

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 14, 2026, at 4:02 p.m. in Lane Auditorium, Second Floor, Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia, 22902.

PRESENT: Ms. Sally A. Duncan, Mr. Ned Gallaway, Ms. Beatrice "Bea" J.S. LaPisto-Kirtley, Ms. Ann H. Mallek, Mr. Frederick "Fred" A. Missel, and Mr. Mike O. D. Pruitt.

ABSENT: none.

OFFICERS PRESENT: Deputy County Executive, Ann Wall; County Attorney, Andy Herrick; 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 4:02 p.m., by the Chair, Mr. Ned Gallaway.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek **moved** to adopt the final agenda. Mr. Missel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

Mr. Gallaway introduced the Albemarle County Police Department Officers present to provide their services at the meeting, Sergeant Jason Freishtat and Senior Police Officer Kris Hernandez. He also noted that Mr. Richardson, County Executive, was traveling and would not be at the meeting and that Ms. Ann Wall, Deputy County Executive, was standing in for him.

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

Mr. Pruitt announced an upcoming seed swap event at Highland in conjunction with the Piedmont Master Gardeners, scheduled for Saturday, January 24 at 10:00 a.m.

Mr. Pruitt stated that additionally, many of his constituents had been following another issue, and he encouraged them to continue doing so. He explained that yesterday, the Fluvanna Planning Commission voted 3-1 to deny the Tenaska gas power plant, which had been proposed to be located near the Scottsville District. He said that the proposal would still move forward to the Fluvanna County Board of Supervisors, and it was not necessarily effective for Albemarle to tell their neighboring County what to do, he thought members of the public would be interested in voicing their opinions.

Mr. Pruitt reported that it was also the first day of session for the General Assembly, where they were considering constitutional amendments and other issues directly related to County government. He said that he encouraged the public to review their County priorities and stay engaged in the process. He emphasized that it was not enough to elect officials; they must also hold them accountable and ensure they were voting in line with their interests. He added that on the coming Saturday, there would be an inauguration for their new Governor.

Mr. Pruitt said, finally, he would like to address a recent development in the country. He said that the killing in Minneapolis by an Immigration and Customs Enforcement (ICE) agent had brought more attention to the issue of immigration enforcement in their own community, which first became a concern last year when ICE detained people at their local courthouse. When those detainments occurred, he had condemned that action and discouraged ICE access to courts. He said that masked, unidentified law enforcement was dangerous, and he stood by that.

Mr. Pruitt stated that he hoped the people who were speaking about this issue during public comment this evening would hear his comments. He stated that this County and he personally had strived to balance their response to immigration concerns. He said that while Resolutions could be a good statement of principle, they did not exercise real authority and may attract unwanted attention. However, the recent killing in Minnesota had shifted his calculus, and he was now considering the potential power to reduce the risk of similar incidents in their community.

Mr. Pruitt said that he thought it was incumbent and the issue of bringing unwanted attention to their statement seemed lesser than it was before. He said that he looked forward to hearing what their community members would present today, and he knew it would be an ongoing discussion with their Board.

Ms. LaPisto-Kirtley said that she had a few announcements but would report on them later in the meeting.

Mr. Missel stated that he had a quick announcement and a shout-out to give. He said that during his campaign, he had the opportunity to get to know the citizens of Yancey and Esmont better than he had in the past. He said that he would like to extend a special thank you to Ed Brooks, a gentleman who had been very engaging with that group.

Mr. Missel announced there was a community gathering happening on Friday of this week, which was a retreat and an opportunity for members of the Yancey School community to learn about various aspects of their County governance, including the Orange Dot report, linear pathway reviews, and roundtable discussions with other agencies and community partners. He said that he believed this was a great opportunity for that area of their County to engage, and he hoped that everyone would attend.

Ms. Duncan announced that on January 19, from 12:30 p.m. to 1:00 p.m., a historic Riverview Farm tour would be held at Ivy Creek. She said that if anyone had not had the opportunity to visit the property or see the house, the history of it was truly fascinating and she encouraged everyone to attend on January 19.

Ms. Mallek said that she would like to first address the annual report for the Thomas Jefferson Soil and Water Conservation District. This report highlighted numerous programs that allow homeowners, tenants, local governments, farmers, and urban residents to improve their sustainability on their properties. She said that since 2013, the District had provided watershed education to over 15,000 fourth-grade students in the City and County, as well as 24,000 K-12 students participating in other conservation education programs, and 6,000 adults have participated in these programs.

Ms. Mallek said that the District had also made significant strides in reducing runoff, with 440,000 square feet of stream buffers implemented, which helped to slow the velocity of water entering rivers and improve water quality. She said that 444,000 feet of stream bank restoration had been funded through federal and state programs, with a local share contributed by homeowners.

Ms. Mallek said that it was approximately \$5 million in cost-share funds sent out, with additional federal funding available for 2026. She said that it is important for people to research and participate in programs that best suited their needs, as they were readily available in their area. She said that the District staff was highly knowledgeable and would be glad to provide assistance.

Ms. Mallek reported that the Three Notch'd Trail was also under review and could be found on the engage.albemarle.org website, where one could access detailed information, maps, and a survey to share thoughts on the trail. She said that she believed this was an important aspect of the planning process, as it had received significant input from users, including the 4,000 people who signed the petition. She said that there were also other groups who perhaps may not have shared their view yet. She said that if they knew of environmental critical areas, bird nesting sites, or other areas along the trail that may require special attention from the planners, she urged them to share that information through the survey.

Ms. Mallek stated that as a newly appointed member of the Soil and Water Conservation Board, she would continue to report on household hazardous waste (HHW) collection days. She said that the collection days were scheduled for 9:00 a.m. to 3:00 p.m. on April 17 and April 18 for household hazardous waste, and 8:30 p.m. to 4:00 p.m. on April 25 for bulky waste, May 2 for appliances, and May 9 for tires. She said that these events had been well-organized and have greatly reduced the time required for disposal. She encouraged citizens to take advantage of these services, which not only ensured proper disposal but also saved time and money.

Ms. Mallek said that finally, she would like to thank the Crozet Community Association for their collaboration with the Blue Ridge District Police Patrol, which had been a valuable resource for the community. She said that one key takeaway was that citizens should lock their cars and keep their firearms in a secure, locked location, as guns stolen from unlocked cars were a major source of the firearms used in crimes.

Mr. Gallaway reported that this past Thursday, he was pleased to have attended the swearing-in of two new School Board members, Bob Beard of the Samuel Miller District and Jim Dillenbeck of the Rio District. He said that he would also like to thank Leslie Pryor for completing the term left vacant by the passing of Chuck Pace, serving it through the end of the calendar year that Mr. Dillenbeck was now taking over. He said that he appreciated Ms. Pryor's service. He stated that Rebecca Berlin had been named Chair of the School Board, and Allison Spillman had been named Vice Chair. He had a great conversation with Dr. Berlin and looked forward to working with her as the leader of the School Board, anticipating a productive partnership this year.

Mr. Gallaway reported that the other item he said he would like to note was the passing of an icon in their community, Marie Coles Baker, who had passed away just before her 92nd birthday in December. He recalled her as a fellow neighbor in Dunlora, who had encouraged him to run for School Board by putting a campaign sign to display in her yard. He said that Marie had been a strong supporter of the African American Teaching Fellows, an annual dinner that honored her husband's work, and she had been instrumental in making it happen. She was a fierce, wonderful, and kind lady, always active and a joy to see in person. His thoughts were with her family, and he offered his sympathies and condolences. Despite her passing, she had lived a long, productive, and rigorous life, and she would be deeply missed.

Ms. LaPisto-Kirtley said that she would like to note that last month, Jimmy Dean passed away. He was a very active person who welcomed her and supported her campaign. He was involved in their

Community Advisory Committees (CAC) and a very good member of the community. She said that he was a very kind, gentle soul, and he and his wife Sally were great pillars of the community.

Ms. Mallek said that without a daily newspaper in her mailbox, she missed out on everything. She said that knowing Jimmy, one of the researchers who assisted with the Frank Paraguay spelling corrections many years ago, and having a personal connection to Mr. Proffit's history, she was sorry to hear about his passing; he was a remarkable individual.

Agenda Item No. 6. Proclamations and Recognitions.

There were no proclamations or recognitions.

Agenda Item No. 7. Public Comment on: Matters Previously Considered or Currently Pending Before the Board (Other than Scheduled Public Hearings).

Phil Riese, Rivanna District, stated that he wanted to discuss what he believed was the most consequential decision the Board would make this year, and that was whether to move forward with a new high school. Although he was not aware of whether the School Board had unanimous support for a new high school, the majority wanted to proceed with it, and they would share their reasons with the Board. Personally, he was not convinced about the need for a new high school at this juncture, although he remained open-minded, as he wanted what was best for his children and the community as a whole.

Mr. Riese said that however, he would like to share some data points that he did not think the School Board would present. He said, next year Center 2, also known as ACE Academy, at Lambs Lane, would be opening, adding 400 students to the existing capacity. According to Albemarle County Public Schools' (ACPS) own data, the three high schools would have an estimated under-capacity of 189 students next school year, which was good news in terms of avoiding overcrowding. Moving forward to the 2030 school year, ACPS's data estimated an overcapacity of 96 high school students, and in the 2035 school year, an overcapacity of 146 high school students.

Mr. Riese said that to phrase it in another way, if the County were to build this new high school, it would increase total high school student capacity to 6,000 students. However, the data indicated that there would only be approximately 4,600 high school students 10 years from now, resulting in an overcapacity of about 1,400 students. He asked them, did it make sense to build a new high school with a capacity of 1,500 students at a cost of \$250 million to address an estimated overcapacity of just 146 students. He hoped the Board of Supervisors would carefully consider all the data before making this important decision.

Anika Johnson, Rivanna District, said that she had two children who attend public school in Albemarle County at Stony Point Elementary. She said that she was here to request that this Board fully fund the Capital Improvement project at Stony Point Elementary. She said that her family moved to this area five years ago, seeking a place to have a forever home where they could truly grow roots. Stony Point Elementary embodied that sense of community, and its ties to the community were felt in many ways. The school's teachers and staff were the backbone, consistently going above and beyond to provide an exceptional education. While their creativity in problem-solving was impressive, it was clear that they were reaching their breaking point.

Ms. Johnson said that the school's limitations were evident, particularly with its single entrance and exit, which created a complicated and inefficient process for buses and cars. She said that the parking lot was insufficient to accommodate school-wide community events, which were cherished by the students. She said that the crowded classroom spaces and lack of shared spaces for support staff, such as speech and occupational therapy, hindered their ability to provide quality care. She said that the SEL and counselors' shared space also limits their capacity to properly care for students and maintain a quiet environment.

Ms. Johnson said that in short, their school was not adequately equipped to function in its current state and desperately needed improvement. She said that she understood that this Board provides the funding, but she believed that with their approved capital budgets and discussions, they could indeed support specific projects like this one. She said that collaboration between the County government and School system was essential for improvements at Stony Point. She urged the Board to provide ACPS with the necessary funds to support their staff, parents, and most importantly, their children.

Agenda Item No. 8. Consent Agenda.

LaPisto-Kirtley **moved** to approve the consent agenda. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Missel, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. Duncan, and Mr. Pruitt.
NAYS: None.

Item No. 8.1. Fiscal Year 2026 Appropriations.

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

The total change to the Fiscal Year 2026 (FY 26) budget due to the appropriations itemized in Attachment A is \$460,690. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriations for County government projects and programs described in Attachment A.

Appropriation #2026025

Sources:	Local Revenue	\$75,033
Uses:	Capital Project – City-County Parks Maintenance/Replacement	\$75,033
Net Change to Appropriated Budget:		\$75,033

Description:

This request is to appropriate \$75,033 in local revenue from the Parks Foundation to the City-County Parks Maintenance/Replacement program to be used towards renovations and improvements at the Darden Towe pickleball courts.

Appropriation #2026026

Sources:	Local Revenue	\$70,000
	Disposable Plastic Bag Tax Fund (previously appropriated)	\$70,000
Uses:	Disposable Plastic Bag Tax Fund	\$140,000
Net Change to Appropriated Budget:		\$70,000

Description:

This request is to appropriate \$70,000 in local revenue from the City of Charlottesville and to allocate an additional \$70,000 in previously appropriated Disposable Plastic Bag Tax Fund funding to fund a Joint Litter Prevention program with the City of Charlottesville in accordance with the uses for this fund in the County's budget and State code.

Appropriation #2026027

Sources:	Local Revenue	\$95,831
Uses:	Capital Project: Mountain View Upper Elementary	\$95,831
Net Change to Appropriated Budget:		\$95,831

Description:

This request is to appropriate \$95,831 from the Albemarle County Service Authority to the Mountain View Upper Elementary School for the design and construction of the waterline main extended to Galaxie Farm from Mountain View Upper Elementary School.

