

**Albemarle County Planning Commission
Final Minutes Work Session and Regular Meeting
February 25, 2025**

The Albemarle County Planning Commission held a public meeting on Tuesday, February 25, 2025. at 4:00 p.m.

Members attending were: Fred Missel, Luis Carrazana, Julian Bivins, Karen Firehock, Nathan Moore, Lonnie Murray.

Members absent: Corey Clayborne.

Other officials present were: Michael Barnes, Alberic Karina-Plun, Tori Kanellopoulos, Tim Padalino, Rebecca Ragsdale, Scott Clark, Bill Fritz, Amelia McCulley, Andy Herrick and Alberic Karina-Plun.

Call to Order and Establish Quorum

Mr. Karina-Plun called the roll.

Mr. Missel established a quorum.

Public Hearing

ZTA202400002 Data Centers

Bill Fritz, Development Process Manager, said that this item was a zoning text amendment for data centers, Phase 1. He said that data centers as a land use had unique characteristics that could generate different types of impacts. He said that they could produce sounds at frequencies not typically associated with other land uses, and they may consume excessive amounts of water.

Mr. Fritz said that since data centers typically did not have large numbers of people working in the buildings, the need for windows was reduced, while the need for cooling facilities was increased, resulting in a distinct building appearance. He said that the energy requirements of data centers could lead to offsite impacts on the power grid. He said that given these factors, staff had proposed regulations to mitigate these impacts.

Mr. Fritz said that their proposed approach was a follow-on approach. He said that the first step was limited in scope, allowing for quick regulation of applications and mitigation of potential impacts. He said that the second step was more comprehensive, involving research into potential impacts and methods for mitigation.

Mr. Fritz said that currently, there were no specific performance regulations for data centers. He said that the County could only evaluate requests and potentially establish conditions in some commercial districts when the data center was over 4,000 square feet.

Mr. Fritz said that their proposed ordinance would continue to allow accessory data centers and data centers under 40,000 square feet in industrial districts. He said that this was necessary because many businesses and organizations operated computer systems that qualified as data centers. He said that for example, the County's own services had characteristics of a data center.

Mr. Fritz said that however, without the significant impacts generated by a large data center, this building was not considered a data center. He said that staff opinion was that accessory data centers would not generate impacts greater than those generated by the primary use. He said that however, during the Phase 2 zoning text amendment, this issue could be further evaluated, as could the by-right size.

Mr. Fritz said that larger facilities would be subject to special use permits under the proposed ordinance, allowing for detailed analysis of specific applications. He said that it was worth noting that there were no pending or proposed data centers that would be subject to special use permits or other County regulations. He said that staff was proposing limited performance standards for this text amendment. He said that the Phase 2 evaluation may indicate a need to modify these regulations and may include additional regulations.

Ms. Firehock said that staff used the size of 40,000 square feet as a benchmark. She asked how that compared to the size of a Costco.

Mr. Fritz said that he believed Costco was larger.

Amelia McCulley, Project Manager, said that 40,000 square feet was comparable in size to the Grand Home Furnishing Store located on Route 29 North, situated just north of Crutchfield.

Ms. Firehock said that that helped clarify things.

Mr. Carrazana asked if there was anything in the provisions that would prohibit multiple 40,000-square-foot developments.

Mr. Fritz said that the existing language in the ordinance, which referred to aggregate area, limited the scope. He said that this question had been raised, and staff planned to investigate it further. He said that he intended to follow up with the Zoning Administrator to confirm that the language was being applied as intended. He said that he would ask the pointed question to get a determination to confirm that was how it would be interpreted. He said that if there was any concern that the language might not be applied correctly, staff could revisit and modify it to ensure clarity. He said that again, the intent was to limit it to 40,000 square feet per parcel.

Mr. Carrazana asked if the 40,000 square feet was limited to the built area, and it did not include the equipment yards associated with the data centers.

Mr. Fritz said that the definition referred to the gross square footage of the data center, excluding any areas outside that were not part of the data center's gross floor area. He said that he had reviewed various drafts to confirm that he had the correct language as presented.

Mr. Carrazana asked if there were any height limitations.

