

**Albemarle County Planning Commission
FINAL Minutes July 6, 2021**

A regular meeting of the Albemarle County Planning Commission was held on Tuesday, July 6, 2021 at 6:00 p.m. via Zoom.

Members Attending: Julian Bivins, Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Jennie More; Tim Keller.

Members Absent: Ms. Firehock, Mr. Carrazana.

Other staff members present: Mariah Gleason, Senior Planner; Bill Fritz; Francis MacCall; Stacy Pethia; Tori Kanellopoulos; Jodie Filardo; Andy Reitelbach; Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at www.albemarle.org on the Community County Calendar, when available. Ms. Shaffer called the roll. All Commissioners indicated their presence. Mr. Bivins established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

Mr. Herrick said there were two items on the Consent Agenda, including the approval of the Drillers Lane project and the June 22, 2021 minutes. Mr. Keller moved to approve the Consent Agenda. Mr. Clayborne seconded the motion, which passed unanimously (6-0). (Ms. Firehock and Mr. Carrazana were absent.)

Public Hearing – SP202100009 Natural Burial Ground at Panorama Farms

Mr. Bivins asked for the staff report from Ms. Gleason. Ms. Gleason presented a special use permit request for SP202100009 Natural Burial Ground at Panorama Farms for the Boards' consideration. She said the subject property for this special use permit is a 20-acre portion of Tax Lot Parcel 45-1, which is a 706.4-acre parcel in total. Ms. Gleason said the 20-acre portion is identified on the first slide by a yellow star, and tax lot parcel 45-1 is located in the rural areas west of Charlottesville, Albemarle Airport, southwest of Earlysville Business Park, and north of the South Fork Rivanna River Reservoir.

Ms. Gleason said the 20-acre portion of the property, highlighted in yellow on the second slide, is located off of Reas Ford Lane at 3550 Reas Ford Lane, which she said is about half a mile from the intersection of Reas Ford Road. She said other properties located off of Reas Ford Lane are primarily rural area residences.

Ms. Gleason said the applicant is requesting a special use permit for cemetery uses and is seeking to establish a “green” cemetery. She said a green cemetery is defined as a cemetery in which everything in the ground is biodegradable. She said that unlike a conventional cemetery, there is no embalming, no metal caskets, and no concrete vaults. She said above ground, green internment sites are usually marked with flat natural fieldstones or native plantings, so no plastic memorials are permitted.

Ms. Gleason said development associated with this use includes designated parking areas, two entrances—one which exists currently—and a potential future pavilion. She said that staff reviewed the special use permit request, and the proposal is in compliance with the Virginia State Code requirements, which generally guides the establishment in operation of cemeteries including professional maintenance and Albemarle County Code.

Ms. Gleason said the one area of concern for surrounding community members and staff was regarding the use of Reas Ford Lane, so she would focus her presentation on that aspect of the review. She said that Reas Ford Lane is approximately one mile in length, with the proposed use being towards the midpoint. She said the roadway is an unimproved gravel and dirt road that serves 19 residences, five of which are located past the proposed entrances to the subject property. Ms. Gleason said there are four locations along the road where the travel-way width is less than 20 feet, and she’d like to acknowledge that this corrects the staff report, which stated that there were two areas less than 20 feet.

Ms. Gleason said concerns regarding the use of Reas Ford Lane were primarily around the quality and maintenance of road and potential traffic, but as a public road, Reas Ford Lane is maintained by VDOT, which did not note any improvements in their review; however, should there be a need for improvements along this roadway, the County is able to work with VDOT to have those improvements made. She said Fire/Rescue also reviewed the proposal and had no concerns about the ability to continue providing emergency services to the properties, as well as the proposed use.

Ms. Gleason said the transportation planning staff also reviewed the proposal and thought that the available traffic projection information did not have data on the attendance rate of green cemeteries specifically, only conventional cemeteries that are much larger than 20 acres—so it is likely that estimates provided by staff will be higher in actuation than what may be seen with this proposal. She also noted that traffic (burials) associated with this use would be gradual in nature, unlike a commercial development where everything comes online at once.

Ms. Gleason said that the previous special use permit SP20110027 for special events, which was approved on this subject property and located just south of the proposed cemetery, approved the use of Reas Ford Lane for 24 events per year for up to 200 people each. She said using that information as a basis, and the fact the roadway has already been deemed fit for 200-person events, staff concluded that the traffic impact of this use would not be substantially detrimental. She mentioned condition number three, which essentially limits the special events and burial uses from happening simultaneously, stating that it was determined that the road was suitable for 200 people, but maybe not 400 people.

Ms. Gleason said there will be additional opportunities to evaluate traffic associated with this use in the future, one of which would be with the potential future pavilion development, as that would require a safety plan that would allow VDOT and Fire/Rescue to review actual traffic data that the

cemetery has collected up to that point. She said another opportunity would be if the proposed use should ever grow beyond 20 acres.

Ms. Gleason said that staff found several favorable factors to the proposal, including that the proposed use will offer a service that is not currently available in Albemarle County, and that the income from this use will help support the preservation of farm and agricultural property. She said that one unfavorable factor identified was that the proposed use would generate additional traffic on Reas Ford Lane.

Ms. Gleason said that to preserve the favorable factors, staff recommends the conditions as displayed on the slide presentation. She said there was one typo on the slide, and the reference to a 250-foot setback should be changed to a 250-yard setback, to align with the VA State Code. She said the Commission has the staff report if there are any questions regarding any information she provided.

Mr. Bailey asked if Ms. Gleason could shed light on the current use of the property for day camps. He said he had read somewhere in the report there are currently day camps being held on the property and asked if there is any traffic or other activity tracked on the property.