Appropriation #2026028

Sources:	Local Tax Revenue	\$172,383
	General Funds Fund Balance	\$47,442
Uses:	Economic Development Authority Fund	\$219,825
Net Change to Appropriated Budget:		\$219,825

Description:

This request is to appropriate \$172,383 from local tax revenue and \$47,442 of General Fund's fund balance to be transferred to the Economic Development Authority Fund pursuant to the Habitat Southwood Performance Agreement. After Board of Supervisor approval, the EDA will transfer the rebate.

Appropriation #2026029

Sources:	Proffer Funds fund balance	\$14,438
Uses:	Capital Fund Balance	(\$14,438)

Net Change to Appropriated Budget:

\$0

Description:

This request is to appropriate \$14,438 in fund balance from various proffer funds to the capital fund to clean up proffer funds that have met the intended purpose of the proffer agreement and have no further restrictions on the use of the remaining fund balance.

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

**RESOLUTION TO APPROVE
 ADDITIONAL FY 2026 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 26 Budget is amended to increase it by \$460,690;
- 2) That Appropriations #2026025; 2026026; 2026027; 2026028; and #2026029 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, 2026.

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Account String	Amount (\$)	APP#	Description
9010-7-71910-318000-9812-0000-00000-00000-181109-	\$75,033.76	SA2026025	Parks Foundation Donation Revenue
9010-7-71009-471200-9812-0000-00000-00000-331211-	\$75,033.76	SA2026025	Parks Foundation Donation Expense
5810-1-12300-318000-0000-9999-00000-00000-190207-	\$70,000.00	SA2026026	City Share - Joint Litter Reduction Campaign
5810-1-12300-482000-0000-9999-00000-00000-344400-	\$70,000.00	SA2026025	Program expense - Joint Litter Reduction Campaign
9000-6-69000-319000-9138-6118-00000-00000-189900-	\$95,831.00	SA2026027	ACSA Reimbursement to Southern Feeder Pattern ES
9000-6-69985-466500-9138-6118-00000-00000-800605-	\$95,831.00	SA2026027	ACSA Reimbursement to Southern Feeder Pattern ES
1000-9-99000-493000-0000-9999-00000-00000-934001-	\$219,824.94	SA2026028	Southwood TIF
4700-9-91095-351000-0000-9999-00000-00000-512004-	\$219,824.94	SA2026028	Southwood TIF
4700-9-91095-491095-0000-9999-00000-00000-950031-	\$219,824.94	SA2026028	Southwood TIF
1000-9-99000-352000-0000-9999-00000-00000-510100-	\$47,442.30	SA2026028	Southwood TIF
1000-1-11000-311000-1000-0000-00000-00000-110155-	\$172,382.64	SA2026028	Southwood TIF
8582-9-99000-352000-0000-9999-00000-00000-510100-	\$694.36	SA2026028	Proffer Interest Clean Up to Capital
8582-9-93010-493010-0000-9999-00000-00000-930010-	\$694.36	SA2026028	Proffer Interest Clean Up to Capital
8531-9-99000-352000-0000-9999-00000-00000-510100-	\$1,339.55	SA2026028	Proffer Interest Clean Up to Capital
8531-9-93010-493010-0000-9999-00000-00000-930010-	\$1,339.55	SA2026028	Proffer Interest Clean Up to Capital
8523-9-99000-352000-0000-9999-00000-00000-510100-	\$0.02	SA2026028	Proffer Interest Clean Up to Capital
8523-9-93010-493010-0000-9999-00000-00000-930010-	\$0.02	SA2026028	Proffer Interest Clean Up to Capital
8577-9-99000-352000-0000-9999-00000-00000-510100-	\$416.65	SA2026028	Proffer Interest Clean Up to Capital
8577-9-93010-493010-0000-9999-00000-00000-930010-	\$416.65	SA2026028	Proffer Interest Clean Up to Capital
8576-9-99000-352000-0000-9999-00000-00000-510100-	\$280.54	SA2026028	Proffer Interest Clean Up to Capital
8576-9-93010-493010-0000-9999-00000-00000-930010-	\$280.54	SA2026028	Proffer Interest Clean Up to Capital
8532-9-99000-352000-0000-9999-00000-00000-510100-	\$40.99	SA2026028	Proffer Interest Clean Up to Capital
8532-9-93010-493010-0000-9999-00000-00000-930010-	\$40.99	SA2026028	Proffer Interest Clean Up to Capital
8528-9-99000-352000-0000-9999-00000-00000-510100-	\$536.78	SA2026028	Proffer Interest Clean Up to Capital
8528-9-93010-493010-0000-9999-00000-00000-930010-	\$536.78	SA2026028	Proffer Interest Clean Up to Capital
8544-9-99000-352000-0000-9999-00000-00000-510100-	\$493.99	SA2026028	Proffer Interest Clean Up to Capital
8544-9-93010-493010-0000-9999-00000-00000-930010-	\$493.99	SA2026028	Proffer Interest Clean Up to Capital
8529-9-99000-352000-0000-9999-00000-00000-510100-	\$9,771.34	SA2026028	Proffer Interest Clean Up to Capital
8529-9-93010-493010-0000-9999-00000-00000-930010-	\$9,771.34	SA2026028	Proffer Interest Clean Up to Capital
8538-9-99000-352000-0000-9999-00000-00000-510100-	\$139.60	SA2026028	Proffer Interest Clean Up to Capital

8538-9-93010-493010-0000-9999-00000-00000-930010-	\$139.60	SA2026028	Proffer Interest Clean Up to Capital
8546-9-99000-352000-0000-9999-00000-00000-510100-	\$2.58	SA2026028	Proffer Interest Clean Up to Capital
8546-9-93010-493010-0000-9999-00000-00000-930010-	\$2.58	SA2026028	Proffer Interest Clean Up to Capital
8533-9-99000-352000-0000-9999-00000-00000-510100-	\$18.28	SA2026028	Proffer Interest Clean Up to Capital
8533-9-93010-493010-0000-9999-00000-00000-930010-	\$18.28	SA2026028	Proffer Interest Clean Up to Capital
8541-9-99000-352000-0000-9999-00000-00000-510100-	\$198.14	SA2026028	Proffer Interest Clean Up to Capital
8541-9-93010-493010-0000-9999-00000-00000-930010-	\$198.14	SA2026028	Proffer Interest Clean Up to Capital
8542-9-99000-352000-0000-9999-00000-00000-510100-	\$355.30	SA2026028	Proffer Interest Clean Up to Capital
8542-9-93010-493010-0000-9999-00000-00000-930010-	\$355.30	SA2026028	Proffer Interest Clean Up to Capital
8543-9-99000-352000-0000-9999-00000-00000-510100-	\$149.72	SA2026028	Proffer Interest Clean Up to Capital
8543-9-93010-493010-0000-9999-00000-00000-930010-	\$149.72	SA2026028	Proffer Interest Clean Up to Capital
9010-9-99000-351000-0000-9999-00000-00000-512057-	\$14,437.84	SA2026028	Proffer Interest Clean Up to Capital
9010-9-99000-352000-0000-9999-00000-00000-510100-	-\$14,437.84	SA2026028	Proffer Interest Clean Up to Capital

Item No. 8.2. Community Policy Management Team (CPMT) Resolution Reconstitution and Appointment.

The Executive Summary forwarded to the Board states that the Albemarle County Board of Supervisors established a Community Policy and Management Team (CPMT) pursuant to the Code of Virginia, Section § 2.2-5204. Virginia Code § 2.2-5204, requires every county to establish a community policy and management team in order to receive funds from the Children’s Services Act. The CPMT is the responsible entity to manage and administer all Children’s Services Act (CSA) funds for the County. The CPMT also establishes the policies and procedures that govern the provision of services to children and families in the community and access to CSA funds.

During a periodic review of the County policies and the state code, it was determined that the resolution constituting the CPMT and the appointments to the team were outdated. The policy has not been updated since 2015.

Staff from the County Attorney’s Office, the Office of Human Services, and the Department of Social Services have worked to reconstitute the CPMT, to more closely mirror updates to the state code since the last time the resolution was updated (Attachment A), and updated the appointments or re-appointments to the CPMT, and better clarifies the designees of each member (Attachment B).

Virginia Code § 2.2-5204, requires every county to establish a community policy and management team in order to receive funds from the Children’s Services Act. The code sets the make-up of the members on the team. Each CPMT member shall be appointed by the governing body of the participating local political subdivision establishing the team.

The updated resolutions more clearly designate the members of the CPMT, consistent with the language of the code, and explicitly appoints or re-appoints the current members and their designees. The resolution and approval of current CPMT members and their designees are written to ensure compliance with the Code of Virginia.

There is no budget impact associated with this item.

Staff recommend the Board adopt the attached resolution reconstituting the CPMT (Attachment A), and adopt the resolution appointing the members of the CPMT (Attachment B).

By the above-recorded vote, the Board adopted the attached resolution reconstituting the CPMT (Attachment A), and adopt the resolution appointing the members of the CPMT (Attachment B):

**RESOLUTION APPOINTING MEMBERS OF THE
ALBEMARLE COUNTY COMMUNITY AND POLICY MANAGEMENT TEAM**

WHEREAS, there exists pursuant to the Children’s Services Act (Virginia Code § 2.2-5200 *et seq.*) the Albemarle County Community and Policy Management Team (“CPMT”), previously established and reconstituted by Albemarle County, Virginia (the “County”);

WHEREAS, pursuant to Virginia Code §2.2-5204, all appointments to the CPMT are properly made by the Board of Supervisors of Albemarle County, Virginia (the “Board of Supervisors”);

WHEREAS, Virginia Code § 2.2-5205 establishes the composition of the CPMT, to include, in part, the local agency heads or their designees of certain community agencies, including the community services board, the juvenile court services unit, the department of health, the department of social services, and the local school division;

WHEREAS, in certain circumstances, the heads of such community agencies have identified to the County their designees for appointment to the CPMT; and

WHEREAS, the Board of Supervisors desires to confirm the appointments to the CPMT of the following individuals and their designees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia that the following individuals are appointed or reappointed to the CPMT, effective retroactively to the date of the commencement of their prior service as members of the CPMT:

1. Jacob Sumner, Chief Financial Officer of Albemarle County, for Albemarle County, and Ryan Davidson or Thomas Unsworth as his designees;
2. Lisa Beitz, Executive Director of Region Ten Community Service Board, for Region Ten Community Service Board, and Neta Davis, LPC or Ellen Krag, LPC as her designee;
3. Christa Galleo, Director of the Sixteenth Judicial District Court Service Unit, for the Sixteenth Judicial District Court Service Unit, and Aaron Vincion, Probation Supervisor, as her designee;
4. Ryan McKay, Health Director of Blue Ridge Health District, for the Blue Ridge Health District, and Hope Peritz as his designee;
5. Mary Stebbins, Director of the Albemarle County Department of Social Services, for the Albemarle County Department of Social Services, and Kaki Dimock or Kurt Emmerling as her designee;
6. Matthew Haas, Superintendent of Albemarle County Public Schools, for the Albemarle County Public Schools, and Leslie Glover, Assistant Director of Special Education or Ashley Struzik as his designee; and
7. Eugene Conti, Paraclete Therapeutics, as the private organization representative, for a term commencing on July 16, 2025, and expiring on June 5, 2028.

Designees may attend any and all CPMT meetings but may vote only in the absence of their CPMT member.

Item No. 8.3. Authorize Scheduling a Public Hearing for Health Equity and Access in Rural Regions Organization (HEARR) Lease Yancey Community Center.

The Executive Summary forwarded to the Board states that in March 2018, the Board of Supervisors adopted a use framework for the B.F. Yancey Community Center (“Yancey Community Center”) located in Esmont. The use framework provides for public entities, such as Local Government, Community Agency Partners, and human service-oriented non-profits, to occupy space within the Community Center at no cost.

Health, Equity and Access in Rural Areas (“HEARR”) is a nonprofit 501(c)(3) designated organization that has been working in the region since 2018. HEARR’s governing body consists of a six-member volunteer board with approximately ten Community Liaisons and serves residents in a 10 to 15-mile radius of Scottsville, including Southern Albemarle, Buckingham, Nelson, and Fluvanna counties. HEARR’s mission is to work toward healthier and happier lives in rural communities. Rural residents are often disadvantaged due to transportation and are often unaware of resources which could give them better access to services they can utilize.

To further their mission, HEARR would like to lease space at the Yancey Community Center. Under the proposed lease HEARR will utilize one of the trailer classrooms for meeting space, program development, small group education, and space for supplies. This space will continue to help HEARR towards achieving their mission to improve health and advance education related to health & wellbeing.

Under the proposed lease, the County would forgo rent for this improved space. No additional

expenditures or revenues are projected.

Staff recommends that the Board authorize a public hearing to consider authorizing the County Executive to sign a proposed lease of Yancey Community Center space to HEARR.

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to consider authorizing the County Executive to sign a proposed lease of Yancey Community Center space to HEARR.

Item No. 8.4. Utility Easements Across County-Owned Parcel 09100-00-00-002E0.

The Executive Summary forwarded to the Board states that Albemarle County Public Schools (ACPS) is developing Parcel 09100-00-00-01100 for the Southern Feeder Pattern Elementary School Project. To support the upcoming construction and future operation of the new elementary school, several easements have been requested across the adjacent County-owned Parcel 09100-00-00-002E0. Albemarle County Fire Rescue Station 11 is located on this parcel.