Mr. Fritz said that it would be the standard height limitation of the district in which it was located, so no special regulations would be required based on that. He said that this could be something that would be evaluated in a Phase 2 assessment.

Ms. Firehock said that if three-story buildings were permitted, it could result in a three-story building, but it would likely be a windowless structure. She said that this would make it more visually obtrusive and aesthetically unappealing compared to a building that, for example, was a hotel or another type of structure that blended in with the surrounding architecture.

Mr. Fritz said that whether or not someone would build a three-story, 40,000 square foot building was the question, but the answer was yes, they could. He said that these were precisely the types of projects that they wanted to pursue in the more comprehensive Phase 2.

Ms. Firehock said that they previously discussed their scarcity of flat land, and they also evaluated the commercial area available several years ago. She said that at that time, they reviewed an exhaustive spreadsheet with that information.

Mr. Carrazana said that they could very easily be 30 feet tall, depending on how the mechanical systems were stacked and arranged.

Mr. Fritz said yes.

Mr. Moore said that he would like to express his appreciation for the locality comparison data sheet, which provided a detailed analysis of their neighbors' experiences.

Mr. Fritz said that Ms. McCulley had compiled that information.

Mr. Moore said that it was very helpful. He said that he had noticed some similarities between what was proposed here and Fairfax's approach, particularly their extensive review process and consultant study. He said that he was wondering about the key differences between their proposal and Fairfax's decision-making process. He said that specifically, he would like to understand their assessment and the reasoning behind Fairfax's allowance of up to 80,000 square feet in industrial zones and up to 40,000 square feet in denser commercial zones.

Mr. Moore said that in contrast, Albemarle had a maximum of 40,000 square feet in their industrial zones and only special use permits in their commercial zones. He said that he would appreciate more information on why they had proposed these specific limits.

Mr. Fritz said that Ms. McCulley would elaborate on the details of the districts. He said that they had internal discussions regarding the inclusion or exclusion of the spreadsheets in question. He said that this was done to give them an insight into the types of information that would be presented in Phase 2 as they continued to learn more about these matters.

Mr. Fritz said that by including the spreadsheets, they were providing them with a glimpse into the other aspects they were working on. He said that after considering the pros and cons, they ultimately decided to include the spreadsheets.

Ms. McCulley said that Fairfax employed a tiered system, as he had mentioned, with 40,000 and 80,000 square foot thresholds. She said that given the significant differences in scale and character between Fairfax and Albemarle, they deemed a tiered system suitable. She said that the increased setback requirements were justified.

Ms. McCulley said that Fairfax had additional regulations regarding equipment screening, distance to a metro, and other factors that necessitated careful consideration. She said that although they did not have a metro, they were considering expanded performance and community standards as a Phase 2 evaluation.

Mr. Moore said that the scale of the project seemed to be the key factor that made sense.

Ms. Firehock said that typically, she would assume that the resolution of intent they received here at the Planning Commission would be the result of a vote by the Board of Supervisors..

Mr. Fritz said that the process began at the Board. He said that they had not conducted a resolution of intent with the Planning Commission in many years. He said that it had been a while, but they used to submit these items to either the Planning Commission or the Board, and now they all went directly to the Board.

Ms. Firehock said that she was aware that other communities were struggling with data centers due to their extreme power demand and the requirement by the state to meet that demand. She said that there was also the conversation about solar panels and the amount of solar needed to power these data centers.

Ms. Firehock said that she was surprised to hear that, according to the chart, Loudoun County had the most data centers of any place in the world. She said that this was a shocking revelation to her. She asked if the Board's feeling was that they were about to be suddenly impacted by data centers. She said that there were currently no applications, but she wondered if, since they did not have anything in place right now it was essential that they quickly prepare for this possibility and then spend more time developing a more detailed regulation for larger facilities.

Mr. Fritz said that it was meant to be a proactive approach to prepare for potential future developments. He said that by getting ahead of the curve, they could avoid playing catch-up and ensure that they had a system in place to review these proposals on a case-by-case basis, allowing them to address them more calmly and comprehensively.

