

**Albemarle County Planning Commission  
DRAFT Regular Meeting Minutes  
January 10, 2023**

The Albemarle County Planning Commission held a public hearing on Tuesday, January 10, 2023, at 6:00 p.m.

Members attending were: Corey Clayborne, Chair; Fred Missel, Vice Chair; Luis Carrazana; Lonnie Murray; Karen Firehock; Julian Bivins (arrived at 6:05 p.m.).

Members absent: none.

Other officials present were: Kevin McDermott, Director of Planning; David Benish; Scott Clark; Alberic Karina-Plun; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

**Call to Order and Establish Quorum**

Mr. McDermott called the meeting to order at 6:00 p.m.

Ms. Shaffer called the roll.

Mr. McDermott established a quorum.

**Other Matters Not Listed on the Agenda from the Public**

There were none.

**Election of Officers: Chair and Vice Chair, appointment of Secretary, if needed.**

Mr. McDermott announced at 6:02 p.m. that Mr. Bivins had joined the meeting.

Mr. McDermott opened the floor for nominations for the Chair of the Planning Commission for 2023.

Ms. Firehock nominated Mr. Corey Clayborne to serve as Chair of the Planning Commission.

Mr. Bivins moved to close the nominations for Chair.

Mr. Herrick asked Mr. Bivins if his motion would be to elect Mr. Clayborne to serve as the Chair of the Planning Commission.

Mr. Bivins said that was correct.

Mr. McDermott stated that there was a motion to elect Commissioner Clayborne as Chair of the Planning Commission. Mr. Carrazana seconded the motion, which carried unanimously (6-0).

Mr. Clayborne noted that this was his fourth year serving on the Commission, and he had learned a lot from former Chair Bivins and former Chair Firehock. He stated that he wanted to find a formal way to recognize Ms. Firehock for her service as Chair of the Planning Commission.

Mr. Clayborne stated that the floor was open for nominations for Vice Chair of the Planning Commission for 2023.

Mr. Bivins nominated Mr. Fred Missel to serve as Vice Chair of the Planning Commission.

Ms. Firehock moved to close the nominations for Vice Chair and elect Mr. Missel to serve as the Vice Chair of the Planning Commission. Mr. Murray seconded the motion, which carried unanimously (6-0).

### **Discussing of Planning Commission Rules of Procedure**

Mr. McDermott stated that there were no changes proposed for the Rules of Procedure. He said that they would continue to operate under the same rules from 2022.

Mr. Bivins noted that there were two sections in the rules related to attendance—one at the top of the document, and one multiple page in that related to telephonic attendance. He asked if it would be helpful to incorporate one section into the other.

Mr. Herrick said that the order could be rearranged. He mentioned that the remote participation policy was adopted recently. He said that he would happily rearrange the rules if the Commission requested.

Mr. Bivins noted that both sections dictated how the Commission could meet. He said that moving the remote participation rules to the same section as the other attendance rules would provide greater clarity.

Mr. Herrick asked Mr. Bivins to clarify specifically how and in what order the paragraphs should be rearranged.

Mr. Bivins said that at the top of the rules was a section related to how the Commission would meet. He said that the section should be switched with the section related to communication with the Board of Supervisors.

Mr. Herrick clarified that the remote participation policy would be moved to Rule 6, and the communication with the Board of Supervisors policy would be moved to Rule 7.

Mr. Carrazana moved to adopt the Planning Commission Rules of Procedure as amended. Mr. Missel seconded the motion, which carried unanimously (6-0).

### **Discussion of Committees/Boards/Bodies to which Commissioners Serve as Liaisons**

Mr. McDermott said that there was a list of the various committee memberships appointed by the Commission in the Commissioners' meeting materials. He said that he included a copy of the list with the times and frequency of the committee meetings. He said that there were a number of vacant openings. He said that they sought appointments or volunteers to serve in the vacant positions. He said that it was up to the Commissioners whether they wanted to change the committees they were on which were not location based.

Mr. Clayborne said that they would begin with the three vacant positions—the Albemarle Conservation Easement Authority (ACEA), the Citizens Transportation Advisory Committee

Liaison (CTAC), and the AC44 Comprehensive Plan Working Group Committee Liaison. He said that they would go around the dais and each commissioner would state whether they wanted to keep or change their committee assignments.

Mr. Bivins said that he was unsure whether the Long-Range School Planning Committee was still operating. He said that he did not know when the second phase of the Comprehensive Plan working group meeting would be. He recommended that someone step into the role. He said that he would keep his remaining committee assignments unless another commissioner desire to take one of his seats.

Mr. Carrazana said that he was interested in the CTAC and the Comprehensive Plan committee liaison positions.

Mr. Clayborne asked Mr. Carrazana if he wanted to keep his current committee assignments.

Mr. Carrazana said that he would keep his assignments.

Mr. Missel said that he was interested in staying on the committees he was currently assigned. He said that the Village of Rivanna CAC had not met in some time, and he believed that they were unlikely to meet moving forward.

Ms. Firehock said that she would keep her committee assignments. She said that the Acquisition of Conservation Easements Committee (ACE) had disbanded and had not met for several years. She noted that there was no movement from the Board to reconvene the ACE committee. She said that the CIP Oversight Committee was instructed to not meet by the Board for the past year. She said that the Board had decided not to have the committee, so it was unclear whether the committee would come back. She said that she would like to remain on the CIP Oversight Committee if it were to come back. She said that the Historic Preservation Committee had not been able to meet for five months, and there had been two resignations. She said that she was interested in serving as the Comprehensive Plan Committee liaison, but she was not sure how often they met.

Mr. Clayborne asked if Commissioners could attend committee meetings if they were not assigned to the committee.

Ms. Firehock stated that they could attend meetings as long as there were no more than two Commissioners attending the meeting.

Ms. Firehock noted that Mr. Carrazana could take the Comprehensive Plan Committee assignment, and she would only attend meetings when she was able.

Mr. Carrazana said that there were some committees that did not have a set time for meetings, so it was difficult to schedule with work schedules.

Ms. Firehock said Mr. Carrazana could be the liaison for the committee and she could tag in.

Mr. Murray mentioned that he had served on the Albemarle Natural Heritage Committee (ANH).

Ms. Firehock stated that she was appointed as a Commission liaison to the ANH for a while.

Mr. Murray recommended that the committee be returned to the list if there were no objections.

Ms. Firehock stated that the Board had to decide whether there would be liaisons from the Commission to serve on the committees. She noted that the Board had decided it was no longer necessary to have the Commission liaison position with the ANH. She explained that the reason the Board decided to have a liaison to the ANH was that it was readying to finish its report, and the Board wanted the Commission to have more communication with the group. She noted that the report had finished, so the Board felt that there was no need to have a Commission liaison. She said that the Chair could request the Board to reimplement the liaison position to the ANH and send along a justification.

Mr. Clayborne said that he would recommend a proposal be drafted if the Commission felt the ANH Committee should have a liaison.

Mr. McDermott said that Ms. Firehock was correct, the change would have to come as a Board directive if the Commission were to appoint a liaison to the ANH Committee.

Ms. Firehock stated that the Board had noted that they felt that the County had too many committees, and they were looking at opportunities to condense the number of committees and the frequency of committee meetings.

Mr. Clayborne clarified that nothing prevented a commissioner from attending a meeting to listen to the information and discussion without having a formal connection to the proceedings. He noted that there was a vacancy on the ACEA committee if Mr. Murray was interested in the liaison position.

Mr. Murray said that he would be interested in the position on the ACEA committee.

Mr. Clayborne stated that the changes to committee assignments were as follows: Mr. Murray was assigned to ACEA, and Mr. Carrazana was assigned to CTAC and the AC44 Working Group.

Mr. Missel moved to adopt the revised Planning Commission committee appointments. Mr. Murray seconded the motion, which carried unanimously (6-0).

### **Review and Adopt Meeting Schedule for 2023**

Mr. McDermott said that the meeting schedule was included in the meeting materials. He noted that there was a change to be made to the schedule. He said that the schedule listed December 26 as a potential meeting date, but that day was a holiday. He suggested that they move the meeting date up by one week to December 19 so that they could continue to have a second meeting in December. He said that at any point in time, if it were determined that there were no items to cover at the meeting, the meeting could be canceled. He said that they often had full agendas. He said that in the meeting schedules, work sessions were potential opportunities for public hearings, but the work session dates were not listed in the public hearing column.

Mr. Bivins said that he hoped there would be a chance to discuss the roles of having a work session and a public hearing during the same meeting because they required different types of analysis. He said that it was difficult for some to shift their thinking when they had two different types of meetings in the same evening.

Mr. Clayborne requested that Commissioners review their business schedules and report any

conflicts with the Commission meeting schedule to Mr. McDermott so that they can ensure they have a quorum for public hearings.

Mr. Bivins moved to adopt the meeting schedule as amended. Mr. Murray seconded the motion, which carried unanimously (6-0).

Ms. Shaffer requested that Commissioners inform her along with Mr. McDermott when they would not be attending a meeting.

### **Consent Agenda**

No items were pulled from the Consent Agenda.

Ms. Firehock moved to adopt the Consent Agenda. Mr. Missel seconded the motion, which carried unanimously (6-0).

### **Public Hearings**

#### **CCP202200001 Botanical Garden of the Piedmont – McIntire Park**

Mr. David Benish, Development Process Manager, said he would provide background information for the compliance review process. He said that the proposal was to establish a botanical garden on a portion of the City's McIntire Park property. He said that the site was more than 14 acres, and about 3 acres of the site was within the County.

Mr. Benish said that the proposed activity was considered a public use as determined by the Zoning Administrator. He said that public uses were permitted by right in all zoning districts. He continued that if the proposed public use was not identified in a comprehensive plan, a review of the proposal's compliance with the Comprehensive Plan was required, as dictated by state code.

