

**FLUVANNA COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES**

**Carysbrook Performance Arts Center
8880 James Madison Hwy
Fork Union, VA 23055**

Tuesday, October 10, 2023

**Work Session 6:00 pm
Regular Meeting 7:00 pm**

MEMBERS PRESENT:

Barry Bibb, Chair
Mike Goad, Commissioner
Bree Key, Commissioner (arrived at 7:10 pm)
Lorretta Johnson-Morgan, Commissioner
Patricia Eager, Board of Supervisors member

ABSENT:

Howard Lagomarsino, Vice Chair – Online
Valencia Porter-Henderson, Administrative Program Specialist

STAFF PRESENT:

Eric Dahl, County Administrator
Douglas Miles, Community Development Director
Dan Whitten, Fluvanna County Attorney
Jason Overstreet, Senior Planner

STAFF AT WORK SESSION:

Aaron Spitzer, Parks and Recreation Director
Calvin Hickman, Public Works Director
Debbie Smith, Emergency Management
Kim Mabe, Social Services Director
Tori Melton, Finance Director
John Lye, Lake Monticello Water Rescue
Robert Popowicz, Public Utilities Director
Captain Sean Peterson, Sheriff's Office
James True, Emergency Medical Services
Don Stribling, Fluvanna County Public Schools

A. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 6:00 pm, Chair Bibb, called the October 10, 2023 Work Session to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

B. Capital Improvement Plan FY25-FY29

Fluvanna County's new Capital Improvement Plan (CIP) for FY25 – FY 29 has been prepared by the Finance Department in conjunction with the County Administrator. The CIP Plan has been forwarded to the Planning Commission for their review, in accordance with Virginia State Code §15.2-2239: Local Planning Commissions to prepare and submit annually capital improvement programs to the governing body, in our case it is to the Fluvanna County Board of Supervisors.

Public Works, Parks and Recreation, Sheriff's Office, Emergency Management, Emergency Medical Services, Social Services, Fire Services and Fluvanna County Schools all provided brief presentations on their proposed funding projects and answered questions on their requests.

Several of the same CIP requests from last year were presented so there was little change in these requests to the Planning Commissioners just more of status updates on these projects. The Schools Division had taken care of their additional school bus orders with other funding.

Ms. Melton then summarized the next steps within the CIP review process with Project Rankings scheduled to occur at the November 8th Planning Commission Work Session and then after the rankings a Public Hearing would be conducted on December 12th to complete the CIP process.

2040 Comp Plan Completion Work Group – Douglas Miles, Community Development Director

- Chair Mozell Booker and Vice Chair Patricia Eager
- Chair Barry Bibb and Commissioner Johnson-Morgan
- Debra Kurre, Steve Hurwitz, Suzy Morris and Kathy Swenson Miller
- Fall Work Group Sessions that will be conducted in the Morris Room

Planning Commission and Advisory Group Summary

- The Historic Preservation and Rural Preservation Advisory Groups met continuously through the spring, summer and fall of 2022.
- They provided an end of year report to the Planning Commission and that information was to be considered with the 2040 Comp Plan draft while we completed the ZXR Plan.
- On January 27th the Zion Crossroads Advisory Group conducted a final, all day workshop on the ZXR Design Guidelines with TJ PDC Planning, Fluvanna and Louisa Planning staff.

Day	Date	Time	Public Meetings	Location
WEDS	OCT 18	5:00 pm	Solar Energy Board of Supervisors Session	Carysbrook Theatre
SAT	OCT 21	10:00 AM	Coffee and Conversation Community Event	Maple Room
WEDS	NOV 8	6:00 PM	Planning Commission Work Session and Meeting	Carysbrook Theatre

C. Adjournment: Chair Bibb closed the Work Session at 6:43 pm.

1. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 7:00 pm, Chair Bibb, called the October 10, 2023 Regular Meeting to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

1A. UNFINISHED BUSINESS – 2023 Planning Commission By-laws Amendments – Dan Whitten, County Attorney

Fluvanna County Planning Commission
 BYLAWS AND RULES OF PRACTICE AND PROCEDURES
 October 10, 2023

VII. PARLIAMENTARY PROCEDURE. The County Attorney shall serve as the Parliamentarian for the purpose of interpreting these Bylaws and Rules of Procedure and Robert's Rules of Order as may be directed by the Chair, or as required as a result of a point of order raised by any one or more Commission members. If the County Attorney is unavailable, the Community Development Director shall serve as the Parliamentarian.

