

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 2, 2022 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection, due to the COVID-19 state of emergency.

BOARD MEMBERS PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J.S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Mr. Jim Andrews, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Greg Kamptner; Clerk, Claudette K. Borgersen; and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:00 p.m. by the Chair, Ms. Donna Price.

Ms. Price said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." She said that the opportunities for the public to access and participate in the electronic meeting were posted on the Albemarle County website, on the Board of Supervisors' homepage, and on the Albemarle County calendar. He stated that participation included the opportunity to comment on those matters for which comments from the public would be received.

Agenda Item No. 2. Pledge of Allegiance.
Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price said she would like to add one item under Agenda Item 20, From the Board, a discussion regarding the Board of Supervisors sending a letter to the State Corporation Commission (SCC) regarding CenturyLink. She asked if there were any other proposed amendments to the final agenda. Seeing none, she asked for a motion to adopt the final agenda. .

Ms. Mallek **moved** to adopt the final agenda, as amended.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Agenda Item No. 5. Brief Announcements by Board Members.

Ms. Price said she would like to make a formal presentation of a plaque and recognition of appreciation of Supervisor Gallaway's service for three years as the Chair of the Board of Supervisors. She said she would deliver it in person to him tomorrow. She said she would like to a few moments to thank him for his service in that position. She said as she was sure their community knew, it was typical for a one- or possibly two-year opportunity that someone had to serve as the Chair of this Board, and by consensus and unanimity, the Supervisors all requested, and Mr. Ned Gallaway was kind enough to accept a third year to serve in succession as the Chair of this Board. She said she believed she could speak for the entire Board and the County when she said it was to the benefit of the County, and it was not something they were expecting, but they needed that continuity during the pandemic. She said she wanted to express her personal and professional appreciation to him.

Mr. Gallaway thanked Ms. Price. He said it was interesting to see the gavel included on the plaque, because they had not had the opportunity to use it during their virtual meetings over the past two years. He said he was looking forward to the point when they would meet again in person as a Board. He thanked them again for the recognition, and said it was his pleasure and privilege to serve as Chair on the Board.

Ms. Price asked Mr. Gallaway if he had any announcements.

Mr. Gallaway said today, he did have to step away briefly for a personal matter from 3:00 p.m. to 4:00 p.m. and would try to participate by listening in.

Ms. Mallek said she had also missed face-to-face meetings with citizens and hoped this spring they could begin doing their hybrid process, which would have a lot of benefits. She said she was also eager for the report from Emergency Management personnel about the past storms.

Ms. LaPisto-Kirtley thanked Mr. Gallaway for the time he took to help her during her first two years on the Board and said she appreciated the example he set as Chair of the Board.

Mr. Andrews said while he did not serve on the Board during Mr. Gallaway's tenure as Chair, he

had observed Mr. Gallaway doing a great job as Chair before he joined the Board. He continued to say that he knew the discussion of meetings was towards the end of the agenda, but he wanted to say he had the pleasure of attending a Yancey advisory committee meeting on Monday and wanted to say that there was so much going on there, and JABA's office was now open and active, and many clinics were being performed by the Blue Ridge Health Center, so he advised people, especially in the southern part, to take advantage of all that was going on at the Yancey Community Center.

Ms. McKeel said Mr. Gallaway had done an outstanding job and made a transition from in-person meetings to Zoom meetings work, and she appreciated it. She said they were celebrating Black History Month later in the meeting but wanted to point out that there was a crisis on their college campuses. She said that fourteen historically black colleges and universities had received bomb threats just on Monday and Tuesday of that week. She said that situation terrified those communities and disrupted their education, and in relation to news closer to their home, there was a shooting of two security officers at her alma mater, Bridgewater College. She said when thinking about that, the National Order of Police had said thirty officers were shot in January of 2022, and seven of whom had died. She said they should think of that statistic as they went forward as leaders and as citizens of the state and country. She said to end it on a lighter note, she wanted to make sure everyone knew it was Groundhog Day, and Punxsutawney Phil saw his shadow, so there would be six more weeks of winter. She said they should keep this in mind as they discussed preparing for future inclement weather.

Ms. Price said she also was concerned over the violence that permeated in actuality and in threats on their college campuses. She said they were living in extraordinary times and needed to take care of each other. She said they were now at 889,000 deaths in the United States from the COVID-19 disaster and medical emergency they had all been suffering under. She said as Omicron appeared to be peaking and reducing, there was yet another variant coming up, which served as a reminder for everyone to wear their masks and get vaccine boosters. She said she was pleased to see vaccinations were approved for some of the youngest community members, because they were greatly at risk. She said the concern was not only that oneself was infected, but that one may transmit that infection to others. She said they were all in this together and to take care of each other.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Resolution of Appreciation for Amelia McCulley.

Ms. McKeel **moved** to adopt the proclamation for celebrating Black History Month and read it aloud. Ms. Mallek **seconded** the motion.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Ms. Binte-Farid said she would be introducing Dr. Tamara Wilkerson Dias to accept the proclamation celebrating Black History Month. She said as they all had mentioned, it was not enough to just look to the past and learn from mistakes, they must also put those lessons into action. She said Dr. Dias was showing them how to do that. She said in her role as the Executive Director of the non-profit African American Teaching Fellows (AATF), Dr. Dias worked to eliminate the large racial disparity within the teaching force in public education. She said for the past five years, Dr. Dias had led the mission of developing and supporting current and prospective African American teachers in K-12 in order to create a workforce that was more representative of the communities they served. She said chosen from over 15,000 nominees, Dr. Dias was named Forbes Magazine's 30 under 30 in Education in 2017; she completed her Bachelor of Arts and teaching degrees at the University of Virginia, and her Doctor of Education at Morgan State University.

Dr. Dias greeted the Board. She said she would like to share a few moments of reflection with them during this time. She said Dr. Martin Luther King, Jr. once said that the function of education was to teach one to think intensively and to think critically. She said intelligence plus character was the goal of true education. She said as she thought about the work of educators in this community, she was reminded more of the important role that they held in creating environments to allow their students to do just that. She said on behalf of African American Teaching Fellows, she was happy to be here as the proclamation had been read and adopted. She said Black History Month served as a time for all of them to recognize, honor, and celebrate the many contributions of African Americans across sectors. She said as they reflected, she encouraged all of them to pause to think about the many ways that the work of African Americans was foundational in each of their lives.

Dr. Dias said AATF was founded in 2004 with the goal of recruiting, supporting, developing, and retaining a cadre of African American educators, and she was proud that eighteen years later, that work continued as they supported and developed current and prospective educators in local schools in a community where less than 10% of their teachers were African American, and where it was not unusual for a child to navigate kindergarten through the 12th grade without having a single African American teacher. She said they believed each student should see themselves represented in their classroom teachers. She said their program supported this through direct tuition support, professional development, and most importantly, a community of educators to support one another.

Dr. Dias said a supportive community for teachers was more important than ever. She said the past few years had been increasingly challenging for educators, and she heard stories every day from their fellows about the demands of being a teacher, the long days, and the even longer nights spent at home planning and preparing. She said what she also heard was a passion for students and a determination to show up and bring their best each day. She said as she was here with them, she also brought each of their stories into this space. She said over the past eighteen years, AATF had worked with over 60 educators from the time they were college students and supported them until they were fully licensed educators. She said their work was not done, and that they knew this work was important and essential for the educational experiences of all students in this community. She said as they reflected on Black History Month, she was encouraged and empowered to continue doing this work to ensure that all of their students have a rich and diverse learning experience.

Ms. Mallek said it was a wonderful launch to this month and good to help her remember what transitions had happened since she was in Albemarle County schools in the 1950's and 1960's and how much they did not learn because of the narrow focus of what was considered to be important for children to learn back then. She said the last ten years had been a fantastic learning experience for her, and she missed the gatherings that AATF had in years past that were suspended due to COVID, so she looked forward to those returning. She said the work with the Historic Preservation Committee to help citizens at large to learn more history at their communities were just the beginning of trying to widen this discussion and make sure they were doing a better job. She said she also said she was thrilled that Ms. Dias was helping people have access to the teaching profession and give them the encouragement that they all benefited from.

Ms. LaPisto-Kirtley said she would be in touch with Dr. Dias because she would like to learn more about their scholarship program because she knew of some people who could benefit. She said she looked forward to speaking with her personally.

Mr. Gallaway said that starting with Martin Luther King, Jr. Day through the month of February each year, in terms of what was being done for Black History Month, he often would begin by going back to his bookshelf and look at the many materials that helped him shape his views on race over the years. He said he appreciated doing that every year, and he said he read an article recently about how easy it was to cling to chaos, chaos referring to Martin Luther King, Jr.'s "Where Do We Go From Here: Chaos or Community." He said it was challenging to have a community together, but it seemed that in recent years that chaos was an easy choice, and he wanted to say to everyone that taking a more difficult and challenging path to choose community was something he had heartfelt appreciation for. He said he appreciated both Dr. Binte-Farid and Dr. Dias for being present to honor this month.

Mr. Andrews said it was a pleasure to celebrate Black Americans and teachers at the same time. He said they could all learn a lot more, as Mr. Gallaway said, by returning to their bookshelves and reading new books to learn about the history of Black Americans, which had importance and complexity that was inseparable from the entire United States history with its complex characteristics and contradictions. He thanked Dr. Binte-Farid and Dr. Dias for reminding them of this.

Ms. McKeel said she remembered when John Baker and a group of community members formed the African American Teaching Fellows, and it had been a wonderful program and support for the school system and the community so that children had people who looked like them in the classrooms. She said that growing up in Virginia during the 1950's, she learned very little of Black history from her textbooks, and what little she learned she now realized was probably not even accurate, and she learned even less from her teachers. She said in college, through friendships with African Americans, she began to understand the struggles and achievements of Black people throughout the United States. She said that understanding grew as an elementary school teacher when she was able to celebrate Black History Month with her students and learned right along with them.

Ms. McKeel said most recently with their community, she learned a deeper history of Black history by participating in the Albemarle-Charlottesville Community Remembrance Project. She said she looked forward to continuing this journey and work with their department that had been represented so well, and their entire community. She said in closing, Ida B. Wells, co-founder of the NAACP, journalist, and educator said that "the way to right wrongs was to turn the light of truth on them." She said by celebrating Black History Month, they shined a light of truth with intention onto their country's most complete history.

Ms. Price said she got fatigued when people asked why they celebrated Black History Month. She said the events of just the last few days have shown them why they must do this as a people. She said as Supervisor McKeel mentioned with the bomb threats against historically black colleges and universities, the lethal assaults on education, the whitewashing of history, the "tattling on the teacher" policy that had recently been proposed; all of these were reasons why it was important that they not allow history to be covered up, and it was important to know what their history was. She said yesterday on NPR was a story about Harry T. Moore, the civil rights fighter in Florida in the 1920's and 1930's, well before the icons of her own generation such as Martin Luther King, Jr. and John Lewis who were beaten and murdered in the fight for civil rights. She said Mr. Moore was the victim of a bombing assassination in the 1930's in Florida for fighting to help register Black Americans to vote.

Ms. Price said it was important that they did this, and the timing of their celebration of Black History Month in Albemarle County was important in light of these events that they continued to struggle with. She said they constantly asked themselves why they were still having to fight after all these years for these same basic rights. She thanked Dr. Binte-Farid for the work she did in their Office of Equity and

Inclusion along with the rest of County staff. She said to Dr. Dias that it was a pleasure and privilege to have her there today and to let them celebrate Black History Month with them.

Proclamation Celebrating Black History Month

WHEREAS, Black History Month, celebrated during the month of February, originated in 1926 to recognize the heritage and achievements of Black people in the United States; and

WHEREAS, observing Black History Month provides us with opportunities to gain a deeper understanding of the centuries of struggles against systemic oppression in the search for equality and freedom, and calls our attention to the continued need to battle racism and build a society that lives up to its democratic ideals; and

WHEREAS, as illustrated by the Albemarle County Equity Profile, Albemarle County has imperfectly progressed towards its mission of enhancing the well-being of all its residents; and

WHEREAS, even as we celebrate the wisdom of past civil rights leaders and community builders this month and everyday, we also recognize the importance of continuing to invest in building up a future generation of leaders who will help us reach our founding ideals.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, celebrate Black History Month and encourage our community to observe this month by acknowledging the challenges faced by Black Americans, by paying tribute to this community for its strength, perseverance, character, and contributions—all of which continue to enrich our lives, and by using the lessons of the past to create a more inclusive and equitable future for us all.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Mr. Don Long greeted the Board of Supervisors and introduced himself as a resident of Crozet in the Whitehall Magisterial District. He said he was speaking to them today as SOCA Board president, as the parent of soccer players, and a soccer player himself. He said he knew they were in the midst of budget season, and the County budget was soon to come out, and he wanted to encourage them to consider funding for artificial turf and lights at Darden Towe if those were not in the budget. He said as they may recall, the Board had previously approved funding for artificial turf and lights at Darden Towe before the pandemic, and it was removed during the pandemic, and he would like to encourage them to support it again. He said the needs assessment for County parks showed the need for it, and they were substantially underserved with fields. He said artificial turf fields dramatically increased number of usable fields because they did not need to rest like the grass fields did and were available in inclement weather and held up much better.

Mr. Long said comparable communities to theirs had adopted these fields and were using them. He said he realized there were concerns about the fields and disposal of the fields, but the manufacturers had begun to address these issues by recycling the fields and providing for ways to have a minimal impact on their land. He said in addition, these facilities were an economic benefit to their locality because they brought people into the community and spent money on hotels and restaurants. He said he had been to many soccer tournaments in Richmond and they had done an excellent job of building that up as an economic force. He said he would like to encourage those people into their community to spend money on those things. He said he would remind them that a portion of the transit occupancy tax was actually intended to be used for projects that promoted tourism, travel, and businesses, and he thought that some of those tax revenues should be available to support financing of this project. He said he would encourage SOCA families to contact them and the soccer community, as well as other groups that would use a turf field that would encourage them to support this project. He thanked them for the time and all they did for the community.

Mr. Neil Williamson greeted the Board and wished them a happy Groundhog Day and introduced himself as Neil Williamson, and he served as president of the Free Enterprise Forum, a local public policy organization focused on central Virginia's local governance. He said every decade or so, local Boards of Supervisors were required to review their magisterial boundaries to balance the population.

Ms. Price asked Mr. Williamson to speak closer to his microphone.

Mr. Williamson said that today's agenda item, item number 11, included several County considerations, which should be reconsidered. He said the Free Enterprise Forum brought this to the attention of several Board members in early December. He said at that time, they were told the December meeting item that was on the consent agenda would be discussed in January. He said it was now February, and not only was this public comment under Matters from the Public, but staff was also now requesting an accelerated review process. He said the Free Enterprise Forum believed many of the County considerations should read as intended protection. He said in his seventeen years of covering in Albemarle County, he had never heard any of these discussed in an open meeting. He said regarding "A 10, maintain six magisterial districts," he wanted to know why there were six. He said often, Albemarle County looked to their peer localities to determine best practices.

He said the Free Enterprise Forum research found only six other localities had a six-member board, and nearly 85% of all other Virginia localities featured an odd number of Board members. He said regarding “A 12, minimize changes to existing registered district boundaries” that the existing boundaries do not come down off the mountaintop and that Albemarle had always just tinkered the edges. He asked why they would not utilize the new GIS capabilities to their full extent. He said regarding “A 14, Avoid pairing of incumbent members of the Board of Supervisors or the School Board in the same magisterial district,” that it was perhaps the worst of incumbent protection. He said magisterial district lines could move and so can supervisors. He said regarding “A 16, preserve historic core of existing magisterial districts,” he wanted to know if the history went away if it was in a new district. He said common sense changes would increase representation on the Board of Supervisors and could provide an increased opportunity for diversity on the Board. He said that unfortunately, he did not think this Board would fully discuss or embrace the changes to the County considerations, and it would be another decade before a new Board has such an opportunity. He said happy Groundhog Day again.

Ms. Price said to Mr. Williamson that it was difficult for many of them to hear his remarks clearly, so if they could be emailed to the Clerk so that they could be forwarded to each of the Board members so they were assured of getting his full comments.

Mr. Williamson said he would do so.

Agenda Item No. 8. Consent Agenda.

Ms. Price said there were no items to pull from the consent agenda.

Ms. LaPisto-Kirtley **moved** to approve the consent agenda as presented. Ms. McKeel **seconded** the motion.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Item No. 8.1. Approval of Minutes: July 22, July 27, and August 6, 2020.

Ms. LaPisto-Kirtley had read the minutes of July 22, 2020, and found them to be in order.

Ms. Mallek had read the minutes of July 27, 2020, and found them to be in order.

Ms. Price had read the minutes of August 6, 2020, and found them to be in order.

By the above-recorded vote, the Board approved the minutes of July 22, July 27, and August 6, 2020 as read.

Item No. 8.2. Fiscal Year 2022 Appropriations.

The Executive Summary forwarded to the Board states that Virginia Code §15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total change to the Fiscal Year 2022 (FY 22) budget due to the appropriations itemized in Attachment A is \$353,340. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriations described in Attachment A.

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Appropriation #2022032		\$75,500
Source:	Reserve for Contingencies	\$75,500
Uses:	Voter Registration and Elections	\$75,500
Net Increase to Appropriated Budget:		\$0

Description:

This request is to appropriate \$75,500 from the Reserve for Contingencies to the Department of Voter Registration and Elections for costs associated with an electronic pollbook software upgrade and “ballot on demand” printers. The software upgrade totals \$66,500 and is mandated by the State to be in place prior to the next election. The “ballot on demand” printers total \$9,000 and are for use in the early, in-person voting precinct. This allows on-demand printing of precinct-specific ballots.

Appropriation #2022033		\$306,037
Sources:	Recovered Costs	\$168,637
	State	\$137,400
Uses:	Emergency Communications Center (ECC)	\$306,037
Net Increase to Appropriated Budget:		\$306,037

Description:

This request is to appropriate the following for an entity where the County serves as fiscal agent:

- Pursuant to ECC Management Board approval on December 14, 2021, this request is to appropriate \$168,637 in one-time recovered costs revenue and \$137,400 in ongoing state revenue as follows:
 - \$103,873 for a 6% pay increase for all ECC employees effective January 1, 2022.
 - \$162,429 for one-time retention payments for ECC personnel and hiring incentive payments for future hires.
 - \$39,735 for temporary services to assist with functions such as payroll processing and transition planning, a comprehensive compensation review, and an updated space needs assessment.

Appropriation #2022034		\$47,303
Source:	State	\$47,303
Uses:	Clerk of the Circuit Court (CACVB)	\$47,303
Net Increase to Appropriated Budget:		\$47,303

Description:

This request is to appropriate \$47,303 in State revenue to the Clerk of the Circuit Court as follows:

- \$27,000 in State Technology Trust Funds for land records equipment.
- \$20,303 from the State Compensation Board for the back-scanning of land records.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment B) to approve the appropriations for local government and school projects and programs as described in Attachment A:

**RESOLUTION TO APPROVE
ADDITIONAL FY 2022 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2022032; #2022033; and #2022034 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2022.

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APP#	Account String	Description	Amount
2022032	4-1000-17100-413000-372200-9999	SA2022032 Electronic pollbook upgrade and ballot on demand licenses	\$71,500.00
2022032	4-1000-17100-413000-610700-9999	SA2022032 Ballot on demand printers	\$4,000.00
2022032	4-1000-94000-499000-999990-9999	SA2022032 Electronic pollbook upgrade and ballot on demand licenses/printers	-\$75,500.00
2022034	4-1000-22100-421700-372200-9999	SA2022034 Equipment from land records vendor	\$27,000.00
2022034	4-1000-22100-421700-345700-9999	SA2022034 Back-scanning of land records	\$20,303.00
2022034	3-1000-22100-324000-240800-9999	SA2022034 Equipment from land records vendor	\$47,303.00
2022033	3-4100-32100-319000-190380-9999	SA2022033 One-time Recovered Costs	\$168,637.00
2022033	3-4100-32100-324000-240424-9999	SA2022033 Ongoing State Revenue	\$137,400.00

2022033	4-4100-32110-435600-110000-9999	SA2022033 Pay Increase	\$103,873.00
2022033	4-4100-32110-435600-160060-9999	SA2022033 One-time Retention Payments	\$162,429.00
2022033	4-4100-32110-435600-345700-9999	SA2022033 Temporary Services	\$39,735.00

Item No. 8.3. Authorization to Schedule a Public Hearing to Consider A Proposed Ordinance to Repeal Panhandling Regulations.

The Executive Summary forwarded to the Board states that County Code § 10-123 prohibits persons from distributing written materials to the occupants of motor vehicles, soliciting contributions from the occupants of motor vehicles, and selling merchandize or services to occupants of motor vehicles. For purposes of this executive summary, these three activities are collectively referred to as “panhandling.”

County Code § 10-123 is virtually identical to the Henrico County panhandling regulations that were determined by the United States Court of Appeals for the Fourth Circuit in 2015 to be unconstitutional because they violated the First Amendment’s right of free speech. Since that decision, Albemarle County has not enforced County Code § 10-123.

To satisfy the Constitution, a panhandling ordinance must be based on evidence demonstrating, for example, that a person standing in the median at a specific intersection to panhandle creates a safety hazard at that specific intersection, and that other laws that do not raise constitutional concerns (e.g., the prohibition on pedestrians obstructing traffic) have been enforced but are inadequate. County Code § 10-123 does not pass constitutional review because it applies to all County public roadways and medians and was based on the assumption that people panhandling on public roadways and in medians created a safety hazard. For multiple years after the Henrico County case was decided, the Albemarle County Police Department monitored those intersections in the County where panhandling is common and did not identify any safety hazards. Staff will provide updated information from the Police Department when the ordinance returns to the Board for a public hearing. However, County Code § 10-123 would not be in-line with case law even if that information has changed for a specific intersection.

The cost of repealing County Code § 10-123 is not anticipated to have a budget impact.

Staff recommends that the Board schedule a public hearing to consider the adoption of the attached proposed ordinance.

By the above-recorded vote, the Board authorized staff to schedule a public hearing to consider the adoption of a proposed ordinance to repeal panhandling regulations.

Item No. 8.4 SE202100015 Belvedere Special Exceptions - Five Variations to Belvedere Code of Development.

The Executive Summary forwarded to the Board states that the applicant requests five (5) special exceptions to vary several sections of the Belvedere Code of Development (COD) approved with ZMA200400007. The specific requests are summarized below:

- 1. Variation #62 - Waive condition #3 attached to a previously approved variation (variation #54) related to landscaping and screening requirements in Block 9.
- 2. Variation #63 - Modify Section 3 of the COD for building height and porch architectural standards of residential buildings in Blocks 8 and 10.
- 3. Variation #64 - Modify Section 4 of the COD for street cross-sections of roads in Blocks 8 and 10 so that they will comply with current VDOT and Fire Rescue street design requirements.
- 4. Variation #65 - Modify the minimum and maximum residential unit tables in Section 2 of the COD to allow flexibility in unit types/counts between Block 8 and 10.
- 5. Variation #66 - Modify descriptive text of Section 2 of the COD to be consistent with variation #65 request above.

Staff analysis of each request is provided as Attachment B.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the special exceptions, in general accord with the submitted application.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment C) to approve the special exceptions, in general accord with the submitted application:

**RESOLUTION TO APPROVE SPECIAL EXCEPTIONS
FOR SE 2021-00015 BELVEDERE – FIVE VARIATIONS TO CODE OF DEVELOPMENT**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE 2021-00015 Belvedere – Five Variations to Code of Development application and the attachments thereto, including staff’s supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-8.2(b), 18-8.5.5.3, and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the proposed special exceptions:

- (1) would be consistent with the goals and objectives of the Comprehensive Plan,
- (2) would not increase the approved development density or intensity of development,
- (3) would not adversely affect the timing and phasing of development of any other development in the zoning district,
- (4) would not require a special use permit, and
- (5) would be in general accord with the purpose and intent of the approved application.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves as special exceptions Variations #62-#66 to the Belvedere Code of Development, in general accord with the special exception application submitted by Roudabush, Gale & Assoc., Inc. dated November 4, 2021.

Item No. 8.5 SE2021-00049 598 Merrie Mill Farm Homestay.

The Executive Summary forwarded to the Board states that the applicant is requesting one special exception for a homestay at 598 Merrie Mill Farm.

Reduce Required Minimum Yards. Pursuant to County Code § 18-5.1.48(i)(1)(ii), the applicant is requesting to modify County Code 18-5.1.48(j)(2)(v) to reduce the required 125-foot setbacks to 28 feet +/- from the northeastern property line and 36 feet +/- from the southeastern property line for a homestay and its accompanying parking.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception, subject to the conditions contained therein.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment F) to approve the special exception, subject to the conditions contained therein:

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR SE 2021-00049 598 MERRIE MILL FARM HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE202100049 598 Merrie Mill Farm Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the requested special exception would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

* * *

SE 2021-00049 598 Merrie Mill Farm Homestay Special Exception Conditions

1. Parking for homestay guests must be located in the parking area shown on the House and Parking Location Exhibit dated January 14, 2022, or meet the setbacks required for homestays.
2. Homestay use is limited to the existing dwelling as currently configured and depicted on the House and Parking Location Exhibit dated January 14, 2022, or in additional structures or additions meeting the setbacks required for homestays.
3. If the existing screening, as depicted on the Location Map dated January 14, 2022, is not maintained, equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

Item No. 8.6 Premier Circle Project Update, **was received for information.**

Item No. 8.7 Affordable Connectivity Program Bridge Benefit, **was received for information.**

Item No. 8.8 Albemarle Broadband Authority Quarterly Report, **was received for information.**

Item No. 8.9 Board to Board, January 2022, A monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Agenda Item No. 9. SE2021-00046 2558 Old Lynchburg Road Homestay.

The Executive Summary forwarded to the Board states that the applicants are requesting one special exception for a homestay at 2558 Old Lynchburg Road.

Permit Accessory Structure Built After August 7, 2019. Pursuant to County Code § 18-5.1.48(i)(1)(iii), the applicants are requesting to modify County Code 18-5.1.48(j)(2)(ii) to permit the use of

an accessory structure built after August 7, 2019.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the special exception, subject to the conditions contained therein.

Ms. Leah Brumfield greeted the Board and said the presentation was for Special Exception 2021-46, 3558 Old Lynchburg Road. She said the special exception was different from the majority of the ones they had brought before the Board; those had been for reduction of setbacks for homestay use, whereas this homestay special exception was for construction of a new accessory structure on a 30.52-acre parcel in the rural area.

Ms. Brumfield said in summary, homestays for parcels like these had up to five guest rooms, a required a 125-foot setback from all parcel boundaries and could use accessory structures by-right if the accessory structures were built before 2019. She said as with all homestays, the property must be the primary residence of the owner and parking must be on-site. She said neighbor notification was required and annual inspections were required as well.

Ms. Brumfield said there were two special exceptions in the rural area for a parcel of this size, which was greater than five acres. She said the applicant was requesting the use of an accessory structure built after August 7, 2019. She said the proposed structure was not yet built. She said the proposed structure would meet the 125-foot setback, so that would not need a special exception and it would meet all other requirements for homestays.

Ms. Brumfield said per homestay regulations, exceptions may be granted when there was no detriment to any lot, and there was no harm to public health, safety, or welfare. She then showed an aerial view of the location of the proposed homestay at the applicant's home. She said the location of the new structure would be approximately where a green star appeared, and the green pin on the map showed the property owner's dwelling. She said the blue dot showed the location of an existing workshop shed structure. She said the applicants had requested a special exception for a new accessory structure for the use of the homestay in lieu of converting their existing workshop shed into a homestay. She said that converting that shed would be permitted by-right because it was constructed before 2019, so in this case, they would likely build a new workshop in a new location to replace the one they had otherwise converted into a homestay. She said the applicant noted that this would generally be a net-zero in approval of this special exception, regardless of what happened, because there would be a new structure built on the property regardless. She said they had not received any comments or concerns from any property owners after the notice was received, and there was a large amount of forested area around the property on all sides.

Ms. Brumfield showed a photo that showed a view of the site from the road. She said that one of the owners could be seen in the middle of the photo and were standing where the proposed location of the homestay site was. She then showed another photo of the road from the viewpoint of the site, and a truck could be seen passing by in the distance through the trees. She said the photos had been taken about a week and a half ago while they were experiencing full winter conditions, so there was little to no foliage.

Ms. Brumfield said that staff recommended the Board adopt the attached resolution to approve the homestay special exception, subject to the conditions listed. She said the matter was now before the Board if they had any additional questions.

Ms. Mallek asked if the property owner had to occupy a building on the property at all times.

Ms. Brumfield said that was correct.

Ms. Mallek said that was one limitation to prevent what some people were concerned about several years ago about there being structures built everywhere to serve as homestays. She asked if there was also a provision that there was one of these special exceptions that would be given, because that would provide comfort that the homeowner was there and then a shop that was replaced by a new structure. She said she understood why that might be a great idea, but it would not be able to be done more than once.

Ms. Brumfield said they did not have any restrictions against the number of accessory structures. She said they would have to come back for a new special exception for an additional structure. She asked if that clarified this for Ms. Mallek.

Ms. Mallek said that she recalled that there also had to be a development right for each of these other units.

Ms. Brumfield said that was true only if it was a full dwelling, and if it was an accessory structure, and not a dwelling, it did not incur any use of a development right.

Ms. Mallek asked if an accessory structure was not allowed to have a kitchen. She said she knew what a dwelling was, but an accessory structure often would be a long-term unit that was rented to students in the past.

Ms. Brumfield said an accessory structure was not an independent living unit. She said an independent living unit would have to have cooking facilities, including permanent cooking provisions, a bathroom, sleeping quarters and living quarters. She said an example of an accessory structure that they might have would be an office built in the backyard. She said a guest cottage such as the one proposed by the applicant had a bedroom and bathroom but no kitchen facilities, so it was not a dwelling. She said the County's definition of a dwelling came directly from the building code, so that was their definition. She said that with the proposed structure, someone could not live there full-time because there was no kitchen.

Ms. Mallek asked a hypothetical question about if someone wanted to add a kitchen to a structure if it would be allowed.

Ms. Brumfield said that if someone built a new house, that house could be used as a homestay provided that it was one per dwelling. She said for example, if there were five full dwellings on a parcel, there could only be two homestay uses with five bedrooms each, or a total of ten bedrooms. She said there could not be five bedrooms rented out individually.

Ms. Mallek thanked her for the clarification.

Ms. LaPisto-Kirtley asked if this was an accessory unit because it did not contain kitchen facilities.

Ms. Brumfield said yes.

Ms. LaPisto-Kirtley asked how they would ensure that the kitchen would not be installed at a later date.

Ms. Brumfield said with the construction of any large structures, the applicant would have to apply for a building permit, and if they were not using a development right, then that would be noted and it would be coded as an accessory structure. She said if it were converted into a dwelling unit, that would be coded as a different type of structure. She said she may not be saying everything correctly because she was not a building official, but there were different codes for when the permit came in for that construction. She said if the applicant did have the development right, they were permitted to do that construction. She said she believed they had at least one development right on this property and could potentially convert it into a dwelling at a future date, but the current owners have expressed that they did not want someone living there because they wanted a peaceful retirement on their property.

Ms. LaPisto-Kirtley asked if they were to convert it to a dwelling if the homestay exception would go away.

Ms. Brumfield said the exception would no longer be needed because it would be an accessory structure.

Ms. LaPisto-Kirtley asked if a basement apartment would be considered a homestay because it was part of their home and not a separate unit.

Ms. Brumfield said that when looking at accessory apartments, which is what that example would be if it did have a full kitchen, because it was in the home, and all single-family dwellings were permitted an accessory apartment. She said if there was only a coffeemaker and a microwave, it would be neither an accessory apartment or a homestay and was just permitted as part of the house.

Ms. LaPisto-Kirtley said she understood Ms. Mallek's concern over someone building lots of small dwellings and renting them all out as homestays.

Mr. Gallaway asked if they denied the special exception, if they would take the current workshop, convert that into a homestay, and then build a new workshop. He asked if that required them to come back before the Board or if that could all be done by-right.

Ms. Brumfield said that was correct. She said the applicant would like to build a new structure to make it more suited for a homestay and to also have it slightly further away from the house.

Mr. Gallaway said they would save some money that way too.

Ms. Brumfield said she would assume so.

Mr. Andrews asked a hypothetical of if they did not have an existing workshop, would they need an exemption if they just wanted to build an accessory unit without that preexisting structure being there. He said he was trying to understand what kind of eligible structure they needed and if it was just a shed or something more.

Ms. Brumfield said she was on the property last week and noted that the workshop was a well-maintained structure on the property. She said any existing accessory structure was eligible because they did not have a particular definition of the type of structure. She said staff's recommendation did not include any analysis of a structure that did not exist. She said in previous applications, they had looked at some structures that were built after 2019 that were already in existence, and those were recommended for approval. She said unfortunately, she could not say whether they would recommend approval if the

structure did not exist without making something up on the spot.

Mr. Andrews said it was not clear to him what would count for them to be able to convert something into an accessory structure, but he was satisfied that what they had now was readily convertible.

Mr. Svoboda said the ordinance included that it could be any existing structure that was constructed prior to August 7, 2019, which was the adoption date of the ordinance, would qualify it to be converted. He said otherwise, it would require the special permit.

Mr. Andrews said he was more concerned about what the accessory structure entailed. He said they were allowed to convert this by right into an accessory structure, but he was trying to understand what counted as a convertible accessory structure. He said he had a shed on his farm that potentially could be eligible to be turned into a homestay.

Mr. Svoboda said the answer would be yes. He said the accessory structure was not defined. He said it could be anything from a carport to a shed to a garage. He said it did not define, as Mr. Andrews mentioned, two-sided or three-sided, so that particular accessory structure was pretty much wide open if it existed prior to August 7, 2019.

Mr. Andrews said that helped.

Ms. McKeel said she did not have any questions about this specific proposal but did have a more general one. She asked if they were continuing to use whatever the software was to monitor homestays that were being advertised.

Ms. Brumfield said yes.

Mr. Svoboda said yes.

Ms. Price said that her comment was more tangential but said if they had the home with no accessory structure on the property, obviously they would not have one in existence at the time the ordinance went into effect. She said if they wanted an accessory structure to use as a homestay, they could apply to do that, and then the Board would decide whether they approve it. She asked if that was correct.

Mr. Svoboda said that was correct.

Ms. Price said it would not be by right, because it did not exist at the time, but they could always ask for the exception. She said she saw this specific item as a really good example of the property owner and applicant looking at the regulations and working with County staff to see a smart way to address their desire. She said she thought it probably worked better overall for the property owner as well as for the County, because rather than converting an existing structure, which Ms. Brumfield had already described as already being nice as it was, this seemed to be the right way to do things. She said she had no concerns. She said they did not have public comment, so she would like to hear if there was any further discussion from the Board.

Mr. Andrews **moved** that the Board approve the special exception for SE2021-00046 2558 Old Lynchburg Road Homestay for the use of accessory structure built after August 7, 2019 with the conditions contained therein.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR SE2021-00046 2558 OLD LYNCHBURG ROAD HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2021-00046 2558 Old Lynchburg Road Homestay Application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the requested special exception would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that in association with the 2558 Old Lynchburg Road Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to permit the use of an accessory structure built after August 7, 2019 for a homestay on a parcel over five acres in the Rural Areas zoning district, subject to the conditions attached hereto.

* * *

SE2021-00046 2558 Old Lynchburg Road Homestay Conditions

1. Parking for homestay guests must meet the setbacks required for homestays.
2. Homestay use is limited to the existing structures as currently configured or in the general location of the proposed homestay site as depicted on the Proposed Homestay Site exhibit dated November 11, 2021.

Agenda Item No. 10. Old Crozet School of Arts - Lease Amendment.

The Executive Summary forwarded to the Board states that Old Crozet School Arts (OCSA) is a 501(C)(3) Non-Profit school for arts instruction, one of two tenants located within the County-owned Old Crozet School building. OCSA offers classes for beginning and experienced students of all ages in the visual and performing arts. OCSA has been a responsible tenant since 2009 and provides a valued service to the Crozet area community.

Following the onset of the COVID-19 pandemic and the Governor of Virginia's executive order that all schools be closed as a community protection measure, the Board of Supervisors authorized the County Executive to temporarily waive OCSA's rent for the space it occupies in the Old Crozet School building. On May 7, 2020, the County Executive, acting as the Director of Emergency Management, issued Emergency Order No. 20-3, which read in part, "The County waives payment of rent from Old Crozet School Arts to the County effective April 1, 2020 and continuing until the Governor by executive order allows it to re-open and resume relatively normal operations as [the County Executive] determines in [his] discretion."

As with many businesses that were affected throughout the COVID pandemic, OCSA has been working hard to recover. The organization sought and received grants, one of which allowed the organization to make air quality improvements to its leased spaces. Work was done to set up classrooms for optimal health protection, with guidance from healthcare professionals. Student enrollment has not rebounded. Most of the courses are directed toward younger age groups that are currently not eligible to receive vaccinations. Registration during the summer of 2020 was negatively impacted by the pandemic surge in the spring. During the regular school year, courses are held after public school hours, a model which was stressed in the fall of 2020 due to the limited availability of student transportation.

Due to these continuing concerns and to the current COVID-19 surge of the Omicron variant, OCSA does not anticipate tuition income to approach pre-pandemic levels until as late as Fall of 2022. OCSA has requested a temporary rent adjustment to 50% of its normal rate, through December 31, 2022. A lease amendment has been prepared for the Board's consideration, which would reduce the rent by half, effective January 1, 2022 through December 31, 2022. The proposed lease amendment would also:

- a. Allow for early termination of the lease at any time, upon 90 days' notice, and
- b. Reduce penalty for late payment of rent to 1 percent per month (from ½ percent per day).

This amendment would result in estimated revenue loss totaling approximately \$15,000 for the FY22 and FY23 budget cycles

Staff recommends that the Board adopt the attached Resolution (Attachment C) to authorize the County.

Mr. Bill Strother greeted the Board and introduced himself as Chief of Facilities and Operations for Albemarle County. He said for a little bit of clarification, he replaced Michael Freitas back in August, who was titled Chief of Public Works. He said it was the same position with the same responsibilities, just with a new title. He said his purpose today was to discuss a proposed lease amendment for the Old Crozet School of Arts (OCSA) that would assist the organization with recovery from the COVID-19 pandemic.

Mr. Strother said that for those who were unfamiliar with the Old Crozet School of Arts, they were a County tenant located in the Crozet Elementary School. He said they offered classes to non-experienced or experienced students of all ages in visual and performing arts and had been a very responsible tenant since 2009. He said during the onset of the COVID-19 pandemic, and the closing of all schools, the Board authorized the OCSA a temporary rent relief. He said this waiver ended in December of 2021. He said as with many businesses, OCSA had been working hard to recover from the pandemic. He said they had sought and received grants, however, since many other courses were directed towards younger age groups that were not eligible for vaccination, the enrollment had continued to suffer. He said due to the surge of the Omicron variant, OCSA did not expect to recover until at least the fall of 2022. He said they respectfully have requested a 50% rent reduction through December of 2022, which would allow them additional time to recover from the impacts of the pandemic.

Mr. Strother said a lease amendment had been prepared for the Board's consideration, which would reduce the rent for the calendar year of 2022, which would result in a total revenue loss of \$15,000, which would be partially absorbed in the FY22 and FY23 operating budgets. He said with this information, staff recommended the Board adopt the resolution to authorize the County executive to sign a proposed lease amendment. He said he would be happy to answer questions or concerns at this time.

Ms. Mallek said she had no questions but wanted to say this organization and the Field School had shared that building and had put in good structural investments for the County, as well as the value to

community members who had participated in programs there. She said they had locally not provided ARPA money in arts support, she had heard many stories of other counties around the country who had done that from their ARPA funds to strengthen their arts communities. She said she was hopeful that the Board would choose to do the same and support OCSA.

Ms. LaPisto-Kirtley asked what the change in enrollment was before and after the pandemic occurred.

Mr. Strother said he did not have that information at this time.

Ms. LaPisto-Kirtley asked what they had done to increase enrollment out of the Crozet area and encouraged other magisterial districts to participate in these events and increase enrollment.

Mr. Strother said that the Old Crozet School of Arts had reported that they had done multiple different things to expand areas of different classes such as providing online classes.

Ms. LaPisto-Kirtley asked if he had any data on that.

Mr. Strother said he did not because they had not provided numbers on it.

Ms. LaPisto-Kirtley said there were online classes and, in the report, there was money spent on IT infrastructure.

Ms. Price said that Mr. Strother was a County employee and not a representative.

Mr. Strother apologized.

Ms. LaPisto-Kirtley said she realized that but hoped that he would have some of that information. She said she did not know what they were doing, and while they all supported the arts, she wished there was someone representing the school at the meeting, because she would like to know what they did to increase the enrollment outside, because it seemed to be a problem.

Ms. Mallek said the director, Sierra Tolcheck, did send an extensive letter to the Board on Monday, and rather than take time to read it, she would forward it around to all the Board members in case it was missed. She said they had historically had students from all over Albemarle County and the surrounding region, and many of the teachers there, in addition to doing online teaching with students abroad. She said she would look through the email to see if there were further answers to her questions.

Ms. LaPisto-Kirtley said thank you. She said she realized that Mr. Strother was part of the County staff but did not know how much extra information he may or may not have.

Mr. Gallaway asked how confident it was that they would recover by fall of 2022.

Mr. Strother said they were pretty confident, but of course everything depended on what direction things went with future COVID variants and recovery and vaccination.

Mr. Gallaway said that he thought it was piecemeal for them to extend it through this year and then if nothing changed, they would have to revisit it, so he supposed the short term was a good step, but they would have to see how the enrollment was in the fall. He said he was not opposed to the action before them.

Mr. Andrews said he was fine with this. He said he did not know what they would do with this space if the Old Crozet School of Arts was not in it for the rest of the year, and he would hate to see that.

Ms. McKeel said she brought the email they shared with them, and it was dated Monday, January 31st. She said it mentioned they lost about 75% of their enrollment but got it back to about 50%. She said they then had another loss of 10%, so they were struggling. She said she shared the same concerns about the future, but having said that, she was not opposed at this point. She said in response to what Mr. Andrews had just said, the building would be emptying out at some point because the Field School was leaving. She said at that point, she would very much like their Board to discuss the opportunities for economic development with this building, because she thought there may be interesting opportunities, and did not personally think they should be in the business of rental to other businesses. She said she was happy they were there now. She thanked Mr. Strother for being there today.

Mr. Strother said he would likely be there a lot in the future.

Ms. Price thanked Mr. Strother and Mr. Svoboda. She said that there was a broader philosophical issue as to whether the County should be engaged in landlord and tenant activities. She said putting that aside for the moment and looking at the particular matter before them, she was very supportive of helping this organization continue their good work, and they all recognized the impact of the pandemic, so she had no objection to this. She asked if there were any further comments from other Supervisors. Seeing none, she asked if there was a motion for the matter before them.

Ms. Mallek **moved** that the Board approve Attachment C, an amended lease agreement with the Old Crozet School of the Arts and authorize the County executive to sign the proposed lease agreement.

Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

**RESOLUTION TO APPROVE AN AMENDED AGREEMENT OF LEASE
BETWEEN THE COUNTY AND OLD CROZET SCHOOL ARTS**

WHEREAS, the County entered into an Agreement of Lease with Old Crozet School Arts in 2015 for Old Crozet School Arts' use of space in the Old Crozet Elementary School, commencing on August 1, 2015 and ending on July 31, 2016, with automatic one-year renewals to run from August 1 through July 31 thereafter, unless terminated by either party; and

WHEREAS, the Agreement of Lease has been amended several times to adjust the square footage being leased and the rent amount, with the most recent amendment being dated October 13, 2021, effective through June 15, 2022; and

WHEREAS, the Board finds it is in the best interest of the County to amend the parties' existing Agreement to temporarily reduce the rent amount, effective January 1, 2022 through December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to enter an Amended Agreement of Lease between the County and Old Crozet School Arts once approved by the County Attorney as to form and substance.

AMENDED AGREEMENT OF LEASE

THIS LEASE AMENDMENT, dated this 2nd day of February, 2022, is by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and OLD CROZET SCHOOL ARTS, a Virginia non-stock corporation, Tenant.

WHEREAS, Landlord and Tenant entered into an Agreement of Lease (the "Lease") dated May 12, 2015 for the lease of a portion of the Old Crozet Elementary School; and

WHEREAS, Landlord and Tenant desire to amend the Lease Agreement to provide rental and other relief to the Tenant following the COVID-19 pandemic.

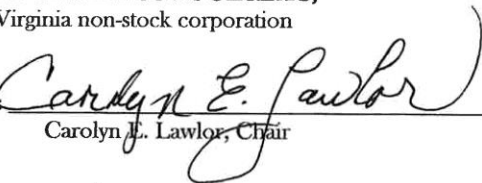
NOW, THEREFORE, Landlord and Tenant, for the sum of ten and NO/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. Effective January 1, 2022, Section 3.2 of the Lease is hereby replaced and amended to read as follows: "This Lease shall automatically renew for additional 12-month terms, but may be terminated during any renewal term upon ninety (90) days advance written notice to the other party."
2. The first sentence of Section 4.1 of the Lease is hereby replaced and amended to read as follows: "From January 1, 2022 through December 31, 2022, Tenant agrees to pay to Landlord the following amounts as rent, payable in equal monthly installments, in advance, on the first day of each month during the term hereof:
 - a. From January 1, 2022 through June 15, 2022, Tenant shall pay monthly rent of \$1,159.93 for the reduced leased premises shown in the attached Exhibit A.
 - b. From June 16, 2022 through December 31, 2022, Tenant shall pay monthly rent of \$1,331.45 (subject to annual adjustment as provided in Section 4.1) for the full leased premises shown in the attached Exhibit B.
 - c. Commencing January 1, 2023, Tenant shall pay monthly rent of \$2,662.91 (subject to annual adjustment as provided in Section 4.1) for the full leased premises shown in the attached Exhibit B."
3. Effective January 1, 2022, the last sentence of Section 13.2 of the Lease is hereby replaced and amended to read as follows: "In addition, in the event of a failure to pay rent, additional rent or other money within five (5) days of its due date, Tenant shall pay to Landlord one percent (1%) of such sum for each month after the fifth day such rent or other money is late."

In all other respects, the parties' Lease remains in full force and effect as previously executed.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

TENANT
OLD CROZET SCHOOL ARTS,
A Virginia non-stock corporation

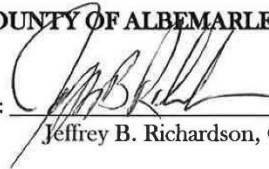
By 
Carolyn E. Lawlor, Chair

LANDLORD

This Amended Agreement of Lease is executed on behalf of the County of Albemarle by Jeffrey B. Richardson, County Executive, pursuant to a Resolution adopted by the Albemarle County Board of Supervisors on February 2, 2022.

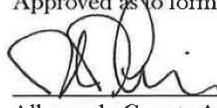
COUNTY OF ALBEMARLE, VIRGINIA

By: _____



Jeffrey B. Richardson, County Executive

Approved as to form:



4 February 2022

Albemarle County Attorney

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

All that certain space (the "Space") situated in the County of Albemarle, Virginia, located in the Old Crozet Elementary School at 1408 Crozet Avenue, Crozet, Virginia, containing 5,663.5 square feet, more or less, shown as "Leased Space" on the floor plan attached hereto and incorporated herein.

Reference is made to the floor plan for a more particular description of the location of the described space. This Space is a portion of Albemarle County Parcel ID 05600-00-00-06200, containing 5.399 acres, more or less.

EXHIBIT B

DESCRIPTION OF LEASED PREMISES

All that certain space (the "Space") situated in the County of Albemarle, Virginia, located in the Old Crozet Elementary School at 1408 Crozet Avenue, Crozet, Virginia, containing 6,501 square feet, more or less, shown as "Leased Space" on the floor plan attached hereto and incorporated herein.

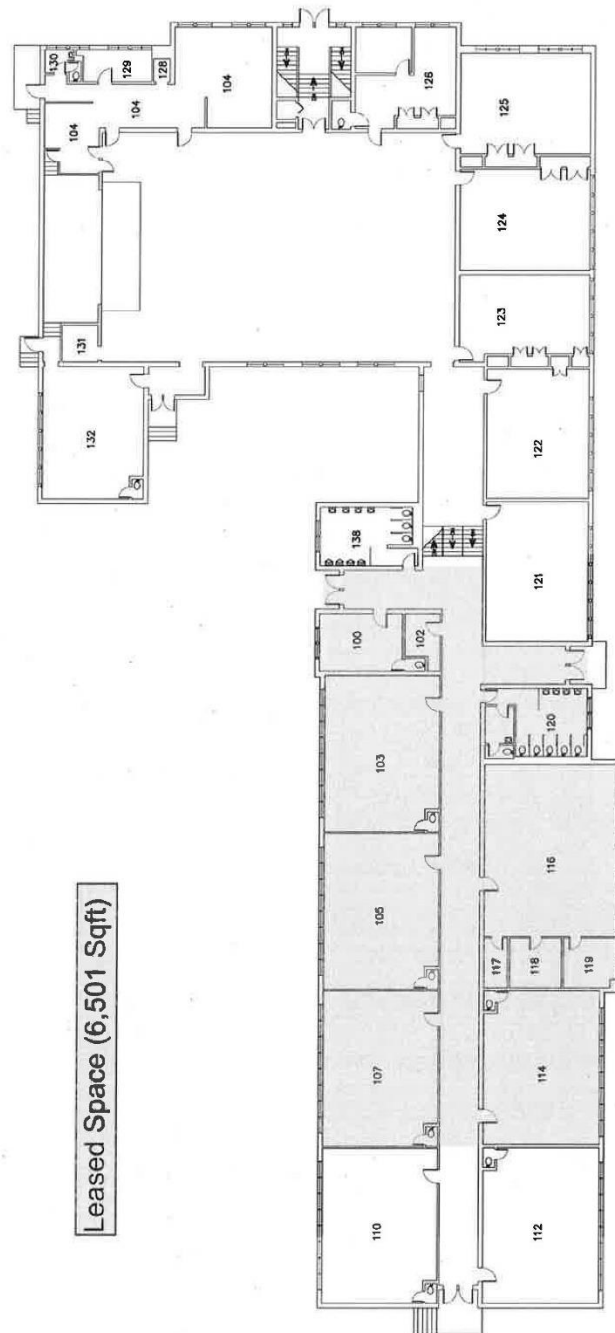
Reference is made to the floor plan for a more particular description of the location of the described space. This Space is a portion of Albemarle County Parcel ID 05600-00-00-06200, containing 5.399 acres, more or less

EXHIBIT A
1408 Crozet Avenue, Crozet VA 22932

Leased Space (5,663.5 sqft)

Upper Floor

EXHIBIT B
1408 Crozet Avenue, Crozet VA 22932



Agenda Item No. 11. Proposed Amendment to the Redistricting Schedule.

The Executive Summary forwarded to the Board states that Federal and state law require that local magisterial districts and voting precincts be reviewed every 10 years in order to achieve population parity among local magisterial districts, and in order to prevent the creation of split voting precincts. The Board of Supervisors adopted a proposed local redistricting schedule in December 2021. Because of the possibility of June primary elections, the local redistricting process must be completed as soon as reasonably possible in order to give voters the requisite notice of changes in their magisterial districts and voting precincts, while at the same time providing the requisite opportunity for public comment.

Accelerated Schedule

The Albemarle County Electoral Board and the Registrar of Voters have requested the Board adopt an accelerated redistricting schedule to ensure that the redistricting process, and all necessary resulting actions, can be completed before possible primary elections are held on June 21, 2022. The proposed accelerated redistricting schedule is provided in Attachment A. The proposed schedule has the Board holding the public hearing on the redistricting ordinance on March 2, 2022, but with the Board not acting on the ordinance until March 23, 2022, after the notice period required by Virginia Code § 24.2-129 (discussed in "Maps," below) has run. Although March 23 is not a regular meeting date of the Board, it is currently scheduled for a budget work session and the Board's action on the redistricting ordinance could be on the Board's consent agenda that date.

Maps

Virginia Code § 24.2-129, which became effective in 2021, requires localities to publish notice of proposed amendments to their magisterial districts, voting precincts, and polling places on their websites and through other media of the opportunity for the public comment on the proposed changes. The public comment period is 30 days, but the Board may not adopt any proposed changes until at least 45 days after the public comment period begins. Based on 2020 Census data and the proposed redistricting guidelines, staff developed three maps (summarized in Attachment B, depicted in the maps in Attachment C, and demographics shown in Attachment D) for the public to comment upon during the 30-day comment period. These maps do not reflect the only options the Board may consider when it considers the ordinance amending the magisterial districts, voting precincts, and polling place locations. However, any changes made to these maps in response to public comment received will trigger an additional 15-day comment period.

Guidelines for Magisterial Districts, Precincts, and Polling Places

The proposed redistricting guidelines (Attachment E) provide direction and information as to how magisterial districts, precinct boundaries, and polling places will be identified and established. Some of these guidelines are requirements established by law, such as the requirements for geographical compactness and contiguity, the requirement that the population within each magisterial district be as equal as is practicable, and the requirement that precincts have no less than 100 and no more than 5,000 registered voters. Other guidelines reflect County-specific goals, such as having each magisterial district contain urban and rural areas.

The public was invited to comment on the preliminary guidelines at a public meeting coordinated by County staff on January 24, 2022, and those comments will be shared with the Board as part of staff's presentation on February 2.

Redistricting is already incorporated into various offices' and departments' workplans. However, there will be costs associated with public notices provided for public meetings and the redistricting ordinance. If additional precincts and corresponding polling places must be established because of population increases, there will be additional staff and equipment costs associated with those new polling places during elections over the next decade.

Staff recommends that the Board adopt the attached proposed redistricting schedule (Attachment A), authorize the three proposed alternative magisterial district and voting precinct maps (Attachment C) to be published to start the public comment period required by law, and to adopt the proposed redistricting guidelines (Attachment E).

Mr. Kamptner greeted the Board and introduced himself as Greg Kamptner, County Attorney. He said with him was Jake Washburn, the General Registrar and Director of Elections, and Brian Becker, a GIS specialist in the Department of Community Development. He said they would walk the Board through the proposed change to the redistricting schedule, show the Board some proposed maps that would be used, if authorized, to start the comment period. He said he would conclude the presentation with redistricting guidelines.

Mr. Washburn said they were asking that the Board adopt a more accelerated redistricting schedule than the one adopted on the 1st of December. He said the reason for that was at that time, they did not know when the state was going to complete the state redistricting process, and at first he thought maybe they should have a more accelerated schedule, but Mr. Herrick reminded him that if they did that before receiving the state's schedule, it would be a mess. He said finally, the state completed the redistricting of the congressional district lines on December the 29th, so he and the Electoral Board, and Brian Becker, started working on possible redistricting maps and came up with three proposed alternatives. He said he thought the sooner they could get the process going and completed, the better, because they may have the June primary election, and if they did, they would have to start doing early voting for that on May 6.

Mr. Washburn said since almost everyone's voter information in the County would change, they needed to send voter cards out to everyone with the updated representative information, a task which would be time-consuming. He said it was a pretty tight deadline they were working under, and if they adopted the proposed redistricting schedule, it would adhere to the timeline set forth in the new Virginia Voting Rights Act and would allow for a period of public comment for 45 days and a public hearing, so there would be lots of opportunity for public input. He asked if Mr. Becker had the proposed redistricting schedule available in their slides. He said there were four critical dates on that schedule; today, February 2nd, beginning the process of public comment, March 2nd would be the date for the public hearing, March 23rd would be the date set for the Board to vote on the new redistricting plan.

Ms. Price asked if he was referring to March 24th.

Mr. Washburn said yes, that was correct. He said those were the four critical dates. He said he did not know at what point in the proceeding they all would make a motion to proposed that accelerated schedule, but that was the first order of business from his perspective, and then he could go onto discussing the maps.

Ms. Price asked him to discuss the maps first.

Mr. Becker showed the Board the current Albemarle County magisterial districts and voting

precincts as they were adopted in 2011, and the current population numbers from the 2020 census.

Mr. Washburn said the current slide showed the new 5th and 7th House of Representatives map. He said this was the one that people were confused about. He said 99% of the County was in the 5th U.S. Congressional District, and for some reason, they decided that the tiny sliver in the northwestern part of the County, which had about 110 residents and 50 or 60 registered voters, was in the 7th Congressional district. He said that was part of the final Supreme Court decision that was handed down. He addressed the Board and told them that at their next meeting, they would ask them to pass a resolution to ask the State Department of Elections for a waiver to administer a split voting precinct, because there was no way they could create a single voting precinct out of that tiny sliver of land. He said it would be more of a formality and he believed the State Board of Elections would grant the waiver, but they needed the Board to approve this the next time they met.

Mr. Washburn said the slide showed a dramatic change. He said right now, they were split between the 17th and 25th Senate districts, and the new state Senate district 11 included all of Albemarle County. He stated again that this was a significant change. He said the next slide showed another major change. He said right now they were split in House of Delegates seats between four different districts, and that was changed and put all of the City of Charlottesville and nearby County areas in the 54th district House of Delegates and all of the rest of Albemarle into the 55th district. He said based on this and the requirement that they maintain no more than a plus or minus total population deviation between their magisterial districts, himself, Brian Becker at GDS, and the Electrical Board got to work as soon as they got the state data to come up with three possible redistricting alternatives that would comply with the legal requirements for the population numbers and the magisterial districts, and also to avoid the split voting precincts, except for the tiny sliver which would be inevitable.

Mr. Washburn showed option number one. He said the biggest difficulty was that two magisterial districts, the Whitehall District and the Rio District needed to lose population because they had grown dramatically in the past ten years. He said two districts needed to gain population, which were Samuel Miller and Scottsville, and the remaining two, Rivanna and Jack Jouett could gain or lose a few, but were in the middle. He said what they needed to do was get all of them to equal numbers, and this first option got all the magisterial districts within plus or minus five percent of the ideal population, which was about 18,700. He said the first one moved some voters who were currently in the Brownsville precinct in the Whitehall District into the Yellow Mountain precinct of the Samuel Miller District. He said it moved some voters in the Samuel Miller District over into the Scottsville district, and it changed the precinct boundaries around a little bit in the close end of the City of Charlottesville so they did not have a split precinct with the new House of Delegates lines. He said the goal was to confuse and irritate as few people as possible and achieve the legal requirement.

Mr. Washburn said option two was slightly different than the first. He said in the northern part of the County, they had cut off what was the "rabbit ear" of the northside precinct, which was currently in Rio, and moved it into Rivanna, so as to reduce some of the population from Rio. He said they again had brought some voters over from the west part of the County out of the Brownsville district in the Whitehall district over to the Yellow Mountain precinct in the Samuel Miller district. He said the biggest change on this one was that it would make Route 250 from the river east to I-64 out of the Freebridge precinct and into the Monticello precinct so as to add the requisite number of voters to the Scottsville magisterial district. He said that one affected the fewest number of voters but would be a bit longer of a drive for people in Freebridge to get to the Monticello precinct than to get to the Freebridge precinct. He said that may not be that much of a concern because early voting had proved to be so popular.

Ms. Price asked if he meant the Mountain View precinct rather than the Monticello precincts he had referred to.

Mr. Washburn said she was correct. He showed the Board a slide showing option number three, which moved several census blocks that were currently in the Country Green precinct in the Samuel Miller district over into the Monticello precinct in the Scottsville district. He said it also moved some voters from Brownsville into Yellow Mountain. He said all three of them adjusted the precinct boundary lines of the close-in precincts in order to avoid a split precinct. He said the big change on option three was that it would create a new voting precinct, the South Ivy precinct. He said that would help with the numbers currently in the Ivy precinct but was not absolutely necessary. He said one concern that he had just become aware of yesterday with this third option was that it was always difficult to find a new voting location, but for this one, they thought they could use Virginia Murray Elementary School, but the chief of the Ivy precinct stopped by the office yesterday and showed an aerial view of the school that displayed that the parking was extremely limited, so that would be a concern. He said those were the three options they developed after three work sessions that were posted and open to the public on January 7th, January 14th, and January 19th.

Mr. Kamptner said the purpose of the redistricting guidelines was to inform staff and the public of the applicable criteria for the redistricting process. He said for staff, these guidelines were critical to ensure the Board was provided a redistricting plan for consideration that complied with all federal and state laws, as well as criteria that reflected long-standing practices and customs recognized by the courts.

Mr. Kamptner said the fundamental requirements of redistricting imposed by federal and state law included population equality among the districts, protecting the voting rights and voting strength of protected classes, district boundaries that were compact and contiguous, and boundaries that were observable, such as roads, rivers, or other significant features. He said the County Attorney's Office had made a first review of the demographics in the census data, and their opinion was that options one and

three make no appreciable changes to the protected classes. He said option two moved a more significant number of Black voters among the Rio Road, Samuel Miller, and Scottsville Districts, and in their opinion, these changes were not enough to meaningfully block voting strength. He said in each of those districts, Black voters made up a significant minority of approximately 10% or fewer, and while there was gain and loss, the changes did not make any group being close to a majority, or vice versa. He said no other protected class lost voting strength under option two either.

Mr. Kamptner said the slide showed the County's magisterial district criteria, which had been developed over the years. He said he wanted to speak to two of them that had generated public comment. He said the first was maintaining six magisterial districts, at the top of the slide. He said comments had been received regarding increasing the number of Supervisors to seven. He said Albemarle County operated under the County Executive form of government, and it was authorized to have a Board composed of between three and nine Supervisors. He said increasing the size of the Board, which was previously raised by the League of Women Voters in 1991, and by a Supervisor who was the former president of the League of Women Voters in 2001. He said in neither 1991 or 2001 or 2011 did the Board express the desire to increase its membership. He continued that, for the Board's information, an increase in the number of Supervisors can be accomplished in two ways, by either adding a seventh magisterial district, or by adding a seventh Supervisor who would be elected at-large to serve as a Chair following a referendum of the County voters.

Mr. Kamptner said even in a normal redistricting season, the County was under pressure to complete the process and adopt a redistricting plan. He said the same was true, if not heightened, this year. He said even assuming for the sake of argument that the Board was interested in increasing the membership of the Board by adding a magisterial district, staff did not recommend pursuing it during this decennial redistricting. He said state law allowed the number of districts to be changed at any time, not only as part of the redistricting process. He said the second criterion he wanted to speak to was the criterion to avoid putting incumbents in the same district. He said it was one of several traditional redistricting principles recognized by the United States Supreme Court. He said while it may seem by some to be self-serving for those in office, this guideline also served to protect voters from being removed from a representative that they had elected and with whom they had a constituent relationship. He said staff recognized the state redistricting plan did not consider incumbents, but staff recommended that this guideline be retained.

Mr. Kamptner said that now looking at state criteria for precincts, he wanted to draw the Board to the first two bullets on the slide, because they pertained to the odd congressional districts that Mr. Washburn referred to earlier in the northwest corner of the County, created by the state redistricting plan. He said the number of County voters that fell into the seventh congressional district would be below the minimum precinct size of 100 voters, which would require the Board to request the statutorily authorized waiver from the prohibition against split precincts, which was reflected in the second bullet on the slide.

Mr. Kamptner said the target size of 2,500 registered voters was intended to accommodate for decennial redistricting and to allow polling places to not be overcrowded on election days. He said the County had some precincts that exceeded that target by quite a bit. He said Mr. Washburn shared with him yesterday that early voting reduced the strain on polling places on election day. He showed the next slide, which showed the state criteria for polling places. He said he had no comments on these four criteria. He then showed the County polling place criteria, and his only comment regarding this slide was that the purpose for having centrally located polling places was to ensure that the maximum travel time for as many voters as possible not be more than 20 minutes. He then showed the staff's proposed language for a motion, which he had also emailed to the Board members within the last hour or so. He said he was happy to answer any questions.

Ms. Mallek said her first question was about the sliver of land between the 5th and 7th congressional districts. She asked if there was any process they could use to get that changed during this season by those who created the state map.

Mr. Washburn said he had discussed that possibility with the Deputy County Attorney and the Senior Assistant County Attorney after it happened along with the Electoral Board, and everyone was reasonably certain that there was no possibility of doing that because it was the final order of the Virginia Supreme Court, and there was no provision they were aware of that would allow for a motion of reconsideration, and everyone seemed to agree that even if there were, the Court was not going to want to weigh in on that decision, because once they considered it, they would probably get lots of other requests to change boundaries. He said there needed to be finality so they could move on with the process. He said he was not aware of any method to get that changed. He asked if Mr. Kamptner knew any more.

Mr. Kamptner said he was not aware of any way to change that. He said given the timeframe they were working under, getting that completed in a timely manner would be almost impossible.

Ms. Mallek said she would like some more detail about all three maps in order to get good participation at their public hearing. She said the district lines had moved back and forth across Route 29 several times, and if it was an acceptable way to help with numbers, she was sure that would be fine.

Ms. LaPisto-Kirtley said she was in favor of approving this for the 45-day public input.

Mr. Gallaway said the presentation answered his questions, but he would like to confirm some things before they moved forward. He said if the Board wanted to add a seventh magisterial district or do

the at-large option, they could do that at any time and it was not limited to the ten-year timeline.

Mr. Kamptner said with the at-large option, it was less clear, because that did not show up between the decennial redistricting exceptions, and it also required a referendum, which meant that either the Board or through a petition of voters would have to take it to a referendum that would be acted on at one general election, and it would be effective at the next general election. He said that yes, through that particular at-large process, it built in the possibility that it could be done at any time.

Mr. Gallaway asked if the at-large option was the only one that required a referendum.

Mr. Kamptner said yes. He said the Board could, at any time, decide if it wanted to add a magisterial district, and that process did not require a referendum.

Mr. Gallaway asked if the at-large position was required to be that Chair position, or if it could be at-large and the Board's current chair could remain.

Mr. Kamptner said no, that elected at-large member would serve as the Chair. He said that was something within the enabling authority for counties such as Albemarle and Prince William that operated under the County Executive form of government.

Mr. Gallaway said it seemed odd under this form of government, because they have a weak Chair. He said he would have to learn more about this. He commented that since his participation, the idea of a seventh Supervisor had come up, but he had not been aware of any substantial conversation about it. He said from a voting standpoint, he thought there definitely were issues that could be discussed if the Board chose to do so. He said that since they could do that any time and not held to the decennial schedule, it would have to be something the Board would decide. He reiterated that to run as an at-large or Chair in this form of government did not make sense to him, but he would not be opposed to the discussion about it if others were willing to do it. He said in the grand scheme of things, what they heard and received from constituents sometimes told him the heightened interest of a particular topic, and he did not recall a time when there had been a lot of interest in the Board taking on this initiative, other than those such as Mr. Williamson of the Free Enterprise Forum's comments and some other political stakeholders of relevant parties that had taken it up in the past, but from a constituent standpoint, it had not been raised much in conversations he had.

Mr. Gallaway said in the past, some Supervisors had brought up the issue of what Supervisors were paid in order to participate. He said he liked how it worked sometimes, because it detached the current sitting members by a couple of years if they were going to go to a different pay structure and could be discussed in tandem with trying to include more constituents as well. He said this may be a way to deal with these issues that were on the fringe and detach the current Supervisors' own interests that may impact future work.

Mr. Andrews said that he was interested in revisiting this in the future, and he understood the accelerated timeline was necessitated by potential outcomes of litigation, and he thought getting it out there and getting the public comment was important to get people focused on, and he thought future discussion would also help with that. He said that he was a strong believer that people should not be bounced around from place to place in terms of voting, so he was glad this plan tried to preserve the current voting locations as much as was practical. He said he believed that Yellow Mountain residents already had to travel further south to reach their voting precinct, so adding Brownsville residents would create an even further drive for them. He said he hoped that was still within a reasonable distance. He said in addition to voting cards, he thought it was important to find any way that could be imagined to reach out to people to let them know where they would be voting after those changes are made.

Ms. McKeel that she had served on the School Board with an at-large seventh position, and that position was not a Chair position automatically. She asked if there was a difference between the boards.

Mr. Kamptner said he believed so.

Ms. McKeel said it must be, because they opted at the School Board level to go with a seventh school board member, not to avoid tied votes, but to give a minority representation on the Board. She said the idea was that having an at-large member might allow for a minority representative to be more easily elected.

Ms. McKeel said what would be helpful was if there was a way that they could have an overlay of the maps so that they could more easily see what the old and new maps were. She said she wanted to make sure the public understood that they were not voting on any of this today, other than the schedule and the guidelines and to open the matter to public comment.

Ms. LaPisto-Kirtley asked if they had no control over the small sliver of area in the County that was going to be in a different district. She asked if they could ask for an appeal or variance. She said the state was the one that drew that boundary.

Mr. Washburn said that was correct, and that it was drawn by the two special masters appointed by the Supreme Court, and they were stuck with that.

Ms. LaPisto-Kirtley said that they were stuck with that but would be asking for a waiver so that they could vote in the County.

Mr. Washburn said that yes, it was so they could vote at the Free Union precinct. He said they would have to create two different ballot styles.

Ms. LaPisto-Kirtley said she also had heard about creating a seventh magisterial district but said it had only ever been brought up by developers, because the rationale was that it was easier to get four votes out of seven than four votes out of six for their projects. She said she would personally rather hear from the constituents, and she had yet to hear any of her constituents expressing a want for a seventh magisterial district or seventh representative. She said that may change, and if it did, it was worth bringing up.

Ms. Mallek said she would like all these graphs to be shared with everyone because they were very helpful. She said she had found the 3-3 split to be a good thing, especially when she was in a minority position. She said if a project was good enough to get a fourth vote, even when there was a split Board, that was a good threshold to have, and even in the 2010-2014 time when there was a fairly dramatically split Board, they still got a lot of work done that was beneficial to the County. She said she never found it inhibiting to have a 3-3 no because it meant they had to have something that was very good.

Mr. Gallaway said that he wanted to second the request for a map version that showed the past and future district overlays.

Mr. Kamptner said that to briefly answer Ms. McKeel's question about the at-large positions of the School Board and the Board of Supervisors, in his quick review of the law, he found that when the School Board had transitioned from being appointed to elected, and they generally followed the same composition, so one from each magisterial district and also one at-large. He said that was upon his preliminary look.

Ms. McKeel said it was clear that the School Board was not held to the same rules.

Mr. Kamptner said that was correct.

Ms. Price said she wanted to express her appreciation to everyone who had operated under the various different laws and regulations that had to be taken into consideration and application and trying to do redistricting, it was incredible work to try and meet and match all of those requirements. She said that they would not be voting on any of these options. She asked Mr. Kamptner if they were not to move forward to public comment on these three and ask for other changes to be made, would it begin the process all over again.

Mr. Kamptner asked if she meant if the Board were not to take action today.

Ms. Price said yes, and if they were to ask for new options to be provided.

Mr. Kamptner said that yes, they would need to wait and the process would be put on hold. He said that would put additional pressure on the Registrar's Office and the Electoral Board to get all the information out in time for the June primary elections.

Ms. Price said she hoped the community would understand that given the time constraints of the census, which then led to delayed redistricting at the state level, it put them in a substantial time constraint to be able to be prepared for a June election. She said she thought the work was done very well, and she hoped Mr. Washburn's office would be able to provide the Board and community the opportunity to observe what changes may result because of this. She asked if there were any further questions from Supervisors.

Mr. Kamptner said the language for motions was available in email and in the presentation.

Ms. Mallek **moved** the Board approve the proposed revised redistricting schedule (Attachment A) and the proposed redistricting guidelines (Attachment E), and that it authorizes the three proposed alternative magisterial district and voting precinct maps in Attachment C to be published to start the public comment period as required by law.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

ATTACHMENT A PROPOSED AMENDED LOCAL REDISTRICTING SCHEDULE – 2022

- February 2, 2022 – Publish notice on the website of three proposed alternative magisterial district and voting precinct maps. Also publish the notice through press releases and news outlets. Notice will advise that public comment will be accepted for the following 30 days – or until Friday, March 4, 2022. Per Virginia Code § 24.2-129 (Voting Rights Act of Virginia), the notice should advise that during the public comment period, the governing body shall afford interested persons

an opportunity to submit data, views, and arguments in writing by mail, fax, or email, or through an online public comment form on the official website for the locality.

- March 2, 2022 – Board of Supervisors public hearing to receive public comment on local redistricting, and presentation by staff to Board of Supervisors of proposed redistricting maps.
- March 23, 2022 – Adoption by Board of Supervisors of redistricting map and ordinance.
- (this is 45+ days after the proposed maps were published, as required by Virginia Code § 24.2-129.)
- March 24, 2022 – Publication of adopted redistricting ordinance and redistricting map, which will include a plain English description of the redistricting, and notice that the ordinance will take effect in 30 days, or April 22.

Redistricting Guidelines

Purpose: These redistricting guidelines will guide staff and inform the public of the applicable criteria to be considered for redistricting as staff prepares to develop the 2021 redistricting ordinance, which will amend [Article I, Elections, of Chapter 2, Administration, of the County Code](#).

Introduction: These guidelines are divided into three sections – those that pertain to establishing the boundaries for the County's magisterial districts, those that pertain to the criteria for precincts and those that pertain to the criteria for polling places. Some of these guidelines are requirements of State or Federal law. Other guidelines are based on local considerations (e.g., maintain six magisterial districts) applied by the Board in prior redistricting years.

Part A - Magisterial District Guidelines

Federal Law

- A-1. Establish population equality among the magisterial districts as nearly as practicable, with a goal of having a deviation in population not to exceed +/-5%, in order to assure representation in proportion to the population of the district. (*White v. Regester*, 412 U.S. 755 (1973) (allowing some minor variation from population equality; also, [United States Constitution, Article I, § 2, Virginia Constitution, Article VII, § 5](#), and [Virginia Code § 24.2-304.1\(B\)](#))

State Law and State-Level Redistricting Criteria

- A-2. Assure that any change in a magisterial district boundary does not have the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. ([Voting Rights Act of Virginia, Virginia Code § 24.2-129](#)). This, as well as the next criterion, used to be the product of the federal Voting Rights Act of 1965, until those requirements were removed from Virginia by *Shelby County v. Holder* in 2013. The Voting Rights Act of Virginia essentially re-applied them.
- A-3. Assure that no protected class identified in Guideline 2 loses voting strength under the new redistricting plan. ([Voting Rights Act of Virginia, Virginia Code § 24.2-129](#))
- A-4. Maintain geographical compactness in each magisterial district. ([Virginia Code § 24.2-304.1\(B\)](#); [Virginia Code § 24.2-305\(A\)](#); also, [Virginia Constitution, Article VII, § 5](#))
- A-5. Maintain geographical contiguity in each magisterial district. ([Virginia Code § 24.2-304.1\(B\)](#); [Virginia Code § 24.2-305\(A\)](#); also, [Virginia Constitution, Article VII, § 5](#))
- A-6. Assure magisterial districts have clearly observable boundaries, which include: (i) any named road or street; (ii) road or highway which is part of the federal, state primary or state secondary road system; (iii) any river, stream or drainage feature shown as a polygon boundary on the TIGER/line files of the Census Bureau; or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by VDOT, on a USGS topographical map, or as a polygon boundary on the TIGER/line files of the Census Bureau. ([Virginia Code § 24.2-305\(A\) and \(B\)](#))
- A-7. Use only 2020 census data for the County. ([Virginia Code § 24.2-304.1\(C\)](#))
- A-8. Factors to consider include, but are not limited to, economic, social and cultural factors, geographical features, and service delivery areas. (Based on Virginia [Senate](#) and [House](#) 2011 Redistricting Criteria)
- A-9. If there is a conflict between any of Guidelines A-1 through A-6 and Guideline A-8 or any of Guidelines A-10 through A-16, priority will be given to Guidelines A-1 through A-6 because they are based on Federal and State law requirements. (Based on Virginia [Senate](#) and [House](#) 2011 Redistricting Criteria) If there is a conflict within Guidelines A-1 through A-6, priority will be given to population equality, compliance with the United States and Virginia Constitutions, and compliance with the Voting Rights Act.

