Albemarle County Planning Commission
FINAL Minutes June 16, 2020

The Albemarle County Planning Commission held a public hearing on Tuesday, June 16, 2020 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Karen Firehock, Vice-Chair; Tim Keller; Rick Randolph; Corey Clayborne; Daniel Bailey; Jennie More; and Luis Carrazana, UVA representative.

Members absent: None.

Other officials present were Lea Brumfield; Tori Kanellopoulos; Frank Pohl; Andrew Knuppel; Charles Rapp, Planning Director; David Benish; Andy Herrick, County Attorney's Office; Mariah Gleason; Rebecca Ragsdale; Michaela Accardi; Amelia McCulley; Jodie Filardo; Bart Svoboda; Vivian Groeschel; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins called the regular electronic meeting to order at 6:00 p.m. and established a quorum. He said this meeting was held pursuant to and in compliance with Ordinance No. 20-A(6), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Mr. Bivins said that electronically present that evening were: Mr. Keller, Ms. Firehock, Mr. Randolph, Mr. Clayborne, Mr. Bailey, Mr. Carrazana, and himself.

Mr. Bivins said the public could access and participate in this electronic meeting by following the links available at www.albemarle.org/calendar, or by calling 877-853-5257.

Consent Agenda

Mr. Bivins asked the Commissioners if they would like to pull an item from the consent agenda. Hearing none, he asked for a motion.

Ms. More moved to approve the consent agenda.

Mr. Clayborne seconded the motion, which carried unanimously (6:0). (Ms. Firehock was absent from the vote due to technical difficulties.)

Public Hearing Items

ZTA202000001 Erosion Protection Performance Standards

Ms. Lea Brumfield, Senior Planning in Zoning, presented the Zoning Text Amendment for applying erosion protection standards throughout the County's Development Areas. She said she was joined by County Engineer Mr. Frank Pohl, who would address any engineering questions.

Ms. Brumfield said currently, the Steep Slopes Overlay District applies to slopes with over a 25% grade in the Development Areas of the County, and this applies design standards to reduce slope erosion and increase stream protection. She said these design standards include best practices for reducing erosion, and they are required whenever steep slopes are disturbed.

Ms. Brumfield said as a core value of the County is stewardship, and the vision for the County includes healthy ecosystems, the Board has prioritized stream health in the County -- an acknowledgement that development can be damaging to natural ecosystems. She said this ZTA aims to reduce that damage by requiring erosion protection standards across all slopes in the County, and not just the ones in the Steep Slopes Overlay District.

Ms. Brumfield said to achieve the aims of protecting stream health, the Board began reviewing stream buffers and other proposals in December of 2017. She said through the next year (2018), the public provided input on those proposals, and the Board continued to consider them. She said in 2019, the proposals were refined, and a total of five stream health initiatives are underway, with one of those initiatives being the ZTA before the Commission that evening.

Ms. Brumfield said this ZTA would be going to the Board of Supervisors for public hearing on July 15 and at that time, the Board will also be holding a work session to address another of the stream health initiatives to amend the Water Protection Ordinance.

Ms. Brumfield said the ZTA adopted a Resolution of Intent on December 18, 2019, and staff is bringing to the Planning Commission their recommendations.

Ms. Brumfield said currently, in the Steep Slopes Overlay District, the design standards (Section 30.7.5) include limitations on retaining walls, best practices for cut and fill, and the requirement of reverse slope benches or surface water diversions to avoid channeling. She said in the work sessions, the Board determined that these design standards should apply to the Development Area (outside of just the Steep Slopes District) to any land-disturbing activity that requires a VSMP or VESCP, which is the Virginia Stormwater Management Plan or Virginia Erosion Sediment Control Program. She said currently, this would be any land-disturbing activity that disturbs over 10,000 square feet (or 100 feet by 100 feet). She said this is not a large area.

Ms. Brumfield said that by applying the standards throughout the County, one of staff's recommendations was to apply a maximum retaining wall height of 10 feet to activities that are not in the Steep Slopes Overlay District. She said staff recommends keeping the 6 feet height limit for retaining walls that are in the Steep Slopes Overlay District to not change this at all.

Ms. Brumfield said currently, retaining walls outside of the Steep Slopes Overlay District have no height limits, and staff believes that a retaining wall height of 10 feet provides benefits of increased safety and minimizes visual impacts of new developments, but that it will not pose an undue restriction on new developments. She said staff also hopes that the 10-foot limit will provide a balance check against developing slopes that are completely inappropriate for the use that is being proposed.

Ms. Brumfield said in the past 24 hours, staff has received feedback from members of the public on the ordinance that was posted on public agenda. She said they requested feedback and clarification on two points, noting that these were excellent points she wanted to bring to the Planning Commission. She said the first was that the language in proposed Section 4.3.3-C, which addresses the reverse benches for intervals, was confusing. She said this language does

currently exist and is not a change. She said it is being moved from Section 4 of the Steep Slopes Overlay District. She said the complaint was that this has been a confusing piece of language throughout its application.

Ms. Brumfield said the County Engineer has been working with his staff, and that this is not the first time they have heard this complaint. She said he is trying to wordsmith the language to clarify intent and application. She said this would not change the way the ordinance has been applied, and would not change the application in the future. She said it is just a clarification that they did not have in the draft that is before the Commission that evening.

Ms. Brumfield said the second piece of feedback was that applying design standards only to land-disturbing activities requiring a VSMP or VESCP might be removing application of the standards from potential smaller land-disturbing activities in the Steep Slopes Overlay District. She said this was not the intention of the ZTA. She said staff had hoped that the VSMP or VESCP would apply to basically any application, but staff did receive feedback that this may not have the intended outcome.

Ms. Brumfield said staff would recommend editing the current draft to continue to apply design standards to all land-disturbing activities in the Steep Slopes Overlay District and not just the ones that are requiring VSMP or VESCP, which currently is disturbance of 10,000 square feet at the time. She said the edit staff recommends is to apply it to all permitted uses by right, or by Special Use Permit, as it currently stands in the ordinance today.

Mr. Keller said it was great to see this finally happening, as this has been talked about and worked on for a long time. He said he had a specific question as to why staff elected to go with the 6-foot retaining wall height as opposed to the 10-foot retaining wall height.

Ms. Brumfield replied that 6 feet is what currently exists in the ordinance for the Steep Slopes Overlay District. She said this has been in the ordinance since the beginning of the Steep Slopes Overlay District, and staff did not want to reduce the standards in the district, but only apply them elsewhere as well, as applicable.

Mr. Keller said if he understood correctly, it would be 10 feet in the other areas.

Ms. Brumfield replied yes. She said it would be more lenient outside of the Steep Slopes Overlay District, so it would take the existing limits of 6 feet and make it more lenient because the slopes outside of the Steep Slopes District are not quite as much in danger of erosion because they are not in that classification of steep slopes.

Mr. Keller said in terms of protecting the existing topographic feel of Albemarle County, he was not sure himself that 6 feet isn't better than 10 feet, but he understands the argument.

Mr. Pohl said the 6 feet was developed some time ago for aesthetic purposes to break up what a large wall would look like. He said staff wanted to be less restrictive because this would apply to a greater area in the County to not create a more burdensome or heavily burdensome project with a higher wall. He said there was a balance as to what was the best height. He said 6 feet was seen as perhaps being too short, and 30 feet was too tall.

Mr. Pohl said they received some input from the development community, and it seemed like 10 feet was a reasonable height. He said there was a comment about why they wouldn't be made

the same. He said to make it less of a review issue, problem, or confusion during review, lowering it to 6 feet would be more restrictive than allowing 10 feet, which is the reason for allowing 10 feet. He said raising it from 6 feet to 10 feet would go against the aesthetic reason for 6 feet in the first place.

Mr. Bivins opened the public hearing.

Mr. Morgan Butler (Southern Environmental Law Center) said his group had raised the second comment that Ms. Brumfield went over in the staff report, and that he wanted to elaborate on this. He said SELC is definitely supportive of the concept of extending the erosion protection performance standards to apply County-wide to all land-disturbing activities that will submit either VSMP or VESCP.

Mr. Butler said SELC just had the potential concern that Ms. Brumfield went over, and to elaborate on this, the proposed ordinance changes would move that subset of erosion protection standards out of the section where it currently exists in the Steep Slopes Overlay District and move it to a new section earlier on in the County Code. He said the new section is phrased such that the new standards will apply County-wide, but they would only apply to land disturbances that trigger a VSMP or VESCP. He said in other words, as Ms. Brumfield explained, those disturbances must meet certain size thresholds that trigger those plans in order for those standards to actually apply.

Mr. Butler said in the current section where the standards exist in the Steep Slopes Overlay District, there is no mention of a size threshold or having to trigger the VESCP or VSMP. He said in other words, they are written to apply simply at the land disturbance as to establish a permitted use. He said SELC's concern is that there may be a subset of disturbances to steep slopes that are currently subject to those erosion protection standards but, as they may be smaller than the size thresholds that trigger the VESCP or VSMP, would no longer be subject to the erosion standards if they are moved out of that section, and only apply if those plans are triggered.

Mr. Butler said SELC's suggestion was, rather than moving the standards from where they currently exist to a new section that has slightly different language about when they are triggered, to simply keep the current steep slope provisions as they are drafted, then have the new section that applies more broadly to the land disturbances that would trigger the VESCP or VSMP.

Mr. Butler expressed his appreciation to the Commission for continuing government during COVID-19.

Mr. Neil Williamson (President, Free Enterprise Forum) said he wanted to thank staff for meeting with Mr. Butler, Mr. Jeremy Schwenk, Mr. Charlie Armstrong, and himself in October of 2019 to discuss the practical implications of these and other changes that are being discussed at the County. He said this proactive approach provided everyone a greater understanding of the overall goals and objectives.

Mr. Williamson said Free Enterprise Forum raised a few minor concerns that they have shared with staff, some of which were discussed that evening, and that Ms. Brumfield and Mr. Pohl have addressed many of these minor points. He said they do have a concern about the 10-foot walls and that they believe it would be better to have 10 feet everywhere.

Mr. Williamson said he was also worried about future interpretations of Section 4.3.3-D. He said the way this is written is that all surface water shall be diverted from all cut and fill slopes. He said

if a new house on a new lot has a 3-foot fill slope from the backyard down to an existing mature woodland, does the sheet flow from a couple of downspouts or even the lawn itself have to be diverted to not allow a rundown of a 3-foot slope to the woods. He said in his world, it is impractical and does not have a benefit. He said it would seem like this would prohibit sheet flow to the woods, which is actually a best management practice in many cases. He said perhaps Section 4.3.3-D should only apply when Section 4.3.3-C-1 applies.

Mr. Williamson said from a larger vision perspective beyond the issues, this was one more step that is incredibly important to protecting stream health, but that it further reduces the Development Area. He asked when the Planning Commission would discuss expansion of the Development Areas. He said it would take a decade to have that conversation, and that he believes they should get started soon.

Mr. Williamson echoed Mr. Butler's appreciation for the Commission keeping government moving forward during COVID-19.

Mr. Bivins closed the public hearing and brought the matter back to the Commission. He asked staff if they wanted to provide more clarity on what was heard from the public.

Ms. Brumfield said the comment that Mr. Williamson had brought up was something that staff had looked at, and is something they would like to clarify. She said the Municode draft of the ordinance actually has an incorrect formatting, which was not brought to light until this particular comment. She said Section 4.3.3-D of the ordinance should actually be number 4. She said it should be reverse slope benches or a surface water diversion, with #4 being the surface water diversion. She said this was a mistake at some point, either when Municode was brought in, or earlier. She said this was a change that would clarify that it is when required as applied under C-1, which is whenever the vertical interval exceeds a particular slope.

Mr. Pohl said this would do a lot to clear the issue because what occurs in C-1 has those extra protections such as the reverse slope bench and surface water diversions, potentially. He said part of the correction they wanted to make for this was "and/or a surface water diversion" because some people are saying it is one or the other, but actually, it could be a combination of benches and diversions. He said the intent with "D" was for concentrated flows. He said he agreed that sheet flows are not an issue, as concentrated flows are. He said the second sentence of "D" talks about the concentrated flows. He said wordsmithing the introduction to "C" would help clarify those two issues.

Mr. Bivins asked for clarification on what would be moved under 4.3.3-A.

Ms. Brumfield replied that she did not think they had any changes under 4.3.3-A. She said this the section of the retaining walls that the draft ordinance the Commission had that should read correctly.

Mr. Andy Herrick (County Attorney's Office) said what he understood was the suggestion was that what is now labeled as Subsection D be moved to C-4, which is where it is currently in the structure of the Steep Slopes ordinance.

Ms. Brumfield said this was correct. She said the Municode version of the Steep Slopes ordinance has it labeled incorrectly as (d), and that she believes it should have actually been (4). She said she was not sure when that mistake occurred.

Mr. Bivins asked if staff was also talking about doing some additional wordsmithing to clarify.

Mr. Pohl said this was correct for Section C and not Sections A or B. He said he believed they were sticking with 10 feet as the recommendation, although he knew there was an objection there. He said with regard to Section C, regarding reverse slope benches, he was not sure if this were the final wordsmith, as it could be "and/or" instead of simply "or." He said he needed to get some input to make sure that the concern that was brought to staff's attention that week is addressed.

Mr. Pohl said the issue is whether or not both reverse slope benches and surface water diversions may be required. He said he believes they could both be required, and staff is being challenged by someone stating that it is either one or the other. He said he wanted to make it clear that it could be both in the way that this ordinance is written without any kind of interpretation or gray area. He said there is a bit of gray area in Section 4-c.

Ms. More asked if Mr. Butler's concerns had been addressed.

Mr. Pohl replied that when this was originally thought of, it was part of the larger discussion of stream health. He said part of that discussion was lowering the threshold of 2,500 or whatever it would be lowered to, noting that it was not decided at the time. He said it was then pulled out of that workflow, and that this may be why this was in the language as part of the VESCP program as being the trigger. He said he understood Mr. Butler's point that if it is pulled out of Section 30.7.5, then those overlay districts would not have the same trigger that it does now, which is no threshold.

Mr. Bivins asked if this was an unintended consequence that they wanted to move forward with, or try to correct or mitigate it in some way.

Ms. Brumfield replied that staff recommends amending the draft ordinance to retain the existing application of the design standards to the Steep Slopes District.

Mr. Bivins asked if this would then be the mitigation.

Ms. Brumfield replied yes. She said staff had not intended this consequence.

Mr. Herrick said if he understood correctly, this would entail that in Section 30.7.5, that Subsections B and C would be retained, and not deleted as indicated in the attachment.

Ms. Brumfield concurred.

Mr. Keller asked what the life expectancies are of the block walls being seen everywhere as opposed to the poured concrete reinforced retaining wall.

Mr. Pohl replied that it was about 50-100 years. He said he didn't know, as it depends on installation. He said there are geotechnical issues that can go wrong with them. He said he is not an expert on the geotechnical side, but could get an answer for Mr. Keller.

Mr. Keller said he reads online about 50-100 years, and agreed that it would depend on the construction techniques.

Mr. Pohl said he would not necessarily say that it was any different from a concrete wall if they are installed properly.

Mr. Keller said he would like to go back to the heights again. He said he respectfully did not buy the argument that because of where these might happen, they need to work and have a lesser cost for the developer if it is going to, over time, be diminishing the visual quality of the overall environment. He asked how tall the retaining walls are that step back at Lowe's, as well as the wall at 5th Street Station and the one at the new hotel on Route 250 East near the bridge over the Rivanna. He said he thinks they need to think about these massive walls that are being created instead of working with the topography of the sites. He said he thinks that the 6-foot series of stepbacks are less visually offensive than the large series of 10-foot walls.