IX. PUBLIC SESSIONS.

- A. Except as otherwise directed the regular public meeting of the Commission shall be held on the 1st Tuesday after the 1st Wednesday of the month at 7:00 p.m. The meetings shall generally be held in the County Administration Building in the Carysbrook Performing Arts Center.

X. MEETING AND ATTENDANCE.

- A. All meetings and business shall be conducted in accordance with these Rules, Robert’s Rules of Order Newly Revised, 12th Edition, and the law of Virginia. In the event of conflict, the law of Virginia shall govern.

XI. POLICY FOR REMOTE PARTICIPATION OF MEMBERS OF THE FLUVANNA COUNTY PLANNING COMMISSION AT MEETINGS OF THE COMMISSION

A. Authority and Scope

1. This policy shall govern participation by an individual member of the Planning Commission of Fluvanna County, Virginia, by electronic communication means in public meetings of the Planning Commission of Fluvanna County, Virginia, and any closed session of the Commission held in accordance with applicable law, from and after the date of adoption of this policy.
2. This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.3 and is to be

strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code § 2.2-3700 et seq.

3. Any reference to a specific provision of federal, state, or local law referenced in this policy shall mean such provision of law, as amended from time to time, or as set forth in any successor provision dealing with substantially the same subject.

B. Definitions

1. "Member" means any member of the Planning Commission.
2. "Remote participation" means participation by an individual member of the Commission by electronic communication means in a public meeting where a quorum of the Commission is physically assembled, as defined by Va. Code § 2.2-3701.
3. "Meeting" means a meeting as defined by Va. Code § 2.2-3701.
4. "Notify" or "notifies," for purposes of this policy, means verbal or written notice that is reasonable under the circumstances, with written notice, such as by email or letter, being the preferred means of notice. Notwithstanding the foregoing, notice does not include text messages or communications via social media.
5. "VFOIA" means the Virginia Freedom of Information Act, Va. Code § 2.2-3700, et seq.

C. Mandatory Requirements

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

1. A quorum of the Commission must be physically assembled at the primary or central meeting location; and
2. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

D. Process to Request Remote Participation

1. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Commission Chair (or the Vice-Chair if the requesting member is the Chair) that such member is physically unable to attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) such member's principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.
2. If the requesting member is unable physically to attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter and that such matter renders the requesting member unable physically to attend. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in (i) - (iii) above.
3. The requesting member is not obligated to provide independent verification regarding the reason for such member's nonattendance, including the temporary or permanent disability or other medical condition or the family member's medical condition that prevents the member's physical attendance at the meeting.

4. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether the request is in conformance with this policy, and therefore approved or disapproved.

E. Process to Confirm Approval or Disapproval of Participation from a Remote Location

When a quorum of the Commission has assembled for the meeting, the Commission shall vote to determine whether:

1. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and
2. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

F. Recording in Minutes

1. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because the member's principal residence is located more than 60 miles from the meeting location the Commission shall record in its minutes (1) the foregoing circumstance due to which the member is participating remotely; (2) the Commission's approval of the member's remote participation; and (3) a general description of the remote location from which the member participated.
2. If the member is allowed to participate remotely due to a personal matter, the Commission shall record in its minutes (1) the specific nature of such personal matter that renders the requesting member unable to attend stated by the requesting member; (2) how many times the member has attended remotely due to a personal matter; (3) the Commission's approval of the member's remote participation; and (4) a general description of the remote location from which the member participated.
3. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

G. Closed Session

If the Commission goes into closed session, the member may continue to participate remotely in the closed session, and shall ensure that no third party is able to hear or otherwise observe the closed meeting.

H. Strict and Uniform Application of this Policy

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. Unless independently received by County staff, the Chair (or Vice-Chair) shall provide County staff with copies of the member's written request to participate remotely and the written response, as applicable, if the request or response is in writing, to be retained by County staff for a period of one year, or other such time required by records retention laws, regulations, and policies.

I. Meetings Held Through Electronic Communication Means During Declared States of Emergency

1. In addition to the foregoing, pursuant to the Code of Virginia Section 2.2-3708.2(A)(2) the Planning Commission may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with the Code of Virginia Section 44-146.17, or Fluvanna County has declared a local state of emergency pursuant to Code of Virginia Section 44-146.21, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency provide for the continuity of operations of the Commission or the discharge of its lawful purposes, duties, and responsibilities. The Planning Commission when convening a meeting in accordance with this subdivision (I)

shall:

- a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the Planning Commission conducting the meeting;
 - b. Make the arrangements for public access to such meeting through electronic communication means;
 - c. Provide the public with the opportunity to comment at those meetings of the Commission when public comment is customarily received;
 - d. Otherwise comply with the provisions of the Code of VFOIA; and
 - e. State in its minutes the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.
- J. Nothing in this Section XI shall be construed to prohibit the use of interactive audio or video means to expand public participation.

MOTION:	Make a motion to accept the new Bylaws, as written.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Absent	Absent	Aye
RESULT:	3-0-2				

Howard Lagomarsino, Vice Chair, 24 Jennings Drive, Palmyra, VA 22963; called into the meeting.

MOTION:	Make a motion to allow Mr. Lagomarsino to attend the meeting virtually.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Absent	Absent	Aye
RESULT:	3-0-2				

2. DIRECTOR'S REPORT – Douglas Miles, AICP, CZA, Community Development Director

October 2023 – Applications Filed for Land Use Reviews

- James River Water Authority: Water intake on the James River Special Use Permit Application and Raw waterline routing request.
- Pinegate Renewables Solar: Utility-scale Solar Project filed an application for a 15.9 megawatt (MW) ac solar photovoltaic (PV) project. The project is named Swallowtail Solar and it would be located north of Bremono Road and West of Walkers Lane (private) the solar project would encompass 145 acres of their 249 acres.

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WEDS	OCT 18	5:00 pm	Solar Energy Board of Supervisors Session	Carysbrook Theatre
SAT	OCT 21	10:00 AM	Coffee and Conversation Community Event	Maple Room
WEDS	NOV 8	6:00 PM	Planning Commission Work Session and Meeting	Carysbrook Theatre

3. PUBLIC COMMENTS #1

Chair Bibb opened the Public Comments at 7:13 pm by giving each public speaker a limit of five minutes to speak and asked that they state their name and address for the record.

James Von Ottenritter at 2126 Nahor Manor Road asked should solar energy companies disclose certain things about their proposed projects and how they will produce and generate electricity.

With no one else wishing to speak in person or online, Chair Bibb closed the first round of Public

Comments at 7:15 pm.

4. DRAFT MINUTES:

MOTION:	To Approve the minutes of the Planning Commission of September 12, 2023.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Virtual	Aye
RESULT:	5-0 Approved, as presented				

5. PUBLIC HEARINGS:

SUP 23:03 Sun Reventon Farm, LLC - A Special Use Permit request in the A-1, Agricultural, General District to construct a **Camp use** under § 22-4-2.2 on 298 +/- acres and known as Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3. These parcels are generally located west of Rolling Road S (SR 620) and north of Briery Creek Road (SR 761) and along the Albemarle County line in the Rural Preservation Area and Cunningham Election District.

Mr. Miles reviewed the proposed Camp land use with the Planning Commissioners and public.

Recommended Conditions:

1. Development of the Camp use shall be in general accordance, as determined by the Zoning Administrator, with the Reventon Farms Conceptual Plan – Special Use Permit Application, dated April 28, 2023 and known as Exhibit A. In order to be in general accordance with the Conceptual Plan, development must reflect the following major elements within the development essential to the design of the development:
 - a. The maximum number of cabins is 40 in Fluvanna County.
 - b. The location of improvements shall generally be shown on the Conceptual Plan.
2. Use of recreational facilities and other facilities, to include the Event facility on-site, is limited to Camp guests staying in the on-site cabins as their registered guests, in either Albemarle County or in Fluvanna County, as shown on the Conceptual Plan.
3. No Recreational vehicles or Travel trailers nor any other temporary vehicles or tents as defined in Campgrounds in the Fluvanna County Zoning Ordinance shall be permitted on the Property. Camp structures as defined in Camp in the Fluvanna County Zoning Ordinance shall be permitted and all permanent structures will be considered under the Building Code to be considered for Camp guests or employees and then be shown on the Conceptual Plan.
4. Prior to commencing the Camp use, the Developer must provide contact information for on-site Camp management to all property owners within 1,000 feet of the exterior boundaries of the area that is included in the Conceptual Plan. The notice shall be re-sent to these same property owners if the contact information changes or additional information needs to be provided by the Camp management.
5. The boundary of the Property shall be posted to alert Camp guests that they are approaching the boundary of the property and that they are not permitted to trespass onto the abutting property.
6. The Developer shall inspect and record Briery Creek Road (SR 761) prior to any site construction. The VDOT – Louisa Residency will need in writing that the Developer is responsible to repair all damages done to Briery Creek Road (SR 761) during site construction of the Camp property.
7. The Developer shall construct or bond for construction the site entrance(s) to the proposed Camp property to meet VDOT entrance and intersection requirements prior to the issuance of a Zoning Permit.
8. The Developer shall notify VDOT, Albemarle County and Fluvanna County in writing thirty (30) days prior to commencing any site construction or logging activity on the Camp property.
9. The Developer shall construct a right turn, taper and/or transition lane on Rolling Road South (SR 620) onto Briery Creek Road (SR 761) to serve the Main Entrance as shown on the Site Access Plan which is a part of the Conceptual Plan. The proposed improvements shall be constructed per VDOT specifications and as shown on the approved site development plans for the Camp property.

10. A minimum twenty-five (25) foot buffer shall be maintained along all property lines that adjoin agricultural or residential zoning districts. Land clearing is not permitted within this buffer area, except for the removal of dead or diseased vegetation, utilities installation and/or for maintenance purposes. The Developer may meet the required Zoning Ordinance buffer and screening requirements by supplementing the existing screening materials to the reasonable satisfaction of the Zoning Administrator.
11. The Developer will be responsible for compliance with the Fluvanna County lighting and noise ordinance requirements, as amended.
12. The Fluvanna County Board of Supervisors, or its representative, reserves the right to inspect the property for compliance with these conditions at any time and upon reasonable notice.
13. Under Section 22-17-4(F) (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Dan Whitten, County Attorney stated that Vice Chair Howard Lagomarsino submitted a Disclosure Statement and signed it and submitted it to the clerk. It stated that he is a Battalion Chief in Albemarle County for the Fire and Rescue Department and he reviews plans, to include the Sun Reventon Farm request. Mr. Whitten stated further since he is one of three or more persons that are affected and there is no Financial benefit to him then he is allowed to discuss this request and it has been made a part of the record.

Bill Raffoul, Sun Communities, Inc. spoke as Applicant, and provided his project presentation.

Mr. Goad stated he felt that it focused more on job creation there, can we touch on that last point and discuss what would be the substantial, future tax revenues to Fluvanna County specifically.

Mr. Raffoul stated Albemarle County has published a total of \$2.6 million in general fund revenues and stabilization which could equate to 79 million over 25 years and again there would be some split between Albemarle and Fluvanna County which I think is to be determined by a future study.

It will be between Albemarle and Fluvanna in terms of how the assessed value will be divided out. I imagine it will be based on the value of the future improvements in the particular areas and the general revenue for facilities in the respective counties and which would occur at a later date.

Mr. Whitten stated on October 18th the Board would be considering an Ordinance for a transient tax for short term rentals that would cover the proposed 40 cabins. Other taxing mechanisms are not being considered at this time. There would be personal property taxes, any roll back taxes, and real estate taxes that would be assessed on this Camp use property going forward right now.

Ms. Johnson-Morgan stated she shared Mr. Goad's concerns and focused more on the lack of any tangible revenue being shown but that the Applicant would be entering through Fluvanna County.

SUP 23:04 Sun Reventon Farm, LLC – A Special Use Permit request in the A-1, Agricultural, General District to construct a Central water system / major utilities use under § 22-4-2.2 on 298 +/- acres and known as Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3. These parcels are generally located west of Rolling Road S (SR 620) and north of Briery Creek Road (SR 761) and along the Albemarle County line in the Rural Preservation Area and Cunningham Election District.

SUP 23:05 Sun Reventon Farm, LLC – A Special Use Permit request in the A-1, Agricultural, General District to construct a Central sewer system / major utilities use under § 22-4-2.2 on 298 +/- acres and known as Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3. These parcels are generally located west of Rolling Road S (SR 620) and north of Briery Creek Road (SR 761) and along the Albemarle County line in the Rural Preservation Area and Cunningham Election District.

Mr. Miles proceeded with the Central water and Central sewer Special Use Permit case requests.

Chair Bibb opened the three Public Hearings at 8:02 pm by giving each public speaker a limit of five minutes to speak and then he asked that they state their name and address for the record.

Calvin Hickman at 139 Briery Creek Road stated he preferred for the entrance to be on Rolling Road South rather than Briery Creek Road, he requested that a pedestrian trail be installed along Briery Creek Road, requested that commercial traffic not to be allowed to enter onto Briery Creek

Road. He stated overall the community has been concerned about the noise level at Water's Edge now and that proposing that the event facility be located further back only places it closer to he and his neighbors located on Briery Creek Road and they have noise and lighting concerns there.

Tom Diggs at 947 Jefferson Drive stated that he is not speaking as the Chair of the Lake Monticello Owners Association Development Committee. He is delighted to see an opportunity for a new business use to come to Fluvanna, but only if we will receive revenue from it and that should be done prior to final approval by the Board of Supervisors. He stated that the proposed event facility might serve as the best opportunity for any revenue as the main structure to be located within Fluvanna County with the current one being turned into the camp's maintenance facility building.

Sara Cole at 5890 Rolling Road South she spoke in opposition to the Camp request which would impact her neighborhood in a negative way. There is already a consistent problem of vehicles ending up in her front yard running off the road and that would only increase with more traffic.

Claire Crain at 5738 Rolling Road South she stated that her concern was about the location of the proposed stable entrance. She was concerned about what the proposed cabins would look like if they would be rustic, wood cabins or be cheap cabins and had concerns with well and septic use.

Jason Fulton at 5266 Rolling Road South stated that his concerns with this Camp request would be that Albemarle County seems to gain the most from this land use request and Fluvanna County just gets the traffic and noise from the request. This is a commercial resort or amusement park and not a rural, rustic camp that is coming into this rural area and who will regulate the land use?

Suzy Morris at 6840 Thomas Jefferson Parkway stated we need to put Fluvanna County residents first and review the proposed traffic, noise from a commercial camp use in this very rural area.

Aimee Hardenbergh at B4 Marina Point she spoke in opposition to the Camp request and agreed with the other public speakers that this proposed use was a commercial resort within a rural area.

Chair Bibb closed the three Public Hearings at 8:22 pm and turned it back over to the Commission with no one else available to speak in person or online during the Public Hearings on the requests.

Ms. Johnson-Morgan: asked the applicant what is the difference between Briery Creek Farm as a Camp or what has been asked as far as your request being more like a commercial resort land use.

XXX Bill Raffoul: replied No it's not a timeshare, but yes, it would certainly be very similar to what you're describing in terms of the experience that guest would have there. Rent the cabin per night.

Johnson-Morgan: stated that far as wedding venue there is one just in the opposite direction of the entrance, and you are wanting to move your section towards the middle of the property. Noise is going to be noise no matter where you go, and that will put a burden on that neighborhood. How are we putting this in Fluvanna County with no determination of what our profit or our Revenue share is?

Goad: Stated: that he asked the same question when this first came up, then Mr. Diggs mentioned about the Revenue sharing also. When you look at the materials going on Albemarle, we feel like we're getting the short end of the stick.

Bill Raffoul: Replied, that he wanted to make a correction that he might have said on a slide that it was open to the public, but it's not so I needed to clear that up. Most of the traffic will be coming in from I64, traffic will be coming through Fluvanna County and ultimately the entrance is there shared between both counties.

Steve Blaine, Representative: Stated that the state law would govern whether the two localities can have a revenue sharing agreement, they certainly may when there is one locality that's providing a service for the benefit of the other locality. The roads are owned by VDOT, they are not owned by the county. If you look at how this was laid out that it happens to be the most suitable area for the cabins are in Albemarle County, it would be fine with us if that were reversed and it's certainly we sensitive that we you look at that, and you see that there'll be a substantial occupancy Revenue to Fluvanna County the time we did our fiscal analysis. Fluvanna did not have a transient occupancy tax so we suggested that the fiscal benefits would yet to be determined.

Vice Chair Lagomarsino: asked, did he hear that the old barn is going to be like the maintenance facility? Are there any view of a maintenance yard to the shed to the surrounding neighbors?

Bill Raffoul: replied, yes, that the barn is already screened as it is currently stands. Yes that the view cord will be protected

MOTION:	I move that the Planning Commission recommends defer of SUP 23:03, a request to permit a Camp use with respect to 298 +/- acres of Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3 subject to the thirteen (13) conditions listed in the staff report, until December 12, 2023				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended to defer until December 12, 2023.				

MOTION:	I move that the Planning Commission recommends defer of SUP 23:04, a request to permit a Central water system / major utilities use with respect to 298 +/- acres of Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3 subject to the thirteen (13) conditions listed in the staff report, until December 12, 2023.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion	Second		
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended to defer until December 12, 2023				

MOTION:	I move that the Planning Commission recommends defer of SUP 23:05, a request to permit a Central sewer system / major utilities use with respect to 298 +/- acres of Tax Map 26 Section A Parcels A2, A5A, A37, A38 and 3 subject to the thirteen (13) conditions listed in the staff report, until December 12, 2023.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion	Second		
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended to defer until December 12, 2023				

Bill Raffoul, Representative: stated that he would like to request to have the Event facility deferral until December 12, 2023.

Chair Bibb: asked for a five (5) minute recess at this time 8:00 pm. Chair bibb open the public hearing back up after the recess at 8:09 pm.

ZTA 23:01 Fluvanna County R-4 Zoning Text Amendment – Douglas Miles, Community Development Director

- **ZTA 23:01 Marina Point at Lake Monticello, Inc** – An Ordinance to amend Chapter 22, Zoning, Article 8 of the Fluvanna County Code by the addition of the following text under §22-8-3 Area and residential density regulations (C) The permitted residential density for such permitted uses shall be between two and nine-tenths (2.9) and five (5.0) units per acre by special use permit only.

2015 Land Use Chapter:

- The Comprehensive Plan designates the Lake Monticello community as within the Rivanna Community Planning Area which makes up approximately 40 percent of the county’s population. The area is traditionally neighborhood residential, with single-family detached dwellings.
- Surrounding growth should be a mixture of uses and residential dwelling types that serve a variety of incomes.
- Neighborhood mixed-use is needed to help offset the volume of single-family residential

- development in this community.
- In previous studies for this area, residents have identified several priorities which included to provide housing choices for a variety of age groups and income levels, appropriate to the area.
- The adopted 2015 Housing Chapter provides these important goals and plan implementation strategies:
- **To provide for most of the county’s future housing needs within the community planning areas (CPA)**
- Create zoning that enables increased residential density in the growth areas and allows for mixed-use developments and including residential units allowed above the storefronts and encourage housing in proximity to commercial development so that the need for transportation to work is lessened.
- **Dwelling, multi-family:** A building or portion thereof which contains two or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high-rise apartments, apartments for elderly housing and condominiums.

Planning Analysis:

- The Planning analysis, in conformity with the 2015 Comprehensive Plan, seeks to provide flexibility in the Fluvanna County Zoning Ordinance by providing available density in which to construct mixed-use housing units that are found in a well-planned development’s master plan.
- Increasing the density in specific zoning districts could allow for additional housing options while limiting the available locations in which development could occur.

SUP 23:06 – Marina Point at Lake Monticello

SUP 23:07 Marina Point at Lake Monticello, Inc – A Special Use Permit request in the R-4, Residential, Limited District to allow Multi-family dwellings under §22-8-3 as proposed, up to 5.0 dwelling units per acre on 5 +/- acres and known as Tax Map 18A Section 1 Parcels 296A, 296B, 296BA and 296C. These parcels are generally located south of Jefferson Drive and at Marina Point in the Rivanna Community Planning Area and the Rivanna Election District.

Ann Neil Cosby, land us attorney representing Marina Point – presented her presentation to the commissioners

Chair Bibb opened up the Public Hearing at 8:47 pm

- Steve Smith: Spoke an opposition to both of the actions
- Wayne Nye, 176 Village Blvd: spoke in opposition of these projects
- Tom Diggs, 947 Jefferson Drive: spoke on opposition of these projects
- Susy Morris, 6840 Thomas Jefferson Pkwy: spoke in opposition of this project
- Jerry Steman, Marina Point: Spoke in opposition of this project
- Gary Hannifan, 953 Jefferson Drive; Spoke in opposition of this project
- John Danna, 951 Jefferson Drive; Spoke in opposition of this project

Chair Bibb closed the Public Hearing at 9:27 pm, asked if the applicant would like to come forward and address some of the comments.

Ann Neil Cosby: Stated that they disagree with the Virginia Condominium Act, respectfully said that the legal issues those are not before you, so we shouldn’t be speaking on those.

The commission went on for the discussion before Chair Bibb asked if there is a motion

MOTION:	I move that the Planning Commission recommend deferral – ZTA 23:01 Marina Point at Lake Monticello, Inc. a Zoning Text Amendment request under Section 22-8-3 Area residential density regulations (C) The permitted residential density for such permitted uses shall be between two and nine-tenths (2.9) and five (5.0) units per acre by special use permit only on Tax Map 18A Section 1 Parcels 296A, 296B, 296BA and 296C until December 12, 2023 meeting.				
MEMBER:	Bibb	Goat	Key	Lagomarsino	Morgan

ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended to defer until December 12, 2023				

MOTION:	I move that the Planning Commission recommend deferral – SUP 23:07 Marina Point at Lake Monticello, Inc. a Special Use Permit request under Section 22-8-3 Area residential density regulations (C) The permitted residential density for such permitted uses shall be between two and nine-tenths (2.9) and five (5.0) units per acre by special use permit only on Tax Map 18A Section 1 Parcels 296A, 296B, 296BA and 296C until December 12, 2023 meeting.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion		Second	
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended to defer until December 12, 2023				

6. PRESENTATIONS:

Short Term Tourist Rentals Presentation – Dan Whitten, County Attorney

Overview:

- Short-term rental is defined as “the provision of a room or space that is suitable or intended for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy” (Va. Code§15.2-983).
- The most well-known platforms are Airbnb, VRBO and HomeAway that connect property owners with guests for short stays.
- It is difficult to tell from the outside that it is a short-term rental since typically there is not any signage.
- The Virginia Code has been amended to help regulate the collection of transient occupancy taxes through such platforms.

Transient Occupancy Tax:

- Virginia Code§ 58.1-3819 authorizes counties to levy a transient occupancy tax.
- Public hearing will be held October 18, 2023 regarding implementing a 5% transient occupancy tax.
- Right now it is easy for hosts to list on Airbnb and other sites and avoid sales and transient taxes.
- If the transient tax ordinance is adopted, the accommodation intermediaries will have to provide a list of rentals and gross receipts to the locality (Va. Code§ 58.1-3826(F)).
- The Accommodation Intermediary will collect and remit the transient tax to the locality.

Uniform Ordinances for Transient Tax:

- SB651 Commission recommended local ordinances be uniform for accommodation intermediaries.
- Transient tax rates are posted with the Department of Taxation.
- Some localities have entered into voluntary collection agreements with accommodation intermediaries.

Option #1 – Short-term Rental Registration:

- Va. Code§15.2-983 authorizes an annual registration administered by County employees.
- County can assess a reasonable fee and levy a \$500 penalty per violation for failure to register.
- County can prohibit rental of unit that is not registered.
- County can prohibit rentals where multiple violations have occurred.
- County can still regulate the short-term rental through land use and zoning authority.

Exemptions from Registration Ordinance:

- The registration ordinance does not apply to persons (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act; (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.
- Registration ordinance does not supersede declarations of property owners associations (such as Lake Monticello where short term rentals are prohibited).

Summary of common regulations:

- Only homeowners can host a short term rental.
- Short term rentals only allowed at primary residence.
- Limit frequency of rentals
- Parking requirement
- Require conditional use permit
- Limit number of guests
- Safety requirement

Other Potential Regulations:

- Light pollution under zoning ordinance
- Noise ordinance
- VDOT and traffic enforcement
- ADA and building code

Enforcement:

- Civil penalties under § 15.2-2209
- Criminal penalties under § 15.2-2286(A)(5)
- Injunction under § 15.2-2208
- Denial of SUP, CUP, SE Permits under § 15.2-2299
- Overlapping regulations with registry ordinance, zoning, transient occupancy tax

Grandfathered and Nonconforming Uses

- **Grandfathering:** a specific permission within an ordinance or regulation for a property to continue in a use or design
- **Nonconforming but legal (§15.2-2307):**
 1. It must have been a lawful primary use of the property before the change in zoning.
 2. An accessory use cannot become the primary use.
 3. The use must be continuous from before the zoning change.
 4. No break longer than two years.
 5. The use and the property cannot expand beyond their pre-zoning use and size.

Agritourism and Short-term Rentals:

- § 3.2-6400 - "Agritourism activity" means "any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity."
- § 15.2-2288.6(A) - No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:
 1. Agritourism activities as defined in § 3.2-6400

Attorney General Opinion No. 22-036 on Short Term Rentals:

- "I therefore conclude, based on the plain language of the applicable statutes, including § 3.2-6400, that offering short-term rental accommodations, in defined circumstances, falls within the protections against local regulation afforded certain activities under § 15.2-2288.6."
- "Nevertheless, I caution that whether a particular instance of a property owner offering short-term rental accommodations is exempt from local zoning regulation depends on whether all attendant statutory conditions are met. For an activity to be exempt from local regulation under § 15.2-2288.6:"

- The associated property must be zoned as a part of an agricultural district or classification or engaged in an “agricultural operation” as defined in § 3.2-300.
- The activity must occur on property meeting the definition of a “farm or ranch,” which in turn requires the land to be used in the creation of “agricultural products,” as further defined by statute.

“Rural activities” must be available for the general public to experience.

7. SITE DEVELOPMENT PLANS:

None

8. SUBDIVISIONS:

None

9. UNFINISHED BUSINESS:

None

10. NEW BUSINESS:

None

11. PUBLIC COMMENTS #2:

Chair Bibb opened Public Comments #2 at 10:57 pm by giving each speaker a limit of five (5) minutes to speak and asked that they state their full name and property address for the record. With no one coming forward wishing to speak in person or online, he closed the Public Comments period at 10:57 pm.

12. ADJOURNMENT:

Chair Bibb adjourned the Planning Commission meeting on October 10 at 10:58 pm.

Minutes were recorded by Valencia Porter-Henderson, Administrative Programs Specialist.

Barry Bibb, Chair
Fluvanna County Planning Commission

APPROVED