Mr. Benish said that CCP determined whether the location, character, and extent of a facility were in substantial accord with the Comprehensive Plan. He said that staff reviewed the proposal and made a recommendation on the findings to the Commission. He said that the Commission acted on the proposal by finding it in substantial accord or not. He said that the Commission's action was focused on the consistency of the proposed location of the use to the Comprehensive Plan, and it was not a recommendation as to whether the facility should be built.

Mr. Benish said that the Commission's action was more relevant when it was related to a County facility, but the present review was focused on whether the location and character were consistent with the recommendations in the Comprehensive Plan. He said that no action was required of the Board of Supervisors, however, the finding was forwarded to the Board, and they had the option to come to a different conclusion.

Mr. Benish said that the Botanical Garden of the Piedmont Organization had entered into a 40-year lease with the City to construct the botanical garden. He said that it would be located on 14.7 acres in McIntire Park, and three of those acres were located in the County. He said that 950 Melbourne Road was located at the southwest corner of the intersection of Melbourne Road and John Warner Parkway. He said that the parcels located in the County were split by the parkway.

Mr. Benish said that the surrounding uses were primarily public and institutional uses. He said that the Norfolk Southern railroad was located to the west, and further west was Charlottesville High School. He said that to the north were the high school's ballfields, and there was a Parks

and Rec recreation building located to the north. He said that the John Warner Parkway linear park ran along the John Warner Parkway to the south, west, east, and north of the site. He said that to the south of the site was the rest of McIntire Park.

Mr. Benish said that an admission-free facility was proposed. He said that the facility would be open from 9 a.m. to 6 p.m. He said that four annual events were anticipated, and the events were important for revenue-generating purposes. He said that the proposed buildings included the gardens, the visitor's center, a garden pavilion, an amphitheater, a main event green, and one main parking area. He said that there was additional information about potential overflow parking areas. He noted that the staff report mentioned the potential for overflow parking areas.

Mr. Benish said that the Places29 Master Plan land use plan, and the parks and green systems plan, recommended uses that were public open spaces and parks and public open spaces. He said that the designations recognized the fact that the land was part of McIntire Park, and park activities may occur, and enhancements may occur in the future.

Mr. Benish said that the proposed open space, passive recreation, and civic uses proposed by the facility were consistent with the uses that were recommended for lands designated for parks and public open space uses. He said that botanical gardens were considered a feature not uncommon in public parks. He said that although the proposed use was consistent with the City's East McIntire Park master plan, that plan was not part of the County's plan, but it was considered in the baseline designations for the area.

Mr. Benish said that the character and extent of the activities and surrounding uses were consistent, and they were mostly public uses or institutional uses. He said that the adjacent uses provided supporting service opportunities, including opportunities for overflow parking. He said that additional on-street parking was available on Melbourne Road. He said that the proposal had been reviewed by the transportation planning staff and entrance corridor staff, and no major issues were identified. He said that the availability of parking for major events was an issue that was inquired about, so there was additional information available.

Mr. Benish said that they advised that there be coordination of activities and events with Charlottesville High School, and the applicant had already begun the process. He said that staff found the location, character, and extent of the proposed public facility consistent with the County's Comprehensive Plan and the Places29 Master Plan. He said that staff found the proposal was consistent with the City's planning for the east McIntire Park area. He noted that staff did not find any unfavorable factors related to consistency with the Comprehensive Plan.

Mr. Benish said that staff recommended that the Commission find that the proposal was consistent with the Comprehensive Plan.

Mr. Clayborne opened the public hearing.

Ms. Jill Trischman-Marks, Executive Director of the Botanical Garden of the Piedmont, stated that the mission of the Botanical Garden of the Piedmont was to welcome all community members and visitors, to engage in nature, to inspire learning through the beauty and importance of plants, to advance sustainability, and to promote human and environmental well-being.

Ms. Trischman-Marks said that the garden was planned as a place for everyone to learn, play, explore, relax, and gather. She said that the garden would be a community asset open to the public year-round, and it would combine accessible outdoor community-garden rooms and interior

garden spaces. She said that the botanical garden was owned by the City, but some of the land was within the County.

Ms. Trischman-Marks said that the schematic plan and project features were designed through public input sessions in 2018. She said that the master plan had been revised to accommodate additional acreage that was received as part of the land-lease process. She noted that the master plan was revised to accommodate the stream restoration and the spur of the Rivanna Trail which would go through the site along with a bridge to be built by the City.

Ms. Trischman-Marks said that no other public input that was part of the design of the schematic plan was altered. She explained that the lease agreement with the City required that there be no admission fee to the garden; therefore, the large garden spaces, the main event green, and the amphitheater were vital for sustaining the garden financially. She said that the garden would include smaller areas to serve as outdoor classrooms for exploration and learning.

Ms. Trischman-Marks said that there would be a children's discovery garden, an aquatics garden, and a tree canopy walk. She said that there would be contemplative garden spaces, such as the meadow. She said that the meadow would include native wildflowers and grasses. She said that there would be healing and contemplative gardens and a moss, mushroom, and fern garden. She said that there would be a pinetum, a flowering grove, and native trails.

Ms. Trischman-Marks said that the first phase of construction of the garden would be built on the City-owned land. She stated that an architect had not yet been hired. She said that the structures were in the early stages of development. She noted that there would be a visitor center to house meeting rooms and offices. She said that there would be a cafe and exhibit space. She said that the garden pavilion was planned as a three-season event space with bathrooms. She said that a service shed would house the programming materials for the discovery garden, and the maintenance shed would house the tools and equipment for maintaining the garden.

Ms. Trischman-Marks said that the City required the site to accommodate bus parking. She said that the parking lot provided for 82 vehicle spaces, four wheelchair accessible spaces, and three buses. She said that lighting would be installed in the parking area, and it would only be used when the garden was opened for special evening events. She said that the overflow parking was within the right-of-way of Dominion Energy, but they had been in conversations with Dominion, and their plans worked to accommodate the criteria from Dominion to use the site.

Ms. Trischman-Marks said that there were about 50 on-street parking spaces in the garden toward Charlottesville High School. She said that there would be an additional 10 to 12 parking spaces along Melbourne Road. She said that they had discussed a public bus stop near the garden with CAT, and they were looking for ways to collaborate with JAUNT for other ways to provide public transportation to the garden.

Ms. Trischman-Marks said that at past events, they had shuttled guests to the garden from Charlottesville High School when it was not in session, and they planned to use the strategy in the future. She said that additional satellite parking areas could include KTECH when it was not in session, Albemarle Square, and other locations.

Ms. Trischman-Marks said that there would be a main pedestrian entrance along Melbourne Road. She said that there would be gates along the spur of the Rivanna Trail. She said that they would be developing bicycle paths during the next phase of design for the garden.

Ms. Trischman-Marks said that they expected the hours of operation to be from 9 a.m. to 6 p.m. with extended hours available at either end of the day to accommodate special events. She said that they anticipated four large annual events—a fall festival, a winter light display, a spring celebration, and summer exhibitions. She said that the West Virginia Botanical Garden in Morgantown, West Virginia, was similar to the proposed garden in that it did charge admission fees and was located within a city with a university.

Ms. Trischman-Marks said that the first garden they planned to construct was the children's discovery garden. She said that the main event green would be used for public and private events. She said that the amphitheater would be used similarly. She said that the aquatics garden would be an accessible outdoor classroom. She said that the tree canopy walk would include a bird blind and a sky-viewing platform.

Ms. Trischman-Marks said that the site was the former leaf dump and mulch pile for the City, and they started stewarding the site in 2019. She said that by removing invasive plants, they had been able to create trails and gathering areas and offer free public classes and programs in areas such as the arts, literacy, and STEM fields. She said that they offered the garden spaces to other groups to use for their programming for free. She said that they were supported by volunteers. She noted that the volunteer core doubled during the pandemic from 200 people to over 470 people.

Mr. Murray asked whether the applicant had considered using permeable paving and other stormwater mitigations.

Ms. Trischman-Marks said that the parking lot was redesigned as part of the schematic plan. She said that in the center of the parking lot was a rain garden, so all of the water from the parking lot would drain into the central area and be filtered. She said that the rain garden would also capture roof water from the buildings, and the water would be aerated through a series of waterfalls. She said that the water would end up in cisterns, and it would be able to be recirculated. She said that they intended to use the sound of water to mitigate the sound of traffic in the area. She said that they thought of the garden as a machine to provide a restful and enjoyable space.

Mr. Carrazana asked if the parking area was within the County border.

Ms. Trischman-Marks explained that it was not. She said that the driveway entrance was the old Melbourne Road, and it served as the dividing line between the City and the County. She said that the entrance into the parking lot was within the City limits, so some parking would be within the City.

Mr. Benish explained that the site would be subject to site plan approval, and it may be subject to site plan approval in both jurisdictions. He noted that the section of Melbourne Road around the site was maintained by the City. He said that the plan was still in the conceptual phase and subject to architectural review and site planning.

Mr. Carrazana said that there were issues nearby with McIntire, the YMCA, and bird strikes. He suggested that the applicant look into measures to mitigate bird strikes on windows and glass.

Ms. Trischman-Marks said that in their requests for proposals from architecture firms, bird safety was part of their desired designs.



Mr. Bivins noted the conversations with CAT for a public bus stop.

Ms. Trischman-Marks responded that the National Park's Service was going to provide the garden with 20 hours of support services in the spring to help document the necessary points to prove the garden required a bus stop. She said that they would get a counter to document the number of people using the garden. She said that they were open to suggestions for ways to provide evidence to CAT for a public bus stop.