Ms. Firehock said that she noticed a citizen comment expressing concern about the clause limiting data centers to no more than 25% of the primary use. She said that the concern was that if the primary use was actually quite large, should they also establish a cap on data centers, such as no more than 25% and no greater than, or if the limitation was already addressed by the 40,000 square foot limit.

Mr. Fritz said that it would still be considered an accessory use if they limit it to no more than 25% of the total facility. He said that they did not choose to implement this cap because, first, he believed the data center would not grow to that size, and, second, if the data center was accessory to the primary use, it would mitigate the impacts because of that primary use, allowing it to operate without those impacts. He said that as a result, they did not recommend a specific cap, and that was the logic was behind it. He said that however, staff could understand the reasoning behind putting in the cap.

Ms. McCulley said that regarding Ms. Firehock's question about the timing of this proposal, this topic was evolving at a rapid pace. She said that in the 10 days since they submitted the staff report, another locality had joined the list, bringing the total to six that were currently amending their regulations. She said that the situation was rapidly changing.

Mr. Fritz said that they were developing this language during the General Assembly's session, so they were not entirely sure what was happening. He said that to avoid getting ahead of the General Assembly, they brought a confined first-round zoning text amendment to the Commission that would not conflict with any potential actions the General Assembly might take. He said that now that the General Assembly had concluded, they could proceed with Phase 2 in a more calm and comprehensive manner.

Mr. Missel asked if there was a determined timing for Phase 2.

Mr. Fritz said that they were working on it, but they did not have a set schedule for it. He said that this was an evolving area of land use, particularly in Virginia as well as around the country. He said that therefore, they could not provide a specific timeline for this project.

Mr. Missel asked if they would anticipate it would occur within a one- to three-year timeframe.

Mr. Fritz said that it could be a matter of weeks, or a matter of years. He said that they did not have an estimate for when data center proposals would be received.

Mr. Missel said that he was wondering about the duration of this initiative or the intended lifespan of the vision behind it.

Mr. Fritz said that they believed that because it was by special use permit, if they received any proposals, they could use what they knew at the point the application was received and apply that as best as possible.

Mr. Missel said that he had one question regarding the sound. He said that he was going to inquire about the setbacks, but those, along with height and other factors, typically came later in the process.

Mr. Fritz said that accessory centers they would need to comply with the same sound and setback regulations that applied to all other uses in the industrial districts. He said that if it was a special use permit, additional provisions might be allowed. He said that it would still be subject to its own unique set of setbacks. He said that otherwise, it would be governed by the standard zoning ordinance regulations that applied to other industrial uses.

Mr. Missel said that that made sense. He said that one thing that stood out was that the generators must be housed in an enclosure that limited the sound as specified. He said that he was unclear about what "as specified" referred to.

Ms. McCulley said that she believed that rather than giving the specification of the regulation, they said "as specified by the regulation." She said that the desire to address noise was twofold. She said that one aspect was the generators, which could be of locomotive size and potentially have multiple units.

Ms. McCulley said that to address this, they aimed to limit the use of generators to daytime, weekday hours. She said that the most challenging aspect to regulate was the ongoing low-frequency hum, which could have a significant impact on people. She said that this was particularly difficult to control, enforce, and mitigate. She said that what many localities had done was increase the setback from adjacent properties so the sound was mitigated by distance.

Mr. Bivins asked what would happen in an emergency when the generators must be in use.

Mr. Fritz said that they would be exempt from the regulation in that case. He said that the advantage was that the supplemental regulations in place provided a level of protection. He said that it was not like they would put the generator in an enclosure for an exercise and then take it out.

Mr. Bivins asked if the enclosure would be fully enclosed.

Mr. Fritz said that what they did was reference the level three enclosure, an industry term that provided a case of equal sound attenuation. He said that alternatively, they could develop an alternative solution that achieved the same level of sound attenuation.

Ms. McCulley said that this equipment must meet the manufacturer's specifications, because some generators give off emissions such as carbon monoxide and other pollutants.

Mr. Bivins said that in that case, they could not be enclosed.

Ms. McCulley said that was correct.

Ms. Firehock asked if the generators would not be running all the time.

Mr. Fritz said that the generators were for emergency purposes.