Ms. Brumfield said she was not sure on the exact heights, but that she knows that the 5th Street Station wall is well over 30 feet tall.

Mr. Pohl said he believes it is around 30 feet. He said the ones at Lowe's are like 6-8 feet tall, or 6-10 feet. He said he did not know their heights, but that they are definitely shorter. He said he was not familiar with the other example Mr. Keller asked about.

Mr. Keller said philosophically and obviously, this was a big improvement, which is why he would support it. He said he did not agree with having these engineering solutions to everything so that the larger footprint on the smaller lot is going to be developed. He said he thinks that working with the top of the [inaudible] line on Pantops, for instance, as opposed to cutting down 2-3 stories is both an environmentally (because of hydrology and soils) and visually (because of this cut to the land) appropriate solution. He said they should be working towards standards that are better than these, but that he would rather have these standards than no standards, which is why he would support them.

Mr. Randolph said that for him, this recalls the fact that when 5th Street Station's wall went in, as they would recognize from the so-called "twin peaks" that were then constructed on Avon Street Extended, the fill was not put in correctly. He said if they are going to increase the height of the retaining walls, he would suggest it is absolutely critical that they be ensured that, as a County, they have a very thorough inspection prior to backfilling of the wall to ensure that the appropriate gravel or stone mix is placed next to the wall so that water can then move down and does not gather, and earth is not against the wall where a mass of water could, in fact, gather and expand during freezing temperatures and push out against the layer of walling that is there and shorten its life expectancy.

Mr. Randolph said it will be critical if they are going to a higher height for the wall to be ensured that they have a thorough inspection and that the backfilling does not occur until it is signed off on by the County Building Inspector.

Ms. Firehock said she wanted to comment on what Mr. Keller and on what Mr. Williamson had also mentioned -- the notion that by somewhat restricting the amount of height one can use for walls is anti, or counter to, growth in the Development Area. She said the County is awash in single-story commercial structures. She said if one were to go to a Whole Foods, for example, in Washington D.C. or Northern Virginia, they would find a two-story Whole Foods with parking underneath. She said the County is using up a tremendous amount of land, and that it is possible to avoid slopes by going taller. She said she was not talking about skyscrapers, but only two stories.

Ms. Firehock said she thinks this is what Mr. Keller was getting at -- that with better and more creative design, they can avoid over-disturbing these areas and respect some of the topography. She said she is generally in support of this, although she is somewhat disturbed by the amount of changes she has been writing down during the discussion. She said she was a little concerned about having a clean version to vote on, or to have the changes understood enough so that everyone is clear on what they voted “yes” or “no” for.

Mr. Bailey said Mr. Pohl had suggested that in what he believes will be Section C, they should add clarification of reverse slope benches “and/or” to allow for both. He asked if this would also hold true for reinserting the language of Section C in the Steep Slopes provision.

Mr. Pohl replied that he would recommend this.

Mr. Bailey said this was the only clarification he needed. He said he appreciated the work by staff to engage the development community to try to find the balance of extending this to non-steep slope areas. He said it is a challenging decision to make on the height. He said he personally has a retaining wall on his property and had to go through the process himself, so he recognizes that it is challenging. He said from that personal experience, if he had to do 6 feet and stepback on the small lot he lives in in Belvedere, he would not have had a yard left. He said getting the 8-foot retaining wall allowed him to have a backyard of 25 feet.

Mr. Bailey said there was a lot of talk about the commercial implementation of these walls, but that there is some impact on the residential and homeowners as well. He said this would increase the cost to implement a wall if they had to get to 8 feet and put in two walls, which involves additional block, tow, and other disturbances to deal with. He said he feels that staff worked hard to create a nice compromise for homeowners as well and existing residential property owners, and not just commercial development.

Mr. Bivins asked Mr. Herrick if he could put up a motion that would address the wordsmithing.

Mr. Herrick replied yes, and that he recalled that the last slide of the presentation had a proposed motion. He said he has been tracking what was discussed that evening, so if the consensus were to move forward with the staff-recommended ordinance, he would be happy to help try to navigate through a motion for that.

Mr. Bivins asked if anyone had a comment on an issue they would like to continue with. Hearing none, he asked Ms. Brumfield to share her screen to show the motion.

Mr. Herrick said if he understood the consensus of the Commission correctly, the motion would be to recommend approval of ZTA202000001 as shown in the draft zoning ordinance of the staff report, with the following changes: to clarify the reverse benches and/or surface water diversions are required for any interval exceeding 10, 20, 30, or 40 feet in Section 4.3.3-C; and the amendment of retaining Subsections B and C of Section 30.7.5; and reorganizing proposed Section 4.3.3-D to instead be Subsection C-4.

Mr. Bivins said this motion would capture the conversation.

Mr. Randolph moved to recommend approval of ZTA202000001 Erosion Protection Performance Standards as shown in the draft zoning ordinance of the staff report, with the following changes:

to clarify the reverse benches and/or surface water diversions are required for any interval exceeding 10, 20, 30, or 40 feet in Section 4.3.3-C; and the amendment of retaining Subsections B and C of Section 30.7.5; and reorganizing proposed Section 4.3.3-D to instead be Subsection C-4.

Mr. Bailey seconded the motion, which carried unanimously (7:0).

SP202000006 Scott's Ivy Exxon

Ms. Tori Kanellopoulos, Lead Planner for the project, said that Mr. Pohl (County Engineer) and Mr. Todd Pitsenberger (Petroleum and Pollution Response Program Manager at the Department of Environmental Quality) were available that evening to also answer questions. She said this a Special User Permit request for an expansion of an existing auto service station called Ivy Exxon to add four additional service bays for a total of seven bays.

Ms. Kanellopoulos said the site is located at 4260 Ivy Road, also called Route 250 West. She said to the east of the site are residential and agricultural uses, and that to the west are commercial and institutional uses including offices, a restaurant, and a church.

Ms. Kanellopoulos said the two adjacent parcels to the west are also zoned C1 Commercial. She said the building shown directly to the west of the Ivy Exxon site is being used as a publishing house. She said the second site to the west is currently undeveloped; however, there is a Special Use Permit currently under review for a new vet clinic and offices. She said the parcel directly adjacent to the east is zoned C1 Commercial and is owned by the Rivanna Water and Sewer Authority (RWSA). She said the next parcel to the east is zoned RA Rural Area, has one dwelling unit, and is also used for agriculture.

Ms. Kanellopoulos presented pictures from staff's site visit. She said the image on the left shows the existing fuel pumps and auto service station. She said the image on the right shows the existing parking area to the east of the service station.

Ms. Kanellopoulos presented additional pictures of the site to show more of the existing parking area. She said the image on the right also shows the existing dwelling unit at the rear of the site.

Ms. Kanellopoulos said the community meeting requirement was met in the form of mailed letters with information about the proposal, with response options including contacting staff via email or phone call, or using an online input form.

Ms. Kanellopoulos said the applicant mailed letters to property owners within a one-quarter-mile radius of the proposal. She said the letters were mailed on May 1, and recipients were given until May 15 to provide comments, questions, and concerns. She said staff continued to incorporate feedback after this date, as the Planning Commission public hearing was moved later, providing more time for responses. She said staff received approximately 8 individual responses. She said the major concerns heard were stormwater management, access to the site, traffic, groundwater contamination, and scale.

Ms. Kanellopoulos said the property is zoned C1 Commercial, which allows for auto service stations not served by public water or a central water system, by Special Use Permit. She noted that the existing auto service station is a by-right use in the C1 District. She said regardless of approval or denial of the Special Use Permit, the existing use may continue by right. She said

therefore, staff has analyzed the potential impacts of the proposed expansion.

Ms. Kanellopoulos said nearby and adjacent parcels are zoned C1, Rural Area, and Village Residential. She said the property is designated Rural Area in the Comprehensive Plan. She said the property was rezoned to C1 Commercial in 1980 as part of the comprehensive rezoning of the County.

Ms. Kanellopoulos said the property owners in the nearby area were previously within a Development Area known as Ivy Village. She said Ivy Village was removed as a Development Area from the Comprehensive Plan in 1989, as the area was considered mostly built out and is within a water supply watershed.

Ms. Kanellopoulos said nearby uses include a post office, garden center, restaurant, medical offices, church, recently closed country store with gas pumps, and residential uses. She said the auto service station is an existing use and has been in operation for more than 50 years.

Ms. Kanellopoulos said the proposed height of the building expansion is 24 feet. She said adjacent and nearby structures have varying heights, ranging from approximately 16 feet to more than 30 feet in height. She said the proposed expansion is approximately 3,200 square feet, which would bring the total square footage of the auto service station to approximately 5,150 square feet. She said nearby commercial and institutional uses have a range of building footprints as well, ranging from approximately 2,500 square feet to 10,000 square feet.

Ms. Kanellopoulos said the proposed expansion will also require Architectural Review Board approval, which will include considering the surrounding context.

Ms. Kanellopoulos said the existing use is a 1,950-square-foot auto service station with three service bays and two fuel pumps. She said the proposal is for a building addition of 3,200 square feet for four additional service bays. She said the resulting building would have seven service bays.

Ms. Kanellopoulos said there is no proposed change to the number of fuel pumps, and the number of employees is not proposed to increase.

Ms. Kanellopoulos said the applicant estimates that 8 cars are serviced on a typical day at the existing service station, which would increase by five vehicles with the expansion to a total of 13 vehicles per day. She said customer and employee parking would be within the gray parking area shown on the application plan. She said parking over repaired vehicles would be located at the rear of the property, within the yellow area shown on the application plan. She said a landscaping buffer is shown on the east side of the property.

Ms. Kanellopoulos said given that the Special Use Permit is for the expansion of the existing use only, staff has analyzed the potential impacts of the proposed expansion. She said the applicant estimates that the expansion would result in 5 additional cars serviced per day, equating to an additional 10 vehicle trips per day. She said staff did not find this increase in traffic to be of substantial detriment.

Ms. Kanellopoulos said the existing structure is located partially within the 100-year floodplain, according to GIS. She said the applicant must submit a Letter of Map Change to formally determine the location of the floodplain. She said the applicant expects that the existing building

is not located in the floodplain, and this letter must be approved prior to any site plan, stormwater management, building permit, or other site planning related approvals.

Ms. Kanellopoulos said if the floodplain is adjusted, the stream buffer would also be adjusted. She said the applicant is proposing plantings within the revised stream buffer for mitigation, which is included as a condition.

Ms. Kanellopoulos said the proposed expansion would require a Virginia Stormwater Management Program (VSMP) application, and would need to meet the minimum standards for channel and flood protection.

Ms. Kanellopoulos said additionally, the concern of petroleum release has been brought up. She said the release of petroleum is prohibited by law, and is considered an illicit discharge. She said given that a Letter of Map Change is required prior to any site plan approvals, and that the applicant will need an approved VSMP application, staff finds that stormwater management has been addressed.

Ms. Kanellopoulos said the proposed expansion would not generate a significant increase in water usage, and there does not appear to be a need to improve the existing water and sewer systems, based on the impact of the expansion and talking with the Department of Environmental Quality (DEQ) and Virginia Department of Health (VDH) staff.

Ms. Kanellopoulos said existing groundwater contamination was brought up as a concern, and DEQ provided information to staff, including that the existing contamination at the Toddsbury site across the street has had substantial corrective action, and that natural attenuation has occurred at both Toddsbury and at Ivy Exxon.

Ms. Kanellopoulos said DEQ does not have any concerns with the proposed expansion, and does not anticipate the expansion to have any effect on the existing groundwater contamination.

Ms. Kanellopoulos said there is an existing joint access easement that crosses the Ivy Exxon property, and is also used by two adjacent properties to the east. She said one is used by RWSA, and the other by a residential property. She said there were concerns from the residential property owners that this access easement could change. She said the access easement and/or access to these properties may need to be adjusted during site planning in order to meet current VDOT standards for access management and safety.

Ms. Kanellopoulos said VDOT finds that the existing ingress/egress for the entire Ivy Exxon property does not meet VDOT's current design standards, and that upgrading to meet current standards could potentially affect the joint access easement. She said given that this is a site plan requirement and affects access to the entire Ivy Exxon site, staff finds that this should be addressed during site planning.

Ms. Kanellopoulos said there is also a note on the application plan stating that access for all parcels will remain, even if the access easement or layout needs to be adjusted, and that the final location and proposed landscaping area will be determined during site planning.

Ms. Kanellopoulos said there are additional regulations that apply to the auto service station use, which are found in Section 5.1.31 of the Zoning Ordinance. She said the applicant has included these requirements as notes on the concept plan. She said these include screening any cars

awaiting repair from public streets and residential properties, as well as performing all vehicle repair services within an enclosed building.

Ms. Kanellopoulos said staff is recommending approval of the Special Use Permit application with conditions. She noted that one condition has been removed since the staff report was finalized, which was the sixth condition on stormwater management shown crossed out on the slide. She said Mr. Pohl, County Engineer, was available to answer questions on removal of this condition, if any.

Mr. Clayborne asked if Mr. Pohl could speak to why the sixth condition was stricken.

Mr. Pohl replied that the Nutrient Credit Program is a State-required program, and there are certain criteria that allow the restrictions to use off-site nutrient credits. He said the County shall allow use of off-site nutrient credits, unless the criteria set forth by the State cannot be met. He said it was not something that the County can disallow.

Mr. Randolph observed that last week, the Commission had looked at a proposal for an automobile dealership on Route 29. He said one of the things that he brought up then was the high amount of lighting. He noted that in Ivy, for this application, they are proposing that there will be a full cutoff and a motion sensor during overnight hours. He said it seems that they can do this on Route 250 West, but cannot do this on Route 29 North heading out. He said he was struck by the contradiction there between the two and the lack of consistency.

Ms. More said she would circle back to the sixth condition. She said while she understood why this was crossed off, she would still like to know more about how stormwater will be managed, even though they cannot have the condition that it will be managed on-site. She said given the flooding that has happened in that area, and that it appears that part of the existing structure is in the floodplain, she wanted to know where she could find more information about how stormwater will be managed.

Mr. Pohl replied that the applicant will still have to meet the quantity requirements on-site. He said it does not alleviate the applicant from meeting the channel and flood protection requirements, but prevents the County from restricting the use of off-site nutrient credits for quality reductions or requirements. He said the flooding and channel requirements remain.

Ms. Firehock said it was stated in the staff report that the site predates the need to have had a site plan because of the age of the property and use. She asked if this meant that the current footprint has no stormwater management, and if the new stormwater management that is proposed would apply to the entire site and not just the addition.

Mr. Pohl replied that the way the rules are written is that the existing conditions are what they are today. He said there is a provision that allows some reach-back to correct past problems. He said this application is considered redevelopment, so there will be an additional 20% reduction requirement for quality. He said there is not an additional reduction requirement for channel protection or flood protection.

Ms. Firehock said there was a picture in the staff report that showed the site plan next to an image from above of the site, and currently, there is parking going on in what the County would call the “stream buffer.” She said she wanted to clarify that once the new plantings were done, the applicant would no longer be able to park cars in what is now a stream buffer that is without buffer.

She said there is no vegetation there now except some grass, and gravel. She said she was trying to be clear that they would be prohibited from parking cars there.

Ms. Firehock said in the image that was shown, there were three cars shown parked there whenever the picture was taken. She said when she was there, she herself parked in that spot, as did Supervisor Palmer and others. She said this is the image where three cars are seen parked at the edge of the bridge abutment. She said many cars are parked there, close to the creek. She said she wanted to be clear that this would be vegetated.