Ms. Gleason said the special use permit referred to two approved camps running during the summer months. She said one camp is approved for one 1-week session and one 2-week session, and the other camp is approved for two 2-week sessions. She said both of those camps are accessed through Reas Ford Lane, but she would defer to the applicant on how, when, and how many campers there are.

Mr. Randolph asked if staff had any discussion about potentially putting a limit on the number of years that the Commission would authorize this project for, with the proposed amount of traffic on Reas Ford Lane. He said that his reasoning is because the pavilion site plan is not submitted yet, and there is discussion of that being a future project. He said that he wondered if there was some discussion by staff that the County would revisit the traffic volume and intensity issue from Reas Ford Lane either at the end of five years or when the site plan gets submitted for the pavilion—or whichever comes first. He said that it would be a way of checking to see what volume of traffic of this project generates, and there is a lot of speculation in the report.

Ms. Gleason said that staff has discussed what might be triggering mechanisms to reevaluate the traffic but had not thought about the sunset clause. She said that she is unsure how zoning would implement that or if it had been done in the past. She said she is more apt to propose things where there is a precedent, but she does not preclude the Commission from adding a condition if that is the recommendation.

Mr. Herrick said that it is allowable to have a limit of some time, but he questioned whether it would be advisable in this case because it would require one to come back to review; if the conditions were unfavorable, it would then require the County to determine whether to then revoke the special use permit on account of traffic. He added that it is allowable to put a term limit on a special use permit but suspects it would be difficult to enforce.

Mr. Randolph expressed his appreciation for Mr. Herrick's response. He then referred to Page 6 of 10 of the staff report and said he is struck by the fact that in the next to last paragraph, the last sentence says, "Drivers assessing the use will likely not contribute to endangering the use of the

road by others.” He said what he is noting is that the County is in the business of speculating, but there is no probability analysis and no empirical data, and it’s only the County saying the drivers will “likely not.” He stated that he is concerned that this is the third special use permit request to the County for increased traffic on Reas Ford Lane, but he is counting this as the fourth project. He said that there has been over time an intensification by this applicant by the use of a public road, which primarily accrues to the benefit of this applicant, not to the neighbors nor the contiguous property owners.

He said that he strongly advises the County to be careful with making suggestions of probability unless this data can be quantified and backed up empirically. He said this also comes up again on Page 7 where the second sentence says, “Staff does not anticipate the regular use of sound amplification devices during burials.” Mr. Randolph said staff really has no idea what people may do at a funeral in terms of bringing in any sound equipment. He said a Tesla has enough electricity in it that one can run the equivalent of the electronics used at Woodstock in 1969, in terms of the overall volume of sound that could be generated from one single vehicle. He said again, it’s playing probabilities and he is nervous about that.

Mr. Randolph then referred to the recommended actions on Page 9 of 10, under number two, where the condition is, “Maintenance and operation including the digging of graves of the cemetery is restricted to daylight hours only.” He said as the group all knows as they’ve just come out of the summer solstice, daylight during the summer can be almost 16 hours of sunlight, and he again recommends that it be year-round, as it’s a little loose in this condition, that would allow for digging until 8:30/9:00 at night in the summer months.

Mr. Randolph continued by referring to the condition of number five, “No plastic memorials are permitted” and asked if rubber, concrete, or steel is permitted. He said one of the things the County was trying to get it was to say, “No non-natural, human-made/manufactured memorials are permitted, but he hates to be biased against plastics because of the advice that was given to Dustin Hoffman in *The Graduate* for him to really look at plastics as an opportunity to explore, but he thinks this verbiage is limiting very restrictively, when he believes that what the County is trying to relay is something much more strategic and environmentally sustainable.

Ms. More commented that going back to Mr. Randolph’s first comment about the idea of a sunset clause, after reading some of the material stating that there could be future potential for an expansion of the use, she thought she read that there may be a future request for a third access and asked for clarification.

Ms. Gleason responded that if this project is successful, there is an idea to expand. She said she does not believe the applicant looked at a different entrance but had entertained the idea of expansion.

Ms. More said she thought she read that there was mention of improvements to the entrances or potential exploration of an alternate entrance. She asked then for clarification of things that might trigger further analysis down the road, would this be included in what may cause that. She asked if there would be some review of how traffic is working now, and if there is an increase in use.

Ms. Gleason said the applicant would have to amend their special use permit.

Ms. More then asked if the current approval for events is 24 per year, which would not be allowed to coincide with burials. She said she was reviewing how many people tend to attend green burials and while she would like to learn more about that, she wondered in the event that a larger group is expected, is it possible to consider building in something so neighbors are alerted to the influx of traffic. She said she is not sure if there is anything built in to help neighbors understand if there is something planned that is larger than normal, or if there is a mechanism in place to help facilitate traffic.

Ms. Gleason said the County could look at ways to potentially condition large events and what might be administratively feasible.

Ms. More said this request is not meant to saddle people with extra stuff but feels the Commission has learned from other event requests that the more communication with the surrounding property owners, the better things seem to go, so people don't feel shocked by events happening in their area.

Mr. Bivins stated that Attachment 3 shows where there are two entrances and asked if that is to move people in and out of the property, or whether that is going to provide traffic or circulation of the use of that design.

Ms. Gleason said the current site entrance might not be enough for how many people would be accessing the site. She said it also provides a way to introduce a traffic circulation pattern that would allow pursuit of entry and exit, but she would also defer to the applicant as to their initial ideas behind that.

Mr. Bivins thanked Ms. Gleason for that response and asked if there was any sense on whether the other cemeteries in the County restrict when they can open and close. He said this does not need to be answered now, but he would like to know this when they come back to discuss it in the future.