Ms. Firehock said that to clarify, these generators were to be used during power failures.

Ms. McCulley said that in the event of a power failure, redundancy with generators was necessary for continuous operation.

Mr. Barnes said that they were specifically referring to when they were performing routine maintenance or conducting testing.

Mr. Missel said that he had another question regarding setbacks. He asked if these uses would be considered in or adjacent to residential areas.

Mr. McCulley said that the current ordinance draft included a 200-foot setback from all property lines, including adjacent industrial property lines, as a precaution to prevent potential negative impacts on adjacent industrial uses. She said that in contrast, for adjacent rural areas, the setback was increased to 500 feet.

Mr. Missel asked about where residential and industrial areas were adjacent to each other.

She said that residentially zoned properties would require a setback of 200 feet. She said that a residence on rural area zoning would require a setback of 500 feet.

Mr. Missel said that he was considering the proximity of industrial areas to residential areas. He asked if there was consideration for extending the setback by another 100 feet, bringing the total to 300 feet, in order to accommodate the adjacent residential area.

Ms. McCulley said that the 200-foot was a common standard, and she could not provide exact numbers, but upon surveying other localities, it appeared to be a widely adopted setback number. She said that she appreciated the consideration of going even further from residential areas.

Mr. Missel said that he was curious about the potential differentiator and how much of the industrial land was adjacent to both rural and residential areas.

Mr. Moore said that he could confidently say they had all driven past a data center that was only 114 feet from a road. He said that UVA's data center was remarkably close to Ivy Road.

Mr. Bivins said that there was also the data center at Fontaine, and it was approximately the same size. He said that in the back left-hand corner, they were constructing a power plant, which was approximately 40,000 square feet. He said that they would be putting an accessory data center next to the power plant.

Mr. Murray asked, if they did an evaluation, how many industrial properties they had would be subject to these conditions.

Mr. Fritz said that they were working with their GIS team to develop a mapping system to analyze the data. He said that the team had provided them with some information, and staff was currently reviewing it to ensure he understood the context. He said that staff was aware that with these

setbacks, there was land available for special use permits or by-right 39,900-square foot data center.

Mr. Fritz said that they knew there was available land, but staff would continue to investigate as part of the Phase 2 analysis. He said that the question remained, were these setbacks optimal or inadequate? He said that staff would begin conducting parcel-by-parcel specific analysis to gain a deeper understanding of the implications.

Mr. Murray said that it was worth stating that, due to the requirement for a buffer from the rural area, this development would preclude any non-conforming industrial area in the rural area.

Mr. Fritz said that there were two points he would like to bring up. He said that one of the requirements was that the facility must be connected to public water and sewer. He said that there were very few properties in the rural areas of the comprehensive plan that had access to both water and sewer services. He said that he believed that there were only two or three such properties, and their sizes were too small to meet the necessary setbacks.

Mr. Bivins said that he had two questions. He said that his first question was regarding the potential for an accessory data center at Willow Tree, a location that had undergone significant changes through various ownership. He said that given its unique circumstances, it was possible that the site could be cited as a suitable location to serve clients. He said that if that were the case, he wondered how they would properly cite the location and justify its suitability for such a purpose.

Mr. Fritz said that the property was rezoned as an industrial site, and as a result, it would need to meet the required setbacks from abutting lot lines. He said that if the project property exceeded 40,000 square feet, it would require a special use permit to serve a purpose other than the primary user. He said that if interior renovations were planned, the applicant would need to obtain building permits and clearances, and they would verify that the data center use was limited to 25% or less.

Mr. Bivins said that since their business is primarily serving others, this meant that even if a data center were to come forward with a request, it would still need to be designated as a special permit. He said that the reason for this was that the data center was not serving the business itself, even though its primary function was to serve others.

Mr. Fritz said that that was how they believed it would be interpreted. He said that if the total area would be over 40,000 square feet, that was assuming it utilized a substantial part of the building.

Mr. Bivins said that the legislature was currently in a waiting period. He said that according to what he had read, the committee had not reached a conclusion on the matter.

Mr. Fritz said that none of it was land use.

Mr. Bivins asked if they would be addressing it in the Joint Legislative Audit and Review Commission (JLARC).