Mr. Bivins said that all of the greenspaces in the County were drivable, and only one park was walkable. He said that he hoped people would be able to reach the botanical garden via pedestrian methods. He asked if the present proposal was connected to a prior project called MACAA.

Ms. Trischman-Marks said that it was not connected at all.

Mr. Bivins noted that the Board had taken its own initiative to change the name, and he was thankful the applicant had come to a similar point. He asked how children would be delivered to the garden.

Ms. Trischman-Marks said that it had been a continuing problem. She said that they began to offer a lot of their programming during the pandemic. She said that schools were not allowed on field trips, and there were not enough school bus drivers. She said that they were working with organizations that could provide their own transportation. She said that they were looking for grants and other opportunities to provide transportation to get more students and children to the garden.

Ms. Trischman-Marks said that they worked with Wild Rock to provide opportunities in the garden. She said that the schematic plan phase began shortly after the Unite the Right rally in August 2017. She said that the community and the Board of Directors felt that the space should be a place where people of all ages and backgrounds could come together and heal the community. She said that they won a national award from the American Society of Landscape Architects.

Mr. Clayborne suggested that the applicant focus on accessibility and inclusivity for the site.

Ms. Trischman-Marks said that they wanted to ensure that the garden had a place for everyone to feel safe and welcome.

Mr. Clayborne opened the hearing for public comment. He noted that there were no speakers signed up for comment and closed the public hearing. He brought the item back before the Commission.

Ms. Firehock stated that the Commission was not providing a site plan review, and their only action was to determine whether the proposal was in accordance with the Comprehensive Plan. She said that she was supportive of the proposal. She noted that during the City's McIntire master planning process, they had discussed a botanical garden.

Mr. Murray motioned that the Commission find the location, character, and extent of CCP202200001, Botanical Garden of the Piedmont public facility and public use thereof, as proposed, to be in substantial accord with the Comprehensive Plan, for the reasons identified as favorable factors in this staff report. Ms. Firehock seconded the motion, which carried

unanimously (6-0).

#### **SP202200020 Esmont-Scottsville Transmission Line**

Mr. Scott Clark, Natural Resources Program Manager, said that the proposal extended from an existing substation along the southside of Irish Road in Esmont to the Scottsville substation. He said that the proposal was to replace the existing powerline support poles. He noted that the existing poles had an average height of 40 feet, and the replacement poles had an average height of 60 feet. He said that the proposal was part of a larger reliability project. He noted that it was related to the Scottsville substation upgrade.

Mr. Clark said that the new poles would have a similar design and be made from a dulled, galvanized steel material. He said that eight to nine structures would utilize single poles to allow the poles and the lines to stay within the existing rights-of-way.

Mr. Clark said that staff found that there was no substantial detriment to surrounding properties due to the replacement of poles in the same corridor, and the character of the area would not be changed. He said that there were minimal visual impacts because the poles were taller, however, they were a distance from the entrance corridor, and visibility would be offset by the lighter-colored, dulled metal material. He said that there was some impact on rural areas from creating utility corridors, but the proposal was using an existing corridor.

Mr. Clark said that they did extensive pre-application work sessions with the applicants. He said that one of the options they originally considered was to do fewer poles, but that raised the height of the poles and made them more visible.

Mr. Clark said that positive aspects of the proposal were that it would increase the reliability of electrical service, the materials would minimize visual impacts, and using the existing corridor avoided new land impacts in the rural area. He said that one condition was recommended, and there was an amendment to the version provided in the staff report. He explained that they had originally believed all of the poles would be H-frames, however, a small number would not be H-frames. He said that the condition was rephrased to refer to new transmission poles and other permanent structures.

Mr. Bivins asked if Route 6 was an entrance corridor.

Mr. Clark responded that Route 6 would not be listed as an entrance corridor, however, it had been considered an entrance corridor in the past.

Mr. Bivins asked if the proposal connected to the project that was located on James River Road.

Mr. Clark responded that it would connect as it was the east end of the project.

Mr. Bivins clarified that the project would enhance the transmission lines.

Mr. Clark responded that the higher voltage lines came in from the southwest to the substation, and the proposed project connected from the Scottsville substation which received a much higher voltage. He said that the subject proposal was a 46 kV line to Esmont.

Mr. Bivins noted that the project would continue the work in that area of the County to enhance the infrastructure.

Mr. Clark noted that it was more of a regional project.

Mr. Bivins asked if the subject proposal would have an impact on the previous solar proposal that the Commission reviewed.

Mr. Clark said that he did not believe it would have an impact.

Mr. Missel asked how the conversation regarding the height and number of poles occurred.

Mr. Clark said that it depended on the application. He said that for the proposal, the applicant came to staff early in the process, and they had not yet committed to a design, so they were willing to review options with staff.

Mr. Missel asked if there were County guidelines for utility providers to follow in terms of design.

Mr. Clark said that he was not aware of any guidelines. He said that it depended on the landscape context.

Mr. Clayborne opened the public hearing.

Mr. Daniel Frasier, Power Engineers, said that he represented Appalachian Power for the proposal. He said that the project would rebuild about six miles of the existing Esmont to Scottsville transmission Line. He said that there was a switch structure outside of the Esmont substation that would be replaced as part of the project.

Mr. Frasier said that the transmission line was originally installed in 1925. He said that replacing 100-year-old equipment with modern equipment would enhance reliability for the County and the customers served by the substation. He said that shield wires would be added to protect from lightning strikes and potentially reduce the frequency of outages. He said that replacing the lines with modern variations would accommodate future growth. He said that they would meet current electrical safety standards.

Mr. Frasier said that H-frames would be the typical structure that was used, and there would be eight to 10 locations where different types of structures were needed, but all were tubular steel structures. He said that all new permanent structures would have a dulled galvanized steel finish. He said that the project would be rebuilt within the existing right-of-way. He said that the easements varied between 80 to 100 feet, and a few easements had been supplemented. He said that there was one area where the project extended into a new right-of-way, but all of the easements had been secured.

Mr. Frasier said that the new right-of-way was secured near Porters Road and the Yancy Community Center. He said that several buildings had developed around the existing line, so a few angle points were added to go around the buildings to keep them out of the right-of-way and minimize impacts to the community. He said that there were two VOF easements around the Esmont substation, and all of the work would be completed within the existing easements. He said that about four miles crossed through the Southern Albemarle Historic District, which was listed on the National Register of Historic Places. He said that rebuilding the line with similar structure types would minimize the changes to the character of the district.

Mr. Frasier said that the project had been in development for a few years, and they had worked

closely with County staff to draft the proposal. He said that public input was a critical part of the process. He said that the project was announced to the public in 2020, and the past fall, an in-person community meeting was held at the Scottsville library to gather public input on the proposed route. He said that construction was expected to begin in 2024 and last through 2026.

Mr. Murray noted that many of the rare habitats in the County occurred in rights-of-ways. He suggested that the applicant minimize as much as possible the use of herbicides because there were many rare plant and animal communities existing in the rights-of-way.

Mr. Frasier said that there was a multitude of options Appalachian Power employed when maintaining the rights-of-way that were location specific.

Mr. Missel said that the reliability project seemed to be a systematic approach to making the improvements. He asked if the applicant had considered submitting the projects together for mass approval to expedite the process.

Mr. Frasier said that the plans came with each project as the need was identified. He said that Appalachian Power and American Power had a process by which they maintained lines and identified replacement and improvement needs. He said that when projects could be combined, it was a beneficial approach. He said that another part of the project was the Central Virginia Transmission Reliability project, and a large portion of that project was approved by the SCC. He said that the present proposal was of a lower voltage located in the County, and it was selected for local approval. He said that when they had the option, it was a process they would follow.

Mr. Missel noted that the shield lines were about seven feet above the transmission lines. He asked if the shield lines could be lowered or if it was an engineered distance.

Mr. Frasier said that there was a shielding angle, which was the angle measured from the top wire to the outermost phase of the conductor. He said that the angle increased as the shield wires were lowered, and the greater the angle, the more prone the line was to lightning strikes.

Mr. Clayborne asked how the transmission towers were maintained.

Mr. Frasier said that it depended on the type of maintenance. He said that for planned maintenance, the easements that were negotiated with landowners provided for access to the structures for maintenance purposes. He said that Appalachian Power worked with landowners to access structures in ways that minimized disturbances. He said that wooden planks or temporary stone roads could be laid.

Mr. Clayborne opened the hearing for public comment. He noted that there were no speakers signed up for comment and closed the public hearing. He brought the item back before the Commission.

Mr. Bivins asked if the transmission towers would be used to run fiber transmission cables or host cellular transmission antennas.

Mr. Frasier responded that fiber lines were generally installed on Appalachian Power transmission lines used for the purposes of communication within the electric grid and operation of the electric grid, not public communication purposes. He said that cellular antennas could be installed on transmission lines, and Appalachian Power had a process for communication providers to add antennas to existing structures.

Mr. Murray asked what the County's policy was for adding cellular antennas to the towers.

Mr. Herrick said that he did not know the specifics, but proposals would be subject to the personal wireless service facility ordinance, County Code § 18-5.1.40, which dictated the various types of approval needed for additional wireless service facilities. He said that they would be required to undergo separate review under the County's wireless ordinance.

Ms. Firehock said that the project was important because the lines were so old. She noted that the houses around the line were built after the line had been constructed. She said that reliable power was an important need for the growth of southern Albemarle. She said that reliable power was important for people with home businesses.

Mr. Missel motioned that the Commission recommend approval of SP202200020, Esmont-Scottsville Transmission Line, with the conditions outlined in the staff report and as amended. Ms. Firehock seconded the motion, which carried unanimously (6-0).