Mr. Keller said that just as staff often works with the applicant after the special use permit has been approved by the Supervisors, in this case he asked Ms. Gleason if she envisioned further design work being shared for approval. He said this seems to be a very conceptual plan without a lot of the elements that seem to be shown. He said while they are spoken about, they are not demonstrated, and he asked how the staff would be moving forward.

Ms. Gleason said that when proposals are taken in, her team is only able to review what is put in front of them. She said this being more of a land use than construction-oriented special use permit, her team would not be anticipating construction to come on the heels of this request. She said unlike other developments that are very much building dependent, this project is not, so in some ways, there is only so much information that can be expected at this stage, particularly if the applicant does not have a proposed building in mind. She said that because of that, it did not strike her as odd that this request was presented as more of a bubble outline, but there have been approved developments in the past that were more "bubbly" in nature. She said there were large residential developments approved without buildings nailed down, although she notes there was knowledge of them coming in after the approval.

Mr. Keller said that the only issue he can think of is if the County has a high ground water area, so there wouldn't be places appropriate for burials because it might become weak when

excavated, even for a shallow grave. He said there are also issues of things like stone walls, as seen around the country and world, or a memorial wall, or fieldstones, or the planting of a memorial tree near a grave, and those sorts of things that would be somewhat comparable to landscape features when thinking about what would be appropriate for street trees and elements in a more urban environment. He wanted to clarify that since this is a new area for the whole group, he wondered if Ms. Gleason's team has been thinking internally about guidelines on how these items will be handled in this instance and in the future.

Ms. Gleason responded that there were conversations with the applicant, agreeing that this was a use they haven't seen before as well as what conditions can be used to hone in on the "green" aspect; the proposal was also viewed by the Virginia Health Department, which did not make comments on the water table, which was a consideration, but this was not highlighted as a concern.

Mr. Bivins asked if the group could hear from the applicant.

Mr. Christopher Murray, a shareholder and owner of Panorama Farms, residing in Charlottesville, asked if he should address the questions first, or if he should speak to the application itself.

Mr. Bivins said he recommends Mr. Murray speak to the application and leave some time for questions that will likely spring from the application.

Mr. Murry said that the group has seen from the staff report and the application the major features but would like to discuss "green cemeteries" in general, as there seems to be some unknowns about them. He said that the context of natural burial grounds is that they are nothing new and are done all over the world. He said it is common practice around the world—and Jewish communities, Muslim communities, Native American communities have all participated in this practice—but he also acknowledged that it is not common.

Mr. Murray said that as of April 2020, there are only 244 green cemeteries in the United States. He said that until now, there really have only been two options for handling the dead: a conventional funeral and burial, and cremation. He said a natural burial adds a third alternative that up until now has been very rare. He said it is not for everyone, and it puts the family much closer to the process and de-sanitizes death, and many report that it has had a profound effect on them and their ability to let go of a loved one.

Mr. Murray said that a funeral and a burial are not the same thing, and it's important to know that many who attend these funerals often do not attend the burial, and some only attend the burial. He said the events are generally smaller, and the services are simpler and more intimate than conventional interments. He said the big question is why green, why Albemarle County, why Panorama Farms, why here, why now, and for the bigger picture, why is it good for the planet. In the application, Mr. Murray said he cited *Scientific American* studies about the quantity of embalming fluid, exotic wood caskets, concrete, and the number of those polluting elements that go into the ground every year is mind-bogglingly huge.

He said with a green burial, everything is biodegradable and, in most cases, there is just a linen shroud that goes into the ground with the body. He said it is often thought that a cremation is the alternative, but in terms of its effect on the planet, a cremation equals a car driving approximately 500 miles in its energy use, and conventional cemeteries are generally well manicured, which

means mowing with heavy equipment in summertime once every week or two weeks at best. He said there is the use of chemical fertilizers and pesticides to keep the lawn pristine, but green cemeteries generally have native grasses that are mowed only enough to keep weeds down.

Mr. Murray said the other point that the success of a green cemetery in environmental and visual terms is based on how little it is noticed. He said the whole idea is that it remain a natural area. He then asked how it benefits Albemarle County and said there are only four green cemeteries in Virginia, and this would be the first in Albemarle County, which offers a service to the public that is not available within about 100 miles. He said it would enjoy for Albemarle County the same environmental benefits that were cited for the planet and are in line with uses recommended for the rural area and with comprehensive plan goals.

Mr. Murray asked why it was good for Panorama Farms and asked how it continues the stewardship of the land that his family has been entrusted with. He said as a boy with a short story, his parents moved to the farm in 1953, and farming was as difficult back then as it is now, and he thinks it broke their heart in the mid-80s when they had to sell what is now the Graymont Subdivision in order to educate their eight children. He said that they continued farming until 1997, when it became apparent that farming was no longer sustainable.

Mr. Murray stated that at that point, as a family, they pivoted to a compost operation, added bike trails, added cross-country running, and the farm became a people resource as it is today. He said that they are proud that it remains an open space. He said the fourth generation is now on the farm and they hope for 40 more years, but they want to continue the family legacy of environmental stewardship and hope this offers a way to pay for that stewardship and for it to remain an open space. The alternative, he said, is essentially another Graymont Subdivision in residential development.

Mr. Murray said that while this may not be the time, he would like to ask for a change in the conditions that are in the report.

Mr. Bivins said they could do that now but suggested that Mr. Murray answer the few questions that he has before him and then go to the public, then after that look at those condition change requests.

Mr. Murray said the exact number of children at the day camps cannot be given exactly, but it is his impression that there are about 30 children per session, only in the month of June, and they are four-hour sessions in the morning and afternoon. His understanding is that there are at most 30 children, but possibly as few as 12.

Mr. Bailey asked how transportation for those children is conducted.

Mr. Murray said the children are generally brought in by their parents, and there are efforts to carpool wherever possible.

Mr. Bailey asked if they use the Panorama Road entrance or the Reas Ford Road entrance.

Mr. Murray said they use Reas Ford Road, and without a robust four-wheel-drive vehicle, it is impossible to get from the east side of the farm, the Earlysville Road side of the farm, through the

farm to this area. He said in other words, the only practical way to get to the site is through the 3550 Reas Ford Lane entrance.

Mr. Murray said that he visited four cemeteries and interviewed the owners and operators of 10 locations in the Southeast. Mr. Murray said Attachment 8 includes those interviews and his notes, along with the operator names and phone numbers, and he would welcome the group to follow up with those individuals. He said there are only 244 green cemeteries in the country, and as this is relatively new concept, much of it is speculation—but what he can say with certainty is that they are more intimate, are smaller, and there are fewer of them than a conventional service.

Mr. Murray said as far as sound is concerned, his family would be delighted to prohibit any sound system. He said these are meant to be small, intimate ceremonies, and the thought that they would be amplified is not quite laughable, but almost. He said that as far as the hours of operation, his family would be fine with 8:30 a.m. - 5:00 p.m., or whatever would be appropriate. He said he understands Mr. Randolph's point about there being light at 9:00 p.m. in July, but if it means that the cemetery would reduce their hours to working hours, they would have no trouble with that.

Mr. Murray next spoke to the topic of memorials and said that the concept is non-natural, upright memorials, and included in that could be pink granite. He said what they do not want and will not have are plastic flowers, as an example. He said the memorials would be natural, whether they are engraved stones, or whether it's a natural planting like daffodils, small shrubs, or something like a white oak tree in an open field, but the point behind the memorials is that they be natural or look like they grew there.

Mr. Murray said that as for expansion, his family would definitely agree with a limit of 20 acres, and if they ever needed or wanted to expand beyond that, they would come back to the Planning Commission and Board of Supervisors and reapply.

Mr. Murray said the areas that have been designated are appropriate areas and are outside of stream buffers, and they are in no way in a place that could or would affect the water table; the soils have been checked and there are no adverse environmental affects that would occur to any neighbors in the surrounding areas.

Mr. Randolph asked on Page 4 of the submission of the special use permit request for natural burial ground on Panorama Farms of Attachment 2, under letter G with the Virginia Department of Health, the last sentence indicates all required 100-foot stream buffers will be observed and no burials would occur on steep slopes or questionable soils. Mr. Randolph asked Mr. Murray to explain what is meant by "questionable soils" and how those soils will be determined to lend themselves to burials and which will not. He asked if Mr. Murray is using a U.S. Government Soil map on the site, and whether he is marking those areas ahead of time; as in doing that, there is a distinct possibility that it would affect the 20 acres.

Mr. Murray said that is correct, and his family based this on the Virginia Geologic Service maps that identify large blocks of land. He said with that in mind, they contacted one of the better-known soil experts in the County and was told informally that the limit is "diggability." He said that if one can dig deep enough, it works, and the areas they have laid out have very few areas that are undiggable, including rocks and soils that are too sandy, etc.

Mr. Randolph expressed his appreciation for the answer and while he believed this was the case, he wanted it added to the public record. Mr. Randolph then referred to Page 5 under parking and the appropriate scale for the average attendance in a green burial service, or about six to eight persons. He gave an example of President Ryan from the University of Virginia deciding to take advantage of the Farms' services and buys prematurely. He said this is not something the group wants to really think about, but he is referring to a very highly visible member of the community who has agreed to be buried, the view would be much larger as a burial than what is likely being referenced on Attachment 8 that was referenced earlier, the natural burial ground of Panorama Farms traffic and attendee data.

Mr. Randolph said he appreciates Mr. Murray presenting the Commission with the analysis, but Greenhill Cemetery, which is a corporation that owns cemeteries not only in Asheville, but in Raleigh and other localities in NC, are setting aside sections in each of their cemeteries to engage in natural burial grounds. He said they cite that they can have 50-100 cars per conventional service, and he thinks they need to be clear as a Planning Commission from the outset that the numbers potentially on this locality, with this use, can be a dramatic intensification of traffic on this small road. He said he wanted to make that small observation and appreciates the data being provided, and he is very supportive of the concept, is enthusiastic about it, but does want to make clear for the public record that it is only assumptions that each service will be limited to six to eight persons.

Mr. Murray said there is no question about that, and there is no practical way to limit the event—and the thought of a prominent person dying and being buried there and having to stand at the gate because the 200-person capacity has been met, as a practical matter is not possible. He said that because of that, what they've done is look at a parking area for about 10 cars, which will be a normal ceremony, and there is overflow parking designated for another 25 vehicles, and then along the road that bisects the property, the field is flat and can accommodate another 50-100 cars, and beyond that, what would be considered private property, the wedding event barn has another area that is designated that has held 60-100 cars. He said there is plenty of room both formally and informally for overflow parking.

Mr. Murray said that one of the cemetery operators in TN said that on occasion there will be a law enforcement officer killed in the line of duty, or a teenager tragically killed in a car wreck, but that one simply cannot predict that, but he is very quick to say those are outliers that happen maybe once or twice per year.

Mr. Bailey said he's not familiar with green cemeteries but asked how many burial sites a 20-acre parcel would accommodate.

Mr. Murray said there is a national organization called the Green Burial Council that recommends between 300-400 burials per acre, in contrast to a cemetery in the middle of Brooklyn might have 2,800 burials per acre. He said a conventional cemetery would be between 1,500-1,800, so this would be roughly 1/3 of the density of a conventional cemetery.

Mr. Bailey said that given the rough project plan listed, there is a 20-acre parcel, but with a number of setbacks and different areas, he wondered about the essential effective acreage that would be hosting the sites.

Mr. Murray said it is a bit hard to say because they would start the business as close to Reas Ford Lane as they can, but because this is in perpetuity, there has to be consideration of the business. He said what they could not afford to do is have the burials scattered all over the property, and that internally, there has to be a trigger point where if they reach certain projections, the other areas would be opened. He said if there are other burials on the site, they are required by law to maintain those for perpetuity. He said the cemetery would be operating as close as possible from west to east, close to Reas Ford Lane, and then expanding out onto the property from there.

Mr. Bailey asked if that would be on one nine-acre parcel.

Mr. Murray said yes, they would start on the west in that parcel, but those are operational decisions, and he cannot predict exactly how that will go at this moment.

Mr. Bailey asked for clarification on the condition suggested that special events would not happen when funerals are happening, and asked if the two entities are in communication, or how that condition would be enforced. Mr. Bailey asked if the Panorama events were part of the incorporation and if the burial would also be under it, contemplating how the cross-coordination across the two entities would work.

Mr. Murray said they are two separate entities, and if the family were to continue with wedding events, which have not taken place since October 2018, a full year prior to the pandemic, there is potential for conflict, although the hours for the wedding venue are only for weekend hours starting at 11 a.m. until 10:30 p.m., but the cemetery would not operate on the weekends. He said the chances of there being an overlap with a wedding event are very unlikely, though in the case of the day camp in June, those details would need to be worked out. He said that in June, they would possibly not have burials until after the children have left, but it is an issue that would need to be worked out. He said they are fine with the condition that there be no concurrent events in the barn and the burial ground.

Mr. Bivins asked if there were any individuals among the public who would like to speak.

Ms. Shaffer said there were two people waiting to speak.

Mr. Bivins opened the public hearing and invited members of the community to speak.

Mr. Patrick Funk stated that he and his wife Valerie are owners of the property at 3828 Reas Ford Lane. He said back at the time of many of the written submissions from fellow residents along Reas Ford Lane, he did not in principle object to any of Mr. Murray's request to redesignate a portion of his property for the establishment of a natural cemetery. He said Mr. Murray needs are to identify methods of revenue generation for his family and the preservation of Panorama Farms, and Mr. Murray and his family have in the past largely made requests and been approved for projects that are for the betterment of the community and maintenance for much of the natural beauty of the landscape.

Mr. Funk said that what concerns him about this proposal is Mr. Murray seeks to establish a commercial enterprise for revenue generation absent the burden for the impact of the project on the community, namely for the increase in vehicular traffic required to access the proposed site. Mr. Funk said that as his neighbor Mr. Fisher pointed out in his letter to the County, access to the

site could be made with relatively little expense from the already paved and substantially better infrastructure of Panorama Road off of Earlysville Road. However, Mr. Funk said that he and his wife are objecting to this as a proposal because utilizing the existing access from Reas Ford Lane is fast, inexpensive, and allows for the Murray family to piggyback on an existing special use permit for the event farm.

Mr. Funk stated that he further objects to VDOT's assessment of Reas Ford Lane as his property abuts the lane alone and said that one of the areas noted is less than 20 feet in width, but "adjacent to a grass or low-foliage area on at least one side, potentially allowing for one vehicle to pull to the side." Mr. Funk said the unrealized issue with this declaration is that these grass low-foliage areas largely fall on private property, and any number of cars have used the grass area in front of his home to allow for passage. He said while generally low impact, when the ground is wet, it routinely leaves ruts in the grass area, placing the burden upon him as homeowner to repair. He said this is a burden Mr. Murray is spared due to the convenience of proposed access from Reas Ford Lane.

Mr. Funk stated that as has also been noted, the increase in non-residential traffic vehicles comes with a complete lack of regard for recommended speed limits and/or awareness of limited sight lines present on the road. He said the risk is the not insignificant volume of pedestrian traffic seeking respite from the shoulder of Reas Ford Road and finally the amount of dust from traffic along the lane. Mr. Funk said routinely passing traffic, largely non-local, far exceeds the recommended 15-mph posting—and with that comes a cloud of dust when dry, which at times lands beyond his house that sits nearly 70 feet from the road. He said increasing traffic along the lane designated for rural residential without infrastructure improvement is a burden upon the residents of Reas Ford Lane, not Mr. Murray.

Mr. Funk stated that since the majority of the proposal and staff recommendations function upon unwritten future considerations, he too will make an assumption that cannot be disproved, in that future homeowners seeking a rural residential existence will take the increased vehicular traffic into consideration when making purchasing decisions, potentially disadvantaging current homeowners.

Mr. Jeff Fleisch said he resides at 3825 Reas Ford Lane. He said that he has many of the same concerns as Mr. Funk but also has issues with the report, which starts with two sections that are less than 20 feet apart and expanded to four sections less than 20 feet apart, as it does not include the fact that those sections can run from 20-50 or more feet in length. He said his concern is a funeral procession now will be very few and far between, but as this type of option gains familiarity and acceptance, that will increase the traffic in the procession. He said that this is in reference to bereaved people, not those of FedEx and other delivery vehicles that regularly use the road, and it is a dangerous situation with many blind spots, many narrow sections, as well as all of the dust mentioned by Mr. Funk.