Mr. Fritz said that there was one, which he must admit that he did not fully understand why it was necessary. He said that the bill essentially allowed for the request of sound profiles during the special use permit process.

Mr. Bivins said that JLARC was saying they needed to investigate it more. He said that this seemed like they were trying to get ahead of what JLARC determined.

Mr. Fritz said that this would certainly put them in a favorable position, as they would be ahead of the regulations. He said that as the Commission was aware, the General Assembly sometimes required that regulations be in place by a certain date, and if they were able to meet that deadline, they may be in a better position to avoid any compliance issues.

Mr. Carrazana said that he had a question regarding their second phase. He said that he would like to clarify that they mentioned that municipalities were now requiring data centers of a certain size to produce their own energy. He said that this was partly due to the fact that data centers required non-interrupted power, whereas hospitals and data centers could maintain power during outages, leaving others without.

Mr. Carrazana said that even though this may be a smaller facility, if multiple data centers of similar size were built, the collective power demand could significantly impact the grid, affecting power availability for other residents in Albemarle County. He said that this was an important consideration, as some neighboring counties, such as Loudoun, were already grappling with the issue. He said that it was essential that they revisit the use of solar energy, which, although beneficial, was a relatively small contribution to the overall solution. He said that data centers may not be suitable for solar power, as it was not a reliable source of energy.

Mr. Fritz said that they would absolutely consider that and review it as part of Phase 2.

Mr. Missel opened the public hearing.

Morgan Butler, said that he was a senior attorney for the Southern Environmental Law Center. He said that the proposal before them was an important initial effort to address a concerning gap in the County Zoning Ordinance, and he appreciated the staff's work on it and the excellent staff report. He said that as the staff report explained, the County's ordinance was being interpreted to allow data centers as a by-right use in all industrial zoning districts, regardless of size or other factors.

Mr. Butler said that this meant that the County had no ability to deny a data center proposal in an industrial zoning district or to impose additional safeguards beyond the default requirements. He said that data centers were a vital part of the digital economy, providing valuable benefits. He said that however, numerous localities in Virginia had experienced significant harm to communities and the environment when data center development occurred without thoughtful zoning protections.

Mr. Butler said that he generally supported the proposal, especially the provisions requiring a special use permit for data center proposals above a certain size in industrial zoning districts. He said that at the same time, he believed some clarifications were necessary to ensure the proposal achieved its purpose while phase two of this effort was developed.

Mr. Butler said that first, he was concerned that the proposed language in section 26.2 could be read to allow an unlimited number of data centers on an industrial site by right, as long as each data center individually did not exceed 40,000 square feet. He said that he assumed the intent was that all data center uses on a site shall not, in aggregate, exceed 40,000 square feet. He said that he recommended clarifying the language to match that intent and avoid creating a loophole.

Mr. Butler said that second, he had reservations about expanding the allowance for data centers into additional commercial districts, even by special use permit. He said that data centers seemed particularly likely to conflict with the purposes and intent of the downtown Crozet district, so he recommended reconsidering allowing data centers in that district. He said that finally, he felt the provisions on accessory data centers should be tightened up.

Mr. Butler said that he recommended including an overall square footage size limit on all accessory data center uses on a site, in addition to the 25% gross floor area cap. He said that he also recommended adding the conditions for a data center to qualify as an accessory use to the section of the draft listing provisions not subject to special exceptions.

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

Ms. Firehock said that regarding Mr. Butler's last comment, his second recommendation was that they should not make it applicable to uses allowed by special exception. She asked how they would word that in the ordinance.

Mr. Fritz said that they would simply amend item (e) special exceptions, by referencing subsection (a)(1). He said that item (e) would add to (a)(1) as one of the sections that were not subject to modification or waiver through a special exception. He said that he should change 5.16.5(E1.65(e) to read "special exceptions." He said that subsection (a)(1) and (e)(1) could not be modified or waived by special exceptions.

Mr. Missel said that the special exception consideration was part of the special use permit process.

Ms. Firehock said that an applicant could come forward and ask for a special exception, and the Commission did not rule on special exceptions. She said that typically, these requests went to the Board for consideration. She said that they were saying they could not come in and ask for that special exception.