#### **SP202200001 Misty Mountain Campground**

Mr. Clark said that the special use permit request was for an amendment to a previous permit for a campground use located off Route 250 west of the Crozet interchange on I-64. He said that Route 250 was located to the north of the site, and there was an open campground area, an administrative area at the front, and additional camping on higher ground at the rear of the site on the other side of Stockton Creek.

Mr. Clark said that the proposal was to increase the site to 158 campsites and 19 cabins. He said that the existing conditions would be changed to allow year-round cabin use with a 30-day limit. He noted that currently, cabin use was prohibited from November 15 to March 15. He said that a commercial entrance would be added to the site along with parking and a three-lane registration area to prevent traffic backups.

Mr. Clark said that some campsites were located within the floodplain of Stockton Creek. He said that at the southwest corner of the property were existing campsites. He said that some campsites were found to extend into the 25-foot setback, so they would be moved inwards to make them compliant with the ordinance. He said that the southeastern section of the site would be the largest area of expansion for the campground. He said that there would be a loop road with RV hookups and campsites. He said that some wooded areas would remain, and there would be playgrounds and reserved areas for septic fields.

Mr. Clark said that screening fences were proposed in the southwest and southeast corners to be added to the existing vegetation. He said that the fences were intended to reduce the visibility of the camping area from the surrounding properties.

Mr. Clark said that an online community meeting was held in March, and attendees raised concerns that had been raised during the prior owner's operation of the site. He said that concerns included noise from unregulated camping groups, trespassing from campers, visibility, and groundwater impacts. He said that the applicant deferred the application after the community meeting to revise the proposal and perform outreach to the nearby landowners.

Mr. Clark said that the applicant had proposed screening fences and already installed warning signs stating that anyone found to be trespassing on adjacent properties would be asked to leave the campground. He said that staff recommended a condition used in other locations for large

event uses to mitigate noise. He said that the condition would ensure the operation had a manager on site and all of the nearby landowners had a contact to reach the manager directly to inform them of noise issues.

Mr. Clark said that the applicant had found the entrance would likely trigger the need for a left-turn lane, but they had worked with VDOT to receive a design waiver by changing the internal design of the site to accommodate the traffic.

Mr. Clark said that the original special use permit prohibited campsites within the flood plain; however, the previous owner had located tent and RV sites within the flood plain. He said that staff's analysis acknowledged that the sites were in the floodplain, however, campsites within floodplains were common around the region. He noted that the campsites within the flood plain had easy egress if there was a flood situation, so there was no significant concern if the sites remained. He said that to avoid increasing the impacts, staff recommended that there be no further site development in the flood plain.

Mr. Clark said that the layout of the proposed site would minimize impacts on the stream by locating new development further from the stream. He noted that the expanded camping areas were on the opposite end of the entrance corridor and were well shielded by trees, so the visual impacts to Route 250 were minimized.

Mr. Clark said that the proposed site was located adjacent to a property within the Yellow Mountain Agricultural-Forestal district at the northwest corner. He said that the Agricultural-Forestal advisory committee voted to find that the proposal did not conflict with the purposes of the district.

Mr. Clark said that the design and layout limits, the scenic impacts, the conceptual plan, the approved commercial entrance and road safety, and the advisory committee findings were positive factors. He said that concerns included noise impacts and trespassing, and those had been addressed with fencing, signage, and property owner notification. He said that staff recommended approval with four conditions.

Mr. Bivins clarified that the site was a total of 47 acres.

Mr. Clark said that was correct.

Mr. Bivins said that there appeared to be a 35-foot setback on the southern boundary and a 25-foot setback on the eastern boundary.

Mr. Clark responded that the side setback in the RA district was 25 feet, and the rear setback was 35 feet. He said that the front setback was 75 feet because it was adjacent to Route 250.

Mr. Bivins asked why the southern and eastern setbacks were not both 35 feet.

Mr. Clark said it was consistent with the zoning regulations in the RA district to have the 25-foot and 35-foot setbacks.

Mr. Bivins noted that the home closest to the property was on the eastern side of the campground.

Mr. Clark said that the setback was not part of the proposal, but it was reflected as what was already in the ordinance.

Mr. Bivins asked what type of fence would be installed.

Mr. Clark said that the applicant would address that in their presentation.

Mr. Bivins clarified that the sites around Stockton Creek were nonconforming uses.

Mr. Clark said that was correct because there was a condition stating campsites should not be in the flood plain.

Mr. Bivins asked if they would correct the nonconforming sites or if people would be allowed to camp at the sites because they would be able to leave the area.

Mr. Clark said that was correct. He explained that the campsites were built in violation of the special use permit condition, but they had been in operation for many years, so they would remain.

Mr. Carrazana asked if new vegetation would be planted along the western side.

Mr. Clark said that the applicant's plan was to leave the vegetation in place and augment it with a fence at the southwest and southeast corners. He said that at the entrance and the western edge, more vegetation would be added.

Mr. Carrazana asked about the vegetation on the southeast end.

Mr. Clark said that the wooded vegetation would remain at the southeast end and be augmented with a fence.

Mr. Missel asked if there would be vegetation clearing for the fence.

Mr. Clark said that he did not believe there would be site clearing. He said that the applicant would provide more information.

Mr. Missel noted that there were concerns regarding groundwater.

Mr. Clark said that some of the neighbors raised the general question about whether there would be an impact. He said that the applicant had more information regarding the groundwater.

Ms. Firehock noted that most of the complaints applied to the prior owner, and there had not been many issues with the current owner.

Mr. Clark said that when the prior owners managed the property, there was little onsite management. He said that tent camping groups were never stopped from being too noisy under prior management.

Ms. Firehock said that she would not support the proposal under the prior owners.

Mr. Murray said that he did not like that the campsites would remain in the flood plain. He noted that vegetation removal could occur, and sediment could flow in the creek, and he did not know how to mitigate those issues.

Mr. Clayborne asked if the ordinance allowed the County to regulate noise on campsites.

Mr. Bivins noted that the County had a sound ordinance.

Mr. Herrick responded that there were two provisions in the County Code that addressed noise. He said that one was County Code Chapter 18, the zoning ordinance, which dealt with noise generated from particular land uses. He said that Chapter 7 of the County Code, the nuisance chapter, addressed noise that was not generally associated with any particular land use. He said that complainants could contact the County Police regarding noise from the site, and if the noise were related to a particular land use, Code Compliance Officers could investigate the issue.

Mr. Clayborne said that if there were no further questions for staff, he would open the public hearing and hear from the applicant.

Ms. Kendra Moon said that she worked with Line + Grade, the civil engineers for the project. She said that the camp resort was located on Rockfish Gap Turnpike, just past Greenwood Grocery. She said that it was an existing campground that was only allowed by special use permit in the rural areas, and currently, there were 16 cabins, 105 campsites, and two non-rentable dwelling units on the site. She said that there were four prior special use permits associated with the site, and the amendment requested was for the 1994 special use permit, which allowed for 10 cabins and 112 campsites, and required that the cabins not be used from mid-November to mid-March. She said that she believed this was to prohibit people from living at the campground. She said that while only 10 cabins were allowed, there were currently 16, which were built by a previous owner—and the current owner would like to rectify the compliance with the special use permit and zoning regulations.

Ms. Moon said that the campsites would be referred to as “lower” and “upper” campsites, and indicated the lower campsites on the slide, which were located nearest Rockfish Gap Turnpike and topographically lower on the site. She continued that the upper campsites existing were among trees and not visible from the road. She said that the proposed use was still the same, but they proposed to add cabins so there would be 19 cabins on site, 158 campsites, and the two dwelling units would remain unchanged.

Ms. Moon said they also proposed that the cabins be able to be used year-round but limited to no longer than 30 nights per stay to prohibit living at the campgrounds. She said that the campsites proposed would also be among the trees and hidden as the existing ones were, and the proposed cabins were shown on the lower lefthand part of the slide. She noted that the slide showed a conceptual layout, and they had gotten a survey back since the layout had been created, which indicated that the sites would shift slightly to compact the area but keep the same number of campsites.

Ms. Moon said that for consistency with the Comprehensive Plan, the proposed use was consistent due to the preservation of natural resources. She said that the viability of the campground was dependent on the environment full of wildlife and nature, which inherently shared the goal of preservation. She showed pictures from Misty Mountain’s website that advertised fishing and playing in the creek, an amenity to the campground with health that was important to the site.

Ms. Moon said that tree preservation was an important consideration of the design. She said that campsites in the upper-righthand corner of the image shown, were not visible from Rockfish Gap facing the campsites. She said that the proposed campsites would be like the upper ones and not like the lower sites where trees were completely cleared around them. She said that trees of



significant size were located by a surveyor so the design could be optimized to avoid them and to preserve as many trees as possible.

Ms. Moon said that the campground supported tourism in the area, was frequented by both local and non-local people who were looking to immerse themselves in nature, and was a great place for people of all ages but especially children. She said that there were numerous stations for children to play at, including a jump pad, gem-mining station, hiking trails, and a playground.

Ms. Moon said that there would be minimal differences in traffic patterns. She said that shown on the slide were the peak-hour trips in the evening, which was the most peak-hour trips compared to the morning, and there was only an increase of 15 trips to the site in the peak hour, or a 1.6% increase in peak-hour traffic along Rockfish Gap Turnpike.

Ms. Moon said that the site was able to operate without public sanitary sewer, and the image on the slide showed the upper campground area, where Draper Aden came onsite to locate two existing drain fields, which had already been installed but never used, so they hoped to be able to use them. She said that one had already been permitted with VDH for 1900 gallons per day, which was more than half of what was needed for the two sites. She said that shown in yellow were areas where a soil expert had identified suitable soil for additional drain fields if needed.