Mr. Bivins asked if Ms. Firehock was talking about this location that was very close to the road.

Ms. Firehock said yes.

Mr. Pohl responded that if looking at the plan, there is a greenspace that is now shown there. He said there is also an access easement in that location, which provides access to the adjacent parcels. He said there is discussion about how those rights will be maintained. He said if access needs to be maintained, he did not foresee parking being allowed in the access. He said he could see that parking would not be allowed there, but there may not be as much landscaping there.

Ms. Firehock said this addressed another question she was going to ask. She said the Eatons have their farm access, and in the drawing she was looking at, it almost looked like they would have to use the same entry and exit as patrons to the gas station, and that she knew that they did not want to compete with those cars coming in and out. She said they wanted to have their own dedicated access point. She said this is something she did not think they were rectifying that evening, but that she wanted to bring it to staff's attention, if they were not already aware, so that this could be addressed during the site planning stage.

Ms. More said she wanted to follow up on Ms. Firehock's comment about seeing the image with the many cars. She said she had more concerns than the number of cars there. She said what she saw there, with a quick count, was about 24 cars in the image staff showed. She said she wanted to bring this up for other people to consider as it relates to the numbers that were in the staff report about how many cars could be expected to be seen on the property with the additional bays, if this were allowed. She said she had an issue with the calculation of only having so many additional cars with only so many more bays because in this image, they were seeing 24 cars parked around just with the bays existing now. She said this goes back to a deeper concern of the sensitive nature of this area, the water supply, watershed, and floodplain.

Mr. Keller said he wanted a clarification of the count. He said if someone brings their car for repair, usually (in his experience), there is a second person in a second car who then takes that person elsewhere. He said this car then comes back, and the repaired car leaves. He said there are then four car trips associated with one car being repaired. He asked if this was how staff or VDOT would count this, or if it was only counted as two car trips.

Ms. Kanellopoulos replied that she believed it was only counted as two car trips. She said Mr. Keller's point about how it could happen was fair, but that it is normally counted as two.

Mr. Keller said in today's world, there are very few people who are able to go in, have their car quickly repaired, and then leave -- even for a State inspection or oil change. He said at this challenging intersection of Ivy and Owensville Roads, he thinks they need to be realistic in what those increased vehicle counts will be.

Mr. Keller said his question was about both stormwater and groundwater. He asked if there is a mechanism to know for certain that these older than 50-year-old tanks are not leaking into the groundwater. He asked if there is a test that can be done.

Mr. Keller said his second question was about the stormwater, acknowledging that there are many issues. He said on 5th Street, there was a body shop that came to the Commission some time ago, and there were discussions about a scrubber that would clean all the water that would come off and out of that site because of chemicals associated with bodywork and oil changes. He said he wondered if there was any discussion when there is additional use. He said he understood if they are extending the use on a site, but that they are increasing the number of vehicles that will be serviced, and wanted to know if there is any mechanism for cleaning of the site so that at least, in theory, there would not be more pollution added after the fact.

Ms. Kanellopoulos said to address the first question, she would defer to Mr. Todd Pitsenberger from DEQ.

Mr. Pitsenberger said this facility is no different than any other facility with regards to the requirements that it has to comply with, such as the underground storage tank regulations. He said that facility is in compliance, so they are meeting the requirement for forming regular release detection and corrosion protection to minimize the corrosion of the tanks and theoretically, to detect a release quickly, if and when one does occur. He said this is only as good as the equipment, the operator, and the amount of attention the operator pays to it. He said all indications are that this operator is doing everything that he is required to do by the regulations, at this point.

Mr. Pitsenberger said to conclusively know and to answer Mr. Keller's question, they would have to be drilling down the side tanks all the time, which is not a good practice, to confirm that they are not actively leaking. He said the release detection equipment has the ability to detect releases at small quantities, and this facility is currently in compliance with those requirements.

Ms. Kanellopoulos said to address Mr. Keller's second question, the proposed expansion would require a site plan for the whole site, and the applicant would need to meet all current site plan regulations. She said she was not sure, offhand, if those would include any additional cleaning regulations. She said she could look into what those requirements could be.

Mr. Pohl said he supposed Mr. Keller was worried about oil spills and things of that nature.

Mr. Keller said yes. He said with an oil change, there is a certain amount of drippage that occurs, even if a pan is used. He said if they are talking about many of these changes in the course of a year, he wanted to know if this meant there would be a significant amount on the ground, and if it is going onto the site when people spray off the floors for cleaning.

Mr. Pohl said he would open this up to the owner to explain how this is done. He said he believed it was all done in the building. He said spilling oil on the ground is not allowed, and it is illegal to drain oil on the ground.

Mr. Bivins said the applicant could address this during his speaking time.

Mr. Pohl said he was not sure how to address the question, as it was not in his jurisdiction to regulate something that would be considered as illegal anyway.

Mr. David Benish said he had not had a chance to address the traffic assumptions. He said he did not know the specifics of all the detailed analysis for this application, but as a general rule, staff will use the ITE manual for the traffic estimates. He said the ITE manual is based on observations of similar types of uses. He said the issue of additional people coming to pick up and drop people off would theoretically be picked up in those surveys and assessments of various sites if it is a common practice. He said this was not an extra calculation they do, as they rely on the ITE numbers, but that he believes those ITE numbers would include it.

Mr. Keller said he was basing the estimates in terms of numbers that indicated there would be a certain number of vehicles that would be added through the new facility, and that this number seemed to be doubled, which was why he asked the question, as it did not seem as if anything was factored in.

Ms. Firehock said her question was about another comment that was brought to her attention from the public about a downstream dam called Clover Lake, in West Leigh. She said this dam has suffered severe damage from a recent highwater event and has not been repaired yet. She said there was some concern about whether or not the County was factoring in the issue of adding additional stormwater. She said she understood that the applicant will have to attenuate their volume rate of discharge, but that she would like it to be acknowledged that the County will address that concern of the downstream for a dam that is in a failed state on Little Ivy Creek.

Mr. Benish said he believed this dam is in a different watershed than this property. He said he was not sure which lake they were referring to, but that there is a lake in West Leigh that has a dam failure issue, which will be in a different sub-watershed that this property. He said he would have to make sure they were talking about the same lake or dam.

Mr. Randolph said he believed Mr. Benish was right, as heading up the hill going east on Route 250 and then going down to come to where West Leigh is, it is a different watershed.

Mr. Benish said they would take note of that comment and make sure that they are talking about the right lake. He said he would follow up and make sure that if it is upstream and above this site, they would take this into consideration.

Ms. Firehock said she had just received the comments that day and hadn't had time to research it.

Mr. Benish said there are many smaller, failing dams, so it could be another one. He said he was just familiar with the West Leigh dam.

Mr. Pohl said it could be the Little Ivy Creek lake, which has a road going over the dam. He said he has heard there were issues with that particular dam. He said he did not know if he would have the authority with an applicant to address off-site issues. He said the authority he does have is to make them follow the State regulations, which is to contain the stormwater in accordance with those regulations. He said he could consider it, but didn't know if it would change the application.

Ms. More said on page 4 of the staff report, in the section talking about the floodplain and stream buffer, it says the LOMC must be submitted prior to site plan, or VSMP approval, as the building cannot be expanded if it is located within the floodplain. She said it says that if the floodplain is adjusted, the stream buffer would also be adjusted. She said she would like to see a map overlay

and a rough rendering of a site plan on top of what they have now that is currently considered as floodplain prior to the letter, which would be a question for the applicant.

Ms. More commented to staff that it seemed to her as if this is a very important thing to know. She said she understands that there are many things that come to the Planning Commission and that not every box is checked, as some things get sorted out at the site planning stage. She said this, however, is a huge question mark. She asked if this is common practice, particularly in a place that is so sensitive, to move through all of this without having to answer to this very important question.

Mr. Pohl said they do not have the FEMA map on the screen, but that there are some elevation cross-sections in Little Ivy Creek. He indicated on the concept plan to a culvert in the lower righthand corner, and explained that at the outfall of that, the elevation is approximately 513, as shown on the mapping. He said there was a study done on this river, and they do show contours, which indicate that a study was completed. He said they will have to verify the 513 number, but that this was the number shown in the study.

Mr. Pohl said the site is around 515. He said the process is really a process of having or presenting better topographic information to FEMA to adjust that floodplain. He said it is not a change because of grading or filling the floodplain, but a change because there is better information to show exactly where it is. He said to him, it is less of a concern. He said if there were a fill, he would agree that this would need to be fleshed out more in depth, but that with this type of application, it is not as critical. He said it is more of a paperwork process than an engineering process. He asked if this made sense.

Ms. More replied that it did make sense. She said she knew they could not have all the information, but that even with Mr. Pohl's expert opinion about not being as concerned about it, she would still feel more comfortable having had that information because of where the property is located. She said she did understand, however.

Mr. Charles Rapp (Director of Planning) said he wanted to make sure they were all on the same page about the question Ms. Firehock had regarding the existing access to the neighboring properties, and that there were not expectations that could not be met. He said this is a commercial site, and typical practice with VDOT would be to limit the number of commercial entrances onto a commercial property and space them appropriately, or as much as possible, towards those minimum standards.

Mr. Rapp said he understood the request, and that it is about a request to want to maintain a separate access to the adjacent property, but he did not want to give the impression that this could certainly be taken care of at the site plan stage. He said this is a commercial property, with access through it. He said he was sure the applicant could speak to this more, but the general intent VDOT would mostly have and would advise staff to follow is to start to limit some of those commercial entrances and access points onto that property for safety reasons.

Mr. Bivins opened the public hearing and invited the applicant to speak.

Mr. Scott Collins (200 Garrett Street, Charlottesville) said he is a civil engineer representing the applicant, Mr. Scott Ramm, who is the owner of Scott's Ivy Exxon.

Mr. Collins expressed that the staff report was clearly laid out, and that from the discussions, the Commission is homing in on some of the relevant aspects of the request. He said he would share some background information, as well as some of the details of discussions that have been ongoing.

Mr. Collins said as it was pointed out in the staff report and some of the comments, the applicant has been very successful on this site with the number of cars going there. He said the applicant is a small business owner who is thriving in this location, which he has owned since 2012. He said it has been in existence for over 50 years.

Mr. Collins said the applicant is now seeing, as a business owner, the need to be more efficient and productive, which is the purpose the request to add bays on the back of the site to help with productivity. He said while oil changes are straightforward, many people also have to bring in their cars to be diagnosed to figure out what the issues are. He said the applicant puts these on the lifts, diagnose them, determine the issues, then call the owners.

Mr. Collins said the vehicle owners are not always by the phone ready to receive those calls, so many times, the applicant will find himself in a position of waiting. He said while waiting, he has to put the car back together and take it off the lift, then move it to be able to get to another car as he waits for answers, parts, etc. He said this is lost productivity and therefore, efficiency.

Mr. Collins said the applicant is asking for a simple request to increase the number of lifts so that he can be more productive. He said by being more productive, he can service about 5-8 more cars a day, and that he would possibly have to limit some of the cars there. He said this was the main goal.

Mr. Collins said as a small business owner, the applicant thought they could go through the building permit process and site plan process in order to get an expansion and move forward, but unfortunately, he was faced with the daunting task of bringing a site that is 50 years old, which is outside of current standards, into current County standards. He said this mainly has to do with water usage, which relates into all other aspects, including ARB, water quality, and everything associated.

Mr. Collins said the applicant made a business decision that it is necessary to go forward with this expansion, and is going forward with the concept of bringing the site up to current standards. He said this is a daunting task and is a financial undertaking for a small business owner.

Mr. Collins said what is interesting is that everything they are talking about is being rectified as they go through the process. He said in terms of stormwater management, there is an existing site that has a fair amount of impervious area that sheet flows straight to the stream. He said that with improvements through the site plan development for this project, water quality will be implemented to the State standards and will help mitigate some of this existing impervious area that does run off to the stream.

Mr. Collins said there are concerns about the cars and what people will see when driving down Route 250. He said going through the architectural review process does require screening and landscaping. He said the parking areas will require landscaping areas. He said current standard County ordinances require screening of the cars, in some aspects. He said much more landscaping and buffers will be added to the site throughout the process that will greatly change what the site looks like when driving down Route 250.

Mr. Collins said the front of the site is wide open, and one can enter and exit from the entire frontage of the site. He said this is the way this used to be done long ago, but not anymore. He said VDOT wants to limit those spots where one enters and exits the site to help decrease conflict points. He said there is a unique situation where a driveway access runs through the property, which has to be worked out. He said he possibly foresees an entrance and exit together on the site that is closest to the stream, and perhaps an exit point on the other side of the gas pumps. He said these are all aspects the applicant will work through with VDOT. He said over half (if not two-thirds) of the frontage of the site is closing up to help reduce those conflict points.

Mr. Collins said as far as traffic, Ms. Kanellopoulos and Mr. Benish were correct that the estimates all stem from the ITE manual. He said what is interesting is that the service part of the gas station doesn't generate an ITE study and has no real values added to it, but what it does have is when there are gas pumps, there is an incredible amount of traffic associated with the gas pumps, with about 600-700 trips per day for the gas pumps. He said 75% of that, if not more, is drive-by that is going into work or coming home. He said on an average day, the applicant sees about 100-200 trips at the gas pumps. He said this is a rural gas station, but that urban ITE manual trips are applied to the gas station. He said all of that is covered in the overall trips.

Mr. Collins said as far as stormwater management and the floodplain, Mr. Pohl was correct that the applicant will have to submit a Letter of Map Revision because there is updated topography on the site. He said they have done enough study and work on the site to figure out what the grades are on the site, and then they overlaid this with the elevations that FEMA provided from their floodplain studies on this portion of the stream. He said based on overlaying those two mappings, one can see where they expect the floodplain to show up on the site versus the old information from some time ago. He said the building is outside of that, and they will have to go through the process as part of the final site plan.

Mr. Collins said as far as the floodplain, one can see from the existing conditions versus the final conditions that they are pulling that parking lot back from that stream buffer and from where the stream buffer from the LOMR will ultimately be. He said they will add additional plantings in that area as well. He said they are doing a fair amount of stormwater management with that, and providing stormwater management to meet the requirements for the State with the redevelopment of the site.

Mr. Collins said all of this plays into bringing this more irregular use into more conformance. He said this was a request to continue to operate on the site in a more efficient manner.

Mr. Scott Ramm said as far as the County and State requirements, he would defer to Mr. Collins. He said he could, however, speak to the car count with having the gas. He said what he hoped to do, with the increase in the repair facility, is to make his technicians more efficient to avoid duplicate work. He said Mr. Collins mentioned that if they have to wait for approvals or parts to come in, there is another bay that the technician can work in. He said he was looking to have at least two bays per technician so that they can be more efficient.

Mr. Ramm said with the gas station and the number of cars that come in for that, the additional 10 cars per day is a very low percentage of the overall traffic that is already there. He said he could answer additional questions about the business side of the application.

Ms. Firehock asked if the applicant could address Ms. More's earlier question about why there were so many cars parked around the facility. She said she did not know if those were cars waiting for parts. She said Ms. More had referred to counting 24 cars in the image the Commission was shown.

Mr. Ramm said without knowing the day or time, it was hard to say, but that they have about 8-9 employees there at a given time, and so 8-9 cars will be employees', and then the standard is two cars per bay. He said most people will drop their car off for the day, so this would be approximately 10 cars per day dropped off there, making the total go up to 20. He said if someone doesn't pick up a car the same day it is finished, there would be extras. He said they also have two vehicles that shuttle customers to work in, so this would eliminate some of the car count for the friend or co-worker picking someone up.

Ms. Firehock said this was helpful. She asked if there would be additional cars parked outside because more people would be leaving their cars to be dropped off and picked up later.

Mr. Ramm replied yes. He said they are anticipating some percentage of more cars to be able to repair because technicians will be more efficient, as said in the application. He said there are some days where County officials will come, and 2-3 of them will be parked there, so sometimes those cars get counted. He said sometimes people stop for a drink or use the restroom, so those cars get counted. He said the gas station component brings in cars also.

Mr. Bailey said he recognized this was a concept plan, but on the plan, there is auto service parking in the back envelope and landscaping at 0.3 acres. He asked how many cars the applicant believed this would effectively hold as far as that area.

Mr. Collins replied that some of this area would be parking, but that a fair amount of this is circulation with getting cars in and out of the bays, moving them around, and circulating them from behind the site. He said there will be some screening back there as well because this is just a parking envelope, and that parking envelopes include landscaping requirements as well. He said the 0.3 acres could probably park at least 20-30 cars.

Mr. Bailey asked if this would allow for the circulation.

Mr. Collins replied that at least 20 cars would allow for circulation.

Mr. Bailey said he read in one place of the application that all cars waiting to be worked on, as well as already-repaired vehicles, would be parked in this area. He said he wasn't sure and wanted clarification, as there are some places in the application that seemed inconsistent. He said in different parts of the application, he didn't know if the parking area was mainly for the repair cars, or if someone would park on the righthand side of the building until they are pulled into bays, or if they are put in the back area waiting to be put in bays.

Mr. Collins said many times, the cars that will be serviced will be parked in the back as they wait to be serviced and are being serviced. He said when they are complete, and the customers come by to pick them up, often times these cars will be moved out more to the front. He said this is more of what they would find on the side of the building. He said the cars waiting to be serviced would be more in the back.

Ms. More said Mr. Collins had mentioned showing the plan overlaid with what he suspects will be a new and updated image of where the floodplain is. She asked if he had something like this to show the Commission, or if this was something he imagines.

Mr. Collins replied yes. He said this actually shows up in the application plan, in blue on the site. He said this is actually the limit of the overlay at the 513 contour. As Ms. Kanellopoulos highlighted the area on the screen, Mr. Collins explained that this was the overlay of the 513-elevation contour on the site, which is consistent with the floodplain study that is provided by FEMA along this stretch of the stream, just downstream of the culverts. He said this was fairly recent, at those culverts are fairly recent. He said they have done a lot of work in that area, which is why they have elevations (as Mr. Pohl alluded to), whereas in other places, there is an overlay map of what this area used to be, which is why it was showing that the building was in the floodplain.

Mr. Collins said that with the new topography the applicant provided with this application, they can accurately determine the location of the floodplain on the property based on the current topography of the site, which is why they know that it is not within the limits of the building, but it is substantially reduced. He said they have also created a buffer that is even greater than the floodplain area at this time.

Ms. More asked if Mr. Collins could also speak to the approximate location of the existing septic drain field. She said there were notes in the staff report about some field work that would need to be done. She said this is in close proximity to this parking area that would be tucked behind, rather than having so many cars visible to the corridor. She asked if Mr. Collins had any concerns as to where the septic drain field is.

Mr. Collins replied that this is in the back-parking lot area, and is a parking area currently. He said it is a graveled area. He said this would be more than likely be upgrade to pavement. He said the drain field can be under gravel, pavement, or most different types of surfaces, so it can still operate in that location. He said it is outside of the footprints of the building, and meets the requirements as being far enough away from the building.

Mr. Collins said all of this will be confirmed as part of the final site plan process as well, as it will have to go through the Health Department for the review of the septic system and well.

Mr. Keller asked if Mr. Collins could show on the site plan if, with any of the 2018 flooding that resulted in fatalities in the greater Ivy area, the current site with the current topography flooded.

Mr. Collins replied that Mr. Ramm had told him it flooded around the front of the site and reached around the side, but did not flood the building. He said this is consistent with topography and as seen with the site, it was picking up drainage along the front of the site. He said the 513 contour wraps around where the culverts are, and this area was consistent with the water from that recent flood.

Mr. Keller asked if, with the proposed elevation changes that the applicant is making, the applicant could speculate what flooding ramifications off-site would occur in response to those elevation changes. He asked if the changes, while protecting that site, will push more water to the east and further downstream because of the channelization and what they all know about how flooding occurs, with the increase in velocity of the water when the channel is smaller and tighter.

Mr. Collins replied that he had a simple answer. He said they do not have any negative or adverse effects on the downstream channel because they are not changing the elevations on the site. He said they are not filling in order to get this portion of the site out of the floodplain. He said it is simply out of the floodplain because of its current elevations.

Mr. Collins said most of the time, when they talk about flood map revisions, developers are talking about filling a portion of the site in order to make it usable and outside of the floodplain. He said this is increasing the channel available for flow and can have an adverse effect on the downstream properties. He said this was not the case with their application because there is no grading operation or filling of the site in order to decrease that channel. He said it was all staying the same elevation, and is just about how the floodplain overlays on the existing contours.

Mr. Collins said that the applicant is decreasing some of the impervious area within what will be the new floodplain, and the stormwater management that is being implemented will help alleviate some of the downstream flooding.

Mr. Randolph said he wanted to look at the septic field. He asked Mr. Collins if he could tell him more about Building #42-72. He asked if there was any proposed change in the level of occupancy in that building. He said it looks on the plan as if the septic field services not only 42-72, but also 42-60. He asked if he was correct that one septic field covers both structures.

Mr. Ramm said it was his understanding that there were two septic fields (one for each building). He said there is one well supply for both buildings. He said he didn't know about the septic because the site development plan had information from when he bought the properties.

Mr. Randolph said he heard that the answer to his question was that these were two separate septic fields for the two buildings.

Mr. Ramm said it was possible, but that he did not know for a fact.

Mr. Randolph said it was then possible there were two, but that this was not known definitively.

Mr. Ramm said this was correct.

Mr. Randolph asked if there was no concern about the fact that the applicant is proposing putting asphalt down over an existing septic field, and the problems that could arise if the field needs to be replaced and they have to tear up all the asphalt to access the field and make the improvements.

Mr. Ramm replied that many companies make repairs without digging up septic fields. He said he did not know what is allowed as far as what they can cover a septic field with.

Mr. Collins said in his time, he has done a fair number of septic fields, and they can definitely be placed underneath asphalt. He said this is done in many applications, especially on smaller commercial sites like this one. He said he has done a fair amount in Fluvanna and Louisa as well. He said Mr. Ramm was correct in saying that oftentimes when servicing these drain fields, it is more about pumping and cleaning out. He said asphalt has a life span as well, and there is a lot of give and take with many things having to be maintained. He said it is a fact that over time, if the drain field had to be replaced, by the time this occurs, it is very likely that some of that asphalt would have to be overlaid or redone anyway.

Mr. Randolph said hearing Mr. Collins' explanation, what he is submitting would happen here is that a new septic field would be put in so that it would be an updated septic field and then, the asphalt would be put down. He asked if alternatively, the asphalt is being installed over the existing septic field, the condition of which is 50 years or older and the longevity of its performance or function is unknown.

Mr. Collins said this was a two-part question. He said the entire application, through the final site plan process, will have to go through VDH, so it will get a permit. He said any aspects of this drain field will be looked at through that permit process, and if any upgrades need to happen, this would be done at the same time. He said to say that the septic field is 50 years old may be true, but perhaps there has been some work done on it. He said they didn't really know the answer to that question, per se, but that much of this will be determined with the requirements of the final site plan.

Mr. Collins said that as far as putting the pavement across it, technically with the amount of gravel and compaction that has happened on that area over the last 50 years, that area is, for the most part, impervious and paved. He said the only thing that is different is that it does not have pavement on it, but that the gravel is impervious according to DEQ and everyone else. He said putting 2 inches of pavement over it is not going to substantially change the back of that site.

Mr. Clayborne congratulated Mr. Ramm on his success. He asked if Mr. Ramm could address how spill containment will be addressed in the new design.

Mr. Ramm replied that it would be the same as they are doing now, so if they are working on a car, there are absorbent mats to catch fluids as well as drain pans and containment. He said they recycle the oil and antifreeze they take out of cars. He said [inaudible] come in and clean his floors, which sucks up all the water they use. He said the water is then taken off-site to be recycled, so he does not put that water back into their septic or out onto the lot.

Mr. Clayborne asked Mr. Collins if this project is sprinklered.

Mr. Collins replied no. He said it does not meet that requirement.

Mr. Clayborne asked if he was sure that it doesn't meet that requirement. He asked if Mr. Collins knew where he was going with this question.

Mr. Collins replied that he did not know where he was going with the question, but that the project did not need to be sprinkled based on the size.

Mr. Clayborne encouraged Mr. Collins to look at this more closely. He said he would look at this as an S1 classification in the Building Code, which is where automotive repair functions fall. He said looking at Chapter 9 in the IBC or VSUBC, he thinks there is a provision that anything that is over 5,000 square feet in that classification would require that. He said he wanted to bring that up with the wellbeing there. He said the applicant wants to make sure they are rock solid and that he would push back on his response in his initial observation.

Mr. Collins said when the codes talk about square footages, they also talk about open areas. He said this is two buildings adhered together, so there will be those types of separations as well, but all of that goes into the design of the building and is all part of the building permit process as well.

He said he understood Mr. Clayborne's question now.

Mr. Bivins opened the hearing for public comment.

Ms. Shaffer read aloud an email sent from Mr. and Ms. Louis and Susan Eaton: "During the 2018 flood, which destroyed a large percentage of our pasture grass from petroleum runoff, approximately 7-8 trees (including walnuts, ranging from 35-60 years old) were killed, and they are still standing. Additionally, a cucumber tree of the Magnolia family -- approximately 240 years old and 55 inches in diameter -- was killed. Many olive trees, which resist virtually every weedkilling chemical, was destroyed.

"The Albemarle Comprehensive Plan (page 7.32) states that "crossroads communities are intended to provide only essential goods and services for the immediate area. Therefore, they should be limited in size, with careful, delineated permissible uses. Expansion of infrastructure such as roads, water, or sewer should not be provided to these crossroad centers."

Ms. Jo Higgins (Project Development, Ltd.; Mt. Tory Road, Lyndhurst) said she was speaking on behalf of the adjacent property owner to the west, Casper Richmond. She said they do not oppose the application and its use for business growth. She said they have a sincere desire that the Village of Ivy is enhanced and not negatively impacted.

Ms. Higgins said she had sent a memo to the Planning Commission the day prior, and wanted to make sure it is in the public record. She said there are two issues -- scale and noise. She said the staff report very specifically goes through the noise ordinance that applies to residential, but the concern here is the proximity of the business immediately to the west. She said it already experiences noise during the work hours, and is an office and retail building. She said the ordinance specifically relates to nighttime noises and operational hours.

Ms. Higgins said she and Mr. Richmond are asking that there be some mitigation of the increased noise impacts by potentially adding a condition that specifically states that all vehicles will be worked on inside the building. She said the staff report talks about this, and that a note on the application plan will be carefully enforced during site plan review. She said after that, however, it is really not an enforceable activity unless it is a special condition on the approval of the permit. She said they are asking that the equipment, automotive tools, generators, and things that generate noise be located within the mill building, and that sound insulation be provided.

Ms. Higgins said she took pictures and visited the site various times, and during the time she was there at the end of the month and the first of the month (likely when inspections were being done), there were 44 cars parked on the site. She said they want the business to be acceptable and successful, but they would like a condition on the permit limiting the volume quantity of cars so that it is an enhancement to the Village of Ivy and not a detrimental impact. She said it has inherent problems with screening, so they think this is a reasonable thing. She said the suggested vehicle count of 24 seems to be the average, but that currently, 14 cars were parked there on a Sunday, when the business was closed.

Ms. Higgins said the Commission has a right to ask for an upgraded application plan so that these issues that were raised could be more fleshed out, and that she recommends this be pursued.

Mr. Ted Gill said he is a family member of the Eatons, east of this property, and that Mr. Eaton was present with him and wanted to make a comment.

Mr. Louis Eaton (4222 Ivy Road, US 250) said he is the neighbor of the Exxon station. He said one thing mentioned earlier was the dam, and that West Leigh Lake is directly through the railroad tunnel opposite the property, and is part of the tributary of Little Ivy Creek. He said there has been a lot of talk about the contours and topographic makeup. He said he worked as a topographic engineer for the U.S. Geological Survey in the 1960s. He said his elevations of Charlottesville West, noting they are accurate. He said he gathered from Mr. Collins the idea that one could change the topography.

Mr. Eaton said the post office was flooded, as well as everything in Ivy, two years ago. He said one problem they have that no one seems to know about is that when the water went through with such force through the tunnel towards West Leigh Lake, it gashed out a 15-foot hole there. He said now, they have a standing water level in the creek about 2 feet higher than it has ever been. He said about 6 weeks ago, there was about 2-3 inches of rain. He said the bottom of his property is flooded about halfway down from the Exxon station, so there is a new thing to work with there that does not seem important here in the discussion.

Mr. Eaton said that being a topographic engineer, he also takes issue with Mr. Collins' comment about the fact that gravel really isn't a leaching agent and is no better than asphalt. He disagreed, and said no one believes something like that.

Mr. Eaton said when he applied for a loan to purchase some land adjoining him, he was told that he was in the floodplain. He said the floodplain consists of looking at the contours, and although sometimes they take additional elevations, much of FEMA's work is done looking at the contours that he did elevation work for. He said his house was supposedly in the floodplain. He said it is 20 feet out of the floodplain. He said he is a friend of the applicant, but is against the scope and size of the expansion, as well as the traffic volume that will come out of the site. He said he was not against the idea of having more business, however.

Mr. Bivins asked the applicant if he had any comments before the public hearing closes.

Mr. Ramm said in terms of traffic, one thing that VDOT will require is significantly reducing the amount of road frontage entrance. He said there will be a large planting between the canopy and the highway. He said he had no way to study this, but that his feeling is it will significantly reduce the number of cars that have been willingly coming in for gas, as it will tighten up that spot. He said with the amount of reduction and ways people can get in and out, he thinks they will see more reduction in gas customers, though they will see an increase in repair customers. He said overall, they will likely have a net decrease in the number of cars. He said this was his assumption on what he could see on what VDOT will require, but he had no way to quantitate that at this point.

Mr. Ramm said as far as petroleum runoff, FEMA did come visit the site after the flood in Ivy, and the business was not missing any product, and didn't have water contamination in anything. He said he did not know if the building runoff came from elsewhere, but there was no loss of any product with contamination.

Mr. Bivins closed the public hearing and brought the matter back to the Commission for discussion.

Ms. More said perhaps she was understanding, but she was thinking again about the drain field and having trouble with the response she got and what is in the staff report, which states there is

an existing drain field on the property that will need to be field-verified during site planning, and no parking or structures will be permitted on, or encroaching on, the drain field. She said she feels like this is different than what she heard from the applicant.

Ms. More said she did want to specifically ask about the events that happened a couple years ago and if there was flooding in the office of the building. She asked if she was able to ask this question now that the public hearing was closed.

Mr. Bivins suggested that Mr. Pohl could answer.

Mr. Pohl asked if they were talking about the drain field or septic field.

Ms. More replied that this was on page 5 of the staff report.

Ms. Kanellopoulos said she reached out previously to the Health Department, and there were two options. She said the drain field has to be field-verified no matter what. She said the applicant could choose to not have parking or pavement on it or, if they are going to have pavement on it, then the depth of the drain lines needs to be at least 30 inches. She said field verification includes locations of sewer lines, septic tanks, conveyance lines, distribution boxes, which all have to be located on the plan and reviewed by the Virginia Department of Health.

Ms. More said anecdotally, she had heard that the office of the building did flood, even if it was just 1-2 inches of water. She said she had driven through the area when the water was still there and once it receded. She asked Mr. Pohl if he knew the answer.

Mr. Pohl replied that he was not sure. He said he was not even sure that that storm was not greater than 100-year storm event. He said he could not remember how much rain fell. He said it was a very large, isolated, concentrated storm event in that area and that it very well could have flooded, but it doesn't mean that it wasn't greater than a 100-year storm, either.

Ms. More asked Mr. Pohl if he had any comments about the damage to the dam and the suggestion that the existing conditions for the stream is that perhaps it was higher than it was previously.

Mr. Pohl replied that he remembered visiting Mr. Eaton after that storm event, on his farm. He said Mr. Eaton had mentioned some things that had occurred on the other side of the railroad tracks. He said there was discussion at the time about the dam, and that the community also called in about the dam through a Board member about repairing the dam. He said he could go out again and have a visit, but that he did not have any comments at this time, as he would have to see what Mr. Eaton was referring to.

Ms. Firehock asked Mr. Pohl if he could respond to her question. She said earlier, she was asking about whether the storm water that would need to be treated would apply to the entire site, or only the addition of the new impervious surface. She noted the site currently does not have any stormwater management. She asked if the new stormwater management (since it will only apply to the additional impervious surface) was resulting in not necessarily getting a site that is much better off in terms of stormwater than what they currently have (with the exception of adding some buffer plantings), or if it would be better off because there will be more environmental mitigations in place that would mitigate in addition to the new impact.

Mr. Pohl replied that the requirements are for redevelopment to provide an additional 20% over and above what is required for the additional impervious surface. He said there will be 20% more provided to provide some offset of what is existing. He said it would not be 100%, but that there is an additional 20% based on the new proposed impervious (not 20% of the existing). He said it may not be 20% of the existing, but could be 5% or 10% of the existing, for example. He said it is directly added onto what the reduction requirement is for the new development.

Mr. Keller said he would like to hear staff's comments related to the person who called in as the agent for the adjacent property owner, and the two conditions she proposed.

Ms. Kanellopoulos said that as far as vehicles being repaired within the building and equipment being stored in the building, those are contained in the additional requirements in the Zoning Ordinance, per 5.1.31. She said the applicant will have to meet those, and that they are included as notes on the application plan. She said staff does not usually require additional conditions that repeat what is in the ordinance, so it would be addressed through those ordinance requirements.

Ms. Kanellopoulos said that with the proposed expansion and additional service bays, they would expect that the vehicles would therefore all be repaired within the building (as they should be, per the ordinance) and not repaired outside the building, which would mitigate those noise impacts. She said there is a condition on hours of operation from 7:00 a.m. to 9:00 p.m., which are the current hours, and that those are within the typical range the County requires for other rural uses such as farm wineries (which need to turn off music after 10:00 p.m.), so it is in keeping with those typical rural use noise ordinance limits.

Mr. Keller said there was also a question about the number of vehicles allowed on-site.

Ms. Kanellopoulos said staff did not include a condition for how many vehicles can be parked on the site, and that there are two portions to the parking requirement. She said the first is the parking requirement in Section 4.12 of the Zoning Ordinance, which is for the actual use. She said the fuel pumps do not have their own parking requirement, but the auto service station does have a requirement and that between the employees and the service bays, it adds up to 24 spaces required. She said those 24 spaces would have to be in the gray area shown on the application plan. She said the applicant could include an additional 20% above that (an extra 5 spaces) if they chose to, but that is the limit for the parking requirement.

Ms. Kanellopoulos said beyond that, in the yellow area, is where additional vehicles that have been serviced are proposed to be stored. She said per the ordinance, those are allowed to be there. She said if they have not yet been repaired, they have to be screened from the public right of way and from any residential properties, per the ordinance.

Ms. Kanellopoulos said any concerns with cars being parked would be related to any visual impacts and to the character of the area, so staff found that since cars awaiting repair would be at the back of the site and not visible from the street or public residences, and since the existing character of the site in the area would include parked cars that are visible, that there would not need to be a condition to limit the number of total cars.

Mr. Keller asked if, for the public, Ms. Kanellopoulos could explain the noise ordinance and how that would work.

Ms. Kanellopoulos said her understanding is that for commercial uses, the noise ordinance limit is 65 decibels allowed, and that typically, the noise ordinance would be enforced on a complaint-based system. She said staff is not aware of any specific noise complaints that have been filed, but whether or not there was actually a condition on noise or if it is just going with the noise ordinance, that is how it would typically be enforced.

Mr. Bailey said the site, as seen on the concept plan, shows the new parking area as being new, although the pictures show it as an existing gravel area that people have already been parking on. He asked if, regarding things being subject to stormwater improvement of new development, he could get some clarification on whether the existing gravel (which is considered an impervious surface and improvement) will be existing, or if the yellow area is actually considered new. He said the pictures shown of the site looks like it is an existing parking that has been graveled over, and that the applicant's engineer referenced that it has been used and is quite matted down with existing gravel.

Mr. Bailey said he didn't know if there is a loophole there, that there really is no stormwater management that would be required in that scenario if it is considered to already be built out and preexisting.

Mr. Pohl replied that land cover is what is used to determine runoff, as well as quantity and quality requirements. He said that paving gravel is considered a maintenance issue and is not changing land use cover. He said gravel is considered impervious because over time, the voids between the gravel get filled in with dirt and compacted, and so it can become an impervious surface. He said to be conservative, when people put gravel in, the thought is that it is considered impervious when it is installed, even though one can put in gravel as drainage. He said it is a State standard that gravel is impervious.

Mr. Pohl said staff looks at what is existing impervious or gravel areas and compare them to proposed impervious areas, which is how they calculate the requirements for quantity and quality.

Mr. Bailey said if he understood Mr. Pohl's response correctly, they do not know, but the concept plan could (although not intentionally) be misleading because they do not have the true extent of how much impervious is currently located versus being proposed. He asked if they did, in fact, have those calculations.

Mr. Pohl replied that Ms. Kanellopoulos put up a plan of the existing so they could see what is currently gravel. He said when they have the site plan that comes in, staff will go out and verify the limits of that visually, with field verification, to make sure they agree.

Ms. Kanellopoulos said the applicant had estimated about an additional 5,000 square feet of new impervious area, and so this existing condition shows that part of the area is gravel, but another area is not included, though it was included in the new yellow parking area.

Ms. Firehock said she was still wondering what the other Commissioners thought about the comment on limiting the number of cars. She asked if 24 spaces are required, and they are understanding from the applicant that they will be able to be more efficient with having cars inside the building while they are moving them from one repair to the next, if it would be unreasonable to have a cap on the number of cars that could be parked outside at any one time (e.g. 35 cars). She said they could still leave cars outside for someone to come pick up the next day if they were waiting on a part.

Ms. Firehock said she did receive comments from the public about being concerned that the area is turning into a large car-parking lot, and that while it is a gas station, they were there to talk that evening about the merits of expanding that use, and what those impacts might be. She said she was curious as to what the Commission thought about the idea of limiting the total number of cars that can be outside at any one time.

Mr. Bailey asked what Ms. Firehock meant by "outside," and if she meant behind the screened area or outside of the proposed new parking screened area.

Ms. Firehock replied that she was talking about the overall total lot. She said they are required to have 24 cars, and so she was suggesting they have perhaps 35 maximum.

Mr. Bivins said they were allowed to have at least 30 because of the 5 extra spaces that Mr. Pohl mentioned. He said if nothing else, they would be close to 24 plus 5 spaces, so close to 30 vehicles parked there.

Mr. Randolph said he would find it valuable to hear the applicant's reaction on if there was a cap and how it would affect his ability to do business. He said it is important for everyone to be reminded that no one makes a living any longer as a gas station, as one just does not sell enough gasoline, and the profit margin is so smaller than one must operate by other means. He said they have already seen this in the case of Boyd Tavern, where it is the food and interstate business that becomes the source of the sustainability of the potential business.

Mr. Randolph said in this case, the applicant is not proposing that there be fast food onsite, but instead, to operate financially, he is proposing that he be able to do repairs on a greater number of cars. He said he would love to hear from the applicant about what a cap might mean. He said he has indicated on the staff report (page 3) that he wants to allow the business to service 13 cars per day, increasing by 5 above the current 8 cars. He said he would love to have a figure because if Ms. Firehock was talking about a maximum of 18-20 cars per day, he would like to give the applicant a clear figure and a chance to respond to that.

Mr. Bivins asked Ms. Firehock for the number she proposed, noting he thought she had said 35.

Ms. Firehock said she did say 35.

Mr. Bivins asked Mr. Ramm if, having heard the exchange between Mr. Randolph and Ms. Firehock, he would like to make a quick and narrow comment on what was being discussed.

Mr. Ramm asked if the site is being asked to have cars that haven't been worked on to be screened so that no one can see them, and if it didn't matter if there were two there, 10, or 20. He said the facility and size of the space will limit, to some degree, how many cars they can have there. He said with the space next door to his, for example, is not under development, but that probably 90% of their entire surface area is parking. He said he would like to be able to have enough cars to be able to operate the business, be profitable, and service the community, and that he might have to turn people away if he is not allowed to park a car there.

Mr. Collins added that those parking areas include a lot of landscaping, as this will go through the ARB as well. He said right now, there is a site with no landscaping on those areas, and with all the cars parked there, this is all they see. He said this will already have landscaping along the

front of the site, as well as street trees and many other features that will be required through the ARB review to bring the site up to current standards. He said he strongly believes that a cap is not necessary on this site because a lot of these cars are going to be screened, and the landscaping will hide many of the vehicles people currently see as they drive by the site today. He said it will drastically change through the ARB process.

Mr. Bivins stopped Mr. Collins' comments, as this commenting was an exception. He brought the matter back to the Commission to continue their discussion and move to a decision.

Mr. Bivins asked if anyone felt called to respond to Ms. Firehock's question, and heard no comment.

Ms. Firehock said she would be prepared to make a motion. She noted she believed that the site, while it would be adding some additional vehicle trips per day, would actually leave the site in a much better state than it currently is.

Ms. Firehock moved to recommend approval of SP202000006 Scott's Ivy Exxon, with the conditions 1-5 as outlined in the staff report. Mr. Randolph seconded the motion.

Mr. Clayborne said he would like to make sure that somewhere it is recorded that if this moves on to the Board of Supervisors, that the applicant needs to be rock solid and be able to defend with confidence whether or not a sprinkler system is required. He said for a site that is not on public water, this is not a minor thing, by any stretch of the imagination. He said with the numbers presented that evening, the way that it is presented, he believes it needs a sprinkler system. He said he wanted to make sure that this is resolved when it goes to the next level.

Mr. Randolph said on the positive side, this applicant currently is, and historically has been, in compliance with all State and Albemarle County regulations. He said he has complete confidence in the site review process to identify and rectify any problems that are perceived on this site and with the project. He said he appreciates that the applicant has provided a concept plan, which the County, Planning Commission, and the Board do not always receive from applicants. He said he appreciates the enhanced landscaping and size limitations of the property, which will automatically (in some ways) cap the number of cars on the site.

Mr. Randolph said he still has concerns about the proximity of this property and the expanded business to a creek with a demonstrated capacity to flood. He said flooding events will not become more infrequent but, in all likelihood, will become more frequent going forward. He said he does have concern about the increased impervious surface area and therefore, the site's proximity to the creek contributing to increased runoff.

Mr. Randolph said overall, he could not see any reason not to indicate that this project shouldn't go to the Board of Supervisors, so he would vote for approval.

Ms. More agreed with most of what Mr. Randolph, and did have a lot of confidence in the process, moving ahead. She said the part that is a sticking place for her is that she has a huge amount of discomfort with the proximity to the creek and the nature of this area, with it being prone to flooding. She said it was not to say that she does not have faith in the process as it moves forward, but that she did not know if she was fully comfortable with things that may have happened that changed the area during the flood that occurred a couple years ago. She said she knows they have enhanced and more accurate ways to look at floodplains and stream buffers, but that they

did not have that with them.

Ms. More said that because of the nature of the area, this is where she was having trouble supporting something that she otherwise would. She said she appreciates the need to have a small business be successful and achieve the goals that the applicant set forth, but that she was finding herself struggling with the other issues because of the nature of the particular area.

Mr. Keller said his fellow Commissioners articulated the dilemma they were facing quite well. He said the tipping point, for him, in supporting this is that it is an existing business that has been on the site, and that there is a positive track record. He said if this were a new proposal on this land, he would not be supporting it.

The motion carried by a vote of 6:1. (Ms. More dissented.)

Mr. Bivins informed the applicant that the Commission recommended approval and that the applicant would be working with staff to move this towards the Board of Supervisors. He said hopefully, the applicant heard the questions and feedback that were posed to them this evening and that, in their refinement of their plan, they will take those into consideration and be prepared to extend their conversation, when called upon, before the Board of Supervisors.

Recess

At 8:39 p.m., Mr. Bivins announced a short recess.

At 8:45 p.m., Mr. Bivins called the meeting back to order.

SP202000004 Wild Turkey Tier III PWSF

Mr. Andrew Knuppel, Planner, said he would present on a Special Use Permit application for a Tier III Personal Wireless Service Facility to construct a new facility near Route 250, on Wild Turkey Lane, in the White Hall District. He said he would begin with some site context.

Mr. Knuppel said this is a Rural Area zoned parcel located on Route 250. He indicated to Route 250 on the map. He said it is about 6.8 acres located at the southeast corner of Route 250 and Wild Turkey Lane. He said the surrounding properties are mostly rural residential. He said there are some single-family dwellings on mostly wooded lots that are oriented towards Route 250, or towards a series of residential cul-de-sacs off Route 250. He said Route 250 is an Entrance Corridor and a Virginia Scenic Byway. He said this was important to note, as he would later discuss.

Mr. Knuppel said he had pictures from balloon tests as well as some from other recent site visits. He said the site is near Route 250 and that, as seen in the background of one of the photos, it is slightly above Route 250. He said it is a mostly cleared area with trees on it, a board fence on the frontage, and a number of trees within the VDOT right of way and at the front of the property that provide screening. He said that on the right, the driveway that the site would be accessed with was pictured, and that there are two existing facilities on the site that are treetop-style towers, as well as trees currently on the site.

Mr. Knuppel said there were a couple of photos of the site taken from Route 250, as it is near that intersection. He said they picture the elevation rise of the property from Route 250 and the board

fence. He said there is the presence of screening trees along Route 250, at the front of the property. He said there is a typical roadway section from in front of the site. He said there are trees on both sides of the roadway, and that there is a two-lane rural section through there, with a guardrail. He said the elevation does rise slightly on the south side of the road, and that trees can be seen within the right of way on the adjacent properties, which (in some cases) encroach over the road as well. He said this is a heavily vegetated area on Route 250.

Mr. Knuppel said the proposal is for a treetop-style PWSF. He said it would be a 116.7-foot-tall monopole, and would be designed to be 10 feet taller than the nearest tree (within 25 feet of the monopole), which is similar to the Tier II by-right standard. He said it will contain one flush-mounted antenna array. He said it is located about 28 feet and 5 inches from Route 250, which is a Virginia Scenic Byway.