Mr. Missel said that they could still ask for it with a special use permit.

Ms. Firehock said yes.

Ms. McCulley said that she thought it would be helpful to clarify that point quickly, as the section in question primarily applied to accessory data centers, which were by right. She said that the language they used to make those three conditions non-waivable meant that they would not be not subject to a special permit, but rather, they would be ineligible for a special exception. She said that the main consideration was that there were many unforeseen conditions.

Ms. McCulley said that for instance, to consider (a)(1) Roman numeral i, they should consider if, due to financing constraints, they needed to locate the data center on a separate parcel, or numeral ii, if they needed to contract out the operation of the data center, and the primary business was not operating it themselves. She said that she could envision a multitude of circumstances that might lead someone to seek an exception to that.

Mr. Carrazana said that he had a follow-up question regarding the multiple 40,000 square-foot structures, which had also been brought up by the public comment. He said that he wanted to know how they would address the issue of tightening up the regulations to prevent such situations in the future.

Mr. Fritz said that they had already committed to taking that step, and they would. He said that their original intent was to limit it to 40,000 square feet, and it appeared that the Commission's intent was also to limit it to 40,000 square feet. He said that they would ensure that either the existing language was sufficient or that they proposed new language to address this. He said that this would be reflected in the comments they would submit to the Board.

Ms. Firehock said that the member of the public also suggested that they add something to the effect of data centers may not in aggregate exceed 40,000 square feet.

Mr. Fritz said that he believed they just addressed that issue.

Ms. Firehock asked if they did not need to make a motion to amend it.

Mr. Fritz said that if the Commission was more comfortable including that in their motion, they could absolutely include it. He said that staff had heard them loud and clear, and that was their intent to clarify it further if necessary.

Mr. Herrick said that to clarify a couple of procedural points, this was not an application, unlike the previous item. He said that Mr. Fritz and Ms. McCulley were not applicants in this instance. He said that as a result, timelines did not apply to this matter. He said that since this was being presented to the Planning Commission for its recommendation, the Planning Commission could make recommended changes or approve it with the following conditions.

Mr. Herrick said that there was a procedural difference between an applicant-initiated petition, such as the one previously received, and this one, which was being brought forward by staff before the Planning Commission at the request of the Board of Supervisors.

Mr. Bivins said that staff had acknowledged that they understood the Commission's comments, so they would include those modifications.

Mr. Missel asked if they had discussed the 25% of the gross floor area and the potential impacts of the size to the support systems and structures.

Mr. Barnes said that the intent was that if a 200,000 square foot facility, it would be limited to no more than 40,000 square feet of data center space.

Mr. Fritz said that to ensure that no accessory data center exceeds 40,000 square feet, they could simply state that preference, they could incorporate it into the motion. He said that staff would then prepare an amended ordinance to reflect this.

Mr. Bivins said that he was not in favor of that.

Mr. Fritz said that to help with how they carried this forward to the Board of Supervisors, if the Planning Commission did not make a motion to limit this, they would still include a summary of the discussion in their report, indicating that potentially limiting it was a topic of conversation.

Mr. Bivins said that if they were able to survive the potential cuts, he could see a data center being a viable option for the property north of town that they had recently secured. He said that in an effort to diversify their tax base and reduce their dependence on real estate, he would like to offer everyone the opportunity to explore ideas that could be beneficial in this regard. He said that he believed their staff understood that they were not providing a blank check and that they were approaching this in a more measured and responsible manner, unlike some other counties.

Ms. Firehock said that a larger data center could come forward in the form of a special use permit application.

Ms. Firehock motioned that the Planning Commission recommend the approval of Zoning Text Amendment ZTA 202400002, with the addition to clause 5.16.51.65(e), subsections (a)(1) or (b)(1) may not be modified or waived by special exception. Mr. Carrazana seconded the motion, which passed unanimously (6-0). (Mr. Clayborne was absent.)

Adjournment

At 8:37 p.m., the Commission adjourned to March 11, 2025, at 4:00 p.m., Albemarle County Planning Commission meeting.



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:03/11/2025
Initials: CSS