Ms. Moon said that the proposed use on the site was found to be sustainable with the available groundwater. She said that wells had already been drilled and had a sufficient yield to support the use, and there were water storage tanks onsite that were used to reduce impact from peak demands, and they were proposing additional water storage tanks in the upper campsites to be built.

Ms. Moon said that a study was conducted by Hydro Geo Environmental to assess the water availability within the watershed and whether the proposed increase of campsites would affect the water availability. She said that a large surplus in the watershed was found, and with the proposed use being as conservative as possible, they found a 0.1% decrease in the water supply, assuming there were six people at each campsite and that each campsite used 180 gallons per day.

Ms. Moon said that a major goal of the owner was to minimize impacts on the adjacent neighbors. She said that after the community meeting, they deferred and the owner took time to meet with the neighbors, and in some cases, even walk the site with them. She said that they removed some of the proposed campsites along the southeastern edge of the property after the owner walked the site with a neighbor who said that they should not put the campsites there.

Ms. Moon said that he was sensitive to those topics of privacy, noise, light pollution, and trespassing, so screening fences were proposed to be installed on the southeastern and southwestern portions of the property, which would be 8 feet tall, made of solid wood, and painted black. She said that screening vegetation was proposed for the lower campsite area, and relocation of campsites outside of the site setbacks to bring them into conformance, and "No Trespassing" signs had already been installed onsite, which allowed campers to understand that if they trespassed, they would be immediately removed from the campgrounds and no longer allowed there in the future.

Ms. Moon indicated on the map the orange color where the screening fence locations would be, and in blue were the proposed campsites that were to be moved. She showed another slide and said that the green color was the location of some evergreen trees to shield existing campsites but were also requested by the adjacent neighbor.

Mr. Bivins said that on Page 4, a bullet point stated that SP201000044 Five-Year Extension of SP200900016 to allow the continuance of an annual music festival. He asked if that had been lifted so that the property now may have that annual event, or if there was still a five-year review each year.

Mr. Clark said that he believed the expiration date had been removed entirely, but he would double-check that information.

Mr. Bivins said that they may have the ability to have an annual event in that case. He asked Mr. Herrick if someone would be allowed to stay another 30 days if they spent an off night in another location and came back the next day.

Mr. Herrick asked what condition Mr. Bivins was referring to.

Mr. Bivins said that one of the conditions was that people would not be able to stay there long-term due to the 30-day turnaround. He said that people lived on campsites, and he wondered if someone left for a day if they would be allowed to stay another 30 days.

Mr. Herrick said that if 30-day stays were interrupted by at least one day, they would be separate.

Mr. Bivins said that while the applicant was trying to be conscientious with their 30-day limit, someone could just stay for a day in Waynesboro and come back.

Mr. Andrew Baldwin said that he was the current owner of Misty Mountain Campground. He said that right now, they were primarily a seasonal campground, meaning it was mostly weekenders who left on Monday and came back on Thursday. He said that in the past, to help suffice through the winter months, the previous owner was allowing people to stay there and even had some year-round. He said that they were a busy family campground, and the first thing that they decided when buying the campground was that they no longer needed long-term stays, so they limited it to a shorter term because they wanted it to be a very transient campground.

Mr. Baldwin said that currently, the lower park had people who were staying or planning to stay for roughly 30-day stints, which helped with the economic viability, so if there was a wording specific to what they all collectively decided should be considered or done, he was open to that. He said that they did want to keep viability as the slower months came because the campground operated on a large budget. He said that they were not in a rush to have this project done tonight.

Mr. Bivins thanked Mr. Baldwin for his helpful comments. He asked if they were certain they could do the one-year event.

Mr. Clark said that he checked the conditions of the 2010 SP approval, and there was no expiration date on that.

Mr. Bivins asked if Ms. Moon could describe the non-rentable structures on the site and their purpose.

Ms. Moon said that one was where the camp manager lived.

Mr. Bivins asked if there was someone who lived on the property.

Ms. Moon confirmed this.

Mr. Bivins asked if two people lived on the property.

Mr. Baldwin said that two full-time staff lived year-round there. He said that the upper home was the previous camp owner's home and likely had to do with awareness and reaction to events that occurred. He said that the neighboring property served as a military hospital at one point during the Civil War, and the second home on their site was what they believed to be an office to that. He said that those two staff lived in those buildings full-time.

Mr. Missel said that he appreciated the clarification about the screening fence. He asked if there would be a selective clearing of trees, or if a large swathe of trees would be removed to install the fence.

Mr. Baldwin said that one photo showed a bamboo fence that bordered the Brodys' Farm, which was being removed and replaced with the 8-foot screening fence. He said that it was replacing an old barbed-wire fence that they were hand-clearing. He said that some trees would need to be removed to get the fence in along a straight line, but for the most part, they had gotten it to an adequate point. He said that the Commission would likely hear tonight from neighbors that they needed additional fencing, which they were open to doing. He said that it should be adequate for keeping people out of the property. He said that there was a strict zero-tolerance rule for this conduct, and each guest was told upon check-in that they would be banned permanently if they trespassed.

Mr. Missel said that the application mentioned they received a waiver from VDOT, but he had difficulty understanding how they were accommodating that on the interior of the site. He asked if there was stacking of some sort.

Ms. Moon said that that was not necessarily why the waiver was approved or how but was one way they were trying to accommodate traffic to the site, because they did not want multiple RVs waiting in line and backing into the road. She said that the waiver was approved because of impacts to neighboring properties if they were to put a turn lane in.

Mr. Missel asked if that was due to easements.

Ms. Moon said yes. She said that they proposed to improve the entrance with multiple lanes so that it was a bit better of flow in the entrance area.

Mr. Baldwin said that he had noticed multiple RVs waiting in line and parking with disregard to traffic. He said that they had installed signage that required specific spacing so that RVs could stack and mitigate that, but the proposed plan would greatly help in mitigating any future problem with that.

Ms. Firehock asked if there were any images of the creek or site where the campsites that were nonconforming and in the flood plain were located. She said that she was unsure of the vegetation and the impact of the campsites on the area.

Mr. Baldwin said that there were only tented campsites on one side of the creek, and on the other side of the creek, near Route 250, there were gravel spots that backed up to the creek. He said that under his ownership, he found that that was how it had been for a long time, but they had researched potential stream restoration credits for vegetation. He said that he encouraged any of the Commissioners to visit the site at any time to see the creek, which was well-cared for and maintained.

Mr. Baldwin said that the creek was their best natural asset for visits to the campground, so they wanted to take good care of it. He said that in response to Ms. Firehock's question, he thought it was well-vegetated, but could be improved, and they were open to further mitigation or other processes. He said that there had been obvious violations and misconduct at this site in the past, and he wanted to take the time, perhaps multiple years, to bring the site into conformance by addressing the interior concerns first, followed by neighbors' concerns, so that they could create a plan that worked for everybody.

Ms. Moon said that there was one photograph of the stream. She said that they also met with a consultant to ask if this would be a good candidate for stream restoration, and the consultant advised that it would not. She said that because there was no severe erosion or other issues, the best they could propose was more vegetation. She said that they proposed more trees be planted in the area, but that was in a more conceptual context because the tree survey had not been conducted at that time, so there may be more than three trees added. She showed an image of Stockton Creek.

Mr. Baldwin said that heading downstream, the ash-borer beetle's impact on the ash trees had resulted in a large loss of trees in that area, so regardless of the discussion today, the plan in the future would include the planting of trees over time as they removed destroyed mature ash trees.

Ms. Firehock said that she had a professional certification in stream restoration, and she saw a great opportunity for restoration in the photograph shown of the creek. She said that she could not design creek restoration from the dais, nor was it her intention, but because there were some nonconforming campsites, and this was a special use permit that could be conditioned, they may try to word something that asked the applicant to research adding stabilizing vegetation along stream banks. She said that while it was a heavily visited site and they must be considerate if they did not plant the next generation of trees, over time there would be more and more tree loss into the creek. She said that some thought must be given to that issue before the conclusion of the meeting.

Mr. Baldwin said sure. He said that they would be happy to discuss this with any consultants recommended by the Planning Commission.

Mr. Murray said that it was not only woody vegetation such as trees but herbaceous, native vegetation. He said that also limiting the areas where people walked next to the stream, or controlled access points to the stream would help with this issue. He suggested that there were County staff who were qualified to deal with erosion and sediment, and perhaps they could craft language that required working with County staff to create appropriate vegetation along that stream.

Mr. Clark said that the south bank of the creek, opposite the developed campground area, was well-vegetated. He said that the creek was large and had steep slopes, but on the other hand, even though those were floodplain sites, they were not all likely to get flooded. He said that they

could discuss augmentation of the north bank where there were a lot of trees but could hold additional plantings.

Mr. Murray said that they should be careful with fertilizer on the site, and if there was not a nutrient management program in place and they were using fertilizer, they should consider implementing such a program.

Mr. Clayborne said that he had one question about operations. He asked if there was someone who patrolled the campgrounds at night to make sure things were secure.

Mr. Baldwin said yes. He said that the manager lived in the lower camp, so he was adjacent to all campground activities. He said that the upper camp manager and his wife lived in the house in that area and went around the sites to wind things down around 10 p.m.—and with the exception of weekend nights and the annually held music festival, most nights were fairly quiet. He said that he understood that there had been different situations in the past, but they were a fairly basic family campground now.

Mr. Clayborne opened the item for public comment. He said that speakers would have three minutes to speak, and the yellow light indicated one minute left to speak.