Two easements are requested.

- 1) Dominion Power Easement: This easement (shown in Attachment A) would supply permanent power to the new Southern Feeder Pattern Elementary School.
- 2) Brightspeed Internet Easement and Licensed Use Area: The access for this service will be in two forms, one section will be a dedicated easement for the utility, the remainder of the area needed for the utility will run through an existing unused conduit connecting to the main utility service along Mill Creek Drive. This area will be in the form of a licensed use agreement which will not restrict future expansion or modification needed to the Fire Station located on the parcel. The plat showing the proposed easement and license areas is in Attachment B. The proposed Easement and Licensed Use agreement are being finalized and will be included with the public hearing documents.

There would be no budget impact for these proposed easements and license.

Staff recommends the Board schedule a public hearing to consider approval of the easements and licensed use areas (Attachments A and B).

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to consider approval of the easements and licensed use areas (Attachments A and B).

Item No. 8.5. SE-2025-00038 Stepback for Premier Circle.

The Executive Summary forwarded to the Board states that the applicant requests a variation to the code of development approved with ZMA202000011 Premier Circle for the required building setback in Block 2 (see Attachments A and B).

Under County Code §18-8.5.5.3(a)(4), the Board of Supervisors may grant a variation of an approved plan, code, or standard for minor changes to architectural standards.

The variation is limited to Block 2 and would eliminate the 15-foot stepback for a building that is three stories (or 40 feet tall). The request is to eliminate the stepback from 15 feet to 0 feet, wherever the building face is setback 65 feet from the rear property line in Block 2.

Detailed staff analysis is provided in Attachment C.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to grant the variation to the approved code of development.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment D) to grant the variation to the approved code of development:

**RESOLUTION TO APPROVE
SE 2025-00038 Premier Circle Stepback Variation**

WHEREAS, upon consideration of the staff reports prepared for SE2025-00038 Premier Circle Stepback Variation and the attachments thereto, including staff's supporting analysis, any comments received, and all relevant factors in Albemarle County Code §§ 18-8.5.5.3(c) and 18-33.9(A), the Albemarle County Board of Supervisors hereby finds that the proposed special exception:

- (i) is consistent with the goals and objectives of the comprehensive plan;
- (ii) does not increase the overall approved development density or intensity of development;
- (iii) does not adversely affect the timing or phasing of other development in the zoning district;
- (iv) does not require a special use permit; and
- (v) is in general accord with the purpose and intent of the approved application.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby grants a special exception to eliminate the 15-foot minimum rear setback in the approved code of development on Parcel 061M0-00-00-006C0 wherever the building face is setback 65 feet from the rear property line in Block 2, as shown on the Special Exception – Stepback memo, Attachment 1 by BRWA Architects, dated October 27, 2025.

Item No. 8.6. Approval of Design-Build Procurement for Rivanna Futures and Eastern Avenue Road & Bridge.

The Executive Summary forwarded to the Board states that the County's Purchasing Manual Chapter 10, Design-Build Procurement, outlines the procedures for all departments, agencies, and institutions of the County for procurement, as well as the administration of Design-Build contracts. A Design-Build contract is an agreement between the County and another party in which the party contracting with the public body agrees to both design and build the structure, roadway, or other item specified in the agreement. In accordance with the procedures contained within the Purchasing Manual, the County may contract to secure Design-Build projects based on either a fixed price or a not-to-exceed price. County staff are authorized to use competitive negotiation to procure Design-Build contracts if it determines, in advance and in writing, that the more standard practice of Design-Bid-Build is either not practicable or not fiscally advantageous to the public.

Prior to taking any action to pursue the Design-Build method of procurement, staff must submit a written determination letter to the Board of Supervisors stating the reasons why the Design-Bid-Build procurement method is not practicable or not fiscally advantageous and must request authorization from the Board to utilize the Design-Build procurement method.

Albemarle County is in the planning stage with the Commonwealth of Virginia to design and construct a road and bridge on County property at Rivanna Futures in the Rivanna District. This road will serve development and expansion related to the future AstraZeneca plants that will be built over the next three to five years. Facilities and Environmental Services has conferred with the Virginia Department of Transportation (VDOT) and agreed that the most expedient delivery of this project will be via the Design-Build procurement process. The Purchasing Agent recommends proceeding with the Design-Build Procurement method, as justified in the memo attached as Attachment A.

VDOT states that projects directly supporting economic development/enhancement, projects to maximize the use of available funding, and projects deemed by VDOT or a Locality to have expedited scheduling requirements may be suited for Design-Build contracts.

Eastern Avenue Extension in the White Hall district is also an ideal project for Design-Build procurement. A recent Public-Private Transportation Act (PPTA) procurement for Eastern Avenue did not result in the receipt of complete proposals, and the procurement was ended. Moving forward with a Design-Build procurement for Eastern Avenue would enable the project team to utilize most of the preliminary design, technical specifications, and administrative specifications that were created for the PPTA procurement. This will result in a significant reduction in time and cost to prepare the Design-Build documents versus converting them into a more traditional procurement method. VDOT has confirmed that we can utilize \$8.1 million in Revenue Sharing funds on the design-build project that we could not use on the PPTA. The Purchasing Agent recommends proceeding with the Design-Build Procurement method, as justified in the memo attached as Attachment B.

The design-build approach can expedite schedules and provide early cost certainty, allowing for quicker project completion. The process is not linear like most VDOT projects; the concurrent design and construction phases allow for faster project delivery. Parallel workflows, early problem-solving, and a design-to-budget approach empower an efficient approach to design and delivery.

The Design-Build procurement method should result in cost savings.

Staff recommend that the Board adopt a resolution (Attachment C) to authorize staff to use the Design-Build procurement method for the Rivanna Futures Road and Bridge and the Eastern Avenue Road and Bridge projects.

By the above-recorded vote, the Board adopted a resolution (Attachment C) to authorize staff to use the Design-Build procurement method for the Rivanna Futures Road and Bridge and the Eastern Avenue Road and Bridge projects:

RESOLUTION TO APPROVE THE USE OF THE DESIGN-BUILD METHOD OF PROCUREMENT FOR THE CONSTRUCTION OF THE RIVANNA FUTURES ROAD AND BRIDGE AND THE EASTERN AVENUE EXTENSION ROAD AND BRIDGE PROJECTS

WHEREAS, the County's Purchasing Manual Chapter 10, Design-Build Procurement, outlines the process for all departments, agencies, and institutions of the County for the procurement, as well as the administration of, Design-Build contracts.

WHEREAS, within the procedures it states that staff must submit a written letter to the Board of Supervisors outlining the need for the use of procurement of Design-Build prior to taking any action to pursue and request authorization for the utilization of the Design-Build procurement method;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes staff to utilize the Design-Build method of procurement for the construction of (1) the Rivanna Futures Road and Bridge and (2) the Eastern Avenue Extension Road and Bridge projects.

Item No. 8.7. Board to Board, January 2026, A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Agenda Item No. 9. **Presentation:** VDOT Quarterly Report.

Carrie Shephard, Virginia Department of Transportation (VDOT) Charlottesville Residency Administrator, stated that she would provide the VDOT Quarterly Report. First, their Route 29 Shared Use Path had been re-advertised and was expected to be awarded by the end of the month. She said that the I-64 Exit 107 Park and Ride project had also been advertised, with bids expected by the end of January. The connector road from Berkmar Drive to Airport Road was moving forward, with right-of-way acquisition scheduled for February. She said that they anticipated a late-winter 2027, January 2028 advertisement for this project.

Ms. Shephard stated that regarding their design-build bundles, they were making progress on the first bundle, which included the Route 242-Route 250 Roundabout and the Route 680 Browns Gap Turnpike Bridge replacement. She said that construction was underway at the Old Lynchburg Road, 5th Street Roundabout, and construction plans were under review for the John Warner Parkway, Rio Road Roundabout project and the Belvedere Green-T. The right-of-way plans were also under review for the Route 53/Route 20 Roundabout, which was not expected to start until later in 2026. She stated that the public hearing for their next bundle project had been held on May 22, 2025, and the Commonwealth Transportation Board (CTB) had awarded the project this past December. The kickoff meeting would be held and final design would begin in January 2026.

Ms. Shephard stated that as for their Rural Rustics, she had provided a summary of what she had presented in previous meetings. She said that nothing had happened over the winter, and they would start working on this list in the spring. They would begin with Blair Park Road, which was funded and currently under construction from last fall. Their construction activities included the 601 Old Ivy Road over Route 29 superstructure replacement, which was still ongoing. They expected this project to be completed this summer.

Ms. Shephard said that they also had the Route 702 Fontaine Avenue bridge replacement over Morey Creek, which started in October and was expected to be completed in the spring of 2027. She said that additionally, Route 745 Arrowhead Valley Road had been closed on January 12 to replace the bridge superstructure and was expected to be completed on January 30. She said that they also continued to address traffic and engineering-related requests and work orders from citizens.

Ms. LaPisto-Kirtley said that she had a question regarding the Route 250-20 intersection improvements. She said that the proposed date had been subject to ongoing discussions and revisions.

Ms. Shephard said that right now, they were in the right-of-way acquisition phase, and along that corridor were a lot of property owners they needed to get permission from. They were working through that right now, but it was about 45 business owners they needed to work with, so it was taking some time. They were still hoping for a winter advertisement date.

Ms. LaPisto-Kirtley asked what happened if the property owners did not give permission.

Ms. Shephard said that she believed that the process in that case would involve condemnation.

Mr. Missel asked broadly what the budgets were looking like for these projects in relation to the market. He said that the shared use path came in over budget, so he was wondering if the market had softened a bit or if they continued to receive higher bids than initially anticipated.

Ms. Shephard replied that for the 29 Shared Use Path, the first round of bids did not receive many submissions, which was why the bids were higher than expected. She said that this time, however, there was more competition, resulting in bids that were more in line with their expectations. According to their district staff's estimations, inflation had somewhat stabilized, with increases not as pronounced as previously. She said they were hopeful that the remaining projects, which were currently being advertised, would come in on track. She said this also applied to the Exit 107 Park and Ride, for which the bids were due by the end of January. She said that they were hoping that these bids would come in within a reasonable range, thereby avoiding the need to re-advertise, as was the case with the 29 Shared Use Path.

Mr. Missel asked if there was diversity in bidders or if the same companies were bidding regularly.

Ms. Shephard stated that generally speaking, it was the same people submitting bids.

Mr. Missel said that regarding the US-29/Fontaine Avenue interchange improvements, he would like some more detail. He said that he was aware that a public hearing had been held and the project had

been awarded, and the kickoff meeting was scheduled for January. He said that he had been asked numerous times whether this project would address the issue of the southbound Route 29/eastbound Interstate 64 on-ramp, and the resulting traffic congestion between there and Ivy Road.

Ms. Shephard stated that this project would close the left turn movement to Interstate 64 west. She said that everyone would need to go up to Fontaine Avenue, effectively creating a large U-turn. She said in the opposite direction, southbound to Interstate 64 east, a STARS (Strategically Targeted Affordable Roadway Solutions) study was currently underway. She said they were exploring different options for this study and had been working closely with the County and various stakeholders to expedite the process and develop a viable solution.

Mr. Missel asked for the estimated timeline for the completion of the Fontaine Avenue/Route 29 truck turn.

Ms. Shephard said that she would have to double-check, but construction was supposed to begin this year. She said that it was a design-build bundle, including the roundabout at District Avenue and improvements at Fontaine. She said that she was unsure which project would start construction first, so she would ask their design team and follow up with that construction timeline.

Ms. Duncan asked if the rural rustic roads were being re-graveled or being paved.

Ms. Shephard said that the rural rustic program was paving a gravel surface. She said that currently, the ones that were complete were paved and finished. She said that the under-construction areas had already undergone ditch work, tree trimming, and pipe replacement, and the remaining surface work was what was left to be completed.

Ms. Mallek said that she wanted to just say she wished there was a way these things could move more smoothly, as they would have saved \$12 million if they had been able to do this from the beginning rather than waiting around. She said that regarding the Fontaine improvement study already mentioned, she would like to know if there had been consideration for reopening the eastbound loop for the southbound bypass.

Ms. Shephard said that the reintroduction of that ramp was not being considered currently.

Mr. Gallaway asked if there was an update regarding the speed limit on Penn Park Road.

Ms. Shephard answered that they were finalizing a speed study right now, so she should be able to provide a conclusive answer on that speed limit change very soon.

Mr. Gallaway thanked Ms. Shephard for presenting the quarterly report.

Agenda Item No. 10. Closed Meeting.

At 4:35 p.m., Ms. Duncan **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under subsection (1), to discuss and consider appointments of Supervisors as members or liaisons to various County public bodies, including, without limitation, various community advisory committees and the Darden Towe Memorial Park Committee;
- under subsection (5), to discuss and consider a prospective business or industry or the expansion of an existing business or industry in the vicinity of Seminole Trail in the Rio Magisterial District where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community;
- under subsection (6), to discuss and consider the investment of public funds related to potential agreements for a commercial development on Seminole Trail in the Rio Magisterial District, where bargaining is involved and where, if made public initially, would adversely affect the financial interest of the County; and
- under subsection (29), to discuss the negotiation of separate public contracts with a commercial development on Seminole Trail in the Rio Magisterial District, each involving the expenditure of public funds, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the County and the Board.

