Albemarle County Planning Commission
February 12, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, February 12, 2019, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Pam Riley; Daphne Spain; Bruce Dotson; Karen Firehock; Julian Bivins, Vice-Chair; and Luis Carrazana, UVA representative. Absent was Jennie More.

Other officials present were David Hannah, Natural Resource Manager; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Bart Svoboda, Chief of Zoning**;** Sharon Taylor, Clerk to the Planning Commission; Amelia McCulley, Director of Zoning/Zoning Administrator and Andy Herrick, Deputy County Attorney.

Call to Order and Establish Quorum

Mr. Keller called the regular meeting to order at 6:00 p.m. and established a quorum.

The meeting moved to the next item.

From the Public: Matters Not Listed for Public Hearing on the Agenda

Mr. Keller invited comment from the public on other matters not listed on the agenda. Hearing none, the meeting moved to the next agenda item.

Public Hearing Item.

CPA-2018-00006 Birdwood Mansion and Grounds

Mr. Andrew Gast-Bray said that Mr. Padalino had an emergency, so he would fill in and present the staff report. He reported that the Birdwood Area B study and Southern and Western Urban Neighborhoods Master Plan formed the basis for this necessary CPA. He noted that the applicants were the University of Virginia Foundation, represented by Fred Missel as well as Valerie Long.

Mr. Gast-Bray explained that Birdwood was owned by the UVA Foundation and was located in the development area in the Western Urban Neighborhood. He noted that it was also located within Area B and was therefore subject to the Planning and Coordination Council (PACC) joint planning agreement between UVA, the City of Charlottesville, and Albemarle County. He stated that the origins of the Comp Plan Amendment (?) go back to 2018 when the UVA Foundation completed the Birdwood Master Plan to guide the future development of their 544-acre property, and that plan became the basis for the Birdwood Area B Study -- which was subject to review by the PACC-TEC and PACC. He noted that PACC endorsed the study in September, and it

has been provided as Attachment F. He noted that the purpose of this CPA was to incorporate elements of the PACC-endorsed Area B Study into the Southern and Western Master Plan so that its land use proposals were consistent, serving as a basis for the changes to align with the future vision.

Mr. Gast-Bray presented what was currently in the Southern and Western Master Plan, adopted in 2015, which identifies Birdwood as an "other area of importance" and the front cover of the plan includes an image of the Birdwood Golf Course. He noted that the future land use plan designated Birdwood primarily for institutional future land uses; additionally, a designation of parks and green systems exists on the undeveloped southern portions of the site. He stated that under this CPA, those particular designations would remain unchanged, and the proposed amendments would involve the Other Areas of Importance subsection, which highlights the Birdwood property and contains more detailed language about future land uses.

Mr. Gast-Bray said the subsection contained language that resulted in some confusion among different users of the master plan document regarding what types of future uses were considered to be appropriate. He stated that specifically, "This large property may serve a more intensive function than it does presently. Possible considerations include but are not limited to a mixed-use area near the entrance and residential uses for other parts of the property not designated as a part of the parks and green systems. Before further development of the property occurs, an amendment to the future land use plan for the Southern and Western Neighborhoods will be needed.

Mr. Gast-Bray stated that the exact proposed CPA language was provided with a transmittal summary as attachments D and F, and in drafting these amendments, staff attempted to use the existing language as much as possible, with some minor edits to reduce the ambiguity that was there before. He said that they also drew upon the PACC-endorsed Area B Study when composing proposed amendments. He noted that the CPA language sought to do the following: provide an updated summary of existing uses, reorganize information and provide additional details, and introduce the concept of reusing the historic Birdwood Mansion for events and hospitality, with qualifying language about the necessity of historic preservation in context-sensitive design.

Mr. Gast-Bray provided a summary of project history, noting that the UVA Foundation had submitted a ZMA application for the proposed mansion and grounds -- but that would be a separate application and they were just concentrating on the Comp Plan Amendment and whether the bulk land use was consistent with the greater Comp Plan vision. He stated that there had been a Planning Commission work session, community meetings, and Board of Supervisors meetings on this before -- and no significant issues or concerns had been raised, with no requested modifications to the CPA language identified. He mentioned that community meeting attendees had some concerns about the intersection of US 250/Ivy Road, and Boars Head Drive, formerly known as Golf Course Drive, for traffic safety issues after the permanent opening of the connector road -- but those would be addressed in the ZMA where there was actual connection to the application at hand.

Mr. Gast-Bray explained that the actual changes before them for the Comp Plan Amendment were the new map, which labeled Birdwood Mansion and showed an arrow for future connectivity southward, and the draft language, which provided an updated summary of existing uses, reorganizes the information, and provides some additional details. He said that it also introduced the concept of reusing the historic Birdwood Mansion for events and hospitality, with the qualifying language about the necessity of historic preservation and context-sensitive design. He said that it also maintained a placeholder section for longer-range future uses and developments, including the addition of future uses appropriate for such a large property within a development area.

Mr. Keller opened the public hearing.

The applicant's representative, Valerie Long of Williams Mullen, addressed the Commission and noted that the County and not the Foundation was the applicant for the CPA. Ms. Long stated that they did not have a formal presentation, based on the feedback received at the Board and Commission level, but they would be happy to answer questions or respond to public comment.

Ms. Spain said that the Commission had heard a request for a CPA and a ZTA, as well as an SP, and asked if there was anything more anticipated to come forth in the immediate future.

Ms. Long noted that it was a ZMA rather than a ZTA, stating that they had a pending ZMA for a portion of this parcel that surrounded the Birdwood Mansion to change the designation to Highway Commercial, so it would match the Boar's Head Resort. She stated that the mansion renovations and proposals for hospitality uses were the last anticipated modification.

Mr. Bivins noted that as of July 2019, the University development offices will be on Old Ivy Road -- not Route 250 -- so the applicant may want to remove that.

Ms. Long responded that they would correct it between now and the public hearing.

Mr. Bivins invited public comment.

There being no speakers, Mr. Keller closed the public hearing and brought it back for discussion and action.

Mr. Dotson said that he understood that the forthcoming ZMA would not be compatible with the current version of the Comp Plan, and he asked staff to explain what the current version was regarding that and how this version was different.

Mr. Gast-Bray responded that the most specific aspect pertained to Birdwood Mansion and the use thereof, and that was something explicit as requiring this modification if the applicant came forward with a plan for the mansion.

Mr. Dotson asked if the current language was too vague to make a finding that HC was consistent with it, or if it was that it said something that would not allow the HC zoning.

Mr. Gast-Bray replied that since it did not specifically mention the Birdwood Mansion, it said that before future development of the property occurred, an amendment to the future land use plan for the Southern and Western neighborhoods would be needed. He said that in the presentation, it is that neighborhood master plan.

Mr. Dotson said that he saw the language in Attachment D that said, "In the future, may serve more intensive function than it does presently." He commented that he was comfortable with that, but it seemed odd that they were not really seeing what the future was but were being asked to enable that future.

Mr. Gast-Bray responded that if it was just the language land use only, it was not a site plan, so they were not looking at the details of the site plan but were looking at what uses were compatible with a vision that supported the gross direction of the neighborhood plan -- and the community engagement process suggested changing the piece missing from the vision plan there and clear enough that an application could say they were addressing that vision because it was not clearly conceived of at the time that the Southern and Western Neighborhood Plan was written originally.

Mr. Dotson said that the staff may have suggested HC in a conversation about what would be the best and most appropriate zoning.

Mr. Gast-Bray responded that it was complicated because some of the uniqueness of the property and what they were trying to do and protect was the same for the Birdwood Mansion as it was for the Boar's Head Resort itself. He said that the easiest and most straightforward, since they did not have a specific land use that was spot on was to use the same zoning designation that the Boar's Head Resort currently had.

Ms. Spain moved to recommend that the Board of Supervisors adopt the proposed CPA language and the existing land use and future land use "Other Areas of Importance" sections of the Southern and Western Neighborhoods Master Plan as contained in Attachment F.

Mr. Bivins seconded the motion.

Ms. Taylor called the roll, and the item passed 6:0.

Mr. Keller asked if they had a date when this would go to the Board of Supervisors.

Work Sessions.

CPA-2018-00007 Biodiversity Action Plan

David Hannah reported that he is Natural Resources Manager for Albemarle County and was before them to incorporate elements of biodiversity. He explained that they had held a work session on November 20, 2018 and he had gotten some good comments and feedback during that meeting, many of which were incorporated in the revised Comp Plan they were considering. He noted that there was also a small number of comments incorporated from a public meeting held on November 29. He stated that the goals for this meeting were fairly straightforward, and he would like to review the actions to date, the most recent edits and revisions to the draft of the Comp Plan and seek approval from the Board for the draft wording in the plan to move it forward to the Board of Supervisors.

Mr. Hannah reported that the Biodiversity Action Plan was completed in June 2018, and on June 19 he came before them and made an informational presentation about the plan. He stated that on July 5, the Board of Supervisors endorsed the plan; the Commission adopted a resolution of intent to amend the Comp Plan and approved an estimated timeline for action. He stated that on November 20, they held their first work session to discuss and review the proposed revisions; and there was a public meeting on November 29 to solicit and receive feedback from the public on the revised amendment.

Mr. Hannah stated that this meeting was their second work session to continue the work of editing, revising, and discussing proposed revisions. He said that in the last work session, they decided that the Biodiversity Action Plan and the materials associated with it would reside in the reference documents section of the Comp Plan -- but not a formal part of the Comp Plan itself -- and all the revisions to the plan come under Objective 4 of the Natural Resources chapter of the Comp Plan. He mentioned that he had provided a long list of the attachments and materials they were provided, and he asked if there were any questions, drawing attention to the last bullet that reflected proposed edits to the Comp Plan submitted by the Free Enterprise Forum the day after the November 29 public meeting. He said that he had not provided them to him initially, which was an oversight on his part, and he wanted to make sure the Commission had been able to review the comments.

Mr. Hannah stated that Attachment B and Attachment D would be the most important as they reviewed the edits to this version of the Comp Plan. He said that he would review Attachment D, which was a short summary of the significant comments from their November work session and the actions taken regarding those comments. Mr. Hannah said that Attachment B was the redlined version and reflected edits to the first draft last November and the changes made since then.

Mr. Hannah said that there had been a new strategy proposed by Ms. Firehock at the last meeting to include a strategy for urban diverse forests, and he had talked to other staff members and the Natural Heritage Committee about this -- as well as having discussions with Ms. Firehock and Mr. Gast-Bray -- and everyone was supportive of the strategy. He stated that he and other staff have questioned whether this was the right place in the Comp Plan to introduce the strategy and said that he had added wording in the revisions before them to emphasize the importance of the development area for biodiversity and specifically how

diverse urban forests can plan into that, as well as provide other environmental and societal benefits. He added that the intent was that the strategy would be included as the Comp Plan continued to be revised and updated, and the exact timing and location of that was to be determined.

Ms. Firehock commented that she didn't have anything to add, but they had a productive meeting and she concurred with everything they had just stated.

Mr. Hannah stated that regarding the other edits, Paragraph 3 under Objective 4, on Page 1 of Attachment B, with some wording changes based on comments from the last work session to more clearly explain the reason for conserving biodiversity. He said the third row addressed Strategy B and incorporated some informational comments from the public meeting and the Free Enterprise Forum about including acreage, figures, and private versus public holdings within the conservation focus areas. He stated that there was a row below that with an added sentence to clarify and explain about Piedmont Prairies, with the next to last row being a simple word changing about how County parks "should" play a critical role in preserving biodiversity, versus "can" play a role. He noted that the last row in Strategy 4 had public comments from the November 29 meeting, which added little wording to the strategy itself, "to evaluate opportunities and take actions," instead of just take actions, and added more information about acreage of the important sites -- what was privately held versus publicly held -- and the amount of land in conservation easement.

Mr. Hannah said that in Attachment D, the top row added a sentence to clarify the meaning of "locally native plants," which came up at their last work session. He said that with Strategy 4G, there were comments that language should be added to talk about project goals when considering this strategy and the use of locally native plants should only be encouraged when they perform equally or better than other species in meeting project goals. He stated that he had discussed this with other staff and the Natural Heritage Committee, and there was fairly strong support for the strategy as currently written -- with the idea that the wording that existed now, "encourage and promote," allowed for flexibility in enacting the strategy, and there wasn't a hard and fast requirement for the 80% threshold as recommended for locally native plants. He noted that this was Strategy 4E in the current Comp Plan.

Mr. Dotson stated that as written, it was accurate, and as descriptive statement the strategy was the important thing. He said that encouraging the use of locally native plants was fine, and the concern he was expressing last time was wanting to avoid a one-size-fits-all project approach. He said that while a numerical target was useful and they should probably have more numerical targets, at the same time they have to put them in the context of projects that had multiple goals. He noted that they were focusing on one kind of goal in this element, but there were other goals, and those may cause them to modify the 80% goal -- but as written it was accurate as describing what staff was striving to do.

Ms. Firehock commented that she was comfortable with the way staff had it now.

Mr. Hannah continued, stating that the next row represented Strategy 4K and noting that he had taken out some poor choices of words from the earlier version of the Comp Plan that referred to limited county data and information that has changed over time. He stated that the next to last row referred to the implementation of these strategies, which Mr. Keller and others had commented on during the work session. He said that Mr. Gast-Bray and other staff members were currently working on metrics and the reporting of Comp Plan achievements, including metrics that were tracking up implementing the strategies -- so there were no changes made to the plan as is to address the issue specifically.

Mr. Hannah stated that the last row had comments about engaging the ACE and ACEA Committee about what the county was doing, and he met with ACE in October 2018 and they were aware of the desire and need to update the criteria to better incorporate biodiversity. He noted that he also emailed county staff and those who worked with the committees to apprise them and give them links to all the information and attachments the Commission had, so they could inform, educate, and bring their committees up to speed.

Mr. Hannah referenced a list of topics that had arisen during the last work session, and he did not try to capture every comment but identified the significant topics. He stated that they were not addressed in the current Comp Plan but were better addressed through education and outreach in many cases and in some cases, other policy discussions or efforts outside of Objective 4 of the Comp Plan.

Ms. Firehock stated that the comments that stood out to her and deserve further consideration were related to why the James River wasn't called out as a key resource and rivers in general. She said that there were streams on the maps that were in the report, but it wasn't entirely clear that they were important connectors, and some of that could be achieved with simple graphics to show that they actually form linkages among large chunks of forest blocks and habitats.

She suggested adding some wording to try to call out the importance of rivers as connective features: "Rivers, wetlands and other water features provide important areas for survivability of native flora and fauna. They also form key connectors that aquatic species, birds, and other wildlife use to traverse the landscape. Thus, protection of riparian (streamside vegetative areas) and wetlands are critical to supporting a healthy and functioning ecosystem and good water quality."

Ms. Firehock said that the notion was to actually call out the importance of those riparian corridors, and while the county already had a stream protection ordinance, she did not know if there was language in the Comp Plan that was strong enough to call those out. She noted that she had not gone back and read the entire document in this context, but in looking at the maps, the James River went along the southern border of the county but was not really flagged as the critical ecosystem that it is.

Mr. Hannah responded that the Biodiversity Action Plan (BAP), Map 10 tried to show the connectivity, using streams and rivers within the county -- including the James -- but everything in the BAP did not find its way into the Comp Plan.

Ms. Firehock said the BAP was much more complete and was appended by reference, but she wanted to respond to the public comments that felt the James River was somewhat neglected. She added that the Rockfish River supported a lot of rare species but was not even noticeable in this language, and perhaps language needed to be added to the Comp Plan itself to call out rivers and streams more directly.

Mr. Hannah replied that he had no issue with that if it needed to be called out.

Ms. Firehock stated that another public comment related to restoration, and the person who wrote those comments said that restoration of habitats was not specifically called out. She proposed language, "Areas that have been heavily disturbed or impaired can often be restored to healthy ecological functioning." She said there were also many comments about private lands and private ownership, and she gleaned from staff's comments an implication that there was some fear that the county was going to tell people what to do with their land. She suggested that writing an innocuous sentence such as, "As most of the county's land is in private ownership, realization of many of these strategies necessitates strong community-based stewardship for the county's natural resources" as an acknowledgment of that.

Mr. Hannah responded that he had no ideological or conceptual problem with that at all, as restoration was a huge issue and they needed to do restoration on many kinds of ecosystems.

Ms. Firehock said that she was just trying to call to attention some comments from the public that needed to be emphasized.

Ms. Spain stated that she was going to raise those same issues but suggested that staff communicate with the individuals who sent the comments that they will be incorporated, possibly in the way Ms. Firehock suggested.

Mr. Hannah agreed to do so, asking Ms. Firehock to send her suggested language.

Ms. Spain asked what the difference was between the figures and the maps in Attachment B.

Mr. Hannah responded that it was simply terminology and phrasing, as the Comp Plan used "figures" to denote illustrations, and staff copied maps from the Biodiversity Action Plan until they got some approval and knew they should reside there. He said that it was just a matter of calling them by one name or the other, but the content was exactly the same.

Public comment was invited.

Mr. Dave Renning of Eagle Village and the Sierra Club executive committee addressed the Commission and stated that this was an excellent idea, and he saw a lot of invasive plants around that needed to be addressed. He stated that he would appreciate any approaches to straighten it out.

There being no further public comment, Mr. Keller closed the public hearing.

Mr. Dotson commented that he assumed that a major purpose of this was education to raise awareness of biodiversity and the measures that could be done by both public and private organizations. He said that he would like to suggest something that resonated beyond just those who were working on this, particularly Figure 4, an illustration of habitat size and biodiversity -- which showed deer and bear. He said that while there were some threats to biodiversity, there were some in the community who would say that wildlife was a threat, and to not address that missed a teachable moment. He stated that there were homeowners associations that were concerned with deer overpopulation and people who were trying to figure out an alternative to exotic landscaping. He suggested that in the Objective 4 narrative, before it got into Strategy 4A, he would like to see a paragraph that provided a brief education as to how that issue fit into the context of this plan.

Ms. Spain stated that when there were statements that the county should work with landowners to develop the strategies themselves, it would be helpful to give some examples, such as the xero- scaping or to reference materials regarding steps people could take to develop backyard wildlife habitats such as butterfly gardens.

Mr. Hannah agreed that education was an important component of how they wanted to implement the BAP, and others have wanted a focus on the action aspect versus the educational aspect, which they felt should be worked in with implementation. He stated that he wasn't sure how to include that without greatly expanding the document, adding that some of those issues were talked about in the BAP -- with deer singled out as an agent of harm to forest ecosystems.

Ms. Firehock commented that she had previously mocked that particular graphic, and one option would be to replace it with a better graphic or perhaps photographs of the different kinds of species that were dependent, such as the cerulean warbler, scarlet tanager, red spotted newt, and other "non-offensive" species. She added that it could be explained that they were forest interior dependent species, whereas a lawn supported very little.

Mr. Hannah stated that there were some other species depicted in Figure 4, which he had carried over from previous iterations. He said that a paragraph could be added, but it was a balancing act of length and education versus action.

Ms. Firehock commented that they were trying to avoid putting the entire BAP into the Comp Plan.

Mr. Hanna agreed, stating that perhaps they could just include more appealing and/or effective graphics.

Mr. Dotson stated that if length was the rationale for not including such a paragraph, there were probably some other paragraphs that could be swapped out.

Mr. Hannah said that he was trying to add biodiversity elements or strategies and not rewrite the chapter, but a lot of the material could come out -- and hopefully a rewrite would be done in the future.

Mr. Keller asked if the Commission had provided what he had hoped for.

Mr. Hannah responded that they had given more than what he had hoped for. He said that the changes seemed fairly straightforward, but cumulatively they would be a little significant and he was debating and seeking direction as to whether another work session would be needed -- or perhaps submitting a final draft for consideration.

Ms. Riley said they would like for him to take these comments and move onto a final draft.

Mr. Bivins stated that as staff was thinking through strategies, there were several comments made in this work session that highlighted the importance of making this successful to people who might not be comfortable with some of the terms included. He suggested that Mr. Hannah think about how metrics to measure success might be charted out or achieved in a way that was meaningful, and part of being able to say to people that this initiative had penetration into the county that was significant and meaningful. Mr. Bivins said that a question to the Board of Supervisors was whether not getting the FTE position would sabotage the entire effort, and if it stalled how the Commission could be advocates so that this was moved along.

Mr. Hannah said that the language was to retain a current staff position, so it would not be an additional hire.

Mr. Keller opened the public hearing and invited public comment.

Ms. Firehock commented that she had shown the BAP at the Resilient Virginia conference, and other communities were jealous that Albemarle had one.

There being no further public comment, Mr. Keller closed the public comment and asked staff for additional comments.

The meeting moved to the next agenda item.

ZTA-2017-00001 Homestay/Transient Lodging (Short Term Rentals)

Bart Svoboda and Amelia McCulley presented ZTA-2017-00001 Homestay/Transient Lodging (Short Term Rentals) in a PowerPoint presentation.

Mr. Keller asked counsel to provide an update on the senate bill that had gone through committee and was voted on by the senate.

Mr. Herrick reported that the bill was completely inapplicable to Albemarle County, explaining that SB1701 was directed specifically at Fairfax County and was introduced by a senator from that locality. He stated that it limited the ability of Fairfax County to regulate homestays in that county, noting that Fairfax County had adopted an ordinance in the summer of 2018 to limit homestays to no more than 60 days per year. He said that the General Assembly was currently considering a bill that essentially overrode the Fairfax County ordinance and stipulated that they may not have an ordinance that limited homestays to any less than 180 days per year. He said that it had passed the senate and was currently pending in the House of Delegates. Mr. Herrick stated that when it passed the senate, it was not unanimous (26-12), so it was apparently the subject of some discussion in Richmond. He added that there was no serious discussion about extending it beyond Fairfax County.

Mr. Svoboda stated that there were three items listed in the staff report: special exceptions criteria, emergency contact, and responsible agent. He said that they were grandfathering preexisting use exemptions and this revision attempted to explain to property owners what would happen if they already had existing establishments.

Mr. Svoboda reported that transient lodging referred to things that were 30 days or less, and the old terms were bed & breakfast, tourist lodging, and transit lodging. He stated that this pertained to stays in a single-family dwelling that were under that limit -- and stays over 30 consecutive days, number of months, or number of years were not subject to this regulation. He said that later in the meeting, they would also discuss the preexisting use exemption that (?) grandfathering would represent. He added that he had slides that ran through the area of consensus, and he wanted to know from the Commission if they wanted to run through all the criteria in the chart.

Mr. Keller said that it seemed they had understanding of the overall picture.

Ms. Firehock stated that she had some questions about the bullet points in the staff report and summary of changes. She asked who would do the annual safety inspections and if they had the capacity currently to do these.

Mr. Svoboda responded that they were currently talking with fire/rescue because it was truly a safety inspection -- not an additional category. He said that fire/rescue has indicated that they had the capacity, depending on how it was structured and how many of these they would need to review. He stated that tentatively from fire/rescue, if they worked it in on a monthly basis and did a mass and had 400 of these to do in one month, there would be some necessary resource management.

Ms. Firehock asked about the requirement for a responsible agent to be available during the

homestay rental and whether that was offsite.

Mr. Bivins and Mr. Keller noted that this was one of the three items they were going to discuss.

Mr. Svoboda offered to answer questions. He stated that in talking about framework and consensus items, there were residential parcels separated from rural area parcels -- less than five acres or more than five acres, respectively. He said there was not a rural area subdivision zoning regulation or zoning district, so there was an attempt at the staff level to look at subdivisions and see which ones were similar in that they were five acres or less and thus were more like residential.

Mr. Svoboda said that with special exceptions, there were the criteria of number of guest rooms, acreage, setbacks -- and they needed to determine how to address those with special exceptions. He stated that with guest rooms, they would want to talk about rural lots less than two acres or residential, with two rooms, but if the lot is zoned residentially and is the residue of a 10-acre lot, they needed to decide whether to be permissive to allow for a special exception because that particular lot operated more like a large, regularly zoned RA lot instead of a residential lot.

Ms. McCulley said that as they worked through the several work sessions that arrived at the consensus items for the framework being discussed, they realized there were going to be unique circumstances that would qualify for special exception -- which was only approved by the Board and staff was proposing would involve neighbor notice, etc. She emphasized that it wasn't always a one size fits all and there were situations where they could minimize the impact because of acreage that's larger than normal for that zoning district or some other circumstance, and this proposal built in something like a variance that allowed the Board to modify the regulation. She noted that staff had identified three areas of regulation that might be eligible for that type of special exception.

Mr. Svoboda stated that Attachment A had the summary of changes to reference the slides presented, which talked about parking and other provisions that could be waived or varied. He added that it was not necessarily a waiver that got rid of the requirement.

Ms. McCulley noted that the next slide had the criteria staff was suggesting could be attached to the review of the special exception.

Mr. Svoboda stated that the special exception criteria was similar to what they did with wineries, breweries and distilleries to try to stay with some continuity within regulation. He said they were general zoning terms or words, such as "no substantial detriment to abutting property owners; no harm to public health, safety or welfare; notice to abutting property owners shall be provided; and consideration of any objection of abutting owners considered when acting on the special exception. He said when they talked about guest rooms or setbacks or accessory structures, those were some of the criteria -- and there could be a special exception granted in cases where someone owned surrounding parcels. He added that for

example, accessory structures in RA would allow that use or a larger parcel in residential, and they could look at acreage as one consideration. He commented that it was relatively easy to stack that up against whether an exemption would be appropriate.

Ms. Spain said that at the work session there were 60 members of the public and she assumed that most were interested in homestays, but she was influenced by their concerns about over regulation. She said that this was an example in terms of how a person would know they could apply for a special exception -- and if they had to wait for the Board of Supervisors to make the decision, that would take them even longer to launch their business. She asked why they were making a distinction between under and over five acres, as there was an equity issue there and some people could afford larger parcels and some couldn't. She emphasized that it could simplify this if they were not concerned about acreage – and it would be difficult to enforce this around the acreage size. She suggested making the regulations as generous as possible to include all situations. She said that the two concerns that seemed to emerge from the comments were the five-acre distinction and the 45 days per year.

Mr. Svoboda responded that the acreage came from the Board's direction on trying to distinguish rural area subdivisions and neighborhoods as opposed to large lots, and this addressed the character of the area in terms of a subdivision-like atmosphere versus a single lot out in the country.

Ms. McCulley said that typically in terms of what they see in a subdivision served by public or private roads in the rural areas, they were looking at two to five acres -- which were the typical residential development lots, with residue acreages much larger at 21 acres or greater. She noted that they had requirements to minimize the amount of acreage devoted to residential use in the rural areas to maximize it for agricultural and forestal uses, so developed area acted more like a subdivision, with houses closer together and more potential impacts. She said that it was not usually the larger acreage rural area property they had complaints about but the rural areas within a subdivision that had smaller lots.

Mr. Svoboda stated that if there were a property that qualified for two but wanted five guestrooms, they could still start their business with two to get up and running and then could move into the next level.

Ms. Spain asked if people knew that, because one of the letters they received related a nightmare scenario that someone had to go through -- and it seemed with all of the discussions and the decisions here, the typical citizen trying to navigate this could encounter some difficulty.

Mr. Svoboda responded that the county has a form with application instructions and what to look for, and all those would be updated to reflect any changes.

Ms. McCulley stated that staff typically met individually with people who applied, and there weren't so many that they couldn't have a conversation about that. She said they made sure to

understand what a person was requesting and could inform them where they fell within the regulations and where they needed a special exception -- and if they needed that, it was one meeting on an abbreviated schedule with a lower price than a special use permit. She noted that provided staff could support it, it was a consent agenda item for the Board of Supervisors. She added that if any new regulations were adopted, they wanted to approve and coordinate the information for anybody who was applying for these into a one-stop shop way so they could integrate the information for applicants, so that fire/rescue, zoning, building, etc. requirements were centralized. She said that one-on-one discussions with people about what the county regulations were and the process was the easiest way to communicate with people.

Ms. Riley commented that this was a helpful explanation and she knew they would be covering grandfathering later on, but she wanted to know whether a person who had three guestrooms but learned of the limit for two would be grandfathered or would have to go through the special exception criteria.

Mr. Svoboda responded that staff had been looking at this and working with the County Attorney's Office on preexisting use designation wherein the approvals were bound.

Ms. McCulley clarified that staff was trying to clarify the special exception criteria, with grandfathering being the third item, but they could circle back.

Ms. Riley said that another case example would be if an owner was in a residential area and wanted to rent two rooms but couldn't do onsite parking. She asked if the criteria of no substantial detriment to the abutting property owners prevented them from asking for a special exception or if they could go forward with it.

Mr. Svoboda responded that parking had been an issue that at best was an uphill climb in terms of getting that exception, and part of regulating the use was that it was for offsite, not on-street -- which was why they were trying to keep the impact on the parcel. He added that this was accessory to a single-family dwelling, not a primary, so it was supposed to blend in and do the same thing that the single-family house did.

Ms. McCulley stated that with work to date, three things were identified for special exception and it was not intended to be open ended. She said there was a lot of concern about keeping parking onsite, but if the Commission's input was that they wanted to add offsite parking as the fourth criteria, they would bring that to the Board -- but that was not anticipated based on the work done thus far.

Mr. Keller commented that the first criterion was quite important and there had been a great deal of discussion among all parties about the issue of being detrimental to abutting properties, which was where the smaller acreage issue emerged. He stated that he has had a hypothetical presented to him that he wanted to ask about, explaining that in a 21-acre residual developed parcel as part of a multi-parcel subdivision of a larger rural property. He said they were starting to see artists' sketches of houses with a "grandmother's suite" attached with a breezeway, and

he asked if that was one unit that had five bedrooms by right in the house or if it was five bedrooms with an ancillary structure that could have five bedrooms also.

Mr. Svoboda responded that it was a development rights question in part, and if it only had one development right, it would become another dwelling if it had a kitchen. He said that within county regulations, those suites had to be within the main dwelling, not attached -- even with a breezeway. He noted that the county would not have issued the permit anyway.

Ms. McCulley asked if he was asking in the case of a single-family dwelling that had a legal accessory apartment, and if it didn't have a kitchen it wasn't a dwelling and wouldn't qualify for its own set of guest rooms. She said that it had to be a lawful single-family dwelling to qualify for a homestay use with guestrooms.

Mr. Keller asked if any ancillary structure with development rights that met code could provide a secondary structure.

Mr. Svoboda clarified that it would just be one ancillary structure. He said if there was a single-family house with 10 rooms in it and he rented more than five rooms under the building code, it was not a house anymore but a hotel -- so the cap of five was a number that coincided with regulation within the uniform statewide building code, and that changed its designation.

Ms. Spain suggested adding that to the document.

Ms. McCulley stated that by definition, having more than five guest rooms tipped it over into a hotel or inn, which is a completely different use category. She said that on a large rural area parcel, if you legally have two dwellings, you can have two separate homestays and they can have five guest rooms -- with each qualifying to be an accessory structure. Ms. McCulley stated that if someone has a barn or chicken coop or outbuilding that lends itself to transient lodging, they could use those accessory structures for their guest rooms. She confirmed that each room had to be legally there, with either the acreage there or the development rights. She said that if it was over 21 acres, you did not need a development right as the acreage itself withstood a dwelling; and if you had 42 acres, you would not need a development right because each 21-acre area would qualify for a home. She noted that for every land area that was under 21 acres, each dwelling needed a development right.

Mr. Keller asked if a residual piece had to be a full 21 acres.

Ms. McCulley said it would to not need a development right if it was 21 acres, but anything under that needed a development right for each dwelling or lot.

Mr. Bivins stated that it seemed that some of the people at the roundtable were not aware of the other options available to them, and it would be helpful to use some of the statements to answer the FAQs. He said that his question on the special exception criteria was why the county cared whether it was inside the house or an accessory unit, or whether it was an extra room in

a house or a unit over a garage.

Mr. Svoboda responded that they drew the line at less than five acres, but if they went down to the 10,000 square foot lot and put two sheds in the backyard, that had a different impact at a six-foot setback than it would in the rural areas -- although the side setback was actually the same for that accessory structure in either location, so the setback would be the same but there was more land space in between.

Mr. Bivins said that he would pose the question regarding the rural area with five acres or less and being able to have the two bedrooms wherever the particular person had room on their property.

Mr. Svoboda stated that in the chart in Attachment A, with the 125-foot setback from abutting lines, the 125 actually applied to the less than five acres -- which was a big difference.

Ms. McCulley said there had been a lot of discussion about the more internal to a property you can have these uses, the less likely they were to have impact on neighbors. She stated that if the Commission thought the location of the guestrooms was accessory and should be eligible for a special exception, it could be added to the list.

Mr. Svoboda stated that one of the reasons they had started at that point was because accessory apartments were only allowable within -- and an apartment over a garage was not permitted in a detached structure. He added that for continuity of regulation, if they started with what they had and used what already existed, with apartments being long-term or homestay rentals, that would qualify as something within.

Ms. Firehock commented that she was confused about what accessory apartments were.

Mr. Bivins stated that they did know that in some of the rural areas of less than five acres, there were carriage houses that were fitted out and sold as a place where a guest or family member could stay. He asked if that was permissible or if the individual would have to get a special exception to use it as a homestay.

Mr. Svoboda responded that under the Neighborhood Model or some of the zoning approvals they had, it was specifically mentioned that a certain number or some of these could actually be used for that. He stated that the carriage houses were originally designed to be affordable housing for those developments -- not necessarily tourist lodging, although some of them did have an internal mix. He said that with the Neighborhood Model, they could request through the PC and Board what kind of rules applied under their codes of development.

Ms. McCulley suggested that they talk about accessory *apartments* versus accessory *structures*, stating that accessory *apartments* were those within a structure of a single-family home. She explained that it was an apartment and a dwelling but is subordinate in side and was part of the structure within, and it must be in conditioned space attached to that dwelling. She noted that

an accessory *structure* can have any use that was not a primary use -- a garage, a shed, a barn, an equipment shed, a run-in shed, a pool house, etc. She emphasized that it was not a primary use and was typically given lesser setbacks and was non-residential, and the guest homes people were building as a detached structure in rural areas zoning only were legal dwellings under the terms of the ordinance by meeting the definition of bedroom, bathroom, kitchen -- or it was lacking permanent cooking facilities and thus was not a dwelling but was a guest room with a full bath, in a separate building.

Mr. Bivins asked if the latter example would require a special exception for a family to be able to use it as a homestay.

Ms. McCulley responded that it would not in the rural areas, and under the proposed regulations in the rural areas, accessory structures may be used for five acres or greater. She stated that as currently drafted, it wouldn't be allowed for residential or smaller RA lots.

Mr. Keller said that based on what they'd just heard, he wondered if what was just described would then potentially qualify for five additional rooms outside the house -- or if it counted for that total of five.

Ms. McCulley stated that the structure would only count for a bed and breakfast use and associated guest rooms if it was a legal dwelling unit. She said that if the property had enough development rights that it had more than one legal dwelling unit -- with up to two homestay uses and up to 10 guestrooms, five for each with no more than five in any one structure -- but in the larger acreage, they could be in accessory structures.

Mr. Svoboda stated that a full dwelling with eating, sleeping, and kitchen qualified as a second homestay use versus one without the kitchen as an accessory structure -- so that qualified as part of the five because it was attached to the original dwelling.

Ms. McCulley clarified that if it wasn't a dwelling, it didn't get an additional five guestrooms and a new bed and breakfast use.

Mr. Keller said that based on the public input they had, this was something that needed to be clearly defined and the Supervisors needed to understand that.

Mr. Bivins commented that he would ask the Commission to suggest as another exception that especially in rural areas under five acres, the two rooms could operate whether they were in the main house or a structure on the property.

Mr. Svoboda asked if the language in the third criterion needed to be clarified.

Ms. McCulley responded that staff tried to capture what they were suggesting.

Mr. Bivins said that a directive that you can just have two rooms on the property -- regardless of where they were located on the property -- would go to a number of the issues that people brought up at the roundtable.

Ms. Firehock asked for confirmation that an accessory structure could literally be a room with a door, as there were some like that now on Airbnb.

Mr. Svoboda confirmed this but said that as habitable space, it would still need to meet the uniform statewide building code. He stated that to just plop a shed down in the yard wouldn't count, and the habitable space would need to be identified in the permit process and be built as if it was attached to the house.

Mr. Bivins asked if the permission for a homestay ran with the property or went with the owner.

Ms. McCulley responded that staff would be visiting that point momentarily.

Mr. Dotson stated that the wording for item three in the staff report had lots less than five acres in size, and he did not see that in the staff report. He added that he was comfortable with item one, special exceptions.

Mr. Keller agreed but said that something that was raised every time was that the city and county did not have the same standards, and it was something that Supervisors and staff needed to address. He stated that the second issue related to the youth hostel, which limited the number of individuals that may be in a room if there were a certain number of bunk beds. He stated that in the rural area, if they were talking about converting a barn into two large rooms and the drain field was approved for a large number, there could be many people there. He said that more realistically, in the development areas or on small lots, one could find a number of individuals staying there as opposed to the city, and a number of other jurisdictions that were concerned with the number of individuals.

Mr. Keller encouraged them to keep that, as it may be an area for a special exception if they were to go from rooms to numbers of individuals, so it was another "pin" to keep. He recounted a story of staying in a hostel that was divided by gender, and in the men's area there were 17 men in the same space, and there were more than a dozen in the women's area. He said that this was not the intent of what they wanted in numbers, but if it were not addressed somehow and that meant over a certain number, perhaps a special exception would be considered on a case-by-case basis.

Mr. Svoboda said that when they talked about the number of bedrooms in a house, the septic system was sized by the health department based on the number of bedrooms -- not the number of bathrooms or its occupancy limit, and it equated to roughly two people per room. He stated that in discussing with the Board the number of people versus number of bedrooms, the building code regulates that as number of bedrooms, and they were trying to stay

consistent with what other regulating agencies did with looking at the occupancy of a single-family house in design of their drain field.

Mr. Svoboda said that when the health department, building official, and zoning all reviewed the permit for the single-family house, it was about the number of bedrooms and whether or not the system was sized at the gallon rate to match the number of bedrooms -- and the number of people is related to the number of bedrooms, not the bathrooms or size of the structure. He emphasized that this was for accessory use to a single-family residential dwelling, but there are occasions where there has been overcrowding and more people than allowed. He added that when the county reviewed these things, there was a permit process and the design that the architects use, and the bedrooms were very prevalent.

Mr. Keller stated that they all know that 95% of these would be great and great for the community, but the outliers were the problems and some of the comments from the public had pertained to the outliers. He said that in the developed area where there was public water and sewer, if there was a bedroom they were able to put five bunk beds in and have 10 people in a room, there could be significant impact on the neighborhood. Mr. Keller asked if the neighbors in the county would have any recourse.

Ms. McCulley responded that this was a good point and staff had tried to address it by making sure that if impacts such as noise were infractions on a recurring basis, the approval could be revoked. She stated that they had substantially beefed up the "responsible party" aspect because they wanted to put the responsibility in the hands of the operator and keep the county out of it and let it be worked out with complaints going directly to the responsible party.

Mr. Svoboda explained that the second criterion was emergency contact and responsible party and having the individual who is responsible for the property available. He said that in their research, they found in their research that this was one of the consistent things within the localities that were struggling with this. He said that Breckenridge, Colorado had shared feedback about how well that worked, and in some cases not everyone would be following rules -- but you would not want the landlord called, so the pressure puts the tenant and the owner on the hot seat.

Mr. Svoboda stated that they had timeframe or mileage limits, possibly thirty (30) miles, on expectations of response, and there may be questions about how they enforce that -- but those were guidelines on being available.

Ms. McCulley said that was a consistent mileage and that was relevant to when the entire house was being rented, because otherwise the family or operator was there and hadn't left the whole house for the guests.

Ms. Firehock asked what was meant by "respond," as she was trying to understand what they would deem as a response.

Ms. McCulley explained that if a neighbor complained and called the responsible party, if they didn't directly contact them then the party was expected to call the complainant back within 60 minutes -- and they're also expected to take appropriate action, which is the implied statement behind that. She added that they didn't just take the phone call but were expected to take the necessary measures. She said that some of that could be pulled out as an attachment to the application, and that wouldn't necessarily be written into the ordinance language itself but is what applicants are signing as the responsible party.

Ms. Firehock asked if it was acceptable for people to assign a management company to act as the responsible party.

Ms. McCulley responded that they would revisit whole house rental, and it needed to be someone's home as a primary use. She added that if they were renting it out and were somewhere else, there needed to be someone else who was a responsible party that could make that response time.

Mr. Dotson asked if the neighbor notification only applied when it was whole house or under any homestay circumstances.

Ms. McCulley replied that "neighbor notification" was the expectations of responsible party, and that would be for any homestay rental operation. She said that the location within 30 miles more commonly came up and was applied when somebody rented their entire home and vacated it because they went away or had a place to stay in town, etc. Ms. McCulley noted that this made sure they were close enough to deal with it or assign someone from their management company -- but someone must be a responsible party.

Mr. Dotson said that it would be true for any homestay, not just whole house. He stated that the language says the owner shall retain a copy and provide it to the zoning administrator on an annual basis and asked if they had to renotify every year.

Mr. Svoboda responded that a lot of the localities they've researched do it that way, and if they were doing it annually or biannually, he wouldn't see doing the inspections in less than a year but would make sure they were current.

Mr. Dotson stated that it would seem easiest to enforce if there was a date when everyone had to do that, such as a date in January -- except in the case of a new approval that fell in a different month. He asked who would do the notification and whether it would be the county or the owner of the property who was seeking the permission.

Mr. Svoboda replied that it would be similar to the farm wineries and breweries wherein the owner notified the county as part of the list of notification to verify, where they are essentially certifying that they have done it.

Mr. Bivins commented that there had been a number of individuals who had inherited farms,

and he asked if this responded to individuals who had a property they used occasionally.

Mr. Svoboda responded that there had to be a resident on that parcel -- even an owner or a farm manager.

Ms. McCulley emphasized that this got to the heart of the vision for this, as it was an accessory use to a primary permanent ongoing residential use of the property. She stated that someone had to live there as their primary permanent residence.

Mr. Bivins asked what they were suggesting as an option or path forward for those individuals.

Ms. McCulley responded that they could have someone live there as a property manager, so they would need to have someone living there as a permanent resident.

Mr. Bivins suggested that they put that in the FAQ, noting that he had a property that he wanted to use as a homestay in the future.

Mr. Dotson asked if that property could be in the central part of the county with his property manager living in Scottsville, which was within 30 miles during the homestay.

Mr. Svoboda replied that the owner or operator had to reside on the parcel, which was where they were starting with this regulation. He said that was an area of consensus with the Board when they went through all of the provisions with the Board. He said that in this point in time, the owner/operator/manager must reside on the parcel for the homestay.

Ms. Riley noted that the exception was whole house rentals for 45 days or less.

Mr. Svoboda confirmed this.

Mr. Keller stated that this was really built on the fact that these were residences, and this is a variation on standard residential use, which was what they were asking the public who lived close to these to buy into so that it wouldn't change the residential character of where they were.

Ms. McCulley said it wasn't a freestanding commercial use but was accessory to the residential use that was the primary use of the property.

Ms. Firehock stated that she has always objected to the requirement that the person has to be on the property, but she was not in the majority and would yield. She said that she understood about not introducing a use that might be noxious to the neighbors, but a lot of people would be in a situation where it would be difficult to have someone to reside on the property all the time -- and she was more sympathetic to the plight of those particular rural landowners. She stated that she felt it was an overreach by the county, and she did not feel that the case had been successfully made to her that this was absolutely necessary. She added that while the

intent was noble, she did not think it was necessary.

Mr. Keller asked her to confirm that she was referring to rural area properties over five acres.

Ms. Firehock replied that this was what she meant.

Mr. Svoboda stated that they would next cover grandfathering or the "pre-existing use exemption."

Ms. Spain suggested a change in the wording, as she found it a bit confusing. She asked if they said "any homestay use established and property licensed before the adoption of the ordinance would be exempt from new regulations would be subject to its existing approval," it meant they were already approved.

Ms. Firehock said it was for previously granted approvals.

Ms. Spain stated that she didn't think it was clear in this sentence.

Mr. Svoboda said that the intent was to allow what they were already approved for as opposed to making them exempt to any regulations, so there may be a clearer way to say that.

Ms. McCulley cited an example of an approved homestay, now called bed and breakfast, rural areas under five acres, two guest rooms in a small house. She said if the regulations were adopted as proposed, that would reduce the number from five to two guest rooms -- and it was a recognition that what you'd received approval for should be allowed to continue unimpaired, but you cannot expand the extent of nonconformity with new regulations.

Mr. Dotson asked what would happen if someone was already approved for four.

Mr. Svoboda responded that they would get their four and whatever they had secured would hold as an existing approval.

Ms. Firehock asked if they could say it was subject to "its previous approval," because the phrasing "its existing approval" made it confusing.

Mr. Bivins asked if this was where they spoke about whether the permission went with the applicant or stayed with the structure.

Mr. Svoboda responded that it went with the applicant.

Ms. McCulley said it depended on how they wrote it, and they had several options: they could explicitly grandfather them and make them legally nonconforming -- and it would relate to that particular property and the operation as they've discussed it, consistent with the previous approval. She stated that typically it was not applicant based but was based on the property,

and she asked Mr. Herrick to weigh in.

Mr. Herrick clarified that typically, any restrictions or special use permits ran with the land -- but at the same time, the short-term rental registry required annual registry, and to the extent that a property owner failed to register annually, that permission would lapse. He said that there were elements of both to it and if someone failed to register annually, whatever approvals they may have had would lapse. He confirmed that it would run with the property as long as the paperwork was filed, but this was still in the conceptual phase and would be subject to whatever policy decisions the Commission and Board would make.

Ms. Firehock commented that if part of the whole point of the exercise is to avoid speculation and people going and buying properties for the sole purpose of turning them into rentals, it should be more like a business license -- which ran with that particular individual so that they did not have the problem raised by the SELC that people created these and jacked the rates up because they had these approvals.

Mr. Bivins stated that if he as an owner had to get a license in his name, he assumed he would have to pay some business taxes on this -- and he asked if an LLC could come forward and request this type of use. He said that the person who was coming forward and asking to run this out of their home was the same as a person who was an accountant out of their home.

Mr. Svoboda stated that this was the kind of feedback they were looking for on the preexisting exemptions, and they had talked at the staff level about treating these as home occupations -- which do not rise to the special use permit level, as they are legislative actions and are different things than the home occupation SPs.

Mr. Keller said that if they were going to take that line of reasoning and assume this was still in process, they would not grandfather a business permit -- so he wondered why they were grandfathering people who got ahead of the rules that they were trying to develop. He said that the rationale for the grandfathering was the rationale that was much more like a special use permit, which was property based, as opposed to the rules that would run with someone having a home business, in which they wouldn't grant something for what they have done. He commented that if someone had a home business and they didn't have rules in place but then rules were brought in, he wasn't sure they would be grandfathered in their home business.

Ms. McCulley said that historically when they have had regulations, even on home business, and have changed them to become more restrictive, they have created legal nonconformities and have not generally subjected those previous approvals to the new regulations. She stated that there was some recognition that they properly went through the process to receive the necessary approvals and made some investment, and there was some extent of reliance on the county's approval that they were trying to honor in some way and allow them to continue that.

Ms. Riley commented that the home-based homestay business was location based and was centered within a property.

Ms. McCulley stated that the third question had several possible approaches, including that they could make it a legal nonconformity, as they did with their zoning ordinance for home occupations because generally accessory uses did not rise to the level of qualifying legally as a nonconforming use -- but home occupations had been removed and considered as rising to a legal nonconformity. She said that another approach would be to grandfather it, which made it a lot less complicated than doing the analysis for a nonconforming use, so if she had a previous approval for a bed and breakfast and submitted a building permit to make a change to her house that impacted rented rooms, it seemed unnecessary to have that level of scrutiny on something that was not intensifying the use. She noted that staff would suggest that the Commission consider exempting it from the regulations as to the prior approval.

Ms. Spain said if the use of the property lapsed as homestay for a year or two and no rooms were rented out, she wondered if that took away the homestay status because with some accessory apartments, if it was grandfathered in and not occupied for a while, you were not supposed to be able to re-rent it and she wondered if this was a similar issue.

Mr. Svoboda explained that if this was on a parcel where the use was allowed by right, that was a conforming use -- and the next person that came in had the same opportunity to apply for that by-right use and be able to get that, which was different from the one that was preexisting and whether they could keep the designation alive.

Ms. Spain clarified that she was talking about someone who stayed in the house and hit the lottery one year and decided they didn't need to rent the rooms for a few years, and she was asking whether they would have to apply for a new homestay permit if they revived their rentals or if the old one would apply to them.

Ms. McCulley explained that if it was written as a grandfathering exemption, they would not have a time limit on their right to their use. She said that nonconforming uses had timelines and if the preexisting use did not conform to the existing regulations and ceases for more than two years, there needed to be an intent to abandon it per existing case law. She emphasized that typically, nonconforming uses had timelines -- but grandfathering uses did not.

Mr. Carrazana asked if it was not continued on the actual use if there was a permit or a license to operate as a homestay, if it were not contingent on the actual use -- as you could get a license and then never rent out the rooms.

Mr. Keller opened the item for public comment.

Mr. Travis Pietila from the Southern Environmental Law Center addressed the Commission and stated that the SELC appreciated the county taking the additional time to review the various issues involved before homestays moved forward. Mr. Pietila stated that they understood homeowners wanting to be able to rent out their homes to help defray housing costs, and expanding the current homestay allowances could help with that. He said that these interests

must be carefully balanced with other key goals of the Comp Plan as well as those of neighbors that might be affected. He said that the SELC's primary concern remained the potential effects of these changes on the centerpiece of the Comp Plan -- the growth management policy that directed new residential construction to the development area to help preserve the county's rural and natural resources.

Mr. Pietila stated that the ordinance had to ensure that they were not making homestays so lucrative they started encouraging new construction of houses in the rural area that would not otherwise be built. He added that the SELC felt the county should avoid any changes that created a rush to convert existing homes to serve these uses too. He said that the current proposal included some key protections to guard against these unintended consequences in the rural area. He said that it placed a reasonable limit on the number of days whole house rentals could occur without an owner or manager present, and the SELC supported the limit of 45 days per year and 7 days per month -- which would still enable a house to be rented out nearly every other weekend of the year, including every major travel weekend. He noted that going beyond that created a risk that commercial motivations would overtake the residential nature of many of the properties.

Mr. Pietila said that it was also important to keep the existing requirement that the property must be used as a primary residence for at least half the year, and if they allowed whole house rentals without the condition in place, it would be much easier for people living out of town or out of state to build and rent vacation homes in the county, and it would make it easier for one person or management company to convert several existing rural homes into vacation rentals. He stated that when it came to making changes to uses in the rural area, the Comp Plan advised caution, stating that any changes should take place slowly to allow time to evaluate potential impacts. He said that with so many unknowns about how expanding the homestay allowances would play out in the county, the SELC felt that it was exactly the kind of issue that warranted that thoughtful and careful approach.

There being no further public comments, Mr. Keller asked if the Commission had comments for staff.

Mr. Dotson said that one of the comments from a feedback questionnaire said that a homeowners association should rule -- not the county regulations -- and he talked with that person to understand his concern. He stated that he explained to this constituent that the county rules and homeowner rules coexisted, and the more restrictive essentially dominated. Mr. Dotson said that the constituent came back and said that homeowners association rules prohibited this use and if the county issued a permit, they would be working at cross purposes, and if there was some way to prevent the county from doing that or to at least have a list of homeowners associations and notify them that an application had been filed within their jurisdiction.

Ms. McCulley responded that staff had seen a very bold statement that the operator must sign: "I acknowledge that the application property may be located within an area that is subject to

additional restrictions pursuant to covenants, bylaws, regulations, or other limitations imposed by property owners act, Virginia Real Estate Cooperative Act. I acknowledge that issuance of this permit does not aggregate, nullify, override, or otherwise have any other effect on the applicability of such regulations, declarations, or limitations applicable to this property. Compliance with any such regulations, declarations, or limitations is the responsibility of the operator owner."

Ms. McCulley stated that just having that boldly in there to take responsibility was a better reminder than many of the applications currently had.

Mr. Dotson suggested that another option would be to require the person to post the property the way they do zoning notices, and someone driving by could call and find out what was going on.

Ms. McCulley said it just occurred to her that they could be required to provide notice to the homeowners association.

Ms. Firehock stated that this would make sense, and there were a few cases where the associations were defunct.

Mr. Herrick said it could be a requirement or something put in the ordinance, but enforcing it or implementing it might be more of a challenge.

Mr. Svoboda stated that in terms of next steps, there would be a public hearing for the Commission by April 23, then it would go onto the Board. He added that they would continue to seek public input.

Ms. McCulley said that they had a fairly extensive mailing list from people who provided contact information, so they informed them of next steps and provided a link to this Commission meeting and agenda items and staff report items for that. She said that ideally, they would like to have the draft ordinance done far enough in advance that they would get it further in advance than the public hearing.

Mr. Svoboda noted that out of the roundtable, there were multiple finance questions that came up, and the Finance Department had worked on a brochure of information but it still needed some wordsmithing -- but there were no changes in the zoning regulation that talked about finance, so the brochure answered those questions.

Mr. Keller asked if he knew if county personnel had communicated with city personnel because their finance person was present at a previous meeting and had a lot of thoughts on this -- so he would hope they could learn from that on-the-ground experience.

Ms. McCulley said that she couldn't speak for Rocia Lamb, but she thanked her for her work with the county and follow-up to try to answer the questions that arose at that roundtable, and she was also present at this meeting.

Mr. Keller suggested that the Commission get copies of that prior to the public hearing.

Staff agreed to provide them.

Committee Reports

Mr. Keller invited committee reports.

Ms. Riley reported that the Village of Rivanna CAC had held their bimonthly meeting the previous night in conjunction with the Glenmore Community Association at the Eastern Rivanna Fire Station. She said that it was really well attended and the focus was primarily on Route 250 traffic concerns and potential road improvements. She said that Kevin McDermott and Nathan Umberger (VDOT) described to the audience traffic studies that had been conducted over the years, potential project improvements, and funding challenges for the improvements. Ms. Riley stated that they also provided an overview of the Comp Plan, the Rivanna Village Master Plan, and the language in the master plan from 2010 that was amended in 2015 that stated it was essential that all of the US 250 improvements be constructed before new development occurred in the village.

Hearing none, the meeting moved to the next item.

Review of Board of Supervisors Meeting – February 6, 2019.

Mr. Gast-Bray reviewed the actions taken by the Board of Supervisors on February 6, 2019, stating that the Community Development Work Program comments were presented to the Board, which had similar reactions to the Commission, based on those elements -- mostly concerns and directions forward but nothing dramatically different than what they saw or recommended. He said that the timing of when master plans were redone was a big topic, and the question of development review was presented in timelines and was of interest, but there was no dramatic directional lead.

He stated that the other item of note was ZTA uses on commercially zoned properties not served by public water or sewer, and this was the reduced version just trying to bring into compliance the country store consistent issues.

Mr. Dotson asked if there would be a final version of the work program for which they could receive copies.

Mr. Gast-Bray responded that he would try to bring it back.

Old Business.

Mr. Keller invited old business.

He stated that this was Sharon Taylor's last meeting and there would be an opportunity for them to share their appreciation for her on February 27, and Ms. Riley would serve as a point person for that event.

There being no other old business, the meeting moved to the next item.

New Business.

Mr. Keller invited new business.

a. Discussion on how we transcribe our meetings

Mr. Gast-Bray stated that with Sharon Taylor's departure, there would be a revisiting of how they did the Planning Commission minutes and the burden of doing verbatim minutes. He said that he distributed examples ranging from continuing to do verbatim minutes to detailed summary or near verbatim minutes to sketch summary (bulleted) minutes, and the action memo as required per Virginia law. He said there was also the nuance of having the recorded minutes in terms of a record, so they could do the action memo and then as needed do verbatim transcripts for essential portions.

Mr. Gast-Bray noted that there had been some feedback for Commissioners to check with their Supervisors to see what they said, and the other part was that it was unlikely they would have a replacement for Ms. Taylor by the next meeting. He stated that they were trying to coalesce and make sure there were only two meetings, because it would be challenging for existing staff to handle the recording because Mondays and Tuesdays were busy days. He said that they tried to stagger it and hold only two Commission meetings per month.

Mr. Dotson stated that it took a great deal of work on many people's parts to accomplish them, and his personal view was that they should not do full verbatim -- and the easiest thing to do would be to follow suit with the Board, but they could also create their own template by which a staff report or presentation was not repeated in the minutes. He said that this might only save one or two pages, but they could also deliberate and the chair or vice-chair could play the role of notetaker and itemize the points agreed to, which would in turn serve as a summary discussion.

Ms. Firehock said that she conferred with her Supervisor, Liz Palmer, who suggested absolutely detailed verbatim. She said that she liked Mr. Dotson's suggestion of not repeating the staff report, but there were more nuances added by staff during the presentation. She said that the minutes were already a modified or hybrid form of verbatim, and she met with Dr. Palmer regularly to discuss why she voted a certain way on the Commission, and it helped to have

detail in the minutes. Ms. Firehock stated that one compromise would be if there were podcasts available, as she would listen to those and just rely on a summary document.

Mr. Gast-Bray stated that when Ms. Taylor wasn't doing the minutes because they were backlogged, a transcription service did the near verbatim minutes, as they did for the Board.

Mr. Keller asked the press to weigh in on their thoughts regarding the minutes.

Allison Wrabel of the Daily Progress addressed the Commission and said she appreciated the detailed minutes because it was easier to read the text than sit and watch videos. She said that sometimes she used the recordings for confirmation of what was in the notes, but if she wanted to find an item from a previous year, etc., it was easier to read through it and search for keywords. Ms. Wrabel stated that recently there was a four-hour meeting that resulted in a one page set of minutes, and sometimes it was helpful to have the full text -- especially with longer discussions.

Ms. Emily Hanes of Charlottesville Tomorrow stated that she did not use the minutes, but they sounded like a great tool. She clarified that she mostly used her own notes and the video.

Mr. Gast-Bray commented that it takes a lot of time to produce verbatim minutes, and that was something to keep in mind in terms of the relationship between detail and turnaround time.

Ms. Firehock stated that she wrote a lot of minutes for other committees, and there were ways to shorten them by summarizing lengthy dialogue that was just for clarification -- but that took a judgment call by the person transcribing the minutes.

Mr. Bivins stated that he had not had an opportunity to talk to his Supervisor, but he would advise moving away from the verbatim minutes. He suggested embedding into the minutes a timestamp as to where it appeared in the audio, because if they looked at the FOIA requirements and the advisory council, his sense was that having noticed on his short tenure that information often got out of synch with what they said and then got pushed back to them. He said that he would prefer to say, "Here are the minutes," and he did not want to get into a debate over editing comments -- and having summary minutes with audio allowed everyone to have the fullest of information and a public written document that can move through the various places it needed to move through.

Mr. Keller said that he did not have one Supervisor to speak to, but he asked Ms. Taylor to provide her input.

Ms. Taylor stated that they have had this conversation numerous times since she'd been there and in the past it had come down to what the Board of Supervisors had wanted. She said that some of the minutes could be shortened and they got out of synch because the scheduling was done hastily and did not have time to get minutes done and got things out of synch -- then there were big, pressing issues that required her to drop everything. She stated that the joint

meetings were challenging because it was unclear as to which minutes would be used, because it put people in a confusing spot because it depended on who called the meeting. She said that having some standards for consistent minutes would be very helpful, and the biggest challenge was the turnaround time so it made it in time for the Board.

Ms. Taylor stated that Margaret Maliszewski was a great writer, and before she came they could never agree on the conditions of approval and how they would be written into the action memo, and all the conditions were put into the PowerPoint on the screen, and when the ARB did their motions, they had already been wordsmithed and typed up -- which took away a whole lot of time. Ms. Taylor said that Ms. Maliszewski's staff report for ARB included staff's recommendations for primary items for discussion. She said that in the first part of that, she put the description and included Ms. Maliszewski's primary concerns, which was the same thing she did with staff and applicant concerns for ARB items. She noted that sometimes she said she didn't list concerns but just said, "After discussion, the ARB took the following action."

Ms. Taylor stated that it was not the same for the Commission, but that process required a lot of communication and she did not always get feedback from everyone. She said that the planner should also read the minutes, as they had worked hours on a project and could put a positive spin on it, and she noted that Tim Padalino and Rachel Falkenstein read them for her, but not all staff commented. She added that the ones that went to the Board of Supervisors needed the more verbatim-style minutes. Ms. Taylor said that with Comp Plan review, Ms. Falkenstein was good at that, as was Elaine Echols.

Mr. Keller thanked Ms. Taylor for her input and said it would be helpful to hear her thoughts as they moved towards this for Mr. Gast-Bray.

Mr. Riley stated that Supervisor Rick Randolph preferred detailed minutes and read all of them in detail, and they helped him prepare for the discussion by spelling out concerns and understanding the positions of various Commissioners, as well as helping him to anticipate what those perspectives and concerns were that would be discussed at the Board meeting.

Ms. Spain said that Supervisor Normal Dill felt that the verbatim minutes were not necessary and could actually be more misleading or ponderous. Ms. Spain said that when he questioned the practice in the past, he was told that there were long-term legal issues involved -- but resolving a dispute from years ago might be more the bailiwick of the Board than the Commission. She added that Mr. Dill endorsed the detailed summary minutes, and she agreed.

Mr. Carrazana stated that they had recorded meetings and podcasts, and he was not sure of the benefits of very detailed minutes for every meeting. He said that at UVA, they summarized meetings such as the project steering committee meetings -- and it was important to have people reviewing minutes to help be more precise. He added that because they had the podcast, he was in favor of going to a more summary format.

Mr. Keller stated that this was really at the heart of the legacy of their proceedings, and they did not want a gap with institutional memory when there weren't recordings. He said that he worked with a company that had contractor recorders, and they were only as good as the individual. He said that he saw this creeping more towards a contract service, and he wasn't sure that the consistency would be the same with a transcript service.

Mr. Gast-Bray stated that the individual who did the Board meetings also did the Commission meetings at times, and at the end of the day they just needed someone to verify accuracy. He said that pure verbatim minutes were more along the lines of a court reporter, and they could find specific items in a podcast -- and he liked the timestamp recommendation. He suggested something between near verbatim minutes and bullet summaries, especially if they had a timestamp. He said that if taken out of context, the minutes can be misleading.

Mr. Gast-Bray stated that he understood the Commission to be saying that it was up to how the minutes would be reviewed and processed and whether it was really capturing the nature of the discussion they had on any given night, with points being highlighted -- so somewhere between a detailed and bulleted summary, with timestamps. He said that perhaps they should start with detailed summary minutes in the interim, until Ms. Taylor was replaced.

Mr. Herrick commented that he had shared the minimum FOIA standards, and Mr. Dotson noted that FOIA required a summary of the discussion on matters proposed, deliberated, or decided. He said that as long as the minimum bar was met, the minutes were legally compliant -- and the Commission had far exceeded that standard. He stated that there was a lot of room to work down on, but how much or how little detail was a policy decision for them and the Board. He said that any move towards a higher level of more detail had an associated cost, as the minutes were not done for free.

Mr. Dotson said that it might be nice to shorten the minutes, which would be beneficial for the Board, but it may take more effort to do it. He stated that regardless of how they did it, he liked Ms. Maliszewski's idea to use a bulleted list and outline with headings per issue.

Ms. Riley agreed.

Mr. Keller added that regarding the timestamp idea, it seemed to him that the Supervisors wanted to be able to hone right into an issue, and it would help to have a corresponding agenda that could launch forward to the right point in the recording. He stated that he agreed that shorter was more difficult than long, so ultimately they would be asking a person to do more to get less.

Mr. Gast-Bray suggested that they try something in between sketch summary and detailed minutes.

Ms. Firehock said that when she gets hired to record a meeting, she would tape it but live type the summary -- but not everyone can do that because it was difficult, and it was easier to summarize as you typed.

Mr. Bivins asked if they were suggesting there not be a Sharon in the room.

Mr. Gast-Bray responded that they still would have that person.

Mr. Bivins stated that there may be a set of skills that inform the transcription process, and perhaps that person can go to the class that Commissioners attend to help them come up to speed with the terminology used.

Mr. Keller noted that there had been discussion when Mr. Bivins first came on board regarding the different styles in which staff reports were presented, and there was now much more uniformity and clarity because of who was doing it and how they were doing it. He added that this was helpful for the Commission but also for the applicants and the public because of the consistency provided, and they could continue to improve in that regard.

Ms. Riley said that Ms. Maliszewski and Ms. Falkenstein had both exhibited their skills and could likely make a recommendation about the prototype for a format.

Chair Keller announced:

- The retirement celebration for Sharon Taylor would be held February 27, 2019.
- There would be no Planning Commission meeting on February 19, 2019 or February 26, 2019; the next Planning Commission meeting would be held Tuesday, March 5, 2019.

The meeting moved to the next item.

Items for Follow-up.

Mr. Keller invited items for follow-up. Hearing none, the meeting moved to adjournment.

Adjournment

There being no further business, the meeting adjourned at 9:11 p.m. to the Planning Commission meeting on Tuesday, March 5, 2019 at 6:00 p.m. in the COB-McIntire, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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David Benish, (Interim) Secretary

(Recorded by Stephanie Banton and transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 4.9.19
Initials: SLB