Mr. James Rovnyak said that he lived at 6861 Castleberry Court, Crozet, in the Samuel Miller Magisterial District. He said that his home was directly opposite the more than 50 new campsites proposed in the plan. He said that functionally, this was an RV parking lot and motel. He said that on Page 7 of the plan, he strongly objected to the characterization of impact on his property as “minimal,” mentioned after some vague words about screening. He said that they would see and hear the comings and goings of campsite residents and could already see quite a lot. He said that they could see and hear the drilling of a well, not very far from his property line. He said that the well lay inside the looped road on Page 12 of the plan, meaning that the road itself was even closer to the property line, and they would have a direct view of the bathhouse that was outside of the loop and even closer to the property line.

Mr. Rovnak said that he supposed the bathhouse would be behind a screen, but that in itself did not please him, and there was much that they would see because the screens would not cut out everything. He said that what they saw and heard now would only be amplified when they began clearing trees and low growth to make room for the loop road, the campsites, and the large RVs. He said that he participated in the community meeting on March 29 and aired his concerns, and some got attention with the memorandum dated September 19 that responded to a request from staff on screening fences.

Mr. Rovnak said that at least in one case, the owner stated that he had met with each neighbor one-on-one, describing the resolution. He said that they had heard nothing between March and late December when they received notice of this meeting. He said that their privacy was compromised due to this plan, and he had safety concerns. He said that a transient population would be able to see and hear their comings and goings from their home, and because of the topography, no screening could mitigate this. He said that he urged rejection of the plan, which was unsuitable for the type of residential area they had, and if it went forward, minimally, the woods that bordered Castleberry Court subdivision should have a 6-foot chain-link fence that would definitively set the boundary.

Ms. Virginia Rovnyak said that she lived at 6861 Castleberry Court and was the wife of Mr. James Rovnyak, where they lived adjacent to the Misty Mountain property. She said that she did not approve of the addition of campsites and cabins to the property. She said that on a busy weekend, with an average occupancy of two people per campsite or cabin, there could be as many as 354 visitors on the property, and she was concerned with the safety of that many people over there. She said that their house was out in the open and was highly visible from the campground, and it would be very easy for someone in the campground to observe their activities, and vandalize, rob, or assault them. She said that she and her husband were in their 80s and easy marks for someone with ill intent.

Ms. Rovnak said that warning signs would not deter such a person, and if the County were going to allow such an expansion, she would ask the County to require a people-proof fence around the entire property. She said that if an assailant or robber or vandal at the campground could not come to them directly but had to go out to Route 250, down Burchs Creek Road, then Castlebury Court, and then up their driveway, it was not as inviting. She said that right now, there were places along their boundary and their neighbor's boundary where it was easy to walk over quickly from the campground and walk back quickly. She said that one time, someone walked over with a kitten that he had found and wondered if it was theirs. She repeated that she requested a people-proof fence be installed around the entire property.

Ms. Rovnyak said that she had grave concerns about the water supply; they had lived there for 24 years and there had been droughts in that time. She said that they were very careful about their water use, but there were only two of them who used the well. She said that if the campground was pumping out water for 250 people, they may run out next time. She asked who paid if an adjacent property made them run dry. She said that a high flow now did not mean that there would be a high flow in a drought. She said that she had seen Stockton Creek when the flow was as much as what was in a small hose. She said that in sum, she opposed the project for the reasons of the safety of persons and property and the drain on their water supply.

Mr. Colin Tilman said that he was the property owner south of the campground. He said that he had many stories about people who had trespassed on his property from the campground. He said that they had required it in 1995 after the death of a family member and had gone through three owners. He said that Mr. Baldwin was by far the best and had made changes that helped, but since Mr. Baldwin took over the campground, he had had two trespassers and one person who had to retrieve their drone, which was an improvement.

Mr. Tilman said that in 1995, the campground owner called the police on him for performing target practice on his property, which was a farm with cows. He said that he and the campground had rights to do their businesses with no interference with the other. He said that he had asked all three of the owners to create a situation where their business did not affect him. He said that if his cows got out onto the campground or onto a neighbor's property, he would take care of it right away.

Mr. Tilman said that frequently, campers came over and called the police on him for doing legal things, and cops showed up pointing guns at him. He said that once, they came six-deep with a dog because a camper had called on him after he had asked them to stop trespassing and they would not. He said that one time, there was a party with crack, and he called the police hour after hour, but they could not come up to do anything, because they would not get out of their car, which could not get through the campground gate. He said that it was atrocious.

Mr. Tilman said that what he had gone through in the last few years had been breaking points for him as a property owner. He said that Mr. Baldwin had done a much better job as an owner and had made the effort to put up the "No Trespassing" signs, and while there were not many, they were there and it had helped. He said that they should be able to keep their businesses on each of their properties. He said that if the police showed up with guns pointed at him again, he would be leaving the County after six generations, which he did not believe he deserved.

Ms. Cathy Hunt said that she lived in the Samuel Miller District and lived on Castleberry Court, next to the Rovnyaks. She said that she wanted to reinforce and ask for the same safety concerns for them and for their neighbors who had experienced this and were closer to the site. She said that if this project must go through, she would ask for the same thing that Ms. Rovnak did, a people-proof fence to keep them safe. She said that there was mention of people being contacted to approve the fence, but she had not had the opportunity to review any of the fencing plans or what was available, and she was confused about how far the fence extended. She said that she would like to be able to look at that and review the plan closer to see how much vegetation would be removed for that.

Mr. Dan Hunt said that he lived on Castleberry Court in the Samuel Miller District. He said that he was an adjacent property owner to Misty Mountain, and his involvement with this consisted of a couple of notices they received from the County. He said that he had participated in the community meeting held on March 29, and during that meeting, the property owners had expressed a number of concerns with the plan that was shown.

Mr. Hunt said that he listened again to the recording of that meeting today to refresh his memory, and some of the same issues raised in March still persisted and had not been addressed. He said that he would not enumerate them because the other speakers had already done so, but he would ask tonight that the Commission defer action on this application and ask the County or direct the County to go back and direct the County to do what they had committed to do in that community meeting, which was to make sure that their issues were addressed before any plan was presented to this Commission.

Mr. Clayborne asked if there were any other speakers who wished to speak on this issue. Hearing none, he asked the Clerk if there were any speakers online who wished to speak to this proposal.

Ms. Shaffer said that there was one speaker online. She asked the speaker to state their name, address, and whether they were affiliated with a group or organization. She said the speaker had three minutes to speak.

Ms. Anna Rol said that she grew up in one of the adjacent properties and her family lived on that property to this day, the address for which was 6867 Rockfish Gap Turnpike in Greenwood, Virginia. She said that she was not affiliated with any organization. She said that growing up on a property adjacent, she too remembered the problems under the previous owner of the campground and appreciated the opportunity today. She said that she had some questions about the proposed screening fence, one of which was about the appearance. She said that an 8-foot-tall wooden fence sounded appealing, but she did not understand why they were painting it black when natural wood would look far better.

Ms. Rol said that despite seeing maps on the presentation, it did not appear that the screening fence was intended to be placed at all adjacent properties and residences adjoining the campgrounds. She said that she would think that surely near the entrance with all of the proposed increased activity would be another place where the screening fence would be required. She said

that she had general concerns about the increased traffic, with which there would be an increase in campfires and their smoke drifting onto adjacent properties.

Ms. Rol said that the additional foot traffic, with respect to Stockton Creek, had been discussed as not being negatively affected by the proposal, and she understood it was a shared goal with the current owner to preserve the creek and large trees on the property as one of the selling points of the campsite. She said that however, it was an issue that was important enough to slowly flesh out and study and review the impacts of additional foot traffic, human activity, and fishing would have on the natural resources.

Mr. Baldwin said that he and his business partner lived in Greenwood, and his wife had been raised there. He said that he grew up near Charlottesville his whole life, and they wanted to do what was in their power to be the best neighbors they could be, and to whatever extent that took, they would listen to it. He said that it probably came as a shock based on previous ownership, and he understood that gaining trust took time.

Mr. Baldwin said that they were not in a rush, so they were interested in the Commission's and staff's feedback, and as Ms. Moon had said, they had taken the plan presented tonight and condensed it further to create a larger natural screening buffer. He said that the entire area where the proposed expansion was mature woods and not new growth, and it was an open space camping area that was often used by Boy Scout troops, and they were attempting to enhance that and be good neighbors.

Mr. Clayborne closed the public hearing.

### **Recess**

The Commission recessed its meeting at 8:37 p.m. and reconvened at 8:43 p.m.

Mr. Clayborne said that the matter was now back before the Commission for discussion. He said that he had issues with the 30 nights per stay, the floodplain and existing structures, and the vegetation feasibility along the streambanks. He mentioned that the volatility of the relationship between the campground and adjacent owners made it seem that it very much depended on who was owning the campground as to the measures in place.

Ms. Firehock added that there were nonconforming tent sites on the floodplain.

Mr. Clayborne asked if that was the same thing as the existing structures.

Ms. Firehock said that they were not structures but tent pads.

Mr. Missel said that the type of fence and the setbacks from the property boundary of the proposed sites.

Ms. Firehock said that the bathhouse was brought up as an issue, and when she had first reviewed the site plan, she wondered if it could be moved to the other side of the road and away from the border.

Mr. Bivins said that he was not interested in denying the 30-day limit, because the homestay ordinance had that availability for other kinds of structures. He said that the difference here was that people used campsites as residences due to the lack of housing, and he did not understand



what boundary or what type of conditions could keep Misty Mountain from becoming a residential community of long-term housing.

Mr. Murray said that perhaps there could be a limited number of days allowed per year per person.

Ms. Firehock said that a group could use a different name for the reservation to circumvent that rule.

Mr. Carrazana said that in Mr. Bivins' scenario, someone would have to book the 30-day stay in advance, and it seemed that a simple solution was to not allow consecutive bookings, so language that indicated that should suffice.