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

AYES: Mr. Missel, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. Duncan, and Mr. Pruitt.
NAYS: None.

Agenda Item No. 11. Certify Closed Meeting.

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

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

Non-Agenda Item.

Mr. Missel moved that the Board of Supervisors approve a Resolution approving a development grant agreement among the County of Albemarle, Virginia Economic Development Authority of Albemarle County, Virginia and Southern Development Group, Incorporated.

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

RESOLUTION APPROVING A DEVELOPMENT GRANT AGREEMENT AMONG THE COUNTY OF ALBEMARLE, VIRGINIA, THE ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA, AND SOUTHERN DEVELOPMENT GROUP, INC.

WHEREAS, the Board of Supervisors of Albemarle County, Virginia ("Board") finds it is in the best interest of Albemarle County, Virginia ("County") to enter into a Development Grant Agreement with the Economic Development Authority of Albemarle County, Virginia ("EDA") and Southern Development Group, Inc. ("Southern Development") to support the development and improvement of Albemarle County Parcel ID 03200-00-00-022M0 ("Parcel No. 32-22M"), located adjacent to the intersection of U.S. Route 29 and Northside Drive;

WHEREAS, Southern Development intends to purchase and develop Parcel No. 32-22M for industrial uses, including the development that is the subject of a submitted Proposal (the "Project");

WHEREAS, the County seeks to promote the economic development, improvement, and increased vitality of the Places29-North area; and ensure certainty concerning the occurrence and timing of the Project;

WHEREAS, the Project is consistent with, promotes, and implements several Goals, Objectives, and Actions of the Albemarle County 2044 (AC44) Comprehensive Plan;

WHEREAS, Southern Development seeks the County's and EDA's financial support through a development grant gauged to the incremental increase in real property taxes that will be paid to the County as a direct result of the Project; and

WHEREAS, a Development Grant Agreement will promote the welfare, convenience, and prosperity of the inhabitants of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia:

1. Approves a Development Grant Agreement among the County, the EDA, and Southern Development, to support the development and improvement of Albemarle County Parcel ID 03200-00-00-022M0;
2. Authorizes the County Executive to execute a Development Grant Agreement once approved as to form and substance by the County Attorney; and
3. Authorizes the County Executive or his designee to execute on behalf of the County such other requisite documents in connection with the transaction contemplated by the Development Grant Agreement. Such officer or his designee is authorized to execute and deliver on behalf of the County such instruments, documents, or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate in connection with the transaction authorized by this Resolution or contemplated by the Development Grant Agreement; and all of the foregoing, previously done or performed by such officer or agents of the County are in all respects approved, ratified, and confirmed.

Non-Agenda Item. Boards and Commissions.

Mr. Missel **moved** that the Board make the following appointments to Boards and Commissions:

Sally Duncan:

- Places 29 (Hydraulic) Community Advisory Committee with said term to expire on December 31, 2026.

Ned Gallaway:

- Darden Towe Memorial Park Committee, with said term to expire on December 31, 2026.
- Places 29 (North) Community Advisory Committee with said term to expire on December 31, 2026.

Bea LaPisto-Kirtley:

- Darden Towe Memorial Park Committee, with said term to expire on December 31, 2026.
- Pantops Community Advisory Committee, with said term to expire on December 31, 2026.
- Places 29 (North) Community Advisory Committee with said term to expire on December 31, 2026.

Ann Mallek:

- Crozet Community Advisory Committee with said term to expire on December 31, 2026.

Fred Missel:

- 5th & Avon Community Advisory Committee with said term to expire on December 31, 2026.

Mike Pruitt:

- 5th & Avon Community Advisory Committee with said term to expire on December 31, 2026.
- Pantops Community Advisory Committee, with said term to expire on December 31, 2026.
- Village of Rivanna Community Advisory Committee with said term to expire on December 31, 2026.

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.

NAYS: None.

Agenda Item No. 12. From the County Executive: Report on Matters Not Listed on the Agenda.

There was none.

Agenda Item No. 13. Public Comment on: Matters Previously Considered or Currently Pending Before the Board (Other than Scheduled Public Hearings).

Bridgette Rogers, Rivanna District, said that Albemarle County was at a crossroads. She said that the Board of Supervisors had approved thousands of new homes signaling their intent for growth in this County. As they planned for that growth, they must also consider that Albemarle County had the oldest and smallest school buildings among the surrounding Counties. She said that current models based on conservative and outdated information did not provide accurate predictions for new construction student yields in the County.

Ms. Rogers said that strong public schools were the backbone of a thriving community, attracting young families, providing education for future doctors, nurses, and caretakers, supporting property values, and ensuring that Albemarle remained a place where people of all ages want to live. She said that all of the County's high schools were operating above capacity, with the largest negative impact seen at Albemarle High School. With thousands of new homes on the way, they could not expect their existing facilities to absorb that growth without additional consequences.

Ms. Rogers said that a new high school was not simply about serving students; it was about sustaining the health of their entire County. She said that older residents benefited when schools are strong, and their community remained vibrant rather than aging into decline. She said that investing in new high schools was, in many ways, an investment in the long-term stability that all residents consistently value. Some may worry about the cost, but the cost of overcrowded schools, reduced course offerings, strained teachers, diminished student outcomes, and community impact was far greater.

Ms. Rogers said that the cost of waiting would only rise as construction prices increase and enrollment pressures intensify. She said that in 1998, Albemarle High School was overcapacity by 172 students. She said that Monticello High School was built that year for the total price of \$24 million. She said that today, the estimated cost of a new high school ranges from \$100 million to \$200 million. She said that it was not a matter of whether they needed more schools, but when the Board would approve and fund them.

Ms. Rogers said that delaying a decision would only ask taxpayers to pay a higher price down the road. She said that they had already taken action on approving new housing. Now, they needed the same level of foresight in building the educational infrastructure that growth requires. She said that a new high school ensured that Albemarle County remained competitive and welcoming to the next generation of residents who will sustain this community long after today's students had graduated. She urged the Board to support moving forward with the new high school. She said that growth without planning was strained, while growth with planning was opportunity. She asked them to choose opportunity.

Rupert Egan, Rivanna District, stated that he was a parent of a child within Albemarle County Public Schools, and he worked in the biotech field. He said, as such, he had a vested stake and relevant perspective on helping to shape the future of Albemarle County. A topic of primary importance to him was the capacity of ACPS schools, particularly the need for a new high school. One of the stated priorities of this Board was attracting and retaining skilled workers of prime working years to move to and stay within Albemarle County. He said a critical element that influenced this demographic choice was consideration and support of their families' development and well-being. He said This aligned with the stated goal of talent pipeline development, for which strong public K-12 school systems were absolutely critical.

Mr. Egan said that the data clearly showed that most schools, and in particular the high schools within ACPS, were overcrowded. He said that currently, there are 16 classrooms in trailers at Albemarle County, 8 classrooms in trailers at Western Albemarle, with more planned, and 8 classrooms in trailers at Monticello High School. The need for a new high school has already been dire and will be exacerbated by the continued developments within Albemarle. He said that the AstraZeneca facility, while exciting and beneficial, was also likely to bring in skilled workers who would have children, further contributing to enrollment across ACPS as early as 2028.

Mr. Egan said that if Albemarle County wants to meet its ambitious economic development goals, immediate and significant investment and action were needed for the schools. He said It was vital to build the necessary infrastructure that allows the highly educated and skilled workforce to feel that Albemarle was a supportive place for both their professional field and their families. He said they could not have growth inadequacy in one of the fundamental pieces of community education and expect skilled professionals to want to relocate to or remain in Albemarle County. He recommended that the funding for a new high school be incorporated into the economic development strategy and prioritized by the Economic Development Office and the Board of Supervisors. He said that the time for ignoring the issue was long past. They must take decisive action to address the longstanding problem and provide an equitable and quality educational experience for all children present and future in Albemarle.

Heidi Gilman-Bennett, Samuel Miller District, said that she was a parent at Western Albemarle High School and a volunteer with the Family Council focused on their public school system. She was here to speak to the Board about the impact that overcrowded high schools had on children. Before she began, she would like to express her gratitude to the Supervisors who would be joining the tours of their public schools this week and next week, and in the future. Families were deeply appreciative of their time and attention to the needs of their children and educators.

Ms. Gilman-Bennett said that she also wanted to thank the Board for questioning the School Board and the Superintendent regarding their poor strategic planning at their early December joint meeting. Families had been saying for many years that the Center's model would not solve overcrowding issues. As someone who was a strong supporter of career and technical education, she could attest that her own son graduated from the Environmental Studies Academy last year at Western. However, their children and families wanted a comprehensive high school. They wanted to be part of a community where they can see their friends every day, to participate in sports teams, and perform in school musicals.

Ms. Gilman-Bennett said that the vast majority did not want to spend hours on a school bus traveling every other day for scholar studios. She referred to Center 2 as the AHS Annex. It was essential for short-term overflow at Albemarle High School, but it was not a solution to Western's overcrowding. Western was currently overcapacity by nearly 200 students, and they would soon be receiving another set of temporary trailers. What was concerning was that high school overcrowding issues had been accurately predicted since the early 2000s, so the School Board should have come up with a solution during the time since then, and for the Board of Supervisors to partner on the funding.

Ms. Gilman-Bennett said that rather than placing blame, she wanted to emphasize that their children were the ones who were suffering in overcrowded high schools. When high schools were supersized with students packed in like sardines, academic outcomes suffered, particularly for students from socioeconomic disadvantaged families and those with disabilities. Behavior problems increased, schools became pressure cookers, motivation suffered, kids did not want to attend, and teachers chose to leave. Building a new high school was expensive, but it was not impossible. She acknowledged that the School Division had more work to do on effective planning, but she urged the Board of Supervisors to keep the needs of their children at the forefront of their decision-making. She requested the Board to please dedicate available funds to improving and building schools, and engage in serious work to increase funding so they could build a new northern high school.

Kyle Smoot, Rivanna District, stated that he had two children who attended public elementary school in Albemarle County, and his third child would start attending next year. Each of them had unique needs that required the expertise and care of the school's student support staff. He said that the construction and condition of the school facility should not compromise the quality of care and education they provided. He said that he was here to represent the staff, parents, and children of Stony Point Elementary School, asking the Board to fully fund improvements at their school that would be presented by the School Board in the upcoming budget discussions.

Mr. Smoot said that when he and his wife moved away from Albemarle County in 2009 for his wife's career opportunities in Northern Virginia, they had always had in the back of their minds that they would move back to raise their children here. The primary reason for this was the outstanding reputation the school system had. He was disappointed today, not in the quality of his child's education, but in the

conditions in which it was provided. The teachers and staff were incredible, but they succeeded despite the burdens placed upon them by their workplace, and these burdens were many. As part of its most recent facility assessment of County schools, there were a number of items were classified as unserviceable. Student support offices were forcing critical work to occur in the middle of hallways and in shared office spaces with little privacy. Book storage was lacking.

Mr. Smoot said that their award-winning librarian had to store books in her house. Interior signage was described as terrible and not to code. A stage that dualled as a classroom despite its partition with the gymnasium being broken. If that were not bad enough, the following were non-existent. A lobby, where one entered through the front door and was already in the main hallway. A conference room, where staff meetings and vital discussions between parents and their child's educators should occur. He had left many others out for time's sake. They should do better than this. However, the parents had been told that their efforts here were misplaced. He said that this Board did not decide what to build or not to build; they provided money, and the schools decided.

Mr. Smoot said that while technically true, as Mr. Gallaway mentioned in his opening remarks earlier today, it was not simply a relationship but a partnership. A partnership with a shared goal to provide their children with the best public education possible. the Board of Supervisors' decisions enabled School Board choices. He requested the Board of Supervisors to give Dr. Haas, his team, and the School Board no excuses. Make the numbers work, provide enough capital funds to enable them to accomplish this project, and send a message that this county valued not only building new schools but maintaining their current ones to the highest standards.

Brad Uhl, Rivanna District, said that he was here to express his support for the proposed renovations at Stony Point Elementary School. He said that as a parent of four children, ranging from kindergarten to seventh grade, he had had at least one student at Stony Point for the last eight years, and would continue to have at least one student there for the next six. Currently, he had a kindergartner, third grader, and fifth grader all attending Stony Point. They loved Stony Point, and like the staff and administration there, wanted to see it continue to thrive. He said that as the Board may be aware, a recent long-range planning assessment ranked Stony Point as the lowest among the County elementary schools in terms of its facilities.

Mr. Uhl said that as one of the oldest schools in the County, Stony Point had a rich history and a vibrant community, but it had not undertaken any significant renovations since the mid-1990s and was in dire need of improvement. He said that recommendations for which had been outlined by the Planning Committee and would be put forth for funding in the current planning cycle. Given this, he was here to ask that the Board of Supervisors ensure that the Capital Improvements budget allocated in the upcoming fiscal year included sufficient funding for these renovations to be completed.