Mr. Knuppel said an avoidance area in the County Ordinance means an area where there are significant visual resources, and where initial siting of a facility could result in adverse impacts. He said this would include ridge areas, parcels within Agricultural Forestal Districts, Historic District, and areas within 200 feet of a State scenic highway or byway. He said because Route 250 is a Virginia Scenic Byway, the area within 200 feet in the byway is an avoidance area and is subject to a Tier III review, which requires a Special Use Permit as a discretionary decision by the Board of Supervisors, with the recommendation of a public hearing with the Planning Commission.

Mr. Knuppel said that although it meets many of the standards of a treetop Tier II tower, a Tier III does call for increased scrutiny because of the avoidance area, which is why the Commission was seeing the proposal that evening.

Mr. Knuppel said most of his staff report captured the consistency with the Comprehensive Plan analysis and a discussion of the County's Wireless Policy, but he would focus his presentation that evening on the screening and siting criteria in the ordinance and in the policy.

Mr. Knuppel said visibility is a primary focus in the review of these facilities, which is stated in the wireless policy. He said it is a primary criteria in the Zoning Ordinance, in Section 5.1.40-B6, which is screening and siting to minimize visibility. He said he would share the relevant pieces of that standard: "The site shall provide adequate opportunities for screening, and facilities shall be sited to minimize visibility from adjacent parcels and streets regardless of the distance from the facility. The facility shall also be sited to minimize its visibility from any Entrance Corridor Overlay District." He said as mentioned earlier, Route 250 is an Entrance Corridor, and the proposed site would be within the overlay.

Mr. Knuppel continued quoting the ordinance: "If the facility would be located adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in [inaudible] easements." He said this proposal does satisfy those criteria as well.

Mr. Knuppel noted that the Zoning Ordinance and Wireless Policy do not require invisibility. He said they acknowledge that facilities can hide in plain sight with either mitigating techniques to reduce or eliminate visual impacts. He said the County's review standard for a by-right, Tier II treetop facility actually permits monopoles to be taller than the nearest tree within 25 feet. He said the siting of such a facility does require a degree of skylighting for the facility to be able to propagate its signal and effectively provide wireless services.

Mr. Knuppel noted that under Section 704 of the Telecommunications Act of 1996, the County cannot prohibit, or have the effect of prohibiting, wireless services, or unreasonably discriminate against functionally equivalent providers. He said it may also not regulate the placement, construction, or modification of wireless facilities on the basis of environmental effects of radiofrequency emissions.

Mr. Knuppel said he would walk through a couple examples of terminology staff use when they evaluate towers in case members of the Commission are not familiar. He said skylighting is one thing they try to avoid with the facility, meaning that behind the facility, one can see sky and light that is not screened, but visible. He presented one example, near 5th Street, noting how the top half of the facility protrudes and is visible, with sky behind it. He said one can expect some of this when close to a facility.

Mr. Knuppel said he would make a couple comparisons between the policy and what they have seen on the site as well. He said from directly below these example facilities, they are skylit, which is to be expected when they are standing below a facility, as they cannot have it perfectly invisible at all places. He said he was sharing these as examples of things they try to avoid when evaluating this type of proposal.

Mr. Knuppel said screening is a mitigation technique that staff use when they evaluate these proposals. He presented an example of the wireless policy all along Route 53. He said the presence of trees provides screening, and that one cannot pick out the tower. He presented a photograph of the front of the property from Route 250. He said there are two facilities in that picture that are screened by trees. He said one might be able to pick them out if they look hard. He said these are screened and that this is an effective mitigation technique. He said although they are visible, they are mitigated.

Mr. Knuppel said backdropping is another example of a mitigation technique. He presented an example from the wireless policy, which uses terrain and trees behind it to reduce the skylighting effect and make sure it mitigates the visibility. He presented a photo simulation from the proposal.

Mr. Knuppel said staff conducted two balloon tests in January and April of 2020 related to this proposal, and staff also conducted a visibility analysis with GIS software of where they thought this facility could be visible (based on the best information they have). He said the areas in pink on the map is where the analysis predicted it might be able to be seen, based on tree cover and elevation data. He noted that the analysis does not indicate how visible it is. He said it might be barely visible, or skylit. He said staff used this with the balloon test to get a feel for how visible they might expect the facility to be, and other areas they need to look at.

Mr. Knuppel zoomed in on the map to Route 250 and the proposed tower site. He said he would briefly walk through the areas from the balloon test where the facility was visible, and lines up well with what has been shown in the analysis. He said he would begin near the site on Wild Turkey Lane, move to the Foxchase subdivision to the northwest, and look at a couple sites across Mechums River that are accessed from Broad Axe Road.

Mr. Knuppel presented a view from across the site on Route 250. He said the balloons are identified by red arrows on the picture. He said as seen in the photograph earlier, the existing facilities on the site are barely visible due to the presence of screening trees. He said staff believes that although the proposed facility would be taller than the existing facilities, the presence of

screening trees would have helped minimize visibility from this Entrance Corridor and from the Virginia Scenic Byway. He said the facility is screened by trees, blends into view, and seems to be screened from the entire length of the Virginia Scenic Byway (Route 250). He said staff was not able to get any other photos of the site from other portions on Route 250, except for directly in front of the property.

Mr. Knuppel said the ARB did find that the proposed location would sufficiently minimize visibility of the monopole from the Entrance Corridor and therefore, from the Virginia Scenic Byway avoidance area based on the continued existence of trees in the right of way. He said the County has on record for the last 20 years opposing the widening of Route 250 to expect that the trees will stay there for the future.

Mr. Knuppel said the visibility analysis also indicated that the proposed facility would be visible from portions of Wild Turkey Lane, to the east of the facility site. He noted that the proposed facility would be skylit from this view. He indicated to the balloon above the trees. He said it does appear to be taller than the [inaudible] tree located behind the facility. He said staff notes that from this vantage point, the degree of skylighting could be mitigated by lowering the height of the facility.

Mr. Knuppel said it was worth nothing, however, that this section of Wild Turkey Lane is a private street that crosses a parcel under the same ownership as the tower site. He said the Wireless Ordinance requires that these facilities be sited to minimize visibility from adjacent parcels and streets, and the intent is to protect nearby properties from visual impacts of wireless facilities and individuals' decision to site one on their property.

Mr. Knuppel said requiring this facility to be invisible and out of sight would probably have the effect of prohibiting efficient wireless service. He said presumably, the property owner locating a facility on their property would be aware of these impacts and would be accepting them. He said with this consideration, staff is not concerned with the degree of skylighting visible from this property and from this vantage point.

Mr. Knuppel presented a view from the Foxchase subdivision, located northeast across Route 250. He indicated to the facility on the view, noting it is fairly well-hidden and blends in with trees. He said this view was near the entrance to Foxchase.

Mr. Knuppel presented another view, from the intersection of Foxdale Lane and Bedford Park Road. He indicated to the facility on the view, noting it is well-hidden and blends in with the tree line fairly well. He said there is a small degree of skylighting, but is to be expected as the tower, by necessity, has to rise above the trees around it.

Mr. Knuppel presented a view from across Mechums River on a parcel near Broad Axe Road. He said during the first balloon test, staff visited parcels near Broad Axe Road and were unable to view it at that time. He said during the second balloon test, there were a couple requests from property owners on Broad Axe Road to evaluate visibility from their properties.

Mr. Knuppel presented a photograph, noting the Commission may recognize it from the example of backdropping shown earlier. He said though the tower rises above the trees, it is backdropped by the mountain in the background, which mitigates its visibility.

Mr. Knuppel said zooming out from the prior photo simulation, the view shows the context of the trees and that view. He said it is from 240 Broad Axe Road, which is about over 4,000 feet from the proposed facility. He said in addition to the backdropping seen in that photograph, staff believes the backdropping scene and distance mitigates the intrusiveness of any potential impacts, and contends that the facility is sufficiently sited to minimize and mitigate visibility from this vantage point.

Mr. Knuppel presented a view from a residence at 340 Broad Axe Road, about 2,900 feet from the site. He said there is some skylighting, and staff contends that the distance mitigates the intrusiveness of any visual impacts from this parcel.

Mr. Knuppel said this concluded most of the visibility analysis. He said there was a Special Exception request associated with this application, related to the projection or standoff requirements in Section 5.1.40. He said there is a request to allow the closest point of the back of the antenna to be greater than 12 inches from the face of the monopole. He said the further point of the back of the antenna, however, would not be greater than 18 inches from the monopole. He said what this does is increases the amount of daylight one can see between the monopole and antenna, and that in staff's opinion, it would not cause a great increase in visibility. He said the Special Exception has been recommended for approval by staff, and several other cases in proceeding years have been approved by the Board of Supervisors.

Mr. Knuppel said the advantage of this is that the technology used by the antennas does not require the physical tilt that this section, when created, was intended to accommodate. He said [inaudible] on a single array reduces the arrays of antennas there and does not cause a significant increase in visibility.

Mr. Knuppel said the factors favorable are the same as listed in the staff report. He said the facility would be screened and sited to minimize visibility from the Entrance Corridor, Virginia Scenic Byway, and avoidance area. He said it would be an opportunity site, and there are two other facilities located there. He said locating another facility there on the site could work and could prevent the introduction of a monopole in another area, and the wireless coverage would support improved public safety and welfare.

Mr. Knuppel said in terms of unfavorable factors, there is some skylighting that is visible from the tower, from other adjacent parcels. He said staff believes this is mitigated by the ownership situation at Wild Turkey Lane and by backdropping for the other parcels across Mechums River.

Mr. Knuppel said staff recommends approval with conditions. He said these list concealment elements for the FCC's review, such as color of the monopole (i.e. dark brown to blend in with the trees), flush-mounted antennas, and having ground equipment in the same location as the [inaudible] monopole to tie the design of the facility to a monopole standard.

Mr. Knuppel said staff would also include conditions that would link this facility to a treetop standard in the Zoning Ordinance, and would link the height of the facility to a referenced tree (similar to a Tier II standard) or to a maximum height, whichever is less. He said this accommodates the fact that from the balloon test, it appears somewhat tall, and that they will have the surveyor's certificate to check the actual height of the tree. He said this does put a cap on how tall this could get just to make sure they have this minimized, in terms of visibility, from the byway.

Mr. Randolph said he had two questions. He said he could not find any information in the staff report that indicated what the height is of the existing two other towers on this property, and would like to hear that information.

Mr. Randolph said his second question was not so much of a question, but an observation. He said he is used to seeing red balloons, but not used to seeing a depiction of what the tower theoretically will look like in a photo when the photo has not been generated by the County's own staff. He said it looks like the photo has been submitted by a third party. He asked Mr. Knuppel if he could clarify how those photographs were developed which showed a facsimile of what the tower might look like on those sites. He said he was looking for a red balloon and instead, he saw the projected tower.

Mr. Knuppel replied that in the staff report, he had mentioned the height of the two existing towers. He said one is about 91 feet tall, and the other is about 82 feet tall.

Mr. Knuppel said with regards to the photo simulation, to his knowledge, he was not sure if County staff have ever actually conducted the photo simulations. He said in Section 5.1.40, they can request the applicant provide photo simulations. He said staff provides the photographs used from the balloon test, which were his observations, and then he asked the applicant to Photoshop them and provide photo simulations. He said he has not prepared them in his three years with the County, and didn't think any other staff had before. He said they usually do ask the applicant to provide those.

Ms. More said she understood the avoidance area, but in another place in staff's report, it talks about this being an opportunity area, and that she had a good guess as to why. She said she would like Mr. Knuppel to explain that, as those two statements are at odds with each other.

Mr. Knuppel replied that to clarify, opportunity sites can be located within avoidance areas. He said there could be discretion about if it is an appropriate place to use it. He said examples of opportunity sites would include other buildings where the facility could be disguised or co-located. He said the Wireless Policy cites examples of a church steeple within a historic district as an appropriate place to hide it. He said opportunity sites are existing facilities, such as other monopoles or towers in the area. He said electric transmission lines are another place that are often opportunity sites.

Mr. Knuppel said staff's interpretation in the report is that this is in a location where there are already two existing towers on the site. He said they have been placed there without significant impacts to the adjoining area for some time. He said staff contends that, in some ways, this is an opportunity site. He said putting the tower here in this proven location could prevent the introduction of the facility in another part of this avoidance area.

Ms. More said when it comes to visibility, Mr. Knuppel was showing the Commission on the map where there is visibility from different sites, and that the main concern seems to be visibility from Route 250. She said she understood this, but wanted to talk more about the visibility from some of the other neighborhoods in that area, and what Mr. Knuppel has to say about that.

Ms. More said with regard to the skylighting, perhaps staff is only allowed to consider this for adjacent parcels (with one of the parcels having the same owner), but for some of the images she has seen, it looks like it is skylit from other areas. She asked if Mr. Knuppel could talk about those two matters, and then she would have one additional question.

Mr. Knuppel replied that the review of the facility does follow the same section (Section 5.1.40, and B-6) which states that screening and siting will minimize the visibility standard he mentioned earlier. He said it applies to all facilities, and with the Special Use Permit under review for the avoidance area, there is heightened scrutiny due to its location in an avoidance area along Route 250. He said there is additional weight given to the location and the sensitivity of being an avoidance area, but the tower is still expected to satisfy the screening and siting, minimizing visibility from adjacent parcels.

Mr. Knuppel said he showed photos from the only places staff could see the tower that they accessed. He said they traveled on the adjoining streets that were nearby, and entered on properties where they had owner permission. He said with the community meeting balloon test, they do a mailing within a quarter-mile radius, which captured a number of properties across Broad Axe Road as well, adding that they did get photos from there.

Mr. Knuppel said the photos they showed earlier in the staff presentation were from where they could see it, and that they try to acknowledge that visibility is not a hard-and-fast defined term. He said they acknowledge that the policy does not require invisibility but rather, an appropriate level of visibility. He said with skylighting, it is about minimizing the variation from the tree line and having the presence of other backdrops.

Mr. Knuppel said staff's position was across Broad Axe Road, and where it did rise above the trees, there were some factors such as backdropping and distance, which mitigated the impacts from this and helped minimize the visibility. He said it was really not visible from other portions of the scenic byway unless one was immediately in front of the site, across the street. He said even so, it was a passing glance. He said it is difficult to quantify how visible a tower is because one does not get a sustained view of the tower on Route 250 as they drive by. He explained that looking out the window to the site, it passes by quickly and is not a sustained view.

Mr. Knuppel said staff and the ARB both contend that the tower is sited to minimize visibility from that corridor, and from Foxchase as well. He said it blends in with trees and in the front, there is screening from other trees, and does not have a significant rise, so it is not skylit there.

Ms. More said she wanted to ask a clarifying question, and then would like Mr. Knuppel to loop back to the reference tree. She said she wanted to be sure, from other applications they have had, that if this were to be approved, this could go up 20 more feet without any action on behalf of the County. She asked if this was correct. She asked if it were going to 116 feet, the applicant could go up 20 more feet (to 136 feet) one time without any revisiting of the issue.

Mr. Knuppel replied that he spoke to Mr. Bill Fritz and Mr. Herrick about this when they were working on the conditions of approval for this facility, and the way that they have the conditions crafted, they do define the height of the facility and the antenna mounting type as concealment elements of the facility. He said their understanding is that tying the approval of this facility to design standards, which prevents the increase in height and increase in the standoff, these would be substantial changes, as they would be defeating those concealment elements and the understanding of how they wrote the conditions. He said their intent was to prevent that in the future.

Ms. More said Mr. Knuppel had mentioned a reference tree, and that there is a survey to check the height of the tree. She asked Mr. Knuppel if he could explain this further.

Mr. Knuppel said with Tier II facilities, staff requires with the building permit application, after they approve the facility, that the applicant submits a surveyor certification of the reference tree. He said it is another check on the height of the tree to make sure it is accurate before the tower is put up. He said staff uses this as a way to confirm the height of the tree and make sure that this is being sited and designed appropriately with that context.

Mr. Keller said he has been asking for this for the seven years he has been on the Commission. He said this has been in the academic field for 30 years, and it was great that they now have the visibility software and are using it. He said at another point, now that they have Mr. Bailey on the Commission and because his expertise relates to this, it would be interesting to talk about other things that they might do. He said he thought Mr. Randolph asked a very interesting question. He asked if they should be asking for a fee that would pay for staff to do the visibility analysis so that it was actually coming from the County instead of a third party, in the future, for these things.

Mr. Keller said he thought this was a good presentation, overall. He said one point Mr. Knuppel brought up was the issue of the right of ways and trees in the right of ways, and when they may or may not be removed. He said it was important for everyone to know that they can turn on and off the tree cover in different places and make that query. He said in the future, there might be the ability to have Commissioners and the public ask for what could be seen from different points along the roadway and have a real-time response to that.

Mr. Keller said this was more an editorial comment because they have wanted something like this for so long internally, and that he was very pleased that they were to that point. He thanked staff.

Mr. Keller said he did think that from the Commission's discussions with Mr. Fritz in the past, and with the applicant's representative who has been helpful to the Commission in the past, there is the question that Ms. More brings up about that additional height, what the ramifications of that are, and whether they should start to look at that in the simulations as well. He said this was more of a comment for staff to consider.

Ms. Firehock said her question was simple. She said she wanted to ask about the fact that the monopole is proposed to be painted in a rusty brown color. She said she knows that Albemarle County continually desires that, but in this particular case where there would be some skylighting, she wondered if it wouldn't be more palatable to the viewshed to have it be silver instead of brown. She said she understands that brown blends in with the trees, but amongst the woods, one would not really notice that.

Mr. Knuppel replied that this was an excellent question. He said java brown is the County's standard color for treetop facilities, and that last year, the Commission had reviewed the new monopole at the 5th Street County Office Building, which was painted silver as there was no screening for it. He said the ARB agreed with the java brown recommendation, and he assumed they did so to recognize the presence of the trees from the 250 right of way, which is the avoidance area and is a more sensitive area. He said the intent was to blend it with the trees from that perspective and focus on that rather than on the other views. He said the applicant had proposed java brown, and staff and the ARB had no objections to it.

Mr. Knuppel said it was an interesting comment. He said it may come down to the vantage point and where one hopes to minimize the visibility from.

Mr. Bivins opened the public hearing and invited the applicant to speak.

Ms. Lori Schweller, attorney with Williams Mullen representing Verizon Wireless, noted she had a presentation for the Commission. She said she would try to quickly move to the overview and visibility analysis and move onto other issues, such as need and the applicant's compliance with the Comprehensive Plan and Zoning Ordinance.

Ms. Schweller said the applicant is asking for a Special Use Permit for a Tier III wireless facility. She said the property is on the south side of Route 250, and the closest large residential subdivision is Foxchase, which is close to the Shoppes of Clover Lawn down to the west. She said it is on a Rural Area-designated property of approximately 6 acres, and that there are two existing wireless facilities on the property. She said all of the lease areas are very small to fit on this property, and that the proposed compound is within a 30-by-30-foot lease area.

Ms. Schweller said the applicant meets all the required setbacks, which is 100% of the height of the facility, and is proposing some evergreen plantings along the Wild Turkey Lane entrance road.

Ms. Schweller pointed out that both the balloon tests done in January and March or April were done in the winter months when the leaves were off the trees. She said this view is very different right now, as Route 250 is a lush, green canopied byway, and so none of the facilities are visible at this point, with the proposed facility not expected to be visible, either.

Ms. Schweller said she was showing all the positions from which it was visible during the balloon test. She said the existing monopole is below the level of the trees looking from Route 250 because of the increase in slope up to the subject property. She said the balloon was below the level of the trees.

Ms. Schweller said that fortunately, based on the site layout, they only need to remove one tree, which is for access to the site. She said the reference tree is between the compound and the Entrance Corridor, providing additional screening. She said the monopole would be 116 feet, 7 inches (or 10 feet above the reference tree, exactly, above sea level). She said they are proposing a standoff of 18 inches, which is flush-mounted.

Ms. Schweller said the applicant is also proposing a 10-foot board-on-board fence around the compound, which is at the ARB's request because in the winter months, it is possible that some ground equipment might be seen from Route 250, and so the ARB preferred that they have a slightly taller fence for the site so that none of the equipment would be seen. She said the applicant did some elevations for the ARB to show them how that screening would work.

Ms. Schweller said Route 250 is a Virginia Byway between the bypass and Waynesboro, which is why the applicant is requesting a Special Use Permit. She said they did two balloon tests when the leaves were off the trees. She presented a composite map for both balloon tests. She said they drove up and down all the roadways in the area, taking pictures wherever they could see the balloon.

Ms. Schweller said eastbound on Route 250, the site is not expected to be visible, as the balloon was not visible. She said westbound on Route 250, it was not visible near the intersection with Mechums Depot Lane. She said it was visible in the distance from Foxchase. She said that a classic treetop monopole has to be above the trees because it works on line-of-sight technology, and could be seen just above the trees at the higher elevations within Foxchase.

Ms. Schweller said during and after the community meeting, before they had the second balloon test in April, five property owners requested that photographs be taken from their property during the second balloon test. She said Mr. Knuppel provided the staff visibility analysis and that as he explained, areas of visibility were in Foxchase along the actual access road into the site, and two on Broad Axe Road. She said the applicant made sure they got photos from those locations.

Ms. Schweller presented a picture taken from 340 Broad Axe Road, indicating to the balloon. She said they created a photo simulation from that photograph. She presented a picture taken from 240 Broad Axe Road, indicating to the balloon and the photo simulation created from that.

Ms. Schweller said from the other locations that were requested to be looked at, the balloon was not visible at all. She said from William Sublet's property on Parsons Green Lane, it was not visible anywhere there, nor from William Ragsdale's property on Fair Hill Lane.

Ms. Schweller said she wanted to shift from talking about the visibility analysis to how much Western Albemarle needs better wireless service. She said this problem has been more obvious, as everyone has been staying at home during the last few months. She said particularly for students and those who are fortunate enough to work from home, she believes everyone has experienced some inadequacies.

Ms. Schweller said the 2019 Commonwealth Connect Report contains a goal for the Commonwealth for functionally universal broadband coverage within 10 years, which would provide growth in small business revenue and jobs, an 18% increase in agricultural output through connected agriculture technologies, and increases in property values of 3-18%.

Ms. Schweller said 64% of Virginia's rural population lacks access to broadband. She said looking at the Virginia Broadband Availability Map and this section of Western Albemarle, one can see where there are areas that are underserved and unserved, which are defined terms, and together comprise areas with no residential broadband. She said that based on the speeds that they do not have, they do not really have broadband, and that this is quite significant in this part of the County.

Ms. Schweller said unfortunately, for students during this time, their only solution was to go to Wi-Fi hotspots in Western Albemarle, and that there are five hotspots (four schools and a library). She said sitting the parking lot to do homework is not optimum, and service needs to be improved in this part of the County.

Ms. Schweller said she wanted to talk about the proposal's compliance with the Comprehensive Plan and Zoning Ordinance. She said with regard to minimizing visibility, this proposal meets the Tier II height standard of 10 feet taller than the reference tree. She said it minimizes visibility on the Entrance Corridor, even in the winter, as found in the ARB by a 5:0 vote, following recommendation by ARB staff. She said there is minimal visibility from surrounding roadways and neighborhoods. She said skylighting they found only from the subject property, and half a mile away on a ridge, which is expected.

Ms. Schweller said to justify locating within the avoidance area, there is minimal visibility on Route 250 (the scenic byway). She said co-location is not possible here because the existing poles on the site are single-carried poles and cannot be extended. She said there are no other available support structures in the area.

Ms. Schweller pointed out that, per State law, the applicant need not prove the need for a wireless facility for the purposes of zoning review in response to the opposition memo.

Ms. Schweller said with regard to meeting Special Use Permit criteria, the applicant thinks there is no detriment to adjacent parcels but rather, a great benefit. She said it will not be visible from the property across the street, which is under conservation easement. She said the owner of that eased property actually supports the project because he wants better service. She said visibility is minimal to none from neighboring homes and roadways. She said the proposal meets all of the Zoning Ordinance requirements, including the fall zone setbacks. She said fall zone easements are not required for this site. She said the compound stays out of critical slopes on the property.

Ms. Schweller said the request is consistent with the County's Comprehensive Plan because it complies with the Wireless Facility Ordinance, and provides wireless service through private investment, which is consistent with the objectives of the Comprehensive Plan.

Mr. Bivins opened the public comment portion of the hearing.

Mr. Jonathan Jacobs said he and his partner, Mr. Dwayne Zobrist, are with the Zobrist Law Group. He said he lives in Crozet, and that they represent a couple property owners that live nearby on Broad Axe Road. He said he wanted to clarify a few things. He said he kept hearing during both the staff report and Verizon's presentation something about how the application met Tier II requirements. He said he wanted to remind everyone that this is not a Tier II review. He said it is clearly a Tier III, and is a Special Use Permit as well, which is a different and higher standard the applicant needs to meet in order to put this in.

Mr. Jacobs said he was surprised no one had mentioned that right across Route 250, there is an open space conservation easement. He said Mr. Knuppel mentioned this in the presentation, but didn't follow up on it. He said there is a County Zoning Ordinance (5.1.40, Section B6) that specifically says, "The facility shall be sited so that it is not visible from any resources specifically identified for protection in the [inaudible] easement from a conservation easement." He said this is visible from protected areas in a conservation easement and that because of that, he did not see legally how it could ever be approved. He said it would fly in the face of this section of the ordinance, and that he did not know a way around that. He said he has not heard Mr. Knuppel or Verizon explain how.

Mr. Jacobs said in addition, Verizon talked about necessity. He said he lives in Crozet and would be delighted to have more wireless service where he lives, and that the County certainly needs more. He said he fails to see how putting a third pole next to two existing poles helps anybody with more wireless service, and thinks it helps only Verizon.

Mr. Jacobs said there was confusion about an opportunity site or avoidance area. He said this is specifically an avoidance area. He said staff says it is an opportunity site, but the reason for that is because the two poles that are existing were not approved correctly. He said in 2007, the 91-foot pole was approved as a Tier II pole when it clearly should have been a Tier III. He said the 82-foot pole there in 1999 was approved before the standards, but in 2016, it was rebuilt higher and also not approved as a Tier III. He said here, two wrongs do not make a right, and they cannot take the two existing poles that are there and deem this to now be an opportunity site. He added that these poles are at least 30 feet shorter than the Verizon pole will be.

Mr. Jacobs noted that the County Ordinance says that it must be sited to minimize visibility from adjacent parcels regardless of their distance from the facility. He said his clients would not have hired him if visibility were not an issue, and that it certainly is for them.

Mr. David Mitchell (4680 Fair Hill Lane) said he and his wife are the owners of the conservation easement property, which is about 60 acres. He said they have owned this property for 12 years. He said it took him 7 years to even know that the existing poles were there. He said it is not visible from any of their structures or any of the protected parts of the properties. He said one can stand at the edge of his property, which abuts 250, and see the poles, but that he didn't think this was relevant.

Mr. Mitchell said they want more service there, and it is needed. He said there are dead spots, and they need redundancy. He said he and his wife are in full support of this tower, and that he would encourage the Planning Commission to approve it. He said he hoped the Board of Supervisors would do the same.

Mr. Bivins gave the applicant the opportunity to respond.

Ms. Schweller said she would respond to some of Mr. Jacobs' comments. She said this is not a Tier II review, and that they refer to Tier II to explain how the project is sited and designed to meet all Tier II requirements. She said this should help because those are very strict requirements that the County has set up so that it can have by right facilities without having to go through this approval every time.

Ms. Schweller said this is a Special Use Permit because it is in the avoidance area. She said the only difference with the review is to carefully review visibility from the avoidance area (which is the scenic byway, Route 250), which has been done and would have been done anyway because it is an Entrance Corridor as well, with an ARB review. She said the standard is not higher or different, however. She said the standard for visibility is the same and must comply with the policy. She said the only difference is that they must meet the Special Use Permit criteria, which is what she reviewed in her presentation.

Ms. Schweller said Mr. Mitchell made clear that the facility will not be visible from the protected structures on the conservation easement.

Ms. Schweller said the reason why the applicant is proposing a third pole is because these are single wireless provider poles. She said one is AT&T, one is T-Mobile, and that this one is proposed by Verizon Wireless because of the County's policy to keep these poles as short as possible, they can only accommodate one wireless provider, which is why there are three together. She said this keeps them short, rather than extending them to make them taller.

Mr. Bivins closed the public hearing and brought the matter back to the Commission.

Ms. More said she had a question for Mr. Herrick. She said with regard to the conservation easement, there were comments made about this not being visible from structures on the easement, and that they heard from the owner about his support for this. She said she wondered if, with the Deed of Easement, there was something there. She said she didn't think the Deed of Easement speaks to only visibility for structures, but would speak to the conservation value of that easement.

Mr. Herrick replied that the language of the ordinance is probably more subtle than has been suggested. He said it reads that if the facility were to be located adjacent to a conservation easement or open space easement, the facility [inaudible] so that it is not visible through any resource specifically identified for protection in the Deed of Easement. He said it does not say that it will not be visible from anywhere on the conservation easement property, but that it will not be visible from any resources specifically identified for protection.

Mr. Herrick said he met with Mr. Scott Clark, who works with the Conservation Easement Authority, and looked through the Deed of Easement after this issue was raised for resources that were specifically identified for protection in the Deed of Easement. He said the one and only structure that was is a hay barn. He said the reason that hay barn is specified for protection is that it requires the consent of the easement holders before it is demolished. He said this is the only resource in the deed that is identified for protection. He said as Mr. Mitchell (the property owner) indicated, the proposed facility is not visible from that identified resource.

Ms. More said she wanted to again circle back to the comments about the presentation having to do a lot with the Tier II requirements, but that this is a Tier III application. She said perhaps this is a Tier III because of the avoidance area, but her main concern is that it feels like they are not considering visibility, regardless of distance, for neighboring properties. She said it was not just about the two that have representation, but when they look at the map and visibility, they were not addressing that, and are just addressing visibility from the 250 Corridor.

Ms. More said having seen all the different images with balloons and simulations of the tower, it really does seem, from certain vantage points, so tall compared to the tree line. She said perhaps this is because of where different photos are being taken from. She asked if Mr. Knuppel could talk about why the visibility discussion is focused on the corridor and not to those that might have distance and visibility.

Mr. Knuppel said the standard for screening and siting for minimizing visibility is the same for a Tier II and Tier III tower. He said it is the same section of the ordinance that requires it to be sited to minimize visibility from adjacent parcels and streets, regardless of distance. He said the Tier III standard does draw more attention to the scenic byway and avoidance area, but it is the same level of review. He said the tower is visible from some areas.

Mr. Knuppel said there is a question about how to measure visibility and minimization from these adjacent parcels and streets, which is before the Commission tonight. He said as shown in the staff presentation, the photo simulations requested are from the vantage points where it was visible. He said staff's opinion is that it was sited to minimize visibility from the Entrance Corridor and scenic byway, and from the vast majority of properties, adjacent parcel, and streets where it was not visible. He said there are some areas where it is visible, and the standard is to minimize visibility. He said staff's opinion is that it does mitigate the visual impacts from that visibility.

Mr. Knuppel said there was higher weight given to screening from the State scenic byway by necessity of the Tier III review, but it does have to meet the standard for visibility from the other adjoining parcels. He said staff's opinion is that it is sited to minimize.

Ms. More said she guessed it was all a matter of perspective and where photos are taken from. She said she realizes it is taller than the existing two that are there, but when looking at the existing two, one has to look hard to see them. She said she understands that it does need to be above the treetops, but from some of the vantage points, it does look to be much higher above

the treetops than what is expected.

Ms. More said she understands that Mr. Knuppel explained there will be a process with the reference tree, and if the project were to move forward, they would make sure the reference tree would provide accuracy about how much taller the tower would be than the reference tree. She said in some pictures, it does look so much taller, but that she understands it is probably because of the vantage point from that particular angle.

Mr. Bailey said he did not know anything about cell phone tower siting from a business perspective, but understands the desire to be above the tree scope, typically. He said if the applicant is going to put in money to build one of these, they want to know that they can maintain some type of cell phone quality signal. He asked if it was part of the precedent to address it to a single reference tree, and if there was not also some consideration of the average tree height of the surrounding canopy and the single reference tree.

Mr. Bailey said there is one tree that is very taller, and that the other towers are 30 feet smaller and could be above all the other trees. He said if they pick the tallest tree as a reference tree, they get a very tall tower, versus the average tree height as well. He said he is a statistician by trade, and so there is information to be understood with single tree versus the average tree heights of the existing canopy around the screening.

Mr. Bailey said as Ms. More pointed out, the tower looks tall, and if the reference tree is also a single tree that is tall, and the other average tree heights are smaller, it will appear much taller. He asked if Mr. Knuppel could explain why it is always pegged to a single reference tree, or if there are considerations for other tree heights on site.

Mr. Knuppel said it was an interesting question about the height of the monopole and why it is tied to a single tree. He said he was not sure about the origins of that specific section of the ordinance and why in Section 5.1.40-B10 the height of the monopole is the way it is. He said it acknowledges proximity of trees nearby and proximity of screening. He said they do cover the average height of trees nearby. He said if there was one very tall tree and it was the only tree nearby, and there was a monopole 25 feet from it that towered above all the trees nearby, staff would catch that during the balloon test and during the screening and site criteria review.

Mr. Knuppel said perhaps the ordinance is the function of some technological considerations. He said they have to find a tree that seems appropriate and a place to put it near it. He said staff does cover for that aspect with the one isolated tree during screening and siting to minimize visibility, and it does look at terrain nearby, screening nearby, and location. He said there may be other considerations such as vegetation, terrain, and structures that would block it from view, despite being taller than some of the average trees on site.

Mr. Knuppel said it seems that although the ordinance, as it is currently written for a Tier II tower, the treetop standard is tied to a single tree. He said the screening and siting criteria and balloon tests do require staff to assess the condition of the trees nearby, more generally.

Ms. More asked if either Mr. Herrick or Mr. Knuppel could talk about the opportunity site and what was mentioned during public comment about the two existing towers possibly were not supposed to be there because it was an avoidance area. She asked if staff had history on that. She said she knew that the second tower was built too tall and it had to be shortened, and that she would like to know more about that.

Ms. More said Mr. Knuppel has done a great job, but when staff went to do the first balloon test, this was Tier II and not identified as an avoidance area until they got there and realized it. She asked if with the two original towers, something was allowed to be built in an avoidance area when it shouldn't have been, or if there was a reason behind why this happened, or a timeline before the County was reviewing them in this way.

Mr. Knuppel replied that staff did some research on this and that it was a confusing point in history. He said he would start from the beginning of time on this site. He said in 1999, the Special Use Permit was approved before the County had a wireless facilities policy. He said the approval was conditioned on the height of the monopole not exceeding 7 feet above the height of the tallest tree within 25 feet of the tower, which is more stringent than the current reference tree standard. He said the Special Use Permit was approved under Section 5.1.12 of the ordinance, which covers public facilities.

Mr. Knuppel said Section 5.1.40-I of the ordinance discusses Special Use Permits for facilities approved prior to October 13, 2004, and how that standard continues to apply.

Mr. Knuppel said the pole was replaced a couple years ago, which is a permitted replacement of the monopole based on the County Ordinance.

Mr. Knuppel said in 2007, the second tower that was constructed on the site was approved as a 98-foot-tall treetop facility. He said looking at the Commission minutes to try to understand what happened there, this was approved as a Tier II facility. He said the balloon was flown taller than a balloon test and was conditioned at a lower height during the Planning Commission approval at that time. He said it was constructed to an inappropriate height, then corrected. He said it is consistent with the reference tree today, and is about 82 feet tall right now.

Mr. Knuppel said without commenting on any sort of vested rights that might be applicable to that, he would defer to Mr. Herrick about that. He said there is a second tower that has been approved administratively on that site that exists today. He said the counsel for the property owners did mention those two towers and that they were inappropriately located. HE said the first one was approved in accordance with the policy that was not in place at the time, and that the monopole has been replaced since then per the County Ordinance. He said the second one was approved administratively, and that he did not have an explanation for that.

Mr. Knuppel said with regard to this application, staff did receive a submittal of a site plan for this facility in December. He said there was a night before the balloon test on which he was doing a quick review with the County checklist and realized that the site was located within the Route 250 Scenic Byway and would be in an avoidance area. He said they continued with the balloon test the next day, as originally planned. He said the applicant withdrew and resubmitted the application that weekend as a Special Use Permit. He said they held the community meeting, accordingly, had a request to do a second balloon test, and moved forward with that.

Mr. Knuppel said there is a complicated history on the site. He said he hoped this addressed concerns about process and how this is coming back as a Special Use Permit Tier III tower that evening.

Mr. Randolph moved to recommend approval of SP202000004 Wild Turkey Cross Property Tier III Personal Wireless Service Facility with the conditions as listed in the staff report.

Mr. Clayborne seconded the motion, which carried unanimously (7:0).

Mr. Randolph moved to recommend approval of the Special Exception for the element being at a distance greater than is indicated in the current policy, with the conditions listed.

Mr. Clayborne seconded the motion, which carried unanimously (7:0).

Mr. Bivins informed the applicant that the application would move forward to the Board of Supervisors.

Mr. Bivins said this was one more indication of how the Wireless Policy needs to be updated. He said the next question would be about if the County would ever have 5G, and the answer would be only in the urban core, as this is the only place where there is the terrain and topography to make that happen. He said staff will need to seriously think about having a good look at the Wireless Policy.

Committee Reports

Mr. Bivins said the Hydraulic Road/Jack Jouett CAC heard from the Boys and Girls Club, and they did something that the Commission would hear about from the Planning Director as well as from Ms. Firehock and others. He said they held a virtual CAC for the community meeting to look at the Boys and Girls Club, and whether or not it is okay to have a community center there. He said it will come before the Commission in the future, and that he wanted to share that the CAC had an applicant virtually present to it.

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Mr. Rapp said there was one public hearing for Parkway Place, which is an item that came before the Commission before the pandemic. He said this went on for 3-4 hours, with a lot of public engagement. He said at the end, the applicant deferred. He said much of the discussion centered around the transportation concerns that were also discussed at the Commission level months ago, and the need to conduct a corridor study there, which staff is working towards getting a scope of work and quotes for. He said there was discussion about impact to schools as well. He said this is unresolved and will eventually make its way back to the Board once some additional information has been obtained.

Old Business/New Business

Community Meetings

Mr. Rapp said he wanted to give an update on community meetings and the process they have undergone throughout the pandemic to make sure everyone is on the same page. He said community meetings are required in the ordinance for Zoning Map Amendments, Special Use Permits, and Special Exceptions. He said the purpose of the community meetings is to provide some input and interaction with the community, discussions and back-and-forth, questions about projects with developers and with staff so that they can better prepare these applications for the Commission and Board.

Mr. Rapp said the ordinance says that the meetings may be held during CACs, which has been frequently done in the past. He said there is also the option to waive those meetings if it is unlikely to generate any public concern due to the reasons listed. He said this does not happen often.

Mr. Rapp said with the pandemic, they had an issue with conducting public meetings and having people attend in large groups. He said they worked with Mr. Herrick and the rest of the legal counsel, as well as with other management staff, to recommend Emergency Ordinance elements that were adopted by the Board, as well as an Executive Order, addressing many different things and allowing them to have the virtual meetings. He said one item it addressed is community meetings and allowing them to conduct those through alternative means, as they could not have CACs or community meetings in person.

Mr. Rapp said they looked at many different options regarding what they could utilize with their current technology and ways to still engage staff to meet the intent of the ordinance. He said they came up with a couple of options, based on the type of projects they started implementing.

Mr. Rapp said Option 1 was for the smaller projects that were less likely to generate concern or a lot of comment. He said they utilized Microsoft Forms, which is an online feedback form, with some set questions and provided some ways for people to call in or email staff to have discussions on the projects during a two-week comment period. He said those were for the projects that are much smaller in nature and more minor.

Mr. Rapp said they did have the caveat that if a significant number of comments were received, staff would proceed with the other option, which is a virtual meeting. He said this is before they had everything set up, and they worked with developers to see if they had a way to conduct this through Zoom or another platform. He said this was successful and that they have done a few of those as a way to get those going before having the CACs back online, to start getting back to somewhat of a normal process.

Mr. Rapp presented a list to show the meetings and how they evolved. He said over the past few weeks, they have started bringing back the CACs, such as 5th and Avon, which they thought was necessary for the Albemarle Business Campus project. He said they had meetings for 29 North and Hydraulic Road, and had the Crozet CAC working on their Master Plan. He said they would slowly be bringing these back on through a different online method calling Public Input, which is similar to Zoom, but more engaged with presenting plans and providing comments. He said those have been successful, and they continue to roll out those.

Mr. Rapp said for small projects where the requirement was waived, these included H&H Care Car that had come through the Commission, and MonU Park, which were very minor in nature. He said Scott's Ivy Exxon was a great example of using online forms, and that there was a lot of engagement that Ms. Kanellopoulos dealt with, as well as on a few other projects, which seemed to be successful. He said now, they are working back towards the virtual meetings as they unveil the CACs and get into more of a routine with the options before them.

Mr. Clayborne asked Mr. Rapp if he thought Planning Commission meetings would continue to be held online for the foreseeable future.

Mr. Rapp replied that this would be the case at least for some time. He said there is Phase III, which does not have a set date. He said right now they are in Phase II, and that Phase III would

allow some larger groups with social distancing. He said this would allow up to 50 people present for public meetings. He said they will want to make sure this is done safely, and so for the immediate future, they still plan to do virtual meetings.

Mr. Rapp said that next week, the Commission will have their first taste of a much more engaged meeting with a lot of public input. He said Mr. Fritz would be coming back next week to present the Yancey Lumber project and some Special Exceptions that have been requested for their site. He said he did see the virtual meetings proceeding for a while in the future, at least until they are cleared to move forward in a more controlled setting. He said it seemed that at least for another month or so, virtual was the route they were taking.

Ms. More said she would like to have a hard copy of the packet for the meeting next week, and asked if she could pick it up the next day.

Mr. Bivins said pickups usually happen on Fridays. He said Ms. Shaffer had made many copies, and they were not being picked up. He said it seems that only two Commissioners were picking them up. He suggested that if there is a meeting coming up where a hard copy is needed, the Commissioners should let Ms. Shaffer know, as she does not produce them until Thursday for a Friday pickup.

Ms. More said oftentimes if there are back-to-back meetings, they would be at the Commissioners' places.

Mr. Bivins said that because the offices are not open every day, and because staff has a schedule they are in, Ms. Shaffer plans to do all the publishing on Thursday so they can be ready to be picked up on Friday.

Mr. Bivins said he imagined many Commissioners would want a hard copy packet for Yancey. He said if they have a sense of that now, perhaps Mr. Rapp could give Ms. Shaffer some indication. He asked if anyone else wanted a hard copy.

Mr. Bivins asked if three people needed copies.

Mr. Rapp said staff appreciated as much notice as possible. He said they have some limitations to their copy center right now, but staff would take care of these, if needed.

Mr. Bivins said it is important, since there is a public piece of this, that because the Supervisors, Mr. Rapp, and his staff have been able to keep going, there are 650 building permits that turn into a value of $108 million of activity, which is huge. He said this is huge work that the people in Community Development have done, and while he is not comparing it to any of their sister or non-sister communities, Albemarle County kept going while some of them are just starting to keep going.

Items for Follow-Up

Mr. Benish said an appointment needs to be made to the Rivanna River Corridor Study Committee, and that back in January when they made the appointments, they only made one appointment to this committee, but there were actually supposed to be two. He said there is a homework assignment for the Commission to think about who they would want, or who would be

interested.

Mr. Keller mentioned he is a member.

Mr. Benish said the Commission could let either he or Mr. Rapp know who would be interested. He said what they would have to do technically is that there is a vote on the membership, and once the decision is made and if there are multiple people interested, they can decide at the end of a meeting, or let him know what that appointment is. He said Mr. Rapp can arrange a reapproval of that list of membership. He said this can be done at the next Commission meeting, or the one after. He said there is not an urgent meeting coming up immediately, but that it should be taken care of.

Ms. Firehock said that usually, it is helpful to know when and how often these groups meet, for those who have day jobs, to know whether or not the meeting times are doable. She said Mr. Clayborne, for example, has to go to Richmond for work.

Mr. Benish said he would confirm this, but that he believed it was either a 4:00 p.m. or 5:00 p.m. meeting. He said it is also very sporadic.

Mr. Keller said this was correct. He said it is sporadic in that it is tied to the funding of the phases of the joint study with the City, County, and Planning District. He said if this were known, perhaps this would give an idea of how many meetings there will be. He said it seemed to him that there were four meetings within a two-month period, and then no meetings within a six-month period.

Mr. Benish said there was almost six months of no activity, then more. He said he was new to the project, and that Ms. Elaine Echols has come back to do some contract work. He said she would not be doing that any longer, however, and that he and Ms. Rachel Falkenstein would pick up this work. He said he needed to get a better idea on what the upcoming schedule is. He said he understood from Ms. Echols and Ms. Falkenstein that there is not an imminent meeting coming up, but that it would probably be another month or so. He said he would confirm the time and when they think the next meeting will be, so they get a better sense for the upcoming work.

Mr. Keller asked what the technical name is of the project, as the last report is on the Thomas Jefferson Planning District website and one can visit to understand the phases of the project.

Mr. Benish replied that it is called Rivanna River Corridor Study, and the committee is considered the Steering Committee.

Mr. Benish reminded Mr. Bailey that as far as committees go, the way they have functioned in the past as Planning Commissioner representatives are that the Commissioner is automatically chosen to be the liaison for the CAC in their Magisterial District. He said there will be an upcoming Places29 (Rio) CAC meeting, and that he was asked to give Mr. Bailey notice that he would be hearing from Ms. Falkenstein or another staffer about the upcoming meeting.

Mr. Bailey asked Mr. Benish if he could continue to send any email correspondence to his Gmail account, as his County email was having technical difficulties.

Adjournment

At 10:15 p.m., the Commission adjourned to June 23, 2020, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

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

Approved by Planning Commission
Date: 07/07/2020
Initials: CSS