Mr. Bivins said that he had seen many campsites that were now evolving into home sites. He said that he did not know if they were intentional or because of the lack of housing available.

Mr. Clayborne said that some language that prevented this from becoming a residential neighborhood could be added to the conditions.

Ms. Firehock said that the applicant was asking for a number of units to be utilized at the site, but she did not hear a compelling reason why they should allow the tent sites that were in the floodplain to remain. She said that the only argument made to that point was that they should remain because they existed there already. She said that it was wise of the County to not originally allow them there, and she would condition approval of this SUP with the requirement that those tent sites be removed and that the site be remediated back to a natural state. She said that it did not send the right message for any sites improperly installing things because they believed the County would retroactively allow the structures to stay.

Ms. Firehock said that she was not disparaging the current owners, but the argument that just because the structures were preexisting, they should be allowed to stay was not convincing. She said that there were very important habitat and infiltration measures that were afforded by the floodplain, and with climate change, they had witnessed more flash floods that would only happen more quickly. She said that she had not heard mention of an upstream gauge that was measured to know if a flash flood was coming down. She said there was no compelling reason to do this, so an important point for her was to not allow those nonconforming tent sites to remain.

Mr. Missel asked if the campsites in the floodplain were being discussed.

Ms. Firehock said that was right.

Mr. Missel asked if the setback from the creek was satisfactory.

Ms. Firehock said that was a good point. She said that she was unsure of how far they were, but it appeared that they were fairly close to the creek and did not appear outside of the 100-foot wooded buffer.

Mr. Missel said that the floodplain issue was a public health and safety problem.

Ms. Firehock agreed.

Mr. Missel said that the other issue was the state of the environment and that over the years, there had been erosion and the destabilization of the stream channel. He asked if it was their

concern that the campsites were existing in the floodplain and if it was their job to police the floodplain.

Ms. Firehock said that it was a concern of Albemarle County, which did not currently allow people to build structures in the 100-year floodplain, and the County had even stricter requirements than FEMA. She said that it was a bad idea to dwell in the floodplain.

Mr. Missel asked if these sites would be considered dwellings.  
Ms. Firehock said that if the sites were inhabited by tents.

Mr. Missel said that there was a large number of sites in the floodplain.

Ms. Firehock said that the question could be resolved.

Mr. Bivins said that perhaps the issue was not with the additional units, but the ones in the 100-year floodplain should be removed.

Ms. Firehock said that she agreed. She said that about 28 structures near Stockton Creek looked to be in the floodplain. She said that tent sites could be creatively arranged elsewhere on the site.

Mr. Missel said that the concept plan showed many sites.

Mr. McDermott said that clarification was given by the Assistant Zoning Director. He said that the tent sites that existed there now had not been determined to be nonconforming. He said that there were tent sites shown in the 1994 SP, and the conditions of that SP stated that no new tent sites could be created in the floodplain. He said that there were some there, and whether they were in the same spots was unclear because it was a vague plan.

Ms. Firehock said that the information was helpful.

Mr. Murray said that the question was how many were there during the 1994 plan and how many were added after.

Ms. Firehock said that if they were approved in 1994, she would not go back and change that. She asked if there were no new tent sites in the floodplain and if it was in compliance. She said that she understood there were cabins that were put in the wrong place, and some were being moved per the application.

Mr. Francis McCall, Deputy Zoning Administrator, said that it was not clear. He said that the plan from 1994 had no condition like it had today, with a concept plan featuring the location of structures, and the condition did not specify an exact location but had a vague amount. He said that over time, actions had happened that the County discovered retroactively and attempted to update to the extent that they were able to do so, without moving on the previous approvals or changing those conditions. He said that in this case, they were asking for most sites to be added in the upper area.

Ms. Firehock said that when updating a site plan, the County usually notes where issues were on the site.

Mr. McCall said that to that extent, they found some things like that with some of those sites that were in the setback, which they had the applicant correct with the updates to the concept plan.

Ms. Firehock asked if it was Mr. McCall's opinion that the applicant had already done what was necessary to bring the site into compliance with the prior approvals.

Mr. McCall said that the special use permit that the applicant was currently requesting would bring them into compliance with the zoning regulations. He said that recreation such as this was a permitted use in the floodplain if requested and applied for. He said that the Board had previously denied new campsites to be installed in floodplains.

Ms. Firehock said that this was a smaller body of water than others in the area. She said that her concern about that issue had been remedied.

Mr. Clayborne asked if there were any comments about the environmental sustainability and vegetation feasibility along the stream.

Mr. Murray said that it was a good idea to get better protection of the stream even if no changes were made to the nearby campsites, as it would always be a valuable thing to do. He said that it would not cost much and there were programs that could help their business pay for that.

Ms. Firehock said that there was a Middle James buffer restoration program that had funding to provide free trees and labor to install new vegetation as well as landowner education, which could be done at little to no cost. She said that she did not think that the Commission could craft language to design that process this evening, but the landowner could be encouraged to pursue that, and available grant information could be shared with them.

Mr. Clayborne said that the record would indicate to the Board of Supervisors that the Commissioners discussed this issue.

Mr. Bivins said that they could craft language that said that as the applicant worked on the entire property, they should refer to the recommendations as described in the Albemarle County Biodiversity Action Plan and take advantage of counsel. He asked for what state-level departments should be consulted.

Ms. Firehock said that the Virginia Department of Forestry had technical support and was located in Albemarle County.

Mr. Bivins said that there was a way to reference that existing plan and suggest it be referenced as they developed the area.

Ms. Firehock said that when people asked a civil engineer about how to implement bioengineering on a streambank, the civil engineer likely would not have a sufficient answer because it was not their expertise. She said that other experts would need to be consulted to realize that many improvements could be made to the stream. She said that an earlier point was to limit points of access by planting vegetation as natural buffers to foot traffic, and there were many options to achieve that.

Mr. Clayborne said another issue mentioned earlier was the screening and view of the bathhouse.

Mr. Bivins mentioned that safety and noise were mentioned in addition to the visual impacts.

Mr. Missel said that screening noise was mentioned.

Ms. Firehock clarified that citizens had requested there be a fence that was not easy for a person to hop over.

Mr. Missel said that the staff report referred to, under recommended actions, that location of screening fences must be as shown on the conceptual plan, and then referred to a date of 9/19/2022. He said that the conceptual plan in the materials did not have a date on the physical plan, so he was unsure if it was the same one, but the narrative did have a date. He said that the question he had about the concept plan was if the limits of the fence were defined, because the proposed screening fence showed the entire boundary. He asked if the applicant could share more detail on that.

Mr. Bivins said that the Planning Commission could give a condition that the fencing should consider certain things.

Mr. Missel said that he wondered what the intent of the applicant was on the concept plan.

Ms. Moon said that the fence was drawn in, but it was difficult to see at a large scale. She said that where the arrows pointed indicated the extent of the fence.

Mr. Missel asked if the ends of the arrows indicated the ends of the fence.

Ms. Moon said yes.

Mr. Baldwin said that during the brief interactions with the concerned neighbors, the people here tonight were the closest to the campground and by far the most impacted. He said that they had two neighbors left to meet with onsite to see from different angles to ensure the extent of the boundary fence was sufficient. He said that the most important thing was the safety of residents, and it was currently proposed as an 8-foot-tall wooden fence that would be painted, but they did not have to paint it. He said that it was something that would be tall and a deterrent. He said that they did not want to install razor wire around a family campground, but they wanted to create a deterrent that was as uninviting to climb over as possible.

Mr. Missel said that a chain-link fence was easier to climb over and did not have sound insulation.

Mr. Baldwin said that someone would have to make a true effort to scale an 8-foot-tall fence, and they could use sharper fence posts as a deterrent. He said that the entire front of the campground had a rounded-edge 8-foot-tall solid fence.

Mr. Missel asked if the location of the bathhouse could be moved.

Mr. Baldwin said that they had noted during the discussion to put the bathhouse on the interior side. He said that he had founded Bundoran Farm and was on the design committee, where they had implemented a dark sky policy, so he was experienced in light bulbs. He said that creating a dark sky environment was important and they would certainly never want to take that away from those who lived there.

Mr. Missel said that there was a 35-foot building restriction line on one side and 25 feet on the other.

Mr. Baldwin said that the 25 were existing sites that were being moved in, then a legitimate screening wall would be installed on the Brody property.

Mr. Missel asked if that was the eastern side.

Mr. Bivins said it was on the Castlebury side.

Mr. Baldwin said that the new site was 25, and they were already looking at condensing what was on the current plan to be tighter open space and give further setback. He said that during the spring and summer when the vegetation was full, it was a solid screening, but when it got down to 40 or 50 feet, during the winter months, other screening options became conducive, such as additional evergreens that were native to the area.

Ms. Firehock said that spatially, it appeared the area could be moved, but she was unsure about the soil quality.

Mr. Missel said that there were critical slopes, but there appeared to be room.

Mr. Clayborne asked if there were any further comments.

Mr. Bivins asked if the language should include the opportunities to minimize the impact on neighbors, be it by moving structures as far away from boundaries as possible or by increasing setbacks.

Ms. Firehock said that a bathhouse had noise and visual impacts throughout the day, so it was obvious to her that it should be enumerated to be located on the other side of that loop, giving a thick buffer. She said they should be as explicit as possible when applicable.

Mr. Clayborne asked what Ms. Firehock's opinion was on this application.

Ms. Firehock said that having heard the efforts by the owners to attempt to make the site better for neighbors, she was leaning in support of the application at this time, but they must craft conditions that had been discussed into concise legal language. She asked if Condition 6 could read that the bathhouse be located on the other side of the road from where it was currently shown.

