

**Albemarle County Planning Commission
Draft Minutes Regular Meeting
December 16, 2025**

The Albemarle County Planning Commission held a public meeting on Tuesday, December 16, 2025, at 4:00 p.m.

Members attending were Fred Missel, Chair; Luis Carrazana, Vice-Chair; Julian Bivins; Corey Clayborne; Karen Firehock; Nathan Moore; Lonnie Murray.

Members absent:

Other officials present were Michael Barnes, Director of Planning; Cameron Langille, Principal Planner; Rebecca Ragsdale, Planning Manager; Jenny Tevendale, Deputy County Attorney; and Carolyn Shaffer, Clerk to the Planning Commissions.

Call to Order and Establish Quorum

Ms. Shaffer called the roll.

Mr. Missel established a quorum.

Public Hearing

SP-2025-00006 Woolen Mills Industrial Fill in the Floodplain

Rebecca Ragsdale, Planning Manager, said that she was joined by Tony Edwards, Deputy County Engineer. She said that requests to fill in the floodplain were heavily reviewed by Engineering staff and their County Engineer was primarily responsible for administering the County's Flood Hazard Overlay District. She said that staff would review the specifics of this request, specifically the regulatory framework, as it was a special use permit (SUP) request. She said that they also wanted to cover some background information relevant to filling in the floodplain.

Ms. Ragsdale said that the request was for a special use permit specific to the Flood Hazard Overlay District, and she would go into more specifics about the zoning. She said that the property in question was currently zoned Light Industrial (LI), and the request for an SUP was specific to the Flood Hazard Overlay District. She said that the requested fill area was approximately 1.346 acres, which was a portion of a larger seven-acre site.

Ms. Ragsdale said that for background, she would like to touch on a few highlights that were specific to this fill-in-the-floodplain request. She said that it did have some relationship to surrounding properties, but what she would like to note is that this property had a prior special use permit request that was acted on and reviewed by the Commission in April, and a public hearing was held by the Board in June. She said that the applicant submitted a new application under the Ordinance, which they had accepted for review. She said that the Zoning Administrator determined that the new application was not substantially the same, so that determination had been made, and as a result, the special use permit was before the Commission this evening.

Ms. Ragsdale said that there had been some adjustments to the fill area and other changes made. She said that specific to the floodplain and activities within the floodplain, there was an adjacent site that had a special use permit previously approved, and there was a relationship between this property and the industrial park that was under development to the north of it, which led to some by-right activity and stormwater facilities on the subject property being considered this evening.

Ms. Ragsdale said that the site was located along Franklin Street and was situated at the edge of the City-County line. She said that the site was located in the floodplain, and Moores Creek runs along the boundary of the property and over to the Rivanna River. She said that provided was an aerial view of the neighborhood, which also provided some context in terms of the neighborhood, including residential areas across Franklin Street and some industrial development along Broadway and Woolen Mills.

Ms. Ragsdale said that this property was bounded by Moores Creek Lane, which served the Ravana Water and Sewer Authority (RWSA) treatment facility. She said that the treatment facility was located on both sides of the creek, adjacent to this site, as well as the wetlands mitigation property. She said that she had previously discussed the residential area with the City. She said that she had also provided a closer look at the property, starting with general information and then zooming into specifics.

Ms. Ragsdale said that the applicant had identified the source of fill, which they intended to transport from the Woolen Mills Light Industrial site to this property. She said that she had also highlighted the fact that stormwater management facilities had been approved on the subject parcel. She said that as previously noted, this location was adjacent to Moores Creek Lane, where the facility was ultimately situated. She said that in contrast, previous site plans showed the facility located deeper into the property with a more disturbed area.

Ms. Ragsdale said that she would next discuss the zoning of the property. She said that they had previously discussed the underlying zoning, which was light industrial. She said that there were some other nearby industrial uses and the boundary with the City. She said that this request was specific to the Flood Hazard Overlay District, and the entirety of the property was located within this district. She said that if approved, it would allow for potentially by-right industrial uses.

Ms. Ragsdale said that they were currently at the special use permit stage of the process. She said that she would like to note the next steps that would be applicable if this were approved, including the requirements for the floodplain development permit, the letter map revision, and additional review with the Water Protection Ordinance (WPO) to establish any by-right uses in the light industrial district. She said that some industrial districts had additional regulations before any use was established on the property. She said that it would also need to be reviewed for the specifics of the use to ensure compliance with performance standards and supplemental regulations.

Ms. Ragsdale said that in this case, they did not know the specific industrial uses, but they had steps in place in their Ordinance to address more specific uses. She said that provided was a map from the Comprehensive Plan, specifically showing the green space designations. She said that the property was designated as Parks and Green Systems, rather than being used for development. She said that the Comprehensive Plan recommended preservation as the primary use, preserving the existing environmental features on that site or in that use category.

Ms. Ragsdale said that she had also provided the concept plan for the proposed use. She said that the fill area was outlined in yellow and was similar in size to the existing bread facility. She said that this concept plan also highlighted the location of the existing stormwater facility on the property and noted the location of the floodplain fringe and floodway. She said that Mr. Edwards would provide a more detailed explanation of this request. She said that the general criteria for analyzing special use permits included considering the potential detriment to adjacent parcels, the character of the area, and whether the special use permit aligned with the purpose and intent of the applicable chapters of the Ordinance and the Comprehensive Plan.

Ms. Ragsdale said that they had already noted the existing LI zoning, as well as the large area of green systems designation in the land use plan. She said that Mr. Edwards would explain more, but she would note that they had made a finding that there would not be substantial detriment or impacts to neighbors from the fill in the floodplain request, which was the basis for their analysis.

She said that this was not a consideration of potential rezoning changes within the underlying industrial district. She said that staff recognized that the area had a mix of residential and industrial uses in the area. She said that therefore, staff had recommended approval of the application.

