number of resources) to solidify his point.

Ms. Riley expressed her appreciation and excitement about the information being available. She said she generally agreed with Attachment B ("Report Findings and Recommendations) and that in addition to Ms. Spain's comments, it was important that the Board and the general public understand what goes into doing the data work and the resources that are necessary to support it.

Ms. Riley suggested adding an additional bullet under the last area regarding resources and, in this case, other applications, expressing that there should be an educational program associated with this. She said an obvious target group would be the CACs, but that the broader public should be invited. She said this kind of information and reflection back to the communities themselves needs consideration and needs to be identified as something that should be supported with resources.

Ms. Firehock said she really liked having the information and thanked staff for it. She said the maximum units approved, units built, and unbuilt units were included in Appendix B on pages 40-41. She expressed interest in seeing the number of units that the Comprehensive Plan says the County wants (e.g. in the future, a range of 6-36 units in an area), and the maximum of the Comp Plan designated areas compared to what is getting built.

Ms. Firehock offered Crozet as an example, where someone would say that a higher density should be approved because many develops are being built at a lower density than what the Comprehensive Plan envisioned. She asked if there was some way to add up the numbers, acknowledging that this could be cumbersome because there were so many ranges in the Comprehensive Plan.

Mr. Knuppel asked Ms. Firehock if she was referring to a number by land use designation.

Ms. Firehock replied yes and said that the Comprehensive Plan maps envision up to several units and that she would like to have it compared to how the County is doing. She said she was curious to track what the County said they wanted in the Comprehensive Plan and compare it to what is getting built. She asked if that data was included in the report or if it needed to be aggregated in some way or wasn't looked at.

Mr. Knuppel replied that he didn't believe staff looked at the numbers by specific land use designations. He said with their methodology, they looked at the information on a parcel-by-parcel basis, explaining that there are some parcels that have split land use designations, so they looked at each specific portion of the parcel and aggregated it back together. He said the output the report has is by each parcel as far as expected potential but that it was not a complete minimum/maximum that could happen on the parcel, but a mixed factor that looks at everything in the aggregate. He said it was not the same thing as the theoretical buildout of the parcel.

Mr. Knuppel said there was a field in the shaped file that would potentially be able to say what the primary land use category is, and that staff could potentially look at that. He said the report does not contain graphs about how the County is using each specific land use category.

Ms. Firehock said that when the Commission receives site plans that ask for more density, they are almost always looking at them in a vacuum. She said, for example, they recall that anecdotally, they recall another project not being built out to full density, or they heard that a developer decided to switch to "by right" because it was too hard to go through the process to ask for the additional density. She said she wanted to find a way to get a snapshot of how the County is doing -- if they are overall, in the large game, failing to meet the density that the Comprehensive Plan, or if they are somewhere in the middle, or if it all averaged out.

Ms. Falkenstein responded that the report does not retroactively look at the properties but looks at unbuilt properties or properties that may redevelop. She said it sounded as if Ms. Firehock wanted staff to look back to determine what densities have been left on the table.

Ms. Firehock replied yes, suggesting that perhaps the information of what the County wanted versus where they arrived would be a different report.

Ms. Falkenstein agreed, stating this would be a different model and report, and if there was value in seeing this information, staff could investigate adding this into their overall data program as they become more sophisticated.

Ms. Firehock said she had a philosophical question to leave with staff. She said in thinking about all the developments that people ask the Commission to look at the Comprehensive Plan in order to increase their densities (all done one by one), she has repeatedly asked why the County cannot be rezoned to be the density that is wanted and allow everyone to move forward by right. She said in the past, the County wanted more proffers from developers. She said the proffer rules have changed and tighten, and that it was harder than ever to get those done.

Mr. Keller disagreed, stating they had loosened.

Ms. Firehock agreed that they had loosened some, but in terms of getting what the County wants,

it was not predictable. She said she felt like the County didn't want to go through this for a number of reasons, but if they went through the Herculean effort to rezone the County to what they wanted to see happen in terms of density and created standards that got the type of quality development that they wanted, the question was whether that effort would have actually reduced time for staff overall rather than doing piecemeal rezonings. She said this was not something she expected an answer to, but that this was her "annual soapbox" about the way the County was going about the zoning.

Ms. More expressed her appreciation to the adjustment made to the report to consider Crozet and Old Trail. She said the report was very confusing to her because the Old Trail numbers had seemed low and that she finally figured out that Old Trail Village does not consider Lower and Upper Ballard and Creekside. She said this was all considered by the community as part of Old Trail but that it was not part of their rezoning and is not part of the numbers that are left remaining in the pipeline but was built by right.

Ms. More said she wanted to make sure that they have 250 in Lower and Upper Ballard, 100 in Creekside still building, and that the Lodge units are still captured in the estimated current units. She said she assumed there was a discrepancy of that they have 450 built in Old Trail Village, which is subject to the rezoning, and the 2,200 assumption at buildout. She said she assumed that they were building units faster than staff can make charts for the Commission and that this was why the discrepancy was there. She said she and staff exchanged emails about Old Trail having 450 built, 350 under active development, and a predicted additional 400 units. She asked if this was the adjustment staff made to the report.

Mr. Knuppel replied that the primary adjustment made was adding the second estimate that took the 1,000 units out of the pipeline and that instead of a 2,200-unit buildout, it was a 1,200-unit buildout. He said Lower/Upper Ballard and the Lodge are counted in the current population and current units, so staff was really looking at the increment of what could be built above.