Mr. Fleisch said that the event barn is currently working, and occasionally there is some intermittent traffic that has become accepted on the road, but something like this with the potential for an infinitely bigger amount of traffic is concerning. He echoed previously stated concerns this is based on a lot of assumptions, and his assumption is there will be accidents on Reas Ford Lane because people are going to be driving on a dirt/gravel road with not enough space to pass, which will require a widening and paving of the road, and it will be out of control. As a resident and homeowner, Mr. Fleisch said he supports Mr. Murray's cause and supports the idea but feels

that something should be done to access this from Earlysville Road. Mr. Fleisch thanked the Commission for their time and for Mr. Funk for so eloquently starting the public discussion.

Ms. Lisa Rollins said that she lives at 3855 Reas Ford Lane. She said she found the description of the impact in the reports to be sorely lacking from the perspective of the residents. She said she too can appreciate the desire to maintain open land and supports creative ways to do so, but she thinks the impact on the residents on this road has the potential to be significant. She said she appreciates that a Commissioner noted that with requests from Panorama Farms, the intensity is indeed increasing. She said that has gone from the camp, which will be running again next summer, to having the possibility of 24 events per year at the pavilion, to the idea of having these burials.

Ms. Rollins said that in looking at the green ceremony attendee data provided, she did computations that ranged, based on the examples given, from 100 attendees per year to 1,200 attendees per year; if averaged and meaned, this is an average of about 50 people per month, in addition to the 24 events and the day camp. She said this has the potential to significantly add to the traffic, as people walk on this lane, she walks her dogs on this lane, people jog on this lane from across the road on Mallard Lake, and while she can appreciate what Panorama is trying to do, the impact on the neighborhood has the potential to be significant. Ms. Rollins thanks the Commission for their time in hearing her comments.

Ms. Shaffer said there were no other member of the community wanting to offer comments.

Mr. Bivins closed the public hearing and offered Mr. Murray five minutes to respond if desired, and for his closing statements and requests to the conditions listed.

Mr. Murray said that the road is owned, controlled, and maintained by VDOT, and there is a process for citizens to hold them accountable. He said the road is not within his control, though he is sensitive to people walking and utilizing the road for non-vehicular purposes, and he has suggested a right of way on the Panorama property that has a gas line easement offered for people who want to walk off the road along their property. He said they are open to discussing that and wants to acknowledge that the gas line goes along their property to Graymont, and they have no control over that. He said to reiterate, it is barely possible to get a tractor from the Earlysville side of the farm to the proposed portion of the farm. He said it is impossible at this time as it would require crossing two streams and one dam that is only 10 feet wide, and is just not possible to put a road in from the Earlysville Road side to cross the farm.

Mr. Murray said that up until now, there have been wedding events with up to 200 people, and according to the statements from one of the speakers, that has seemed to be okay. He said that is two to four times the number that they expect to have for most services, excluding the outlier events, but wants to again say that this road issue is one for VDOT to address and not something he or Panorama has within their control.

Mr. Murray concluded that he, on behalf of Panorama, appreciates the Commission's time, but would like to revisit one of the conditions in hopes to work something out. He said that under Condition 1, the fourth bullet requires "a 250-yard setback from the burial areas from the dwelling unit on the adjoining property," and he would like to suggest adding wording that mirrors the state-mandated 250-yard setback that adds, "unless with the consent of the owner of that residence next door."

Mr. Murray said that there are two problems with the way it is currently written, in that it essentially puts the nine acres in the setback and makes it off limits permanently for any circumstance. He said that under its current construct, if Panorama Farms buys the adjacent property in 10 years, they still couldn't use the land, so he would like to make it mirror the state mandate. Mr. Murray said more importantly, if the cemetery were to fail, the more that it is in that corner, the less it isolates a piece of the farm; from a land-use and practical view, it makes more sense to be up in that corner of the property.

Mr. Murray suggested that a condition be added that the cemetery be limited to 20 acres, period. He said with no net gain in the cemetery area, any space used in the setback area would be swapped with what would be shown in the existing footprint. He said any future expansion would require a new application. He said just as a thought if they were able to use any of the setback prior to building the pavilion and committing to that spot, he would like to revisit that location. He again thanked the Commission for their time and expressed his appreciation for their consideration and recommendation to the Board of Supervisors.

Mr. Bivins thanked Mr. Murray for his time and request and said that to recap Mr. Murray's request, there is a request for a condition to limit the cemetery to 20 acres, and to change the language in the fourth bullet of the first condition to allow for use of the setback space with consent of the adjoining property owner. Mr. Bivins said that would be sent to the attorney for review if the choice is to go in that direction.

Mr. Herrick asked if he should address that now.

Mr. Bivins confirmed.

Mr. Herrick said that the state code does state "nor shall any cemetery be established within 250 yards of any residence without the consent of the owner of the legal and equitable title of the residence." He said that because that provision of state law is already self-executing, it is not necessary to be part of a special use permit because state law would prohibit that within 250 yards of residence without the owner's consent. He said because of that, the last bullet does not need to be in the special use permit. However, he said if the Commission and County decide to take things one step further and eliminate all other parts of Condition 1, he would defer to Ms. Gleason as to why some of the other conditions were recommended beyond just saying 20 acres to be determined later.

Mr. Bivins thanked Mr. Herrick for his response and asked Ms. Gleason to respond.

Ms. Gleason said the primary use for Condition 1 is one that is typically used in all special use permits and defines where the approved area is located, so it is tied to an exhibit of sorts—usually a map. She said in this particular condition, she referenced the two different conceptual plans that showed the areas of the burial and also the associated development with it, so the parking areas and proposed pavilion were included. She said that kind of layout is what was reviewed and identified by the bullet points. She said the 250-yard setback was a setback that was not identified on the conceptual plan, so that was put in to identify why the shape of the burial area was as it was shown on the conceptual plan, because it was the only setback that was not identified. She said it established a measurement that would be enforceable by the zoning division and staff. Ms. Gleason said she did not have a concern if the use is relegated more towards the corner, should

the waiver be approved in the future and be consistent with the Virginia State Code.

Mr. Herrick said he would like to backtrack and clarify that the 250 yards from the property line, with the consent of the owner, is what is necessary to comply with state law. He said if there are planning reasons why the cemetery should not be within 250 yards of the property line, regardless of whether the neighbor consents or not, Ms. Gleason would be better able to address those reasons.

Mr. Bivins said that is understood and asked Ms. Gleason to clarify if she is okay with the statute guiding the use of the planning, or if she is looking at bullet point four as being an additional overlay to the statute.

Ms. Gleason said she was mainly trying to ensure the statute was consistent with the state statute, not a planning concern.

Mr. Bivins confirmed by saying they could remove that bullet and Ms. Gleason confirmed this to be accurate. He also asked staff to address the sunup/sundown piece.

Mr. Svoboda said the state code section is going to be enforced by the Health Department and would not be enforced by Albemarle County. He said if a complaint were received about something that happened, it would be relayed to the appropriate agency, but Albemarle County would not be enforcing those statutes.

Mr. Bivins said that Albemarle County can in fact, as a condition, regulate the hours of 8:30 a.m. to 4:30 p.m.

Mr. Randolph said that just to add clarity, the requirement is a 250-yard setback, not 250 feet.

Mr. Herrick confirmed that the state code setback is 250 yards, not feet.

Mr. Randolph thanked Mr. Herrick for the confirmation.

Mr. Keller applauded the applicant on this project. He said he knew Mr. Murray's parents and of their concern for the environment, cultural resources, the lesser-wealth folks in the community. He said that he thinks it is important to recognize the Monacan community and that this is recognized Monacan land—so if there is going to be ground disturbance, in the name of burials for the contemporary folks, the Commission might want to think about something to deal with possible archaeology on this site, at least a thoughtful way of dealing with artifacts that might come to light from the Monacan people and their predecessors.

Mr. Keller said his second point is that the possibility of cemeteries like this and burials might be expensive, and he thinks about an affordability component. He said that this is not something at this level, but maybe before the presentation to the Board of Supervisors they could think about whether there might be some provision for folks who want this kind of burial but couldn't afford it. He said in terms of the concerns around the traffic and the neighbors, many rural cemeteries do not have much action except for when there is a burial, and it is a special event, and this will likely fit into that realm. He said Panorama Farms has served a real purpose in terms of open space and what that stands for in this little region for a number of decades, and for the many children in the community who have had the opportunity to have the natural environment presented to them

through experiences in their summer camps. He said he sees it as a very positive continuation of keeping this rural area rural and said that if they see this area develop to the density that is seen around it, there would be a heck of a lot more traffic issues than what are being proposed in the worst-case scenarios with this. Mr. Keller said he is supportive of the project and hopes the Murray family will think about some of the issues he just raised.

Mr. Randolph said he wants to make sure that when the time comes for the group to make a motion, they are clear about Condition 2, with the slightly revised hours that Mr. Murray has agreed to with hours of 8:00 a.m. to 5:00 p.m., as he is trying to give nine hours of work time, as well as Condition 5 to move beyond just plastic memorials so that non-natural, human-made memorials would not be allowed. He said these would be slight changes to the conditions on pages 9 and 10.

Mr. Bivins said those comments are noted.

Mr. Clayborne said out of respect to Mr. Randolph in what he is trying to do with the hours of operation, which he believes he read. He asked if that means that afterward someone cannot come visit if they can't make it by 5 p.m. He said he personally did not have much objection to the way it was originally proposed, as this may cause an unnecessary burden by having closing hours be 5 p.m.

Mr. Bailey said this is the first time he's seen a green proposal, or even a special use permit for a cemetery. He said on one hand he is very supportive and thinks the concept is amazing, but he is trying to make sense of the green nature and backstory of the farm and see this as a commercial enterprise that is revenue producing, and how developers from different properties or different streets, or other cemeteries setting up parcels to make money. He said that while he is new to the Planning Commission, he has seen other applicants make suggestions on how things could be improved if they are trying to get their project through that is not a business enterprise, and while he understands that VDOT owns the road, he wondered how other conventional cemeteries would be judged for their use of the road with entrances and exits for people to utilize safely.

Mr. Bailey said there is some uncertainty about how precedent and how these applications should be judged when they are commercial in nature, even though they are on a traditionally long-standing farm or rural basis. He said the other aspect that he is in conflict with is the concept is that it is a rural cemetery. He said it depends on how it is marketed because it is new and has potential to be attractive to others, and if a prominent figure participates who is not a rural community member, it will not be just a rural cemetery—it is a cemetery that has appeal, given the alternatives.

Mr. Bailey reiterated that on one hand he thinks the concept is amazing, but he is conflicted by the traffic and where the responsibility lies for improvement and whether it should be looked at as a VDOT matter, versus being looked at as a developer who wants to do something with the land. And Mr. Bailey said that while the applicant is not really developing the land, it is being improved for other things—but it is being used for something with a monetary value associated with it. He said that he does not know what a site would go for, but a traditional site is not cheap, and he does not know how to equate all that. He then asked if there is any precedent on how to think about this.

Mr. Bivins said he would like for Mr. McDermott to speak about the road, as it is a rural road that currently is VDOT's responsibility as a public road, and there are perhaps some options that he can share with the Commission on how that review takes place. He said on the business model, Mr. Bivins would offer that the model is out of the scope of the Commission in that it is not within their purview to ask someone how they will run a business on their land, as long as it complies with the special use permit.