Mr. Uhl said that while the Board of Supervisors did not control how the School District chose to spend its funding, he believed that if only enough money was allocated for capital improvements to meet the bare minimum needs for maintenance and upkeep, these important improvements would never be considered. As the Board members were aware, a lot of progress had been made to support growth in the northern part of the County, which would only increase the importance of having schools like Stony Point operating at their best. He said that as these efforts came to fruition in the coming years, his concern was that new priorities would emerge and continue to push Stony Point further down the list, making now the perfect time to make this investment at Stony Point.

Robert Perez, Rivanna District, said that he was a relatively recent resident of Albemarle County. He said his wife and he had moved there in the summer of 2022, when they had the privilege of remote work. They had come from Iowa and could have moved anywhere, but like many of them, they were immediately charmed by the County and City, and they decided that this was the perfect place to raise their family and spend the rest of their lives. Since their move, they had not regretted their decision. They loved their elementary school, and their children were thriving. As a parent, he had been looking ahead and had attended a meeting of the School Board in the fall, where they provided a comprehensive overview of the high school situation.

Mr. Perez said that he was surprised by what he learned. Reflecting on his own experience, he was a graduate of a large high school with over 2,000 students. He said, in his opinion, learning often happened in spite of the size, rather than because of it. While some may argue that a large high school provides a microcosm of society, he believed it was a challenge in many ways and not ideal for any child, especially his own. He said This issue had been brought to the County's attention several times in the past decade, and it had been previously passed on. He thought it was safe to say that the price tag would continue to rise if this project was put off.

Mr. Perez said that while he appreciated the efforts to innovate with the Center model and renovate existing structures, he firmly believed that public education was essential for economic development, just like roads, hospitals, and other infrastructure. He saw this every day in his neighborhood, with new housing developments sprouting up in the north part of the County. As someone who had come from central Texas, he believed this had all the makings of a burgeoning corridor. To continue meeting the needs of future residents and driving economic development, he strongly believed that this Board should work closely with the School Board to provide the necessary financial resources and support to move this project forward now, rather than risking increased costs in the future.

Alicia Lenahan, Scottsville District, said that last week, the Board of Supervisors convened for the first time in 2026. Each of them took the oath of office before assuming their positions as Supervisors. It was worth noting that every member of law enforcement was similarly bound. The oath reads, "I do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me according to the best of my ability."

This week, retired federal judge J. Michael Luttig reflected on the oath he took 35 years ago. He stated, "Every single day since then until this day, I have examined and re-examined myself, my words, and my conduct to satisfy myself that I was honoring her oath taken before God to support and defend the Constitution of the United States against all enemies, domestic and foreign."

Ms. Lenahan said that recently, Senator Mark Kelly had been threatened for living up to his oath and for reminding service members how to conduct themselves when carrying out their duties. She stated that this applied to each of the Supervisors, as the threats to the Constitution were on full display at every level of government. She quoted, "You can refuse illegal orders. You must refuse illegal orders. No one has to carry out orders that violate the law or our Constitution." She said that they knew this was hard, and it was a difficult time to be a public servant, but no matter where they were or how they were serving, their vigilance was critical. She said to vigilance, she would add courage, integrity, and leadership.

Ms. Lenahan stated that Governor Spanberger argued that the deployment of unaccountable federal agents to their cities undermines the public's trust in law enforcement. She said there had been 16 incidents in which immigration agents opened fire, resulting in at least three people being shot while observing or documenting immigration raids. She said that Renee Good was one of four people who had been killed. If the Board of Supervisors refused to take a stand against state-sponsored violence, if they refused to stand up for the Declaration of Independence, for the Constitution, for the rule of law, the public would not trust them. She said that the Board had had the Resolution condemning federal immigration enforcement tactics and affirming community safety principles since July. She said that citizens had given them a principled, reasonable, measured position statement that the Board had chosen to ignore. None of them had to ask what they would have done had they lived during some past moment of historic injustice, because they were doing it right now. She asked what the Board would choose to do.

Joann Robertson, Jack Jouett District, said that she was wearing a mask today because she was sick, and could assure everyone she was not going to terrorize or beat anyone. She said that today, she had a loved one who was a teacher tell her that one of her students was trying to explain why their mother and father were beaten by immigration agents. She said that even though they had immigration papers, it did not matter. She said that the agents were wearing masks, and the reason they wore masks was because they were ashamed. They knew what they were doing was wrong, but they had the power to do these things. She asked the Board of Supervisors what they were going to do. She said that the problem was getting bigger and more intense, and something was going to happen here if they did not intervene. She said that 2017 and Heather Heyer's death was a perfect example of what could happen. She said that when Renee Good was shot to death, that was what came to mind. She asked where the Proud Boys were now. She answered her own question: they were serving in ICE. She said that they were the same people, wearing masks and ordering people to do whatever they wanted. She asked the Board to think about that and take a stand. She said that they may just be a single County, but she wanted to know what they were going to do. She asked them to consider the doctor who asked to check someone's pulse because they were a physician. She said that she wanted to know who was hiding under the mask who killed that young lady.

Sara Tueting, Samuel Miller District, said that she lived on Craigs Store Road and she was here tonight to express her strong dissatisfaction with the solar generating project, the facility that was approved on a special exception several years ago. The project had been under construction since early summer. She said that it was located directly behind her neighbors' and her house, and their homes were experiencing vibrations due to the dirt moving for the project. She said that the noise had been extremely loud, and they had had numerous issues.

Ms. Tueting said that the construction company had been burning trees that were knocked down on 70 of the 100 acres, instead of hauling them away for lumber. This was particularly concerning for her, as she had a child with asthma. She said that she did not believe it was environmentally responsible to burn the trees. She said that she was not aware if the burning was part of the original agreement when the project was proposed. Initially, Sun Tribe Solar was supposed to develop the project, but they were unable to move forward due to financial reasons. A new company, RWE, had taken over the project, and their construction trailers were located directly behind her house.

Ms. Tueting said that she could see the workers spending extended periods in the porta-potties from her kitchen window, which she found unacceptable. She had complained to RWE and the County, including Mr. Andrews, when he was serving on the Board. She said that Mr. Andrews had sent Code Enforcement staff out to inspect the project, and she was told that the construction trailers were located incorrectly on the property. She said that out of 100 acres she did not know why they put the trailers directly behind their houses. She said that however, the trailers remained in the same location, and the County did not ask them to move them.

Ms. Tueting said that there had been so many issues that the County had erected signs on Route 29 South prohibiting solar trucks from going down the neighborhood roads, but they continued to use

Plank Road instead of going down Route 151. She said that there was no contact person for the neighborhood, and no one from the County was checking in to see how it was going. She said that the County probably would approve more projects like this in the future, but she did not think this was a good model for how these types of facilities should be developed. She reiterated that she was extremely unhappy with the current situation, her neighbors were unhappy, and the noise could be heard all the way down to the Batesville store, which was a mile away. She said that she hoped that in the future, the County would do better.

Susan McCulley, Samuel Miller District, said that she could have been Renee Good. She said that she could have been murdered by a masked ICE agent and then maligned by the President and his cabinet, not because she did anything wrong, but because she was a local activist, she lived in a blue city, and she did not give him her vote. She said that anyone, their partner, their friend, their neighbor, their child, or any of them could have been Renee Good. She said that Ms. Good was dead because ICE federal agents were acting recklessly and violently against not only undocumented individuals and immigrants, but all of them.

Ms. McCulley said that they were treating their streets like a video game. These cowardly mass thugs were terrorizing neighborhoods with impunity and the full support of the federal government. This was why citizens had been coming to the Board since May, asking the County to take a stand to protect their community from the lawlessness of ICE agents. In July, they had brought them a petition for an Unmask ICE Resolution because they knew the violence and death would only expand if there was no resistance to their fear tactics. The Director of Homeland Security even spoke from a podium emblazoned with Nazi philosophy.

Ms. McCulley said that it was no surprise that this had happened. She said that former federal prosecutor Joyce Vance pointed out that masking destroyed accountability. She wrote, "There is literally no legitimate reason for ICE and Customs and Border Patrol to continue to be masked during immigration enforcement actions, especially in light of the recent history of documented abuses. Anonymity accelerated that kind of behavior, telling agents they are not accountable for violating people's civil rights."

Ms. McCulley said that the public understood that as a County Board, it was frightening to stand up to the federal government. But public safety required a bright line between local law enforcement and the paramilitary. Public safety required law enforcement to ensure that those holding themselves out as federal agents were, in fact, authorized to act. They knew this was scary; they were all scared. But they needed to stand together to keep each other safe. Dietrich Bonhoeffer wrote about the Nazis, and he said that silence in the face of evil was itself evil. Not to speak was to speak, and not to act was to act. She said that she could have been Renee Good; they all could. She requested the Board to take up the Resolution and said that even Nazis did not wear masks.

Agenda Item No. 14. **Public Hearing: Public Hearing for the Conveyance of a Portion of County-owned Parcel 76-54P.** To consider conveyance of a portion of the property and easements on County-owned Parcel 07600-00-00-054P0 (1600 5th St. Charlottesville VA, 22902) to the Virginia Department of Transportation. This conveyance is to facilitate the construction of road improvements at the intersection of 5th St. Extended and Old Lynchburg Rd.

The Executive Summary forwarded to the Board states that the Virginia Department of Transportation (VDOT) is acquiring the necessary property and temporary construction easements to construct the proposed roundabout at the intersection of 5th St Extended, Old Lynchburg Road, and the entrance to the County Office Building at 5th Street. This project requires a portion of the County owned Parcel 07600-00-00-054P0 (76-54P) to be conveyed to VDOT for roadway infrastructure. This project is funded through the Virginia Smart Scale Program based on a County application. The County prioritized this project and was made aware of the potential impacts to the County Parcel 76-54P at the time of the application.

The proposed reconstruction of the 5th Street Extended/Old Lynchburg Road/County Office Building intersection into a roundabout will require a shift of the current 5th Street Office Building entrance to align with the new roundabout. New pedestrian/bicycle facilities and bus stop will be constructed along the parcel frontage. A dry detention basin will be constructed in the currently undeveloped turf area located between the parking lot and the entrance drive. VDOT and County staff will coordinate on landscaping to ensure the County's desired landscaping is achieved.

Attachment A displays the areas of permanent right-of-way, a slope easement, and temporary construction easements VDOT needs for this project. The amount of land conveyed includes 28,264 square feet of permanent right-of-way, 2,714 square feet of permanent slope easement, and 23,882 square feet of temporary construction easement as shown in Attachment A. VDOT and County staff will also coordinate to ensure appropriate access to the 5th Street Office Building is maintained during construction. Attachment B shows the existing conditions of the area.

A public hearing is required whenever County property is being conveyed.

No budget impact is associated with this item. However, it should be noted that the value of the County property may be decreased with the conveyance of a portion of the property.

Staff recommends that the Board adopt the Resolution (Attachment C) approving the easements and conveyance of portions of County Parcel 76-54P to VDOT and authorizing the County Executive to sign the easement documents.

Michael Barnes, Director of Planning, stated that the item before the Board this evening was for the conveyance of right-of-way and temporary construction easements on the 5th Street property. He stated that the 5th Street County Office Building was located south of I-64, near Biscuit Run Park. He said that the purpose of tonight's proposal was to facilitate the construction of a roundabout at 5th Street Extended and Old Lynchburg Road. This proposal involved the conveyance of right-of-way and temporary construction easements to VDOT of the property owned by the County. He said that this public hearing was a requirement mandated by the Virginia State Code.

Mr. Barnes said that the details of the proposal were shown on this slide. The area in red, closest to the roundabout, included the right-of-way that would be conveyed, which included a reconstruction of the main entrance into the COB (County Office Building) 5th Street facility and a stormwater basin for the project. He said that there was a permanent slope easement in green, covering approximately 0.6 acres. The remaining area, marked in orange, was a proposed temporary construction easement, covering about 0.55 acres. He said that staff recommended the approval of this conveyance for two reasons. Firstly, the project had been a priority of the Board when they had submitted the Smart Scale application a couple of years ago. Secondly, the conveyance of this property reduced the project costs, which helped with the cost-benefit analysis that was part of their original application.

Mr. Pruitt asked if the permanent conveyance would change the ability to put election signs in the right-of-way during early voting periods.

Andy Herrick, County Attorney, stated that signs in the right-of-way were not technically allowed. If the right-of-way was moved, the signs would not be allowed in the VDOT rights-of-way.

Ms. Mallek recalled that election signs in the right-of-way were exempted under Governor McDonald, but she was unsure if that had changed.

Mr. Herrick said that he would need to look into whether that was still in effect.

Mr. Pruitt said that it would not impact his decision on this item, but thought it was best to have visible signage closer to the street.

Ms. Duncan said that she had come to appreciate roundabouts, so she was excited for this project.

Ms. Mallek asked for clarification that the orange area was the permanent VDOT property, not the construction area.

Mr. Barnes said that the rose colored area was the permanent right-of-way and the orange area was the temporary construction easement.

Ms. Mallek asked if there was possibility to require a biofilter for the stormwater basin in this location, similar to the one on McIntire. She said that it would be a very effective stormwater control, an aesthetic benefit to pedestrians and workers in the area, and a cost-effective addition.

Mr. Gallaway opened the public hearing. Seeing no speakers, he closed the public hearing and the matter rested with the Board.

Mr. Pruitt **moved** that the Board of Supervisors adopt the Resolution as included in the staff report as Attachment C.

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

RESOLUTION TO CONVEY A PORTION OF COUNTY PROPERTY TO THE COMMONWEALTH OF VIRGINIA

WHEREAS, the Virginia Department of Transportation (VDOT) is constructing road improvements at the entrance of the County Office Building located at 1600 5th Street, Parcel 07600-00-00-054P0 (County Property); and

WHEREAS, VDOT needs to acquire easements and a portion of the County Property for the construction of the road improvements; and

WHEREAS, the Board finds it is in the best interest of the County to convey to the Commonwealth of Virginia the following easements and a portion of County Property in support of VDOT's road improvements at the intersection of 5th Street and Old Lynchburg Road:

- 2,714 square feet of permanent slope easement;
- 23,882 square feet of temporary construction easement; and
- 28,264 square feet of permanent right-of-way.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, after a public hearing, hereby approves the conveyance of a portion of County Property and easements as described above to the Commonwealth of Virginia, in support of VDOT's road improvements at the intersection of 5th Street and Old Lynchburg Road, and authorizes the County Executive to sign all necessary documents on behalf of the County for such conveyance, once said documents have been approved as to form and substance by the County Attorney.

Agenda Item No. 15. **Public Hearing: Proposed Ordinance to Amend Open Burning Regulations.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 6, Fire Protection, Burning of brush, etc. The proposed ordinance would amend Article IV, Regulation of Open Burning, to include updating the definition of bonfire and requirements related to a bonfire, adding definitions for building and structure, and clarifying the definition of recreational open burning, adding escalating penalties for repeated offenses, and adding language that the Albemarle County Fire Official can ban burning based on weather, atmospheric conditions or local circumstances making such fires hazardous. All proposed amendments would be enabled by Virginia Code §10.1-1142, §15.2-922.1, §15.2-1429, §27-98, and §44-146.21 to be effective on and after February 1, 2026.

The Executive Summary forwarded to the Board states that Virginia Code § 15.2-922.1 allows localities to establish regulations for the burning of brush and open-air fires. In conjunction with the regulations in the Virginia Statewide Fire Prevention Code, Albemarle County Code Chapter 6, Article IV establishes regulations governing the burning of brush in Albemarle County.

Albemarle County Fire Rescue staff reviewed the County's current open burning regulations. Based on staff review and feedback during a Board of Supervisors' work session on June 18, 2025, the following changes are proposed:

1. Update the definition of bonfire and requirements related to a bonfire. (County Code §§ 6-403, 6-406)
2. Add definitions for building and structure. (County Code § 6-403)
3. Clarify the definition of recreational open burning. (County Code § 6-403)
4. Add escalating penalties for repeated offenses. (County Code § 6-408)
5. Add language that the Albemarle County Fire Official can ban burning based on weather, atmospheric conditions, or when local circumstances make such fires hazardous. (County Code § 6-404)

Attachment A highlights proposed changes from the existing ordinance. Attachment B is a clean version proposed for adoption.

Based on staff analysis, there would be no budgetary impact.

After conducting a public hearing, staff recommends that the Board adopt the proposed ordinance to amend County Code Chapter 6, Article IV, attached to the staff report as Attachment B.

Shawn Maddox, Fire Marshal, stated that he would present a brief history of the open burning ordinances in Albemarle County. He explained that in January 2013, they formally banned the burning of trash to comply with Virginia air quality regulations. In 2018, they sought to strengthen the Ordinance, resulting in setbacks for open air burning. Specifically, land clearing activities were limited to 2000 feet, residential burning to 300 feet, and stringent regulations were added for land clearing, including approved hours, locations, and site permits. They also banned open air burning during the spring State burn ban, from February 15 to April 30.

Mr. Maddox stated that they updated and clarified the permissible language and added language allowing the County Fire Marshal or designee to order the extinguishment of an open-air fire if necessary. In 2023, staff was directed by the Board of Supervisors to research open air burning regulations in jurisdictions across the Commonwealth and undertook the project in 2024. They found that all listed jurisdictions have some form of open-air burning regulation. In August 2024, they presented overarching wildland fire prevention strategies, which included updating the open-air burning ordinance. This update also led to the creation of a prediction tool by their fire rescue data analyst, allowing them to predict red flag days and make operational decisions. The tool also enables them to contact open air burn permit holders before they conduct a burn and triggers involvement with the County communications.

Mr. Maddox stated that in June 2025, they provided a draft of the updated ordinance, taking feedback and clarifying categories of burning. It was essential to note that seven agricultural burning practices were exempted in state law and not addressed in their Ordinance. They also discussed escalating penalties for repeat convictions and clarified the ability for the County Fire Marshal to ban burning. After the 2025 Board meeting, they made those changes. He said tonight, staff were here to receive input from the Board and the community. They also had added definitions for a building and a structure per state law. They did consolidate the recreational burning definition and clearly defined the Fire Marshal's authority to ban burning in atmospheric conditions or specific local conditions, if they existed. This was supported by sub-enabling language in State Code.

Mr. Maddox said that additionally, they removed the mandatory provision on escalating fines and added an extra year for repeat offenders who continued to violate the open-air burning law, in an effort to encourage change of behavior. They had also discussed the MOBI system, which provides a map of all open-air fires to the Board of Supervisors twice a day. As of noon today, this information was outward-facing and visible on their website, allowing anyone to access it. They would be working with Community and Public Engagement (CAPE) and others to push this information out to community members, who can view the map and see the location, start and end times of open-air fires, and if they are permitted. For example, if someone calls in to burn, an icon will appear on the map at their house, and clicking on it will show the address, start and end times of the fire.

Mr. Maddox stated that they had discussed a desire for a year-round 4:00 p.m. burn ban, which would be quite challenging due to the lack of a State precedent. This would also virtually eliminate land clearing burning, as it would require all open-air fires to be stopped by 8 p.m. Notification requirements were always a topic, and MOBI was expected to address some of these concerns. He said that under MOBI, individuals would be required to call in and report the start and stop of fires, which would be visible on the map. He said that the fire marshals would receive notification when the responsible party called the communication center or became aware of fires. He reiterated that MOBI was publicly available, as of today.

Mr. Pruitt stated that he appreciated the changes made since they last reviewed this item. He thought that staff had struck a good balance and improved the fee structure in particular. He stated that he still saw some issues with categorization, so he would like some additional clarity. He said that regarding exemptions, recreational burning was addressed in two different places, in one place saying they were excluded from the ordinance, and in the other stating how recreational fires were governed under this ordinance. He asked if recreational fires were in fact governed by this ordinance.

Mr. Maddox explained that the statewide fire prevention code permitted localities to be more stringent. He said that the exemption language was largely based on the Virginia air quality regulations, but they had also aimed to provide guidance to address potential issues with recreational fires and clarify the definition of a recreational fire. He said that there was a potential grey area in the case of someone burning a large fire and then putting a hot dog over it to rationalize it as a recreational fire. He said that by including the recreational definition in their ordinance, they could prevent some of the gray areas and skirt residential burning.

Mr. Pruitt said that he understood. He asked the County Attorney if they should strike Section 6-405B, which contradicted Section 6-406B. He asked if they should strike the exemption.

Mr. Herrick said that he thought this clarified that it was subject to the more stringent local regulation, rather than the default State regulation. He said that in other words, they were exempting it from the State regulation because they were imposing a more stringent standard. Therefore, it was not necessary to refer to the state standard; instead, they should look to their local ordinance for this category of regulation.

Mr. Pruitt said that he understood that intent, but the written language made it sound like the activities were exempt from this article of their local ordinance. He said that it seemed like it did not need to be in the exemption section.

Mr. Herrick said that he understood Mr. Pruitt's question and would try to provide some more clarifying language there.

Mr. Pruitt said that he appreciated it. He said that also under Section 6-406B, notification to the fire official was required, and then it stated two different things. He asked if they should replicate the pattern in Section 6-406A, which was a comma and provided that the following conditions were met.

Mr. Maddox said that he understood.

Ms. LaPisto-Kirtley stated that she was very appreciative of the updated burn ordinance. She said that making MOBI a public-facing resource would be greatly beneficial to notify people when and where burns would be happening in the County. She said that it would allow people to check and make sure any burns they saw happening were in fact permitted by the County. She commended staff for their hard work.

Ms. Mallek thanked Mr. Maddox for the many years of work he and his staff had put into this ordinance. She also appreciated Mr. Pruitt's clarifications on this, as recreational burning had been a widespread issue, particularly in her District. She acknowledged the complexity of enforcement efforts and that a single complaint did not guarantee corrective action. She asked Mr. Maddox if the removal of mandatory conditions on escalating fines was an option for the judge but not prescribed in the local ordinance.

Mr. Maddox said that the language was revised in the local ordinance. He said that they consulted with the Commonwealth Attorney for every prosecution. If the goal was to change behavior without imposing a significant fine, they did not want to impose the maximum fine or an escalating fine. This option would allow the judge to exercise discretion and the Commonwealth to exercise discretion as well. He said that the fire marshal would still consult with the attorney prior to the hearing. He said that their intention was not to inevitably impose a mandatory fine on individuals who may be having a cooking fire or warming fire. He said that they could typically change this behavior through education without

imposing the escalating fines.

Ms. Mallek asked if subsequent, frequent repeat violations would change the characteristic of the penalty.

Mr. Maddox said that, yes, it would. Their initial interactions with community members were primarily to provide education, and if conflict ensued or continued, they could give a criminal summons. If they went back to court for the exact same charge, it would allow the judge to escalate the penalty, and the Commonwealth could ask for a greater penalty.

Ms. Mallek asked if that was the judge's decision and the locality did not have the authority to impose those penalties.

Mr. Maddox confirmed that was correct.

Ms. Mallek asked if this new ordinance would provide more structure to the fire marshal visits so they were not just continual warnings.

Mr. Maddox said there would be one warning and their second visit would come with a summons. He said that the fine may change with this new language.

Ms. Mallek asked if a year-round burn ban would ever be considered as a solution to prevent potential violations related to recreational fires.

Mr. Maddox said that it was unlikely to happen in the very near future. He said that according to the air quality guidelines, a fall burn ban period had been implemented, but it was specifically related to high smog localities. He said that the forestry data also did not currently support a fall burn ban period. He said that the challenge with implementing a year-round 4:00 p.m. burn law was that they would need to clearly define permitted fires, and allow them to burn from 8:00 a.m. to 8:00 p.m., while limiting everyone else.

Mr. Maddox said that this would seem difficult to regulate, especially when considering campfires versus yard cleanups. For example, a second shift worker or night shift worker may not want to burn at noon or 4:00 p.m. due to their work schedule. He said that this could lead to difficulties in regulating the activity around lifestyle. While it was possible that a fall burn ban period may become a measure of air quality in the future, it had not been implemented yet.

Ms. Mallek inquired about the handling of soot and smoke from fires at the State Air Quality Board.

Mr. Maddox said that if they were to adopt the Virginia air quality regulations, they would not interact with the recreational fires. He said that they would simply allow them to burn, as they were allowed. He said that burning leaves was specifically mentioned in State Code. He said that by creating this new ordinance, they had brought burning into a more orderly framework in the County. However, there was nothing specifically calling out the soot and smoke.

Ms. Mallek asked if soot from a fire raining down onto people's property would be considered nuisance in terms of the ordinance.

Mr. Maddox stated that they considered those factors when determining whether a fire constituted a nuisance. He said that igniting a fire and covering neighboring cars in ash and debris was a different scenario than smoke drifting straight up and over. As a result, they would take action and issue citations. If damage occurred to an adjoining property, it was a separate charge. They also held permit holders accountable in those circumstances. If someone was doing a recreational fire and it got out of control or something was damaged on a neighboring property, that was a different charge. He said that this ordinance was just regulating the activity of open-air burning. It did not deal with fire beyond the property line.

Ms. Mallek asked if there were any regulations that addressed smoke that affected neighbors.

Mr. Maddox said that the fire marshal dealt with that on a case-by-case basis. He said that it would be very difficult for the on-duty fire marshal to do particulate measurements or something to that effect, and it would go beyond the current language.

Ms. Mallek stated that she understood that they must be factually driven in order for any project to succeed in court.

Mr. Maddox said that the nuisance definition was from State law and gave the responding fire marshal the ability to assess the situation. If it was considered a nuisance, they could order the extinguishment.

Ms. Mallek said that she hoped staff would strongly consider Mr. Pruitt's suggested clarifications to the language. She said that if there was potential for misunderstanding of the ordinance, then people may do the wrong thing.

Mr. Maddox noted that he had also provided a draft of their public relations material for the

Ordinance change, and he would provide copies to the Clerk to distribute to the Board. There would be an outward-facing campaign to go along with this new ordinance, should it be adopted. They also worked very hard to clarify the information, asking people who were not fire experts to read and review the language and ensure it made sense.

Ms. Mallek stated that for the public's edification, she wanted to say that dealing with green waste was not in State Code, so they were not allowed to burn that. She stated that this ordinance was intended for the County Attorney to have the ability to back the Fire Marshal up when necessary, and the draft public relations materials would be more civilian-oriented and explain what citizens were and were not allowed to do.

Mr. Herrick stated that before they proceeded to public comment, he would like to revisit Mr. Pruitt's earlier question. He said that he believed he had an answer to that at this point. He said that upon re-reading Section 6-405, he thought he may have been misled by the discussion that preceded Mr. Pruitt's question, where the Fire Marshal mentioned the possibility of more stringent local regulations. He explained that Section 6-405 clarified that County regulations applied everywhere except where they were superseded by State law. He said that the list in Section 6-405 identified the areas where State law applied, rather than local regulations. He said that upon re-reading 6-405, he believed this explanation made sense, and it appeared that 6-405 was intended to outline the areas where state regulations took precedence over local regulations.

Mr. Pruitt said that he believed he understood what Mr. Herrick was saying.

Mr. Herrick said that additionally, Mr. Pruitt had specifically suggested that Section 6-406B end in the same manner as Section 6-406A. He could provide language that would address this issue in the motion.

Mr. Gallaway opened the public hearing.

Mr. Missel read the rules of procedure for public comment during a public hearing.

Gary Grant, Rio District, stated that he would like to share his observations regarding the burn ordinance, specifically the residential open burning that did not require a permit, which was his main concern. He said that the ordinance included advance notice to the Emergency Communications Center (ECC) for residential open burns. He said that he felt appreciated, pleased, and amazed, and they had met the needs of constituents, taxpayers, voters, and residents through communication, community, mutuality, partnership, and safety.

Mr. Grant said that his second observation was that this ordinance did not include advance notice to adjoining property owners. As far as he knew, he was unaware of the MOBI system, and he was annoyed, bothered, and displeased because he did not know that this system was operational. If it were not operational, he would have said that the ordinance did not meet the needs of the constituents, taxpayers, voters, and residents, such as care, communication, community, consideration, empathy, inclusion, mutuality, partnership, respect, security, understanding, balance, comfort, and safety.

Mr. Grant said that his third and final observation was that the ordinance did not define what was meant by "trimmings." He was puzzled and concerned that this definition was not included. He was uncomfortable with the lack of clarity on this issue. He requested that the Board please define "trimmings" in the ordinance and provide advance notice to adjoining property owners. He asked this with empathy, despite being new to conscious communication.

Mr. Gallaway closed the public hearing and the matter rested with the Board. He said that Mr. Grant had sent in an email before the meeting that discussed this, and he thought it was important to bring up that when they had ordinances with pages and pages of definitions, it invited the question of what was left out in all those definitions. He said that some of the things Mr. Grant had mentioned about trimmings may be contained in other definitions, but he would like to hear Mr. Maddox's response to that issue.

Mr. Maddox said that trimmings were not defined in the air quality regulations or the Virginia Statewide Fire Prevention Code. He said that if they were to argue it legally, they would rely on dictionary definition or a similar legal definition. He said that this also allowed for some degree of discretion on the part of the responding fire marshal.

Mr. Maddox said that a trimming was not a two-foot diameter limb that was 58 feet long; that would be considered a log. He said that in a residential setting, a trimming typically referred to the pruning of shrubs or trees, such as those done during a winter or spring landscaping cleanup. He said that however, there was still a degree of discretion for the responding fire marshal in this matter.

Mr. Gallaway said that in reference to Mr. Maddox's point about the hot dog on a huge fire, he thought that applied to a log being rationalized as a trimming. He said that he could see the issue, so it may be beneficial to clarify that in the document. He said that he was not too concerned about how it was worded, but he did think it would be wise to include a motion that addressed this issue, even though it was not explicitly stated in the State Code. He said that he could only imagine how challenging it must be for him to deal with these types of situations, but it was possible that someone could argue about the definition of a trimming, so it was better to get ahead of that potential issue.

Mr. Maddox agreed that it was a valid point. He said that he would defer to Mr. Herrick to make any necessary language changes for the motion.

Mr. Herrick said that if the Board was seeking a definition of "garden trimmings" or "yard trimmings," he believed, as the Fire Marshal had indicated, that there was no legally binding definition for this term. He said that in the absence of a definition, the plain meaning of the term would be the standard to apply.

Mr. Gallaway said that it should be included in the ordinance so that they could refer to it in case it did come up.

Mr. Maddox said that they could add the common definition of "trimming" to the handout, providing them with some guidance on the term.

Mr. Missel asked for more details on the protocol for notifying adjacent property owners in advance. He said that he may have missed this information in the documents, and he would like to understand the specific procedures involved.

Mr. Maddox said that there was no specific language for adjacent property owners. He said that the notification was sent to the Emergency Communications Center (ECC), and then it appeared on the publicly available map. He said that one of the challenges, particularly with residential burning, was that it may be difficult to reach adjacent property owners, especially on days when it rained and they decided to burn their debris. He said that this raised questions about logistics, such as whether property owners had access to their neighbors' email addresses or the time to mail notifications. He said that alternatively, they would need to personally deliver hand notices to everyone in the surrounding area.

Mr. Maddox said that the permitting process for land clearing was quite stringent, and there were numerous regulations in place to prevent burning prior to the County being prepared. He said that at least during last year's work session, it was noted that it was too onerous for the average homeowner to notify their neighbors if they decided to burn debris due to inclement weather or other extenuating circumstances. He said that the current system allowed property owners to call the Communications Center at 4:00 p.m. and expect to be notified by 4:30 p.m., without setting a specific time for residential burns.

Mr. Pruitt said that he was still thinking about the definition of trimmings and the difference between that and wood waste and yard waste. He thought that including a definition of trimmings would be helpful at least to distinguish between the types of materials. He asked if they could include the Environmental Protection Agency (EPA) definition of yard trimmings for that purpose.

Ms. LaPisto-Kirtley said that she was unsure if adding in more definitions would provide any further benefit. She said that she would like to proceed with the ordinance as drafted, which should work well with the new public-facing MOBI system. She said that if they faced issues and needed to amend or refine the ordinance again, they could do so.

Ms. Duncan asked if they could make the MOBI system accessible from the front page of the Fire and Rescue website.

Mr. Maddox confirmed they would make it more prominent and accessible on the website.

Ms. Mallek said that a few clarifying words may help everyone in terms of the definition of trimmings. She said that regarding notice, if someone had registered for CUA (Charlottesville-UVA-Albemarle County Emergency Communications Center) notice for other community emergencies, perhaps they could consider that for notifying neighbors of burn activities.

Mr. Maddox said that the CUA system was used for emergency notifications, so he would caution against using it for burns, which occurred frequently in the County. He would not want to discourage people from subscribing to the CUA system due to the volume of burn notifications they would likely receive.

Ms. Mallek clarified that she was referring to only notifying the neighbors surrounding the burn activity location.

Mr. Maddox said that staff could look into that, but they would need to return to the Board to talk through the logistics of staffing and notification, which likely would be difficult.

Ms. Mallek said that she appreciated the consideration, even if it was not possible at this time.

Ms. Mallek stated that because she had been working on this issue since 2008, she was grateful for the improvements that had been made. They were not meeting all the requests from those directly impacted over the last 18 years, particularly those seeking stronger regulations. She said that it had been her responsibility to explain to these individuals that many of their requested changes were not feasible due to State Code limitations. However, this explanation had not been helpful, especially for those who had been struggling with this issue for a long time.

Ms. Mallek stated that she was hopeful that escalating fines would have a positive impact on repeat offenders and that judges would follow the recommendations of the Fire Marshal's Office and the

Commonwealth's Attorney to make this work. This seemed to be the only real control issue that had been able to be approved. She said that she was grateful that smoke was now recognized as a danger, particularly when it affected neighbors other than the burner, which lent credibility to moving forward.

Ms. Mallek expressed her gratitude that regulations were clearer and stronger, as this would benefit 99.9% of all residents. She urged everyone to consider the impact on neighbors, school children, post offices, and other affected parties when a resident failed to comply with even the simple rules the County had had in place for a long time. She said that she would strongly protest if she lived in a neighborhood where open windows were impacting her house.

Ms. Mallek had happened in Earlysville, Crozet, Free Union, and the far outer reaches of White Hall, in rural areas where it has been seen in the past as simply a part of country life. They were 20 years beyond that kind of situation, and she credited the Fire Department and Fire Marshal's Office for bringing them to this new level. While many of her constituents may not be satisfied, she believed this was a good next step, and she looked forward to being able to distribute these regulations to post offices, country stores, and other locations, making them easily accessible.

Ms. LaPisto-Kirtley **moved** that the Board of Supervisors adopt the proposed Ordinance to amend County Code Chapter 6, Article IV, attached to the staff report as Attachment B, as amended to identify Section 6-407 and add its title to the initial recitals, and adding the following language at the end of the opening paragraph of Section 6-406B: "provided that the following conditions are met".

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

ORDINANCE NO. 26-6(1)

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE IV, BURNING OF BRUSH, ETC., 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 6, Fire Protection, Article IV, Burning of Brush, Etc., is hereby amended and reordained as follows:

By Amending:

Sec. 6-400	Title
Sec. 6-401	Purpose
Sec. 6-402	Adoption of Virginia State Air Pollution Control Board regulations
Sec. 6-403	Definitions
Sec. 6-404	Prohibitions on open burning
Sec. 6-405	Exemptions
Sec. 6-406	Permissible open burning
Sec. 6-407	Permits
Sec. 6-408	Penalties for violation.

ARTICLE IV REGULATION OF OPEN BURNING

Sec. 6-400 Title.

This article is known as the Albemarle County Ordinance for the Regulation of Open Burning.

(Code 1988, § 9-21; Ord. 98-A(1), 8-5-98)

Sec. 6-401 Purpose.

The purpose of this article is to protect public health, safety, and welfare by regulating open burning within Albemarle County to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development:

(a.) This Article supplements the applicable regulations promulgated by the state air pollution control board and other applicable regulations and laws.

(b.) The Fire Official as defined in Sec. 6-201 is responsible for enforcing this Article.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98)

Sec. 6-402 Adoption of Virginia State Air Pollution Control Board regulations.

The Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, Part IV, Emissions Standards for Open Burning (9VAC5, Ch. 130), in current form and as amended in the future, are hereby adopted and incorporated by reference; provided, however, any county regulation specified in this article more restrictive than such state regulations takes

precedence over the state regulations. Any permits required by such state regulations may be issued by the county, if authorized by the state agency otherwise responsible.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98; Ord. 18-6(1), 10-3-18)

Sec. 6-403 Definitions.

- A. For the purpose of this article and subsequent amendments or any orders issued by Albemarle County, the words or phrases have the meaning given them in this section.
1. *Automobile graveyard.* The term "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.
 2. *Bonfire.* The term "bonfire" means an outdoor fire built and used for the same purposes as recreational open burning that is larger than that permitted for recreational open burning but no larger than than 25 square feet in ground surface area and/or 5 feet in height.
 3. *Built-up area.* The term "built-up area" means any area with a substantial portion covered by industrial, commercial, or residential buildings.
 4. *Building.* The term "building" means any structure having a roof supported by columns or walls.
 5. *Clean burning waste.* The term "clean burning waste" means waste that is not prohibited to be burned under this ordinance and that consists of only (i) 100 percent wood waste, (ii) 100 percent clean lumber or clean wood, (iii) 100 percent yard waste, or (iv) 100 percent mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.
 6. *Clean lumber.* The term "clean lumber" means wood or wood products that have been cut or shaped and includes wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.
 7. *Clean wood.* The term "clean wood" means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated.
 8. *Commercial waste.* The term "commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.
 9. *Construction waste.* The term "construction waste" means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.
 10. *Debris waste.* The term "debris waste" means waste resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.
 11. *Demolition waste.* The term "demolition waste" means solid waste that is produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.
 12. *Garbage.* The term "garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.
 13. *Hazardous waste.* The term "hazardous waste" means a "hazardous waste" as described in 9VAC20-60 (Hazardous Waste Management Regulations).
 14. *Household waste.* The term "household waste" means any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household waste does not include sanitary waste in septic tanks (septage) that is regulated by other state agencies.
 15. *Industrial waste.* The term "industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to waste resulting from the following manufacturing processes: electric power generation;

fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

16. *Junk*. The term "junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
17. *Junkyard*. The term "junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term includes garbage dumps and sanitary fills.
18. *Landfill*. The term "landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Part 1 (9VAC20-81-10 et seq.) of 9VAC20-81 (Solid Waste Management Regulations) for further definitions of these terms.
19. *Local landfill*. The term "local landfill" means any landfill located within the jurisdiction of a local government.
20. *Open burning*. The term "open burning" means the combustion of solid waste without:
 - a. Control of combustion air to maintain adequate temperature for efficient combustion;
 - b. Containment of the combustion reaction in an enclosed device to produce sufficient residence time and mixing for complete combustion; and
 - c. Control of the combustion products' emission.
21. *Open pit incinerator*. The term "open pit incinerator" means a device used to burn waste for the primary purpose of reducing volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and overdraft incinerators.
22. *Property maintenance or land/lot clearing open burning*. This term means open burning for development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, building or building areas, sanitary landfills, or any other clearing operations which must be approved in advance by the Fire Official and be subject of a permit.
 - a. Material typically consists of brush, stumps, and similar debris waste.
23. *Recreational Open Burning*. An outdoor, controlled fire no greater than 9 square feet in ground surface area and/or 2 feet in height that is built for enjoyment, warmth, or ambiance, and used for leisure activities like camping, socializing, or relaxing outdoors:
 - a. Typically set in designated areas such as fixed or portable outdoor fireplaces, fire pits, fire rings, other contained structures.
 - b. Such fires must be made and fueled with wood, coal, or similar materials.
 - c. Such fires do not include or involve the burning of trash, rubbish, or garbage.
24. *Residential Open Burning*. Burning yard or garden debris on private property:
 - a. Occurs in backyards, gardens, or other open areas near residential buildings and structures;
 - b. Occurs without the use of controlled or contained methods like incinerators or fire pits designed for safe burning; and
 - c. Involves yard debris and other similar organic substances, such as leaves, grass, and bush and tree branches.
25. *Refuse*. The term "refuse" means all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up spoils or contamination or other discarded materials.
26. *Salvage operation*. The term "salvage operation" means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