Mr. Clark said that if the Commission provided guidance, staff could fix the plan by adding conditions they wanted to see and then providing guidance on what the Board should see if it went forward to them, or if they were to defer and bring it back to the Commission with changes made on the plan so that they did not have to use conditions to fix the plan.

Mr. Missel asked if instead of a condition that outlined, for example, a recommendation of the expansion of the southeast border or setback boundary to create additional buffer, that would be translated into an actual drawing to be presented to the Board.

Mr. Clark said yes. He said that the Commission had previously recommended approval with a list of conditions along with enumerated changes to the plan. He said that that could be done by having the applicant defer the application and come back, or the Commission could provide the guidance and staff could work with the applicant before it went to the Board.

Ms. Firehock said that the Commission was reviewing the expansion of a use that required a special use permit, and they were trying to add conditions to restrict the impacts of that expanded use. She said that they were still within their purview, but she did not think that they needed to see a new plan, and if they could give the correct conditions, they could require that.

Mr. Herrick said that if the Commission were seeking specific language tonight, he had been typing some language as the discussion had progressed, so he could confer with Mr. Clark to provide that. He said that if the Commission would like to be in recess for another five minutes or so, he and Mr. Clark could discuss this.

### **Recess**

The Commission recessed its meeting from 9:15 p.m. and reconvened at 9:20 p.m.

Mr. Clayborne reconvened the meeting.

Mr. Herrick said that it remained staff's recommendation that these issues be addressed with an amended conceptual plan, but at the same time, he wanted to give the Commission the option of looking at proposed conditions, which they had drafted for review. He said that there was a condition regarding fencing that Mr. Clark may have more to discuss, but that staff had not recommended a monolithic fence. He said that in any event, conditions 5, 6, and 7 were drafts of what he had understood from the Commission to be requests.

Mr. Clayborne asked if the blank in front of days the expectation of the Commission be deciding on 14 days or 30 days, or if it could be more prescriptive, such as that they did not want people living there.

Mr. Herrick said that Condition 5 was intended to address the concern that was initially raised by Mr. Bivins that someone might go for 30 days, leave for a day, then come back for 30 days, repeating the process. He said that they could not prohibit someone from doing that on additional stays but cumulatively, if the Commission wished to prevent this from becoming a full-time residence for anyone. He said this would be one way of doing it: for the Commission to specify a certain number of days per year that any one individual may be allowed to stay there.

Mr. Clayborne asked what number that may be.

Ms. Firehock said that 180 days was sufficient.

Mr. Bivins said that he was fine with that.

Mr. Baldwin said that while number 6 was accurate, it was inaccurate in that they would put a privacy fence around the entire 50 acres.

Mr. Clayborne said that the Commission was still reviewing this item.

Mr. Clark said that he had the same concern, that adding fencing along that length of the boundary would lead to a lot of vegetation disturbance. He said that he understood the neighbor's concerns well, but the original idea was to minimize the loss of existing vegetation, so the length of the fence, especially on the slopes near the river, would cause a lot of disturbance.

Ms. Firehock said that they did not want to prohibit wildlife movement along the perimeter of this wooded property.

Mr. Carrazana said that perhaps it was a matter of stating that they build the fencing along areas identified by staff as critical visual separation for neighboring properties. He said that perhaps they could identify those areas.

Mr. Clark said that it would be challenging to do that with words put together tonight, but if the applicants amended the plan to show that.

Mr. Carrazana said that staff would dictate those critical areas for the applicant to show that decision.

Mr. Missel said that it was already on the current plan in his opinion.

Mr. Carrazana said that there were additional residences.

Mr. Bivins said that there were residences not necessarily adjacent to the campsites, but there was a sense that they were vulnerable, so from a security standpoint, people may walk around. He said that this may be a point where staff worked with homeowners to achieve the screening without blocking wildlife movement.

Ms. Firehock said that it should be just inconvenient enough that a casual person would not make the effort to walk the entire length of the fence to get around it. She said that she understood that there had been bad actors in the campsite in the past, but in her experience with camping and campsites, she did not tend to find that people went there to rob television sets from neighboring properties. She said that it was not generally a place for criminals to stake out neighbors, because the campsite staff had campers' licenses and registration numbers. She said that a random person wandering through the woods would be deterred by fencing that was long enough, by signage, and with the no-tolerance policy.

Mr. Missel said that he had difficulty understanding the feeling of safety and protection, which he did not want to diminish, but they had approved subdivisions and retail areas that could act as adverse security risks to adjacent landowners, and they were not fencing them off, nor did they want to. He said that he had trouble doing this here because it broached on profiling the users of campgrounds. He asked if the density was the issue.

Ms. Firehock said that certain campgrounds became places known for raucous activities, but as this campground became more family oriented and made unruly behavior unwelcome, those people would self-select themselves out, especially with a zero-tolerance policy. She said that over time, the reputation, and behavior of the campground would naturally change, but it was difficult to craft the language regarding the fence from their dais. She said that perhaps that piece of code could become more of a recommendation to put the fences in the places most appropriate for screening, privacy, and preventing trespass, then leaving it to the applicant, staff, and neighbors to come to an improved design from what was presented currently.

Mr. Clayborne asked if there was a motion on the floor.

Mr. Herrick said that there was not an open motion to his knowledge.

Ms. Firehock asked if the 180 days was appropriate for the term of stays.

Mr. Clayborne said that there was consensus on that issue.

Ms. Firehock said that Condition 6 would become a recommendation that staff, the applicant, and the neighbors work to determine the appropriate location of screening and security fencing. She said that it would be preferable for that to be done before the Board of Supervisors hearing.

Mr. Missel asked how the Commission had arrived at the number of 180 days.

Ms. Firehock said that she just did 6 times 30.

Mr. Missel asked if she had just picked half a year.

Ms. Firehock said that she could imagine someone came to the campground in May, camped for two weeks, then came back in July, then back in the fall. She said that she did not want to make it so draconian that someone could not frequently visit the County, but also so that it would not be a place where someone would establish a permanent abode.

Mr. Herrick said that one's residence was established by where one lived for more than one-half of the year, so if the Commission wished for this to not be someone's residence, people should be limited to less than half the year staying there.

Ms. Firehock said that it was difficult to see the scale of the buffer on the plan.

Mr. Bivins asked if Ms. Firehock was referring to the bathhouse.

Ms. Firehock said yes.

Mr. Bivins asked if they were asking for the bathhouse to be located in a general location.

Mr. Herrick asked if the salient point was that the bathhouse not be located within a certain distance of an adjacent property.

Ms. Firehock said that was correct. She said that she was unsure of what scale to write that number.

Mr. Clark said that it was about 75 feet into the property. He asked if it should be adjusted to 150 feet.

Ms. Firehock said yes.

Mr. Missel asked if there was any desire to recommend expansion of the southeast buffer if possible since there was flexibility on the concept plan to condense the area.

Mr. Clark said that he could note that to the guidance to make the new campground layout more compact.

Mr. Bivins said that was satisfactory.



Mr. Missel said that technically, it could be more compact and still at the same distance from the property line. He asked if there should be more of a buffer between the boundaries as well as the compaction to help with the adjacency.

Ms. Firehock said that there were also steep slopes, so it was difficult to ask for them to all be moved.

Ms. Firehock motioned to recommend approval of SP202200001, including conditions 1-6 as outlined, and in addition, the Planning Commission recommended staff work with the applicants to determine the appropriate locations for screening and security fencing, and to make the new campground more compact to increase visual buffer before the Board of Supervisors hearing occurred. Mr. Carrazana seconded the motion, which carried unanimously (6-0).

### **Committee Reports**

Mr. Bivins said that his CAC had met the previous evening. He said that CACs had new community connectors to facilitate work with Supervisors, and the role was no longer connected to Community Development, but Communications.

Mr. McDermott clarified that it was the Communications And Public Engagement (CAPE) Department.

Mr. Bivins said that the remote meetings for the CAC were limited to three per year.

Ms. Firehock said that that was due to legislature.

Mr. Bivins confirmed this.

### **Old Business/New Business**

Mr. Bivins said that the final ARB action memo from January 3, 2023, had under Action Item 8A, the ARB statement that the County-wide certificate of appropriateness for Rio-29 form-based code design criteria made it sound like the Rio-29 form-based code was now appropriate for the entire County. He said that he emailed the Director to ask for clarification, because while it was helpful, he did not think that that was what they were doing when creating the Rio-29 form-based code.

Mr. McDermott said that the title was perhaps a misnomer. He said that the idea of a County-wide certificate of appropriateness meant that it fell into a category of ARB approvals that did not require to go before the ARB, so there were certain administrative approvals allowed by applications through the ARB. He said that in this case, in the Rio-29 area where they allowed the form-based code overlay, if a project came in that was adjacent to the entrance corridor that would have normally gone through the review of ARB could be administratively approved as long as it met certain approved design criteria.

Mr. McDermott said that this action approved the design criteria, and that design criteria were already in the code under the form-based code, under the form-based code overlay. He said that this allowed for the one review for a form-based code project, although it may be in the entrance corridor, it may have just met the conditions of the form-based code overlay.

### **Items for Follow-Up**

Mr. McDermott said that there were no items for follow-up, and the Board had not had any meetings related to the Commission's work, but they would be having a Board of Supervisors meeting tomorrow, and the Albemarle County Comprehensive Plan update was on the agenda for an informational hearing or work session, where they would be discussing what would be done over the next year, which was Phase II of AC44. He said that they would discuss the working groups and public engagement, so he encouraged the Commissioners to listen in and they could discuss the information further at the next Planning Commission meeting.

### **Adjournment**

At 9:49 p.m. the Commission adjourned to January 24, 2023, Albemarle County Planning Commission meeting, 6:00 p.m.

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Kevin McDermott, Director of Planning

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

Approved by Planning Commission
Date:
Initials: