Albemarle County Planning Commission
April 9, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, April 9, 2019, at 6:00 p.m., at the county Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Leah Brumfield, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; David Benish, Interim Director of Planning; Rebecca Ragsdale, Senior Planner; Kevin McCollum, Planner; Carolyn Shaffer, Clerk to Planning Commission and Andy Herrick, Deputy County Attorney; and Stephanie Banton,

Call to Order and Establish Quorum

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

The meeting moved to the next agenda 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, he said the meeting would move to the next item.

Consent Agenda

Approval of Minutes: January 29, 2019, February 5, 2019, February 12, 2019, and March 5, 2019

Mr. Keller asked if any Commissioner would like to pull an item off the consent agenda. Hearing none, he asked for a motion.

Commissioner More moved, Commissioner Firehock seconded for acceptance of the consent agenda, which was approved by a vote of 7:0.

Public Hearing Items

ZMA201800017 Woolen Mills Light Industrial Park

Mr. Benish introduced the item, which was a proposal to amend the steep slopes overlay zoning district to change the designation on a 19,000+ square feet area of steep slopes that are designated as preserved slope.

Mr. Benish stated that the property is located on the corner of Franklin Street and Broadway Street and is an industrially zoned property. He said there was a previous request for amendments to the slope designations on the property. He added that the bullet he displayed on the screen indicated that this was a request for one piece of slope on the property, and that there are two other areas that would not be affected by this proposal.

Mr. Benish displayed a map of the site and said it was a map from the 2015 rezoning application that showed the three areas that were under review at that time. He said Area A and Area B on the map were not under consideration with this rezoning because there were not requests for changes to those preserved slopes. He stated that the current request was for Area C, which is a larger area than before. He said the map he had displayed showed about 27,000 square feet that had been looked at in the previous proposal. He noted that the map showed several small green areas which were determined not to be a 25 percent slope.

Mr. Benish indicated on the map the area that was being looked at with this rezoning. He said the boundary for the property had expanded and he indicated where the new boundary was. He said the map previously showed several small divots in that area and that the area being requested for the change from preserved to managed slopes was approximately 19,600 square feet.

Mr. Benish said the Comprehensive Plan recommended as Parks and Green Systems, an area typically used with areas of natural resources or active parks, playgrounds, trails and other proposed public spaces. He said a designation change was made in the 2015 Comprehensive Plan in the Southern and Western master plan that was part of the adoption. Mr. Benish said the change was made there because the property contains land that is in the flood plain of Moores Creek. He said the Comprehensive Plan identified that if in the future there were different land uses, that would be the recommendation for a rezoning.

Mr. Benish said the Master Plan also identified all critical slopes in the area and designated them for protection, but he said the plan did not identify which slopes should be managed and which should be preserved. He stated that it was his understanding that when the steep slopes ordinance was adopted, it was not clear in the designation for this property that the slopes were to be managed. He said the determination was made at a higher level. He said in some locations it was known whether slopes were man-made, but in this case, staff did not know whether they were or not.

Mr. Benish displayed the site on the map and said it was at the corner of Franklin Street and Moores Creek Lane, which goes into the Moores Creek Wastewater Treatment Plant. He also showed the portion of the property that is within the flood plain.

Mr. Benish said that in the assessment of the slope area, staff had found that the slopes did have characteristics of both managed and preserved slopes. He said in the ordinance, managed

slopes were ones that can be graded and developed upon, but there were certain design standards that control how the development takes place. He said one of them is that retaining walls were limited to six feet in height and another is that there were landscaping requirements for replanting. He said two-to-one slopes are required for planted areas and if they were to be regularly maintained or mowed three-to-one slopes would be required. Mr. Benish said there were other technical requirements for bays and for containment of stormwater runoff.

Mr. Benish said that in evaluating the site, staff realized on a field visit that some of the slopes designated as preserved were probably not 25 percent slopes. He said there was no field analysis but the observation was based on walking in and seeing them. He said staff had a very general ballpark of what the area was and said it was about 5,000 square feet to 6,000 square feet, but that was an eyeballed figured based on the GIS system. He said it still had resulted in an area of disturbance greater than 10,000 square feet in size.

Mr. Benish said staff found that most of the steep slopes were man-made and resulted from fill from a railroad bed. He said staff did not know the exact source of the fill material. He said staff was not sure if the slope contained cut-and-fill materials from the site, or whether some of it was imported. He said it was likely a combination of both, but with a fair amount of imported material. He said it was not a naturally occurring slope.

Mr. Benish said staff's assessment is that the slope area is unstable with a mixed quality of vegetated cover. He said there had been some erosion and there was a lack of deep-rooted vegetation that would protect the slope area.

Mr. Benish said the slope band, the length of area, ranged in size between 70 and 20 feet. He said it was connected to other slope areas that abut streams, and those connections were by the narrowest portion of the slopes but ranged in size of around 20 feet. He said the slope areas ranged from 130 to 240 feet away from the Moores Creek floodplain.

Mr. Benish displayed a map showing the requested area of change, stating that it was a band that was approximately 20 to 30 feet in width and that it connected to a critical slope system around the treatment plant and the floodplain. He said he did not put the floodplain limits on the map he was displaying but indicated it on the screen.

Mr. Benish displayed another map that showed the general area and said that by looking at it in the field, staff found there were not 25 percent slopes within the area. He said there was not a field run analysis but that staff felt fairly confident.

Mr. Benish displayed another map that showed the distances of the slopes from the floodplain. He showed where the distance from the slopes to the floodplain limit was about 240 feet and showed the closest point was about 20 feet.

Mr. Benish displayed a table with the actual criteria for the ordinance for evaluating whether the designation of a slope should be managed or preserved. He said that was the rule of thumb number used for preserved slopes is 10,000 square feet and said the subject property was over 10,000 square feet in area.

Mr. Benish said the fill slopes were not associated with abutting water features, such as rivers, streams, reservoirs and ponds. He said that staff found that because of the distance and the narrowness of the band that connected it to the other slopes abutting the flood plain, the subject property was more disconnected section of preserved slopes. Mr. Benish said there were no hard and fast rules in the ordinance that indicated what distances were right or wrong. He said generally county staff looks at 100 feet for stream buffers or 200 feet in areas that were in the water supply watershed. He said the subject slopes seemed to be in excess of 100 feet from the flood plain .

Mr. Benish said the slopes were not natural but were manufactured. He said they were fill areas that were primarily from construction of the railroad bed. He said the slopes were significantly disturbed prior to 2012, a criteria that was used in the 2012 update of the ordinance.

Mr. Benish said the criteria for preserved slopes was contiguous areas of 10,000 square feet and staff estimated the subject area were over 19,000 square feet and potentially more in the 14,000 to 15,000 square feet range. He said the slopes are identified for research protection in the Comprehensive Plan and that the future land use recommendations are for Parks and Green Space, with that designation made because of the continuation of the resources on the total 36 acres of the property.

Mr. Benish said staff had found that the slopes had characteristics of both preserved and managed slopes. He said the characteristics were strong for preserved slopes given its size and that it was connected to abutting floodplain, and because of the Comprehensive Plan recommendation for open space. He said the primary characteristics for managed slopes were that they were manmade slopes, and staff felt the slopes were poor to moderate quality and relatively unstable. He said there was erosive activity and a lack of stability in the existing vegetation.

Mr. Benish said staff's opinion was that the area is best served as being designated for managed slopes and that the conditions for managed slopes could better address the development conditions on the site, and staff's recommendation was approval of the request to managed slopes.

Mr. Keller asked Commissioners if they had any questions of Mr. Benish before the public hearing was opened.

Mr. Dotson said he had been confused about the Comprehensive Plan designation. He said at one point it was designated as Parks and Greenspace, but at another it was indicated for

Industrial Service. Mr. Benish said that had been an error related to an effort to stay consistent with a nearby rezoning on Franklin Street, and he had used that previous staff report as a basis to keep the discussion points similar. He said that when that rezoning was approved, staff had just adopted the Comprehensive Plan and it had changed the land use designation. Prior to the 2015 Comprehensive Plan, the land had been designated for Industrial Service. Mr. Benish said he had failed to make the correction before it was initially advertised, and the accurate designation was Parks and Greenspace.

Mr. Dotson noted that in another point of the staff report, it was stated the slopes review was not related to a development proposal, but he understood through public comment that there was an approved site plan. He asked for a slide showing the site plan and how these slopes would fit in.

Mr. Benish said he could not find an electronic version of the site plan to upload because of computer problems. He said there was an approved site plan for 113,000 square feet of building area on the site, and he was not sure if he had a plan that showed the entire property but the area that would be developed is the entire area not part of the preserved slopes. He said the plan also had a road through the development, and he indicated where this was on the map. He said there was a pad for development that came off of the Yves Delorme property that would access this property.

Mr. Benish said the applicant has also submitted a major site plan amendment that showed revisions, and the applicant could speak to that proposal. He said this was only the third rezoning application after the steep slopes ordinance was updated. He said that from a staff perspective, they had been trying to focus more on the criteria for how the ordinance was developed and looking more on the merits of criteria rather than the development potential of what might happen if the slopes were changed. He said staff's first step was to look at the criteria. Mr. Benish noted that they had not asked for a lot of depth of analysis about the site. He said staff could get further direction from the Planning Commission and the Board of Supervisors on how to address future applications.

Ms. More asked if all of the 19,000 square feet area was recommended to be considered as manufactured slopes, or if only a portion were manufactured. Mr. Benish said most were manufactured but there were some areas that were based on natural topography or old changes to the land, and the tight bands on the map were those associated with the fill area. He said the volume of the fill is high, as the slopes were tall because they were stacked for the railroad. He indicated on the map where the areas believed to be natural and that they were borderline around 25 percent. He said he did not want people to see the 25 percent figure as a hard science number, and they came up with that number as a ballpark. He said the area was above the 10,000-square-feet threshold that is one of the criteria.

Ms. Riley asked a question about the characteristics of preserved slopes. She said that the second criteria was that the slopes were part of a system of slopes associated with abutting

water features. She asked for the definition of "associated with." Mr. Benish said there was not a fine-tuned definition, but it could relate to distance or the significance of the linkage. He said that was the gray area in the analysis. He said the system of slopes was connected to another system of slopes that did abut the flood plain. He said they could be "associated with" by that definition, but there was a break in the critical slopes. He said that in staff's judgment, they were not abutting but there was no clear guidance on what "associated" meant, and that was a work in progress.

Ms. More asked for clarification that the approved site plan does include the area in question.

Mr. Benish responded that the site plan included all the preserved slopes being maintained – preserved and undeveloped. He said because the slopes could not be used under the ordinance, the applicant had put open space and forest easements as a way to manage stormwater requirements, and there are easements for the areas that are preserved slopes. He said if the applicant were to buy additional offsite credits, they may not need the easements and could abandon them. He said the site plan shows them undeveloped and protected as preserved slopes.

Ms. More asked for clarification about an item in the staff report that said slopes had been preserved by a prior county action. She said it was not a county action that showed the slopes as preserved, but rather the site plan that indicated they would be preserved.

Mr. Benish said that was a tough one for him to grasp and that there were easements on them that protected the slopes because they were unusable areas that need to be preserved. He said the applicant took advantage of the fact they could not be used and placed preserved slopes on them. He said if it were determined that they should be managed, they would have the option to do something else and they could eliminate those easements. He said those were not easements put on for conservation purposes to protect cultural resources or a stream buffer but utilized to address stormwater management regulations. He said it was like a person had been convicted of a crime but the DNA exonerated them, but the judge then stated the guilty verdict still has to be taken into consideration. Mr. Benish said he had to take into account the easements because they were designated as preserved.

Ms. More asked for clarification for the action taken in 2015. She said the staff report had indicated that there were 27,731 square feet that had been part of the 2015 request that were denied but were not part of this. She asked if that was what was considered as the prior county action.

Mr. Benish responded that staff's assessment had been based on the general map without looking at the rest of the area in great detail. He also said the staff report stated that further information and analysis of the area would be needed to make a finding but because it was shown as preserved, those areas should be treated as such. He said staff took it that the 19,000 square feet request was a new request.

Mr. Keller asked Ms. Taylor if there was something about the timer for the public hearing.

Ms. Taylor replied that there were three minutes for the public and that at 30 seconds before the end, the yellow light would go off and the red light would go on at the end of that time. She said the applicant would have 10 minutes.

Mr. Keller opened the public hearing and invited the applicant to approach the podium.

Mr. Kevin O'Brien introduced himself and said he was one of the partners developing the site. He said they were hoping and have a site plan to build a series of pad sites that end users could buy and build upon to place businesses in a light industrial zone. He said they had a site plan that worked around the preserved slopes and likened the plan to a jigsaw puzzle. He said it would be more efficient if they did not have to preserve the slopes in question. He said they were committed to preserving the slopes around the edges and that the site had a ton of green space and more than any other on the Broadway light industrial corridor.

Mr. O'Brien said that he was hoping the Planning Commission would agree that the community zoned this land for light industrial because there was a need for a place for light industry to happen. He said the community elected to make an ordinance that said naturally occurring slopes steeper than 25 percent should be preserved and if the Planning Commission recommended approval of this zoning amendment, both of those things would be exactly true.

Mr. O'Brien said the main points were hit in the staff report and the application letter. He said the slopes were built as a railway siding and it was not naturally occurring. He said it was a green space but there was no significant timber but instead there were invasive species. He said in reading the ordinance, he felt preserving the land would not further the purposes of the steep slopes ordinance. He said it would be a squiggle of land in a light industrial park where zoning permits buildings. He said he hoped the Commission would see the application as correcting an error where the slope was preserved when the ordinance was updated. He said the county looked at a lot of land in a short period of time but boots on the ground showed that the slopes were manmade and a lot of the land is not 25 percent. He said the by-right zoning all around it makes it not contribute to the stormwater management because everything is going to be curbed and guttered.

Mr. O'Brien said if the amendment were approved, the county would have a light industrial parcel that was being used and there would be no naturally occurring slopes that would be disturbed.

Mr. Bivins invited members of the public to speak to the matter and read the rules for speaking.

Mr. Travis Pietila of the Southern Environmental Law Center said he hoped the Commission had received the written comments. He thanked Mr. Benish for meeting with him and other SELC

staffers to discuss the proposal and visit the site. He said he appreciated the updated analysis provided by staff before the public hearing, he said there was some key points in which SELC disagreed.

Mr. Pietila said a similar proposal was brought for this site in 2015 and at that time, staff evaluated a portion of the same slopes and had recommended keeping them in the preserved category. He said as far as the SELC could tell, the only change since then related to the county's ordinance was that the slopes were determined to be manmade. Mr. Pietila said when it came to erosion and runoff impacts that disturbing the slopes could have on Moores Creek, it made little difference to how the slopes were formed.

Mr. Pietila said the other obvious change was that the applicant had begun clearing and grading in the areas of the site around the slopes. He said the SELC urged Commissioners to not let that influence their decision for two main reasons. First, he said doing so would encourage developers to disturb sites to improve their chances of getting slopes re-designated. Second, he said it was not relevant to the factors outlined in the ordinance to guide the county's review of preserved and managed slopes.

Mr. Pietila said the SELC believed that to the extent to which the preserved slopes criteria was met for this application is reflected in the staff report. He said of the four preserved slope factors that staff had found to apply, two of them are related to how the slopes are designated in the Comprehensive Plan and had been answered by a qualified yes in the staff report. He said the SELC saw no need for qualification and that the slopes were clearly designated and called out for preservation in a number of ways in the Southern and Western Neighborhood's master plan, including a specific call to preserve steep slope systems adjacent to Moores Creek. Mr. Pietila also said that SELC believed that two factors staff had said did not apply should be counted in the YES column. He said the currently approved site plan designated the slopes for preservation under forest and open space easement, which seemed to clearly satisfy the factor related to slopes being preserved by a previous county action.

Mr. Pietila said the slopes were part of a system that extended from Broadway into the Moores Creek floodplain which should qualify them as slopes associated with a water feature. He noted that the criteria did not refer to a system of steep slopes. He said in SELC's view, the slopes clearly met five of the seven criteria for preserved slopes under the ordinance. He said the preserved designation should not be taken lightly and should not be given short shrift based on the slopes being manmade or ongoing grading activities occurring elsewhere on the site.

Ms. Robin Hanes of 1709 East Market Street in Charlottesville said she was part of the community response to the owners' efforts to re-designate zoning at an earlier time. She said the community gathered in large numbers to try to dissuade them from doing that in the past. She said it was too bad that it had come back up. She said she believed the slopes did interact with each other to make an important protection of the way the water drains in the area. Ms. Hanes said the slopes were steep and they might have some manmade element to them but

the whole area had been totally manipulated. She said to stir up what had been fought for as protection for the way the water drains in the area seemed like an ongoing fight that the community, a hilly community, was forced to revisit too often.

Ms. Hanes said builders don't seem to believe it but that trees were needed to slow rainwater down, soak water up and cool the climate. She said if this was an area where there was less tree growth because the soil was bad, the soil could be improved. She said the land still needed to protect the water. She asked the Commission to recommend not changing the zoning because the builder had totally reconfigured so much of the lot. She asked the builder to use a planning technique that sought balance rather than filling in every inch with buildings and pavement.

Mr. Bill Emory of 1604 East Market Street in Charlottesville said he hoped the Commission would strongly recommend retaining the preserved slopes for all slopes on the property. He said in the five years since the steep slopes overlay zoning district was adopted, the status of the slopes on the Franklin Street hills has been challenged twice. He said the hillside was being threatened a second time despite the existence of an approved site plan for the construction of 113,000 square feet of light industrial space on the site. He said that site plan respected all existing preserved slope areas.

Mr. Emory said at the time of the Commission's discussion of this property in May 2015, it was well known by the presenting planner J.T. Newberry that the slopes in Area C continued onto the adjacent crescent-shaped lot then owned by Yves Delorme. He said that it was known and stated by Mr. Newberry at the time that the railway siding existed and yet the recommendation was to retain the managed designation because it met the majority of the criteria shown in the ordinance. Mr. Emory asked what had changed. He said that there were many defined preserved slopes in the county that have been augmented by human agency on which the preserved designation has been kept. He asked why these slopes should be the exception. He said planning and vision could make Albemarle better for all of its residents.

Mr. Emory said during the 100 year existence of the Woolen Mills as a going concern, there was no Comprehensive Plan but a vision that industry could improve the life of residents and that happy residents were good for industry. He said that was a time before Euclidean zoning and that the Woolen Mills village was an example of new urbanism before the term existed, with work, residences and recreation woven all together. He said this was an enduring vision that was beginning to return as seen in the designation of this hillside in the Comprehensive Plan as being Parks and Green Systems.

Mr. Emory said we were in an architectural epic which sees bottom-line structures of steel buildings constructed on slabs. He said on the outside they were hard to read and lack fenestration, and they floated in expanses of asphalt. He said it was ironic that we have the knowledge of global warming but are still building Euclidean industrial neighborhoods that no one would want to inhabit and that no one would want to reuse. He said he could imagine a

hillside village that allowed light industry but also allowed second-floor tenancy for those who ran the businesses.

Mr. Emory said it was the time to implement the vision of the Southern and Western Neighborhood Master Plan and time to build places worth caring about.

Mr. Mark Kavit of Charlottesville said he wanted to echo what the previous speakers had said. He asked why it was needed to make changes to the property as far as the slopes and taking down the trees. He said it seemed to him that the trees helped stabilize the land and to redo it could make erosion worse. He said even the manmade parts had been there for many decades. He said he was concerned about how close this was to the flood plain of Moores Creek.

Mr. Kavit said that in January of this year, there was a steep slope off of Avon Street going into 5th Street and he wanted the Commission to know that there had been a collapse of the approved slope that slid down into the road bed that had to be built back up. He said he talked to a person who had built that hill and that person said it was way too high and steep. He said that was a manmade slope approved by the county that slide down in three locations after heavy rains.

Mr. Lonnie Murray of 5643 Sugar Ridge Road in Albemarle County said there were two precedents that he found disturbing. He said he was present when the decision was made to separate land into preserved and managed slopes. He said that was a hard-fought collaboration between environmentalists and developers to come up with that solution. Mr. Murray said the deal had been that preserved meant preserved. He said the preserved slopes in this case were getting a lot of attention because there was development potential and there was scrutiny on whether they were manmade and thus should not be preserved. He said there were a lot of areas around Fontaine that are natural slopes that should have been listed as preserved that got listed as managed. He said if there was to be a reevaluation of slopes, this reevaluation should be on a larger scale and not done piece-meal.

Mr. Murray said the other thing that troubled him is that there was a conservation easement on the property. He said he sat on a board that managed conservation easements specifically for stormwater. He said easements are supposed to be permanent and last forever. He said if the county were to vacate the easement, it would set a terrible precedent. He said if there was a local mitigation bank for stormwater, that might be different. He said stormwater credits would be purchased well outside the region.

Mr. Murray said both the Rivanna and Moores Creek had an active TMDL on them for contamination so anything that happens in the area must make conditions better and not worse. He said this should be the ultimate criteria. He said there should be things done like managing invasive species, planting native plants and improving stormwater conditions. He said that does not seem like what was being proposed.

Mr. John Frazee of 1404 East Market Street in the Woolen Mills neighborhood which he said was uniquely positioned to include both the city and the county. He said he was excited about the development that was happening at the Woolen Mill and was glad that the namesake for the community was going to be renovated in a meaningful and respectful way that is adherent to the regulations there to make sure things were done in a way that supports both the economic and the possibility that the landmark is something that would be revived and looked upon people as a model. He said that when he looked at what is going in the steep slopes designation, both in 2015 and in 2019, he said he recognized that the value of the property had probably increased quite a bit due to the Woolen Mills development.

Mr. Frazee said the environmental impact of changing the designation was still the same in 2019. He said the very nature of modifying these things was based on criteria that could be considered, but he said he was concerned about all of the development that could occur in the area. He said there was much potential but if there was not a meaningful respect for previous decisions, it could be very dangerous. Referring to Mr. Benish's comments about DNA evidence, he said this could condemn the steep slopes.

Mr. Sean Tubbs of the Piedmont Environmental Council said if this community were to succeed in growing in a smart way, it will require true collaboration between the city of Charlottesville and Albemarle County. He said that spirit of cooperation was embodied in many ways, such as the memorandums of understanding between the city and the county recently signed. Mr. Tubbs said he was disappointed that the application before the Commission did not live up to the standard of that spirit of cooperation and he wanted to explain why.

Mr. Tubbs said this piece of land was in a critical location for both the city and the county. He said he did not have a specific recommendation on the slopes designation, but it was crucial to remind the Commission of some of the previous planning that had happened at the site and previous cooperation. He said the higher aspirations of planning must be implemented application by application.

Mr. Tubbs said there was a similar rezoning for this land in 2015 and as part of that rezoning there had been a joint meeting with the Charlottesville Planning Commission. He noted that Mr. Keller was at that meeting but Ms. Firehock had been absent. He said there been turnover. He said three of the City Planning Commissioners at that time are still on that and that it would have been interesting to know what they thought of this proposal, and to be informed by the possible impacts that would come with more intense development at the site. He noted that the map being displayed indicated the location of a trailer park on the Charlottesville side of the border, and that those trailers were likely not long for this world given all the changes that had occurred in the area since 2015.

Mr. Tubbs said he was concerned that the Character of the Area section of the staff report did not indicate any substantial changes between the staff report from 2015 and 2019. He offered several examples of what changes had occurred, such as Charlottesville rezoning land at the

former H.T. Ferron Plant and that 150 residential units are proposed for that location. He said Albemarle had adopted the economic development strategic plan which called for an economic development planning exercise for the area called the Broadway Blueprint. Other changes included the signing of the MOU's, the Woolen Mills redevelopment and the Thomas Jefferson Planning District Commission's completion of the first phase of the Rivanna River Plan.

Mr. Tubbs said there was a lot of intense activity in the area and both communities must be working together because without communication there would be distrust. He said the only way to get to the parcels in the county were through the city so making sure there would be coordination would be a good thing. He asked why there had been no joint meeting scheduled with the Planning Commission, stating that there had not been a joint meeting since October 2016 and he hoped one would be scheduled in the near future.

Mr. Keller invited Mr. O'Brien to come back up for a summary.

Mr. O'Brien said there were a few points made that he wanted to address. He said there was a lot of difference between this plan and 2015. He said there were different owners and that his group was not the one that put forward that plan. That plan had involved entrance and egress off of Franklin Street and removing all of the buffer between the zone and the residential zone. He said the former plan had involved blasting and building one large 60,000 square foot warehouse. He said the current plan preserves all of the naturally occurring slopes on Broadway, Franklin, and on Moores Creek Lane.

Mr. O'Brien stated that they would only enter through the areas that do not require disturbing the slopes, and the current plan was terraced as opposed to being flat, meaning they will work with the contours of the land. He said the land was perhaps best suited for an idyllic vision of a village where you can live and work, but this town and county has designated it for light industrial and they bought it because it had that designation. He said that they had moved forward in good faith to make the best plan to develop that as a resource for the city and to make a living and to preserve the character of the hillside. They had studied the plan before and found problems with it so they did not put it forward.

Mr. O'Brien noted that Mr. Emory had mentioned that the village of Woolen Mills was created because there was light industry in the region and Belmont was created for the same reason. He said it would be good for the county and the city to have more places close in where people can have light industrial sites so people can walk to work. He said on the whole this property being efficiently developed might prevent sprawl and people having to do work on land that is currently pristine and rural. He said he understood that everyone loves trees and that the site would be five acres under development and nine acres under development. He said the land was a strip of borrowed material and gravel that was dumped there by the railroad that had a bunch of weeds growing on it. He said after all the by-right development was completed, this land would not better function than all the other preserved slopes below it. He said the county's rules required him to put curb and gutter all around it.

Mr. O'Brien said the environmental impact of removing the slope would be close to zero if not nil. With regard to a comment about the visual impact, the land would not be visible from anywhere. He said if the slopes were recognized as a railroad embankment at the time the ordinance was created, they would have been designated as critical slopes.

Mr. Keller asked Commissioners if they had questions.

Mr. Dotson said that it was a fact that there was an approved site plan he asked Mr. O'Brien if he would develop that plan if this rezoning were not granted, Mr. O'Brien responded. Mr. Dotson asked Mr. O'Brien how he thought it might be a better decision to approve the rezoning and what improvements that would bring.

Mr. O'Brien responded that it would eliminate retaining walls that are required at the base and top of those slopes. He said the grades of the whole park would be gentler and there would be less travel way to get around the area meaning less pavement. He said there would be better circulation in the site which would make it more useful to the industry that hoped to locate there.

Mr. Dotson asked what benefits would come from having the site be terraced. He asked if it was because of a line of preserved slopes. He asked if it would be turned into a larger pad if it was not terraced.

Mr. O'Brien said the railroad dropped gravel on an existing slope. He demonstrated how that was a 25 percent steep slope. He said because the land was a hill, it would still be terraced. He said the site plan did not show blasting and level the slopes as the previous plan had done. He said their plan has different elevations at different levels. He said terracing would allow for there to be more efficient use of the land so they could build more buildings with less or the same impact. He said it was a win-win.

Mr. Dotson asked if the rezoning would allow more buildings.

Mr. O'Brien responded that it would.

Ms. More noted that the applicant had owned the land when the original site plan was approved, and she wanted to understand why this was not an issue then and why this had come back.

Mr. O'Brien said the site had been heavily wooded and covered in brambles. He said the maps had told them they would not be able to design anything on a preserved slope and they agreed with that. He said when they got the building and grading permits, they began to clear the land and discovered railroad ties indicating it had been a railroad on a sliver of manmade slope. He

said they went to the county and broke the site plan into two phases and that they had proceeded with phase one.

Mr. O'Brien said if the rezoning was not approved, he would proceed with building the site plan on record but if it was approved, they would build something better.

Ms. More said it struck her as odd that the railroad bed wasn't noticed prior to any moving of dirt going on.

Mr. O'Brien responded that they noticed the railroad bed when they were clearing and grubbing the site. He said this had been a long process. He said they had to find a way to keep working.

Ms. Spain noted that a member of the public had said there was a conservation easement on the property.

Mr. O'Brien said that was a misnomer and that county rules allowed developers to offset the impervious area that would be put down by putting open space easements on areas that would be left green. He said when they put in the site plan, they weren't allowed to clear and grub until the site plan was approved. He said it made sense to put the land under an open space easement because if not they would have had to have spent money to do something offsite. He said he believed in keeping the preserved slopes as preserved.

Mr. Keller closed the public hearing.

Mr. Dotson asked Mr. Herrick about the question of vacating easements and a statement had been made that easements were for perpetuity.

Mr. Herrick said the applicant had stated that the term open space easement was a misnomer. Mr. Herrick said the exact terms of the easement had not been presented to his office but if this a stormwater based forest open space easement, that would be a different animal then the typical conservation easement. He said the application did not affect that open space easement and that is why it has not been discussed or before the Commission.

Mr. Dotson asked if the county would hold the easement.

Mr. Benish said the engineering department would review the plans and receive them. He said they would need to achieve certain requirements from the ordinance to attain stormwater approval. He said those could be done on-site or done with off-site credits. He said part of that factor is to preserve open space areas. He said this easement is established with an agreement with the engineering department. He said they could be revised if alternatives were approved.

Mr. Dotson asked if there would be a tax benefit with the open space easement as in with a conservation easement. Mr. Benish said the stormwater management plan would need to be amended to the satisfaction of the county engineer. He said he believed there was a clause that allowed for adjustments of the easements.

Ms. Spain asked when the Comprehensive Plan designation had been changed to Parks and Green Systems.

Mr. Benish said it had happened in 2015 along with adoption of the Southern and Western Neighborhood Plans. He said the recommendation was embedded in that master plan.

Ms. Firehock said she had various credentials including being a certified erosion control inspector, degrees and experience in natural resources management. She said her expertise is in water quality stream buffer management, and so on. She said when looking at the site, the Commission should look at the purpose of the preserved slopes ordinance. She stated it was to protect the integrity of the landscape, to prevent erosion and to protect water quality.

Ms. Firehock said someone in the audience had stated that it did not matter how the slopes were formed and they should be protected. She said she could agree with that to some degree but in this case, she had seen tremendous amounts of bare soil on the site. She said she had pictures showing all of the exposed soil. She said it was unsolidated rough fill and had been a railroad bed. She said the problem with the material was the instability and that a native tree planted on the slope would give way because it would be like planting in a pile of gravel.

Ms. Firehock said the slope was eroding rapidly at a high rate because it is steep due to artificial construction. She said it was made of poor rubble and dump material that did not have any cohesion in place.

Ms. Firehock said if the objective was to protect the water quality of Moores Creek, the best thing would be to disturb and stabilize it by taking out the unnatural and improper fill material, planting it with native soil, and then planting it to stay in place so that the end result would result in a better condition. She noted that the area did have hackberry trees, native species with tremendous wildlife value. Ms. Firehock said these were also not trees you would want in a developed site because they spread their limbs into open space and the berries drop. She said the hackberry was not suitable for this site.

Ms. Firehock said she did not find that the site was supporting a diversity of native species, was not natural, and did not possess integrity.

With regard to a comment about surveying all of the land under the ordinance for a more accurate map, Ms. Firehock said that with a 721 square mile county, it was not possible to do a full field survey of all of that land. She said these kinds of applications would come up again. She said if it was a manmade slope that took on characteristics of a preserved slope and was

stable, she would be leaning in the other direction. She said in this case, the Rivanna River and Moores Creek would be better served by reconstructing the slope.

Ms. Riley asked Ms. Firehock if she thought the slopes had more characteristics of a managed slope.

Ms. Firehock responded they were absolutely manmade and that you could see the railroad bed. She said she had picked up coal from the site. She said groundhogs on the site had helped with a soil profile by digging pits and throwing material out around their dens. The material was the same material as on the top.

Ms. Spain said she agreed approving the soil would be the best outcome but that was not the decision before the Commission. They were faced with either allowing the development to proceed or not.

Ms. Firehock said that under the managed slope ordinance, it would not take them out of any slopes designation. She asked Mr. Benish what happened when a slope was changed from preserved to managed.

Mr. Benish said there were design standards and once it was designated as managed, the developer would have to meet certain design standards for retaining walls, which have to be terraced at a maximum height of six feet. He said the cuts and fills need to be two percent slope and vegetated with shade trees. He said if the slopes were to be regularly maintained and mowed, the slopes would have be three-to-one slopes. He said the slopes associated with the railroad were in the range on one and a half to one slopes.

Ms. Firehock said that meant they were extremely steep. Mr. Benish agreed.

Mr. Benish said there were also certain criteria for how the bottoms of the fill slopes would come together in cut and fill areas. He said there had to be a ten foot separation and that there were requirements for reverse slope benches for drainage purposes.

Mr. Benish said under a preserved slope, the developer would have to leave the slopes alone except remove dead species.

Ms. Spain asked how given conditions of the managed slope, how could that be converted to buildable land.

Mr. Benish said that it would allow them to adjust the slope and regrade it. He said reconstruction standards create sound replacements.

Ms. Firehock further described the conditions of the existing slopes and said the developer would need to reduce the steepness of the slope. She said the existing slopes are not stable and are contributing to erosion.

Ms. More asked for clarification that if it were to stay preserved, there could be no changes. She said there had been a comment about retaining walls and asked under what scenario that would happen.

Mr. Benish said if it remained preserved, retaining walls would be built up to where the preserved slopes are designated, but the slopes themselves could not be touched except for minimal maintenance.

Mr. Bivins thanked Ms. Firehock for her expertise and knowledge on the subject. He also thanked everyone who sent in letters with concern. He said he aligned himself with Commissioner Firehock and believed the slopes should be moved from a preserved slopes to a managed slopes. He said when he visited the site it felt like an abandoned piece of property with tires, concrete and other things that had been thrown away. He said the owner had no sense whether the land had been preserved, not preserved, or managed.

Mr. Bivins said if the property were left like this, it would continue to be a place where people would dispose of unwanted items. He said it is a railroad bed that looked like it had been abandoned. He said the ground felt soft and unstable and did not feel like it was a place that would ensure being left to its own care.

Mr. Bivins said if the county is trying to recreate a space that is open for economic development then leaving the space unchanged would not add to the economics and the livelihood of the community. He said many people calling for the designation to remain the same might be surprised and disappointed about how the strip of land would look if preserved.

Ms. More asked about the question of whether changing the designation would set a precedent. She said when she looked at the charts, regardless of how attractive or stable the slopes were, staff had provided boxes to check. She said she would argue that under preserved slopes, there were boxes she and others would have checked. She asked staff for advice when developers come forward in the future and insist their slopes should remain preserved.

Mr. Herrick said each rezoning is site specific and in cases where the question is managed versus preserved slopes and in each case the Commission looks at characteristics of individual sites. Mr. Herrick said Mr. Benish included within his staff report and his presentation a checklist that analyzed the specifics of this site. Mr. Herrick said it may be helpful for future applicants to look back and see past decisions that have been made but every site is unique as to whether it was created by humans or was naturally occurring. He said the precedential value is limited.

Ms. More said that was part of the reason why she was conflicted, and she appreciated the points about what would be preserved if it stayed in the preserved category but said she felt all of this was part of a bigger contiguous area. She said she echoed public comments that had been made that maybe partners that could have been brought in to weigh in. She said staff had done a good job but she said there were some stakeholders present who had strong opinions. She said she was not an expert on whether this was better for the stream or if it should be left the way it is. She said there were people she would have liked to have heard more from.

Ms. Riley thanked Ms. Firehock for her site visit which she said leant validation to the staff report. She said she thought the finding she was hearing is that overall its was manmade and that it was not stable. Ms. Riley said she was struggled in the staff report with this being a judgment call about what the quality of the slope, specifically related to soil conditions, stability and the usefulness in storm runoff. Ms. Riley said she was convinced these were not stable slopes and she agreed with Ms. Firehock that the Commission should move to relabel them as managed slopes.

Mr. Keller said his initial response from the site visit was the same as Ms. Firehock's. He said he has wrestled with this because of the concern of whether this would set a precedent. He said there had been another slopes application at the last meeting and the public reviewed the vegetation and the hydrology because they are all related.

Mr. Keller repeated a previous comment from another meeting that staff and the Commission needed to talk with Supervisors about how to proceed with the ordinance now that there have been a couple of applications. He said the county is better off with a steep slopes ordinance but that these applications are showing up more often.

Mr. Keller said that if the Commission had seen the site plan for the whole site and saw how there could be other solutions to this modification of the contours that could possibly have remediated or possibly better answered some of the questions that have been heard from the public related to hydrology and vegetation. He said that approach would have been preferable. He said the fact that the Commission did not have the site plan has been an area of question since Mr. Dotson brought it up.

Mr. Keller said managed slopes can have cultural resource value that was significant, and that could even conceivably even be the case with this application. He said there could be a working of a trail that was at grade, but it got all convoluted because of the way these applications are worded right now.

Mr. Keller said he thought these slopes were managed and could be reworked and the design can give a better solution to the hydrology and the vegetation on site than leaving them preserved.

On the subject of precedent, Mr. Dotson said he recalled a time when the county adopted for the development area preserved and managed slopes, it had been pointed out that this was GIS level for prevision and it was expected people would come forward if they had better information. He said this was a good precedent to examine in greater depth.

Ms. Spain said she valued Ms. Firehock's expertise, but she was sympathetic to the resident who said he thought it had been settled in 2015 and with people who wanted the Comprehensive Plan designation of Park and Green System, even though it wasn't zoned that way. She emphasized that it was difficult for people to understand the difference between the Comprehensive Plan and zoning, and there had been neighborhood engagement with the proposal – so people in the neighborhood who may have gone to the site review thought that this had been settled.

Ms. Spain stated that if they decided tonight to change it from preserved to managed, she felt that it would make it hard for the public to trust the government. She said that when they were in the situation, they needed to be aware that they needed more educational effort to say how the managed slopes could be improved over the preserved slopes – and Ms. Firehock had done that. Ms. Spain added that there may be pushback from people who thought it was a settled issue and thought they had contributed to the Comprehensive Plan – but now the Commission was doing something contrary to that.

Ms. More commented that with the 2015 request, there was 2,700 square feet of the current request that was part of the previous request that was denied, and it had been noted that the field run topography had shown portions of these areas as less than 25 percent grade, it was difficult to know if that was a more comprehensive characteristic within the system as observed in Area A, or if it was indicative of only minor modifications along the edges of the system as observed in Area B.

Ms. More said that without additional information, staff found it appropriate to maintain the preserved slopes, and that perhaps should have been a catalyst for them to look at it more closely. She stated that the applicant had not provided more detailed field run information for this area, which she would have liked to see, so there was no specific measurement of area. She added that she appreciated Ms. Firehock's input, but there could have been more information provided and she was wasn't sure if this addressed just the steep slope issue or the stability of the entire piece in question.

Mr. Benish responded that it was primarily regarding the amount of steep slopes, and the additional information was requested by staff and could have been provided by the applicant. He said that after their analysis of the site, staff felt it was a little less essential in this case than in others – and as a general rule, the county strongly encouraged as much assessment as possible by the applicant.

Ms. More stated that with the language provided after 2015, it was a bit misleading to members of the community who participated in that – and it was unfortunate to have it be part of staff's finding at the time but now be revisited.

Ms. Riley **moved** to recommend approval of **ZMA 2018-17 Woolen Light Industrial Park Steep Slopes Amendment** to rezone a 19,660-square-foot area from steep slopes preserved to steep slopes managed on the steep slopes overlay district map and as identified in the application plan found as Attachment B of the staff report. Mr. Bivins **seconded** the motion.

Ms. Firehock suggested adding a clause that as designs for the managed slopes were developed, consideration should be given to use of native hardwood species and native plants.

Ms. More stated that she would not support the application, partly because she did not know if the Commission could require that. She said that she also felt there were community partners and stakeholders who could have helped and may have arrived at a different conclusion.

Mr. Benish said that the best way to treat the condition would be a recommendation to move forward, and that would be brought to the Board of Supervisors and allow staff in the meantime to get with the applicant to see if they wanted to make an adjustment to their rezoning. He said that if they took this as a recommendation moving forward, as part of the action recommending approval, staff will get with the applicant and county attorney and see how it should be codified.

Mr. Bivins expressed uneasiness about opening every decision up to an outside public hearing, and if he were a property owner that had received a lot of input, he might be inclined to leave it as a preserved slope and do nothing. He stated that the motion going forward would help mitigate damage to the environment while also talking about what kind of planting should be there – so there would be a net benefit from the community as opposed to a potential owner not doing anything. Mr. Bivins emphasized that this meeting is part of the public engagement, and he found the letters received to be extremely helpful.

Ms. Firehock pointed out that there was still a water protection ordinance in place, regardless.

Mr. Bivins agreed that it was still there, but if this had taken place in their offices, they wouldn't have had the conversation happening now. He emphasized that the water would still be protected, and the applicant would still have to have the conservation easement. He stated that the developer now knows there are many people expecting the project to need a different level of care, which may not have happened if they had said they were leaving it as is.

Ms. Firehock responded that her issue was whether the slope was part of a system of slopes associated with or abutting a water feature, and they do not have an exact measurement of that – so given the issue of the impaired water stream and confluence with Rivanna, she would

have liked to have heard more from the groups that were working to improve the quality of the streams.

Ms. Spain commented that there are excellent groups in the community with great knowledge, but not everyone who wrote a letter to the Commission stood on the slope and looked at the rate of erosion. She said that they could revisit the conversation as they got more survey data and more information.

Ms. Firehock said that her only point was that there was a missed opportunity for people to go onsite, as well as possible interaction with the City.

Mr. Keller stated that he agreed with Ms. Firehock's points, and obviously steep slopes with this and EcoVillage have risen high on the list, so under New Business he would be making that recommendation.

The **motion carried** 4-2, with Ms. More and Ms. Spain dissenting.

Recess

The Commission recessed the meeting at 7:47 p.m. and reconvened at 7:56 p.m.

ZTA201700011 Definitions of Rules of Construction

Ms. Brumfield reported that she was before the Commission with a text amendment on the ordinance's definitions and rules of construction for public hearing. She said that there were 24 sections of the ordinance included to change the term "daycare" to "child daycare," and that comprised a large portion of the ordinance amendment.

Ms. Brumfield stated that the two sections of the ordinances being changed were Section 3.1 Definitions – terms and definitions in the ordinance; and 3.2 and 3.3 Rules of Construction – newly created sections that describe how the zoning ordinance should be interpreted. She said that the terms "rules of construction" is a legal term derived from the word "construe," as in "to interpret." She said that the rules designate that all references in the zoning ordinance referring to the Director of Community Development also include reference to designees. She stated that since rules of construction were fairly standard legal practice and were based on the rules in Chapter 1 of the County Code, she would focus on the changes to definitions.

Ms. Brumfield reported that staff was working on a number of text amendments and was modernizing the code, with terms and definitions currently scattered throughout the ordinance and terms sometimes interpreted differently. She said that the primary purpose of this effort was to consolidate the terms into one place for ease of interpretation, avoiding any substantive changes, and they have identified seven types of changes: consistency, consolidation, removal of terms that are not currently regulated, clarification of definitions, new terms regulated but not defined, replacement of outdated terms, and other minor changes. She said that these had been put into the three charts as included in their packets.

Ms. Brumfield stated that the primary catalyst for the text amendment was consolidation, as having all the terms in one place would make it easier to understand and administer the ordinance. She said that definitions were currently scattered in multiple definitions sections of the ordinance relating directly to the section they referred to, so staff has tried to update the definitions to make it clear when things only occurred in a certain section. She noted that they clarified the definitions of "daytime" and "nighttime," which come from noise regulations. She said they don't use the definition of daytime to refer to any other part of the ordinance – only for the purpose of noise regulation from 7-10 p.m. every weekday.

Ms. Brumfield reported that in other instances when they pulled the terms, they moved regulations that were listed in the definition out of the definition and into the actual regulations. She said that "accessory structures," for example, as they relate to the Flood Hazard Overlay District, are limited to 200 square feet – but the restriction of size for accessory structures was in the definition of accessory structure in the floodplain regulations, and it is in the regulations for the floodplain regulations, so it was unnecessary and redundant. She said that the sign regulation definition of "sandwich board sign" was a long regulation, and staff had removed those regulations and put them into the regulations section.

Ms. Brumfield reported that most of the changes in the ZTA were two-word phrases that were being reordered, such as "garage, public," which was now "public garage." She said this was also done for "administrator, zoning" to become "zoning administrator." She added that the listed also included terms that were previously appealed in the ordinance, but current definitions were there as "repealed." She said that "dormitory" was now listed as "student housing" in the parking regulations and was not regulated differently from multi-family anywhere else.

Ms. Brumfield noted that whenever they removed a duplicate term that might have caused a bit of confusion, they noted in the removal of the definition the term being removed – such as "street" being used instead of "road" because it was clear that it involved standards like curb and gutter or right of way drainage on the sides. She said that the term "road" used in a certain chapter meant "street" so that the term "road" didn't have to be removed from the ordinance.

Ms. Brumfield reported that staff did remove extremely outdated or redundant terms, which had been updated in the ordinance but not necessarily in the definition section, such as "automobile laundry" (car wash), "apartment houses" (multi-family dwellings), and removing the spell-out of the acronym ATM. She said there were no differences in the definition of Merriam-Webster, as it had a standard definition. She noted that some of the terms being removed were not regulated in the ordinance at all and were being regulated the same as other terms and were not mentioned, such as removal of "light aircraft" because it wasn't treated differently from other aircraft.

Ms. Brumfield stated that staff had also changed some terms, such as "daycare center" to

"child day center," "light warehousing" to "self-service storage facility," and "travel trailer" to "recreational vehicle." She said that for these particular terms, "child day center" was the term used in the Code of Virginia, so the county was trying to match its enabling legislation. She stated that they pulled "recreational vehicle" from other state and federal-level floodplain regulations, as it was more descriptive than "recreational vehicle."

Ms. Brumfield reported that they have new terms and definitions that are regulated but not defined, and this included "caregiver," which was added as part of the regulations for temporary family healthcare structures – and that term and several others were edited in this draft, which was a bit different from the work session draft to emphasize that these terms only apply as they were regulated. She said that they drew their legislative authority from Title 15, Chapter 22 of the Code of Virginia, so they drew the meaning of the words from the enabling legislation. She noted that the term "group home" has four different definitions in various parts of the Code of Virginia, but since Albemarle was drawing definitions from the regulations in Chapter 22, they were pulling their definition from there as well. She noted that staff tried to highlight definitions, but it was only for the purpose of county Code Section 18 – the Zoning Ordinance.

Mr. Keller opened the public hearing.

Mr. Sean Tubbs stated that with the changes from daytime from nighttime, he wondered if there was a way to make it so there was also a weekend hour, as they might see it in the next public hearing.

Ms. Brumfield clarified that this was something they would address in the next zoning text amendment review, so right now they had the non-substantive changes for special events, agricultural operations part one, with part two being consideration of more substantive changes in regulations – with a much broader engagement process – but staff would note Mr. Tubbs' suggestion.

Ms. Brumfield stated that staff recommends approval of the ZTA as shown in the draft zoning ordinance.

Mr. Bivins asked why "duplex" was in quotes and he wasn't sure if that meant it wasn't there.

Ms. Brumfield said it should be crossed out, and she thought it was in the draft zoning ordinance.

Mr. Bivins stated that he was confused as to how "therapeutic" and "athletic facility" got linked together.

Ms. Brumfield responded that the definition was pulled from the APA definitions.

Mr. Bivins suggested that "nearby lot" have DCD defined first before putting the initials. He said that where there is a "light duty truck" under "recreational vehicle," his question is whether it pertained to a truck or just a vehicle – because a light duty vehicle may not have to be a truck.

Ms. Brumfield responded that generally they were towed by trucks, but some SUVs could tow them now.

Mr. Bivins commented that the definition for a "kennel" and the definition for a "stable" seem like they should be the same.

Ms. Brumfield replied that these were not being changed.

Mr. Bivins said that he was suggesting that if they did go further with edits, this could be addressed.

He also stated that "single family homes" often was interpreted as "single households," and family by federal definition was an indicator of marital status.

Ms. Spain said that it could also be relationship by blood or adoption.

Mr. Bivins suggested that they change the language to "household," as not everyone living in a house was married – or related by birth or by adoption.

Mr. Herrick stated that the current zoning ordinance had a definition of family and included "unrelated people" within it, but perhaps the term should be changed to be more inclusive.

Mr. Keller added that there could be more than one family living within a household, so it seemed they were really talking about housing types – not family types.

Mr. Dotson commented that he knew where current things were in the current ordinance, and some of this should be put in an online users' guide so people didn't get frustrated when they tried to find something. He said that when they did a property search on the county site, somebody came up with the idea of putting all the streets in.

Ms. Brumfield responded that the county was moving to an online-based code in place of the current PDF-based code – with complete searchability, filtering by search results, etc.

Mr. Dotson **moved** to recommend approval of ZMA-2017-11 as shown in the draft zoning ordinance as presented in the staff report. Ms. Spain **seconded** the motion, which passed by a vote of 7:0.

ZTA201900002 Agricultural Operations Amendment – Phase I

Ms. Ragsdale reported that this was a public hearing for updates to Section 18-5.1.58 (Events

and Activities at Agricultural Operations), and these regulations have been crafted in accordance with the Comp Plan, in which the county is supportive of agricultural and forestal activities – with events intended to be secondary in support of agricultural production. She said that state code provisions limited them in some ways in terms of what they can regulate with regard to agricultural activities, and the production, harvesting, manufacturing, storage, and tasting was not regulated and subject to the supplemental regulations in this section – but they could regulate the usual and customary supportive activities, which may involve "substantial impacts" such as traffic and noise.

Ms. Ragsdale reported that the county adopted the provisions of this section in 2014 and has had some experience and additional input from rural area groups on these types of regulations that address the impacts to neighbors with farm winery, brewery, and distillery work – and now would like to align those sections of the ordinance. She noted that staff had a work session in March with the Board and was scheduled for a public hearing with the Board in May for the phase one, which was the alignment of the regulations. She stated that the ordinance includes adding a curfew – an additional regulation outside definitions to supplemental regulations for outdoor amplified music, adding the neighbor notification requirement, updating setbacks to align the regulations, and adding a five-acre minimum onsite production requirement to be eligible to host events.

Ms. Ragsdale said this requirement would not pertain to sales-related activities or agritourism-related activities for marketing of what was produced on the property, such as farm tours, which would not be subject to the five-acre requirement. She stated that it would pertain to events such as farm-to-table dinners or an agricultural festival that might bring in other producers or some other agriculture-related outside activities.

Ms. Ragsdale stated that the definitions were not changing and would come into play with decibel level limits for outdoor amplified music, and they were adding a curfew and additional regulation that stipulated hours in which music could be played. She said that the public has been supportive of adding the neighbor notification requirement, which staff had added to farm wineries, breweries, and distilleries to be included with this ordinance update. She noted that aligning the regulations with stepbacks, staff wanted to provide consistency with regard to how they were administering setbacks; the current regulations have a building separation requirement, and staff wanted to clarify what it applied to with this update.

Ms. Ragsdale mentioned that they had talked at the previous work session about what the review criteria would be for the special exception, and there were some questions about that so staff added it to the draft ordinance to be consistent with Section 5.1.58, consistency with the Comp Plan, and any modification to the five-acre requirement not causing substantial detriment to abutting properties.

Ms. Firehock noted that some constituents had asked about a requirement for notification when an agricultural operation was going to have an event, and she asked if that was possible.

Ms. Ragsdale responded that those operations required to get a zoning clearance generated one notification that provided a general description of the anticipated activities and a point of contact for the farm so neighbors could find out about any upcoming events. She stated that it did not require notice for every single type of event, it just let neighbors know the general parameters and regulations – i.e., the types of events allowed and accompanying stipulations in the supplemental regulations so they were informed of the ordinance and what the farm might be planning.

Mr. Keller asked about the event eligibility and why some of the provisions were included for agricultural events, and it would be helpful for staff to clarify what they can put controls on and what they can't.

Mr. Herrick explained that there had been significant state legislation in the realm of farm wineries, breweries, and distilleries – and in addition, agricultural operations, which would also be considered "farms." He said that staff's overriding concern here was to be compliant with state law but also to the extent reasonably possible to make the regulations similar and consistent across all kinds of agricultural operations within those parameters.

Ms. Ragsdale pointed out that they could regulate the usual and customary activities like events, and that was where they could add supplemental regulations intended to address those activities.

Mr. Keller said that given state legislation, the county could not preclude them from having those events.

Mr. Herrick confirmed that the county as limited in the amount of regulation it could impose on what was considered agricultural operations under state law.

Mr. Keller said that his sense was that a number of the letters were getting at that, and he wanted staff to explain those limitations.

Mr. Herrick noted that the county ordinance was subject to state law constraints, and many items some citizens may want the community to regulate were preempted under state law.

Mr. Keller opened the public hearing.

Ms. Nora Seilheimer addressed the Commission, stating that she is a resident of 1864 Farm Vista Road, Charlottesville. She stated that her family was very concerned about the rapid and negative impact that agritourism and large outdoor parties and weddings were having on the fabric of the rural community. She said that while agriculture was essential to preserving the rural heritage and open spaces, a lot of the activity they were noticing were not part of traditional agricultural operations and were taking advantage of current zoning laws to operate

sophisticated commercial enterprises where the primary focus wasn't agriculture. She said she had chosen to raise her children in a rural setting because of the values that life instilled in future generations and their impact on the larger community.

Ms. Seilheimer acknowledged that many of the decisions were made at the state level, but localities had some abilities in this regard – and as the county moved forward in this discussion, she hoped everyone was considering the negative impacts, especially on the neighbors and communities – not just the business owners making money from the activities.

Mr. Travis Pietila of the Southern Environmental Law Center offered their support for a number of the changes being proposed, stating that many of the events held at agricultural operations were similar to those held at wineries, breweries, and distilleries – so it made sense to carry over the protections established for those uses such as setbacks and neighbor notification requirements. He said that the SELC also appreciated the introduction of a minimum acreage standard for eligibility to hold events, as it was a helpful staff towards better ensuring that agriculture remained the primary use of the parcels, as intended by the ordinance.

Mr. Tubbs stated that the PEC also supported adoption of the ZTA, which would give necessary protections to neighbors of properties that qualified under state law to hold events. He said that bona fide ag operations and their owners had property rights, but neighbors also had rights. Mr. Tubbs commented that the provision was in the spirit of the state's 2014 legislation that reduced the ability for localities to regulate events. He said that residents who lived next to ag operations would argue that there was a substantial impact to the health, safety, or general welfare to events that generated noise, traffic, and other outcomes.

He said that the PEC had written to the Commission in December to point out that the county's zoning ordinance had other provisions that required neighbors to be notified if there was a zoning clearance – the category for up to 24 events – and the PEC was glad it was embodied in the request, as it allowed for more transparency and provided a necessary point of contact between neighbors and event operators. He said they also supported the curfew for outdoor amplified music and greater setbacks, and they were also glad that minimum acreage standards in this phase made progress towards better answering the question of whether a property qualified under the code as a bona fide agricultural operation.

Mr. Tubbs stated that the PEC felt that what was being recommended for the first phase was a reasonable first step in closing potential loopholes, but the real work would come with the second phase. He said they were glad the Board of Supervisors had directed this work, and he wanted to clarify the timeframe for phase two – which had changed from Amelia McCulley's email to the staff report – as people wanted to know when it would start. He stated that it was important that the regulations made it clear that events only occurred on properties where the primary use was agriculture, and it was important to do this in a way that kept local discretion intact so that Albemarle could decide for itself what happened in its rural areas.

Mr. Tubbs noted that in working catering events in Albemarle, he observed that most events were good stewards – due in part to the regulations that were in place – but he also worked in two sites that were not in compliance, and those establishments were no longer operating. He added that he did not feel those places had agriculture as the primary use, which must be the standard.

Ms. Monique Richard of Ballard's Mill Road in Free Union stated that she had received a newsletter indicating there were 300 wineries in Virginia – which was approaching the 430 Starbucks in the state, an indication that wineries were popping up everywhere. She expressed concern that there were people setting up wineries just so they could hold weddings, which impacted the entire neighborhood. She said that she had recently been to Madison, and a widow had sold off 250 of her 300 acres to a winery, and every weekend they had a wedding there – making it difficult for this woman to hay her fields because there was always an event on the property. Ms. Richard noted that this affected everyone in the future, as there were a lot of farmers who worked on weekends, and the wineries popping up were setting up conflict. She said that it was important to notify neighbors of events so that people could plan what they were doing on their farms that day.

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

Ms. Ragsdale said that regarding the phase two work, the staff report indicated that it was "to be determined." She said that the work program went to the Board of Supervisors, and this item was in the plan for phase two so that staff would go back to the Board to discuss the public engagement piece and revisit it, as it was a substantial effort that would take more time. She noted that this was slated for a fall timeframe.

Mr. Dotson asked if this was addressing events at agricultural operations or addressing something called an "agricultural operation event."

Ms. Ragsdale responded that there were several different terms in the ordinance: a specific term called an "agricultural operation event" that was defined, so the eligibility requirement would apply just to that – but the way the table was set up in the ordinance, there were certain supplemental regulations that applied to sale and agritourism-type activities. She said that this meant that the curfew, music, neighbor notification, etc. would require a clearance for activities, which would trigger the neighborhood notification, and the setbacks would apply to all types of structures and uses. She noted that the events did not include weddings but could be fundraisers, agricultural festivals, livestock shows, etc. that had outside things coming in to promote agriculture versus activities on the property itself that featured ag products.

Mr. Dotson asked if the language should be clarified so that it stated, "agricultural operation event."

Ms. Ragsdale replied that it could have been clearer on the slide.

Mr. Dotson said this was really about farm tours, agricultural festivals, and similar events.

Ms. Ragsdale noted that a farm wanting to have weddings would have to go through the special use permit process for special events.

Ms. Firehock asked if it was possible for the farm to have a calendar where they posted events, as she was very sympathetic to the neighbors and scheduling their own activities – but she was also aware of the state's legislative bounds.

Ms. Ragsdale explained that they were mirroring the language vetted during the more involved farm winery and brewery process, but the process was that it wasn't just one-time notice but also required contact and communication with neighbors. She stated that the ordinance required that the notice identify the proposed type, size, and frequency of events – with limits in the table of regulations, such as 24 times per year and an inclusion of a contact person with the notice. She said that the county was proposing new or additional regulations that weren't already in the ordinance for the phase one work.

Mr. Bivins commented that he was glad they were aligning farm operations with breweries, wineries, and distilleries – but the question was whether events were accessory activities to the venue versus the primary use. He said that his concern was seeing an emerging venue that featured farm use but really was a "garter farm" that primarily featured weddings. He also asked for clarification of the timeframe for phase two.

Ms. McCulley explained that the report said "TBD" for phase two, but the work program did call for this schedule and the third quarter would be for a scoping to figure out how to go with this, along with a public engagement process. She stated that it was such an involved issue, it could take a year depending on the scope of it. She said they would know then, but it could potentially wrap up at the end of 2020 – sooner if it were a more limited scope – and they would want to be very clear about what they wanted to take on in phase two.

Mr. Keller said that some of the larger operations of this sort had big events such as apple or pumpkin-picking, but they also had smaller events such as music nights – and all of the events were available online for the individual operations. He asked if they could ask that anything be notified in advance in this way, such as a Facebook page.

Mr. Herrick responded that he was concerned about this in terms of state law, which stated that "no locality shall regulate the carrying out of any of the following activities at an agricultural operation unless there was a substantial impact on the health, safety, or general welfare of the public. He said that one of them was agritourism activities as defined elsewhere in the state code, but that definition was very broad – essentially any activity that's held on a farm and is open to the public. He said that unless the county was able to show that there was a substantial impact on the health, safety, or general welfare of the public, they were limited in

their ability to regulate it.

Mr. Herrick said that the secondary concern was enforceability, and he would be concerned about being the county's code compliance officers to keep tabs on what notice had been sent out for what activities to what people – and this would be much more difficult to enforce from the zoning administrator's perspective.

Mr. Keller commented that anyone trying to get from Route 20 to Route 795 on certain days would encounter issues, which compromised safety for residents in the event of emergencies. He stated that when constituents come to the Commission with their concerns, there is a duty to explain where the challenges lie.

Ms. Firehock asked if there was a fact sheet or something that covered the issues.

Ms. Ragsdale responded that there was a fact sheet available that reviewed the regulations, and staff tried to put fact sheets together for more complex regulations.

Ms. Firehock asked if it explained what the county's purview was in terms of regulations, as she would like to have that so they were not always in the position of re-explaining it.

Mr. Herrick stated that the county's website "Albemarle County Agricultural Operations FAQs," a four-page summary in Q&A format. He said that regarding the question of what the county was enabled to do, it can only be done if the relation is made to having a substantial impact on health, safety, or general welfare of the public. He said that the next question is should they do something like that, which would be more the administrative issues – and those were best discussed under phase two and in the context of the balance between ag operations' permitted activities and constituent safety.

Ms. Firehock said that they did talk about that in a work session regarding zoning clearances and asked how they could measure a cumulative impact if several were having events at one time, as many rural areas had just one access point.

Mr. Herrick stated that in terms of phase one, they needed to make agricultural operations consistent with farm wineries, breweries, and distilleries – which require a one-time zoning clearance, as they were attempting to do here. He said that having event-by-event notification would be inconsistent with what was required for those operations.

Mr. Keller clarified with staff that they were seeking a recommendation for the Board of Supervisors on an updated ordinance.

Ms. Spain **moved** to recommend approval of ZTA 2019-02, Attachment Z, last revised, and dated April 9, 2019. Mr. Bivins **seconded** the motion, which passed by a vote of 7:0.

Work Session

ZTA201900001 Zero Lot Line

Mr. McCollum stated that he would present information on the proposed ZTA, with the purpose of this work session being to review the current and proposed changes related to the side setbacks for non-infill residential development and gather Planning Commission input on the proposed changes. He said the two sections of the zoning ordinance that this amendment focused on were Section 4.19 and 4.11.3.

Mr. McCollum explained that infill was described as "the process developing land in areas that are already largely developed," such as building a house in a neighborhood that had been there for 20 years. He said that non-infill was described as "normal development" such as building a house in a brand new neighborhood or all lots being developed at the same time. He said that for the purposes of this ZTA, they were focusing on the non-infill development.

Mr. McCollum stated that the changes proposed were for side setbacks of non-infill development, with setbacks defined as the distance by which any building was separated from any side lot line – such as the property line in between the two houses considered the side lot line. He said the side setback would be the distance the houses are from that property line, and Section 4.19 of the zoning ordinance provides specific setback distances for residential districts. He stated that for non-infill development, the side setback minimum was listed as "none," with the minimum building separation or distance separating the two buildings of 10 feet.

Mr. McCollum said that this essentially meant that the houses can be built as close to the property line as they wanted, as long as there was 10 feet of space in between the buildings. He stated that the regulations created a problem when neighboring properties wanted to build closer than the 10 feet to the lot line, and if a neighbor chooses to build as close as zero, the next neighbor had to build at least 10 feet away because of the minimum building separation – and the second neighbor now can't build on the first 10 feet of the property. He said that because of problems like this, a resolution of intent was adopted to establish a minimum side setback greater than the existing zero feet.

Mr. McCollum presented an example that showed two lots developing with a side setback distance of zero, thus limiting the lot in between them in terms of how big the house could be because of the building separation. He said that by building at zero, the two lots were preventing the third lot from building on the first 10 feet on either side of the property. He noted that there currently was no language that prevented the lots from doing this, and the public purpose of the ZTA would be to prevent these issues between neighbors from happening. He also presented an example of houses building two-foot additions, but one homeowner putting their addition on first would preclude the neighboring house to do it because of the distance from the lot line.

Mr. McCollum stated that in zero lot line developments, the issues are avoided because a 10-foot building separation is ensured through a wall maintenance easement. He said that a zero lot line development can more easily be described as a residential development that has regulations in place so they can build at the zero foot side setback. He added that the easement required gives neighbors access into the first 10 feet of space for normal maintenance on the side of their houses and ensures the 10-foot building separation.

Mr. McCollum emphasized that the regulations applying to the zero lot line developments are specifically listed in Section 4.11.3, and for non-infill developments, there were no regulations that prevented these problems from arising. He presented an example of a zero lot line development, with three lots built to a zero-foot side setback because of a preexisting 10-foot maintenance easement on the adjacent properties, which ensured the homes had enough space for normal upkeep such as replacing the siding on the house or cleaning out gutters, but it also ensured fire safety and a 10-foot minimum building separation. In the non-fill example, he said, no one loses out on any buildable space because the easements are in place prior to construction.

Mr. McCollum said that after going through the history of existing regulations and researching the zero lot line developments for means on how to ensure the 10-foot building separation, staff came up with a proposal. He noted that the proposal in the staff report was slightly different than the one he was presenting today, and they took the proposed changes to several stakeholders and builders in the community – and their feedback helped guide the recommendations.

Mr. McCollum stated that staff was recommending that the chart in 4.19 be amended to show a side setback minimum of five, which would ensure the minimum building separation of 10 feet by providing five feet on either side of the lot – and a majority of stakeholders said the five feet of space would be plenty of space for normal building maintenance. He noted that staff was also recommending that Section 4.11.3 be amended so the setback could be reduced down to zero, as long as they could maintain 10 feet of space through something like an easement.

Mr. McCollum reported that staff had significant stakeholder involvement in this process to help guide decisions, and they took the initial proposed changes to local builders – and the feedback received generally favored the establishment of some minimum setback and the need for at least 10 feet of space for building separation. He said that three of the four suggested a five-foot setback, and the setback adjusts the minimum building separation but may or may not address the amount of space needed for normal building maintenance.

Mr. McCollum noted that several builders argued that a five-foot setback would be ample space for normal maintenance and requiring that simple setback without an easement would be much simpler. He said that staff acknowledged this but also emphasized that the proposed changes to 4.11.3 to allow for setbacks to be more flexible by allowing them to be reduced to zero if an easement is granted.

Mr. McCollum said that stakeholders also said that going to a 10-foot minimum, which was in the staff report, from the existing zero may have immediate negative impacts – whereas a five-foot setback could generally be favored in that community. He added that their concerns were that establishing a 10-foot setback would require lots to be much wider and ultimately make houses more expensive.

Mr. McCollum stated that staff's takeaway from these meetings was whether five feet was enough space for normal building maintenance or if 10 feet, as in zero lot line developments, was more appropriate – without needing to cross into adjacent properties. He said that if five feet is sufficient, like the majority of the builders recommended, a five-foot setback may be the best solution.

Mr. McCollum stated that staff's recommendation for the work session is that the Planning Commission provide input and feedback on these proposed changes in 4.19 and 4.11.3, as well as comment on the stakeholder feedback. He said he had listed the options to move forward with the ZTA.

Ms. Spain asked about additions to these if there was a five-foot setback on each side and someone wanted to build an addition, and if that would violate the separation.

Ms. Ragsdale responded that they would have to meet the five-foot setback, and if you had a seven-foot setback between a house and a property line, a two-foot addition is permissible; if the house was at a five-foot line, there would be no addition.

Ms. Spain asked if there would be no additions possible if the five-foot side setback were enacted.

Mr. McCollum confirmed this. He referenced the examples provided of what a zero lot line looks like, stating that he had found a few examples and had a couple plats. He said that Stonewater had a 10-foot maintenance easement in between each lot, so the easement was entirely on one parcel. He also stated that Dunlora Park was considered zero lot line, but they built to a five-foot setback, and the 10-foot maintenance easement ran in between them – so the five-foot setback as recommended by the builders would eliminate the need for maintenance easement in between them.

Mr. Carrazana asked how they would resolve a fence issue or something like that.

Mr. McCollum responded that it would depend on the language of the easement, and some things may be allowed but it depended on what the agreement said – and what they thought was a reasonable amount they could put on the easement. He stated that a fence on the property line would be allowed if there were a five-foot setback, because the provision was saying that five feet was enough – but in an easement, a fence would not be allowed.

Mr. Herrick clarified that the way the current ordinance read – and staff was not proposing any changes to that part of it – was that the subdivider shall establish a maintenance easement so that with the exception of fences, the easement had a minimum width: "between the dwelling unit shall be kept clear of structures in perpetuity." He emphasized that fences were specifically excepted, but otherwise it was to be kept clear of structures in perpetuity.

Mr. Keller asked how an ADU would fit into this if they were talking about two dwelling units on the parcels because auxiliary dwelling units were added in the future as a by right or special use permit or whatever.

Ms. Ragsdale responded that the standard way that was handled now in denser zoning districts was that if an accessory dwelling unit was allowed in a house or in a rural area, a second dwelling unit had to meet primary setbacks. She said that they did not really look at that in other municipalities that much, but generally it was good zoning practice to make sure that all dwelling units met primary setbacks.

Mr. Keller responded that this was the wave sweeping America currently, and that's why he brought it up.

Ms. Ragsdale stated that it was all wrapped up in homestays and lot lines.

Mr. Keller said that seemed like a reasonable approach.

Ms. Firehock commented that sometimes the simplest approach was the best, stating that she had lived in Fifeville before moving to the county, and that had five-foot setbacks. She said that she was asked to come out and measure as a favor to them, and she never found any violations – but the main point was that it seemed like a reasonable separation but it was still very dense and urban. She added that she had also lived in an old store that had a zero lot line because it had been a store, but it was on an alley that was 15 feet wide. She stated that if they were going to get dense enough, which was the point of infill, she would suggest adopting the five feet on either side.

Ms. Firehock noted that she had seen some zero lot line developments that have had some bad consequences, because it looked good on paper but it was really difficult when the edge of that building was on that line. She stated that there may be a deed that says someone has an easement on a neighbor's property, and then someone bought that house. She said that this created unnecessary conflict.

Mr. Carrazana stated that if there were an easement all on property, that was one thing – but a shared easement created potential problems because if a fence is allowed, maintenance on the adjacent property might require the fence to be taken down so the easement could be accessed.

Mr. Herrick said that the homebuilders were suggesting option three or option one.

Mr. McCollum responded that they were recommending a five-foot setback, and he put in the language that it could be reduced in some instances.

Mr. Herrick commented that the tradeoff is that option three is simpler, and option two as staff was originally recommending has the advantage – although more complex – of being flexible and allowing for the flexible design presented in the hypothetical example.

Ms. Firehock asked if there could be a hybrid with a five-foot setback with the option to apply for a zero lot line.

Mr. Herrick responded that this was option one.

Mr. Bivins stated that he read the bit about the easements, which were problematic in that kind of dense development. He said that what he was seeing in Albemarle County was that someone would set the plat and a builder would swarm in to see what they could build on the piece of property there. Mr. Bivins said he would like to think they would work together, but he had not observed that; instead there had been a rush to get the easement in. He stated that the question then was whether the easement would be executed in a manner that works or if it would be the same easement across the entire development, which he did not think would happen given the way they were developing. He asked if it would be possible just to give everyone their own space for maintenance instead of asking them to share the space to do the maintenance.

Ms. Spain pointed out that this would be option three.

Mr. Bivins said that it could be 5 or 10 feet, and he did not think the easements would work as shared unless one builder came in and did the entire community – which he did not see.

Ms. Firehock stated that the point was to have infill, and in Fifeville people squeezed them in and made it doable.

Ms. Spain responded that this was non-infill.

Mr. McCollum noted that infill had 10 feet already per side.

Mr. Bivins said that unless one person was building the whole thing, the easement part would generate more confusion among the people who would eventually live there than it would solve the problem.

Mr. McCollum said that option one was that the chart would refer to the five feet, with

regulations to be followed if someone wanted to go less.

Mr. Dotson commented that he assumed easement was recorded as part of the final subdivision map, and a builder wouldn't actually put the easement on it – he would buy a lot that had the easement on it.

Mr. Herrick said it would be a requirement of the subdivision plat, as a matter of approving that plat.

Mr. Keller stated that this was a great academic exercise, and any option if carried through would work.

Mr. Herrick emphasized that the whole purpose of this was to avoid that sort of gold rush, and that was what they were trying to avoid. He said that the problem was that the current wording had one area with zero, and they wanted to revert to 10 feet as a default – but with an option to comply with things like a maintenance easement, to reduce it down theoretically to zero. He added that the builders were suggesting the option with a five-foot setback, which may combine the best of both worlds of having the default of five feet on either side but allowing for adjustment one way or another as long as 10 feet is maintained.

Mr. Bivins said that was option one.

Ms. Riley commented that she favored option one, which allowed more density by decreasing side setbacks, and it allowed for some reduction if easements could be established and provided some flexibility.

Mr. Dotson said that his understanding of zero lot line was a way at higher density to give more open space to the occupant – and very little could fit into 5 feet, but 10 feet was usable.

Mr. McCollum noted that the builders had said 10 feet turns into a courtyard space and becomes an active area.

Mr. Carazzana said that all of this had been considered in Southern California, where he used to live, and there are consequences that may not be perceived but the best practices there might be helpful information. He stated that he would favor option one, but in SoCal there was a lot of zero lot line development to maximize space – with enormous houses being built right to the edge of the lot lines, with practically no green space. He said that the homes had seven and eight rooms, and they became multi-family homes, which presented an interesting dynamic. He suggested to staff to do some additional research into that, adding that there may be some unintended consequences.

Mr. Dotson stated that he also preferred option one.

Mr. Keller said that he did also.

Ms. Riley commented that some of the slides, particularly the ones with the graphics, were helpful for her in providing clarity.

Committee Reports.

Commissioners stated that they would provide committee reports at the next Commission meeting.

Review of Board of Supervisors Meeting – March 20, 2019.

Mr. Benish reported that there were three items at the BOS meeting of March 20 that had been to the Planning Commission:

- ZMA2016-0006, 3223 Proffit Road next to the Southern States building, approved as recommended by the Commission, including a buffer suggested by Ms. Firehock to protect some wooded areas on the adjacent property.

- CPA2018-0006, Birdwood, approved by the Board as recommended by the Commission.

- Agricultural/Forestal District review of the Hardware District, which was approved as recommended by the Commission – with one withdrawal that ended up with two acres withdrawn instead of the full property.

Old Business/Items for Follow-up.

There was no old business presented.

New Business.

Mr. Benish said there would be two public hearing meetings in which there were items already scheduled, with the first being May 7, having seven items on it; a work session was scheduled for May 14, with no items currently scheduled on it; and May 21, with seven items scheduled on it. He stated that staff felt that it might be a good idea to see if the Planning Commission as a whole was willing to schedule items on May 14.

Mr. Benish stated that just in the past day, the county had been requested to add three different items that are time sensitive and needed to get to the Board of Supervisors by July. He said that the Commission might need a fourth meeting in May, which would be May 28.

Mr. Keller mentioned that he and Mr. Bivins had met with Mr. Benish, and the Commission would be considering items in May that were not necessarily going to be short items, such as Crozet Square in Southwood.

Ms. More asked if adding May 14 was to allow for original items or to disperse the current ones.

Mr. Benish responded that it was originally to disperse, and two of the items added were very quick items.

Mr. Keller stated that those items would likely be ones that moved to May 28 or even into June.

Mr. Bivins said there was a planned meeting already for May 14.

Mr. Keller said if they decided to do May 28, it needed to be added to the calendar.

Ms. Spain noted that April 30 was also a possibility.

Mr. Benish responded that most of the items were public hearing items, which would require advertising.

Ms. Riley commented that she could do May 28 and May 14, if necessary.

Mr. Keller said he was also available for both.

Mr. Bivins said he was available for May 28.

Ms. Spain said she was good for both.

Ms. Firehock stated that she was not available on May 21.

Ms. More stated that she was available for all May dates.

Mr. Dotson said he was also.

Mr. Benish stated that he would try to get the items finalized by early the following week, and at this date there was still an outside chance that some of these would get deferred.

Ms. Spain **moved** to amend the Planning Commission calendar to allow for a meeting on May 28, 2019. Ms. Firehock **seconded** the motion, which passed by a vote of 7:0.

Mr. Keller commented that discussion of steep slopes needed to be added to the Commission's list of items that needed to be discussed.

Adjournment.

At 9:25 p.m., the Commission adjourn to April 23, 2019 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, county Office Building, 401 McIntire Road, Charlottesville, Virginia.

_____

David Benish, Interim Director of Planning

(Recorded by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards. Transcriped by Beth Golden)

Approved by Planning Commission
Date: 5.21.19
Initials: CSS