Tony Edwards, Deputy County Engineer, said that he would like to clarify some terms commonly used in the Flood Hazard Overlay District. He said that they may hear the term "backwater conditions" used in this stretch of the stream. He said that this site was an ineffective flow area of the floodway fringe. He said that the floodway fringe was the portion of the floodway subject to a 1% or greater chance of flooding, lying between the regulatory floodway and the outer limits of the floodplain. He said that conveyance areas referred to the portions in this cross-sectional area where floodwaters flowed, typically adjacent to the floodplain where floodwater collects and forms a pond or standing water.

Mr. Edwards said that these were two key distinctions: the floodway itself, which carried the main flow, and the outer edges or fringe areas, which could become a ponded water situation. He said that these areas were inundated adjacent to the flowing floodplain, but the floodwaters were not conveyed. He said that these were referred to as ineffective flow areas or non-conveyance areas. He said that the regulatory floodway would not be impacted. He said that the main takeaway was that the channel of the river, other watercourses, and adjacent land areas must be reserved to discharge base flow without cumulative increases.

Mr. Edwards said that next, he would like to review a few terms that reflect the backwater condition. He said that one term was "hydraulic isolation," which referred to areas such as oxbows or wetlands that were disconnected from the main river, often with limited interaction. He said that these areas did not significantly alter the main channel capacity, and floodplain water elevations remained relatively unaffected. He said that the parcel location was provided on the map, as well as the location of the floodplain with backwater. He said that the cross-sectional elevation was 324 feet, while the same area in the floodplain without backwater has an elevation of 322.39 feet.

Mr. Edwards said that the natural restriction of the backwater condition pushed it into a higher elevation. He said that to summarize, encroachment standards stated that the fill shall minimize obstructions to water flow, ensuring that fills did not increase base flow elevation above authorized levels. He said that secondly, no fill shall be placed in the regulatory floodway, which was the case here. He said that furthermore, there must be measures taken to protect against erosion, which would come later in their plan reviews, and the fill must prevent pollution that could harm surface water or groundwater.

Mr. Edwards said that additional information had been provided up to this point and must be provided by the applicant in order to get the Federal Emergency Management Agency (FEMA) Conditional Letter of Map Revision (CLOMR) approval, and certification for the no-fill activity must be provided by the floodplain administrator with site plan approval.

Ms. Ragsdale said that she hoped Mr. Edwards had provided some analysis and context for the staff's conclusion. She said that they had made the same findings as they had in the prior special use permit. She said that their recommendation for approval remained unchanged. She said that the staff report included draft conditions, which she would review and note the changes between the prior application's recommended conditions and these. She said that they had discussed these conditions with the applicant and reviewed them again.

Ms. Ragsdale said that their goal was to make the conditions more specific in terms of timelines, consolidate them, and ensure they were easier to administer. She said that they wanted to provide certainty for staff and the applicant if this were to be approved, particularly in terms of site development, floodplain development permits, and Water Protection Ordinance plans. She said that they had also removed any repetitive Ordinance requirements and special use permit conditions. She said that the typical condition was that a site plan would be developed in general accord with the application plan.

Ms. Ragsdale said that the second condition addressed timelines for submitting and completing fill activities, ensuring that they met the FEMA requirement. She said that the fourth condition related to mitigation plans and required replanting areas. She said that they had identified areas of the site that would be expected to add replantings, including those disturbed for the prior stormwater facility location. She said that they had also ensured that the planting standards and mitigation species were appropriate for the riparian condition, working with their Engineering staff and Conservation Program Manager to follow Department of Conservation and Recreation (DCR) guidelines.

Ms. Ragsdale said that staff believed enhanced stormwater treatment was necessary if the special use permit was approved. She said that staff had initially recommended that the user provide twice the required total nutrient load reduction, and the applicant may share information about an alternative condition they would like to propose. She said that the condition was in line with the impacts expected from the fill, which would compose about 20% of the site. She said that the final condition required a phase one archaeological survey due to potential historical Monacan Nation sites. She said that she had provided the staff-presented and amended recommended conditions of approval.

Mr. Bivins asked to see the map showing the Flood Hazard Overlay. He asked if staff could elaborate on the different lines on the map.

Mr. Edwards said that the large, dotted line was the effective FEMA floodway, which designated that portion of the floodplain channel that had to carry water from a storm event. He said that there was no activity proposed within that area. He said that the teal-colored line was the proposed floodplain revision from FEMA. He said that it was labeled as a County map but had not yet been adopted. He said that the solid blue line was the 500-year floodplain and the smaller, dashed line was the outer limit of the 100-year floodplain.

Mr. Bivins asked if the teal line would be considered for adoption at a future date.

Mr. Edwards said that yes, but the map revision had been delayed for some time so he was unsure of when the County would be asked to consider adopting it.

Frank Pohl, County Engineer, said that the teal line referred what FEMA called an available map. He said that they had done some modeling throughout the County, and it was not considered preliminary. He said that it was based on Light Detection And Ranging (LIDAR) and modeling done at the Woolen Mills site and the Rivanna River. He said that this was what staff believed would be a more accurate representation of the future map, but they could not regulate it yet, as it had not been declared as a preliminary map.

Mr. Pohl said that once it was declared preliminary, it opened up the public phase, where FEMA advertised and gathered public input. He said that as Ms. Ragsdale stated, the dark solid line represented the 500-year floodplain, and the next line in was the dashed dark blue, which was the current 100-year adopted floodplain limits. He said that what the Engineer had performed for this analysis was reflective of the new limits.

Mr. Murray asked if staff recalled the time when Cosner was underwater. He said that there had been some pretty big floods in their area, so he was wondering how far their experienced flooding had reached beyond the theoretical limits of the FEMA flood maps. He asked if the flooding had reached Franklin Street.

Mr. Edwards said that the mapping reflected that the flooding did reach Franklin Street, so yes. He said that he remembered the flooding at Cosner as well.

Mr. Murray said that considering this use was light industrial, he was concerned about their regulations surrounding chemical storage. He said that he was aware that they had had industrial

uses placed along the floodplain in the past, which posed significant risks during flood events because toxins could enter the waterway, such as the junkyard in this area. He asked if they had specific regulations in place that would protect them from chemicals entering the waterway if this facility were to flood.

Mr. Edwards said that yes, they had included conditions about non-pollutant categories, and that certainly included those things.

Mr. Murray asked if the list of conditions would include provisions that prevented the use of nutrient credit trading to satisfy the erosion sediment control regulations.

Ms. Firehock said that she believed that was one of the substantial changes to this application.

MS. Ragsdale said that yes, the stormwater treatment must be provided on-site.

Mr. Murray said that he noticed the plan targeted phosphorus, rather than phosphorus, nitrogen, and sediment. He asked why they specified phosphorous.

Mr. Edwards was the governing standard, as set by both the state and the County.

Mr. Clayborne asked how long a special use permit remained valid once it was approved.

Ms. Ragsdale said that it was valid and ran with the land and did not expire unless a condition was added that would cause it to expire. She said that there was nothing in the Ordinance that was self-executing.

Mr. Clayborne said that he had one more question to clarify his understanding. He said that according to number six, a phase one archaeological survey must be conducted prior to the approval of the Virginia Erosion and Stormwater Management Program (VESMP) application for the fill area. He said that in comparison, number two stated that fill activities, including retaining walls and mitigation plans, must be completed within two years of the application's approval. He asked if this meant that the survey must be completed before submitting the VESMP application.

Ms. Ragsdale said that it was a condition of approval for the VESMP plan; it must be conducted.

Mr. Carrazana said that he had another question regarding archaeology. He said that to clarify, as far as the County was aware, no archaeological work had been conducted today.

Ms. Ragsdale said that it had not been conducted by the owner. She said that the staff report included information from Historic Resources staff, but beyond that they were not aware of any additional work to that end.

Mr. Moore said that this site already had a big pile of dirt where the proposed fill area was, although it was a temporary permit for the moment. He said that he had personally participated in phase one archaeology digs before, and he would like to note that the area was already disturbed so it was unlikely that they would find anything in that fill area. He said that it was more likely they would find artifacts nearby the creek banks. He said that he would like to learn more about the Parks and Green Systems overlay on this property. He said that he recalled the Planning Commission's recent discussions about the Future Land Use Map (FLUM) and how accurate the description was. He asked what criteria were used to define these green systems.

Ms. Ragsdale said that the land use plan designation was not an overlay in the same sense as a zoning district, which came with regulations. She said that the Flood Hazard Overlay District, however, carried the weight of an Ordinance and was based on the 100-year floodplain. She said that this map had been discussed before in terms of how the green space designations were drawn. She said that this was based on the 2015 Comprehensive Plan and included some of

those fragments. She said that typically, these designations were consistent with floodplain stream buffers and their slope mapping and Geographic Information System (GIS). She said that however, it did include some already-developed areas.

Mr. Murray said that this issue aligned with one of the points he had previously made, which was that the public may view this map as indicating a future park or green space, but in reality, the practical outcome was that as each of these parcels was developed, only a portion of each would remain green. He said that to designate the entire area as a contiguous green space was misleading with regards to the future of that area.

Ms. Ragsdale said that they had made efforts to distinguish between the public and private components within their AC44 FLUM. She said that the green systems designation may include properties that were intended to be public parks, although they did not anticipate that in this case. She said that the applicant had offered that they could provide land along the river for trails, but that was not considered as part of staff's analysis and had not made that a condition.

Mr. Murray said that this was an example of why he had advocated for an urban transfer of development rights (TDR) program, which would allow the entire property to be designated as green space.

Mr. Moore said that was an interesting concept to discuss. He said that he would like to ask about what the Economic Development team knew from their current research about the current demand for light industrial businesses and pad-ready sites.

Ms. Ragsdale said that Economic Development staff did not comment on this specific request.

Mr. Moore said that he was speaking in general.

Ms. Ragsdale said that she would not speculate as to what they would say, but Mr. Barnes may have something more to add.

Mr. Barnes said that generally speaking, the County appeared to be consistently striving to maintain a sufficient supply of light industrial land.

Mr. Bivins said that he would like to know how Section 30.3.14 was monitored. He said that he wanted to know how the County ensured that the conditions outlined in that section were being met and not violated. He asked if it was a proactive process, or if it was primarily based on reports from individuals who may notice issues.

Ms. Ragsdale said that their conditions in this case were tied to specific application processes, which included steps to enforce them. She said that these conditions were checked frequently, not only for future owners but also at each step of their application process. She said that they reviewed the special use permit, assessed its applicability to site plans, and evaluated its relevance to building permits, if applicable. She said that the final step was the zoning clearance, where they verified that the conditions had been met again. She said that to ensure compliance, they obtained documentation confirming that the conditions had been satisfied throughout the process, from the special use permit to the final building permit and issuance.

Mr. Bivins said that moving forward, the responsibility fell on someone to report any violations. He said that once they reached the point where the property received its building permit, if issues arose, they then had to report them to the Zoning Administrator.

Ms. Ragsdale said that yes, that was the case for some conditions, and it was only after the fact.

Mr. Missel opened the public hearing. He asked if the applicant had a presentation.

Kelsey Schlein, Tatalein Planning and Development Services, said that she was here tonight representing Chris Donaldson, the property owner, and accompanied by Brian Cichoki, Timmons Group, Tim Miller, Meridian Planning Group, and Matt Denard with the Timmons Group. She said that she would provide a high-level overview of this application, and then Mr. Cichoki would discuss the unique characteristics of the floodplain on this property, as well as the floodplain development process and his work on this project.

Ms. Schlein said that while it was helpful to understand the broader context and the big picture with this site, which included the development across the street, she wanted to emphasize that this special use permit was specifically for filling in the floodplain. She said that this request had been evaluated by FEMA and the County Engineering Department, and multiple checks were in place to ensure that there would be no impact to the regulatory floodway. She said that the special use permit process for filling in the floodplain fringe was unique to Albemarle County and provided an additional layer of protection for quality development. She said that they believed that this proposal met the high standards of development in Albemarle, especially with the proposed conditions.

Ms. Schlein said that to provide context, the site subject to the fill request was nearby Moores Creek Lane and the Woolen Mills Industrial subdivision site, which was an active development site. She said that the building under construction on the property was part of this development. She said that provided was a conceptual plan submitted with the special use permit request to demonstrate a potential development and work through the accurate amount of fill and conditions with the County. She said that the special use permit request was specifically for 1.3 acres of fill.

Ms. Schlein said that the development of the Woolen Mills Industrial site was closely tied to this request, and that parcel would not be able to continue construction without moving the fill to the subject site. She said that the ideal location of this site, 500 feet away from the property, limited the number of trips taken by dump trucks and reduced travel miles. She said that this property was very close to the other site, and one of its unique benefits was that it had no impact on the floodway. She said that she would briefly outline the truck route that would be used to transport the dirt required for this project.

Ms. Schlein said that she would quickly review the site context and then hand it over to Mr. Cichoki. She said that across the street, there were residential uses, but this property was characteristically and historically an industrial area. She said that they had notable industrial businesses along Broadway Street, including a brewery, HVAC contractors, and roofing contractors. She said that there was also a coffee shop at the Wool Factory and tech office users.

Ms. Schlein said that historically, this site had been an industrial area, and they felt that their proposal was consistent with the late industrial zoning designation. She said that she would also note that 80% of the site would be dedicated to a forest open space easement or a stormwater management facility. She said that although the comprehensive plan designated the entire site for green systems, the underlying zoning for light industrial still had rights associated with it. She said that however, a majority of the site would remain dedicated to open space and stormwater easements. She said that finally, they were located within the Broadway Blueprint area, an economic development study aimed at revitalizing this area.

Brian Cichoki, Timmons Group, said that he had 14 years of experience, 10 years of which had been dedicated to floodplain modeling. He said that there was a careful and technical process to follow when work was proposed in the floodplain. He said that this process was lengthy, taking an average of 6 to 12 months, with multiple review cycles throughout. He said that each application was unique and could not be reused elsewhere. He said that to provide context, they had obtained the best available data from FEMA and used it to perform their study, develop a technical report, and create a digital model.

Mr. Cichoki said that in this case, they had obtained a no-rise certification, which was based on facts and data, not opinion. He said that this certification had been submitted to Albemarle County for review, and they had agreed and concur with their findings before they submitted it to FEMA. He said that FEMA then reviewed it and approved it, finding no impact to the floodplain. He said that this had been determined by multiple technical subject matter experts. He said that he would try to be brief and avoid technical jargon.

Mr. Cichoki said that he would briefly review the floodplain as it currently existed. He said that he would highlight the lower area, which was part of Moores Creek watershed. He said that due to its smaller size, the water from Moores Creek traveled faster than the water from the Rivanna River, with a much larger drainage area. He said that this resulted in a significant difference in time between the two events, which was crucial because it equated to the peak flow and peak water surface of the floodplain and ultimately created the backflow. He said that the map of the project site and floodplain showed the floodway, floodway fringe, and proposed fill limits.

Mr. Cichoki said that the red line indicated the extent of the backwater influence from the Rivanna River. He said that notably, the 324-foot elevation remained static throughout this entire stretch, which was crucial. He said that there was a natural flow constriction present where Moores Creek did not utilize this area, where they intended to place the fill. He said that it was worth reiterating that this had been thoroughly reviewed by subject matter experts, the County, FEMA, and had been approved and recommended for approval tonight.

Mr. Murray said that he had a question regarding one of the proposed conditions. He said that as one of the conditions was that there would be no increase in phosphorus levels, he was wondering if the applicant had given any thought to how they intended to achieve that.

Ms. Schlein said that there was a conceptual stormwater management plan, which consisted of a series of interconnected jellyfish units designed to increase stormwater treatment as it flowed through. She said that if they would like more detailed information, she would suggest asking Mr. Miller to elaborate. She said that at this high level, the conceptual plan that had been developed was the jellyfish system, which was a type of capture and treatment facility.

Mr. Murray said that the other point he would like to bring up was the 500-year floodplain marked on the map. He asked if they had experienced flooding in the 500-year area, and if that location was prone to flooding, particularly within the past 20 years.

Mr. Cichoki said that he could not speak to that.

Ms. Firehock said that there was significant flooding in the mid-1980s, specifically affecting one of the spans of the Rivanna Bridge that crossed the river.

Mr. Murray asked if the flooding in the 1980s got into that area.

Mr. Edwards said that there were points where it exceeded it, but he was unsure if it got to that orange area.

Mr. Murray said that he wanted to raise a point regarding areas labeled as 100-year floodplains or 500-year floodplains. He said that they were seeing significant flooding in these areas, which contradicted the expected frequency of such events.

Ms. Firehock said that it was not the number of years between events, but rather the percentage probability of such an event occurring in any given year.

Mr. Murray said that his point was that these areas were flooding much more frequently than what they were statistically expected to.

Ms. Firehock said that yes, they could have three 500-year floods in a single year, or even in a single month.

Mr. Bivins said that considering this was in an area that may be subject to FEMA map changes in the future, he was wondering if a business would be impacted in terms of their ability to get insurance. He said that he was trying to understand the viability of the space if it did become part of the 100-year floodplain rather than the fringe.

Mr. Edwards said that by raising the elevation of this site, they were effectively removing it from the floodplain, so the insurance would take that into account.

Mr. Bivins said that there was already a significant pile of dirt there. He asked if they would have to move that pile of dirt to perform the archeological survey.

Ms. Schlein said that the details of how that would happen would be worked out with the County to ensure they were complying with the condition. She said that since they had to submit that to them prior to the submittal of the SMP plan, there was a trigger check in place to coordinate their efforts and ensure the study looked like it should.

Mr. Moore said that from a business perspective, he was wondering about the current status of the Woolen Mills Industrial Park, which the applicant also owned to the north. He said that he was inquiring about the current demand for that development and how much space it was currently being utilized.

Ms. Schlein said that it was challenging to sell pads in the current condition. She said that as a result, the one building currently under construction had been sold. She said that the remaining property, however, required significant development, particularly the road that needed to be completed to depict the project's vision. She said that much of the property was suitable for condominium development, and some buildings had already been sold off, including the one under construction.

Ms. Schlein said that it was difficult to sell potential clients on a significant investment when the project was in its current state. She said that one thing that came to mind was the story of a local coffee roaster who was moving into the building currently under construction. She said that it had been difficult for them to find any suitable space, and they had been told to go to Zion Crossroads where there was available space. She said that they wanted to stay in the area, so this property was helping meet that need. She said that she believed this subject property would add to that.

Mr. Moore asked what Ms. Schlein meant by the current state of the site and why that was impacting buyers' willingness to purchase. He asked if she was referring to the large pile of dirt at the north of the site.

Ms. Schlein said that they could not cut a road all the way through, as this was a critical factor for access. She said that it was particularly important for light industrial users on the subdivision site, such as box trucks, to have a way to loop through the site. She said that a road would provide a convenient and safe route for truck drivers, eliminating the need for point turns in their vehicles. She said that having a continuous connection throughout the site was ideal.

Mr. Missel said that they had received a lot of feedback from the public on this item. He said that a prominent concern he had heard was the idea of filling in the floodplain in general. He said that conceptually, it did not sound right, in large part because cumulatively filling in the floodplain on individual sites would eventually mean there was no floodplain left. He asked how they would address the concern of the cumulative impacts to filling the floodplain as a general concept.

Ms. Schlein said that this site was particularly unique because the flooding condition was controlled by the Rivanna River, and the water backed up onto the site. She said that Mr. Cichoki

had explained this to her many times, on the outside of the culvert, the flow was ineffective in this section of the channel. She said that adding fill or other measures may not change the surface elevation, as the water would simply find equilibrium and continue to exist in that state.

Mr. Missel asked if the fill's displacement of the water would push water into the channel.

Mr. Cichoki said that the water would never exist if it were filled. He said that it was an equilibrium based on the flow that passed by, which was defined by a certain amount of area through which the flow passed, and it reached the water's surface.

Mr. Missel said that it would increase the amount of water that had to flow through the channel.

Mr. Cichoki said that the same amount of water flowed through the channel.

Mr. Missel said that it would take longer for the water to go through.

Mr. Cichoki said that this was why they wanted to also recognize the process that this had undergone, involving subject matter experts from the County, Timmons Group, and FEMA, who had all studied this and come to the same agreement that this had no impact, no rise. He said that to put that into perspective, this was a unique situation. He said that it was not a simple situation where they intentionally set out to fail; it was a rare alignment of circumstances.

Mr. Cichoki said that the space was not being utilized by Moores Creek, nor was it being used by the backwater condition of the Rivanna River. He said that it was essentially a dead zone, where the flow of water was not available to the stream. He said that this was not a universal phenomenon that could occur everywhere. He said that he would not say that there was a cumulative effect to this, where it could keep occurring prolifically throughout Moores Creek, the Rivanna River, or the County. He said that it was a specific set of conditions that must align for this no-rise situation to occur.

Mr. Cichoki said that if those conditions were not met, then they would hear about a rise, and that was a different topic. He said this was why they had floodways, which served as a safeguard to preserve the minimum area of flow for the water to get through. He said that floodways were there to prevent overdevelopment and provide an additional check beyond this specific technical evaluation, which had been performed, reviewed, and approved by the counties, Timmons Group, and FEMA for this specific location with these specific characteristics.

Mr. Moore said that he was recalling an episode of *MythBusters* in which they performed an experiment to see if it was more fuel-efficient to drive a truck with its tailgate down. He said that they actually found out that it was more efficient with the tailgate up because it created an eddy of air that allowed other air to flow over it as the truck moved forward. He said that he thought this situation was similar, where this portion of fringe floodway in Moores Creek had water that just flowed around it.

Ms. Schlein said that she would like to discuss the concerns about the potential cumulative effect of this type of fill. She said that the process itself, particularly the special use permit process, could be a significant deterrent to applicants from requesting this type of fill. She said that the proposed conditions for this development made it significantly more expensive than comparable projects in other areas of the County. She said that for instance, most developers would not go through the hassle of obtaining a special use permit if they were not 500 feet away from the other property nor deal with a regulatory floodway issued by FEMA. She said that she thought this process served as a huge safeguard.

Mr. Missel asked if any members of the public wished to address the item.

Eli Connell said that he was a physical scientist with the Virginia Department of Environmental Quality. He said that he would like to offer his perspective on this matter, as he was also a scientist. He said that he had three points he would like to make, which are all related. He said that his first point was regulatory harm.

Mr. Connell said that when the DEQ evaluated violations, they considered two types of harm: environmental harm, which was straightforward, and regulatory harm, which referred to actions that undermined an agency's ability to regulate and carry out its duties. He said that in his opinion, filling in the floodplain occurred prior to obtaining approval. He said that leaving the fill in place constituted regulatory harm.

Mr. Connell said that the procedures existed to hear opposing opinions and weigh trade-offs before taking actions. He said that filling first shifted the decision-making balance, making it easier to approve and harder to deny. He said that it effectively removed the authority of the County to meaningfully decide whether the floodplain should be filled.

Mr. Connell said that his second point was the reduction of floodplain storage. He said that when he asked about the floodwater displaced by this fill, the response was that it would go nowhere, which was not physically accurate. He said that the volume of rainfall was not decreasing, but the volume of storage available at a given elevation was. He said that this meant that the net effect of that floodwater was displaced somewhere else.

Mr. Connell said that while this particular fill may not increase the base flood elevation, the assumption that the water goes nowhere leads to the false conclusion that additional floodplain fills have no cumulative effect.

Mr. Connell said that his third point was the increased flood risk. He said that there appeared to be a local consensus that storm events were becoming more frequent and more intense. He said that the engineers had acknowledged this, and they stated that they were bound by federal standards on the 100-year floodplain.

Mr. Connell said that the federal regulations lagged behind observed conditions, and they were unlikely to receive protections from their federal government at this point. He said that this responsibility ultimately fell to them. He said that he believed it was essential that they consider not just compliance with the minimum federal standards, but also the broader regulatory precedent, cumulative floodplain impacts, and long-term community risk.

[SPEAKER_10:

[02:58:05.618] said that he had brought up several points during the community meeting, but there was no indication he made his comments in the synopsis that the Commission was provided of the meeting. He said that Supervisor Pruitt had asked in June who was notified of and able to attend community meetings, and the answer was not clear to him. He said that they should slow the process down to allow the Commission to discuss actual planning. He said that the engineering was dominated by waterflow. He said that floodplains were more than just a ditch where water flowed. He said that he would like to know what steps the applicant had taken to get into compliance with the County. He said that he wanted to know what percentage of the soil was needed to fill the acreage to fit above base flood elevations.

Katie Chester said that one thing that struck her during their discussion was Mr. Bivins' suggestion of having transitional development zones instead of a hard edge. She said that it was challenging when one encountered the hard edge of development and rural areas. She said that the floodplain fringe was the transition zone between the floodplain and non-floodplain areas.

Ms. Chester said that the applicant was asking them to remove this transition zone and treat it as a hard edge. She said that the fringe designation was in place to facilitate transitions, which were

useful. She said that the fact that the applicant had already dumped fill in the area was the problem. She said that the owner had created their own issue by poor planning. She said that the lack of consideration for where to place the dirt from the other building was puzzling.

Ms. Chester said that instead of coming into compliance with the County, the applicant was applying for a variance. She said that the applicant had a history of creating problems, asking others to fix them, and disregarding rules.

He said that thank you, Jenny Mikulski.

Jenny McClusky said that she would like to discuss the archaeology of the site. She said that in 2020, when Elemental Ecotech first cleared the trees from the lot in question, she became intrigued and investigated the property deeds out of curiosity. She said that it was then that she first saw the Virginia Department of Historic Resources' archaeological recommendation.

Ms. McClusky said that she reached out to Jeff Hartman, Professor Emeritus of Anthropology at UVA, who shared that the site was recorded in 1978 after a farmer plowing the field discovered artifacts. She said that he stated that the site was potentially significant and warranted preservation efforts, as the artifacts suggested it predated colonization and may have contained human burials. She said that while he did not suggest that every archaeological site in Albemarle County was important or unique, he believed this site warranted attention due to the artifacts found and the likely date of occupation.

Ms. McClusky said that she did not spread this information because she was worried people might raid the site, looking for artifacts. She said that she was also suspicious that the developer would proceed more rapidly with the project without conducting due diligence. She said that in July 2022, when the rubble crushing began, she contacted the property owner and offered to pay for an archaeological survey if he would allow them on the property. She said that the property owner declined the request.

Ms. McClusky said that the property owner had planned to use the site as a soccer field for the community, but that her efforts on the slope project had made it difficult for him to secure funding. She said that the property owner had been using heavy machinery to deposit, crush, and grind concrete for three years. She said that the equipment was still on the site, and he did this with full knowledge of the potential presence of artifacts.

Mr. Missel asked if the applicant had a response to public comment.

Ms. Schlein said that she believed they needed to address the timeline and the existing fill on the property. She said that the fill in the floodplain largely resulted from a miscommunication at the time from an inspector. She said that it appeared that her client had called to inquire about moving some dirt or crushing concrete basins from the RWSA facility on the property, and it was not realized that these items were in the floodplain. She said that as a result, they ended up on the site.

Ms. Schlein said that since the applicant became aware of the violation, he had made every effort to comply with the County's requests. She said that in her opinion, if he had done so three years ago, instead of relying on a phone call, he could have gone through the formal process of revising the plan and having a meeting. She said that was the history of how things came to be. She said that the owner had responded to every concern raised by the County and had worked diligently to come into compliance.

Mr. Missel asked for clarification about whether the inspector Ms. Schlein referred to was a County inspector.

Ms. Schlein said the inspector was with the County.

Mr. Missel asked if there was any written correspondence.

Ms. Schlein said that there was not. She said that for those who had been on active construction sites, they may have experienced changes that arose unexpectedly, whether in a building or on the site itself. She said that typically, the contractor would contact the parties they were working with to explore possible resolutions. She said that in this instance, it was business as usual, and no one really acknowledged the regulations that surrounded that action.

Mr. Missel asked what was the volume of fill currently on the site.

Ms. Schlein said that she was unsure. She said that the dirt was essentially the remains of the stormwater facility currently on the property.

Mr. Bivins clarified that the fill currently on the site was from the same property.

Ms. Firehock said that previously, they had been informed the applicant had received concrete material from the wastewater treatment plant.

Ms. Schlein said that the concrete material was from a stormwater basin from RWSA. She said that there was fill on the site, which was from the stormwater facility, and separately, there was a concrete rubble pile from RWSA.

Mr. Moore asked if there was a temporary special use permit for the fill.

Ms. Schlein said that she was not aware of a temporary special use permit.

Mr. Pohl said that the fill was added to the site because a County inspector allowed it. He said they had been working with the applicant to get the matter into compliance. He said that not requiring the fill to be removed immediately was due to the fact that it was in a backwater condition. He said that they had conducted a study showing no rise, and they were preparing to submit their findings.

Mr. Pohl said that there was a violation, as they had extended the permit to include this site as an offsite area, subjecting it to erosion and sediment control measures. He said that he did not have firsthand knowledge of the current site condition, but he could confirm that it was under the permit of the main site, which had been extended to this particular part of the property, including the concrete basin.

Mr. Moore asked if there was a history of violations in regard to the site.

Mr. Pohl said he was not aware of other zoning violations.

Mr. Missel closed the public hearing, and the matter rested with the Commission.