Mr. McDermott said that typically they do have an applicant proposing some sort of new use evaluate what type of road improvements would allow, or might be required for that use to occur, and would often do an assessment and include a condition and/or have applicants prefer for those improvements to be made; it is always a possibility that the Commission could do that in this case. He said that if it is a VDOT-maintained road, an unpaved road can handle significantly more traffic than this site could generate, but it would require more regular maintenance so VDOT would have to be out there more often to fill in potholes with this use or any other intensification of uses on that road.

Mr. McDermott said there is always an option to pave rural roads in the County under the Rural Rustic Road Program. He said typically there has to be an agreement with VDOT that there is no development that is going to occur on that property, or any properties accessed off that road that would significantly increase traffic on that road. He said he is not sure that this qualifies for that and feels it probably wouldn't at the levels of traffic that they're seeing, and he does not think there is any other way of judging how much traffic a use like this may generate.

He said going by the numbers the applicant provided, he does not see this as a significant increase in traffic—but it is an increase. He emphasized that there is a likelihood that additional maintenance will be required on the road, and the County would have to request that from VDOT as they see problems and/or eventually get permission from the Board to pave that road under the Rural Rustic Road Program. He said at this point, the only thing that is being looked at for this particular site is that the entrances meet the low-volume commercial entrance standards that VDOT has for this road.

Mr. McDermott said another interesting thing is that if it were conditioned, that it would be something they could easily do, which means that there would have to be agreements for the necessary right of way along that road if there were going to be any improvements made, and he wasn't sure if that was a possibility. He said that he heard comments tonight of people enjoying the rural nature of the road, so it may not be something desired. He said there are options to reach out to VDOT, but at this point, the applicant is only required to make sure that his entrances from Reas Ford Lane meet the low-volume commercial standard. He said this is done for other uses seen anywhere else, though the standard is different if one is going onto a local road versus a collector road or arterial like Route 29, and this would have to be met with any site development plan.

Mr. Bailey said this answers his questions, and said he understands there are different standards based on the type of road from a transportation standpoint.

Mr. Bivins asked how that would be monitored. He asked if that were something County officials would drive out to monitor or if it were complaint based.

Mr. McDermott responded that VDOT drives the roads occasionally, but the best way is through the complaint-driven process. He said if a road is in bad condition, they expect that the local property owners will reach out to the County, and complaints will be sent on to VDOT to make sure they do the work they feel is necessary.

Mr. Bailey asked if there is an enforceable provision to the condition that no events overlap between the event venue and the burials.

Mr. Bivins recapped the question and asked if it would be an enforceable condition to the permit and referred to Mr. Herrick for response.

Mr. Herrick said it would be enforceable, though he is unaware of any conditions in the other special use permits, so essentially the use of the other property would take precedence. He explained that the holder of this special use permit, if that condition were to remain, would coordinate and make sure that any activity didn't conflict with activities on the other property.

Mr. Svoboda said he could not recall if it was Mr. Clayborne or Mr. Bailey that had talked about visitation, but he said that within the state code, it is already required. He said that generally with the purchase of a plot, there is an agreement that speaks to visiting hours, which is part of the package of open hours. He said there are some cemeteries that have hours set from sunrise to sunset, and those signs are posted in some of those locations—but it cannot be prohibited under the state code. He said that would be worked out between the private parties when they chose the burial sites.

Mr. Bivins also clarified to Mr. Clayborne that Mr. Randolph was referring to when the equipment is present under Condition 2 and considered open.

Mr. Clayborne thanked Mr. Bivins for the clarification.

Mr. Bivins said there has been a great deal of well-exercised discussion, and he is looking for a motion.

Mr. Herrick said he has heard discussion around three different conditions, and while not presuming consensus, he wondered if it might be helpful if he were to do a screenshare of the notes he has taken on possible conditions, before a motion is made.

Mr. Bivins said it would be helpful and appreciated. Mr. Herrick shared his screen.

Mr. Herrick said the conditions pertained to doing away with the 250-yard setback to align with state code, modifying hours from daylight hours to a set 8:00 a.m. to 5:00 p.m., and changing the requirement from not allowing plastic memorials to another term for non-natural memorials.

Mr. Bivins asked if anyone needed more time on what Mr. Herrick captured. With no questions, he asked if someone would care to make a motion.

Mr. Bailey moved for approval of SP202100009, with the conditions as shown on Mr. Herrick's shared screen. Ms. More seconded the motion. The motion passed unanimously (6-0). (Ms. Firehock and Mr. Carrazana were absent.)

Mr. Bivins spoke to Mr. Murray and said he was able to hear the direction of the discussion and hopes that Mr. Murray would further contemplate how to incorporate some of the discussed ideas to go before the Board of Supervisors. He thanked Mr. Murray for his time and also suggested to reach out to his neighbors for discussion on how he would move forward, prior to the visit to the Supervisors. He thanked Mr. Murray again and looks forward to hearing how the project progresses.

Mr. Keller thanked the group for their discussion and contribution. He said rural roads come up often and he is not a proponent of the way the state goes about paving roads. He said he wondered when Mr. McDermott was scheduled to bring the rural area road plan to the Commission next and whether they could have a thorough discussion of the paving of the rural roads and those ramifications.

Mr. Bivins said he is clarifying that the appropriate person with expertise come to the table. This was noted.

Mr. Bailey said as piggybacking on this, asked if there is a map available from a transportation planning commission.

Committee Reports

There were none.

Old/New Business

There were none.

Items for Follow-Up

Mr. Rapp provided a brief overview of the Southwood project to be presented at the Commission's meeting the following week.

Adjournment

At 8:32 p.m., the Commission adjourned to July 20, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

Approved by Planning Commission
Date: 08/03/2021
Initials: CSS

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