County Considerations

- A-10. Maintain six magisterial districts.
- A-11. Have each magisterial district contain both urban and rural areas of the County.
- A-12. Minimize changes to existing magisterial district boundaries.
- A-13. Preserve communities of interest, including neighborhoods, within the same magisterial district.
- A-14. Avoid the pairing of incumbent members of the Board of Supervisors or the School Board in the same magisterial district.¹
- A-15. Avoid splitting census blocks to assure the accuracy of the census data.
- A-16. Preserve the historic core of existing magisterial districts.

Part B – Precinct Guidelines

State Guidelines and State-Level Redistricting Criteria

- B-1. Each precinct shall have between 100 and 5,000 registered voters. ([Virginia Code § 24.2-307](#))
- Each precinct shall be wholly contained within a single congressional district, state Senate district, House of Delegates district, and magisterial district. ([Virginia Code § 24.2-307](#))
- B-2. Each precinct shall maintain geographical compactness. ([Virginia Code § 24.2-305\(A\)](#))
 - B-3. Each precinct shall maintain geographical contiguity. ([Virginia Code § 24.2-305\(A\)](#))
- Each precinct shall have clearly observable boundaries, which include: (i) any named road or street; (ii) road or highway which is part of the federal, state primary or state secondary road system; (iii) any river, stream or drainage feature shown as a polygon boundary on the TIGER/line files of the Census Bureau; or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by VDOT, on a USGS topographical map, or as a polygon boundary on the TIGER/line files of the Census Bureau. ([Virginia Code § 24.2-305\(A\) and \(B\)](#))
- B-4. If there is a conflict between any of Guidelines B-1 through B-5 and Guidelines B-7 or B-8, priority will be given to Guidelines B-1 through B-5 because they are based on State law requirements. (Based on Virginia [Senate](#) and [House](#) 2011 Redistricting Criteria)

County Consideration

- B-5. The target size of each precinct should be no more than 2,500 registered voters.

Part C - Polling Place Guidelines

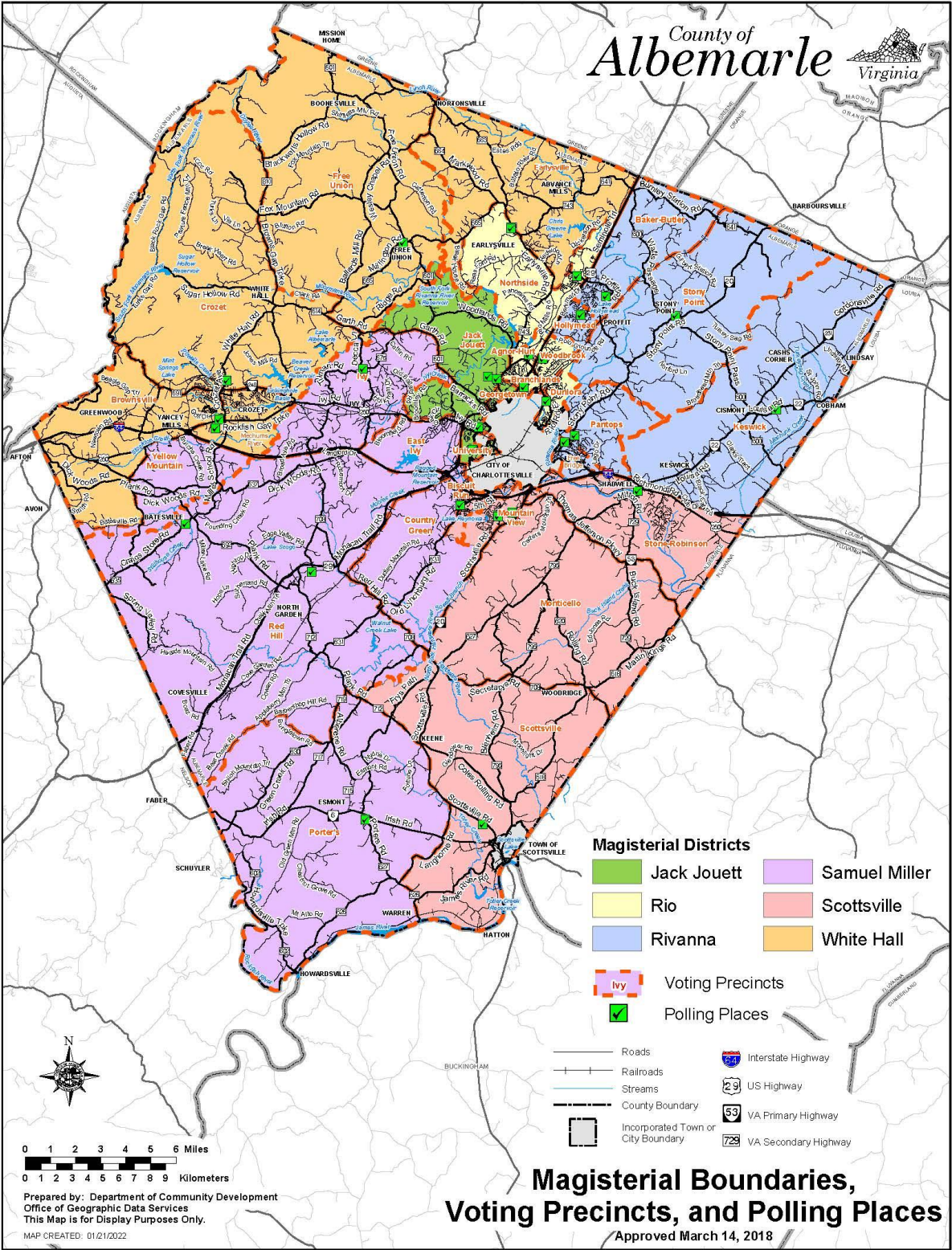
State Guidelines and State-Level Redistricting Criteria

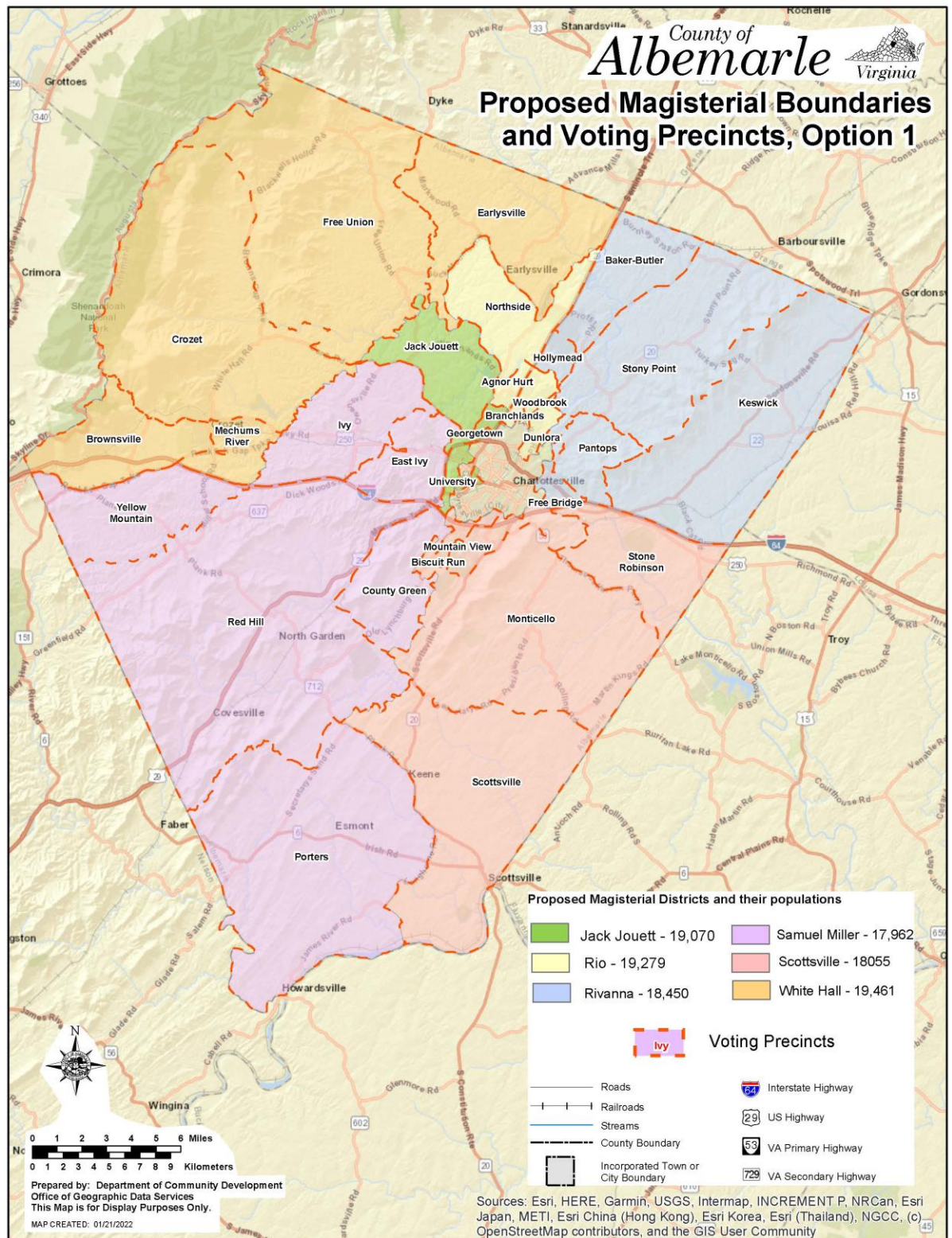
- C-1. Each precinct shall have one polling place. ([Virginia Code § 24.2-307](#))
- C-2. If a polling place cannot be located within the precinct, it shall be located within one mile (as measured in a straight line) from the precinct boundary. ([Virginia Code § 24.2-310\(A\)](#))
- C-3. Each polling place should be located in a public building whenever practicable. ([Virginia Code § 24.2-310\(B\)](#))
- C-4. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural or similar nature unless the State Board of Elections has approved the use of the building because no other building meeting the accessibility requirements set forth in Guideline C-5 is available. ([Virginia Code § 24.2-310.1](#))
- C-5. Each polling place shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act ([Virginia Code § 51.5-1 et seq.](#)), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20101 *et seq.*), and the Americans with Disabilities Act relating to public services ([42 U.S.C. § 12131 et seq.](#)). ([Virginia Code § 24.2-310\(C\)](#))
- C-6. If there is a conflict between any of Guidelines C-2 through C-5 and any of Guidelines C-7 through C-9, priority will be given to Guidelines C-2 through C-5 because they are based on State law requirements. (Based on Virginia [Senate](#) and [House](#) 2011 Redistricting Criteria)

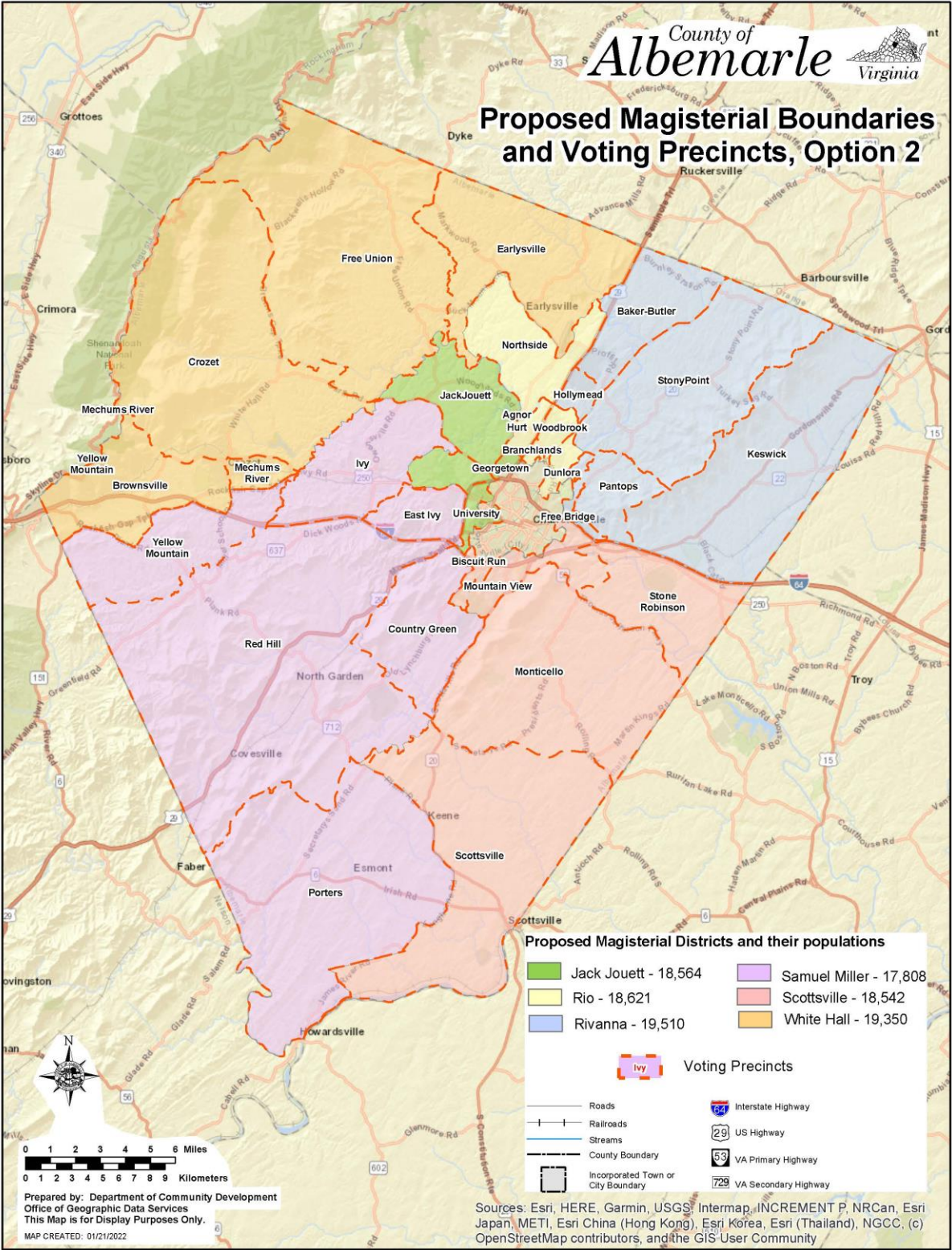
County Considerations

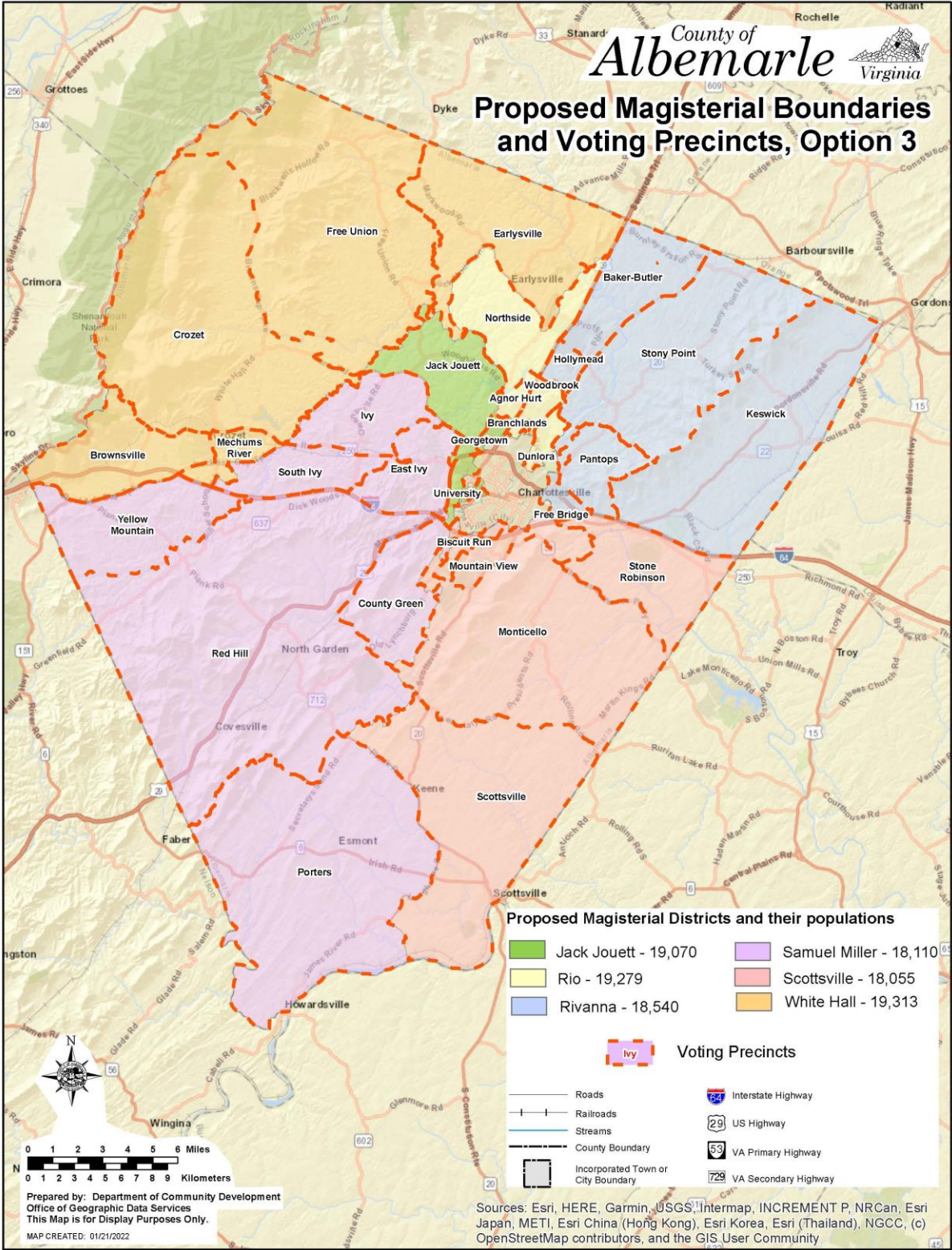
- C-7. Each polling place should be centrally located within the precinct so that the maximum travel time for a voter does not exceed 20 minutes.
- C-8. Existing polling places should be maintained, provided that they satisfy Guidelines C-2 through C-5.
- C-9. Polling places should be located where public transportation is available, where appropriate.

¹ Preserving incumbency is one of several “traditional redistricting principles” recognized by the United States Supreme Court. It serves to protect the voters from being removed from a representative that they have elected and with whom they have a constituent relationship. Therefore, staff recommends that the guideline not be deleted.









Non-Agenda Item. **Recess.** The Board recessed its meeting at 2:55 p.m. and reconvened at 3:11 p.m.

Ms. Price and Mr. Gallaway left the meeting during the recess. Vice-Chair LaPisto-Kirtley called the meeting back to order.

Agenda Item No. 12. **Presentation:** Rivanna River Corridor Plan.

The Executive Summary forwarded to the Board states that under a Memorandum of Understanding agreed to by the City of Charlottesville, Albemarle County and the Thomas Jefferson Planning District Commission (TJPD), the TJPD has been undertaking the development of a Rivanna River Corridor Plan. A staff technical team and Council- and Board-appointed steering committee has been assisting with the development of this plan. Phase I, essentially a background study, was completed in 2018. The TJPD has now completed the draft of Phase II of the Plan, which is intended to establish the vision and guiding principles for the corridor (Attachment A).

Attachment B is a memo from Sandy Shackelford, project lead from the TJPD, to the Albemarle County Planning Commission, which provides further background and discussion of the project.

The Albemarle County Planning Commission was presented the plan on December 14, 2021 and

expressed general support and appreciation for the plan, articulated in the meeting minutes (Attachment C). A joint Charlottesville Planning Commission/City Council meeting was held on January 11, 2021 to review the plan and the Commission and Council have also expressed general support. It is anticipated that the Plan will be adopted into the City's Comprehensive Plan in the near future.

As the County is now beginning its review and update of its Comprehensive Plan, staff recommends that the Board accept and endorse the Phase II corridor plan and refer it to the staff for consideration and incorporation into the County's update of the Comprehensive Plan.

There is no budget impact from this planning document. Implementation of the Plan may require future funding.

Staff recommends that the Board accept and endorse the plan and refer the document to staff for consideration and adoption as part of the upcoming review and update of the Comprehensive Plan.

Mr. David Benish, Development Process Manager with the Community Development Department, said this was a project that was jointly funded by the County, the City, and the Thomas Jefferson Planning District Commission (TJPDC). He said the TJPDC had been the lead agency in developing this plan. He said Sandy Shackleford, the Director of Planning and Transportation, and Shirese Franklin, Senior Planner, had been the lead staff on this project and had put this project together. He said for today's meeting was to present the plan to the Board, receive comments and questions, and hopefully have them accept and endorse the plan and refer to County staff for further consideration through the upcoming review and update of the County's Comprehensive Plan.

Ms. Price re-joined the meeting at 3:12 p.m.

Ms. Shackleford introduced herself as Sandy Shackleford, Director of Planning and Transportation for the Thomas Jefferson Planning District Commission, and she was happy to be able to share the work that had gone into the plan thus far with them today. She said for background of this process, this had been a joint initiative between Albemarle County and the City of Charlottesville. She said it was the second of what was originally envisioned to be three phases. She said they had completed the existing conditions inventory in 2018 and had been working on this visioning phase since the spring and summer of 2019. She said that the study area included the portion of the Rivanna River corridor that was 4.3 miles long from Penn Park as the northern terminus to I-64 as the southern terminus. She said they had defined this as the urban portion of the corridor, so realizing that this portion of the river was not actually urbanized, it was within the urban areas of Charlottesville and Albemarle.

Ms. Shackleford said they conducted several different levels of analysis and discussion throughout the course of developing this plan. She said there was a technical committee that was assembled that included locality staff and a number of different departments and they met regularly throughout the duration of the project. She said the steering committee was made of two elected officials, two planning commissioners, and one citizen that was appointed from each locality. She said the steering committee met three times over the course of the project to provide high level direction and feedback at different milestones throughout the project duration. She said they conducted public engagement in several ways. She said they started with an on-site survey at the River Flow Festival in the fall of 2019. She said that initial feedback was used to develop a starting draft of the vision statement and guiding principles.

Ms. Shackleford said when they started to plan for public engagement in the spring of 2020, their plans were interrupted due to the COVID-19 pandemic, and they were not able to conduct in-person engagement. She said the technical committee came up with the suggestion to place signs along the corridor to inform users of the visioning study and to get feedback and bring awareness for user desires for the future of the river corridor. Ms. Shackleford said the high use of the river corridor during the pandemic made this a very successful way to engage the community. She said they collected comments through their project website and held two public webinars. She said in addition to putting the information up throughout the corridor, they also notified all property owners who lived within a specified buffer of the corridor using direct mailings. She said once they had community feedback, they had meetings with community stakeholders with subject matter expertise in certain areas to refine and draft recommendations. She said finally, they conducted a benchmarking exercise to review other successful river corridor plans or projects to determine best practices and to learn from their successes.

Mr. Gallaway re-joined the meeting at 3:17 p.m.

Ms. Shackleford said through all these rounds of feedback, they developed a final vision statement, which reflected the community and stakeholder priorities for the future of the Rivanna River. She continued that to support the realization of the vision statement, six guiding principles were developed which were shown on the screen. She said the original discussion among the members of the technical committee was that all six of the guiding principles would be considered equally important since the purpose of this plan was not just to encourage one type of use of the corridor like economic development or conservation or recreation, but to find the right balance of all of these different desired uses for the corridor. She said however, after discussing the guiding principles with the general public and the steering committee, it became apparent that the most important priority for the river corridor was the environmental protection and stewardship of this important community resource. She said the determination was that among the guiding principles, environmental protection had to be the most important consideration, and only once environmental protection and stewardship was addressed could

the other guiding principles be considered to be equally important to each other.

Ms. Shackleford said with the support and guidance of the technical committee, the TJPDC developed a set of recommendations for each of the guiding principles. She said she would not go through them in depth but would highlight a few points of interest that arose as they discussed the recommendations and how they developed into the version seen today. She said first, they worked to consider the recommendations from an equity lens, but they did not address equity as a separate section. She said this was especially apparent in a couple of sections, including the “Public Health, Safety, and Wellness” section, as well as the discussions related to access to the corridor. She said the recommendations in the “Public Health, Safety, and Wellness” section started off with a section on perceived safety for recreational users of the corridor, but after discussing these recommendations with the stakeholder group, the recommendations shifted to instead want to empower users to know how to manage any number of situations that could occur within the corridor, for information-sharing, education, and building relationships with emergency response personnel. She said staff also discussed improving access to historically underserved populations, and recommendations were developed to promote awareness of populations that would increase future access, as well as considering how the corridor could be better accessed by those other than single-occupancy vehicles.

Ms. Shackleford said one of the biggest concerns received from the public engagement related to the environmental impacts of recreational use and development in the corridor. She said the development and redevelopment recommendations were not intended to change any of the existing land use decisions that had already been made by the localities as part of their Comprehensive Plans, but more about how to facilitate better development than what was already permitted in order to be more congruous with the overall vision for the river corridor. She said the recreational activities section was developed to consider environmental impacts and evaluating future opportunities, so there was an emphasis on environmental sensitivity for any of those future uses.

Ms. Shackleford said they developed a matrix for each set of recommendations, and as could be seen by reviewing the plan document, the final set of recommendations was much more comprehensive and specific than what was originally conceptualized. She said due to increased project timeframe that resulted from staffing transitions, the pandemic, and uncertainty over the feasibility of a master planning phase, staff wanted to ensure that the plan could provide enough guidance to be actionable on its own. She said that the plan covered a broad range of issues, so to help prioritize recommendations, they had pulled out a few in each of the sections and indicated that they were short-term, meaning that those were the priority items to start acting on. She said these were identified through a few different ways; there were some projects that already had momentum behind them through overlapping efforts, there were low-cost, high-impact projects that could be considered easy wins, or they were foundational in being able to move other initiatives forward in the future.

Ms. Shackleford said to help with implementation of these recommendations, they identified a couple of key areas where the localities could focus. She said the focus of this plan was broad, and more specific planning work would need to be completed in several areas to better understand and determine planning priorities. She said these additional planning efforts would be beneficial on their own or could be incorporated into a future Master Plan if that was something that was pursued by localities as a next phase. She said while there was a need for more complete information to understanding some of the planning priorities, there were still some opportunities to move forward on implementation for improvements that had already been identified by taking advantage of grant opportunities. She said as she previously mentioned, there were a number of short-term projects that could be implemented at this point that would help build additional momentum towards the implementation of the recommendations in this plan.

Ms. Shackleford said initially, there was a discussion about a final master planning phase for this project, but this plan could be developed for implementation as is without the express need for a Master Plan. She said a Master Plan could be a useful final phase to focus on physical improvements in key areas, to develop cost estimates that could be used to guide implementation. She continued to say that this was a joint process, so the City of Charlottesville was also moving forward on their process to adopt the Urban Rivanna River Corridor Plan as an amendment to their comprehensive plan. She said they held a joint public hearing on January 11th, and the Planning Commission recommended approval of the plan with minor revisions that had been incorporated into the most recent document draft on the webpage, which she believed had been provided to them prior to the meeting. She said City Council would be considering adoption of the plan at their meeting next week.

Ms. Shackleford said this concluded the presentation, and that County staff had developed the recommendation shown on the screen, which was included as part of their meeting information. She said she was present with Mr. Benish, Ms. Franklin and other staff members to help answer any questions.

Ms. Mallek said she had no questions and had watched with great enjoyment as the process had unfolded. She said there was a long way to go, but it was a good work in progress.

Ms. LaPisto-Kirtley said she was looking forward to the completion of this at some point in time. She said it would be of great benefit and they should show off the Rivanna River. She said it was a great part of their community and was something they needed to be focused on and would bring in a lot of tourism.

Mr. Gallaway thanked them for the report and said he did not have any questions.

Mr. Andrews said he loved the report and looked forward to further progress.

Ms. McKeel said she appreciated the emphasis on the environment and the environmental stress that could happen if they were not careful. She said looking at that as well as equity was important in determining how their community would be able to access this. She said in the planning commission report, she noticed that Mr. Neil Williamson gave them a Christmas carol and was disappointed he did not present it to the Board of Supervisors as well.

Ms. Price said that if thinking of a natural resource, the Rivanna River was the best thing they had in their community, and it cut through the County in so many of their districts. She said it was a tremendous resource and she looked forward to the department doing many great things.

Ms. Mallek said in regard to what Ms. McKeel had just said about the emphasis on the environment, the stakeholder group that decided that item's importance was very interesting to listen to. She said that there were a multitude of different individuals from the City and County that voiced concern about it, which she was thankful for.

Ms. Price thanked them for the report and said there were great things ahead.

Mr. Benish thanked the Board.

Ms. Price said they next must accept and endorse the plan and refer the document to staff for consideration on adoption as part of the upcoming review and update of the Comprehensive Plan. She asked Mr. Kamptner if there was anything more formal they needed to do to show the consensus of the Board.

Mr. Kamptner said to provide absolute clarity, a motion would be appropriate.

Ms. LaPisto-Kirtley **moved** to endorse the plan and refer the document to staff for consideration on adoption as part of the upcoming review and update of the Comprehensive Plan.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.

NAYS: None.

Agenda Item No. 13. **Presentation** - 13. Spotted Lanternfly Update from the Virginia Department of Agriculture and Consumer Services (VDACS).

Ms. Kim Biasioli greeted the Board and introduced herself as the Natural Resources Manager. She introduced David Gianino who was with the Office of Plant Industry Services with the Virginia Department of Agriculture and Consumer Services (VDACS). She said he managed VDACS' invasive plant pest programs, including the spotted lanternfly program. She said he was there today to give them a presentation about the spotted lanternfly, which was recently discovered in Albemarle.

Mr. Gianino greeted the Board. He said as Ms. Biasioli mentioned, he worked with the Virginia Department of Agriculture, and they had many different pest programs where they worked to mitigate invasive species' spread and impact in Virginia. He said in 2021, the spotted lanternfly had made its way to Albemarle County. He said this would be an informational presentation about the spotted lanternfly's biology, impacts and best management practices, as well as how the County could prepare or partner with the Department of Agriculture to fight this insect.

Mr. Gianino said the reason they were worried about this pest in particular was because it was an agriculture quality product pest, and it impacted the environment as a whole. He said that the primary impact agriculturally of the lanternfly was on apples and grapes, just based on the sheer damage that they could do to those crops. He said pictured on the slide was a swarm of lanternfly adults on an apple tree. He said it was a piercing sucking mouthpart insect, so it sucked foam sap from the stems of these trees, which could negatively impact yield, and could impact the quality of the fruit that relied on lots of sugar content. He showed a photo of the spotted lanternfly on grapevines. He said they swarmed intensely in the fall, which could also impact how good the grapes were, because if there was spotted lanternfly exudate into the material, it could impact the quality of wine. He said there were other business implications as well, because it jumped and did not fly, and could jump onto vehicles or into gravel, and this "hitchhiking" was a primary way it got around.

Mr. Gianino said another reason they were very concerned and wanted to share as much information as possible was that it was a very big nuisance pest for landowners and homeowners. He said the large number of swarms that could occur could cause very negative outdoor experiences for people in areas where the populations were high. He said agrotourism was also threatened by the foothold this pest could take and the impacts it could have on quality of products as well as the impact on trade of materials or sale of materials.

Mr. Gianino showed an image of actual population levels found in Winchester, Virginia. He said this was a successful treatment on a tree of heaven tree, which was its primary host. He said the good news was that tree of heaven was also an invasive species, which was good to know. He said the

Albemarle population was not as large as what was shown on the slide, and he believed they had opportunities to prevent this from happening, because they now had better tools. He said the primary way this insect got around was moving along transportation corridors. He said as he mentioned before, it was a “hitchhiking” bug, so there was a lot of movement along the railroad, the interstates, and state highways. He said they were being moved by either trucks or shipping materials, as well as homeowners who park their cars underneath trees for shade. He said one incidence of a find in Indiana was a direct move from Pennsylvania to that location, just from moving from one state to the other. He said they also had visitors from out of state into Albemarle County, and the tourism sites were important to protect, but people from other places could potentially bring them in, so they were trying to limit that movement within the state.

Mr. Gianino said that the insect was introduced into Pennsylvania from China in 2014 and arrived in Winchester in 2018. He showed a map with the populations from Winchester at the end of 2018. He displayed a map of the current distribution of spotted lanternflies in Virginia, with Albemarle County circled in orange in the middle. He showed an aerial map and said this particular location was found by their plant protection inspectors in July of 2021. He said this population was found along the south fork of the Rivanna River and multiple life stages of the lanternfly were found there. He said at the end of the arrow on the map was a railroad, and the location where all of the lanternfly eggs were found was a bridge, so they believed it moved from the train as it slowly crossed the bridge and gave the opportunity for insects to jump off. He said in the case of Albemarle County, what they did in the case of this positive finding was that they came down with USDA and treated it thoroughly by using Bifenthrin, a pesticide, to kill the lanternfly, injected trees with material to prevent further feeding, placed traps, removed egg masses, and planned to do a thorough survey there next year to try and mitigate this population.

Mr. Gianino said the current VDACS efforts were ongoing and cooperative with the United States Department of Agriculture. He said they got federal funding for treatment and trapping, as well as a lot of outreach materials they provided. He said there was a diverse management strategy, which included treatment activities, trapping and visual surveys, education and outreach, permitting and quarantine enforcement, and training for businesses and localities. He said if any locality was interested in training, they could provide some of that. He said the overall picture was that they were trying to work with everyone as best they could with all the resources they had to make sure they were all aware of the situation and handling it together as a unified front. He said that when one agency tried to take sole responsibility, the problem quickly overwhelmed the resources and abilities. He said the faster they started handling it together, the better chances they had at eradicating it.

Mr. Gianino said that in May of 2019, the Commissioner initially quarantined Frederick County and the City of Winchester and expanded the quarantine in March of 2021 to include Clarke County and Warren County. He said when they expanded the quarantine, it was based on populations levels, whether or not there were reproducing populations, and if it was closer to further transportation corridors, and if their treatment efforts were not successful. He said there were multiple counties being actively treated right now and would be reevaluated in the spring to see how effective the treatments had been in mitigating and reducing that population. He said the quarantine required businesses that were moving regulated articles, which was basically anything stored outdoors, including vehicles, had to be permitted. He said there was a permit training available on Virginia Tech’s website and was a \$6 nominal fee, and one person could take the training course and then be certified to train their staff on the spotted lanternfly. He said the quarantine was vital to slowing the spread. He said obviously it would not kill the bug, but it was raising awareness at a level of involvement from homeowners to businesses to get everyone engaged in the steps to take to mitigate its spread. He noted that Albemarle County was not quarantined right now, so that was not something that needed to be considered right now.

Mr. Gianino showed a map that showed the population spread of the spotted lanternfly so far. He said Albemarle County’s population had not been included in this map, but the information about it had been sent to the appropriate person for being added to the list. He said about the training available through Virginia Tech that it was an educational training where someone would learn how to mitigate spotted lanternfly at their business, inspect vehicles, and take steps to mitigate that insect outside of the quarantine. He said the quarantine was to prevent the movement to other localities.

Mr. Gianino said there were a few things that localities could do to work with the spotted lanternfly. He said with any invasive insect, early detection and rapid response was key, so if spotted lanternfly was found, he requested that it be reported to the local extension offices, that way they could reach out to VDACS or provide resources to the homeowners or businesses. He said on their website and Virginia Tech’s website, they had best management practices for either treatment or for compliance with quarantine, although that did not necessarily apply here. He said they were great resources for anyone who was interested. He said as he mentioned, they worked collaboratively, so any chance they had to work with the counties, whether that was for treatment on County lands, they were happy to work with County representatives in that fashion. He said support and outreach efforts included opportunities in Winchester at the Apple Blossom Festival where they had a table and told people about the spotted lanternfly. He said any outreach efforts they could support they would love to be a part of. He said training County staff, whether VDACS provided that training or a County staff member. He said establishing a County contact person so that someone at VDACS could have someone in the locality to provide each other with resources and other information.

Mr. Gianino showed a slide that listed some of the partners who were involved in this effort. He said there were a lot of people involved with trying to mitigate spotted lanternfly and slow the spread. He said that was the conclusion of his presentation and said that if any of them saw a spotted lanternfly, it was an insect they were happy to see go. He said he would leave the page up for contact information.

Ms. Mallek said that she had tried to keep this information present in newsletters to keep it in front of people. She asked if there was anything that could be seen at this time of year that they should be looking for.

Mr. Gianino said egg masses could be seen right now. He said they looked like clay ovals. He said there were multiple stages of the egg mass that could be seen.

Ms. Mallek asked if the covering was the white material and if the eggs inside were black.

Mr. Gianino said that was correct.

Ms. Mallek said there were so many different colors, it was hard to keep it straight. She asked if there were any predators to these at any stages.

Mr. Gianino said natural predators were very slow to get to this pest, which was because it was not an attractive prey to predators due to taste. He said USDA was currently working on biocontrols but were having some problems with isolating it to only the spotted lanternfly, for example, parasitism on lunar moths, but there were pictures of the Asian praying mantis that had been feeding on spotted lanternfly and birds had been eating them, but it had not been in great quantities. He said what was of interest right now was a fungal parasitoid, or a fungus that attacked spotted lanternfly when they were weak, so they had utilized that as part of their management strategy with reducing chemicals and encouraging beneficials. He said there were two strains of fungus that were good at that.

Ms. Mallek said that gypsy moths in the 1970s and 1980s were a similar problem in Massachusetts and in Virginia. She said the Department of Forestry led the spraying program for BT, and that in combination with a warm winter that damaged the eggs seemed to bring the 17-year cycle to a halt during about the fifth year. She said at that time, there were very serious inspection stations at borders, with mirrors looking under vehicles, and she hoped they would not wait too long before they got to a higher level of interaction. She said unless there was some sort of accountability for when people forgot to inspect, she worried they would not be able to get control of this in time.

Mr. Gianino said she had raised some very good points. He said this was a difficult pest to manage for a variety of reasons, but similar to what she had described, there were detector dog programs, and they recently got a partnership with the North Carolina Department of Agriculture that had just gotten a detector dog, and they were planning to do some training to utilize the dog for inspecting trucks as they were moving across borders. He said they also had done some roadside inspections with trucks as well. He said they were limited staff wise, but it was something they were looking into. He said they did permit checks as well. He said in the quarantine area, they had staff that would go in, checked in with businesses, do a Q & A with them, see if they fell under the quarantine, and made sure they had a permit. He said it was tough because there were so many businesses, for example an ice business that was driving from Rockingham County up, so they were not based in the quarantine, but fell under the requirements for the quarantine, so they worked with them to get permitted as well. He said it was a challenging pest, but they were doing everything they could.

Ms. Mallek said she hoped they would be able to get it under control, because the gypsy moths took a lot of hard work to stop spreading.

Ms. LaPisto-Kirtley said she did not like the invasive species of insects. She asked what to do if she saw one.

Mr. Gianino said that the messaging from VDACS was when someone was confident that they found a spotted lanternfly, to kill it first and then report it. He said they told people to stomp, scrape, squish the spotted lanternfly and then report it. He said the reporting could be done directly through VDACS' email address, or through their local County extension agent.

Ms. LaPisto-Kirtley asked about the eggs.

Mr. Gianino said that if it was able to be reached, the egg mass should be scraped off. He said it was similar to the gypsy moth egg mass removal. He said there were not many treatments for egg masses. He said they used a pesticide called "golden oil" that was a 60-70% guaranteed kill rate, which they used for ones that could not be reached.

Ms. LaPisto-Kirtley asked if the eggs were normally laid high in trees.

Mr. Gianino said the eggs could be laid almost anywhere.

Ms. LaPisto-Kirtley asked if pure alcohol or bleach would kill it.

Mr. Gianino said they did recommend alcohol. He said they had an information sheet available online that provided the alcohol percentage. He said that hand sanitizer would kill it as well.

Ms. LaPisto-Kirtley asked if spraying it would kill it completely and asked why it must also be scraped off.

Mr. Gianino said the "golden oil" did not kill them 100% effectively.

Ms. LaPisto-Kirtley said that she was referring to the alcohol.

Mr. Gianino said that they recommended people scrape the egg mass into a container of alcohol.

Mr. Gallaway said he had no questions at this point.

Mr. Andrews said it was terrifying that this was on its way. He said the training mentioned for the permit process sounded like a good idea with a nominal cost. He asked if there was information that was important in that training that was also available to the public so that they could be aware without needing to be permitted.

Mr. Gianino said yes, and that all the information was available whether it was on their website or Virginia Tech's website. He said additional information was also on a website called "stopself.org" that was another resource. He said all the training information could be found on those websites as well. He said the training was brought about because their regulations said they had to have a certified training and it allowed people to get a certificate.

Ms. McKeel said it was terrifying, especially since their community had lots of grapes and apples. She asked if the presentation could be shared with the clerks and be sent to the Board members. She said she would be very interested in her own Citizen's Advisory Committee seeing this presentation at some point. She asked how well were the quarantines and searching the trucks was being accepted in these communities.

Mr. Gianino said that another pest that came through the area was emerald ash-borer, and that very quickly turned the state under quarantine. He said it was moving only on one pathway, inside wood building materials so it was able to be tracked. He said this pest was different because it was moving in ways that were unexpected and were not typically regulated. He said someone in Virginia received a shipment of pumpkins in a crate that went to a garden center, and inside the crate were spotted lanternflies from another state. He said they were trying very hard, but they were finding new pathways that had yet to be regulated. He said the efforts had been focused more to community engagement and education to make sure everyone was aware of the pest and make sure to look on anything that was outside. He said that was a very challenging message to get across, but the onset of this pest would be very bad once it was established.

Ms. McKeel asked if there were areas where these populations were established where people were all working together.

Mr. Gianino said that they had good relationships with the businesses that were under the provisions of the quarantine. He said they had been responsive when they had been notified that they required permits and perform those actions. He said the work that needed to be done was very nominal. He said people were willing to get the permit because it was a quick training, and it was not a terrible inspection that needed to be done, and most truckers already completed a multi-point check, so it was simply asked that this inspection be worked in. He said the hardest part was not necessarily the compliance they had problems with, but they had more people they were not aware of. He said when Pennsylvania started their permitting, they had over two million permits issued, which meant two million people had gone through a training. He said in Virginia, there were about 1,200 businesses that were permitted, and he expected if the quarantine were expanded there would be many more businesses that would get permits as well.

Ms. McKeel said the presentation would be helpful to use as a tool to spread the word to the community.

Mr. Gianino said he would be happy to share that.

Ms. Price said all the CACs, and all boards, committees, and commissions should get this presentation to spread the word. She said it was not only businesses, but could be any person in the area, so they all needed to be aware.

Ms. Mallek said that Ailanthus was now on the noxious species list. She asked if there was something that VDACS could do to stop its sale in pots in garden centers and home improvement stores in Virginia since it was a food source for the lanternflies.

Mr. Gianino said that the tree of heaven was the spotted lanternfly's primary host. He said it was in process to be on the list but was not yet on it. He said he believed it would be on tier 3 of the noxious weed list, which meant that they would not necessarily take treatment actions due to its distribution throughout the state, but it would be prohibited from sale in Virginia. He said the other thing they were doing was that they partnered with Virginia Tech on a few research funding requests, and they were looking at a fungus biocontrol for tree of heaven, and it was called "Verticillium wilt", and it was very specific to tree of heaven, used as a management strategy to control and kill tree of heaven on a larger scale biologically and using less chemicals.

Ms. Mallek asked if they were looking for partners.

Mr. Gianino said they were all the time.

Ms. Mallek said they had tried all sorts of different things but would appreciate a new fungus to try on her ailanthus.

Mr. Gianino said they actually just gave a presentation at a spotted lanternfly research seminar where it was mentioned that the EPA was looking to approve that product very soon because it had been through some trials. He said it may be a product available to homeowners soon.

Ms. Price said she appreciated the horrible news that had just been shared with the Board. She thanked them for helping their community better battle this.

Mr. Gianino said absolutely. He said if at any point he could help or VDACS could support the locality, to let them know and they would be there.

Agenda Item No. 14. Closed Meeting.

At 4:02 p.m., Mr. Andrews **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
 1. To discuss and consider appointments to a County authority, four human services boards and committees, four advisory committees, and a water resources protection foundation; and
 2. To discuss and consider the appointment of the County Attorney; and
- Under Subsection (6), to discuss and consider the investment of public funds in a volunteer fire company where bargaining and negotiation is involved and where, if made public initially, the financial interest of the County would be adversely affected; and
- Pertaining to the memorandum of agreement between the County and the City of Charlottesville regarding the County courts:
 1. Under Subsection (3), to discuss and consider the acquisition of real property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County; and
 2. Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to the County's rights under the terms of the agreement and under State law; and
 3. Under Subsection (29), to discuss possible amendments to the agreement where discussion in an open meeting would adversely affect the bargaining position and negotiating strategy of the Board.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Agenda Item No. 15 Certify Closed Meeting.

At 6:00 p.m., Mr. Andrews **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.
ABSENT: Mr. Gallaway.

Agenda Item No. 16. Boards and Commissions:
a. Vacancies and Appointments.

Ms. LaPisto-Kirtley **moved** to make the following appointments:

- **Appoint** Mr. Evan McBeth to the 5th & Avon Community Advisory Committee with said term to expire September 30, 2023.

- **Reappoint** Mr. David Emmitt to the Albemarle Conservation Easement Authority with said term to expire December 13, 2024.
- **Appoint** Ms. Natalie Detert to the Social Services Board as the Jack Jouett District representative with said term to expire December 31, 2025.
- **Appoint** Ms. Phylissa Mitchell to the Historic Preservation Committee to fill an unexpired term ending June 4, 2023.
- **Appoint** Mr. David Mitchell to the Places 29 (North) Community Advisory Committee with said term to expire August 5, 2023.
- **Appoint** Mr. Mark Wastler to the Thomas Jefferson Water Resources Protection Foundation with said term to expire January 31, 2024.

Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Agenda Item No. 17. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said he did not have a report for the Board.

Agenda Item No. 18. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Ms. Judy Schlussel said she was a resident of the Rio district and a member of the Rio29 CAC. She said the front-page article of the January 22 edition of the Daily Progress stated that Albemarle would compensate people who participated in and aided the Comprehensive Plan update. She said she was appalled that the Board unanimously voted to pay approximately \$1,000 to members who worked on parts of the Comprehensive Plan public engagement process and plan content.

Ms. Schlussel said at the Board meeting on January 19, there were questions about how working group members would be briefed on planning concepts and how the community would be involved in the process. She explained that Ms. Michaela Accardi responded. She said that Ms. Accardi stated compensating working group members was an approach to integrate equity and inclusion into planning processes, and the primary goal for compensation was to remove barriers and encourage applicants from communities in the County that had been underrepresented in the planning processes.

Ms. Schlussel said the Daily Progress article stated that the County was hoping to attract members of historically underrepresented groups. She said those groups included people younger than 35 or over 65, renters, people without a bachelor's degree, people who were multi-lingual, Black people, Hispanic people, Latino people, people born outside the United States or without citizenship, and people who may want to live in the County. She said the headline should rather state that white, middle-aged, middle-class, college-educated, home-owning, English-speaking, native-born people need not apply.

Ms. Schlussel asked if the working group would be tabled if the applicant demographics did not reflect the goals of the County. She questioned whether someone from any of the 10 demographic groups she mentioned who applied to the group was applying out of an interest in planning or for money. She wanted to know if members would have to fill out the Virginia Conflict of Interest Ethics Advisory Council disclosure of real estate holding form, fill out employment information, or undergo a background check. She asked for how long the group would be viable, and how would the Board respond if the Planning Department requested a raise for the members.

Ms. Schlussel said she was retired and a member of several civic organizations. She said that while working for Albemarle County and juggling parenthood with a spouse who was in the military and travelled, she managed to participate in civic organizations and never considered she should be compensated for her time. She said it was an honor and privilege to be a member of the Rio29 CAC, and she did not expect to be compensated. She questioned why compensation had to be considered in order to entice people to be part of a comprehensive planning process. She said citizen input often did not influence the final policy and project decisions. She urged the Board to reevaluate the decision to compensate working group members and to use the money towards an endeavor where all citizens would benefit.

Mr. Kent Schlussel said he lived in the Rio district. He said he agreed with the previously speaker. He said he was disappointed that a citizen advisory group was not established, as was promised by the staff at the start of the Rio Road Corridor Study. He said he and many others applied to be on the advisory groups. He said he asked staff when the group would meet. He said he was told by staff that there would be no such group since staff did not receive the proper demographics and the applicant pool lacked diversity. He said County staff canceled the advisory group because the applicants were mostly white.

Mr. Schlussel was dismayed by the statements from staff and the Board as reported in the Daily Progress on January 22. He agreed that the working groups needed to be diverse, but he was dismayed that County staff was seeking non-U.S. citizens and people who did not live in the County but who may

want to live there. He said a member of the Board stated the goal should be people between 30 and 50 years old. He said that people like him, who were white and over 65, should not apply. He said other CACs and advisory groups were unpaid, and this group should not be paid \$15 per hour.

Mr. Schluskel explained that he was an election official and was paid for his time. He said he had to receive training on his own time and interface with the public. He said he worked all 3 of the early elections and assisted thousands of citizens in voting, but he was not paid \$15 per hour. He said the CACs were intended to make the Board and staff feel good. He said the County was paying people \$15 per hour to listen to how the plan should go. He said it was a waste of money because the County did not consider the CAC input.

Mr. Schluskel said it was noted that on the announcement that went out the previous day, that people with a college education and advanced degrees were not welcome. He said he would not be considered a serious candidate to be on the advisory groups because he was white and had a graduate degree. He wanted to know what happened to the volunteer spirit of the County. He said if people only wanted to serve the County if they get paid, then Albemarle County would decline from a great place to live to only a place to live.

Mr. Paul McArtor said he lived on Avon Street Extended in the Scottsville district. He said there was an infrastructure problem that was being ignored. He explained that if the road, water, sewer, or electrical infrastructure could not support a project, then it would not be approved with the hopes that the infrastructure problems would eventually be corrected. He said the school system was not treated similarly. He noted that the School Board, the Planning Commission, and the Board of Supervisors had acknowledged that the school system was over capacity and had overcrowding issues especially in the southside of the County.

Mr. McArtor said the school infrastructure was entirely ignored, and the School Board and Board of Education were expected to solve the problems. He said he received the same answer from Planning Commission and the Board of Supervisors: it was not their problem. He said the schools needed to be treated with the same level of infrastructure concern with which roads, water, and electricity were treated. He noted that other issues seemed to be more pressing to the Planning Commission than the school infrastructure problems, such as buildings not being pretty enough and a non-required bus stop that should be installed in hopes the CAT system one day go to the neighborhood. He wanted education to be treated on the same level as other infrastructure issues.

Ms. Price told Mr. McArtor that if he had a longer statement, he could submit it to the clerk to be included in the record.

Agenda Item No. 19. **ZMA202100005 1805 Avon Street Planned Residential Development (PRD).**

PROJECT: ZMA202100005 1805 Avon St. PRD – Digital
MAGISTERIAL DISTRICT: Scottsville
TAX MAP/PARCEL(S): 090000000035D0; 090000000035H0
LOCATION: 1799 and 1805 Avon Street Ext., Charlottesville, VA 22902
PROPOSAL: Rezone two parcels to allow a maximum of 85 residential units.
PETITION: Request to rezone a total of approximately 3.627 acres from the R1 Zoning District, which allows residential uses at densities up to 1 unit/acre, to Planned Residential Development (PRD), which allows residential (maximum of 35 units/acre) with limited commercial uses. A maximum of 85 dwelling units is proposed, with a mixture of two-family, duplex, triplex, and multi-family structures, at a gross and net density of approximately 24 units/acre.
ZONING: R-1 Residential – 1 unit/acre
OVERLAY DISTRICT(S): EC – Entrance Corridor; Steep Slopes – Managed
PROFFERS: No
COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/acre); supporting uses such as places of worship, schools, public and institutional uses, neighborhood scale commercial, office, and service uses; in Neighborhood 4 in the Southern and Western Urban Neighborhoods Master Plan area.

The Executive Summary forwarded to the Board states that, at its meeting on Tuesday, December 14, 2021, the Planning Commission (PC) conducted a public hearing and voted 6:0 to recommend approval of ZMA2021-00005. The PC's staff report, action letter, and meeting minutes are attached (Attachments A, B, and C).

At the PC meeting, staff recommended approval of the proposed Zoning Map Amendment application. The proposal is consistent with the future land use and density recommendations identified in the Southern and Western Urban Neighborhoods Master Plan.

Two community members commented during the public hearing, with concerns about the traffic generated by this development and about school capacity, especially at Mountain View Elementary. The applicant responded that the expected traffic generation from this development was not high enough to trigger a Traffic Impact Analysis (TIA) and that any required improvements to Avon Street, including the design of the entrance, would be reviewed by VDOT at the site planning stage. The applicant acknowledged that Mountain View Elementary is currently over capacity and that the School Board is currently evaluating alternatives to alleviate the student population there, such as the construction of a

new school. Additional written comments from community members that were received after the PC staff report was published have been included as Attachment D.

The PC voted 6:0 to recommend approval of ZMA202100005, and no changes have been made to the application since the PC public hearing.

Staff recommends that the Board adopt the attached Ordinance (Attachment E) to approve ZMA202100005 1805 Avon Street PRD.

Mr. Andy Reitelbach, Senior Planner, said he was presenting the staff report for a rezoning application, ZMA202100005 1805 Avon Street Planned Residential Development (PRD). He said the slide displayed an aerial view of the site. He explained Avon Street ran from the north to the southwest, the Lake Reynovia subdivision was to the west of the site, the Avinity subdivision was to the north and southeast of the site, the South Side Church of God was to the south, and the parking lot of Mountain View Elementary was at the top of the image. He said the site consisted of 2 parcels, known as 90-35D and 90-35H, totaling approximately 3.627 acres. He said there was a single-family detached house along with several accessory structures on each parcel.

Mr. Reitelbach said the applicant requested to rezone the two parcels from Residential 1 (R1) zoning district, which allowed 1 dwelling unit per acre, to Planned Residential Development (PRD) with a maximum of 85 residential units. He said the by-right development rights for R1 allowed up to 3 dwelling units with possible additional units using the bonus factors stated in the ordinance. He said the parcels were within 2 overlay zoning districts—the entrance corridor overlay and the managed steep slopes overlay. He said the area of Avon Street was one of the entrance corridor areas where the regulations were not applied.

Mr. Reitelbach said the graphic displayed showed additional R1 zoned properties to the south of the site and smaller parcels to the northwest. He noted the Avinity subdivision was zoned PRD, the Lake Reynovia subdivision and the Mill Creek subdivision were zoned R4 and Planned Unit Development (PUD), and there was light industry use further south along Avon Street. He explained that the parcels fell within the southern and western urban neighborhoods masterplan area, and in the plan the parcels were designated for urban density residential. He said the designation recommended a density of 6.01 to 34 units per acre, as well as supporting uses, such as places of worship, schools, institutional uses, and small neighborhood scale commercial, office, and service uses.

Mr. Reitelbach said the recommended building height for residential buildings in the urban density residential land use designation was a maximum of 3 stories. He said the parcels in question and the surrounding parcels were designated urban density residential in the Master Plan. He said Mountain View elementary school was designated institutional use, the Lake Reynovia and Mill Creek subdivisions were designated as neighborhood density residential, and the properties along Avon Street to the south were designated for office, R&D, flex, and light industrial use.

Mr. Reitelbach said the applicant requested a maximum of 85 dwelling units to include townhouses, multifamily units, duplexes, and triplexes. He said the gross net density was approximately 24 units per acre. He explained the applicant proposed for the buildings to be a maximum of 3 stories as recommended in the master plan. He said the PRD designation required a minimum of 25% of the site be dedicated to open space. He noted the applicant in the application plan showed that the requirement could be met, and the precise percentage and location of the open space would be determined at the site planning stage.

Mr. Reitelbach said the applicant indicated 15% of the proposed units would be designated affordable housing at 80% of the area median income (AMI). He said that the development was expected to add 17 to 22 additional students across all grade levels according to figures provided by the school system. He said the exact figure depended on the types of residential dwellings. He noted that Mountainview Elementary was over capacity, and the development would have a further impact. He said the school system was in the planning stages for an expansion of Mountain View Elementary to address the impacts of the overcapacity levels, and the School Board was investigating alternatives to alleviate future capacity issues. He said the two parcels were zoned for Walton Middle School and Monticello High school which were under capacity, and were expected to remain so if this application was approved.

Mr. Reitelbach said the conceptual site layout from the application plan was displayed. He said the main entrance was proposed to be on Avon Street. He explained VDOT had approved an exception for entrance spacing requirements because this parcel, like several others, was narrow and entrances would not meet VDOT spacing requirements. He said other required improvements, such as turn lanes, taper lanes or stop lights, would be reviewed by VDOT at the site planning stage.

Mr. Reitelbach said the applicant proposed interior travel ways and proposed to construct a sidewalk along Avon Street. He said the applicant would reserve the right-of-way for the construction of a multi-use path in the future. He said the multi-use path was recommended in the Avon Street Corridor Study. He noted the applicant proposed a connection to the Avinity subdivision to the northeast, but bollards were installed at the property line. He said the streets of Avinity were private, so the residents in the proposed development would not be able to use the streets in Avinity. He explained the connection was proposed as an emergency fire access point. He said the applicant proposed to reserve 35-foot areas for future connections to the parcels both to the northwest and southeast.

Mr. Reitelbach said that there were 4 factors identified as favorable. He said the request was consistent with the uses and density recommended by the Southern and Western Urban Neighborhoods Master Plan. He said the request was consistent with the applicable neighborhood model principles. He said the proposal provided at least 15% of units for affordable housing as recommended in the Comprehensive Plan. He said the proposal provided reservation of right-of-way for the construction of a multi-use path along Avon Street. He noted there was one unfavorable factor—additional students would be enrolled at area schools which were overcapacity.

Mr. Reitelbach said the Planning Commission held a public hearing for the application on December 14, 2021, and the Commission voted unanimously to recommend approval of the zoning map amendment. He said the suggested motions to approve or deny the application were displayed.

Ms. Mallek asked if there was more information about the specifics of how the open space would be provided.

Mr. Reitelbach said the majority of the open space would be in the center of the development area. He said he did not remember the exact square footage. He said the applicant demonstrated that the minimum of required recreational facilities would fit within the area, and buffer areas were proposed along the sides of the property between the Avinity subdivision.

Mr. Gallaway said the Mountain View Elementary School capacity issue was the second priority on the school system's Long-Range Advisory Committee's plan. He asked where the overcapacity issue was prioritized in the CIP recommendation.

Mr. Reitelbach said the School Board reviewed a schematic design for the Mountain View Elementary school expansion in December 2021, and the project was in the design development stage. He said the School Board's review of the design development was expected within the following months. He said the next phase would be to finalize the construction documents and bidding, and construction would begin as early as the fall.

Mr. Gallaway noted the expansion addressed the existing capacity issues. He asked if there was a placeholder for a second set of improvements to address future capacity issues with Mountain View Elementary.

Mr. Reitelbach said he was not aware if there were a second set of improvements mentioned in the CIP, but he knew the School Board was investigating potential alternatives for school capacity issues. He noted the School Board was considering building another school south of the City.

Mr. Gallaway asked what type of units would comprise the 15% of affordable housing units.

Mr. Reitelbach said the applicant did not indicate what types of unit types would be included in the affordable housing units.

Mr. Andrews asked if the parcels were included in the priority area of the Southern and Western Urban Neighborhoods Master Plan.

Mr. Reitelbach said the site was not located within a priority area.

Mr. Andrews said in order to be approved outside of priority use, significantly higher improvements had to be shown to ensure adequate infrastructure and services. He said he supported the idea of increasing density in walkable areas. He noted the bollards prevented traffic through Avinity. He asked if pedestrian traffic was permitted through Avinity. He asked whether the sidewalk on Avon Street was accessible from the driveway side of the units or if people would be required to cross the street. He wanted to know the status of sidewalks from the parcels to Mountain View—if they were walkable and fully in place.

Mr. Reitelbach said the streets in Avinity were privately owned by the homeowners' association. He said he did not believe there was a public access easement over the streets. He said residents of the development would not be able to use the streets or sidewalks of Avinity without permission. He said he did not know if the applicant had further discussions with the Avinity HOA about allowing public access to the roads and sidewalks.

Mr. Reitelbach said the sidewalk along Avon Street was proposed along the length of the southern portion of the interior travel way so that residents could walk from the entrances of the residential units to the sidewalk. He said the sidewalk to Mountain View Elementary went along the frontage of Avinity. He noted there was a parcel under construction with apartment buildings, and a sidewalk was required as part of the development. He said the parcels to the northwest of the site were individual single family residential units with no sidewalk. He noted there would be a gap in the sidewalk along the parcels to the northwest between the development site and Mountain View Elementary.

Ms. McKeel said the subject of connectivity needed to be discussed. She said her neighborhood was adjacent to a development with privately owned streets and sidewalks and there were no issues with non-residents using the sidewalk. She said she would like to see more affordable housing.

Ms. Price asked if the interior sidewalk would be on the south side of the interior road.

Mr. Reitelbach said Ms. Price was correct.

Ms. Price opened the Public Hearing and invited the applicant to make their presentation.

Mr. Justin Shimp said he was the engineer for the project and would be making the presentation. He said, unrelated to this application, he supported the Board's decision to compensate people who participated in the Comprehensive Plan update working group. He noted not everyone could afford the 50 to 75 dollars to hire childcare to attend the meetings because people were overpaying for housing because of a lack of availability.

Mr. Shimp said one of the applicants, Jason Moss, lives on the property which was previously owned by his parents, and has lived in the area since 1979. He said the Comprehensive Plan proposed an approximately 3.6-acre small urban density area. He said the other parcels had been developed under an owner-occupied assumption. He said the proposal was focused for rentals and affordability with regards to the construction and cost. He said the slide displayed the walkable range from the proposed site. He noted there was a proposed inter-parcel connection planned at the front of the site. He said the open space and amenities were concentrated in the middle of the site, and approximately 1 acre of open space was required.

Mr. Shimp said there were two types of proposed units. He said there were stacked townhouses which had a basement or first-floor apartment and a town house above. He explained the first-floor unit would be a 1 bedroom or efficiency style unit and would comprise part of the affordable units. He said the unit type was beneficial for long-term affordable housing and said that he knew of a developer who built similar housing a number of years ago and the 1 bedroom apartments still rent at affordable levels even after the affordable housing restrictions have passed. He said the other type of construction was 1- and 2-bedroom apartment units. He said these buildings were proposed to be in the center and be 3 stories and contain 12 units apiece.

Mr. Shimp said a picnic shelter and terraced gardens were proposed. He said there were 3 separate amenity zones. He said the specific amenity facilities would be determined during the site planning process. He said the Planning Commission commented that the west side of the design was more favorable than the east side, which he did not necessarily agree with. He said the applicant intentionally was trying to achieve an urban infill design and not just have one kind of housing type. He said the Planning Commission had also brought up the possibility of a bus stop. He said that there was no bus service to that side of Avon. He said if a bus stop were to be proposed, there was space to build it later because the applicant had proffered the right-of-way for the multi-use path. He said the applicant had not identified a site for a bus stop because it was not part of the review process.

Mr. Shimp said regarding the schools, the surrounding residential developments—the Lakeside apartments, the Stone Creek apartments, and the Avinity subdivision—enrolled a total of 49 elementary school students from more than 800 units. He said a similar number of units across the street enrolled 175 students. He said the type of development proposed, which had only 15 3-bedroom units, was not the type to generate children. He said the school system had never said they could not handle the children. He noted that building schools before there were students meant the building would be empty for some time. He said Albemarle had addressed capacity issues by accommodating the students as they arrived. He said he was available to answer questions.

Ms. LaPisto-Kirtley asked if the private road in Avinity would allow pedestrian or vehicular traffic.

Mr. Shimp said Avinity Loop was a private street. He said there was a physical connection with bollards so a firetruck could pass through, if needed. He said pedestrians could be prevented from using the private sidewalks if Avinity decided to become a gated community. He said there was an easement when Avinity was constructed that provided a right of public access to one of the parcels in their proposal, but it was not clear if that would translate to all the residents. He said a vehicular connection was not proposed because the road was private.

Ms. LaPisto-Kirtley said the Avinity subdivision was not a gated community.

Mr. Shimp said it was not a gated community.

Mr. Andrews asked for more information regarding the VDOT entrance spacing waiver. He wanted to know why the waiver was granted and what were the specific conditions.

Mr. Shimp said that whenever you connect a commercial development to a public street there was a spacing requirement for proposed commercial entrances onto a street to other businesses or commercial entrances. He said the neighboring church had an entrance onto Avon nearby. He explained that if the entrances were required to be 400 feet apart but were only 300 feet apart, then VDOT had to grant an exception to the spacing requirement. He said the exception was approved on a case-by-case basis. He said if the applicant had wanted to construct a gas station VDOT would have denied the request because it was a high traffic use. He said the smaller apartments generated a lower traffic volume.

Ms. Price opened the hearing for public comment.

Mr. Paul McArtor said he was a resident of the Avinity subdivision. He said he did not have any objections to the project. He noted that there was concern about the drainage at the back of the development because the drainage could flow into the Avinity drainage pound which was not built to accommodate the additional drainage.

Mr. McArtor said the inter-parcel connections were of concern. He said Avinity, unlike Canterbury Hills or Out of Bounds Neighborhoods, has amenities such as dog parks, playgrounds, and common spaces that are funded by Avinity residents. He said there was concern of additional and unnecessary use and wear on the amenities by non-residents that the residents of Avinity would still have to pay for. He noted this was the sixth project that had been approved that used the future expansion of Mountain View Elementary School as a justification for approval. He said that students were being taught in the closets because they had so little space. He said the expansion was fixing a problem that already existed before six other projects contributed to it. He said the overcrowding did not provide the quality of education that Mr. Shimp had spoken about.

Ms. Price closed the hearing to public comment.

Mr. Shimp said he did not have a rebuttal and was open for questions.

Ms. Price said the matter was back before the Board.

Ms. Mallek asked Mr. Shimp to elaborate on the drainage issue brought up in public comment.

Mr. Shimp said the County Engineer had asked a similar question as part of the review. He said there was a large pipe going under Avinity to the development site. He said the drainage from the development would be passed through the pipe. He said the applicant would have to prove the adequacy of the system during the stormwater review and use underground retention or other features to reduce the runoff to the allowable flow level in that system. He said this is a technical part of every project but in this case it was made a little easier because someone was thinking ahead and left a pipe to catch the water right at the property line.

Ms. Mallek asked if the rule still existed that at the exit point there had to be the same amount of water that flowed in at the top.

Mr. Shimp said yes, if water was flowing into the development at 100 gallons per minute, then the site could drain 100 gallons per minute or less.

Mr. Gallaway asked for more information about the affordable units. He asked if the townhouse units offset the lower rent of the affordable units.

Mr. Shimp said the applicant viewed both unit types as rentals. He said the smaller type of unit was 500 square feet and was unusual in the market and inherently remained affordable. He said the space was enough for older people or single adults. He said that over time, the rent did not tend to appreciate at the same rate for the smaller apartment units than for larger units.

Mr. Gallaway said that got to his next question, if the townhouses would address the issue of affordable home ownership. He said if the townhomes were remaining rental then did this development provide any avenue for affordable home ownership or would it all be rental.

Mr. Shimp said that in order for the townhouses to be privately owned, the development would have to be subdivided, which would also require the creation of a private street. He said the applicant was not intending to subdivide the development but it could possibly be done later.

Mr. Gallaway asked if there was a need for an association because the units were rentals and there was a property management company that would manage things instead.

Mr. Shimp said there was one owner that managed the property.

Mr. Gallaway asked if the development would provide the same type of amenities as the Avinity subdivision, such as bags for dog waste.

Mr. Shimp said the development would provide similar amenities. He noted there would likely be more dogs than children in the neighborhood.

Mr. Gallaway said educators would always respond that they will accept more children. He said that five students made a difference when schools became as overcrowded as Mountain View Elementary. He said it was not an exaggeration to say that closets and hallways were being used to teach students. He said he had never met a teacher or administrator that would turn away a student. He said the Board had to stand up for the educators to ensure the proper facilities were provided. He noted that there was a plan for the capacity issue at Mountain View, and the development did not predict a significant impact on enrollment.

Mr. Gallaway asked if the bollards were permanent.

Mr. Shimp said the bollards were permanent.

Mr. Gallaway wanted to know if the development was eligible for micro-transit stops. He asked if the proposed right-of-way provided enough space for a transit stop.

Mr. Kamptner said the County would want a commitment for a space for the vehicle to pull over and for people to congregate.

Mr. Gallaway said the vehicle could be different. He wanted to know how the area could be better prepared for a transit stop.

Mr. Kamptner said the type of transit stop depended on the type and size of vehicle. He said a vehicle could pull into the property.

Mr. Gallaway said other types of transit beside fixed-route service should be considered. He said elementary school capacity was a county-wide issue. He noted an email he received that was not opposed to the development but was concerned about the school infrastructure. He said the School Board was not solely responsible for school capacity. He said the Board should discuss the capacity issue through the CIP and the budget cycle. He said the Board worked with the School Board to determine fund appropriations for school projects.

Mr. Andrews said he took the time the other day to drive this section of Avon at the beginning of the school day and saw a lot of kids being walked to school. He said walking to school was a great thing but there were some things about this project that bothered him. He said the priority area designation in the Southern and Western Urban Neighborhood Master Plan stated, "the County may find it inappropriate to approve a project if planned facilities were not in place to support the proposed project." He said he was concerned about the schools. He said people wanted to live within easy walking distance of the schools so they may have more than their anticipated number of students because of that. He said the Board was responsible for ensuring the schools were adequately funded.

Ms. Price said she echoed the other supervisor's comments.

Ms. Mallek said following up on the micro-transit discussion, when in the process is it determined what the dimensions for the interior travel ways would be. She provided the example of a 16 person passenger van that would need to come in and turn around, possibly with a 3-point turn, and then come out. She said people are elderly or injured may not be able to walk to a transit stop on Avon street, and she wanted to know if a micro-transit vehicle would be able to enter the property. She noted that the bollards could be removed by emergency vehicles but not by the average citizen or for transit needs.

Mr. Shimp said the neighborhoods had to be designed to accommodate 40 foot firetrucks entering and leaving the property. He said a transit vehicle that was the same size or smaller than a firetruck would be able to navigate the property.

Ms. McKeel said the micro-transit vehicles would be the same size as the Jefferson Area United Transportation (JAUNT) vehicles. She said she believed the JAUNT-sized vehicles would be able to negotiate the property. She said in some larger developments, a central location was discussed for larger buses, but micro-transit should be able to be used for the proposed development.

Ms. Price said the micro-transit vehicles were no larger than a U-Haul truck that residents would use to move in and out.

Ms. Price **moved** that the Board adopt the Ordinance (Attachment E) to approve ZMA202100005 1805 Avon Street PRD.

Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

ORDINANCE NO. 22-A(2)
ZMA 2021-00005

AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX PARCELS 090000000035D0 AND 090000000035H0

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2021-00005 and their attachments, including the application plan last revised on November 15, 2021, the information presented at the public hearing, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-19.1, 18-33.4, and 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2021-00005 with the application plan last revised on November 15, 2021.

Ms. Price said the Albemarle Broadband Authority (ABBA) Board had approved a letter to send to the State Corporation Committee (SCC) with regard to the issues with CenturyLink Lumen. She said she would like to open a discussion as to whether the Board would like to send a similar letter, cosign the letter, or draft a separate letter to supplant the ABBA Board's letter.

Ms. Mallek said she would support either form of letter. She wanted to know how to register to comment for the hearing before the SCC, and if the hearing could be requested to be held in Charlottesville. She wanted to know more about the hearing procedure, in addition to any letter they send.

Mr. LaPisto-Kirtley said she supported sending a letter that was signed by the Chair.

Mr. Gallaway said he would defer to the Chair and Vice-Chair to determine the best way to address the letter. He said he was most concerned with expediency and not the form that the letter took.

Mr. Andrews said he supported sending all of the information they had collected from staff and constituents only once, whether that was with the ABBA letter or the Board letter he did not have a preference.

Ms. McKeel said the Board should draft and send a separate letter from the ABBA letter. She said they should make the point they wanted to make but the shorter the letter the better and suggested a one-page limit. She said she understood why the ABBA letter was 2 pages but perhaps the Board could shorten it.

Ms. Price asked Mr. Culp to answer Ms. Mallek's question regarding the SCC hearing procedure and comment sign-up.

Mr. Mike Culp, Director of the Broadband Office, said his office was in conversation with the Attorney General's office, and he had received an email indicating the SCC was considering letting the County participate in the hearing later in February. He said there was a meeting the following week with the SCC. He said the letters would certainly help, and there were more letters coming. He said there would be more detail next week.

Ms. Price said the consensus was for either a joint or separate letter, with a preference for a separate letter.

Ms. Price **moved** that the Board draft a separate letter from the one sent by ABBA to the SCC and that the Board authorize the Chair to sign it.

In further discussion, Mr. Andrews suggested that the ABBA Board's letter refers to the Board's letter.

Ms. Mallek asked if the copies of the individual emails would be sent to the SCC along with the Board's letter or with the ABBA letter.

Ms. Price asked Mr. Culp if the community correspondence would be sent to the SCC attached to the ABBA letter.

Mr. Culp said the emails could be included as an attachment.

Ms. Price clarified that the Board would attach the community correspondence to their letter and that it did not also need to be sent by ABBA.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Ms. Mallek announced she had attended her first meeting of the Rivanna Water and Sewer Authority (RWSA), and she reported that many of the long-term projects were making steady progress.

Ms. McKeel announced to the public on behalf of the Board that a letter to the editor of the *Daily Progress* was submitted and signed by individuals from the Board in their capacity as private citizens. She said that while the letter was not about County business, the Board recognized they were public figures and wanted to provide clarity and transparency to the community.

Agenda Item No. 21. Adjourn to February 3, 2022, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).

At 7:25 p.m., the Board adjourned its meeting to February 3, 2022 at 10:00 a.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(16), “An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.” Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors homepage.

Chair

Approved by Board
Date: 09/20/2023
Initials: CKB