Ms. Firehock said that she wanted to introduce a different perspective to their discussion. She said that they had been focusing on stormwater volume and flows, base flood elevations, and floodway fringes, among other topics. She said that as someone who had spent over 30 years managing a national stream and wetland habitat restoration programs across the United States, she was well-versed in these concepts.

Ms. Firehock said that additionally, her experience surveying the biological integrity of Moores Creek and serving as vice president of the Belmont Neighborhood Association had given her a deep understanding of this area. She said that while they had discussed the technical aspects of the project, she wanted to highlight the other purposes that a floodplain served.

Ms. Firehock said that it was not just a storage zone for water during high events; it also played a crucial role in dissipating the energy of floodwaters. She said that by allowing water to spread out and slow down, they could reduce erosion. She said that filling in the floodplain, however, could have the opposite effect by restricting the flow and making the flow faster.

Ms. Firehock said that she understood the engineer's analysis, which suggested that, since this was a backwater situation, this small area of fill would not raise the base flood elevation. She said that she did not dispute this, but there were other aspects to consider for the floodplain.

Ms. Firehock said that the floodplain was habitat for many species that depended on the riverine environment, and it was not just an exercise in water flow. She said that as the Department of Wildlife Resources noted, Moores Creek, which flowed into Charlottesville, was a tributary to the Rivanna River. She said that for decades, urbanization and manipulation had degraded the habitat and water quality of Moores Creek.

Ms. Firehock said that the potential for restoration was still present, and multiple species listed as greatest conservation need in Virginia's Wildlife Action Plan could potentially thrive in Moores Creek or the Rivanna River. She said that just because they had urbanized the watershed did not mean they should continue to degrade it.

Ms. Firehock said that the underlying zoning, which had been established decades ago, was no longer suitable. She said that they were not deciding on the merits of industrial uses along a river; they were simply considering whether to fill in the floodplain. She said that the comprehensive plan had listed this as parks and green systems because it was a floodplain.

Ms. Firehock said that she wanted to bring to their attention some of the other stakeholders who were not present tonight to testify: the great blue heron, the little green heron, the salamander, the kingfisher, and the red-bellied woodpecker. She said that these were just a few of the aquatic and riparian species that depended on that habitat. She said that when they filled it and destroyed it, they diminished that.

Ms. Firehock said that they might say, "this is just a small area," but the reality was that filling it and putting industrial uses on top would destroy the habitat. She said that her mother used to say, "death by a thousand paper cuts," and this was precisely what was happening with Moores Creek and the Rivanna River.

Ms. Firehock said that she did not want to continue down this path simply because FEMA suggested that by piling dirt high enough, they could avoid the floodplain. She said that they could engineer just about anything, and she wanted to provide an example to highlight the fallacy of this thinking. She said that, according to regulations, they could pipe the entire creek, cover it in dirt, remove the floodplain, and develop on top of the now-piped creeks for industrial use.

Ms. Firehock said that rivers and riparian systems provided several benefits, including areas of respite, quiet, solitude, and habitat for species that thrive in these environments. She said that these benefits were not just about meeting federal regulations, but about protecting the aquatic resources of their state. She said that she was opposed to this application and all filling of floodplains for that reason. She said that she was also sticking with the Comprehensive Plan's recommendation to use the land for parks and green systems.

Mr. Clayborne asked if the agencies reviewing the permits were not considering habitat impacts.

Ms. Firehock said that was not the charge of FEMA. She said that FEMA was only examining flood elevations and flooding. She said that this was an important role for the agency, as it protected public property and people's lives. She said that FEMA was not the DWR, but the DWR had no authority or input in this matter and had not been consulted for this matter.

Mr. Murray said that what was happening here was that the floodplain was becoming increasingly impervious surface, which was leading to increased volumes of pollutants and stormwater that flowed downstream. He said that this was not just a matter of the amount of phosphorus or stormwater volume, but ultimately, it was increasing. He said that as they had seen in Moores Creek, the conditions were already impaired. He said that this was not improving the water quality.

Mr. Murray said that it was worth noting that their attitude towards the Rivanna River and floodplains had changed dramatically since the past. He said that they used to view these areas as waste spaces, as evidenced by the presence of junkyards, auto body shops, and other industrial uses. He said that now they were trying to shift their perspective and see the river as a public asset, rather than a dumping ground. He said that this change in perspective should lead them to reevaluate some of their past decisions.

Mr. Murray said that, in his opinion, it was not a good idea to continue down the path they had been on, particularly in terms of their environmental advantage. He said that it was essential to consider the opinions of Charlottesville residents and be a good neighbor to the City, taking their concerns into account.

Mr. Missel said that he was struggling with the objective support based on the science, as well as the conceptual and emotional aspects. He said that he was struggling with other concerns, such as the County inspectors' relationship and responsibilities, the fact that the fill already existed on the site, and the archaeological resources. He said that he appreciated the other purposes a floodplain provided, and that provided him the rationalization to support his objection to the application.

Mr. Moore said that he had some questions that may not be suitable for this room, such as why this project was chosen over alternative options, like shipping the fill material elsewhere. He said that he was still unsure about the reasoning behind this decision. He said that he also appreciated the acknowledgement of the potential slippery slope, although he believed it had been adequately addressed. He said that the process was complex, with numerous checks in place, and he was not concerned about the slippery slope aspect.

Mr. Moore said that there were existing facilities nearby, and there was demand for light industrial sites, as well. He said that they had limited parcels of land in the County, and when businesses were priced out, there were few alternative locations available. He said that he believed this was a concern that was often raised by economic development officials.

Mr. Moore said that he understood the concerns about rivers, streams, and watersheds, as they played a crucial role in more than just carrying water. He said that when making decisions about these matters, they should consider the long-term impact. He said that at the same time, Albemarle County had 2,400 miles of streams and rivers, and a small section like this was hardly a significant impact. He said that he was not enthusiastic about the proposal, but he was not inclined to oppose the request.

Mr. Missel said that he would like to add another metric to this discussion. He said that based on the build out analysis data, they had approximately 4.8 million square feet of industrial space available. He said that the 20-year demand forecast indicated a need for 1.1 million square feet. He questioned the need to push into floodplains when the County already had the industrial use capacity.

Ms. Firehock said that it was not that this was a landowner who had this one property and had no other means of supporting themselves. She said that the applicant was doing industrial development on other parcels nearby.

Mr. Murray said that he would like to add one more comment. He said that one of the points mentioned in the slide was that certain areas could be filled without causing negative

consequences, such oxbow lakes. He said that he was particularly horrified by this. He said that he hoped that if staff were to use this as an example of areas that could be filled without consequence, they would reconsider that approach. He said that oxbow lake areas were particularly sensitive wetlands that could not be restored if they were damaged.

Mr. Bivins said that he was attempting to strike a balance between proportionality. He said that if he understood correctly, a portion of this land would be designated for a park or conservation area. He said that when he moved further up the creek, he noticed that there were several locations where runoff could occur. He said that there was an apartment complex, which appeared to be condos, a U-Haul storage facility, and other structures that were currently closer to the stream than this site.

Mr. Bivins said he was wondering whether this was any worse, or would it significantly worsen the existing conditions. He said that he was also seeking clarification on how this particular project came to be, as he was not entirely sure how the narratives aligned. He said that he was trying to consider the proportionality of this project and its impact on the land. He said that other sites along Moores Creek were right against the bank. He said that given everything happening upstream, he was having trouble seeing how not putting this project in place would significantly improve the creek.

Ms. Firehock said that they could keep filling in the floodplain piece by piece, making little harms along the stream, until it accumulated into a worse harm. She said that she used to be part of the Coalition to Restore Urban Waters, and they successfully restored urban creeks across the country. She said that was the goal with Moores Creek.

Ms. Firehock said that the City was working hard on its stormwater management plan to add infiltration and reduce impervious surfaces. She said that they had implemented dozens of best management practices to retrofit the City. She said that she had co-authored the Water Protection Ordinance in Charlottesville, which was based on the County's Water Protection Ordinance.

Ms. Firehock said that the City was working diligently to undo all the previous harm, and it seemed counterproductive for the County to add more development along the creek. She said that allowing the development because it was not a significant harm was the rationale for environmental degradation. She said that there was a reason that the County designated the area as parks and green systems.

Ms. Firehock said that it was essential to acknowledge that they all, at some point, voted for environmental degradation. She said that there was a project in the County that they had approved, which had impacted a critical forest habitat core. She said that by allowing that development, they had protected the environment further out, and it was a trade-off. She said that she did not believe the County had such a need for industrial sites that they needed to fill in the floodplain.

Mr. Moore said he shared the environmental concerns, but they were lower on his set of priorities. He said he focused on what the material needs were, such as jobs with dignity, quality and affordable homes, good healthcare and schools, and great environments to play and live in. He said that the case that he continued to grapple with was the parcel just north, which remained underdeveloped. He said that he was still unclear as to why it had not been built out and what was missing.

Mr. Moore said that what he found compelling was the economic need for people to have jobs that they could walk to from their homes. He said that he had not yet heard the demand.

Mr. Murray said that when they discussed harm, he believed it was worth understanding what DCR meant by classifying a stream as impaired. He said that according to DCR, impaired streams

were those that did not meet the recreational standards, which included factors such as whether a person would not fish in the stream or whether children could safely play in it.

Mr. Murray said that the presence of a bacterial TMDL for the stream indicated a real health risk if a child were to play in the water. He said that they had seen cases at public parks where public waters had become impaired, resulting in the death of a pet due to exposure to contaminated water. He said that considering the needs of the public and the concept of harm, he believed it was crucial that they take this into account.

Mr. Clayborne said that he would like staff to elaborate on their evaluation process when considering a holistic approach. He said that he would like to know how they determined the quality of a recommendation and what harms would be caused.

Ms. Ragsdale said that she believed they had clarified the holistic approach for this type of request. She said that they had deliberately chosen not to discuss the economic benefits, market analysis, or demand for industrial uses in their staff report. She said that the focus was on the impacts. She said that they had also discussed the science behind the engineering modeling.

Ms. Firehock said that staff presented on the hydrology and a bit on the archaeology, but they did not discuss the other impacts.

Mr. Svoboda said that they did not evaluate it based on ranking it as good, better, or best. He said that instead, they assessed whether it met the requirements and complied with the standards.

Ms. Ragsdale said that as they had discussed, they had recognized the benefits of the floodplain, including its other advantages. She said that they also reviewed the available information, including the biodiversity report and habitat data. She said that when considering conditions of approval, such as recommending approval or special use permits, their goal was to ensure that they were not making anything worse. She said that their intention was to confirm that the proposed conditions would not have a negative impact. She said that typically, they looked for conditions to be better than the existing state.

Ms. Ragsdale said that this was a fundamental principle when evaluating special use permits, as they considered the potential detriment and strived to minimize any negative effects. She said that in this case, they had thoroughly reviewed the information, and their intention was to address the special use permit condition. She said that she had intentionally refrained from discussing certain economic aspects, as the properties were already zoned industrial and were part of an overlay district.

Ms. Firehock motioned that the Planning Commission recommend denial of SP-2025-00006 because the request did not conform with the Comprehensive Plan designation as parks and green systems, and the other values of protecting natural resources. Mr. Murray seconded the motion.

Mr. Moore said that for him, his reasons for not being overly enthusiastic about this proposal were not those, although he did appreciate them more. He said that if the property to the north became a hub for job opportunities in the future, he was open to that. He said that however, it had been challenging for him to see the need for this development.

The motion carried (5-2). (Firehock, Carrazana, Missel, Murray, and Moore voted aye; Clayborne and Bivins voted nay)

Adjournment

At 9:55 p.m., the Commission adjourned to January 13, 2026, Albemarle County Planning Commission meeting, 6:00 p.m.

Michael Barnes, 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: