A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 7, 2022 at 6:00 p.m. in Lane Auditorium on the Second Floor of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA 22902.

BOARD MEMBERS PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J.S. LaPisto-Kirtley (participated remotely), 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 6:00 p.m. by the Chair, Ms. Donna Price.

Ms. Price said Ms. LaPisto-Kirtley was not presently at the dais; she requested to participate remotely in accordance with applicable Board Rules of Procedure, Rule 8B-1(b), enacted pursuant to the Freedom of Information Act. She said that Ms. LaPisto-Kirtley was unable to attend the meeting due to a personal medical condition.

Ms. Price **moved** to allow Ms. LaPisto-Kirtley to participate remotely. Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Ms. Price asked Ms. LaPisto-Kirtley to state her location.

Ms. LaPisto-Kirtley said that she was located in Keswick, Virginia.

Ms. Price introduced Albemarle County staff present and said that Albemarle County Police Officers David Sprouse and Andy Muncy were present at the meeting to provide their services.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price said that the floor was open for a motion to adopt the final agenda.

Ms. Mallek **moved** to adopt the agenda as presented. 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.

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

Ms. Mallek said that the Charlottesville Band, formerly named the Municipal Band of Charlottesville, would be holding its very popular Christmas concert that Saturday, December 11, 2022, in Dickinson Auditorium at PVCC (Piedmont Virginia Community College) at 3:30 p.m. She said that on a less cheerful note, a dead spotted lantern fly was found in one of their local Albemarle County tree seller's Christmas trees.

Ms. Mallek said that VDACS (Virginia Department of Agriculture and Consumer Services) was contacted, inspected all the trees on site, and contacted the source site in Pennsylvania. She said that she mentioned this so that families would be careful to check their potential Christmas tree, whether it was cut or potted, because they all must be vigilant in stopping the spread of the eggs, which looked like a white mass on the branch. She said that VDACS was the office to contact about this.

Mr. Gallaway said that he wanted to take a moment to remark on the passing of Congressman Donald McEachin. He said that in 2015, when he made an attempt to run for state senator, the first individual at the first event that he went to within days of making that decision stood up and met with him for a few minutes, then talked in support of him was Mr. McEachin, so he had fond memories of him and all of the support he gave when he took on that task. He said that Mr. McEachin was a gracious person who was always there to give advice, and he was grateful for his help that year. He said that that was only one slice, not mentioning his accomplishments representing the Commonwealth of Virginia and serving as a state congressman. He said he would take a moment to reflect on his passing.

Mr. Andrews said that the Albemarle Broadband Authority (ABBA) met yesterday, and the launch

of the affordable connectivity program bridge with an additional $20 per month for people who needed internet service to supplement the federal affordable connectivity program had launched. He said that Comcast was the first partner, projecting over 350 households to be served in the initial cohort, with more coming. He said that there was also a regional digital equity plan proposal that they were working on.

Ms. Price said that December 7, 1941 was the date of the surprise attack made by Japanese forces on the United States Naval forces located at Pearl Harbor and the cause of the United States' involvement in World War II. She said that the war in Asia and in Europe had been going on for two to several years, and at that point, the German Operation Barbarossa into the Soviet Union, the largest military campaign in history that involved millions of soldiers over thousands of miles of front, had already taken place. She said that over Thanksgiving, she had the opportunity to travel through Germany, Austria, Slovakia, and Hungary.

Ms. Price said that Hungary was loosely aligned with Nazi Germany at the beginning of World War II, which made sense due to their geopolitical location, with Italy to the southwest and Germany to the northwest, but by 1944, Hungary was looking to move away from Nazi Germany, and the Nazis became aware of that. She said that at the beginning of World War II, Hungary had the third largest population of Jews in Europe, approximately 800,000 people, and in the spring and summer of 1944, when German forces were being pushed back, they sent 10,000 SS (Schutzstaffel) troops into the country, which was not many compared to the population of Hungary.

Ms. Price said that within seven weeks, 600,000 of the 800,000 Jews had been rounded up, and 450,000 were sent on trains to Auschwitz, where they were gassed immediately upon arrival. She said that another 100,000 Jews were forced to march that winter from Hungary toward Germany, and within five days they were all dead due to having no food, water, or rest. She said that not having killed enough, another 10,000 Jews were rounded up and stood on the banks of the Danube River, where they were shot, and their bodies fell into the water. She said that the other 50,000 Jews died in the ghettoes in just a number of months from starvation, cold, and disease.

Ms. Price said that Nazi Germany did not accomplish that by itself. She said it was accomplished because the people of Hungary assisted in rounding up the 600,000 Jews and sent them to their death. She said that on August 12, 2017, the City of Charlottesville and the County experienced an invasion of haters who shouted, among other things, "Jews will not replace us," and there had been a noted rise in antisemitism throughout the United States and the world. She said that she wanted to express her appreciation to Governor Youngkin's administration for his recent announcements of 21 steps to fight antisemitism in the Commonwealth.

Ms. Price said that they would be foolish and naïve to think that things that happened in Europe and other places in the world could not happen here. She said that they had seen this sort of violence in Northern Ireland between Protestants and Catholics, in Palestine and the Middle East area between Christians, Jews, and Muslims, between the Hutu and Tutsi groups in Rwanda, and in many other places around the world. She said that they required vigilance to stand up, protect, and defend the Constitution of the United States.

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Agenda Item No. 6. Proclamations and Recognitions.

There were none.

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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.

There were no speakers from the public.

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Agenda Item No. 8. Consent Agenda.

Ms. Price said that Item 8.3, a boundary line adjustment with regard to Fluvanna County, was being removed from the Consent Agenda as some additional work must be performed on the item, and it would be considered at a later time.

Ms. Mallek **moved** to approve the consent 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.

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Item No. 8.1. Proposed Amendment to the 2018 Albemarle/Charlottesville Memorandum of Agreement for the Courts Project and Lease of Parking Lot to Serve Albemarle County Courts Users.

The Executive Summary forwarded to the Board states that in 2018, the County of Albemarle and

the City of Charlottesville entered into a Memorandum of Agreement (MOA) (Attachment A) related to the localities' courts facilities. The MOA anticipated the construction of a new General District Court facility to serve both the City and the County; as well as renovation of the historic Albemarle County Courts complex and the City/County-owned Levy Opera House. The MOA further included provisions to ensure availability of convenient parking for Albemarle County Courts facilities, to include the construction by the City of a parking structure, with 90 parking spaces allocated to the exclusive use of County Courts staff and users.

On June 7, 2021, Charlottesville City Council passed a resolution that directed the City Manager to "cancel all pending procurement transactions and to cease all other activities previously commenced to facilitate development of the Parking Structure." The 2018 MOA anticipated the possibility that the City might elect not to construct the Parking Structure and detailed two County options: that "the City must provide 100 parking spaces in the Market Street Garage at or below Level 2; or, that the City must re-convey to the County a one-half interest in the East Market Street Parcel for either its current appraised value or $1.28M, whichever is less, and allow the County to use it for parking with the County having exclusive access."

Following this Council resolution, staff of the County and City considered the County options detailed in the MOA and other alternatives that might better serve the needs of both the localities and the community. Following these discussions, County and City staff developed a proposed Addendum (Attachment B) to the original MOA. If approved by the Board of Supervisors and City Council, this proposed Addendum would provide for a total of 100 parking spaces for County Courts users. It would provide the County full use of the 63-space City-owned parking lot at 701 East Market Street on weekdays from 7 am to 6 pm. The County would have the option to install parking controls to ensure exclusive use.

The Addendum further would require that the City provide the equivalent of an additional 27 parking spaces in the Market Street Garage, in the form of free parking validations to County Courts users, up to 11 hours per day. Spaces in the Market Street Garage would not be reserved, but Courts users would have the opportunity to choose from all available spaces. If the County later chose to install parking control equipment that reduced the number of available spaces in the Market Street parking lot, the City would provide additional free parking validations in the Market Street Garage to accommodate the number of parking spaces lost.

The proposed Addendum would also retain the County's options from the original MOA if the City were unable to meet its obligations to provide parking for County Courts users. The addendum includes a third County option, requiring the City to convey to the County ownership of the Market Street parking lot parcel at a price based on its appraised value.

The proposed Market Street Parking Lot Lease (Attachment C) is anticipated in the Addendum. It reflects the parking provisions detailed in the proposed Addendum, as well as the rights and the responsibilities of each party. It also defines the duration of the County's exclusive use of the parking lot to an initial term of 20 years, with a County option to renew for an additional 20-year lease term.

No Fiscal Year 2023 budgetary impact is anticipated. If the County later elected to install parking controls in the Market Street Parking Lot, funding for installation and associated maintenance costs would be identified as part of future operating budgets.

Staff recommends that, contingent on approval of the addendum by the Charlottesville City Council as scheduled for December 5, 2022, the Board approve both the proposed Addendum and proposed Lease, and authorize the County Executive to execute both documents in a form acceptable to the County Attorney.

By the above-recorded vote, the Board approved the Proposed Amendment to the 2018 Albemarle/Charlottesville Memorandum of Agreement for the Courts Project and Lease of Parking Lot to Serve Albemarle County Courts Users, and authorize the County Executive to execute both documents in a form acceptable to the County Attorney:

AMENDMENT TO THE MEMORANDUM OF AGREEMENT TO FACILITATE THE EXPANSION, RENOVATION, AND EFFICIENT AND SAFE OPERATION OF THE ALBEMARLE CIRCUIT COURT, THE ALBEMARLE GENERAL DISTRICT COURT, AND THE CHARLOTTESVILLE GENERAL DISTRICT COURT

THIS AMENDMENT TO THE MEMORANDUM OF AGREEMENT (the "Amendment") is made as of January 19th 2023, by and between the **COUNTY OF ALBEMARLE, VIRGINIA** (the "County") and the **CITY OF CHARLOTTESVILLE, VIRGINIA** (the "City"), both of which are political subdivisions of the Commonwealth of Virginia. The County and the City may be referred to collectively as the "Parties."

R-1. The Parties previously entered into that certain Memorandum of Agreement dated December 17, 2018, concerning the expansion, renovation, and efficient and safe operation of the County's Circuit and General District Courts and the City's General District Court (the "Original Agreement"); and

R-2. The County and the City fulfilled their respective obligations under Section 1 of the Original Agreement to sell and purchase the County's one-half interest in the previously jointly-owned East Market Street Parcel (the "Market Street Parking Lot"); and

R-3. The City elected not to construct the Parking Structure pursuant to Section 2 of the Original Agreement; and

R-4. The County and the City agree that pursuit of the options available to the County as provided in Section 2(G) (Failure of the City to Complete Construction of the Parking Structure) of the Original Agreement are not in the best interest of the City or the County;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. Section 2 of the Original Agreement (Parking Structure on the East Market Street Parcel) is deleted and replaced in full by the following terms:

2. Parking Provided by City.

A. Total Number of Parking Spaces for County Courts Users and Employees. As detailed in Sections 2(B) and 2(C) below, the City must provide the equivalent of ninety (90) total parking spaces in the Market Street Parking Lot and the parking garage owned and operated by the City and located at 550 East Market Street, Charlottesville, Virginia (the "Market Street Garage"). At any time that parking spaces made available for the County's use in either of these parking facilities are unavailable to the County for more than seven (7) calendar days, the City must provide equivalent parking in a location mutually acceptable to the Parties within a one-third mile radius of Court

Square.

B. East Market Street Parking Lot. The City and County are to execute a lease in a form acceptable to the County and effective not later than February 1, 2023 (the "Lease"), to allow the County the exclusive use of all sixty-three (63) parking spaces in the Market Street Parking Lot at no cost, subject to the following terms and conditions:

i. The County must have exclusive control over access to and the right to determine the use of the Market Street Parking Lot during the following days and times:

1. During Regular Court Hours. Each Monday through Friday, both inclusive, from 7:00 a.m. until 6:00 p.m., unless the day is a Court holiday.

2. During Special Court Sessions or Events. Any weekend day or Court holiday, or any evening after 6:00 p.m., when any County judicial proceeding or other County Court event is scheduled. The County must provide advance notice to the City of any such judicial proceeding or other County Court event.

ii. The County may enforce parking regulations during its hours of exclusive use of the Market Street Parking Lot. In order to ensure that parking spaces are available to the County, the County may elect to install parking management infrastructure on the Market Street Parking Lot. The cost to install and maintain any such parking management infrastructure must be borne by the County during the term of the Lease. Examples of parking management infrastructure include (but are not limited to) signage, access control gates, and payment kiosks.

iii. Throughout the term of Lease, the City must bear all costs of maintenance and repair of the Market Street Parking Lot, with the exception of any maintenance and repair required for County-installed parking management infrastructure. The County may (but is not obligated to) remove snow from the lot to ensure vehicular and pedestrian safety.

iv. The Lease is to be effective for an initial term of twenty (20) years and may be renewed upon the same terms and conditions at the option of the County for an additional 20-year term.

C. Market Street Garage. The City must provide the equivalent of twenty-seven (27) parking spaces to the County in the Market Street Garage by free parking validations for up to eleven (11) validated hours for each such space during the hours set forth in Section 2(B)(i)(1).

This equivalent parking must be made available to the County not later than the date of issuance of the Certificate of Occupancy for the General District Court Building described in Section 5 of this Agreement.

i. Except by future mutual agreement, parking spaces in the Market Street Garage will not be designated for exclusive use by the County.

ii. If, in accordance with Section 2(B)(ii), the County elects to install parking management infrastructure in the Market Street Parking Lot, and such installation reduces the number of spaces usable in such lot, the number of spaces provided to the County in the Market Street Garage must be increased by a number equivalent to the reduction. Upon request of the County, the Parties must enter into an amendment to this Agreement in a form acceptable to the County to reflect any such increase.

D. Failure by the City to Abide by Terms and Conditions. If the City fails to perform its obligations under this Section 2 or the Lease, the County may elect one of the following alternative remedies:

i. **Provide Parking in the Market Street Garage.** The City must provide one hundred (100) parking spaces in the Market Street Garage on or below Level 2, as these levels were identified as of the date of this Agreement designated for the County's exclusive use during the hours set forth in Section 2(B)(i)(1);

ii. **Reconvey One-Half Interest in East Market Street Parcel, Allow the County to Use the Parcel for Parking, and Pay the County.** The City must convey a one-half interest in the East Market Street Parcel to the County, allow the County to use the East Market Street Parcel for parking, and pay the County, subject to the following terms and conditions:

a. **Reconveyance.** The City must convey to the County a one-half interest in the East Market Street Parcel for the amount the City paid to the County pursuant to Section 1 of this Agreement or the then-current appraised value of such one-half interest, whichever is less, less one-half of the fair market rental value for the City's sole use and occupancy of the East Market Street Parcel for the period that the City was the sole owner of the East Market Street Parcel; and

b. **Use.** In addition, the County and the City must enter into a memorandum of understanding in a form acceptable to the County, providing to the County exclusive control over access

to and the right to determine the use of the East Market Street Parcel; or

iii. **Purchase of East Market Street Parcel by the County.** The City must convey to the County fee simple title to all ownership interests in the East Market Street Parcel at the then-current appraised value. The Parties may enter into a separate purchase contract in a form acceptable to the County for the County's acquisition of the East Market Street Parcel.

If the County elects the remedy set forth in either Section 2(D)(ii) or 2(D)(iii), the terms and conditions of Sections 1(B)-(E) of this Agreement will apply to the resulting valuation and/or (re-)conveyance, *mutatis mutandis*.

II. Section 3 (Managing the Parking Structure and Maintaining the County Parking Spaces) of the Original Agreement and Section 4(F) (Reversion) of the Original Agreement are hereby deleted in their entirety.

III. All other terms and conditions of the Original Agreement not replaced, superseded, or modified by this Amendment are affirmed and remain in full force and effect. Capitalized terms used in this Amendment and not defined herein are to have the meanings attributed to them in the Original Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COUNTY:

THE COUNTY OF ALBEMARLE, VIRGINIA

By: _____

Jeffrey Richardson
County Executive

Approved as to form:

_____

County Attorney

CITY:

THE CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____

Michael C. Rogers
City Manager

Approved as to form:

_____

City Attorney

* * * * *

CITY OF CHARLOTTESVILLE LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter, "Lease" or "Lease Agreement") is made and entered into this 19th day of January, 2023, by and between THE CITY OF CHARLOTTESVILLE, VIRGINIA, a Virginia municipal corporation, herein referred to as the "City" or the "Landlord," and the COUNTY OF ALBEMARLE, VIRGINIA, herein referred to as the "County" or the "Tenant."

WITNESSETH:

ARTICLE I. PROPERTY

A. Landlord owns certain land and improvements ("The Property") located at **701 East Market Street, Charlottesville, Virginia.** For and in consideration of the payment by Tenant of the rent hereinafter reserved and the performance by Tenant of the covenants and agreements hereinafter agreed to be performed by it, Landlord does hereby lease, let, and demise unto Tenant the right of exclusive use and possession of said property during specified hours.

Exhibit A, attached and incorporated herein by reference, sets forth the dimensions and characteristics of the Property.

Tenant shall have exclusive right to the use and possession of the Property, during days and hours in which the County's Circuit Court and/or General District Court ("County Courts") is/are in session, more specifically:

1. ***Weekdays***--Monday through Friday each week, from 7:00 a.m. to 6:00 p.m. each day, excepting holidays observed by the County Courts.

2. ***Special Events or Sessions***—any day(s) other than the weekdays specified above, and any weekday hour(s) after 6:00 p.m., when any judicial proceeding or other event within the County Court(s) is scheduled. Immediately upon the scheduling of any special court event or special session, Tenant shall notify the City's representative in writing.

At all other times, the Landlord shall retain all of its rights as to the use and possession of the property, and Tenant shall not take any action that would hinder or prevent Landlord's use of the Property, and the parking spaces located therein, at all other times.

ARTICLE II. TERM

The term of this Lease shall be for a period of twenty (20) years ("Term"), commencing on February 1, 2023 ("Commencement Date"), and expiring at midnight on February 1, 2043 ("Expiration Date")

unless sooner terminated by the parties in accordance with this Lease. Thereafter, unless the County notifies the City in writing of its intent to discontinue this Lease, this Lease will renew for one additional 20-year term, upon the same terms and conditions as set forth herein.

Tenant may cause a Memorandum of this Lease to be recorded among the land records of the City of Charlottesville, Virginia. Landlord shall cooperate with the Tenant and shall promptly sign such Memorandum upon presentment.

ARTICLE III. USE OF PROPERTY

A. **Management of Property.** The Tenant shall use the Property for parking throughout the entire term of this Lease. Failure to maintain continuous use, except for shutdowns for repair and maintenance for a not more than 90 days, in the aggregate, per year, shall be deemed a breach of this Lease.
To facilitate its use of the Property, Tenant shall have the right to install parking management infrastructure within the Property. All costs and expenses to install, maintain or replace such infrastructure shall be borne by the Tenant throughout the term of the Lease. Examples of parking management infrastructure include, but are not necessarily limited to, signage, access control gates or equipment, and payment kiosks. All signage shall be compliant with requirements of the City's zoning ordinance, and Tenant shall be responsible for obtaining from City officials any building permits, electrical permits, zoning approvals, or other governmental approvals required for any parking management infrastructure. (The Property, together with any parking management infrastructure or other installations or alterations undertaken by the County for its purposes, shall, collectively, be the "Parking Facility").

   The Tenant, at its sole discretion, may enforce parking regulations within the Property during times when it has exclusive use and possession under this Lease. No City of Charlottesville official or employee shall be asked to assist with enforcement of parking regulations, nor shall any City of Charlottesville official or employee provide assistance with parking enforcement. The Tenant's operation of the Parking Facility during all times when the Tenant has the right of exclusive use and possession under this lease shall be the sole undertaking of the Tenant; the Landlord shall not be deemed a partner of the Tenant's, nor shall the Landlord otherwise be deemed to be in any joint undertaking with the Tenant.

B. **Specific use authorized.** The Property shall be used by the Tenant only as a commercial surface parking lot. Parking spaces within the Property shall be for use by the general public who have business with the Albemarle County Courts, or for judges, clerks, or staff employees of those Courts. No other use shall be made by Tenant of the Property without the advance and express written consent of the Landlord.

C. **Rules and regulations.** Tenant agrees to observe all reasonable rules and regulations from time to time promulgated by Landlord which, in the Landlord's judgment (to be reasonably exercised), are needed for the general well-being, safety, care and cleanliness of the Property. Such rules shall include, but are not limited to, the following:

   1) The sidewalks, entries, passages, vehicular travel ways and any other parts of the Property which are not occupied by the Tenant shall not be obstructed or used for any other purpose other than ingress and egress.

   2) The Tenant shall not install or permit the installation of any awnings, shades, and the like.

3) Tenant shall have a parking operations plan that specifies when, and under what circumstances vehicles will be towed from parking spaces within the Property. Signs posted within the Premises shall comply with applicable legal requirements and shall provide telephone number(s) at which an employee of Tenant may be reached for customer complaints and for resolution of complaints. Tenant shall be solely responsible, financially and otherwise, for contracting with a provider of towing services.

ARTICLE IV. RENT

Rent. The Tenant hereby covenants and agrees to occupy the Property as Tenant of the Landlord for the term hereinabove set forth and agrees to pay to the Landlord rental therefor without offset or deduction therefrom, the sum of Ten Dollars ($10.00) in U.S. currency per year (**"**Rent").

The parties acknowledge that the annual Fair Market Rent for the Property is $92,412.00. The difference between the annual Rent specified for this Lease and the annual Fair Market Rent shall be deemed an in-kind financial contribution by Landlord to Tenant in support of the parties' operation of a joint general district court complex on a different site.

ARTICLE V. DAMAGE OR DESTRUCTION BY CASUALTY

A. *Casualty renders entirely untenantable.* If during the term of this Lease, the Property are damaged by fires, floods, windstorms, earthquakes, explosions, hurricanes, tornadoes, strikes, acts of public enemy, incidences of terrorism, wars or riots, civil disturbances, acts of God, or other casualty, so that the same are rendered unsuitable for Tenant's uses, and if said Property cannot be repaired by Landlord within ninety (90) days from the time of said damage, then this Lease shall terminate as of the date of such damage.

B. *Casualty renders partially untenantable.* If said Property shall be partially damaged by any of the above casualties as to be partially unsuitable for Tenant's uses, Landlord shall repair the Property promptly.

C. *Limitation.* At any time that any parking spaces within the Property are unavailable for use due to circumstances referenced in (A) or (B) for more than seven consecutive calendar days, the Landlord shall provide an equivalent number of parking spaces in a location mutually acceptable to the parties within a one-third mile radius of the Albemarle Circuit Court building, which is the center of the area known as "Court Square", for as long as the Property are at least partially untenantable.

D. *Exclusions from Landlord's repairs.* If Landlord undertakes repair of the Property under this Section, Landlord shall not be obligated to repair, restore or replace any of Tenant's fixtures or any other personal property owned by or in the possession of Tenant and located on the Property; further, Landlord shall not be under any obligation to repair, restore or replace any alterations to the Property made by or on behalf of Tenant.

ARTICLE VI. FORCE MAJEURE

Except as otherwise expressly set forth herein, in the event either Landlord or Tenant shall be delayed or hindered in, or prevented from, the performance of any act or rendering of any service required under this Lease, or may be rendered unable to conduct its ongoing operations within the Property by reason of strikes, inability to obtain materials, failure of power or other utilities, restrictive governmental laws or regulations, acts of God, incidences of terrorism, wars or riots, civil disturbances, floods, earthquakes, volcanic activity, fire, explosions, epidemics or pandemics, hurricanes, tornadoes, or other

reasons of a similar or dissimilar nature which are beyond the reasonable control of the Landlord or Tenant (collectively known as "Event"), then the performance of any such act or rendering of any such service shall be excused for the period of the resulting delay and the period of the performance or the rendering of the service shall be extended for a period equivalent to the period of such delay.

ARTICLE VII. INSURANCE

A. *Required insurance coverage.* Tenant shall maintain throughout the term of this Lease, with a company licensed to do business in the Commonwealth of Virginia, having a rating satisfactory to Landlord: broad form comprehensive general liability insurance (written on an occurrence basis, including contractual liability coverage).

1) The broad form comprehensive general liability insurance shall be in the minimum amount typically carried by prudent tenants engaged in commercial parking operations, but in no event shall be in an amount less than one million dollars ($1,000,000.00) combined single limit per occurrence.

2) Tenant's property insurance shall be in an amount not less than that required to replace all fixtures, personal property and other Tenant-installed improvements located on the Property, or twenty-five thousand dollars ($25,000.00), whichever is greater.

B. All such insurance shall name Landlord as an additional named insured, contain an endorsement that such insurance shall remain in full force and effect notwithstanding that the insured may have waived its claim against any person prior to the occurrence of a loss, provide that the insurer waives all right of recovery by way of subrogation against Landlord, its partners, agents and employees, and, contain an endorsement prohibiting cancellation, failure to renew, reduction in amount of insurance or change of coverage (1) as to the interests of Landlord by reason of any act or omission of Tenant, and (2) without the insurer's giving Landlord thirty (30) days' prior written notice of such action. Tenant shall deliver evidence of all required insurance and receipts evidencing payment of the premium for such insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) to Landlord on or before the Commencement Date and at least annually thereafter.

ARTICLE VIII. LOSS OR DAMAGE TO PROPERTY OR PERSONS

All personal property and fixtures belonging to the Tenant, located on or about the Property shall be there at the sole risk of the Tenant; and neither the Landlord nor Landlord's agent shall be liable for the theft or misappropriation thereof nor for any damage or injury thereto, nor for damage or injury to the Tenant or any of its officers, agents or employees or to other persons or to any property caused by fire, explosion, water, gas, electricity, or due to any other cause whatsoever, unless resulting from the willful acts of the Landlord, its employees, agents or representatives. Tenant shall give immediate notice to Landlord in case of fire or accident in the Property or of any defects, damage or injury therein or in any fixtures or equipment.

ARTICLE IX. REPAIRS AND MAINTENANCE--TENANT

A. *Surrender Obligation.* At the expiration or earlier termination or cancellation of this Lease, Tenant shall surrender the Property to Landlord in as good condition as at the time of delivery, subject to reasonable wear and tear.

B. *Landlord rights.* If Tenant fails to perform any of its obligations under this Article, then Landlord may perform such obligations and Tenant will pay as additional Rent to Landlord the cost of such performance, including an amount sufficient to reimburse Landlord for overhead and supervision, within thirty (30) calendar days after receipt of Landlord's written demand therefor. Tenant's obligation under this paragraph shall survive the expiration or termination of this Lease.

ARTICLE X. REPAIRS AND MAINTENANCE--LANDLORD

A. *Maintenance, generally.* Maintenance of the Property, other than as set forth in the foregoing Article, shall be provided by Landlord. Landlord's maintenance responsibility shall include removal of snow and ice from parking areas, onsite walkways, and adjacent public sidewalks and grass mowing. In order to ensure the safety of users of the lot when County courts are in operation, Tenant reserves the right, but not the obligation, to remove snow and ice from the Property, at Tenant's own expense, if not timely removed by the Landlord.

B. *Capital maintenance.* The Landlord shall, at its expense, maintain the pavement and painted parking space lines in good condition and shall repair the same with reasonable diligence when necessary.

C. *Timing.* Landlord shall use reasonable diligence in scheduling maintenance to take place at a time and in a manner so as not to unreasonably interfere with Tenant's normal parking use; provided, however, that Landlord shall not be required to perform maintenance at night, or on weekends, if, in Landlord's sole discretion, that would not be efficient from either a budgetary or a practical perspective. Landlord shall give reasonable advance notice to Tenant of scheduled maintenance activities, so that Tenant can adjust its operations accordingly. If planned maintenance or repair activities will render any parking spaces within the Property unavailable for Tenant's exclusive use for more than seven consecutive calendar days, Landlord shall provide an equivalent number of parking spaces in a location mutually acceptable to the parties within a one-third mile radius of the Albemarle Circuit Court building, which is the center of the area known as "Court Square", for the remaining duration of the repair or maintenance activities.

ARTICLE XI. SERVICES AND UTILITIES

A. *Separately metered utilities.* If, and to whatever extent, any electric, telephone or other utility service(s) are required by Tenant for its parking infrastructure, and such services cannot be separately metered, Tenant shall place all utilities serving the Property in the Tenant's name and be solely responsible for associated costs.

B. Tenant shall be solely responsible for all other utility or other services required by Tenant for or in connection with its use of the Property (such as internet service, trash removal, etc.).

ARTICLE XII. ALTERATIONS BY TENANT

A. *Alterations Prohibited Without Landlord Consent.* Tenant shall not make any alteration or improvement to the Property, and shall not install any parking infrastructure, without first submitting plans for such to the Landlord for review and approval.

B. *Procedure; Review of Drawings and Specifications.* In the event Tenant proposes to make any alteration or physical improvement to the Property, Tenant shall first submit to Landlord for prior written approval: (a) detailed drawings and specifications, and (b) all other documents and information as Landlord may reasonably request in connection with such alteration (including,

without limitation, materials proposed to be submitted in connection with required building permit applications, zoning approvals, or other governmental requirements). Approval of drawings and specifications under the provisions of this Lease shall not constitute any representation or warranty by Landlord as to the accuracy, adequacy, sufficiency or propriety of such drawings and specifications or the quality of workmanship, or the compliance of such alteration with applicable legal requirements (such compliance to be determined only by the governmental authorities responsible for enforcement of such requirements).

Tenant shall pay the entire cost of the alteration and, if requested by Landlord, shall deposit with Landlord, prior to the commencement of the alteration, security for the payment and completion of the alteration in form and amount required by Landlord. Each alteration shall be performed in a good and workmanlike manner, in accordance with the drawings and specifications approved by Landlord and shall meet or exceed the standards for construction and quality of materials established by Landlord for the Property. In addition, each alteration shall be performed in compliance with all applicable legal requirements and all regulations and requirements of Landlord's and Tenant's insurers. Each alteration, whether temporary or permanent in character, unless otherwise specified, made by Tenant in or upon the Property (excepting only Tenant's furniture, removable equipment and removable trade fixtures) shall become Landlord's property and shall remain upon the Property at the expiration or termination of this Lease without compensation to Tenant. Notwithstanding the foregoing, Landlord shall have the right to require Tenant to remove any alteration at Tenant's sole cost and expense.

Upon completion of alterations or improvements, Tenant shall provide to the City copies of as-built drawings, in the form of a CAD disc.

C. *ADA Compliance.* Tenant acknowledges that the Property may constitute a place of public accommodation or a facility under Title III of the Americans with Disabilities Act (the "ADA"). Any alteration or improvement to the Property, and parking infrastructure, must comply with accessibility standards set forth in the rules promulgated by the Department of Justice at 28 C.F.R. 36.101 *et seq.* Parking infrastructure installed by Tenant shall comply with applicable ADA and accessibility standards.

D. *Liens.* Upon completion of any alteration or improvement, Tenant shall promptly furnish Landlord with sworn contractor's acknowledgements of payment in full and final waivers of lien in form and substance satisfactory to Landlord covering all labor and materials included in such alteration. Tenant shall not permit any mechanic's lien to exist against the property, or any part thereof, arising out of any alteration performed, or alleged to have been performed, or any service or work or material provided or furnished to Tenant or the Property by or on behalf of Tenant. If any such lien exists, Tenant shall, within ninety (90) days thereafter, have such lien discharged of record or deliver to Landlord a recordable bond in form, amount, and issued by a surety satisfactory to Landlord indemnifying Landlord against all costs and liabilities resulting from such lien and the foreclosure or attempted foreclosure thereof, to the extent permitted by Virginia law. Nothing herein constitutes a waiver of either party's sovereign immunity. If Tenant fails to have such liens so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including expenses and attorneys' fees.

ARTICLE XIII. REPRESENTATIONS OF TENANT

Tenant acknowledges and represents that it has had an opportunity to inspect the Property, and that the Property are in good order and repair. Tenant accepts the Property "as-is" and acknowledges that, based on its own inspection of the Property, the Property are suitable for its intended purposes.

ARTICLE XIV. COMPLIANCE WITH LAWS AND REGULATIONS

The Tenant shall, at its own expense, properly and promptly comply with and execute all laws, ordinances, rules, regulations and requirements, as the same now exist or as the same may hereafter be enacted, amended or promulgated by any federal, state or municipal authority, and/or any department or agency thereof, relating to the Tenant's use of the Property or of the operation of the Tenant's parking therein.

ARTICLE XV. DEFAULT BY TENANT

A. *Events of Default.* Tenant shall be deemed to be in default under this Lease, if:

1) Tenant shall fail or neglect to keep and perform each and every one of the other covenants, conditions and agreements herein contained and on the part of the Tenant to be kept and performed, within thirty (30) days after written notice from the Landlord specifying the items alleged to be in default, unless (1) the curing of such default will take more than thirty (30) days, in which event Tenant shall be deemed to be in default only if it does not commence the curing of such default within the said thirty (30) day period and carry it, in good faith, to prompt completion; or (2) the Tenant shall, in good faith, dispute the existence of any default or the extent of its liability therefor, in which event the Tenant shall be deemed to be in default only if it fails, within thirty (30) days after the agreement or final adjudication, to commence the curing of such default as is adjudged to exist or which the Landlord and the Tenant shall agree exists, and to carry it, in good faith, to prompt completion;

In the event the Tenant abandons the Property, either (i) by removing all of Tenant's personal property and fixtures from the Property, or (ii) by Tenant's failure to occupy the Property for a period in excess of ninety (90) days for reasons other than a *force majeure* event, the Landlord may, at its option, accelerate the entire unpaid balance of the basic annual rent for unexpired portion of the Lease, and take action to collect same as the Landlord deems appropriate. The Landlord may re-enter the Property, and such re-entry shall not be deemed a surrender and termination of the Lease. It shall be deemed to be a retaking for the purpose of re-letting the Property and the Landlord may make such alterations, improvements, repairs, etc. as it deems necessary to prepare the Property for re-letting. Neither the Landlord's re-entry nor failure to re-enter shall be deemed a waiver of any claim it may have against the Tenant for the remaining portion of the Lease. The Tenant remains liable to the Landlord for the entire unpaid balance plus all damages that the Landlord may have suffered by reason of Tenant's abandonment, less credit given for any rental received by the Landlord from a successor tenant. If the successor tenant pays a rent that exceeds the rent obligation of the Tenant hereunder, the Landlord shall be under no obligation to the Tenant to account for or pay over such excess.

B. If a material default of any covenant, condition or agreement contained in this Lease shall exist, Tenant's right to possession shall thereupon cease and Landlord shall be entitled to the possession of said Property and to re-enter the same without demand for rent or for possession. Landlord may proceed forthwith to recover possession of said Property by process of law, any notice to quit or of intention to exercise such option or to re-enter said Property being hereby **EXPRESSLY WAIVED BY TENANT**. Further, Landlord at its sole option may accelerate the unpaid rent for the unexpired

portion of the Lease, giving credit for any proceeds from the re-letting in whole or in part of the Property and improvements by Landlord to others. Tenant will be liable to Landlord for all court costs and reasonable attorney's fees in the event Tenant shall become in default and Landlord incurs court costs and/or attorney's fees in obtaining possession of the Property or in the enforcement of any covenant, condition or agreement herein contained, whether through legal proceedings or otherwise, and whether or not any such legal proceedings be prosecuted to a final judgment.

C. *Remedies for Default.*

Upon the occurrence of a material Default, Landlord may elect to terminate this Lease, or, without terminating this Lease, Landlord may terminate Tenant's right to possession of the Property—in either case, after giving written notice thereof to Tenant. Upon any such termination, Tenant shall immediately surrender and vacate the Property and deliver possession thereof to Landlord. Tenant grants to Landlord the right, without notice to Tenant, to enter and repossess the Property, to eject Tenant and any others who may be occupying the Property, and to remove any and all personal property and fixtures therefrom, without being deemed in any manner guilty of trespass and without relinquishing Landlord's rights to any rent or any other right given to Landlord hereunder or by operation of law. In addition, Landlord may alter any locks, access gates, or other security devices at the Property.

In addition, Landlord may, but shall not be obligated, to perform any obligation of Tenant under this Lease, and if Landlord so elects, all costs and expenses paid by Landlord in performing such obligation shall be reimbursed by Tenant to Landlord on demand.

D. *Cumulative Remedies.* Any and all remedies set forth in this Lease: (a) shall be in addition to any and all other remedies Landlord may have at law and/or in equity, (b) shall be cumulative, and (c) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.

E. *No Waiver.* No waiver of any default of Tenant shall be implied from any omission by Landlord to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.

ARTICLE XVI. DEFAULT BY LANDLORD

Landlord shall be deemed to be in default under this Lease, if it shall fail to provide the Property in the condition agreed to herein, free from any interference with Tenant's use and enjoyment thereof, or to provide all services within the standards agreed upon. In case of Landlord's material default, Tenant shall have the option of terminating this Lease after first giving sixty (60) days' advance written notice to Landlord and an opportunity to cure. In the event the material default is not cured within the 60-day period, the Lease shall terminate.

ARTICLE XVII. SURRENDER OF PROPERTY

Upon the expiration or other termination of this Lease, Tenant shall quit and surrender the Property to Landlord in good order, repair and condition, ordinary wear and tear, acts of God, fire, and other casualty (not resulting from Tenant's or Tenant's agents', employees' or invitees' acts or omissions) excepted. Tenant shall on the day of expiration or termination of this Lease, or prior to such date,

remove all property of Tenant, and Tenant shall within two weeks after expiration or termination repair all damage to the Property caused by such removal and make reasonable restoration of the Property to the condition in which they existed prior to the installation of the property so removed.

ARTICLE XVIII. SIGNAGE

Tenant shall have no right to erect or install canopies, marquees, or advertising devices within the area of the Property. Tenant shall have no right to erect or install any sign within the Property, except with Landlord's prior written approval, which approval shall not be unreasonably withheld or delayed. All signs authorized by the Landlord must comply with applicable requirements of the City's zoning ordinance and the Uniform Statewide Building Code.

ARTICLE XIX. ASSIGNMENT AND SUBLETS

A. Except as otherwise expressly authorized herein, Tenant shall not assign or sublet the Property or any part thereof to any third party.

B. Tenant shall not mortgage or encumber the Property without Landlord's written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion.

C. *Tenant to Remain Liable.* In no event shall any Transfer (whether or not permitted hereunder) release or relieve Tenant from its obligations to fully observe or perform all of the terms, covenants and conditions of this Lease on its part to be observed or performed.

D. *Attorneys' Fees.* Tenant shall pay Landlord, on demand as additional rent, any attorney's fees and expenses incurred by Landlord in connection with any proposed Transfer, whether or not Landlord consents to such Transfer.

ARTICLE XX. HAZARDOUS MATERIAL

A. For purposes of this Lease, "Hazardous Material" means any flammable items, explosives, radioactive material, oil, toxic substance, material or waste or related materials, including any material or substance included in the definition of "hazardous wastes," "hazardous materials" or "toxic substances", now or hereafter regulated under any Legal Requirements, including, without limitation, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, medical waste, polychlorinated biphenyls, and similar compounds. "Hazardous Material" shall also include, without limitation, any materials or substances which could trigger any employee "right to know" requirements or for which any regulatory or other governmental body has adopted any requirements for the preparation or distribution of a material safety data sheet.

B. Tenant shall not cause or permit any Hazardous Material to be brought upon, produced, stored, generated, used, discharged or disposed of, in, on, under or about the Property, without the prior written consent of Landlord and then only in compliance with all applicable environmental legal requirements.

C. Tenant shall execute such affidavits, representations and certifications from time to time as may be requested by Landlord, concerning Tenant's best knowledge and belief regarding the presence or absence of Hazardous Material in, on, under or about the Property and/or the Property.

D. To the extent permitted by law, Tenant shall defend, indemnify and hold harmless Landlord from and against any and all claims (including, without limitation, costs and attorneys' fees) arising from any breach of this Article. The indemnity, defense and hold harmless obligations in this Article shall be in addition to all other indemnity, defense and hold harmless obligations contained in this Lease. Nothing herein constitutes a waiver of either party's sovereign immunity.

ARTICLE XXI. NOTICES

A. Any notice required or permitted by this Lease to be given by either party to the other may be hand-delivered or sent by U.S. Mail, return receipt requested, with the sender retaining sufficient proof of having given such notice. No notice required or permitted by this Lease shall be effective if given only by electronic mail.

B. All notices required by this Lease, unless otherwise designated in writing, shall be given to:

Tenant	Mailing Address:	Albemarle County Executive
		401 McIntire Road
		Charlottesville, Virginia 22902
	Delivery Address:	same as above
Landlord	Mailing Address:	City Manager
		605 East Main Street
		Charlottesville, VA 22902
	Delivery Address:	same as above

ARTICLE XXII. QUIET ENJOYMENT

Upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall have the peaceful and quiet use of the Property during the days and times specified herein, and all rights, servitudes, and privileges belonging to, or in any way appertaining thereto, or granted hereby for the terms stated, without hindrance, or interruption by Landlord or any other person or persons lawfully claiming by, through or under Landlord.

ARTICLE XXIII. NO IMPLIED WAIVERS

A waiver of any covenant or condition of this Lease shall extend to the particular instance only and in the manner specified and shall not be construed as applying to or in any manner waiving any further or other covenants, conditions or rights hereunder.

ARTICLE XXIV. NO PARTNERSHIP CREATED

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of, or between, Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

ARTICLE XXV. ENTIRE AGREEMENT; MODIFICATION

A. This Lease, together with exhibits attached hereto and the parties' Memorandum of Agreement regarding the County's Courts Project (as amended), represents the entire understanding between the parties, and there are no other collateral or oral agreements or understandings between the parties as to any subject(s) herein contained.

B. This Lease is entered pursuant and subordinate to the parties' Memorandum of Agreement regarding the County's Courts Project (as amended). Any rights and responsibilities of the parties thereunder, including (but not limited to) any and all obligations to provide alternate parking, survive termination of this Lease.

C. This Lease shall not be modified unless in writing of equal dignity signed by both parties.

ARTICLE XXVI. PARTIAL INVALIDITY

If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

ARTICLE XXVII. BINDING EFFECT

It is agreed that all of the terms and conditions of this Lease are binding upon the parties hereto, their administrators, heirs, successors and assigns, unless otherwise specified herein. All terms and conditions herein are also covenants.

ARTICLE XXVIII. APPLICABLE LAW

This Lease shall be governed in all aspects by the laws of the Commonwealth of Virginia, notwithstanding its conflict of laws provisions.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized representatives, following below:

[*insert signature pages following*]

IN WITNESS WHEREOF, the Parties have executed this Lease Agreement as of the date first written above.

COUNTY:

THE COUNTY OF ALBEMARLE, VIRGINIA

By: _____

Jeffrey Richardson
County Executive

Approved as to form:

_____

County Attorney

CITY:

THE CITY OF CHARLOTTESVILLE, VIRGINIA

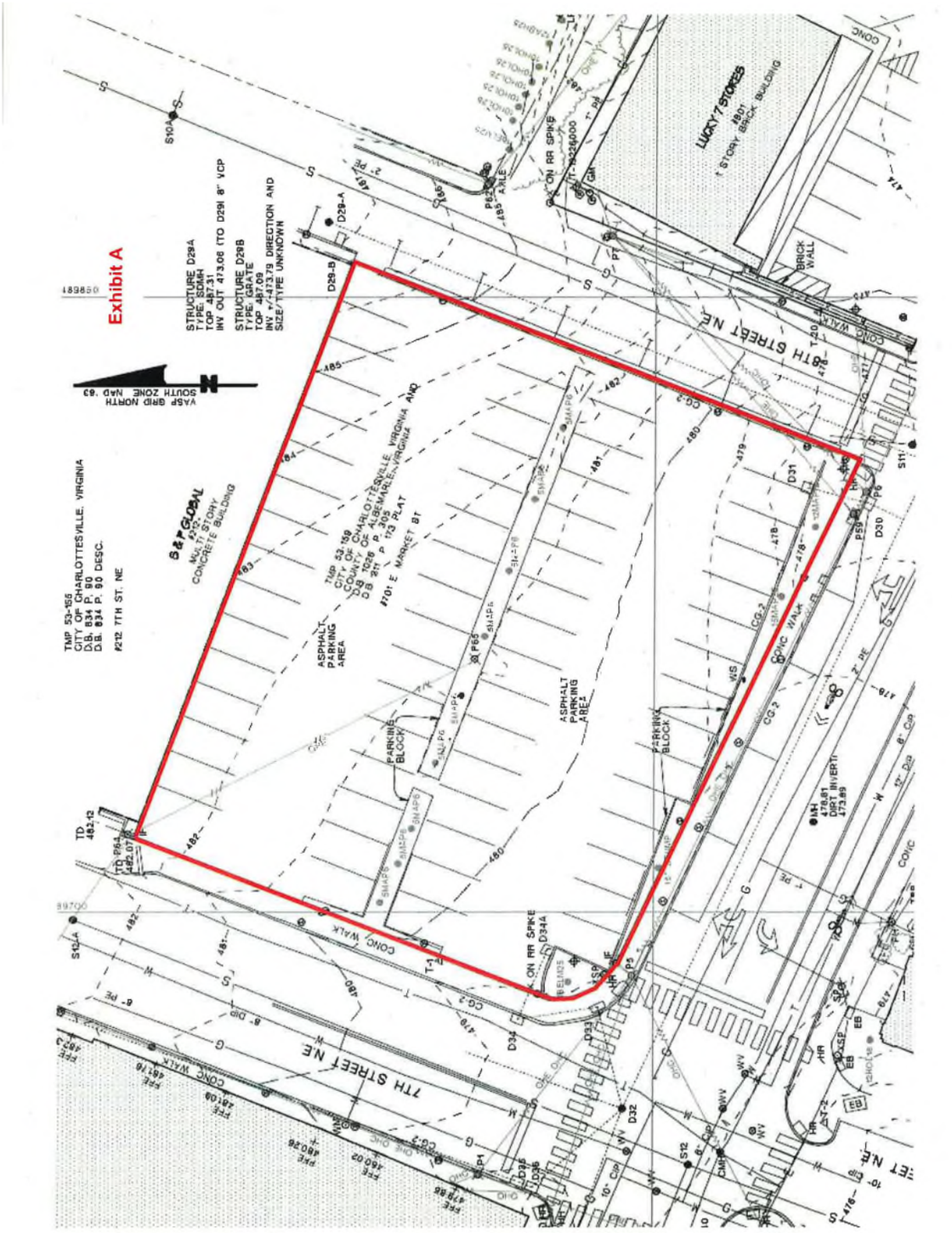
By: _____

Michael C. Rogers
City Manager

Approved as to form:

_____

City Attorney



Item No. 8.2. Albemarle County Office of Housing Administrative Plan.

The Executive Summary forwarded to the Board states that the Office of Housing serves as a United States Department of Housing and Urban Development (HUD) designated 'public housing agency' responsible for advertising, evaluating, prioritizing, and distributing housing assistance to Albemarle County community members. The Office of Housing manages 435 housing choice vouchers,105 mainstream vouchers, and 34 moderate rehabilitation vouchers to subsidize housing costs for community members in need. HUD requires that every public housing agency develop, follow, and submit for board approval an Administrative Plan that provides a comprehensive guide to public housing agency policies, programs, operations, and strategies. The previous Administrative Plan for the Office of Housing was adopted in 2019.

The Office of Housing's revised Administrative Plan contains approximately 285 individual changes to the previous plan. A majority (160) of these changes reflect new or amended required HUD-generated documents. Additional changes include: eliminating gendered language throughout the document, adding the use of an equity lens to standards of operation, adding remote orientation briefings for potential and current tenants and property owners, limiting the number of applicants on the waitlist based on projections for openings over the following 24 months, and the use of a new online tool for managing tenant and property owner relationships. A summary of the proposed changes is available as Attachment A and the draft proposed plan is provided as Attachment B. The plan reflects a significant number of changes that add electronic communication tools, an online mechanism for making changes to

tenant records, and making requests of Office of Housing staff. The Administrative Plan continues to prioritize use of housing vouchers for people who work and live within Albemarle County, people experiencing homelessness, people with disabilities, veterans, and survivors of domestic violence.

There is no budget impact associated with the adoption of this revised plan.

Staff recommends adoption of the Albemarle County Office of Housing Administrative Plan.

By the above-recorded vote, the Board approved the Albemarle County Office of Housing Administrative Plan.

———

Item No. 8.3. Boundary Line Adjustment – Fluvanna.

This item was removed from the Consent Agenda.

———

Item No. 8.4. Music Hall - Manning Easement Approval Request.

The Executive Summary in April 2007, the County purchased an open-space easement on the Music Hall/Chester property (Tax Map 65 Parcels 11, 11B, 11C; 76.461 acres - please see Attachment A for location map) through the Acquisition of Conservation Easements (ACE) program. The easement is co-held with the Albemarle Conservation Easement Authority (ACEA) pursuant to the County Code. The deed of easement is provided as Attachment B.

The restrictions in the easement limit the property to one main dwelling of no more than 7,000 square feet of above-ground livable space, “unless prior written approval is obtained from each Grantee.” The easement also permits two “accessory dwellings,” without specifying a size limit for those dwellings. The property currently has one existing dwelling, on parcel 65-11B (5383 Stony Point Pass - 1,339 square feet).

In March 2022, the owner of the property asked the ACEA for permission to increase the main dwelling size limit to 12,800 square feet. The landowners also offered to limit the size for the accessory dwellings to 4,500 square feet. The ACEA deferred consideration, suggesting the owner amend the proposal to be more consistent with the existing easement terms.

In June 2022, the ACEA considered a modified proposal. In response to the ACEA’s previous comments, the landowner reduced the requested primary dwelling size to 11,500 square feet. The Authority voted 5:2 to deny the revised proposal and suggested that the landowner return with a proposal that adheres to the permitted sizes typically included in ACEA-accepted deeds of easement.

In August 2022, the ACEA considered another revised proposal that kept the proposed primary dwelling size at 11,500 square feet but reduced the proposed limits for the accessory dwellings to 2,000 square feet each. After discussion with the landowner, the ACEA voted 6:0 to approve a maximum size of 11,500 square feet for the proposed primary dwelling, provided that only one accessory dwelling be permitted and that it be limited to 2,000 square feet.

The ACEA’s approval considered the total impact of permitted dwelling footprints on the site. It would permit a fixed, total residential square footage (13,500 square feet) that is less than what is currently permitted in the deed of easement (7,000 square feet in a main dwelling plus two secondary dwellings without defined size limits). Staff’s assessment is that the change to the permitted dwelling sizes as approved by the ACEA would preserve and slightly improve the conservation values protected by the easement.

In order to alter the terms of the deed of easement consistent with the ACEA’s action, the County Attorney’s Office recommends that an “Amendment to Deed of Easement & Written Approval” be executed and recorded. That amendment document is attached (Attachment C).

As the deed is co-held by the ACEA and the County, Board action is needed for the proposal to be approved.

The approval of this request would have no budget impact to the County.

Staff recommends that the Board adopt the provided Resolution (Attachment D) to Approve the Proposed Amendment to Deed of Easement & Written Approval (Attachment D) once approved as to form and substance by the County Attorney.

By the above-recorded vote, the Board adopted the Resolution to Approve the Proposed Amendment to Deed of Easement & Written Approval (Attachment D), once approved as to form and substance by the County Attorney:

RESOLUTION TO APPROVE AN AMENDMENT TO THE MUSIC HALL-MANNING ACE DEED OF EASEMENT

WHEREAS, the Board finds that it is in the best interest of the County to exercise its discretion to approve the increased primary dwelling size from 7,000 above ground livable square feet to 11,500 above

ground livable square feet authorized in the existing ACE Deed of Easement (recorded at the Albemarle County Circuit Court Deed Book 3404, page 288; Parcel IDs 06500-00-00-01100, 06500-00-00-011B0, and 06500-00-00-011C0; 76.46 acres) in exchange for the current landowner, Castalia-Cismont Investment, LLC, agreeing to amend the same deed so as to eliminate on secondary dwelling and to limit the size of the one remaining permitted secondary dwelling to 2,000 above ground livable square feet; and

WHEREAS, the Board finds that this approval and amendment to the Deed of Easement will increase the conservation value protections currently existing on the subject property by reducing and permanently fixing the permitted aggregate above ground area livable area for dwellings.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to execute an Amendment to Deed of Easement and Written Approval consistent with this Resolution once approved to form and substance by the County Attorney.

* * * * *

VIRGINIA LAND RECORD COVER SHEET
Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

FORM A – COVER SHEET CONTENT

Instrument Date: 7/18/2023

Instrument Type: AMEND

Number of Parcels: 3 Number of Pages: 5

[ ] City [X] County ALBEMARLE COURT CIRCUIT COURT

Tax Exempt? VIRGINIA/FEDERAL CODE SECTION

[X] Grantor: 58.1-811(A)(3)

[X] Grantee: 58.1-811(A)(3)

RECORDED IN
ALBEMARLE COUNTY, VA
JON R. ZUG
CLERK OF CIRCUIT COURT
FILED Jul 20, 2023
AT 09:19 am
BOOK
START PAGE
END PAGE
INST # 202300006184
TOTAL NUM PAGES 7

MEB

(Area Above Reserved For Deed Stamp Only)

Business/Name

1 X Grantor: CASTALIA-CISMONT INVESTMENT, LLC

Grantor:

1 X Grantee: COUNTY OF ALBEMARLE, VIRGINIA

2 X Grantee: ALBEMARLE CONSERVATION EASEMENT AUTHORITY

Grantee Address

Name: COUNTY OF ALBEMARLE, VIRGINIA

Address:

City: State: VA Zip Code:

Consideration: $0.00 Existing Debt: $0.00 Actual Value/Assumed: $0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: $0.00 Fair Market Value Increase: $0.00

Original Book No.: Original Page No.: Original Instrument No.:

Prior Recording At: [ ] City [ ] County Percentage In This Jurisdiction: 100%

Book Number: Page Number: Instrument Number:

Parcel Identification Number/Tax Map Number: 06500-00-00-01100

Short Property Description:

Current Property Address:

City: CHARLOTTESVILLE State: VA Zip Code: 22902

Instrument Prepared By: ALBEMARLE COUNTY ATTORNEY Recording Paid By: WOODS ROGERS VANDEVENTER BLACK

Recording Returned To: WOODS ROGERS VANDEVENTER BLACK

Address: 123 E. MAIN ST, 5TH FLOOR

City: CHARLOTTESVILLE State: VA Zip Code: 22902

FORM CC-1570 (MASTER, PAGE ONE OF TWO) 10/19

Cover Sheet A

VIRGINIA LAND RECORD COVER SHEET
Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

FORM C – ADDITIONAL PARCELS

Instrument Date: 7/18/2023

Instrument Type: AMEND

Number of Parcels: 3 Number of Pages: 5

[ ] City [X] County ALBEMARLE COURT
CIRCUIT COURT

Parcels Identification/Tax Map

Prior Recording At:

[ ] City [ ] County

Percentage In This Jurisdiction: 100%

(Area Above Reserved For Deed Stamp Only)

Book Number: Page Number:

Instrument Number:

Parcel Identification Number (PIN)/Tax Map Number: 06500-00-00-011B0

Short Property Description:

Current Property Address:

City: CHARLOTTESVILLE State: VA Zip Code: 22902

Prior Recording At:

[ ] City [ ] County Percentage In This Jurisdiction: 100%

Book Number: Page Number: Instrument Number:

Parcel Identification Number/Tax Map Number: 06500-00-00-011C0

Short Property Description:

Current Property Address:

City: CHARLOTTESVILLE State: VA Zip Code: 22902

FORM CC-1570 (MASTER, PAGE TWO OF TWO) 10/19

Cover Sheet C

This document was prepared by
Albemarle County Attorney
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

Tax Map and Parcel Numbers 06500-00-00-01100, 06500-00-00-011B0, 06500-00-00-011C0

This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3).

AMENDMENT TO DEED OF EASEMENT AND WRITTEN APPROVAL

THIS AMENDMENT TO DEED OF EASEMENT AND WRITTEN APPROVAL, made this 18th day of July, 2023, among **CASTALIA-CISMONT INVESTMENT, LLC**, a Virginia limited liability company, Grantor, and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter sometimes referred to as the "County," and the **ALBEMARLE CONSERVATION EASEMENT AUTHORITY (formerly known as the ALBEMARLE COUNTY PUBLIC RECREATIONAL FACILITIES AUTHORITY)**, a public body established pursuant to Virginia Code § 15.2-5600 *et seq.*, each of whose address is 401 McIntire Road, Charlottesville, Virginia 22902; the County and the Albemarle Conservation Easement Authority are hereinafter collectively referred to as the "Grantees." Grantor is successor-in-interest to Ann C. McGraw an d Barbara C. Little, Trustees of the Elizabeth B. Chester Revocable Declaration of Trust dated Ja nuary 19, 2005, as amended and restated April 27, 2013, and Ann C. McGraw and Barbara C. Litt le, Trustees of the Donal G. Chester Trust u/a dated January 19, 2005, as amended and restated April 27, 2013.

WITNESSETH

WHEREAS, under the County's Acquisition of Conservation Easements ("ACE") Program, codified in Appendix A.1 of the Albemarle County Code, the Grantees acquired a conservation easement pursuant to a Deed of Easement dated April 2, 2007, recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 3404, page 288 (the "Conservation Easement");

WHEREAS, the Grantor is the current owner in fee simple of the real property described in the Conservation Easement which is subject to such easement (the "Property");

WHEREAS, the Grantor acknowledges the Property remains subject to the terms of the Conservation Easement except as expressly amended and modified in this Amendment to Deed of Easement and Written Approval;

WHEREAS, the Grantor desires to maintain the Conservation Easement on the Property for the purpose of preserving such lands as open space in perpetuity in order to protect the values described in the Conservation Easement but has asked Grantees to approve in writing an increase in the size limit on the permitted primary single-family dwelling and, in consideration thereof, has agreed to eliminate one of two permitted accessory dwellings and to limit the size of the one remaining permitted accessory dwelling;

WHEREAS, by the terms of Section 2.B.2.(i) of the Conservation Easement, Grantees reserved jointly to themselves the authority to approve in writing a larger primary single-family dwelling; and

WHEREAS, Grantees have found that eliminating one permitted accessory dwelling and limiting the size of the remaining permitted accessory dwelling increase the protection of the conservation values under the Conservation Easement.

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor and Grantees covenant and agree as follows:

1. AMENDMENT TO DEED OF EASEMENT.

Section 2.B.2.(ii) of the Conservation Easement relating to permitted structures accessory to a primary, single-family dwelling is hereby deleted in full and replaced with the following: "one accessory dwelling of no greater than 2,000 square feet of above ground livable-space, and non-residential outbuildings or structures commonly and appropriately incidental thereto."

2. WRITTEN APPROVAL FOR LARGER PRIMARY SINGLE-FAMILY DWELLING. For purposes of Section 2.B.2.(i) of the Conservation Easement, Grantees approve the construction, placement, and maintenance of one single-family dwelling on the Property not to exceed 11,500 square feet of above ground livable-space, together with such non-residential outbuildings or structures commonly and appropriately incidental thereto.

3. MISCELLANEOUS PROVISIONS

A. Full Force and Effect. Except as provided herein, all terms and conditions of the Conservation Easement are unmodified and remain in full force and effect.

B. Recordation. Upon execution by the parties, this Amendment to Deed of Easement and Written Approval shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia.

C. Authority of Grantor. The Grantor covenants that it is vested with good title to the Property and has authority to enter into this Amendment to Deed of Easement and Written Approval.

D. Authority of Grantees. The Grantees are authorized to enter into this Amendment to Deed of Easement and Written Approval pursuant to Virginia Code § 10.1-1701 and Albemarle County Code Section A.1-109(E). The County, acting by and through its County Executive, duly authorized by resolution adopted on December 7, 2022, by the Board of Supervisors of the County of Albemarle, Virginia, accepts this amendment to the Conservation Easement pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this instrument. The Albemarle Conservation Easement Authority, acting by and through its Chair, duly authorized by a motion adopted by its Board of Directors on August 11, 2022, accepts this amendment to the Conservation Easement pursuant to Virginia Code § 15.2-5604, as evidenced by the Chair's signature hereto and the recordation of this instrument.

[Signature Pages Follow]

[Signature Page 1 of 2]

WITNESS the following signatures and seals.

CASTALIA-CISMONT INVESTMENT, LLC

By: _____ (SEAL)
Paul Manning, Manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Charlottesville:

The foregoing *Amendment to Deed of Easement and Written Approval* was signed, sworn to and acknowledged before me this 7 day of June, 2023, by Paul Manning, Manager of Castalia-Cismont Investment, LLC, Grantor.

_____
Notary Public

My Commission Expires: April 30, 2026
Registration Number: 7778243

SHANNON CHEN
NOTARY PUBLIC
REGISTRATION # 7778243
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
APRIL 30, 2026

[Signature Page 2 of 2]

COUNTY OF ALBEMARLE, VIRGINIA

By: _____ (SEAL)
Jeffrey Richardson
County Executive

ALBEMARLE CONSERVATION EASEMENT AUTHORITY

By: _____ (SEAL)
Jay G. Fennell
Chair

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE:

The foregoing *Amendment to Deed of Easement and Written Approval* was signed, sworn to and acknowledged before me this 18th day of July, 2023, by Jeffrey Richardson, County Executive for the County of Albemarle, Virginia, Grantee.

Cheryl L. Skeen
Notary Public

My Commission Expires: Oct. 31, 2023
Registration Number: 7153762

CHERYL L. SKEEN
NOTARY PUBLIC
REGISTRATION # 7153762
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
OCTOBER 31, 2023

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE:

The foregoing *Amendment to Deed of Easement and Written Approval* was signed, sworn to and acknowledged before me this 13th day of July, 2023, by Jay G. Fennell, Chair of the Albemarle Conservation Easement Authority, Grantee.

_____
Notary Public

My Commission Expires: 3/12/26
Registration Number: 8005835

NICOLOS R. DiMAGGIO
NOTARY PUBLIC
REG. #8005835
MY COMMISSION EXPIRES
03/12/2026
COMMONWEALTH OF VIRGINIA

Approved as to form:

By: _____
County Attorney

INSTRUMENT # 202300006184
RECORDED ALBEMARLE CO CIRCUIT COURT CLERK'S OFFICE
Jul 20, 2023 AT 09:19 am
JON R. ZUG, CLERK by MEB

Item No. 8.5. Board-to-Board, November 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. From the County Executive: Report on Matters Not Listed on the Agenda.

There was no report from the County Executive.

Agenda Item No. 10. **Public Hearing: Fiscal Year 2023 Budget Amendment and 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 cumulative total of the Fiscal Year 2023 (FY 23) appropriations itemized below is

$22,828,349. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 23 Budget Amendment totals $22,828,349. The estimated expenses and revenues included in the proposed amendment are shown below:

PROPOSED FY 2022-23 BUDGET AMENDMENT

ESTIMATED REVENUES	
Local Revenues	$ 528,327
State Revenues	$ (19,136)
Federal Revenues	$ 6,155,754
General Fund Balance	$ 5,435,583
Other Fund Balances	$ 10,727,821
TOTAL ESTIMATED REVENUES	$ 22,828,349
ESTIMATED EXPENDITURES	
General Fund	$ 6,104,955
Special Revenue Funds	$ 16,862,031
School Fund	$
Capital Funds	771,992
TOTAL ESTIMATED EXPENDITURES	$ (910,629)
	$ 22,828,349

The budget amendment is comprised of a total of 21 separate appropriations, 15 of which have already been approved by the Board of Supervisors. - Five appropriations approved 08/03/2022

- Six appropriations approved 09/07/2022 - One appropriation approved 10/05/2022
- Three appropriations approved 11/02/2022
- Six appropriation requests for approval on December 7, 2022 as described in Attachment A.

After the public hearing, staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriation for local government and school projects and programs, as described in Attachment A.

Appropriation #2023023

Sources:	Local Revenue	$177,372
Uses:	Department of Social Services	$177,372
Net Change to Appropriated Budget:		**$177,372**

Description:
This request is to appropriate $177,372 in local revenue from the Direct Settlement portion of the National Opioid Settlement, $36,881 from the distributor's settlement and $140,491 from the Jansen/J&J settlement. The revenue will be used to support the activities of the Human Services Alternative Response (HARTS) team, including training on behavioral health symptoms & community resources peer support, coordination with community-based service providers, and clinical consultation.

Appropriation #2023024

Sources:	State Revenue	$294,947
	Local Revenue	$238,600
Uses:	Police Department Operations	$330,566
	Fire Rescue Operations	$202,981
Net Change to Appropriated Budget:		**$533,547**

Description:
This request is to appropriate $294,947 in additional State revenue and $238,600 in additional local revenue to support County Police Department and Fire Rescue operations.

- $221,966 in additional State Aid for Police Protection (HB 599) revenue and $72,981 in additional Fire Service Program revenue based on the adopted State budget. The final County allocations from these revenue sources were not confirmed by the State until after the FY 23 County Budget was adopted.
- $130,000 in additional Emergency Medical Service (EMS) Cost Recovery revenue. At the September 7, 2022 meeting, the Board of Supervisors approved the new schedule of fees for Emergency Medical Service Vehicle Transport Services. These revised fees were effective October 1, 2022 and are estimated to result in increased EMS Cost Recovery revenue for FY 23.

- $108,600 in reimbursement revenue from Region Ten for the costs associated with providing law enforcement staffing for the Crisis Intervention Team Assessment Center (CITAC), which provides crisis assessments and intervention for individuals under Emergency Custody Orders, in a safe secure calm environment.

Appropriation #2023025

Sources:	General Fund's Fund Balance	$4,928,308
	Federal Revenue	$5,186,784
	Special Revenue Funds' Fund Balances	$8,833,074
Uses:	General Fund	$4,928,308
	Special Revenue Funds	$14,019,858
Net Change to Appropriated Budget:		**$ 18,948,166**

Description: At the end of FY 22, the General Fund's fund balance is equal to a) the audited balance from the prior fiscal year (FY 21);
b) plus the actual revenues during FY 22; and c) less actual expenditures during FY 22. Of that amount of General Fund's fund balance, amounts are held in reserve for:

- Policy uses: in accordance with the County's financial policies, a 10% unassigned fund balance and a 2% Budget Stabilization Reserve
- Appropriated and obligated uses: The County's FY 23 Adopted Budget and any other appropriations to date that include General Fund's fund balance as a revenue source.
- Purchase Orders: Any purchase orders that were encumbered in FY 22 and carried forward into FY 23 are administratively re-appropriated under authority in the annual Resolution of Appropriations.

The remaining amount is defined as the County's Unobligated General Fund's fund balance and any subsequent uses are approved by the Board of Supervisors. The Unobligated General Fund's fund balance includes an amount for expenses approved for FY 22 that were not completed in FY 22. In these circumstances, the County has FY 22 expenditure savings that are added to General Fund's fund balance, which are then requested for re-appropriation from the General Fund's fund balance in FY 23 to complete the expenditure.

The proposed use of the General Fund's fund balance will not reduce the County's 10% unassigned fund balance or 2% Budget Stabilization Reserve; however, it does reduce the amount of FY 22 undesignated funds that would be available for future uses.

This request is to re-appropriate General Fund's fund balance from FY 22 to FY 23 as outlined below. Additionally, this request is to re-appropriate Special Revenue and Other Funds, as outlined below.

General Fund Re-Appropriations

Commonwealth's Attorney

- Requests the re-appropriation of $12,000 for the part-time intern that was previously funded and unable to be filled due to the pandemic.

Community Development Department

- Requests the re-appropriation of $118,583 to complete the Wireless Facility Policy and Ordinance and for no parking signs budgeted in FY 22 and continuing into FY 23.
- Requests the re-appropriation of $410,316 from the FY 22 Board of Supervisors Strategic Priority Support Reserve to the Community Development Department (CDD) in FY 23. This reserve was established as part of the FY 18 budget and has been used to provide funding to support implementation of Strategic Plan initiatives, which may include items prioritized by the Board of Supervisors in the CDD's work program that are one-time costs. In FY 23, the Comprehensive Plan update and the Zoning Ordinance Update are two of the types of projects being funded from this.

County Attorney

- Requests the re-appropriation of $11,576 to pay for operating expenses planned in FY 22 and will be incurred in FY 23.

Economic Development Office

- Requests the re-appropriation of $25,000 in funding identified in FY 22 to be provided to the Central Virginia Small Business Development Center in FY 23 for programming to support the County's economic development strategic plan, Project ENABLE.

Executive Leadership

- Requests the re-appropriation of $2,033,967, including the balance of $1,707,153 remaining in the Business Process Optimization Reserve at the end of FY 22, to the Office of Performance and Strategic Planning (P&SP) for continued support of organizational efforts, including the Core Systems Modernization project, and staff development and training.
- Requests the re-appropriation of $249,968 to the Broadband Accessibility and Affordability Office in support of programs expanding broadband access.

- Requests the re-appropriation of $75,000 to the Office of Equity and Inclusion for cultural and historical projects.

Facilities and Environmental Services
- Requests the re-appropriation of $48,807 for Climate Action Plan projects and remaining expenses for the Facilities Space Planning Study.

Fire Rescue
- Requests the re-appropriation of $480,574 for materials, supplies, technology and equipment costs planned in FY 22 and incurred in FY 23, for planned expenses funded through donations received in FY 22, and for payment of the FY 22 City Fire Services contract that was not paid until in FY 23 due to a timing variation with the billing for that contract.

Information Technology
- Requests the re-appropriation of $120,864 for contract services expenses budgeted in FY 22, but incurred in FY
  23.

Parks and Recreation Department
- Requests the re-appropriation of $55,000 in grounds repair and maintenance funding for signage installation at the Simpson Park Perimeter Trail and security camera installations at parks' maintenance buildings, planned in FY 22 and incurred in FY 23.

Police
- Requests the re-appropriation of $447,736 for materials, supplies, equipment, and health and medical costs planned in FY 22 and incurred in FY 23; and for planned expenses for traffic safety and the electronic summons programs funded through revenues received in prior years.

Sheriff
- Requests the re-appropriation of $71,446 for training expenses planned for FY 22 and rescheduled to FY 23 due to the pandemic, vehicle equipment that was planned in FY 22 but not purchased because vehicle production was delayed, and program support funding from the public fingerprinting program.

Department of Social Services
- Requests the re-appropriation of $50,000 in funding identified in FY 22 to be provided to the Monacan Nation Park project as part of the Community Development Block Grant (CDBG) Southwood grant.

Voter Registration and Elections
- Requests the re-appropriation of $20,380 for voting booth replacements that were identified as a need in FY22 but incurred in FY 23 and training expenses for National Election Center certification courses that were planned in FY 22 and delayed due to the pandemic.

Non-Departmental
- Requests the re-appropriation of $697,091 remaining in Climate Action Plan funding at the end of FY 22 to the Climate Action Pool.

Special Revenue and Other Funds Re-appropriations
- **American Rescue Plan Act (ARPA) Fund:** This request is to appropriate $5,186,784 in federal ARPA funding for the continuation of programming in human services economic vitality projects, public safety premium pay bonuses, broadband, and ARPA eligible uses.
  - Of this amount, $4,455,000 will be re-appropriated to the Albemarle Broadband Authority (ABBA) for the continued work on the Virginia Telecommunication Initiative (VATI) 2022 grant.
- **Economic Development Fund:** This request to re-appropriate $6,983,620 in the Economic Development Fund's fund balance as follows:
  - $6,761,413 for the Economic Development Investment Pool to support future targeted economic development initiatives. The intention is that these resources will leverage/catalyze other possible investment and will provide an immediate and accessible pool of funds for implementing initiatives that will boost business opportunity and create an improved local economy. Combined with currently appropriated funding, the total balance of the Investment Pool is $8,261,413, with $1,760,000 of that amount held pursuant to performance agreements previously approved by the Board of Supervisors.
  - $132,707 for one-time operating and temporary wages costs approved in FY 22.
  - $89,500 for transfers to the Economic Development Authority (EDA) Fund pursuant to performance agreements previously approved by the Board of Supervisors**.**

- **Vehicle Replacement Fund:** This request is to re-appropriate $719,905 for replacement vehicles planned in FY 22 that are anticipated to be incurred in FY 23.

- This request is to appropriate the following for entities where the County serves as fiscal agent:
  - **Albemarle Broadband Authority (ABBA):** This request is to re-appropriate $30,044 in fund balance remaining at the end of FY 22 for ABBA programs.

- **Charlottesville Albemarle Convention and Visitors Bureau (CACVB):** This request is to reappropriate $363,827 for CACVB operating costs planned in FY 22 and incurred in FY 23.
- **Economic Development Authority (EDA):** This request is to re-appropriate $741,146 in EDA fund balance and a transfer from the Economic Development Fund for EDA programs.
- **Emergency Communications Center:** This request is to re-appropriate $84,032 to support a Pictometry GIS Mapping and Aerial Imagery project that was planned in FY 22 and incurred in FY 23.

Appropriation #2023026

Sources:	State Revenue	$449,554
	General Fund's Fund Balance	$237,991
	Special Revenue Fund's Fund Balance	($237,991)
Uses:	Offender Aid and Restoration (OAR) Grant Fund	$449,554

Net Change to Appropriated Budget: $ 449,554

Description:

- This request is to appropriate $449,554 in grant funding from the Department of Criminal Justice Services, with the County acting as fiscal agent, to Offender Aid and Restoration (OAR) to continue to provide pretrial services in the rural counties serving the Central Virginia Regional Jail.
- This request is to also reconcile the Offender Aid and Restoration Fund and General Fund based on a review of revenues for each fund. A net of $237,991 in funding is being reclassified from the General Fund to the OAR Grant Fund. This adjustment is due to a reconciliation of prior funding and does not impact programs.

Appropriation #2023027

Sources:	Federal Revenue	$117,307
	American Rescue Plan Act (ARPA) Reserve (currently appropriated)	$100,000
Uses:	Edward Byrne Memorial Justice Assistance Grant (JAG) Program	$17,307
	Fund Fire Rescue Department – Office of Emergency Management	$200,000

Net Change to Appropriated Budget: $117,307

Description:
This request is to appropriate:

- $17,307 in federal revenue for an Edward Byrne Memorial Justice Assistance (JAG) grant to support police overtime activities, which support community assignments including National Night Out, Operation Safe Shopper, River RATT Operation, and Illegal Hunting Operations.
- $100,000 in federal revenue from the Local Assistance and Tribal Consistency Fund (LATCF) along with $100,000 of previously appropriated ARPA Reserve funding for the Public Safety Coordinated Response Training. This training is being coordinated by the Fire Rescue, Police and Emergency Management departments in conjunction with Albemarle County Public Schools. In applying the funding to training, the County will help to support the provisions of emergency management and simplify federal reporting requirements.

Appropriation #2023028

Sources:	North Garden Volunteer Fire Company (currently appropriated)	$2,015
Uses:	Fire Rescue Department	$2,015

Net Change to Appropriated Budget: $0

Description:
At the request of North Garden Volunteer Fire Company, this request is to appropriate $2,015 from their station's appropriated amount to the Albemarle County Fire Rescue Department. This change is to centralize the budgeting, purchasing and management of costs for emergency medical services supplies and oxygen for the station. These costs will be budgeted in the Albemarle County Fire Rescue Department operational budget for this station in future years.

———

Mr. Andy Bowman, Chief of Budget, said that tonight's item was a public hearing and action item to amend the FY23 budget. He said that under the Virginia Code, the County was required to amend the budget when the total accumulative appropriations exceeded 1% of the adopted budget, which was the case tonight. He said that he would not go through the appropriations in detail, but they could be found in the packet. He mentioned that the primary reason they were having a public hearing was that they were at the point in the year where they completed the reappropriation of any funding the Board approved in

FY22 to FY23.

Mr. Bowman said that this was a combination of things, such as the County's Economic Development Fund and funding for fiscal agents, such as the Charlottesville-Albemarle Convention and Visitors Bureau (CACVB), where the County served as fiscal agent on behalf of that Board. He said that other examples included a vehicle that was due to be purchased in FY22, but due to the economic environment, that purchase would occur in FY23. He noted that of the total amount of $18.9 million, $4.9 million was for the general fund and an appropriation of the general fund's balance.

Mr. Bowman said that part of the reason they waited to bring this was because it coincided with the completion of the County's audit, which would be before the Board of Supervisors next week. He said that the $4.9 million was funding above the Board of Supervisors financial policies that the Board was required to maintain the County's fund balances, so in no way would this utilize any of that funding. He said that also included in this was $1.3 million in federal and state revenue from grants and other support. He said that after the public hearing, staff recommended that the Board adopt the resolution (Attachment B).

Ms. Price asked if there were any questions from the Board. Hearing none, she opened the public hearing. She asked the Clerk if there was anyone signed up to speak for the public hearing.

Ms. Borgersen said that there was no one signed up.

Ms. Price closed the public hearing. She asked if the Supervisors had any further remarks on this matter. Hearing none, she asked if there was a motion.

Ms. McKeel **moved** to adopt the resolution (Attachment B), to approve the appropriation of local government and school projects and programs as described in Attachment A.

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

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

_____

RESOLUTION TO APPROVE
ADDITIONAL FY 2023 APPROPRIATIONS

BE IT RESOLVED by the Albemarle County Board of Supervisors:

1) That the FY 23 Budget is amended to increase it by $22,828,349;

2) That Appropriations #2023023; #2023024; #2023025; #2023026; #2023027; and #2023028 are approved;

3) That the appropriations referenced in Paragraph #2, 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, 2023.

* * * *

APP#	Account String	Description	Amount
2023023	3-1000-51100-318000-189900-1573	SA2023023 National Opioid Settlement Revenues	$177,372.00
2023023	4-1000-51100-453000-551100-1573	SA2023023 Education - Registration & Fees - HARTS	$5,000.00
2023023	4-1000-51100-453000-344320-1573	SA2023023 Professional Facilitation - HARTS	$5,000.00
2023023	4-1000-51100-453000-345700-1573	SA2023023 Other Professional & Technical Services (Peer Support; Clinical Consultations) - HARTS	$166,372.00
2023023	4-1000-51100-453000-601200-1573	SA2023023 Books & Subscriptions - HARTS	$1,000.00
2023024	3-1000-33001-316000-160402-9999	SA2023024 Additional EMS Cost Recovery Revenue	$130,000.00
2023024	3-1000-31100-324000-240412-9999	SA2023024 Additional HB-599 Revenue	$221,966.00
2023024	3-1000-31100-324000-190299-9999	SA2023024 Region Ten Revenue CITAC	$108,600.00
2023024	4-1000-33400-432000-601104-9999	SA2023024 Turnout Gear from additional State Fire Service Revenue	$72,981.00
2023024	4-1000-33500-432000-110000-9999	SA2023024 From Additional EMS Cost Recovery Revenue	$120,761.00
2023024	4-1000-33500-432000-210000-1560	SA2023024 From Additional EMS Cost Recovery Revenue	$9,239.00
2023024	4-1000-31100-431000-110000-9999	SA2023024 From Additional HB-599 Revenue nad Region 10 Reimbursement	$307,075.00
2023024	4-1000-31100-431000-210000-9999	SA2023024 From Additional HB-599 Revenue nad Region 10 Reimbursement	$23,491.00
2023026	3-5440-15001-324000-240440-9999	SA2023026 240440-DCJS-COMMUNITY CORRECTION	$449,554.00
2023026	4-5440-15001-431000-560000-0007	SA2023026 560000-Contrib to Other Entities	$438,097.65
2023026	4-5440-15001-431000-390004-9999	SA2023026 Admin Fee	$11,456.35
2023026	3-1000-51000-351000-510100-9999	SA2023026 Use of Fund Balance	$237,991.00

2023026	4-1000-99000-493000-930000-9999	SA2023026 OAR Fund Balance Recon	$243,856.00
2023026	3-5440-15001-351000-512004-9999	SA2023026 Trs From Gen	$243,856.00
2023026	3-5440-15001-352000-510100-9999	SA2023026 Use of Fund Balance	-$237,991.00
2023026	4-5440-15001-493000-931000-9999	SA2023026 Transfer to General	$5,865.00
2023026	3-1000-51000-351000-512006-9999	SA2023026 Transfer from grant fund	$5,865.00
2023027	3-5153-31100-333000-330412-9999	SA2023027 JAG Grant Federal Revenue	$17,307.00
2023027	4-5153-31100-431000-110000-9999	SA2023027 JAG Salaries	$0.00
2023027	4-5153-31100-431000-120000-9999	SA2023027 JAG Overtime Wages	$15,967.00
2023027	4-5153-31100-431000-210000-9999	SA2023027 JAG FICA	$1,340.00
2023027	3-5124-33800-333000-330057-1653	SA2023027 Local Assistance and Tribal Consistency Fund	$100,000.00
2023027	4-1106-33800-493000-931000-1653	SA2023027 ARPA Reserve Pandemic Expenses	$100,000.00
2023027	4-5124-33800-435000-931000-1653	SA2023027 Public Safety Coordinated Response Training	$100,000.00
2023027	3-1000-33800-351000-512006-1653	SA2023027 Public Safety Coordinated Response Training	$200,000.00
2023027	4-1106-99000-499000-999999-1617	SA2023027 Public Safety Coordinated Response Training	-$100,000.00
2023027	4-1000-33800-432000-120000-1653	SA2023027 OT for Public Safety Coordinated Response Training	$58,032.00
2023027	4-1000-33800-432000-210000-1653	SA2023027 FICA for Public Safety Coordinated Response Training	$4,411.00
2023027	4-1000-33800-432000-344400-1653	SA2023027 Public Safety Coordinated Response Training	$117,300.00
2023027	4-1000-33800-432000-379200-1653	SA2023027 Public Safety Coordinated Response Training	$2,400.00
2023027	4-1000-33800-432000-580400-1653	SA2023027 Public Safety Coordinated Response Training	$3,680.00
2023027	4-1000-33800-432000-600000-1653	SA2023027 Public Safety Coordinated Response Training	$4,177.00
2023027	4-1000-33800-432000-601000-1653	SA2023027 Public Safety Coordinated Response Training	$10,000.00
2023028	4-1000-34000-432000-560700-9999	SA2023028 Reduce contribution to NGVFC	-$2,015.00
2023028	4-1000-33500-432000-601000-9999	SA2023028 Increase supplies to cover NGVFC	$2,015.00

_____

Agenda Item No. 11. **Public Hearing: Ordinance to Extend County Police and Fire/Rescue Sworn and Uniformed Employee Sign-On Bonus Payment.** To receive public comment on its intent to extend ordinance number 21-A(10) which authorized the payment of monetary bonuses to eligible public safety employees of Albemarle County pursuant to Virginia Code § 15.2-1508. The ordinance authorized a one-time payment of $3,000.00 to eligible full-time and part-time regular employees of the Albemarle County Police Department and the Albemarle County Department of Fire Rescue who were active employees as of December 1, 2021 and who filled a total position of 0.7 full time equivalent and above, and a sign-on payment of $3,000.00 to all sworn or uniformed full-time and part-time regular employees of the Albemarle County Police Department and the Albemarle County Department of Fire Rescue who have a hire date between December 1, 2021 and November 30, 2022, and who fill a total position of 0.7 full time equivalent and above. The extension would authorize payments to all sworn or uniformed full-time and part-time regular employees of the Albemarle County Police Department and the Albemarle County Department of Fire Rescue as of December 1, 2022, and those who have a hire date between December 1, 2022 and November 30, 2023, and who fill a total position of 0.7 full time equivalent and above.

The Executive Summary forwarded to the Board states that the Board adopted an ordinance for sworn and uniformed employee sign-on bonus payments at its December 1, 2021 for County Police and Fire/Rescue to address workforce stabilization challenges. At that time, staff recommended evaluating the efficacy of sign-on bonus payments as a recruitment tool in November 2022.

Since implementing and advertising the sign-on bonus payments:

· Fire/Rescue has received 235 applications to fill 52 vacancies and has successfully onboarded and released 12 new hires, is training 7 recruits in an ongoing recruit school, and will have 22 additional pending recruits for a recruit school beginning in Winter 2023.

· Police has received 150 applications to fill 40 vacancies and has successfully hired 23 officers.

The sign-on bonus payments have been successful in ensuring Albemarle County is competitive among public safety personnel. Based on market conditions, staff recommends extending this program to sustain this positive momentum in workforce stabilization for sworn and uniformed positions in the Fire/Rescue and Police Departments.

The cost to extend the sign-on bonus payments will be funded by State and Federal revenues and previously appropriated FY 23 budgets for Albemarle County Police Department and Albemarle County Fire Rescue. The total cost for extending the sign-on bonus program is estimated at $113,033. Of that total, $91,237 will be covered through funding remaining from American Rescue Plan Act (ARPA) funds previously received by Albemarle County. These funds were previously appropriated by the Board of Supervisors for this purpose on December 1, 2021. The remaining $21,796 needed for the program will be funded through the previously appropriated budgets for FY 23 for Albemarle County Police Department and Albemarle County Fire Rescue.

Staff recommends that the Board adopt the proposed ordinance in Attachment A.

Ms. Mia Coltrane, Human Resources Director for Albemarle County Government, said that she would be requesting an extension of Ordinance 21-A(10), approved during the December 1, 2021 Board meeting. She said that during the December 1, 2021 Board meeting, Ordinance 20-A(10) was approved to provide sign-on bonuses for sworn officers within the Fire Rescue and Police Departments. She said that the action was meant to help with the high number of vacancies in both departments and the challenges of recruitment. She said that the ordinance had an expiration date of November 30, 2022.

Ms. Coltrane said that the impact of the ordinance had assisted each department's recruitment efforts in a positive way. She said that from December 2021, when the ordinance was approved, through September 2022, Albemarle County Fire Rescue (ACFR) received 235 applications. She said that they were able to successfully hire 24 uniformed officers. She said that they currently had 22 recruits that would begin recruit school beginning on January 28, 2023.

Ms. Coltrane said that for the Albemarle County Police Department (ACPD), between December 2021 through September 2022, they received 84 applications. She said that they were successfully able to hire 31 officers, and currently had five applicants who would begin recruit school on January 3, 2023. She said that would leave them with a remaining seven positions to fill, which would go through an academy in July 2023. She said that in essence, they were asking for the sign-on bonus and the adjustments made to the entry-level positions this year.

Ms. Coltrane said that the recruitment bonus was positive for them; it had provided them momentum in hiring in ACPD and ACFR. She said that based on the market conditions and the increase in applicant pools, the request was to extend the program until November 30, 2023. She said that the reasons were to sustain the positive momentum in recruitment and hiring, to support the current recruit schools beginning in January 2023 for both departments, and for the seven additional positions that needed to be filled for the ACPD, there would be an additional recruit school scheduled for July 2023. She said that funding would come through remaining ARPA (American Rescue Plan Act) funds and previously appropriated funds from the departments.

Ms. McKeel said that she supported this program.

Ms. Mallek said that she was glad that they had brought this to the Board and that it had been successful.

Ms. LaPisto-Kirtley said that she concurred with the other Supervisors.

Mr. Gallaway said that he supported the program. He said that it had expired, and they were going to extend it. He asked at what point the compensation study helped them understand this, and if at that point they said the sign-on bonuses were normal operating procedure, so they were not just doing this once a year.

Mr. Gallaway said that if they got compensation in line, they might not need the sign-on bonus because the pay was there, but these bonuses had become the norm in many places. He said that perhaps when the compensation study would be the best time to have the conversation about if the sign-on bonuses were necessary for normal business, and if so, they should put the money somewhere where the Board did not have to be consulted with every year, and it could be budgeted and they could move on.

Ms. Coltrane said that she noted Mr. Gallaway's question.

Mr. Andrews said that he shared Mr. Gallaway's inquiry. He asked if there was an attrition rate for the academy and recruitment.

Ms. Coltrane asked for clarification.

Mr. Andrews asked if there was an attrition rate or if this was a good pipeline for assured.

Ms. Coltrane said that she would defer to the Fire Chief and Police Chief to respond.

Fire Chief Mr. Dan Eggleston, Albemarle County Fire Rescue, said that the rate was very low, given the fact that many of the people who went through recruit school had never been in the fire service before. He said that turnover occurred at a rate of roughly 10%, and they would like to reduce it further. He said that they had been successful in undertaking a full recruit school, which was a six-month-long process, with very little turnover.

Police Chief Mr. Sean Reeves, Albemarle County Police Department, said that on behalf of ACPD, previous studies had indicated the department's attrition rate was roughly 25%, there is a turnover rate, and it was too early to tell the impact of the sign-on bonuses as far as that attrition rate. He said that the historical rate was based on the five-year average and indicated that they could anticipate losing 25% every year.

Mr. Richardson asked if Mr. Reeves could talk about the length of time it took for a recruit to go through intake and work on the street.

Mr. Reeves said that for a brand-new officer with no law enforcement experience, there was about a one-year turnaround time to get through the background phase of the hiring process as well as getting the recruit into one of the two academy dates, either in January or July, and the post-academy training, which was approximately 12 weeks of in-house training, and after that training was when they began their FTO (Field Training Officer) training. He said that they go over and beyond in training their officers to make sure they are good fits for the community. He said that is a one-year-turnaround time on average.

Ms. Mallek said that the turnover rate that Mr. Reeves described included longtime officers. She asked if there was a different rate for those who began the recruit school and if most of them graduated and went into active duty.

Mr. Reeves clarified that the rate was for the brand-new officers. He said that they could anticipate 1 in 4 of them to leave and not go into another law enforcement profession.

Ms. Mallek said that she understood.

Ms. Price said that they had been referring to this as a sign-on bonus, but that was only half of the matter. She said that she read it as current employees that were at 0.7 or above FTE were eligible for the same $3,000 that new hires effective December 1, 2022, would receive. She said that it was a broader coverage of both forces completely. She asked if it was only a sign-on.

Ms. Coltrane clarified that it was only a sign-on bonus. She said that the 0.7 would be a part-time recruit if the departments had that opportunity to come on board. She reiterated that it was only a sign-on bonus.

Mr. Jeff Richardson, County Executive, said that in the previous year, when this program was implemented, it was done so in sync with existing ACFR and ACPD employees receiving the same level of bonus, so in essence, that was received a year ago. He said that the people who were currently there now had either received it when they came on or when they initially put the program in place.

Ms. Price thanked Mr. Richardson for the clarification. She opened the public hearing. She asked the Clerk if there was anyone signed up to speak.

Ms. Borgersen said that there were no speakers.

Ms. Price closed the public hearing. She asked the Board if there were any additional comments.

Mr. Andrews stated that he appreciated the training and work that was required to become firefighters and police officers.

Ms. Price said that she knew that Mr. Richardson, Ms. Coltrane, Chief Eggleston, and Chief Reeves had worked together to create this resolution. She said that the evidence was clear that it was working. She commented on how valuable this was in light of the report that Mr. Reeves released last week with regard to increased activity in the area. She said the County needs its law enforcement officers, and that the Board was proud to support the officers. She said that she had recently spoken with Mr. Eggleston about the extraordinary and heroic actions taken by ACFR personnel, and she fully supported this.

Ms. McKeel **moved** to adopt the ordinance as presented in Attachment A to Extend County Police and Fire/Rescue Sworn and Uniformed Employee Sign-On Bonus Payment. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

(This item was reconsidered later in the meeting after Item No. 17 and an amended ordinance was adopted.)

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Agenda Item No. 12. **Public Hearing: Agricultural and Forestal Districts – Hatton AFD Addition.** Ordinance to amend County Code Chapter 3 (Agricultural and Forestal Districts), Article 2 (Districts of Statewide Significance), Division 2 (Districts), to add land to the Hatton Agricultural and Forestal District, as specified below:

a. **AFD 2022-01 Hatton AFD - Addition.** The proposed ordinance would amend County Code § 3-219 (Hatton Agricultural and Forestal District) to add Parcel ID 13600-00-00-009H2 to the district. The Executive Summary as forwarded to the Board states that pursuant to County Code § 18-5.1.28(d), the applicant has applied for an exception from all requirements of County Code § 18-5.1.28 on Parcels 03200-00-00-00100 and 03200-00-00-00200.

The Executive Summary forwarded to the Board states that localities are enabled to establish Agricultural and Forestal Districts (AFDs) under the Agricultural and Forestal Districts Act (Virginia Code § 15.2-4300 et seq.). AFDs serve two primary purposes: (1) to conserve and protect agricultural and forestal lands; and (2) to develop and improve agricultural and forestal lands. Land within an AFD is prohibited from being developed to a more intensive use, other than a use resulting in more intensive agricultural or forestal production, without prior Board approval. In addition, the County is prohibited from

exercising its zoning power in a way that would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the Agricultural and Forestal Districts Act, unless those restrictions or regulations bear a direct relationship to public health and safety (Virginia Code § 15.2-4312).

The public hearing, as required by Virginia Code § 15.2-4309, and the proposed ordinance pertain to a requested addition to an existing AFD.

Additions: A landowner may apply to add land to an AFD at any time (Virginia Code § 15.2-4310). Virginia Code §§ 15.2-4307 and 15.2-4309 require the Agricultural and Forestal District Advisory Committee and the Planning Commission to review such applications and report their recommendations to the Board of Supervisors, which must hold a public hearing and, by ordinance, may add land to an existing district as applied for, or with any modifications the Board of Supervisors deems appropriate.

On November 9, 2022, the AFD Advisory Committee reviewed the following proposed addition to the Hatton AFD and recommended approval by a vote of 6:0. The November 9, 2022, AFD Advisory Committee staff report is attached (Attachment A).

Staff will report on the Planning Commission's recommendation from their November 22, 2022, meeting at this Board of Supervisors hearing.

AFD 2022-01 Hatton AFD - Addition
The proposed addition (Tax Map 136 Parcel 9H2; 82.43 acres) contains 67.4 acres of soils recognized as important to agriculture in the Comprehensive Plan. No dwelling exists on the parcel. As it maintains one remaining development right, it is qualified to be added to the AFD under current County policy.

There is no budget impact.

After the public hearing on the proposed AFD addition, staff recommends that the Board adopt the attached ordinance (Attachment B) to approve the addition to the Hatton AFD.

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Mr. Scott Clark, Natural Resources Program Manager, said that he would be presenting information for tonight's hearing on a proposed addition to the Hatton Agricultural and Forestal District in the southern part of the County. He said that the parcel in the hatched area of the map shown on the slide, Parcel 9H2, was just over 82 acres, and the landowners also owned the parcels located just to the east. He said that the parcel was previously located in the District, but only about 1 acre of it. He said that it was removed during the most recent review, a piece was taken out in the middle for a residence, but now the entirety of the residue of this parcel was being added back into the district, so they were actually increasing the acreage of the district from about 860 acres to over 940. He said that 67.4 acres of that was important agricultural soils on this parcel.

Mr. Clark showed an aerial photograph and said that at the lower end was the CSX railway near the James River, and the portion of the property to the east was farmed, but during the summer the eastern portion was also used as a religious summer camp. He said that on November 9, 2022, the Agricultural Forestal Districts Advisory Committee voted 6-0 to recommend approval of the proposed addition. He said that on November 22, 2022, the Planning Commission voted 6-0 to recommend approval of the proposed addition. He said that proposed motions for the Board were shown on the screen.

Ms. McKeel said that she noticed that there was no information presented from the Planning Commission.

Mr. Clark said that the Planning Commission meeting occurred after Board materials had to be prepared due to the compressed time schedule.

Ms. McKeel said that she always appreciated the Planning Commission notes and minutes.

Mr. Clark said that there had been unusual difficulty in getting the Committee meeting scheduled and had to compress the schedule much more than usual.

Ms. Price said that there had been an issue reaching quorum at the Planning Commission. Hearing no further questions from the Board, she opened the item for public hearing. She asked the Clerk if anyone was signed up to comment on this item.

Ms. Borgersen said that there was not.

Ms. Price brought the item back before the Board for any additional comments. She said that putting a protective status closer to their waterways would only better improve the stream health and water quality of the Rivanna River.

Ms. Price **moved** to adopt the ordinance as presented in Attachment B to approve the addition to the Hatton AFD. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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ORDINANCE NO. 22-3(1)

AN ORDINANCE TO AMEND CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE 2, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance Division 2, Districts, is hereby reordained and amended as follows:

By Amending:
Sec. 3-219 Hatton Agricultural and Forestal District

Chapter 3. Agricultural and Forestal Districts

. . .

Article 2. Districts of Statewide Significance

. . .

Division 2. Districts

. . .

Sec. 3-219 Hatton Agricultural and Forestal District.

The district known as the "Hatton Agricultural and Forestal District" was created and continues as follows:
A. *Date created*. The district was created on June 29, 1983.
B. *Lands within the district*. The district is composed of the following described lands, identified by parcel identification number:
   1. Tax map 135: parcels 13, 13A, 13B, 14B, 15, 15A, 15C, 17, 18, 19, 22, 22A, 22C, 22C1, 22C2.
   2. Tax map 136: parcels 2A, 6B, 8H, 9A2, 9B, 9C, 9D1, 9E, 9H2.
C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to September 1, 2031.

(Code 1988, § 2.1-4(a); § 3-215, Ord. 98-A(1), 8-5-98; Ord. 01-3(1) , 6-20-01; Ord. 07-3(1), 7-11-07; Ord. 10-3(2), 7-7-10; Ord. 11-3(1), 7-6-11; § 3-219, Ord. 18-3(1) , 11-7-18; Ord. 21-3(2) , 9-1-21; Ord. 22-3(1), 12-7-22)

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Agenda Item No. 13. **Public Hearing: SP202200003 Daylily Preschool.**
PROJECT: SP202200003 Daylily Preschool
MAGISTERIAL DISTRICT: White Hall
TAX MAP/PARCEL: 05700-00-00-029A0 and 05700-00-00-02600
LOCATION: 4297 and 4281 Old Three Notch'd Rd
PROPOSAL: Request for a special use permit on two parcels for a private school use.
PETITION: A request for a special use permit amendment under Section 18-10.2.2(5) to move an existing preschool from within the existing Mountain Plain Baptist Church at 4281 Old Three Notch'd Rd into an existing adjacent building at 4297 Old Three Notch'd Rd which measures 1.69 acres. The proposal seeks to increase the enrollment of children from 20 up to 35 while continuing to use the Church's parking and drop off areas as well as playgrounds. The proposed hours of operation are 8:30am to 5:30pm. No dwelling units proposed.
ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
ENTRANCE CORRIDOR: No
OVERLAY DISTRICT: None
COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots) in Rural Area 3 of the Comprehensive Plan.

The Executive Summary forwarded to the Board states that at its meeting on September 27, 2022, the Planning Commission (PC) voted 6:0 to recommend approval of SP202000003 for the reasons and with the conditions stated in the staff report.

Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

The PC raised no objections to the Daylily Preschool request for a special use permit amendment for the proposed preschool. No members of the public spoke at the public hearing on this proposal.

The Commission discussed the number of students proposed. The initial request was for an enrollment of 50 students. However, during the review, staff had concerns regarding the existing site conditions, traffic, and the ability to safely pick up and drop off that number of students. After the applicant

reduced the request to 35 students and the parking lot was striped, those concerns were addressed.

After the PC meeting, staff received a request from the applicant to amend condition 1(d) and provide additional flexibility regarding specific directional signage for parking. Staff has no objections to this change and has revised the proposed conditions to reflect both the applicant's request and non-substantive clarifications by the County Attorney's Office:

1. Development of the use must be in general accord with the conceptual plan dated 7/18/2022. To be in general accord with the Conceptual Plan, development must reflect the following major elements essential to the design of the development:
    a. Location of buildings, preschool, and playground areas;
    b. Location of parking areas;
    c. Delineation of parking spaces; and
    d. Provision of a "Do Not Enter" sign at the entrance of the preschool driveway as shown on the concept plan and a "Parking" sign near the area designated as "parent parking" on the concept plan.

    Minor modifications to the plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. Enrollment may not exceed thirty-five (35) children/students.
3. The hours of operation for the preschool may not exceed 8:30 a.m.-5:30 p.m. Monday through Friday.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202200003 Daylily Preschool with the revised conditions.

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Mr. Kevin McCollum, Senior Planner, said that this item was a proposed special use permit amendment for an existing preschool facility. He said that the subject property was located at 4281 and 4297 Old Three Notched Road, located east of the Crozet Development Area and was north of the intersection of Three Notched Road, Rockfish Gap Turnpike, Ivy Road, and Browns Gap Turnpike. He said that specifically, the property was two separate parcels, one that was home to an existing church and one that was home to an existing dwelling. He said that the properties were at the intersection of Browns Gap Turnpike and Old Three Notched Road.

Mr. McCollum said that the subject preschool currently operated out of the Sunday School building at the church. He said that the existing special use permit allowed for up to 20 students, and the existing zoning of the property and the surrounding areas was Rural Areas (RA). He said that the character of the surrounding area included rural area uses such as low-density residential, agricultural, and some vacant and undeveloped land. He said that the applicant had requested a special use permit amendment to move the preschool from the Mountain Plain Baptist Church to the existing dwelling and increase the maximum number of children from 20 to 35, with a maximum of five teachers.

Mr. McCollum said that the proposed preschool would operate from 8:30 a.m. to 5:30 p.m. and would utilize the existing structures and playground areas. He said that the conceptual plan provided an aerial view of the proposed site layout. He said that minimal changes would be made, and that parents and teachers would utilize the existing parking lots, and parents would escort their children to the preschool, with a "Do Not Enter" sign provided at the entrance to the proposed preschool to prevent parents from turning in. He said that there was an existing playground behind the church, and one more would be added behind the preschool.

Mr. McCollum said that based on the findings in the staff report, the use was consistent with the Comprehensive Plan and Rural Area Plan, the proposal provided a preschool and daycare option for people who lived and worked in the area, the parking lot striping would increase safety, and because there were no detrimental impacts to adjoining properties anticipated, staff recommended the Board adopt the resolution, Attachment D, to approve SP202200003 Daylily Preschool with the revised conditions.

Ms. McKeel said that she noticed in the Planning Commission's minutes, there were questions about the 35 spaces they were asking for. She asked for more information about what determined that, because schools often came back for an increase, and there was no answer to this question in the minutes.

Mr. McCollum said that during the initial submittal, 50 students were proposed. He said that the existing conditions of the site, transportation planning staff cited concerns of cars backing into the existing public roads, and there was no site plan currently on the site, and those factors weighed in. He said due to those concerns, they asked the applicant to reduce the number of students, and they came back with the proposal of 35, which staff felt would allow students to safely visit the site without impacts on the existing transportation facilities.

Ms. McKeel said that she saw some of those points made but had not connected it with the number they were asking for and why staff felt it was appropriate.

Ms. Mallek asked if there was any discussion about families with multiple children who made only one trip as opposed to 35 trips per class. She said that it cost both applicants and staff more money and time when they had to reapply, so she would like more information on that.

Mr. McCollum said that the way that the condition was written, the number of proposed students was 35, and did not include whether they would be carpooling or were in the same family but was the number of students enrolled. He said that they could ask the applicant to provide enrollment data, but transportation staff assumed that some of the students may carpool, and that factored into the review. He said that the initial submittal of 50 students raised concerns, but the revision to 35 addressed the concerns about transportation impacts.

Ms. LaPisto-Kirtley said that she had no questions and supported the project.

Mr. Gallaway said that there were currently 20 students. He asked if there were spaces for 20 cars to be parked there, despite there being no lines.

Mr. McCollum said that they had provided striping, and he could provide the number of spaces, which would be closest to the preschool entrance. He said that there were some existing spaces on the other side of the church that were handicapped and striped as well, but the entire site was not striped. He said that it did not have a site plan, and staff felt that with the minimal increase in students from 20 to 35, they would not require a traffic study or an additional site plan at that time, but as the use expanded beyond that toward 50 students or more, it may necessitate a site plan and a fully developed parking lot with striping.

Mr. Gallaway said that he was trying to understand, regardless of what the number was, what the threshold was. He said that elementary schools had a loop so that the driver could pull near the entrance to let the child out, then leave. He said that his experience with daycare operations was that one would park the car and then take the child in. He said that when he heard of cars pulling out onto the public road, he felt that this was not about a traffic loop, and he was unsure if there was concern that people would park on the public roads if there were 50 students.

Mr. McCollum said that the aerial image may help in understanding. He said that they did a site visit, which helped staff with the review. He said that where the parent parking was located on the image, there was no clear difference between the road going through there and the beginning and end of the parking lot, so they would just pull off the pavement area. He said the gravel didn't really have clear end points, so there was space to park perpendicular. He said that staff was concerned that if a sufficient number of those perpendicular spaces were taken up, it would be difficult for another car to pull in, and it would be a narrow travelway to proceed through the site, so there was concern about the proposed number of cars moving through there.

Mr. McDermott, Acting Planning Director, said that he could address this question because he assisted in the review of the project. He said that there was a requirement for one space for every 10 students for one of these types of schools, but that was not necessarily what they were looking at with the 20 students, but when they saw 50 students, they looked at approximately how many trips would have to be made, and had to consider over what time the drop-off period would be.

Mr. McDermott said that they were concerned that with 50 students, the parking lot area would not be able to accommodate the number of parents who would be parking, leading their children to the building, and returning, or people waiting in line to get a parking space, both of which could spill back into the main road. He said that they discussed their concerns with the applicant, and asked for some definition of spots in the parking lot so they knew how many cars could fit, and instead of going through that effort, they would rather reduce the number to something that staff was more comfortable with, resulting in the 35 number.

Mr. Andrews said that there was an internal transportation issue with the parking yet there was no need for traffic analysis at the entrance, yet there was a worry that there would be traffic building up trying to get in and out. He said that he recommended at his grandchildren's preschool that the teachers come out to retrieve the children and chaperone them inside, so they were constantly keeping the process moving. He said that Mr. McDermott's explanation was satisfactory.

Ms. Price said that she had no further questions.

Ms. Price opened the public hearing and asked the Clerk if there were any speakers signed up to speak, other than the applicant.

Ms. Borgersen said there were not.

Ms. LaPisto-Kirtley read the rules for the applicant.

Ms. Elizabeth Claman, Daylily Preschool Director and Lead Teacher, said that the school had been in operation for over 10 years and would provide an essential role in the community by preparing children socially, cognitively, and physically for kindergarten. She said that children would learn reading, art, math, science, and social skills in a safe and nurturing environment. She said that they would be actively involved in small group learning centers and instruction on a daily basis, and as a reading specialist, she herself would individualize the daily lessons for all of the enrolled children and implement the lessons for the 4- and 5-year-old children.

Ms. Claman said that the children would be immersed in a language-rich environment, would be read multiple books per day, and the alphabet would be taught through letters and letter sounds, rhyming activities, and poetry. She said that the intention was to serve the western Albemarle community. She

said that the preschool would operate from an existing building with no major exterior or parking lot changes planned, and a preschool in western Albemarle would reduce the traffic from Crozet into the City of Charlottesville. She said that Daylily Preschool would continue to provide a local option for a fast-growing community.

Ms. Mallek asked if Ms. Claman could estimate the timeframe in which the children would be dropped off. She said that she assumed they would not all arrive at one time.

Ms. Claman said that that was correct. She said that they could begin coming at 8:30 a.m., but she had parents arriving between 8:30 and 9:30 a.m. every day, and there were multiple families with several siblings attending.

Ms. Mallek asked if Ms. Claman had an estimate as to how many people dropped off children in the morning based on the current enrollment of 20.

Ms. Claman said it was probably between 10 and 15. She said that families did carpool from neighborhoods as well.

Ms. LaPisto-Kirtley asked if there were children attending who were younger than 4 years old.

Ms. Claman said yes, the children were between 2 and 5 years old.

Mr. Gallaway said that he had read that children as young as 16 months were attending.

Ms. Claman said that had changed since the beginning.

Mr. Gallaway said that he missed that detail. He asked Ms. Claman what the school's waitlist was.

Ms. Claman said that there were between 10 and 15 children on the waitlist to begin in January 2023, but she did not think it would happen until the spring.

Mr. Gallaway said that preschool waitlists were difficult for parents to plan around. He asked what the drop-off procedure was that parents must follow in the morning.

Ms. Claman said that parents would park in the front parking lot of Mountain Plain Baptist Church and walk down the stairs into the Sunday school building. She said that because of COVID-19, they had dropped the children off at the door and they met the staff at the door, then the parent went back to the car and left. She said that again in the afternoon, they came down to the preschool and picked up their child. She said that it was very safe, because if there were 10 kids out there and two teachers, it was not a great situation for the child, and it was better for the parent to bring them in.

Mr. Gallaway said that they were parking the car, leaving the car, and going in. He said that in the evening, people likely were coming close to 5:30 to pick up their children. He asked what the pick-up procedure was.

Ms. Claman said that there was a half-day option at 12:30 p.m., another option at 3:30 p.m., and another option at 5:30 p.m. She said that pick-up would probably not be an issue, but the 8:30 a.m. was considered to be potentially an issue. She said that because parents dropped off over the course of an hour between 8:30 a.m. and 9:30 a.m., it had not been a problem in the 10 years she had worked there.

Mr. Gallaway said that he supposed that people would follow whatever procedures the rules were, because they were contracted for the service.

Ms. Price said that Ms. Claman had five minutes for any rebuttal she would like to make.

Ms. Claman said that she loved teaching children and hoped that she could continue doing this so that children could succeed in kindergarten and be prepared for life.

Ms. Price closed the public hearing. She said that the matter was now back before the Board.

Ms. McKeel said that this program was desperately needed. She said that she wondered if there was an opportunity to increase the numbers, and asked Ms. Claman if she was comfortable with the 35 students.

Ms. Claman said that she would be happy to increase the numbers, but the way that the parking lot would need to be paved in order to accommodate it, she did not have a budget for it. She said that she was not opposed to eventual expansion.

Ms. Mallek asked if there was anyone from the church present who could talk about how many people came to church on Sundays.

Ms. Claman said no.

Ms. Mallek said that it was a fairly big church, and there were probably more than 50 people who showed up on a regular basis.

Ms. Claman said yes.

Ms. Mallek said that she had trouble with the vagueness of this. She said that Mr. McCollum mentioned that at 50 students or beyond, they may determine a need for parking improvements, and she was unsure of what that meant. She said that she would like for there to be clear recommendations made and she would like for there to be as little paving as possible this close to the reservoir unless absolutely required. She said that she understood that the applicant changed the request, and she was following a lead from the Planning Commission about why they were doing this with established out-of-the-way locations and pick-up times. She said that she wished they could do better on the numbers.

Ms. Price said that because there were now questions, she would reopen the public hearing so that this information could be considered part of the public hearing.

Mr. McCollum said that he would have to ask staff for assistance on that. He said that staff evaluated the proposal as it came in and thought the 35 students did not trigger the need for a new site plan or traffic analysis, but at the number 50, they felt that the existing conditions of the site might not be adequate or safe for that number of students coming in on a daily basis.

Ms. Rebecca Ragsdale, Planning Manager, said that this was similar to much of the discussion had at the Planning Commission meeting, and as Ms. Claman said, the number was based on what they felt the current capacity of the entrance and parking was. She said that, once they started adding parking and once entrance improvements were necessary, and those numbers were analyzed by transportation staff and engineering, as far as what they felt the realistic capacity of the existing site could be right now.

Ms. Ragsdale said that they always spoke with applicants about what the right number was and what the implications of going higher were, and a site plan was a significant application and review. She said that the application had been advertised for 35 students, so the notion of increasing it would require another public hearing and staff review to determine the exact improvements, but they would likely include more parking and VDOT-approved entrance changes.

Ms. Mallek said that the process went beyond what she was anticipating, so she now understood.

Ms. Price asked if there were any further questions of staff from Supervisors. Hearing none, she asked the applicant if she had any rebuttal to the prior comments made.

Ms. Claman said that she had no remarks to add.

Ms. Price reclosed the public hearing, asked the Supervisors if they had any concluding comments.

Mr. Gallaway said that he supported the 35 number, but the daycare seats in the County were at a huge deficit, and he understood that they analyzed every application based on the standards that they used and went through that process. He said that in his area, there were not many small daycare places, but they got huge developments, and the efforts made to develop those seemed to include a lot of creativity to make them happen, especially if the larger need was important. He said that it was a County-wide problem, so to get more seats that seemed appropriate to it.

Mr. Gallaway said that while he appreciated that a site plan was a different application and process, he wished that some of that could have been addressed in a different way to somehow realize the importance of those additional 15 seats, especially since it came up as a conversation at the Planning Commission level. He asked if it triggered that, what assistance could be done to prevent the applicant from having to repeat the process, especially if the expansion was needed.

Mr. Gallaway said that it was disappointing that this dropped when the intent was otherwise. He said that he would vote to approve but would simply say that if another application such as this came up, especially if they were daycare, and their small numbers were increasing to it, perhaps different scrutiny happened at the Commission other than that they had to reduce the number of students being served.

Mr. Andrews said that he was comfortable with the 35 students.

Ms. Price said that she understood from the applicant that part of the reason for dropping the 50 to 35 students was due to the current economy. She said that she understood that filers with CDD (Community Development Department) could come back and refile.

Ms. Mallek **moved** to adopt the resolution as presented in Attachment D to approve SP202200003 Daylily Preschool, with the revised conditions. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

RESOLUTION TO APPROVE
SP202200003 DAYLILY SCHOOL

WHEREAS, upon consideration of the staff reports prepared for SP 202200003 Daylily School and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(5) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200003 Daylily School, subject to the conditions attached hereto.

* * * *

SP202200003 Daylily School Special Use Permit Conditions

1. Development of the use must be in general accord with the conceptual plan dated 7/18/2022. To be in general accord with the conceptual plan, development must reflect the following major elements essential to the design of the development:
    a. Location of buildings, preschool, and playground areas;
    b. Location of parking areas;
    c. Delineation of parking spaces; and
    d. Provision of a "Do Not Enter" sign at the entrance of the preschool driveway as shown on the concept plan and a "Parking" sign near the area designated as "parent parking" on the concept plan.

    Minor modifications to the plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. Enrollment may not exceed thirty-five (35) children/students.
3. The hours of operation for the preschool may not exceed 8:30 a.m.-5:30 p.m. Monday through Friday.

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Agenda Item No. 14. **Public Hearing: SP202200009 Virginia Institute of Autism (VIA) Expansion-Adult Service Center and Elementary School.**

PROJECT: SP202200009 Virginia Institute of Autism (VIA) Expansion-Adult Service Center and Elementary School
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL(S): 061W0-02-00-002A1; 061W0-02-00-002A2; 061W0-02-00-00200
LOCATION: 491 and 485 Hillsdale Drive
PROPOSAL: The Virginia Institute of Autism (VIA) requests to amend a prior approved special use permit (SP201900004) to expand onto an adjacent parcel at 485 Hillsdale Drive. This expansion would allow the Elementary School to locate at 485 Hillsdale Dr., beside the existing Adult Service Center at 491 Hillsdale Drive. With the proposed expansion, VIA would serve a total of 137 students and 158 staff members across both parcels. Existing buildings would be utilized and adjustments made to the site to provide outdoor play space. A special use permit (SP202200010) to allow stand-alone parking to serve the expansion is proposed on parcel 061W0-02-00-00200, located across Hillsdale Drive.
PETITION: Private School-Sections 18-22.2.2(6) and 18-18.2.2(5)
ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre)
OVERLAY DISTRICT(S): Steep Slopes (Managed and Preserved), Flood Hazard Overlay, Airport Impact Area
PROFFERS: No
COMPREHENSIVE PLAN: Places29 Master Plan-Neighborhood 2; Institutional – civic uses, parks, recreational facilities, and similar uses on County-owned property and Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging; residential is a secondary use (no maximum density).

The Executive Summary forwarded to the Board states that at its meeting on September 27, 2022, the Planning Commission (PC) voted 6:0 to recommend approval of SP202200009 and SP202200010 for the reasons and with the conditions stated in the staff report.

Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

The PC raised no objections. No members of the public spoke at the public hearing for this proposal. Following the Public Commission's hearing, the County Attorney's Office suggested non-substantive revisions to the conditions of approval.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202200009 for the expansion of VIA and adopt the attached Resolution (Attachment E) to approve SP202200010 for stand-alone parking.

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Mr. Gallaway asked if the Board could have required the space to be paved.

Ms. Ragsdale asked Mr. Gallaway to repeat the question.

Mr. Gallaway asked if the County could require a space like this to be paved in order to get to a student number.

Ms. Ragsdale said yes.

Mr. Gallaway asked if that was true even if the desire of the County was to do some other treatment.

Ms. Ragsdale said that they potentially could, and that was often considered in the rural areas.

Mr. Gallaway said that he was unclear about what could be required by the County.

Ms. Ragsdale said that she did not understand the question. She said that they could have required the parking lot to be paved with this application as a condition of approval if there were impacts they felt needed to be addressed.

Mr. Gallaway said that if someone asked him if paving was required when submitting an application, he would have said that they could not require that, so he must update his knowledge.

Mr. Bart Svoboda, Zoning Administrator, said that there were different requirements for surface depending on the type of application. He said that they often struggled with the general term that paving was different than gravel, but in engineering standards, it was not. He said the runoff coefficient was the same, so he may take the risk of adding stormwater requirements or WPO (Water Protection Ordinance) requirements if they began to gravel things that were not graveled now, which was different than putting gravel on something that was existing for maintenance. He said that if more parking was required, and they did not have to pave it but had to gravel it, they could find themselves in a situation where they would need an engineer plan to accommodate the additional gravel beyond what existed.

Mr. Svoboda said that when they analyzed these applications, one of the things they looked for was the unintended consequences for the applicant. He said that where they did not have regulations that would apply, if they ended up requiring something that would require VDOT to do a site plan, there were external agencies that could require the closing of entrances, turn lanes, or other improvements that a small business, such as this, would not find this cost-effective to go through that application.

Mr. Svoboda said that part of it was that they listened to the applicant about what the thresholds were and what they were willing to invest not only in the operation but in any site improvements. He said that in this particular case, going above the 35 had a risk of additional regulation that came with a cost, and adding additional spaces, gravel, or pavement were some of those triggers.

Mr. Gallaway said that he appreciated the tutorial and that it helped in his understanding.

Ms. Price said that because the next two items on the agenda were connected, the Board could hold a single public hearing for both of the items. She said that generally, for a public hearing an applicant was given 10 minutes for the presentation, members of the public could be given up to three minutes for public comment, and the applicant was given up to five minutes for rebuttal. She said that when they combined two items into a single public hearing, the procedural rules allowed for the applicant to be given up to 15 minutes, up to 4.5 minutes for members of the public, and up to 7.5 minutes for the rebuttal. She said that the Board would be taking a separate vote on each item although they shared the single public hearing.

Mr. Gallaway **moved** to adopt the resolution as presented in Attachment D to approve SP202200009 for the expansion of VIA. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

RESOLUTION TO APPROVE
SP202200009 VIRGINIA INSTITUTE OF AUTISM
EXPANSION ADULT SERVICE CENTER

WHEREAS, upon consideration of the staff reports prepared for SP 202200009 Virginia Institute of Autism Expansion Adult Service Center and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-18.2.2(5), 18-22.2.2(6), and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the C-1 Commercial zoning district, and with the public health, safety, and general welfare (including equity); and

4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200009 Virginia Institute of Autism Expansion Adult Service Center, subject to the conditions attached hereto.

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SP202200009 Virginia Institute of Autism Expansion Adult Service Center
Special Use Permit Conditions

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan titled "Virginia Institute of Autism Hillsdale Expansion," prepared by Timmons Group, with the latest revision date of August 12, 2022. To be in general accord with the conceptual plan, development must reflect the following major element essential to the design of the development:
    a. Location of potential phase 1 play area as shown on the plan.

    Minor modifications to the plan that do not conflict with the element above may be made to ensure compliance with the Zoning Ordinance.

2. Enrollment may not exceed 137 participants.

3. Normal hours of operation for the Center may not exceed 7:30 a.m. to 6:00 p.m., Monday through Friday, with occasional evening and weekend activities.

4. Signage must be provided onsite, near the point of egress, notifying buses that only left turns out are permitted.

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Agenda Item No. 15. **Public Hearing: SP202200010 Virginia Institute of Autism (VIA) Stand Alone Parking.**

PROJECT: SP202200010 Virginia Institute of Autism (VIA) Stand Alone Parking
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL(S): 061W0-02-00-00200
LOCATION: Vacant parcel-Hillsdale Dr, approx. 400 feet southwest of its intersection with Greenbrier Dr., across Hillsdale Dr. from 481, 483, and 485 Hillsdale Dr.
PROPOSAL: A parking lot of up to 66 spaces on a 1.55 acre parcel. This parking would serve the proposed expansion of VIA as requested with special use permit SP202200009.
PETITION: Stand Alone Parking-Sections 18-22.2.2(9)
ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre) **OVERLAY DISTRICT(S):** Steep Slopes (Managed), Airport Impact Area
PROFFERS: No
COMPREHENSIVE PLAN: Places29 Master Plan-Neighborhood 2; Urban Density Residential-residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses.

The Executive Summary forwarded to the Board states that at its meeting on September 27, 2022, the Planning Commission (PC) voted 6:0 to recommend approval of SP202200009 and SP202200010 for the reasons and with the conditions stated in the staff report.

Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

The PC raised no objections. No members of the public spoke at the public hearing for this proposal. Following the Public Commission's hearing, the County Attorney's Office suggested non-substantive revisions to the conditions of approval.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202200009 for the expansion of VIA and adopt the attached Resolution (Attachment E) to approve SP202200010 for stand-alone parking.

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Ms. Rebecca Ragsdale said that the items before the Board were an expansion of the existing Virginia Institute of Autism (VIA) facility that was at the corner of Hillsdale Drive and Greenbrier Drive. She said that the special use permit was approved a couple of years ago, and indicated the existing facility was shown on the slide and labeled in blue. She said that the proposed expansion was to the building labeled in yellow to the south of the existing facility, and the proposed parking was located across Hillsdale Drive, also labeled in yellow, currently was a vacant lot.

Ms. Ragsdale showed a zoning map of the immediate parcels, noting that the parcels were involved in this proposal were zoned C-1 Commercial, and there was a great number of commercial properties surrounding this area on Hillsdale Drive. She said that to the east was planned unit development zoning with Brook Mill and Branchlands. She showed an aerial view that was a closer look at the site in which the two parcels involved were shown with stars, and this would allow an expansion. She said that it was currently the high school and older adult programs that were located at the corner, and this expansion would allow the elementary school and programs for younger children to be located

there. She said that in that expansion, additional parking for staff was proposed, and it would be solely staff parking across Hillsdale Drive.

Ms. Ragsdale said that the number of students proposed was 137, with approximately 158 staff members. She said that currently there were 52 participants in programs at the existing location and 69 staff members. She said that those existing buildings would be utilized, along with existing parking with some improvements to provide an outdoor play space for the elementary school, and the proposed parking was 66 spaces. She said that there had been improvements to Hillsdale Drive to provide a sidewalk on one side and a shared-use path on the other, with lots of pedestrian improvements, including a crosswalk that was convenient to the site and signalized.

Ms. Ragsdale showed a view of the Concept Plan, showing the proposed expansion, and the parking area was shown conceptually in yellow. She said that this would require a site plan, and the final number of parking spaces would be determined then. She said that this was generally approving standalone parking on that site without a need for a lot of additions because it was covered in the ordinance as far as landscaping and surface requirements for the parcel, which was in the Development Area. She said that to the right, it showed the proposed playground area.

Ms. Ragsdale said that this had been reviewed by transportation, and there were no concerns from staff about the proposal. She said that they recommended approval with conditions typically seen in general accord with the plan, addressing the number of those enrolled, hours of operation, and a condition from the prior special use permit requiring signage and a turn restriction for buses that was established with VDOT with the site plan for the existing school. She noted that there would be a shared entrance.

Ms. Ragsdale said that the parking was limited to one condition for the general location of the parking areas for the standalone parking. She said that the Planning Commission recommended approval, staff recommended approval, and there had been no concerns from staff about the typical criteria they look at with special use permits, such as Comprehensive Plan compliance, public health, safety, and welfare, and any detriment to abutting property owners.

Ms. Mallek asked Ms. Ragsdale for clarification that the left turn out for buses was southbound, heading toward the City.

Ms. Ragsdale said yes.

Ms. Mallek asked if that was because it was too close to the intersection to have them turn right.

Ms. Ragsdale said that the right turn was restricted because the buses would go into the other lane, but when making the left turn, it was not an issue.

Ms. Mallek noted that it was an issue of radius.

Ms. LaPisto-Kirtley said that she had a concern about the pedestrians crossing from the parking lot on the opposite side of the road. She asked where the signal was located.

Ms. Ragsdale said that the signalized crosswalk was directly across from the sidewalks and where the school was located. She indicated the location on the Concept Plan on the slide, showing another sidewalk on the other side of the road with crosswalks. She said that there were already entrances there for that parking area. She said that employees only would be crossing over at the spot about 200 feet away. Ms. LaPisto-Kirtley said that it was a signalized crosswalk but not a traffic light.

Ms. Ragsdale said that was correct.

Mr. Gallaway said that this facility had younger students than the other population. He said that at the previous location they installed a fence. He asked if there would be a similar physical barrier at this location.

Ms. Ragsdale said that they would require fencing for the playground.

Mr. Gallaway said that it would be similar. He said he was glad to hear the detail about the bus.

Ms. Price said that she was puzzled in terms of the aspect of the left-turn only, as she considered right turns as the safest turn, and she understood that the right turn would require the bus to go out into the opposing traffic lane. She said that she presumed that was because of the nature of the turn coming out. She asked if there was no other alternative, as this seemed to be the least safe option for the bus to turn left against traffic instead of right.

Ms. Ragsdale said that Mr. McDermott had more technical expertise with traffic issues, but this was reviewed internally by transportation staff and by VDOT, and they had not explored any other options. She said that the condition would limit those movements. She said that if they wanted to leave that to the site plan, no changes had been proposed to date.

Mr. Kevin McDermott, Acting Planning Director, said that the turning movement requirement was actually addressing a VDOT comment, and they often saw where large vehicles had to enter opposite directions of travel to make turns, and VDOT typically had a similar comment and wanted them to be able

to address that. He said that the only way to do that was to adjust the entire roadway, which ended up being fairly expensive because they would have to widen and change the curvature of the entrance.

Ms. Price said that she understood. She said that she believed the speed limit coming down this road was 35 mph.

Mr. McDermott said that he believed that was correct.

Ms. Price said that she had no further questions. She said that the applicant was present and at least one individual signed up to speak electronically. She asked the Clerk if there was anyone present in person to speak.

Ms. Borgersen said that there was not.

Ms. LaPisto-Kirtley read the rules of procedure for public comment.

Ms. Valerie Long said that she was with Williams Mullen and representing the applicant, Virginia Institute of Autism (VIA). She said that Ethan Long, the Chief Executive Officer (CEO), would be able to help the Board better understand the mission of the group and the work. She said there was also Jonathan Showalter with Timmons Group, civil engineers.

Ms. Long said that the comment about the site plans and no left turns was an important thing to raise; Mr. Showalter pointed out that at the time, that was a requirement by VDOT, but it may be that they would now have a different approach now that both parcels would be under common ownership and common control. She asked if it was possible to strike or modify the condition so that it could be an option if VDOT were okay with it. She said that it currently was not an issue for VIA, and they could live with the requirement staying in place, but if it made sense and met the criteria when the parcels were under common ownership, the option would be nice to have.

Mr. Ethan Long, VIA CEO, greeted the Board. He said that it was before COVID-19 when he was last before the Board, when he was seeking special approval for what was then the Senior Center to become the Center for Adolescent and Adult Autism Services. He said that he was excited about their next project which was before them. He said that it was a culmination of a vision that began a long time ago. He said that the VIA was a nonprofit organization that was started in Charlottesville by parents, and they had a commitment to evidence-based practice and helping people overcome significant challenges that were the result of their autism. He said that they did so by employing several specialists, and their project in particular was exciting because of the opportunity to create a facility that operated as more than just a school.

Mr. Long said that the student population that they would be serving would include children from the ages of 5 to 14 in that building, and they would all be children diagnosed with autism or a related development disability who were experiencing severe or significant challenges in areas of communication, learning, adaptive behavior, and social interaction. He said that as an extension of the public schools, they were licensed by the Department of Education, and all of the students coming to them would be public school students who were unable to be served appropriately and as mandated by federal law in the public schools. He said that about 1/3 of their children were currently coming to them from Charlottesville City and Albemarle County, and the other students came from as far away as an hour for the day programming, which operated year-round.

Mr. Long said that the team who worked with the students was multidisciplinary, composed of licensed teachers and special educators, licensed behavior analysts, speech and language pathologists, social workers, psychologists, all experts in the field of autism and autism treatment. He said that they built a unique and individualized program that allowed them to have success with their students, with the goal being to get all of their students back into public schools so that they could rejoin their classes. He said that the exciting part of this project was that they would be able to refurbish this building, He said that they found ultimately when they built their other building was that the purpose-built space, which had just been incredible, they would seek unique learning spaces that allowed for social interaction and teaching to occur, functional play spaces, and a fenced area of the special needs playground that would be an indoor and outdoor space.

Mr. Long said that the other unique feature was that they had a 1:1 student-to-staff model, so the students were highly supervised as a result of their disabilities. He said that these would be unique spaces to allow for fine and gross motor skill development, unique spaces that would take the natural interests and use those to teach learning, social communication, and social interaction. He said that this was one of a few programs in the United States, and they were lucky to have this in the community and to share it with the rest of central Virginia, and to be able to leverage this program with the wonderful work happening at the University of Virginia, so that they could better help people overcome some of the challenges of autism.

Mr. Long said that this building would house 10 classrooms, one of which being a very unique program where they hoped to have some of the students with some of the most severe challenges work with UVA Medicine and School of Education to stabilize behavioral challenges, and ultimately build skills and have them matriculate back into their program, then hopefully back into their public schools. He said that they currently lacked that type of resource in the community and had to refer children to as far away as Baltimore or Kansas City, which was too far away and broke up families, so they hoped this project would allow for those folks to be served here in the community.

Ms. Price asked if there was any further presentation at this point.

Ms. Long said that she had slides that she would be happy to share if there was particular interest or a question that anyone had, but otherwise she would be glad to forgo that. She said that they would be happy to address any other questions, particularly about the standalone parking.

Ms. McKeel said that she had a question for staff. She remarked that this was a wonderful school, and the community was lucky to have VIA. She thanked them for the work they did on behalf of families and children.

Ms. Mallek asked if they would be able to use the entire new building or would only be using some floors.

Mr. Long said that they intended to use the full building, and the synergy between that building and the next-door center for adults and high school program would be beneficial and he looked forward to that.

Ms. LaPisto-Kirtley said that she was fully supportive of this and any initiative to support children with autism. She said that a private school, Little Keswick School, also addressed the needs of older children with autism as well.

Mr. Andrews said that he was a supporter.

Ms. McKeel said that it was a bit different to have a school or entity on one side of the road and another parcel on the other side of the road that was only parking.

Ms. Ragsdale said yes.

Ms. McKeel said that it was a special use permit. She said that they often talked about what happened once they approved properties and then they changed hands. She said that she was curious as to what would happen with the standalone parking area in the future.

Ms. Ragsdale said that the special use permit for the school covered the parking lot so that the school could use the parking lot.

Ms. McKeel said that she understood.

Ms. Ragsdale said that the standalone parking was a separate special use permit in their ordinance, because they typically preferred that parking be associated with the building, so they thought it needed a bit of extra review. She said that the special use permit would not limit any of the by-right uses on the property for VIA, so if they decided that they only need part or none of that parking or wanted to build a building, the special use permit was not meant to restrict the parcel. She said that it was a special use permit that they did not see often.

Ms. McKeel said that she was trying to understand what would happen if they sold that parcel with the parking area in the future. She clarified that it would not have to stay a parking area.

Ms. Ragsdale said that they were allowing this additional option for the parcel, and it was not taking away if it were to be sold for another commercial use.

Ms. McKeel asked if Ms. Ragsdale was saying that it could be used for any purpose after that because VIA would no longer own it.

Ms. Ragsdale said that the special use permit would run with the land, and the other special use permit allowed VIA as a school use to use it, but if it were to be sold and the new owner did not want to use it as standalone parking, they could develop it with any of the other uses allowed in C-1 zoning.

Ms. McKeel said that it was an issue she had not seen before, and she was trying to understand.

Ms. Price said that she presumed that the issue was that it was a special use permit and not a rezoning, and therefore the rezoning stayed the same.

Ms. McKeel said that it went with the land because it was a special use permit and not a rezoning.

Ms. Price said that there was one individual signed up online to speak. She asked the Clerk to bring the speaker online.

Ms. Borgersen asked Ms. Grimm to begin speaking.

Ms. Muriel Grimm said that she was located in the Rio District. She said that her questions had to do with the parking lot, or rather the dangerous spot at which it was located. She said that she did not think that the safety had adequately been addressed. She said that they had discussed the buses, but she had a couple of other questions. She said that for example, if people were making lefthand turns out of the parking lot, she wondered if it had been considered how long it took a car to make that turn and get

into the blind spot that existed for drivers sitting at the intersection of Greenbrier Drive and Hillsdale Drive. She said that they could not see past that building and up that road and decided when cars were coming by looking beyond the blind spot. She said that she was unsure how that would manage with cars making the lefthand turn there.

Ms. Grimm said that the other problem that she thought was very important there was crossing the street. She said that she walked there often, and knew that she could not possibly consider crossing where that driveway would be for that parking lot, because there was not good visibility, and the speed limit was supposed to be 25 mph, but many cars went up to 40 mph. She said that she never used the crosswalk that had been mentioned earlier but went all the way up to the top of the hill where there was visibility and only crossed two lanes of traffic.

Ms. Grimm said that she was fine with this whole project but would like to know what had been done and what consideration had been made because there was a good chance that this whole area, which was a serious accident waiting to happen, could not be addressed at this point in some way in the planning to fix the problems that were there now.

Ms. Price said that Ms. Long had up to 7.5 minutes for any rebuttal she wished to make.

Ms. Long said that if she understood the speaker correctly, her concern was that the entrance to the proposed future standalone parking lot that was now vacant would not be safe for anyone to cross Hillsdale from that spot. She said that the speaker could be correct, because there was not a crosswalk there, but one located across the front of that parking lot driveway entrance, but there was a parking lot toward that intersection with Greenbrier.

Ms. Price asked if there was a crosswalk there.

Ms. Long said that was right. She said that it was the signalized one that Ms. Ragsdale showed earlier. She said that that parking lot would be for future staff, and that the people who parked in that future parking lot could walk along the existing sidewalk on that side of the street until they reached the crosswalk. She said that that crosswalk was signalized, and one could cross safely over to the opposite side of the street, then to another crosswalk to get to either direction to either VIA building. She said that there would be a site plan requirement for this, and the standalone parking would probably not be built initially and would be subject to VIA's capital campaign to do their second phase of students, so that would be a future site plan requirement to build that out if and when they were able to.

Ms. Long said that they would not initially or immediately need that parking, but it would be good for them to have enough long-term parking when they were at full buildout, because of their particularly high ratio of staff to students, unlike most schools. She said that they could address this more and that Mr. Showalter could address specific comments. She said that there seemed to be some consensus from the residents nearby that there were challenges at the Greenbrier Drive and Hillsdale Drive intersection, but she noted that the distance that the crosswalk was located from that intersection was quite a long way, and she assumed that when it was installed by VDOT, there would be sufficient sight distance for those pedestrians and drivers.

Ms. Price asked if any Supervisors had further questions. Hearing none, she closed the public hearing. She asked the Supervisors if they had any closing comments on this item.

Ms. McKeel said that she was supportive of the project.

Ms. Mallek said that it was a job well done.

Ms. LaPisto-Kirtley said that she was supportive.

Mr. Gallaway said that he appreciated the speaker's comments. He said that as he listened to what Ms. Grimm had to say, and that he supported the project, but warned that their staff may need to be educated when they crossed the road when that time came. He said that, looking at the Google Maps view, he could see that if crossing from the parking lot side through that crosswalk, he could see how, when one was looking right, the way the curve was and with parked cars there, it was difficult to see approaching traffic, so a signalized crosswalk helped. He said that he was uncertain if that was the perspective, but when Ms. Grimm said that she went up higher where there were straightaways, he did not appreciate that because he did not walk that very much. He said that he was confused about the lefthand turn, but there were two lefthand turns he would address.

Mr. Gallaway said that he was not disappointed that the bus could only take a lefthand turn out of the lot, because it was not going through a problematic intersection, but the problem was that if someone was trying to turn left onto Hillsdale Drive, coming from Route 29, and a large vehicle sitting in the left turn lane was trying to take a left, the driver could not see the traffic that's not stopped coming through, so it was a dangerous movement to make. He said that they did not take sight lines into account there, puppy dog tracks, and hitting the stop sign was 20 yards away from being able to see if they could get through there.

Mr. Gallaway said that a signalized intersection was needed there. He said that he hoped the buses did go left, and even if VDOT someday said it was okay to, go left. He said that they could go down to a signalized intersection at a shopping center, turn right, get to a signal at Route 29, and it would be a safer procedure for the bus movement. He said that to the point of turning left out of the parking lot, not

knowing the sight line well enough, anyone coming out of the standalone parking lot and taking a left could have a sight tissue with the curve coming up the hill.

Mr. Gallaway said that he hoped that VDOT had taken that into account, but he would chalk it up to education of the staff to be mindful of that when the time came that they needed to start traveling to and from there. He said that the corridor was well lit, so there was not a safety issue from that standpoint, but perhaps with the size of the new school and the increased traffic, this would be the tipping point on the analysis to get the light in that intersection. He said that it could be an unintended consequence down the road and would help satisfy some of the concerns that Ms. Grimm had.

Ms. Price said that perhaps something like school zone signs near the entrances to both of the school facilities and the parking lot may help to reduce potential incidences of vehicular accidents. She said that much like they just talked about with the last item, which was a preschool, the increased incidences of autism in their population clearly necessitated programs such as this one. She said that she appreciated Mr. Long's description of what she would characterize as a public-private partnership with regard to his school and the public school system, and she was extremely appreciative of what his school did. She said that one of her daughters was hit by a car and suffered a significant traumatic brain injury, and at that time, they were concerned that the closest facility that she could go to would be in Richmond.

Ms. Price said that it was wonderful that the VIA allowed families who had children with autism to stay at home. She said that she had no issues after the explanation concerning the left-turn-only language, but she felt that if it could be softened a bit. She said that if it were perhaps directed by VDOT, if at a later time there was some sort of change in the structure of the transportation situation there, the applicant would not be required to come back and go through a long process to eliminate a provision in the special exception conditions that at that point would no longer be necessary. She asked Mr. Rosenberg to help her understand that issue.

Mr. Rosenberg asked if Ms. Price was referring to the signage requirement for the left turn.

Ms. Price said yes.

Mr. Rosenberg said that one option would be for the Board to adopt a motion that simply deleted the condition. He asked if she was suggesting that it be triggered by a requirement imposed by VDOT.

Ms. Price said that she would hesitate to use the word "requirement," because she was unsure that it was as binding as that, and it seemed like more of a recommendation, but if VDOT did not require, that the left turn would be subject to a VDOT requirement, and later if because of changes in the parking lot entrance egress no longer determined that to be necessary, she would not want to impose a condition that VDOT determined was no longer necessary.

Mr. McDermott said that staff would agree with Mr. Rosenberg's recommendation that they could remove that condition, because at the site plan stage, whether or not it was a condition, VDOT could require that that turn movement was restricted. He said that he did not think it was necessary to have it as a condition at this time.

Ms. Price said okay and asked if the applicant had any objection to that. She offered for consideration that when a motion was made, that was something that the moving Supervisor would like to consider. She said that she supported the application and its purpose.

Mr. Gallaway said that for the condition of the lefthand turn, for the reasons that he stated, that were different than Ms. Price's reasons for wanting it removed, which he understood and appreciated, he would think that even if the right-turn movement and the radius were fine, he still had a problem with them going through the intersection at Hillsdale Drive and Greenbrier Drive for the existing conditions there. He said that this condition helped him, with all due respect to the applicant, mitigate a problem that would exist until there was a signalized intersection there. He said that for the safety of the children in the bus and the people going there who have a large vehicle in the left-turn lane and the people going created problems, and he thought that the condition should be kept in there, and if they heard from VDOT that the entrance requirements allowed the right-turn movement, then it still had to get a signalized intersection to help him get past eliminating the condition.

Ms. Price said that she appreciated Mr. Gallaway's more intimate knowledge of the location. She said that she was happy to defer.

Ms. McKeel said that her recollection was that when they changed that intersection, VDOT put in the ability to signalize that, so it was built in, and all they had to do was access it, so it was ready to go, unlike many intersections. She said that they had predicted it would need to be signalized at some point.

Mr. Gallaway said that that intersection and that section of road heading north had speed issues with traffic.

Mr. Gallaway **moved** to adopt the resolution (Attachment E) to approve SP202200010 for VIA SP202200010 Stand Alone Parking for the reasons stated in the staff report and with the staff recommended conditions. Ms. Mallek **seconded** the motion.

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

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

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RESOLUTION TO APPROVE
SP202200010 STAND ALONE PARKING FOR
VIRGINIA INSTITUTE OF AUTISM
EXPANSION ADULT SERVICE CENTER

WHEREAS, upon consideration of the staff reports prepared for SP 202200010 Stand Alone Parking for the Virginia Institute of Autism Expansion Adult Service Center and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-22.2.2(9) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the C-1 Commercial zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202200010 Stand Alone Parking for the Virginia Institute of Autism Expansion Adult Service Center, subject to the conditions attached hereto.

* * * *

SP202200010 Stand Alone Parking for the
Virginia Institute of Autism Expansion Adult Service Center
Special Use Permit Conditions

1. Development of the use shall be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan titled "Virginia Institute of Autism Hillsdale Expansion," prepared by Timmons Group, with the latest revision date of August 12, 2022. To be in general accord with the conceptual plan, development must reflect the following major element essential to the design of the development:
    a. Location of parking areas

Minor modifications to the plan that do not conflict with the element above may be made to ensure compliance with the Zoning Ordinance.

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Agenda Item No. 16. **Public Hearing: Consider the Adoption of an Ordinance to Create a Commercial Property Clean Energy (C-PACE) Finance Program.**

The Executive Summary forwarded to the Board states that in 2015, the Commonwealth of Virginia passed legislation to enable localities to pass ordinances to create Commercial Property Assessed Clean Energy (C-PACE) financing programs. C-PACE financing is a financing tool that provides upfront capital to commercial property owners and developers to invest in energy measures related to energy efficiency, renewable energy, and climate adaptation at a reduced rate of interest. The Board of Supervisors' adopted the Climate Action Plan, which includes a recommendation that the County, "Assess financing mechanisms such as the Property Assessed Clean Energy (C-PACE) program…and implement, if appropriate."

Since the enabling of C-PACE programs by the Commonwealth in 2015, nine cities and counties in Virginia have adopted ordinances that create local programs. Each locality's ordinance differed from others in substantive ways, hindering the utilization of these programs by owners and developers. In 2022, the Virginia Department of Energy (VDOE) created a formal program to standardize programs across the Commonwealth and to simplify the process of ordinance adoption by localities. The non-profit Virginia PACE Authority was selected by the VDOE to implement the program on behalf of localities, provided that localities adopt ordinances consistent with a model ordinance and that they enter into a program agreement with the Commonwealth. If adopted, Virginia PACE Authority would administer this program for Albemarle County-based commercial property owners and developers, including financing.

A draft ordinance is provided as Attachment A, a draft of the C-PACE Program Agreement is provided as Attachment B, and a draft Virginia Locality Agreement is provided as Attachment C. Finally, Attachment D provides a short description of C-PACE, how it differs from a conventional loan, and how the program operates.

No budgetary impact is anticipated.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A) to create a Commercial Property Assessed Clean Energy (C-PACE) Finance Program for Albemarle County through the statewide C-PACE program.

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Mr. Gabe Dayley, Climate Protection Program Manager, said that he would be sharing a request for the Board to adopt an ordinance that would approve Commercial Property Assessed Clean Energy Program (C-PACE) in the County, and would be opting into a statewide program that was created by the state that localities could opt into it. He said that the information in this presentation was also reflected in the text in Attachment D, which hopefully would help clarify items. He said that there were one or two people affiliated with the statewide program administrator, Virginia PACE Authority, who were attending the meeting via Zoom, so if the Board had any questions about the program that he was unable to answer, they may be able to provide additional information.

Mr. Dayley said that the benefits of a program such as allowing C-PACE in the County would accelerate environmental improvements to new construction and existing buildings that would reduce greenhouse gas emissions and also help enhance building resilience to climate change impacts. He said that ultimately, a C-PACE program made it easier for local businesses and commercial property owners to make these types of investments in energy efficiency, clean energy, water conservation, and renewable energy. He said that the program sought to make property improvements cost-neutral so that the benefits matched or outweighed the property assessment involved.

Mr. Dayley said that projects could include installing solar panels, improving insulation, electrifying appliances, upgrading to energy-efficient windows and lighting, or automating building mechanical controls. He said that these types of improvements were discussed in the County's climate action plan. He said that a more specific example was that a local business might use C-PACE financing to install rooftop solar on a building, or electric vehicle charging stations on their property.

Mr. Dayley said that ultimately, the program was meant to incentivize the private sector to participate in local climate action and realize savings on energy costs. He said that staff recommended that the Board of Supervisors adopt the local C-PACE ordinance, which would allow Albemarle County to opt into the statewide C-PACE program.

Mr. Dayley said that C-PACE was one type of property-assessed clean energy, with the C standing for "commercial." He said that PACE programs created a financing mechanism for clean energy, energy efficiency, and other environmentally beneficial investments during new construction, renovations, and retrofits. He said that broadly, these improvements could reduce greenhouse gas emissions and improve resilience to climate change impacts.

Mr. Dayley said that the definition from the U.S. Department of Energy for PACE was that PACE programs allowed a property owner to finance the up-front cost of energy or other eligible improvements on a property and then pay the costs back over time through a property assessment. He said that the unique aspect of PACE assessments was that the assessment was attached to the property rather than the individual, which would be the case in taking out a conventional loan to make improvements to one's business or property, then paying that money back directly to the bank. He said he would explain why that distinction was important.

Mr. Dayley said that C-PACE programs overcame two obstacles to property owners making these kinds of investments in their properties, the first being lack of financial capital for up-front costs, and the second that the payback period between when the up-front investment occurred and when the improvements finished paying for themselves can sometimes be a lengthy time.

Mr. Dayley said that C-PACE helped by providing the up-front capital, similar to a conventional loan, and because the payments were attached to the property rather than the individual owner or business, property owners could realize the benefits of the improvements even if they sold the property before the payback period or timeline came to fruition. He said that this would incentivize more property owners to make these kinds of improvements, and over time help transition their building stock toward more energy efficiency and renewable energy.

Mr. Dayley said that an additional benefit of C-PACE was that because the payment structure tends to be more certain, C-PACE programs generally offered lower interest rates than a conventional loan, reducing the overall costs to the property owner.

Mr. Pace said that Ms. Mallek previously raised a fair question about some consumer protection issues around PACE, and there had been information on government websites and the media about some consumer protection challenges. He said that he offered information to give clarity, but if the question still remained, the people on the Virginia PACE Authority online could shed some further light on the issue.

Mr. Dayley said that generally, the consumer protection challenges included cases of people entering into an agreement when they did not fully understand what was involved, and the property assessment ended up being more than some could afford. He said that his general understanding was that those issues were involving residential PACE, but that program was not yet enabled in Virginia, and if someday it was enabled, those questions would need to be addressed in order to avoid those sorts of consequences.

Mr. Dayley said that his understanding was that with C-PACE, which was what was up for consideration tonight, it did not tend to be as much of an issue, in part because the types of loans that were working through C-PACE tended to be large, and with business owners who had experienced borrowing money to finance investments with their business. He said that generally, lawyers were representing both parties to the agreement when they came together, so there was less risk of

misunderstanding the process.

Mr. Dayley said that this was reflective of an action in the Climate Action Plan (CAP), in which Action B.3.3 recommended assessing the adoption of a local C-PACE program. He said that C-PACE was an interesting example of being an accessible way for the County to implement an action in the CAP, and also facilitated community members and local businesses and commercial property owners to participate in its implementation. He said that C-PACE in Virginia had been enabled since 2009, with updates made to the legislation in 2015, and the early enabling legislation was for localities to create their own program.

Mr. Dayley said that there were early adopters, and some of them were during that early period, and several other localities adopted them once the statewide program was set up in 2022. He said that in the early period, localities stood up their own program and worked with the Virginia PACE Authority, but each had to write its own legislation and modeled it after peer localities, and there was more work involved.

Mr. Dayley said that the state decided that creating a program with a model ordinance and agreement language relevant to all localities in Virginia would smooth the process of the localities opting in in terms of administration of the program and the payments for individual projects. He said that the Virginia PACE Authority was the administrator of the program, and that it facilitated coordination between lenders and borrowers and handled the payment processing. He continued that the state program lowered the bar for entry for all parties involved.

Mr. Dayley said that there was some one-time setup work involved for the program that was mostly completed, and the ordinance was now ready to be presented to the Board for consideration. He said that for ongoing roles and responsibilities, the expectation for County staff was some staff time of approximately 20 hours per year, and that he would be involved in his capacity as Climate Program staff to promote the program and to educate the community, developers, and property owners.

Mr. Dayley said that the County Executive and Chief Financial Officer (CFO) would co-sign each unique C-PACE financing program agreement. He said that the process would become easier as the County got more used to it over time. He said that the Virginia PACE Authority would broker agreements, manage program participation and payment processing, and promote the C-PACE opportunities.

Mr. Dayley said that the process for each project would include a promotion phase, the negotiation of financing, or the actual language of the details of the project, during which the County would not need to be involved, the signing of the agreement in which the County would be involved, and the processing of payment and running of the project. He said that the County would have awareness but no direct involvement at the end of the process. He shared the staff recommendation, and that staff believes it would be a beneficial program for the County, allowing implementation of the CAP, and enabling others to do that with the County.

Ms. McKeel asked if this was for commercial property and not residential.

Mr. Dayley said yes.

Ms. McKeel said that it seemed to be a winning program. She said that she wanted to ensure that staff capacity would not be reduced by participating in this. She said that it appeared that other than signing the agreement, staff would not have to manage the program.

Mr. Dayley said that their understanding was no, while there may be some promotion and education done about the program, the Virginia PACE Authority would be managing the program on behalf of localities.

Ms. McKeel said that there was limited capacity for staff to get extra work done, although it was an interesting program. She said that it was interesting that they were not running the program but were signing the agreements. She asked if there was any risk to the County by doing so.

Mr. Dayley said that the reason the County signed the agreement was that it was a property assessment, so there was a link to local government. He said that in terms of the second part of Ms. McKeel's question about risk, he would not mind if the individuals with the Virginia PACE Authority could clarify that issue.

Ms. Holly Edinger with the Virginia PACE Authority stated that the main roll of the County was that if a property owner were to fall behind in payments, just as if they fell behind in the tax payment, the PACE loan was collected and enforced as a tax would be, because it was a special assessment on the property. She said that out of the $3 billion nationally in PACE loans, which had not happened because these were large commercial loans to substantial property owners and business owners.

Ms. Edinger said that however, at that point, the County would have to get involved, but the County likely would have already been involved in that property because it likely would also be delinquent on taxes. She said that this step of adopting the ordinance and understanding all of the documents associated with it was the first big lift for the County staff, and as they got projects in, agreeing to the agreement included the property owner, the lender, and the County, and once the agreement was in place, the property owner made payments and things moved forward as the loan was repaid over the years. She said that if there was a problem with repayment, which would be when they would need the

County to help again. She said that it was a fairly big loan program in other states, and they had seen no defaults due to the type of loans they were.

Ms. McKeel said that was a helpful explanation. She asked Mr. Dayley if he saw any downsides to the County to participate in the program.

Mr. Dayley said that not to the commercial PACE program.

Ms. McKeel said that she could understand the complications of risk at the residential level.

Ms. Mallek asked if there was a certification process for the lenders that the Virginia Authority would run, or if anyone could call themselves a capital provider and sign up.

Mr. Dayley said that he would defer to Ms. Edinger for that answer.

Ms. Edinger said that as part of the program guidelines that the state adopted and recommended, there was a process where capital providers, the lenders themselves, had to register and were vetted by the Virginia PACE Authority. She said that they ensured they were a registered lender, active in other states, and did not have negative findings. She said that they did reference checks and confirmed each lender that wanted to be in the Virginia program.

Ms. Mallek commented that this was reassuring. She stated that perhaps someday they would get to the point of doing on-bill financing, which would be a way for residentials to someday pay for their work by the savings in their utility bill.

Ms. LaPisto-Kirtley said that following along with Ms. McKeel's question, they mentioned in the presentation that the County Executive must be involved. She asked how much time involved would be necessary from the County Executive and the Executive staff.

Mr. Dayley said that on the individual program agreement, there was a place for the County Executive and for the CFO to sign, and the first few agreements may take staff an hour to look through and understand. He said that their Finance Department, CFO, and County Attorney's Office had reviewed and vetted the forms already, so they had some familiarity with them.

Mr. Dayley said that it may only be in the first three programs or projects that began where it may take more time to understand all the details, but once it was going, they expected that it would be somewhat proforma in the County's action as a signatory to scan for key, unique information. He said that the only details that would change would be the specific list of building improvements that the property owner wanted to do, and the financial arrangement, and that the County Executive and Department of Finance staff would be able to sift through those details efficiently and sign the agreement as a co-signatory, without much work involved.

Ms. LaPisto-Kirtley asked if the estimated 20 hours per year would be mainly performed as Mr. Dayley's job.

Mr. Dayley said that the 20 hours per year cited was a rough estimate of the combination of the time it took County Executive staff to sign the forms and himself engaging in a few lunch webinars or other types of public engagement events to raise awareness of the opportunity.

Ms. LaPisto-Kirtley said that this was a great opportunity and staff's dedicated time was important to understand.

Mr. Andrews said that it was an assessment. He asked how it would work if the property changed owners after the loan, and if the owner did not have to continue to pay since it went with the property.

Mr. Dayley said that was correct. He said that if the loan was still active and payments were still being made on it when the owner sold the building to buy a new one, if it was a loan for the business, the owner would have to continue servicing those payments. He said that in this case, because of the specific function, it became a lien on the property, and the new buyer would assume those payments as part of and in addition to the property assessment and would continue paying it off until they either sold the property or paid off the loan. He said that the owner would realize the benefits of the improvements on the first day they occupied it.

Mr. Andrews said that Mr. Dayley said that Virginia PACE handled the payment processing. He asked if it was paid through their taxes or if each payment was paid separately to Virginia PACE. He asked if, because it was an assessment, it was part of the owner's property tax bill.

Mr. Dayley said that Ms. Edinger could discuss the specific flow of monies from party to party.

Ms. Edinger said that the annual collection would be delegated to the lender, so the ordinance and loan were structured such that the annual payments were collected by the actual lender as a special assessment on behalf of the County, which alleviated the administrative burden on the locality, and put the onus on the lender. She said that if there was a problem such as delinquency, the County would get involved, but the way that the state structured the program was that they delegated the process through the Virginia PACE Authority, but the capital providers or lenders would be doing it themselves.

Mr. Andrews said that it seemed that if the relationship between the owner and lender went awry, the lender then had to come back to the County to try to enforce the payments.

Ms. Edinger said yes.

Mr. Andrews said that this was like a lien on the property. He asked how it was recorded. He asked how, if he wanted to investigate purchasing a property, he would know whether this existed on a property.

Ms. Edinger said that at the closing of the loan, it was recorded on the parcel tax ID number, so that if one was to buy a property and do a title search, it would show up, and the buyer would know about it. She said that it followed the property, but it was really the lender's responsibility to continue the billing and notify if there was an issue.

Mr. Andrews said that he understood. He said his other concern was that the Chief Executive and CFO were required to sign something, and he was unsure of how much time the County Attorney would like to take as these documents came through.

Ms. Edinger said that another thing provided with these C-PACE in-a-box model, which was the state-endorsed program, was that when they dealt with a lender, they knew that this was the template agreement for the County, so each project would have the same agreement. She said that the solicitor would be reviewing minimal if any changes and would fill in the blanks on each agreement, so it was not a new agreement each time, but a template that had been vetted by their locality, other localities, the state, and lenders.

Ms. Price said that she also had been confused about the same issue, but Mr. Andrews' question sufficiently addressed it. She said that barring any further questions from the Board, she would open the public comment portion. She asked the Clerk if there were any speakers signed up for public comment.

Ms. Borgersen said there were not.

Ms. Price said that she would close the public hearing. She asked Mr. Dayley if he had anything further to offer.

Mr. Dayley said that in response to the last question, they had a series of meetings with personnel in the County Attorney's Office and the Finance Department over the course of the fall, which Mr. Herrick was involved in, as well as Nelsie Birch, so that vetting process that Ms. Edinger mentioned had already happened, and those documents had been reviewed.

Ms. McKeel said that it was clear that the staff was comfortable with this arrangement.

Ms. Price said that the matter was now back before the Board for any comments.

Mr. Andrews said that he was very supportive of the program. He said that it was interesting that the wording "voluntary assessment" was used.

Ms. Price said that this item was Albemarle County's way of putting words into action. She said that she was very supportive of this.

Ms. McKeel **moved** the Board to adopt the attached proposal, Attachment A, to create a Commercial Property Assessed Clean Energy Finance Program for Albemarle County through the statewide C-PACE program. Ms. Mallek **seconded** the motion.

Mr. Herrick said that there was a proposed motion that he and Mr. Dayley had prepared on the screen, which would not only approve the ordinance in the Attachment but also authorize the County Executive to sign the necessary forms. He said that if the Board was so inclined, the motion should include a motion to authorize the County Executive to sign the necessary forms.

Ms. McKeel apologized. She amended her motion.

Ms. McKeel **moved** the Board adopt the proposed C-PACE ordinance (Attachment A) and authorize the County Executive to execute both a C-PACE agreement with the Virginia Department of Energy and C-PACE program agreements with capital providers, once those agreements are approved as to form and substance by the County Attorney. Ms. Mallek **seconded** the amended motion.

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

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

ORDINANCE NO. 22-15(8)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, of the Code of the County of Albemarle, Virginia, is hereby amended as follows:

By Adding:
15-1501 Purpose.
15-1502 Definitions
15-1503 Effective date.
15-1504 C-PACE Program; Eligible Improvements.
15-1505 C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.
15-1506 Levy of assessment; recordation; priority; amendment; enforcement and collection costs.
15-1507 Role of the County; limitation of liability.
15-1508 Severability.

Chapter 15. Taxation

ARTICLE 15
Article 15 Commercial Property Assessed Clean Energy (C-PACE) Financing Program

Section 15-1501 - Purpose.

The purpose of this chapter is to create the "County of Albemarle Commercial Property Assessed Clean Energy (C-PACE) Financing Program," to operate in coordination with the statewide C-PACE program, all in accordance with Virginia Code § 15.2-958.3 (hereinafter, the "C-PACE Act"). The local and statewide C-PACE programs, working together, will facilitate Loans made by Capital Providers to Property Owners of Eligible Properties to finance Eligible Improvements thereon. Subject to the limitations set forth in this chapter, the C-PACE Act, and other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by a voluntary special assessment lien on the Property that is the subject of such Loan.

Section 15-1502 - Definitions.

(a) *Assessment Payment Schedule* means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which schedule will be attached as Exhibit B to the C-PACE Program Agreement.

(b) *Board of Supervisors* means the Board of Supervisors of the County of Albemarle, Virginia.

(c) *Capital Provider* means (i) a private lending institution that has been approved by the Program Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and the institution's successors and assigns; or (ii) the current holder of a C-PACE Loan.

(d) *Clerk's Office* means the Office of the Clerk of the Circuit Court of the County of Albemarle, Virginia.

(e) *Commonwealth* means the Commonwealth of Virginia.

(f) *County* means the County of Albemarle, Virginia.

(g) *C-PACE* means Commercial Property Assessed Clean Energy.

(h) *C-PACE Act* means Virginia's "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at Virginia Code § 15.2-958.3.

(i) *C-PACE Amendment* means an amendment of the C-PACE Lien executed by the Capital Provider, the Property Owner, and the Program Manager, as permitted in the C-PACE Documents, which C-PACE Amendment must be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.

(j) *C-PACE Assignment (CP)* means a written assignment by one Capital Provider to another Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of the assignment document.

(k) *C-PACE Assignment (Locality)* means a written assignment by the County to the Capital Provider to whom the C-PACE Loan is then due, wherein the County relinquishes and assigns its right to enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.

(l) *C-PACE Documents* means the C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-PACE Assignment (CP) (if any), C-PACE Assignment (Locality) (if any), C-PACE Amendment (if any), and any other document, agreement, or instrument executed in connection with a C-PACE Loan.

(m) *C-PACE Lien* or *Lien* means the voluntary special assessment lien levied against the Property as security for the C-PACE Loan.

(n) *C-PACE Lien Certificate* means the voluntary special assessment lien document duly recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.

(o) *C-PACE Loan* or *Loan* means a loan from a Capital Provider to finance a Project, in accordance with the Program Guidelines.

(p) *C-PACE Payment* means the periodic installment payments of the C-PACE Loan by a Property Owner, due and payable to the County or Capital Provider as permitted by the C-PACE Act in such amounts and at such times as described in the Assessment Payment Schedule.

(q) *C-PACE Program* means the program established by the County through this chapter, in accordance with the C-PACE Act, which in coordination with the Statewide Program facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be levied and recorded against the Property to secure the C-PACE Loan.

(r) *C-PACE Program Agreement* means the agreement executed among the Property Owner, the County, the Director of Finance, and the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the C-PACE Program and the Property Owner's acknowledgment and consent for the County to impose a voluntary special assessment, record a C-PACE Lien Certificate against the Property Owner's Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE Lien Certificate to the Capital Provider (and if so assigned, also a consent of the Director of Finance to such assignment). The C-PACE Program Agreement will be substantially in the form attached hereto as Appendix A.

(s) *Delinquent Payment* means any C-PACE Payment that was not paid by a Property Owner in accordance with the C-PACE Documents.

(t) *Director of Finance* means the Director of Finance of the County, who is the official executing the tax collection duties that would otherwise be carried out by a Treasurer.

(u) *Eligible Improvements* means the initial acquisition and installation of any of the following improvements made to Eligible Properties:

(1) Energy efficiency improvements;

(2) Water efficiency and safe drinking water improvements;

(3) Renewable energy improvements;

(4) Resiliency improvements;

(5) Stormwater management improvements;

(6) Environmental remediation improvements; and

(7) Electric vehicle infrastructure improvements.

Eligible Improvements may be made to both existing Properties and new construction, as further prescribed in this chapter and the Program Guidelines. Eligible Improvements will include types of authorized improvements added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition to the elaboration on the types of Eligible Improvements provided in Section 15-1504(a), below, a Program Administrator may include definitions, interpretations, and examples of these categories of Eligible Improvements in its Program Guidelines or other administrative documentation.

(v) *Eligible Property or Property* means all assessable commercial real estate located within the County, with all buildings located or to be located thereon, whether vacant or occupied, improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the County, excluding (i) a residential dwelling with fewer than five units, and (ii) a residential condominium as defined in Virginia Code § 55.1-2100. Common areas of real estate owned by a cooperative or a property owners' association described in Virginia Code Title 55.1, Subtitle IV (§ 55.1-1800 et seq.), that have a separate real property tax identification number are Eligible Properties. Eligible Properties will be eligible to participate in the C-PACE Program.

(w) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain any lawful terms agreed to by the Capital Provider and the Property Owner.

(x) *Land Records* means the Land Records of the Clerk's Office.

(y) *Lender Consent* means a written subordination agreement executed by each mortgage or deed of trust lienholder with a lien on the Property that is the subject of a C-PACE Loan, which agreement allows the C-PACE Lien to have senior priority over the mortgage or deed of trust liens.

(z) *Loan Amount* means the original principal amount of a C-PACE Loan.

(aa) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy Agreement between Virginia Energy and the County, pursuant to which the County elects to participate in the Statewide Program. The Locality Agreement will be substantially in the form attached hereto as Exhibit B.

(bb) *Program Administrator* means the private third party retained by Virginia Energy to provide professional services to administer the Statewide Program in accordance with the requirements of the C-PACE Act, this chapter, the Locality Agreement, and the Program Guidelines.

(cc) *Program Fees* means the fees authorized by the C-PACE Act and charged to participating Property Owners to cover the costs to design and administer the Statewide Program, including, without limitation, compensation of the Program Administrator. While Capital Providers are required to service their C-PACE Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing responsibility and charges a servicing fee, the servicing fee will also be included among the Program Fees.

(dd) *Program Guidelines* means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fees, responsibilities, and other requirements applicable to the governance and administration of the Statewide Program.

(ee) *Program Manager* means the County Executive or such person designated in writing by the County Executive to (i) supervise the County's C-PACE Program and participation in the Statewide Program, (ii) act as liaison with the Program Administrator and (iii) advise the Program Administrator as to who will sign the C-PACE Documents to which the Locality is a party on the Locality's behalf. If the employee of the County who customarily signs agreements for the Locality is not the person designated as Program Manager, then references in this Ordinance and in the C-PACE Documents to the Program Manager signing certain C-PACE Documents on behalf of the Locality will be construed to also authorize such customary signatory for the County to execute such C-PACE Documents.

(ff) *Project* means the construction or installation of Eligible Improvements on Eligible Property.

(gg) *Property Owner* means (i) the Property Owners of Eligible Property who voluntarily obtain a C-PACE Loan from a Capital Provider in accordance with the Program Guidelines; or (ii) a successor in title to the Property Owner.

(hh) *Property Owner Certification* means a notarized certificate from a Property Owner, certifying that (i) the Property Owner is current on payments on Loans secured by a mortgage or deed of trust lien on the Property and on real estate tax payments, (ii) that the Property Owner is not insolvent or in bankruptcy proceedings, and (iii) that the title of the Property is not in dispute, as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the Program Administrator and Capital Provider.

(ii) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy, established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this chapter, the Locality Agreement, the C-PACE Documents, and the Program Guidelines.

(jj) *Useful Life* means the normal operating life of the fixed asset.

(kk) *Virginia Code or Va. Code* means the Code of Virginia of 1950, as amended.

(ll) *Virginia Energy* means the Virginia Department of Energy.

Sec. 15-1503 - Effective date.

This chapter will become effective immediately following its adoption.

Sec. 15-1504 - C-PACE Program; Eligible Improvements.

(a) *C-PACE Program.* The C-PACE Program will be available throughout the County, provided that the Property Owner, the Property, the proposed Eligible Improvements, the Capital Provider, and the principal contractors all qualify for the Statewide Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

(1) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation, and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, and/or weather-stripping), or other capital improvements or systems that result in the reduction of consumption of energy over a baseline established in accordance with the Program Guidelines;

(2) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling, and other forms of water conservation), or other capital improvements or systems that result in the reduction of consumption of water over a baseline established in accordance with the Program Guidelines;

(3) Renewable energy production facilities (e.g., solar photovoltaic, fiber optic solar, solar thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power purchase agreement with a non-utility purchaser;

(4) Resiliency improvements that increase the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

a. Flood mitigation or the mitigation of the impacts of flooding;

b. Inundation adaptation;

c. Natural or nature-based features and living shorelines, as defined in Virginia Code § 28.2-104.1;

d. Enhancement of fire or wind resistance, including but not limited to reinforcement and insulation of a building envelope to reduce the impacts of excessive heat or wind;

e. Microgrids;

f. Energy storage; and

g. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;

(5) Stormwater management improvements that reduce onsite stormwater runoff into a stormwater system, such as reduction in the quantity of impervious surfaces or providing for the onsite filtering of stormwater;

(6) Environmental remediation improvements, including but not limited to:

a. Improvements that promote indoor air and water quality;

b. Asbestos remediation;

c. Lead paint removal; and

d. Mold remediation;

(7) Soil or groundwater remediation;

(8) Electric vehicle infrastructure improvements, such as charging stations;

(9) Construction, renovation, or retrofitting of a Property directly related to the accomplishment of any purpose listed in subsections (1) – (8) above, whether such Eligible Improvement was erected or installed in or on a building or on the ground; it being the express intention of the County to allow Eligible Improvements that constitute, or are a part of, the construction of a new structure or building to be financed with a C-PACE Loan; and

(10) Any other category of improvement (i) approved by the Program Administrator with the consent of the Program Manager as qualifying for financing under the Statewide Program, in accordance with the C-PACE Act (including amendments thereto that authorize additional types of Eligible Improvements), or (ii) added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

(b) *Use of C-PACE Loan proceeds.* The proceeds of a C-PACE Loan may be used to pay for the construction, development, and consulting costs directly related to Eligible Improvements, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial, and legal), program fees, C-PACE Loan fees, capitalized interest, interest reserves, and C-PACE transaction underwriting and closing costs.

(c) *Program applications; prioritization.* The Program Administrator will make available the Statewide Program's program application process, to provide for the review and approval of proposed Eligible Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

Section 15-1505 - C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

(a) *Source of Loans.* C-PACE Loans will be originated by Capital Providers. The County and/or its respective governmental entities will have no obligation to originate or guarantee any C-PACE Loans.

(b) *C-PACE Loan Amount thresholds.* The minimum Loan Amount that may be financed for each Project is fifty thousand dollars ($50,000.00). There is no maximum aggregate amount that may be financed with respect to an Eligible Property, except as stipulated in the Program Guidelines. There will be no limit on the total value of all C-PACE Loans issued under the C-PACE Program.

(c) *C-PACE Loan refinancing or reimbursement.* The Program Administrator may approve a Loan application submitted within two years of the County's issuance of a certificate of occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible Improvements.

(d) *C-PACE Loan interest.* The interest rate of a C-PACE Loan will be as set forth in the C-PACE Documents.

(e) *C-PACE Loan term.* The term of a C-PACE Loan must not exceed the weighted average Useful Life of the Eligible Improvements, as determined by the Program Administrator.

(f) *Apportionment of costs.* All of the costs incidental to the financing, administration, collection, and/or enforcement of the C-PACE Loan must be borne by the Property Owner.

(g) *Financing Agreements.* Capital Providers may use their own Financing Agreements for C-PACE Loans, but the Financing Agreement may not conflict with the provisions of this chapter, the C-PACE Act, or the C-PACE Program Agreement. To the extent of any conflict, this chapter, the C-PACE Act, and the C-PACE Program Agreement will prevail.

(h) *C-PACE Program Agreement.* In order to participate in the C-PACE Program, the Property Owner and the Capital Provider must enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and execute the C-PACE Program Agreement on behalf of the County without further action by the Board of Supervisors. The Director of Finance is also authorized to execute the C-PACE Program Agreement without further action by the Board of Supervisors. The C-PACE Program Agreement will be binding upon the parties thereto and their respective successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the C-PACE Program Agreement as necessary to further the Statewide Program's purpose and to encourage Program participation, so long as such modifications do not conflict with the Program Guidelines, this chapter, the Locality Agreement, or the C-PACE Act.

(i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment Payment Schedule, the C-PACE Documents and Program Guidelines. The Capital Provider will be responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other C-PACE Documents, for the servicing of the C-PACE Loans and the collection of C-PACE Payments. If a Capital Provider fails to service a C-PACE Loan, such C-PACE Loan will be serviced by the Program Administrator. Nothing herein will prevent the Capital Provider or the Program Administrator from directly billing and collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default thereunder is governed by Section 15-1506(e).

(j) *C-PACE Loan assumed.* A party that acquires a Property that is subject to a C-PACE Lien, whether it obtained ownership of the Property voluntarily or involuntarily, becomes the Property Owner under the C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay all remaining unpaid C-PACE Payments that are due and that accrue during such successor Property Owner's period of ownership. Only the current C-PACE Payment and any Delinquent Payments, together with any penalties, fees and costs of collection, will be payable at the settlement of a Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.

(k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider must (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of the next C-PACE Payment due (and within 30 days if the C-PACE Loan is serviced by the Program Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator. Recordation of the C-PACE Assignment (CP) will constitute an assumption by the new Capital Provider of the rights and obligations of the original Capital Provider contained in the C-PACE Documents.

(l) *Program Fees.* The Statewide Program is self-financed through the Program Fees charged to participating Property Owners, together with any funds budgeted by the General Assembly to support the Statewide Program. The Program Fees are established to cover the actual and reasonable costs to design and administer the Statewide Program, including the compensation of a third-party Program

Administrator. The amount of the Program Fees will be set forth in the Program Guidelines. Program Fees may be changed by the Program Manager from time to time and will only apply to C-PACE Loans executed after the date the revised fees are adopted.

(m) *Locality Agreement*. The County will opt into the Statewide Program by entering into the Locality Agreement, adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act, opting into the C-PACE Program will not require the County to conduct a competitive procurement process. The Program Manager is authorized to execute the Locality Agreement on behalf of the County without further action by the Board of Supervisors.

(n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program. The Program Administrator may modify the Program Guidelines from time to time, provided such amendments are (i) consistent with the C-PACE Act and (ii) approved by Virginia Energy before taking effect.

(o) *Indemnification*. The Program Administrator must indemnify, defend, and hold the County harmless against any claim brought against the County or any liability imposed on the County as a result of any action or omission to act by the Program Administrator.

Section 15-1506 - Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

(a) *Levy of voluntary special assessment lien.* Each C-PACE Loan made under the C-PACE Program will be secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each Property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien will be in the Loan Amount, but will secure not only the principal of the C-PACE Loan, but also all interest, delinquent interest, late fees, penalties, Program Fees, and collection costs (including attorneys' fees and costs) payable in connection therewith.

(b) *Recordation of C-PACE Lien Certificate.* Each C-PACE Lien will be evidenced by a C-PACE Lien Certificate in the Loan Amount, but will also expressly state that it also secures all interest, delinquent interest, late fees, other types of fees, penalties, and collection costs (including attorneys' fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule will be attached thereto as an exhibit. The Program Manager is hereby authorized to, and will promptly, execute the C-PACE Lien Certificate on behalf of the County and deliver it to the Capital Provider, without any further action by the Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the Capital Provider must record the C-PACE Lien Certificate in the Land Records.

(c) *Priority.* The C-PACE Lien will have the same priority as a real property tax lien against real property, except that it will have priority over any previously recorded mortgage or deed of trust lien on the Property only if prior to the recording of the C-PACE Lien:

(i) the Property Owner has obtained a written Lender Consent, in a form and substance acceptable to the holder of such prior mortgage or deed of trust in its sole and exclusive discretion, executed by such lienholder and recorded with the C-PACE Lien Certificate in the Land Records; and

(ii) prior to the recording of the C-PACE Lien Certificate, the Property Owner has delivered an executed Property Owner Certification to the County in connection with the C-PACE Loan closing.

Only the current C-PACE Payment and any Delinquent Payments will constitute a first lien on the Property. The C-PACE Lien will run with the land and that portion of the C-PACE Lien under the C-PACE Program Agreement that has not yet become due will not be eliminated by foreclosure of a real property tax lien.

(d) *Amendment of lien.* Upon written request by a Capital Provider in accordance with the Program Guidelines, the Program Manager, without any further action by the Board of Supervisors, will join with the Capital Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien after the closing of a C-PACE Loan. The C-PACE Amendment must be recorded in the Land Records.

(e) *Enforcement and collection costs.* In the event of Property Owner's default under the terms of the C-PACE Documents, the County, acting by and through the Director of Finance, may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and any costs of collection in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. If the County elects not to enforce the C-PACE Lien, which election will be made within 30 days of receipt by the County from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE Documents, then the County, acting by and through the Director of Finance, will, within 15 days of the County's determination not to enforce the C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and delivering such instrument to the Capital Provider for recordation in the Land Records. The preceding sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in default. Upon such assignment and recordation, the Capital Provider is authorized to, and will, enforce the C-PACE Lien according to the terms of the C-PACE Documents, in

the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, including the institution of suit in the name of the County and its Director of Finance, and this right to enforce expressly includes authorization for the Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such enforcement. Such legal counsel, being authorized to institute suit in the name of the County and its Director of Finance, will have the status of "Special Counsel to the County and its Director of Finance" and an "attorney employed by the governing body," and possess all the rights and powers of an attorney employed under Virginia Code § 58.1-3966 and § 58.1-3969, with the express authority to exercise for the benefit of the Capital Provider every power granted to a local government and/or its Director of Finance and its or their attorneys for the enforcement of a property tax lien under, or in connection with, any provision contained in Title 58.1, Chapter 39, Article 4 of the Virginia Code. The County, on its behalf and on behalf of the Director of Finance, waives its right to require such legal counsel to post the optional bond described in Virginia Code § 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and consistent with the C-PACE Act and the Virginia Code, will (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein will prevent the Capital Provider to which the C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act or general law. The Property Owner of a Property being sold to pay Delinquent Payments, or other interested party, may redeem the Property at any time prior to the Property's sale, in accordance with Virginia Code § 58.1-3974 and § 58.1-3975.

Section 15-1507 - Role of the County; limitation of liability.

Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at their own risk. By executing the C-PACE Documents, including the C-PACE Program Agreement, or by otherwise participating in the C-PACE Program and the Statewide Program, the Property Owner, Capital Provider, contractor, or other party or participant acknowledge and agree, for the benefit of the County and as a condition of participation in the C-PACE Program and the Statewide Program, that:

(i) The County undertakes no obligations under the C-PACE Program and the Statewide Program except as expressly stated herein or in the C-PACE Program Agreement;
(ii) In the event of a default by a Property Owner, the County has no obligation to use County funds to make C-PACE Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to a Financing Agreement between the Property Owner and Capital Provider;
(iii) No C-PACE Loan, C-PACE Payment, C-PACE Lien, or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will be backed by the credit of the County, the Commonwealth, or its political subdivisions, including, without limitation, County taxes or other County funds;
(iv) No C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will constitute an indebtedness of the County within the meaning of any constitutional or statutory debt limitation or restriction;
(v) The County has not made any representations or warranties, financial or otherwise, concerning a Property Owner, Eligible Property, Project, Capital Provider, or C-PACE Loan;
(vi) The County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE Document, or any assignment or amendment thereof;
(vii) The County assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof;
(viii) Each Property Owner or Capital Provider must, upon request, provide the County with any information associated with a Project or a C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan satisfies the requirements of the Program Guidelines; and
(ix) Each Property Owner, Capital Provider, or other participant under the C-PACE Program, must comply with all applicable requirements of the Program Guidelines.

Section 15-1508 - Severability.

As provided by Section 1-104 of the Code of the County, the provisions of this chapter are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid, or that the application of any part of the chapter or provision to any person or circumstance is invalid, the remaining provisions of this chapter will not be affected by that decision and continue in full force and effect.

Appendix A – C-PACE Program Agreement

Appendix B – Locality Agreement

(Ord. 22-15(8),12-7-22, effective 12-7-22)

State Law reference – Va. Code § 15.2-958.3

This ordinance is effective immediately.

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Non-Agenda Item. **Recess.** The Board recessed its meeting at 8:23 p.m. and reconvened at 8:35 p.m.

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Agenda Item No. 17. **Action Item:** ZMA202100003, SP202100004, and SE202200014 Clifton Inn and Collina Farm Expansion.

The Executive Summary forwarded to the Board states that at its meeting on November 17, 2022, the Board held a public hearing on the rezoning and special use permit requests for expansions of the Clifton Inn, but deferred action to its December 7 meeting. A concept plan is provided as Attachment A. Prior to the Board public hearing, a public hearing was held with the Planning Commission (PC) on August 23,2022. Staff did not recommend approval based on concerns with the size and frequency of special events proposed along with noise impact concerns. The PC recommended approval based on the positive aspects of the project and with a condition to address outdoor amplified music.

During the Board public hearing, several speakers spoke in favor of the proposal and an adjacent property owner raised concerns regarding potential noise impacts associated with the proposed events. The Board's discussion included clarification on where proposed outdoor amplified music would be located, applicable noise regulations, assuring adequate parking would be delineated for the use, and business staffing, as well as operations. Following the public hearing and discussion, the Board deferred the item to December 7, 2022.

There were no requests for additional information or recommended revisions by the Board. No revisions to the proposed conceptual plan or new information has been provided.

There is no direct budget impact associated with this application.

Staff and the Planning Commission recommended approval of the proposed zoning map amendment from Planned Residential District (PRD) to Rural Areas (RA) (ZMA202100003). An ordinance to approve ZMA202100003 is provided as Attachment B.

Though staff recommended denial of the proposed special use permit, the PC recommended approval. As a result, staff has prepared separate alternate resolutions to approve (including recommended conditions of approval) and deny, provided as Attachments C and D, respectively.

If the special use permit is approved, staff recommends approval of the associated critical slopes special exception. A resolution to approve is provided as Attachment E.

Following further review and discussion, the Board may approve or disapprove the proposed rezoning, or may defer action. Based on County Code § 18-33.4(O)(2), Board action is not required on this application until March 1, 2023.

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Ms. Price said that these matters were set for the previous Board meeting on November 16, a meeting that she was not in attendance for. She said that she had watched the entirety of the Board meeting and paid close attention to this material, and in addition, she read this material prior to the meeting and reviewed it on that evening. She said that it was an action item and not a public hearing, and because it was an action item that had been brought back to the Board from public hearings, there would be opportunity for comment from the applicant and from the public. She said that she would state the time limits at the appropriate moment.

Ms. Rebecca Ragsdale, Planning Manager, said that these three items were being handled at the same time, but there would be separate actions to be taken by the Board when the time came. She said that the location was located off of North Milton Road, near the intersection of Route 250 and North Milton Road, with the surrounding area including the Milton Boat Launch and the Rivanna River. She said that there were large parcels that were undeveloped and wooded, a nearby elementary school, and other nearby commercial uses. She said that the map on the screen also showed the property to the north where they had heard from concerned neighbors on Shadwell Station Lane. She said that to the east was the Village of Rivanna and Glenmore.

Ms. Ragsdale said that some of the parcel characteristics that had been discussed before were that it was four separate parcels that were subject to the special use permit, and one parcel in the middle that was subject to the rezoning. She said that there were a number of critical resources on the site that would not be impacted and were delineated on the Concept Plan in terms of stream buffer and critical slopes, and three of the subject parcels were in the southern Albemarle Rural Historic District, but Collina Farm was excluded from that.

Ms. Ragsdale showed the zoning map and indicated the 28.04-acre parcel in the middle that was the subject of one of the applications before the Board, the rezoning or downzoning from PRD to Rural Areas (RA). She said that there were about seven residential lots and an internal road that were approved with the Application Plan, and the remainder of the parcels were zoned RA. She showed a closer view of the parcel and the view of the application plan to the right of the slide, with the seven lots and internal road shown. She said that there was concern raised about the stream buffer and lots, and staff was supportive of the downzoning to RA, which did not result in all of that development, and there would be limited support and accessory-type things needed for Clifton and Collina in the special use permit proposal.

Ms. Ragsdale said that the request was to increase the number of guest rooms up to 50 from the current 15, and a 52-seat restaurant they were requesting to increase to 100 seats. She said that the current special use permit in place now for Clifton limited the total number of people on the site for the events, restaurant, and guests to 200. She said that currently, events occurred in a tent structure. She said that with this proposal, there would be a 5,000-square-foot building where the tent was currently, and up to 75 people for events, with the request for up to 200 in-person events until event structures were built on Collina.

Ms. Ragsdale said that the amendment would take away the cap on the number of guests and people at the restaurant and handle it as far as guestrooms and the number of seats. She said that Collina was not currently subject to the special use permit for Clifton. She said that they had five existing guestrooms, and the proposal would be to add 16 for a total of 21, and the major events activity would be moved over and increased to Collina, getting it away from the historic Clifton manor house, and would include a 10,500 square foot event space building for up to 300 attendees 12 times a year, and 200 unlimited for the other days of the year.

Ms. Ragsdale showed a close-up image from the Concept Plan that was submitted. She said that a significant feature of the Clifton Inn portion of the Concept Plan was that they had offered the proposed greenway easement, which was a significant linkage and critical to improving the boat landing at Milton and continuing the greenway corridor. She indicated the expansions around the existing structures, and the use of the event venue and spa for the enclosed building for events.

Ms. Ragsdale showed another image from the Concept Plan, showing Collina Farm's existing conditions on the left and the limits of the tree line, the conceptual events building location on the right, the new entrance and improved parking, and the additional cottages around the perimeter of the stream area. She said that any of these improvements would require a site plan, would include more detail, and would hold them to the Concept Plan.

Ms. Ragsdale said that throughout the Comprehensive Plan, there was the notion of supporting historic structures and properties to make them financially viable to encourage preservation, also acknowledging the economic development activities that were supportive of County assets and tourism in the RA. She said that also in their Comprehensive Plan, specifically related to events, larger events, more than 150 persons should be on an occasional but not regular basis. She said that it was a concern of staff that they mentioned and was also discussed with the Planning Commission.

Ms. Ragsdale said that the analysis of the special use permit request indicated concern with this request as far as effects on neighboring properties regarding noise. She said that it was a size, scale, and frequency that had not yet been approved. She said that it was consistent with many Comprehensive Plan goals, but they also thought that it was not as consistent with those recommendations for size and scale.

Ms. Ragsdale said there were two related items that required public hearing; the rezoning and the special use permit, and there was another accompanying critical slopes waiver for an area of about 369 square feet behind the Clifton structures, and a larger area along North Milton Road that would be necessary to disturb for the improved entrance and parking areas. She said that those were recommended for approval if the special use permit was approved.

Ms. Ragsdale summarized that the positive aspects of the project were the public easement, the right-of-way along Route 250 to provide for future road improvements, and the support of downzoning from PRD to RA. She said that there were concerns about the size and scale of events, and noise, and staff had recommended a condition of approval that would prohibit outdoor amplified music. She said the Commission in their action recommended approval of the special use permit and recommended that the condition be revised to allow outdoor amplified music consistent with some of the other RA uses that were allowed.

Ms. Ragsdale said that the Commission discussion included how many development rights, in terms of if the property were developed by right, how many residential lots could be built. She said that the Commission was supportive of this use in terms of being needed in the community and thought that this location was unique in terms of the surrounding uses in context, the roadways, and included buffering to several non-residential properties.

Ms. Ragsdale said that there were many conditions associated with this, most of which were the ones typically seen that identified the major elements of the Concept Plan and set the upper limits in terms of the special use permit request. She said the conditions included the reference to the outdoor amplified music regulations if the Board were to approve it to allow that, time for commencement of the uses, and also some conditions that addressed some of the supplemental regulations and provisions specific to an historic site like this where the regulations were encouraging it to remain historic and not have changes that were too significant that the property to be no longer listed.

Ms. Ragsdale said that there was a slight change to the wording of Condition 6 to list the proper name for the National Register of Historic Places or Virginia Landmarks Register. She said that the prior wording was not as precise. She said that there were also conditions that required archaeological studies prior to any land disturbance.

Ms. Mallek said that the current rule was 200 people in total for the site, and the proposal

included very big changes to that. She asked what the options were regarding the numbers in the application. She said that their request was so much higher than the operations that she was familiar with in other parts of the County.

Ms. Ragsdale said that the 200-person limit was solely for the Clifton proper area, and Collina was not subject to that limit or the special use permit at that time. She said that generally, they could go lower but could not increase the number that had been advertised in terms of events.

Ms. Mallek asked if the Board decided that these increases were too much, they may approve a smaller amount. She asked if it was not all or nothing.

Ms. Ragsdale said that was correct.

Ms. LaPisto-Kirtley asked what the decibel level was for agricultural operations. She said that Ms. Ragsdale had referenced that the outdoor sound or music could be at the same level as outdoor agricultural operations.

Ms. Ragsdale said that it was not for the agricultural operation itself, because agricultural uses had many exemptions, but for those agricultural uses such as farm wineries, breweries, distilleries, and agricultural operations that were allowed to have outdoor amplified music, it was 60 in the daytime and 50 in the nighttime.

Mr. Gallaway said that the increase in the event number, along with moving from a tent to a new structure, was the point when directional speakers came up, because the solid foundation and direction of the speakers was a more manageable sound mitigation or sound piece. He asked if that was correct.

Ms. Ragsdale said that if the building was built where the windows were open or a side of the building was opened up, it was considered outdoor amplified music in addition to what could be a band stage set up. She said that the notion was that they were going from a tent to a building at Clifton, but they did not really have the option to do so at Clifton, so Collina was where they were going to design the building to take advantage of the views.

Mr. Gallaway said that they were pointing the building to take advantage of the view, and the directional speakers gave them some control, versus a tent that had sound emitting throughout all the sides.

Ms. Ragsdale said that was correct. She said that if it was allowed, there would be an extensive review of their plan by Zoning staff prior to the music being able to commence as part of the process.

Mr. Gallaway said that regardless of what they approved, the Noise Ordinance of the County was the ultimate protection, and if that ordinance was violated in any way, that was used to deal with that.

Ms. Ragsdale said that was correct. She said that Mr. Bart Svoboda, Zoning Administrator, was present to answer any more questions related to noise complaints.

Mr. Gallaway said that one of his more pressing concerns was that the supplemental parking across the road was all shuttle-based and did not have anyone walking across the road.

Ms. Ragsdale said that that was correct.

Mr. Gallaway said that the parking that they had discussed, while they were not defined spaces, he had asked if they could be somewhat defined.

Ms. Ragsdale said that delineation was required as part of the site planning process.

Mr. Gallaway asked if that applied to these parking spaces.

Ms. Ragsdale said yes.

Mr. Andrews asked to see Slide 15. He said that the conditions listed seemed like a long list, but he did not see anything unusual listed. He said that it was a bit problematic to have so many conditions to follow. He asked if any conditions may pose special problems to enforce.

Ms. Ragsdale said that they were standard conditions that had been used before. She said that she would defer to the Zoning Administrator as to how difficult they were to manage, but some of them were easy to administer in the way that they were related to physical things that would be monitored or confirmed throughout the site planning process or zoning clearances. She said that some may be more complaint-driven as far as attendees or noise, but most would be easy to verify.

Ms. Price said that she would now allow comment for this item, due to it being deferred from action at the previous meeting, although it was not a public hearing. She said to the Board that their rules provided the applicant with up to seven minutes to speak, members of the public two minutes to speak, and five minutes for a rebuttal from the applicant.

Ms. Price said that because there was more than one item up for action, she asked for the Board’s consensus to increase the speaking time by 50% so that the applicant would have up to 10.5

minutes, the public would have 3 minutes, and up to 7.5 minutes for the rebuttal. Seeing no objection from the Board, she moved forward and opened the floor for public comment and the applicant. She noted that the Executive Summary reflected that the Board's meeting was held on November 17, 2022, but in actuality, it had been held on November 16, 2022.

Ms. Kelsey Schlein, Planner with Shimp Engineering, stated that Justin Shimp, Civil Engineer, was also present for this project, and they were both representing Clifton Inn, LLC., the owner of the subject properties, and the applicant of the request before the Board. She said that there were three requests, two of which were subject to public hearings, but the rezoning was fairly simple, so her comments would focus on the intricacies of the special use permit request. She said that the proposal had included a few robust conversations with the Planning Commission where they received a unanimous recommendation for approval after having discussed a few revisions that ultimately were very reflective of the conditions that were before the Board tonight.

Ms. Schlein said that a key driver of this request and why Clifton Inn wanted to expand was because currently, their events were taxing on the manor home shown on the screen. She said that the property was on the National Register of Historic Places and on the Virginia Landmarks Register. She said that the historic core was almost 200 years old, so when they hosted an event, the primary event space was in the tent, however, all of the cooking occurred within the manor home, and they had to shut down the restaurant to host an event at the location. She said that the restaurant was open to the public, but it was difficult to operate a restaurant when it needed to be closed on Fridays and Saturdays for private events.

Ms. Schlein said that a primary driver behind this request was that the property owners had nearly 100 acres under common ownership, and they were hoping to utilize some of it to create a permanent event facility to host special events, and then expand the restaurant to open it to the public and create additional guestrooms. She said that one point she wanted to touch on was the space that this use as a historic tavern and inn functioned in the Zoning Ordinance was fundamentally different than a farm winery or brewery. She said that it was an historic inn and tavern, and there were currently three properties in the County that could fall under that criteria, those being Clifton Inn, Keswick Hall, and Michie Tavern.

Ms. Schlein said that Michie Tavern was established before the special use permit for the provision for that use was adopted, as was Clifton, but they had amended over time, and Michie Tavern did not have the special use permit, so it was only Keswick Hall and the Clifton Inn. She said that Keswick Hall functioned under Provision B and Clifton Hall functioned under Provision A. She said that this was critical, because it had been evaluated against farm wineries and breweries in context, but it was a fundamentally different use and had been for the past 40 years on the property.

Ms. Schlein said that a key component of this application was the location. She said that the location had frontage on Route 250 and North Milton Road, and nearby was access to Exit 124 and the Interstate. She said that there was very adequate infrastructure in this area, especially to support a use such as this where the peak hours for restaurant hours and events did not coincide with the peak work commute hours. She said that it could be seen on the map where the location of the parcel was, and how the character north of the Rivanna River was very different than south of the river. She said that the property and its history were unique, but the location lent itself very well to the proposed expansion that had been brought before the Board.

Ms. Schlein said that there were nearly 100 acres, but they had been thoughtful about the design and limited the disturbance to a few localized areas. She showed an aerial image of Clifton Inn, stating that they were utilizing the existing pad where the tent structure was for the new event space and spa, the expansion of the Inn was proposed as an addition to one of the existing garden cottages that would wrap around and create a central courtyard in between the manor house and the guest expansion.

Ms. Schlein said that on the Collina side, the proposed farmhouse would remain, she indicated the space for a new event structure and said that the topography lent itself well to the event structure because it was going downgrade from the farmhouse and took advantage of the views of the pond. She said its location would also help mitigate sound through the topography available on the site. She said that they also proposed guestroom expansions with the idea of having small structures that were a lighter footprint on the land.

Ms. Schlein showed more images of the limits of disturbance, acknowledging that a key component of this was the greenway dedication, which was a huge aspect that the Clifton Inn owner was looking forward to in how the park could interact with their operations and how their guests could utilize future boat landing improvements or pathway improvements, and can use the Old Mills Trail to access Woolen Mills or eventually get downtown from there.

Ms. Schlein felt that this was consistent with the Comprehensive Plan, promoting heritage tourism, the greenway easement, protection of archaeological and historic resources. She said that about Ms. Mallek's comment about the intensity of use, when the proposal was first brought forward in February 2021, it was much more intense than its current status and had been parsed down considerably from what it was. She said that there was formerly no limitation on the quantity of 300-person events and there were glamping sites, but with consideration of noise impacts, they struck it from the proposal as well.

Ms. Schlein said that they felt its current proposal was considerate, especially given that it was a historic tavern and inn, and the property was functioning in a business space where it competed against

other properties that had those opportunities as well, and it was not directly competing with wineries and breweries. She said that the viability of the 70-person room count was critical, the 300-person events 12 times per year was critical to the proposal as well, and at all other times it would be limited to 200 people.

Ms. Mallek said that Ms. Schlein mentioned the location in the County where there was adequate infrastructure and their events would not be at commuter time, but what that did was impact the neighbors when they were home all the time. She said that another one of her notes was that their only active season was the summertime, but they wanted to have 12 large events, which meant it would be every single weekend during the summer that people would have to deal with the extra 30% of people coming to a site. She said that when she asked earlier what the options were regarding numbers, she would like to know if Ms. Schlein meant that if the Board could not support the 70 and 300 figures and that it was all or nothing.

Ms. Schlein said that she did not wish to further delay the application, but the applicant had parsed it down as much as they could, but Clifton needed to expand, so she would certainly request some additional consideration or time if needed so that they could get to a place where Clifton could have a more viable business on the property.

Ms. Schlein said that with the direct comparison to Keswick Hall, they did not have a limitation on the number of events or the number of people at the events and was not a part of the conditions of approval. She said that they felt that they had been very thoughtful about that and tried to come to a place that worked for Clifton and was considerate of the hesitation of having increased events with more people on the property, but there was one other property that was able to function under that section of the Zoning Ordinance, and the restrictions were not quite as stringent.

Ms. Mallek said that the scale was different in her opinion. She said that the research she had done on other locations with event buildings, 7,500 square feet seemed to be the biggest with a maximum seating of 200. She said that this was a magnitude larger than what was going on at other places.

Ms. LaPisto-Kirtley said that a whisper was 30 decibels, a motorcycle engine running was 95 decibels, anything above 70 decibels over a long period of time was not good, and 60 was fine. She said that it was said that the outdoor music would be 55 to 60 decibels. She asked if that was correct.

Ms. Schlein said that was correct and was a number measured at the property line. She said that this property was largely bound by the river, lake, and two roads between this property and the adjacent property lines.

Ms. LaPisto-Kirtley said that the closest homes would be another hundred or two hundred feet away from the property line. She said that Glenmore was even further away.

Ms. Schlein said that was correct. She said that the closest home was approximately 775 feet.

Ms. LaPisto-Kirtley asked if there had been prior noise complaints regarding the events.

Ms. Schlein said that that was a question they first asked the County during the initial pre-application process. She said that to the applicant's knowledge, in the past 40 years, there had not been a documented one, but there was one that happened between the Planning Commission and the Board of Supervisors meeting, so that was the only documented noise complaint that they were aware of.

Ms. LaPisto-Kirtley said that she understood from the last public hearing that with the tent, people would bring in their own bands, so they did not have control regarding the noise, whereas now, all the necessary musical equipment would be there provided by Clifton Inn, and therefore they would be able to control the noise level. She asked if that was correct.

Ms. Schlein said that was correct. She said that with the condition limiting outdoor amplified music, key language in the Zoning Ordinance was that the equipment was inspected as part of the zoning clearance process, and there was a sound monitor and limiter to ensure compliance.

Ms. Price said that there was one participant who signed up online to speak. She asked the Clerk if this was the only individual who was signed up to speak.

Ms. Borgersen said that was correct.

Mr. Ricky de Jesus, Clifton Inn General Manager, said that to address the most recent point mentioned, the tent made it incredibly difficult to control the volume from a disc jockey or band with the open space, and this would afford much more control in the enclosed structure. He said that currently when they held an event at the Clifton Inn, they had to shut down the entire property to outside guests, including Charlottesville residents. He said that the Clifton Inn was special in its historic relevance, unique architecture, many acres, the lake, and walking trails, which would not be possible without the Charlottesville residents who supported them.

Mr. de Jesus said that the economic impact of the jobs that approval would create was significant, and their most valuable asset was the employees they had who had been there for decades, and they wanted nothing more than to continue to embrace and reciprocate support to the local community by continuing to create more job opportunities. He said that apart from that, the Clifton Inn needed stewards of the community to help preserve the history of the property. He said that built in 1799, the property

needed to be managed delicately. He said that mitigating the impact of a large amount of foot traffic and vehicles would help them tremendously in accomplishing this by relocating the volume of this traffic off of the historic grounds.

Mr. de Jesus said that subsequently and importantly, he liked to enjoy many unique and creative restaurants, and it was important to him to be able to open the doors of this restaurant, led by Michelin-star staff, to their local residents. He said that they had taken steps recently to make the restaurant and bar more approachable to the locals, and all decisions made revolved around the locals. He said that they currently could open the doors Monday through Friday to Charlottesville residents, but they wanted to be able to do this seven days a week, continuing to support the community, and nothing gave the staff, management, and owners more satisfaction than knowing they were making every attempt to do so.

Ms. Price stated that Ms. Schlein declined to use her time for rebuttal. She asked the Board if there were questions for County staff.

Ms. Ragsdale clarified that the questions that had arisen about noise complaints, upon looking back at zoning records, and there was one in 2008, and one in 2009, under different owners. She said that under the special use permit process with the new owners, there had not been a complaint at that time, but there was one logged into the zoning system in May of 2021. She said that some of the nearby property owners were contacting the police directly and had made them aware of additional complaints. She said that there was the one mentioned but also a few additional ones that may have been made, and she wanted to ensure the record reflected this.

Ms. Price stated that it appeared that some of those issues occurred before the current owners. She closed the public comment, and the matter was back before the Board.

Ms. McKeel said that she was supportive of the project.

Ms. Mallek said that the size, scale, and frequency would be an outsized burden on people, and the reason why she was concerned about the sound was because of the misery that had been visited upon White Hall District residents over many different locations over many years; for some of them, the sound traveled for two miles. She said that the solution for a different establishment in the Rivanna District was to require that the doors be closed on the barn, otherwise they could not continue, because there were four years of great upset on the part of longtime, elderly neighbors.

Ms. Mallek said that every single weekend during the summer to have 300 people when 200 was the standard operating except for perhaps one event per year where a larger number would be permitted, that these are her concerns. She said that the outdoor amplified music in this location would be very punishing at any level, because when these events were happening, zoning staff was not available, and no one could get connected to those who could respond to the issue. She said that her question about the possibility to approve something partway rather than the huge increase in rooms, seats, and full-time restaurant, and people coming for events all at the same time. She said that she understood that this was what they wanted, so she could not support it as such.

Ms. LaPisto-Kirtley said that she was supportive of this item.

Mr. Gallaway said that he would vote to support, because the noise issue, in theory, should improve due to the structure and the different location, and how it could be managed and mitigated. He said that if he were wrong, then they had to comply and could not get around that. He said that if the noise could not be in what was stated, then they would be shut down or penalized, and would have to comply. He said that the noise and amplified music could be mitigated, even with 100 more people attending.

Mr. Gallaway said that there was sufficient parking onsite, and supplemental parking with a shuttle service for guests, so he was compelled to support a local business in their expansion efforts to make their business more supportive in a way that protected or was appreciative of the historic nature of the site, a benefit of the easement that would be granted, and it appeared that there was a lot of care taken in this that was compelling him to support this item. He said that his concerns had been addressed and he would vote in support.

Mr. Andrews said that weighing a lot of different factors, including the location and circumstances of this particular property as compared to others, where it is in connection with Luck Stone, and the easement that would be provided, he was supportive of it, but it was a close call.

Ms. Price said that because this was an application within the district she represented, she would like to make some comments, but she was ultimately supportive of this application. She said that she had followed this particular application in process for between one and two years. She said that she met with the Michie's, followed the application and its considerations closely, and she appreciated Ms. Schlein's explanation of the distinction between this particular type of application as it related to Michie Tavern or Keswick Hall in opposition to the more typical farm winery type of situation.

Ms. Price said she was cognizant of the fact that this was an historic inn that could be protected, and as she had closely followed the public hearings on the subject, what struck her was that the economies of scale today essentially necessitated that they choose from allowing expansion, and the extent of that expansion was one of the issues, or they faced the risk of this historic inn not being able to survive, then having a historic structure that could fall into disrepair or disuse. She said that they also

looked at the geographic location of this in relation to Stone Robinson Elementary School and Luck Stone, but nothing more in terms of development immediately to the west.

Ms. Price said that the fact that the development north of the Rivanna River was different than south of the Rivanna River, and there was a distance between what was proposed there and any properties on the south side of the Rivanna River, which she believed provided a sufficient distance and barrier to sound. She said that the greenway easement, which would, in time, permit the continuous Old Mills Trail, as well as the improvements that would follow with Milton Landing, provided a substantial benefit to their community. She said that she looked closely at the impact this would have on the properties in close proximity, which was to the north, the Michie's, and another property to the northeast, as well as the properties to the east in Glenmore and some of those other areas.

Ms. Price said that her impression and conclusion was that the noise issues that may have been in existence at that time were largely because the events were taking place in a tent outdoors, and in an enclosed structure, with stable speakers that were subject to directional control, sound limitations, and governors, and their ordinance that required compliance with sound, would be sufficient to mitigate and enforce the level to an acceptable degree.

Ms. Price said that she would be supportive of all three actions and was hopeful that they would be able to save this historic structure and the culture it represented in the magisterial district and the County. She noted that on the dais, the Board had been provided a yellow sheet of paper on a resolution for SP202100004, which she assumed was to substitute for the one that was in the binder materials as Appendix C.

Mr. Rosenberg said yes. He said that his recommendation was that the maker of the motion specifically reference the amended resolution in the motion to adopt.

Ms. Price **moved** the Board to adopt the ordinance (Attachment B) to approve ZMA202100003, for the reasons stated in the staff report. Mr. Gallaway **seconded** the motion.

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

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

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Ms. Price **moved** the Board to adopt the resolution (Attachment C) as amended, to approve SP202100004, for the reasons stated in the staff report. Mr. Gallaway **seconded** the motion.

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

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

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Ms. Price **moved** the Board to adopt the resolution, Attachment E, to approve special exception request SE202200014, to allow square feet of critical slopes disturbance, for the reasons stated in the staff report. Mr. Gallaway **seconded** the motion.

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

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

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Agenda Item No. 11. Public Hearing: Ordinance to Extend County Police and Fire/Rescue Sworn and Uniformed Employee Sign-On Bonus Payment, continued.

Mr. Jeff Richardson, County Executive, said that he needed the Board to return to a prior item from that evening, where they had discovered a mistake made on Item No. 11. He explained that Item No. 11 was the ordinance that the Board passed that evening. He said that Ms. Coltrane presented the request for the extension of the ACPD and ACFR sworn-uniformed sign-on bonuses. He said that as it was printed on the agenda tonight, the one-paragraph explanation was correct in that they were extending it from December 1, 2021, through November, 2022.

Mr. Richardson said that Chair Price caught the mistake, which was that in Attachment A, the language from last year was accidentally printed, and in that ordinance, it suggested that they would also go back and cover bonuses for existing personnel, which he had explained earlier had already been done, but he had been unaware that there was an error in the ordinance language and the action from the previous year. He apologized for that error and believed that it had been addressed correctly but had been unaware that the ordinance had that mistake in it. He said that Mr. Rosenberg could explain rectifying that issue.

Ms. Price thanked Mr. Richardson. She asked Mr. Rosenberg if the correction could still be made in this open meeting.

Mr. Rosenberg, County Attorney, stated that under the rules of procedure most recently revised in September, there was an express provision made for a motion to reconsider, and if the Board adopted such a motion, the effect of that motion as adopted was to place the item for discussion in the exact position it occupied before it was voted upon, so essentially, they were rewinding it and going back to where the matter stood when it was before the Board earlier that evening. He said that it would then be appropriate to consider a second motion that adopted the ordinance with an amendment to delete paragraph one, which, as Mr. Richardson indicated, was included in error. He said that he had just emailed all of the Supervisors a sequence of two motions that would do just that.

Ms. Price said that the floor was open for a motion to reconsider Item No. 11 on the agenda.

Mr. Andrews **moved** the Board to reconsider the Board's adoption earlier this evening of the ordinance to authorize the payment of monetary bonuses to eligible public safety employees of the County of Albemarle, Virginia. Ms. McKeel **seconded** the motion.

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

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

Ms. Price said that the intent that the County Executive had from the beginning was to have this one time, either sign-on or last year for existing employees, now for new employees a sign-on bonus. She said that the understanding was essentially that each of the eligible employees as specified in that motion would be eligible for a one-time payment, not a one-time payment each year.

Mr. Richardson said that that was correct.

Ms. Price said that by deleting paragraph one, it then placed the ordinance into the intent that the County Executive had as a sign-on bonus since all existing employees had already been covered.

Mr. Richardson said that was correct. He said that there was one additional piece that could have added to the potential for the mistake, which was seen in the language where they had to make it retroactive back to December 1, 2021, so that everyone received it one time, and the language must have accidentally been pulled from last year.

Ms. Price said that it was an easy mistake to make and that she was glad that they were present to make such a timely correction.

Ms. Mallek **moved** the Board to adopt the Ordinance to Authorize the Payment of Monetary Bonuses to Eligible Public Safety Employees of the County of Albemarle, Virginia (Attachment A), amended to delete paragraph one of the ordinance, which was included in the proposed ordinance in error. Ms. McKeel **seconded** the motion.

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

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

ORDINANCE NO. 22-A(4)

AN ORDINANCE TO AUTHORIZE THE PAYMENT OF MONETARY BONUSES TO ELIGIBLE PUBLIC SAFETY EMPLOYEES OF THE COUNTY OF ALBEMARLE, VIRGINIA

WHEREAS, current conditions in the job market include trends of fewer qualified persons applying for public safety positions, and peer localities provide sign-on bonuses and offer higher starting pay than that offered by the County of Albemarle; and

WHEREAS, the Board desires to retain and recruit the most qualified sworn and uniformed personnel for the Albemarle County Police Department and the Albemarle County Department of Fire Rescue; and

WHEREAS, the Board is authorized by Virginia Code § 15.2-1508 to provide for the payment of monetary bonuses; and

WHEREAS, an appropriation to fund one-time and sign-on bonuses was authorized by Ordinance 21-A(10) on December 1, 2021.

NOW, THEREFORE, BE IT ORDAINED that the Albemarle County Board of Supervisors hereby authorizes the extension of these payments of monetary bonuses as follows:

1. A sign-on payment of $3,000 shall be paid to all sworn or uniformed full-time and part-time regular employees of the Albemarle County Police Department and the Albemarle County Department of Fire Rescue who:

   A. Have a hire date between December 1, 2022 and November 30, 2023; and

B. Fill a total full-time equivalent of 0.7 and above.

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Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Price stated that the Pantops Community Advisory Committee (CAC) met, and she commended the public for the manner in which they handled the matters that came up. She said that there was concern about the impact on homes, and she was proud of the community for the way things were addressed respectfully. She said that Ms. Schlein was one of the presenters there as well and she appreciated how she handled things as well. She said the result was something that everyone came to an understanding with, and they were fortunate to live in a community where the public was able to engage in the manner in which they did.

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Agenda Item No. 19. Adjourn to December 14, 2022, 1:00 p.m. Lane Auditorium.

At 9:38 p.m., the Board adjourned its meeting to December 14, 2022, 1:00 p.m., Lane Auditorium. Opportunities for the public to access and participate in this meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

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Chair

Approved by Board

Date: 11/06/2024

Initials: CKB