Mr. Knuppel said as far as the number staff used for the units remaining for Old Trail, the units-built figure that is used throughout the County comes from the building permit and Certificate of Occupancy data. He said it was mapped out throughout the County of where a CO has been granted or issued. He said they received a different number from this, and that they knew their building permit was as of July 1. He said he went back the dates and COs to make sure the status was correct in County View. He said there was a discrepancy there but ultimately, the report is still looking at what would be built and that it would get captured, even if the units are further ahead of where the report's number might be. He said the result is that the buildout is the same.

Ms. More said she appreciated Mr. Knuppel's attention to this because it led her to answer a question she had always been confused by as far as the low number being thrown out, but when driving through the area, noticing many houses built. She said she now understands that even though the entire area is called Old Trail, there are two separate sections and therefore, there is more density than what it looks like on paper.

Mr. Keller said he had several points for staff to consider for the future. He said staff met the spirit of what the Commission asked for in terms of making the refinements. He thanked Mr. Benish for encouraging the effort to continue as it was very important. He said it was the kind of information that could easily be mined by people across political persuasions about what is going on in Albemarle County.

Mr. Keller said he was not attempting to get staff to make changes to the report and that staff had been great with limited resources in doing these types of extra projects. He said if the staff had an opportunity to build on the report, he had four requests to consider.

Mr. Keller said that with growth management, a major portion of it is keeping the rural areas rural. He said on pages 4 and 5 of the report, there is a paragraph and graph that shows this. He said it was known that the development in the rural area has been steady with perhaps a slightly downward trend. He said it would be good to have that information included at an appropriate place in the report, suggesting that it could be segregated out into rural areas, or could be another component that is discussed. He said it was important to see what the graph on page 5 is explaining about why the development area is growing in population in a faster rate than the rural areas.

Mr. Keller said his second point was about impact and that this had been discussed before, with the figures being plenty, at best. He said he had mentioned the FEAC and what was being done with this in the past, and that there was a figure for what the carrying capacity of a housing unit in the County is to support its taxes. He said this was in the $620,000 range. He said that this was something that warrants being included in the report because when talking about what the cost of a house was in some year in the past and what it is today, people who are big advocates of growth need to see that there is another side to this in terms of taxes. He said they do not get into the taxes because it was not in this realm but that it was still important because it relates to impact and therefore, to growth management.

Mr. Keller said his third point was that once the County has the affordable housing data, and because Ms. Pethia assures the Commission that there will be some kind of figure and some collection of it (either through the regional study or what would happen in the County by querying the assessed tax value of houses), they would have at least a simple figure of units assessed under the percentage of AMI used. He said this would enable the County to say that they have so many units of affordable housing in the development areas and rural areas currently and that this was a more important benchmark needed to measure the addition of affordable housing units.

Mr. Keller said if the County has houses that are in these price ranges being flipped and going out of those price ranges, they will experience a net loss of affordable housing that they need to be aware of.

Mr. Keller said his fourth point was around problems with residents commuting to work, notably in the 250-East area, and the amount of time they are held up in traffic. He said the County, with VDOT as a partner, is attempting in many areas in many ways to have infrastructure improvements. He said that it seemed as though a chart or line item that goes with each of the development areas that shows what the infrastructure support has been in the a given year for those areas would be helpful.

Mr. Keller said there was a lot of competition amongst the various areas as to whether they are getting their fair share of dollars for those kinds of infrastructure improvements, whether they be transportation, greenspace, etc. He said this was part of growth management because it helps the Commission see trends, perhaps even in the future, for where they are more likely or less likely to see more development.

Mr. Keller concluded his points, noting that this was not to try to hold up the current reporting effort. He said staff had made significant improvements to what the Commission had seen before

and that he hoped that each year, there could be further improvements.

Mr. Dotson said it was interesting that Mr. Knuppel had lamented that it takes an entire hour to run the model. He compared this to doing the entire report by hand over the course of a year. He said the model was a substantial improvement that gives lots of possibilities for the future, including using the information for many of the tasks identified in Appendix B.

Ms. Falkenstein asked that when staff sends the report to the Board of Supervisors, if the Commission would like them to include Attachment B (the findings), or if they should just send the report.

Mr. Dotson said that they would be staff's findings.

**Review of November 6 Board of Supervisors Meeting**

Mr. Benish said there were only two items in this meeting that the Commission had previously reviewed: the CPAs for the MPO Long Range Transportation Plan and the TJPDC Long Range Transportation Plan. He said they were both adopted by the Board of Supervisors as the Commission had reviewed and recommended them.

**Committee Reports**

Mr. Dotson said the Rio CAC met and adopted a resolution requesting that the Board of Supervisors immediately provide the resources to update the Master Plan, which was adopted in 2011. He said this also meant that they would be coming to Ms. Spain's CAC asking for support for that resolution because Places29 includes three CACs. He said he was not sure who the Planning Commission representative was for the Hydraulic portion.

Mr. Keller said it was Mr. Bivins.

Mr. Dotson said that Ms. Spain and Mr. Bivins would be notified that they will be hearing from the Rio CAC asking for their concurrence in the resolution to proceed faster with the Master Plan.

Mr. Dotson said the Long-Range Planning Advisory Committee for the School Division would meet the following day. He said Mr. Knuppel would be presenting again to that group as they consider projections.

Mr. Dotson said the CIP Advisory Committee was meeting the following afternoon, 2:30-4:30 p.m. and that a report of that committee will be given to the Board of Supervisors that includes a recommendation of an additional $55 million for CIP items, transportation leveraging, economic development, Cale Elementary School, remodeling Crozet Elementary School and expansion, and a small reserve.

**New Business**

There was no new business.

**Adjournment**

At 9:03 p.m., the Commission adjourned to November 19, 2019 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Chief of Planning

(Recorded and transcribed by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards)

| Approved by Planning Commission |
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| Date: 12/03/2019 |
| Initials: CSS |