27. *Sanitary landfill*. The term "sanitary landfill" means an engineered land burial facility for the disposal of household waste that is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction, demolition, or debris waste and nonhazardous industrial solid waste. See Part I (9VAC20-81-10 et seq.) of 9VAC20-81 (Solid Waste Management Regulations) for further definitions of these terms.
28. *Smoke*. The term "smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.
29. *Special incineration device*. The term "special incineration device" means an open pit incinerator, conical or tepee burner, or any other device specifically designed to provide good combustion performance.
30. *Structure*. The term "structure" means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, barns, decks, sheds, pergolas, and arbors.
31. *Wood waste*. The term "wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:
 - a. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.
 - b. Construction, renovation, or demolition wastes.
 - c. Clean lumber.
32. *Yard waste*. The term "yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands:
 - a. Yard waste does not include:
 - i. Construction, renovation, and demolition waste or
 - ii. Clean wood.

(Code 1988, § 9-21.3; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

Sec. 6-404 Prohibitions on open burning.

- A. No owner or other person may cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.
- B. No owner or other person may cause or permit the open burning or the use of special incineration device for the open burning of garbage, refuse, trash, rubbish and other forms of solid, liquid waste, including, but not limited to wastes resulting from residential, agricultural, commercial, industrial, trade, or construction activities.
- C. No owner or other person may cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum-based materials except when conducting bona fide firefighting instruction at firefighting training schools having permanent facilities.
- D. No owner or other person may cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.
- E. No owner or other person may cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.
- F. No owner or other person may cause or permit open burning or the use of a special incineration device for disposal of household waste or garbage.
- F. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest

Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

- G. Open burning is prohibited when atmospheric conditions or local circumstances make such fires hazardous as described in Chapter 70 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution, Air Pollution Episode Prevention. When open burning creates or adds to a hazardous situation, creates or constitutes a nuisance, threatens the health or welfare of the public, or lacks a required permit for open burning, the Fire Marshal is authorized to order the extinguishment of the open burning operation or to otherwise cause the open burning operation to be extinguished.
- H. The Fire Official or designee may prohibit open burning when weather, atmospheric conditions or local circumstances make such fires hazardous. The Fire Official or designee must order the owner, any other responsible person, or the fire department to extinguish any open burning which creates or adds to a hazardous situation, any open burning violating this ordinance, or any unattended open burning.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

State Law reference – Va. Code § 15.2-922.1

Sec. 6-405 Exemptions.

The following activities are exempt from this Article only to the extent they are subject of and preempted by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

- A. Open burning for training and instruction of government and public fire fighters who are under the supervision of the designated official, or industrial in-house firefighting personnel.
- B. Open burning for campfires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, or for warming of outdoor workers.
- C. Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack.
- D. Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and
- E. Open burning for the destruction of classified military documents.
- F. Forestry activities, such as prescribed burns, conducted under the supervision of State Forestry or Federal Forestry Officials.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

Sec. 6-406 Permissible open burning.

- A. Residential open burning is allowed for the disposal of leaves and tree, yard, and garden trimmings originating from and located on the premises of private property, without a permit from the Office of the Fire Marshal, provided that the following conditions are met:
 - 1. The burning takes place on the premises of the private property;
 - 2. The location of the burning is not less than 300 feet from any neighboring building or occupied building unless the occupants have given prior written permission maintained by the property owner, other than a building located on the property on which the burning is conducted and is at least fifty (50) feet from other buildings located on the property on which the burning is conducted;
 - 3. The burning must be conducted at the greatest distance practicable from highways, public and private right-of-way;
 - 4. Prior to commencing any residential open burning, notification must be made to the Fire Official through the County Emergency Communications Center. The notification must include the name of the property owner and responsible party, contact information that allows 24-hour access to a responsible party, address where the burning is to take place, materials to be burnt, expected start date, and expected end date;
 - 5. The burning must be constantly attended by a competent adult, eighteen (18) years of age or older;
 - 6. A minimum of one 4-A rated portable fire extinguisher or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck must be available for immediate utilization; and

7. Upon the completion of any open burning, notification must be made to the Fire Official through the County Emergency Communications Center.
- B. Recreational open burning, including campfires, cooking fires, or warming fires, where the fuel consists only of seasoned dry firewood ignited with a small quantity of paper, and are in accordance with the fire prevention code and the following are allowed without a permit from the fire official. No notification to the Fire Official is required, provided that the following conditions are met:
1. The fire must not be used for waste disposal purposes and the fuel must be chosen to minimize the generation of air contaminants. No trash, oil, tires, refuse, or similar materials may be used;
 2. The location of campfires, fire pits, and open container fires, such as burn barrels, must be at least 25 feet from any building or structure located on the property where the burning is conducted;
- C. Bonfires must not burn longer than three (3) hours and must be at least 50 feet from any building or structure. The size and duration of a bonfire can only be increased by the Fire Marshal when the Fire Marshal determines that fire safety requirements can be maintained strictly and an increased burn duration is reasonably warranted under a totality of the circumstances;
1. Prior to commencing any bonfire, notification must be made to the Fire Official through the County Emergency Communications Center. The notification must include the name of the property owner and responsible party, contact information that allows 24-hour access to a responsible party, address where the burning is to occur, materials to be burnt, expected start date, and expected end date;
 2. A bonfire must not be used for waste disposal purposes and the fuel must be chosen to minimize the generation of air contaminants. No trash, oil, tires, refuse, or similiar materials may be used
 3. Upon the completion of any bonfire, notification must be made to the Fire Official through the County Emergency Communications Center;
 4. Any bonfire must be constantly attended by a competent adult, eighteen (18) years of age or older, until the fire is extinguished; and
 5. A minimum of one 4-A rated portable fire extinguisher or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, must be available for immediate utilization during burning operations.
- D. Property maintenance or land/lot clearing open burning is permitted for disposal of debris waste resulting from land and site clearing for the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or any other clearing operations which the Fire Marshal must approve if all of the following conditions are met:
1. A permit for such burning is obtained from the Fire Official;
 2. All reasonable effort must be made to minimize the amount of material burned, with the number and size of the debris piles approved by the Fire Official;
 3. The material to be burned must only consist of debris waste, as defined in this Article, originating from the site where the clearing occurs;
 4. The open burning must be located on the site where the clearing occurs and must not include demolition material;
 5. The burning must be at least 2,000 feet from any occupied building unless the occupant of the building gives prior written permission for the burning to occur at a closer distance;
 - a. This distance can be reduced to 1,000 feet from any occupied building, unless the occupant of the building gives prior written permission for the burning to occur at a closer distance, if a special incinerator device, also known as an air curtain, is utilized at all times the open-air burning occurs;
 6. The burning must be conducted at the greatest distance practicable from highways;
 7. The burning must be conducted at least 2,500 feet from airfields, schools, and healthcare facilities;
 8. The burning must be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Open burning under this section must be constantly attended by a competent person, eighteen (18) years of age or older, until the fire is extinguished. Any permit holder found in violation of this subsection shall

have his permit revoked for a period of sixty (60) days unless a court of competent jurisdiction restores the permit sooner;

9. The burning must not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;
 10. The burning must be conducted only between 8:00 a.m. and 8:00 p.m.;
 11. The burning must be conducted only Monday through Friday;
 12. The burning must not be conducted during the restricted dates of February 15 through April 30 of each year; and
 13. The burning must be conducted only when the prevailing winds blow away from any city, town, or built-up area, as defined in this Article, that is located within one-half mile of the burning location.
- E. Local landfill open burning is allowed for disposal of debris waste provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas if all of the following conditions are met:
1. A permit is obtained from the Fire Official;
 2. The burning must take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;
 3. The burning must be attended at all times;
 4. The material to be burned must consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;
 5. All reasonable effort must be made to minimize the amount of material that is burned; and
 6. No material may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill must be established in coordination with the regional director and the Fire Official; another site must not be used without the advance written approval of these officials. The Fire Official must be notified of the days during which the burning will occur.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

State law reference(s)—Va. Code § 10.1-1142.

Sec. 6-407 Permits.

- A. *Permit for open burning required.* When open burning of debris waste under section 6-406(C) or open burning of debris on the site of a local landfill under section 6-406(D) is to occur within Albemarle County, the person responsible for the burning must obtain a permit from the Fire Official prior to the burning.
- B. *Application for permit.* The person responsible for the burning must submit a complete application for a permit, which must include proof of liability insurance in an amount of no less than \$1.5 million and must be issued by a company registered with the Virginia Bureau of Insurance. A written site and burn plan must also be included with any application.
- C. *Issuance of permit.* Such a permit may be granted only after confirmation by the Fire Official that the burning can and will comply with the provisions of this Article, with all other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare, and with all applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by the Fire Official and in conformance with this article.
- D. *Number of permits.* No more than three permits may be issued per year for any parcel.
- E. *Permit for use of special incineration device.* Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning must obtain a permit from the Fire Official, such permits to be granted only after confirmation by the Fire Official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that all conditions that the Fire Official deems necessary to ensure that the operation of the devices will not endanger the public health and welfare are met. Permits granted for the use of special incineration devices must at a minimum contain the following conditions:

1. All reasonable efforts must be made to minimize the amount of material that is burned in a special incinerator device. Such efforts must include, but are not limited to, the removal of pulpwood, sawlogs, and firewood;
 2. The material to be burned must only consist of brush, stumps, and similar debris waste and must not include demolition material;
 3. The special incinerator burning must be at least 1,000 feet from any occupied building unless the occupants have given prior written permission;
 4. The special incinerator burning must be conducted at the greatest distance practicable from highways;
 5. The special incinerator burning must be conducted at least 2,500 feet from airfields, schools, and healthcare facilities. If the Fire Official or designee determines that it is necessary to protect public health and welfare, the Fire Official or designee may increase any of the distances cited in this section;
 6. The special incinerator burning must be attended at all times and conducted to ensure the best possible combustion with the minimum amount of smoke production. The burning must not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;
 7. The special incinerator burning must be conducted only when the prevailing winds blow away from any city, town or built-up area;
 8. The use of special incineration devices must only be allowed for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste; and
 9. Permits issued under this section must be limited to a specific period of time deemed appropriate by the Fire Official or designee and in conformance with this Article.
- F. *Fees.* An application for a permit under section 6-407(A) or 6-407(E) must be accompanied by a processing fee as set forth in the fee schedule maintained by the Fire Official, as may be amended from time to time. An application is not complete without payment of the processing fee.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

Sec. 6-408 Penalties for violation.

- A. A violation of any ordinance under this Article is a Class 1 misdemeanor, punishable upon conviction by confinement in jail for a period not exceeding 12 months or by a fine of not more than \$2,500, either or both.
- B. Each separate incident constitutes a new violation.
- C. Any person convicted of a second offense committed within three years after a prior offense under this section shall upon conviction of the second offense be punished by a minimum fine of \$1,000. Any person convicted of a third or subsequent offense under this section committed within a three-year period shall upon conviction of the third or subsequent offense be punished by a minimum fine of \$2,500.
- D. In addition to the above penalties, any person so convicted shall be liable to the County for all expenses reasonably incurred by the County in suppressing any fire subject of the offense.

(Code 1988, § 9-25; Ord. 98-A(1), 8-5-98; Ord. 18-6(1), 10-3-18)

State Law reference – Virginia Code §§ 15.2-1429 and 27

Agenda Item No. 16. **Public Hearing: SP-2025-00003 Flow Honda/CDJR Outdoor Storage, Display, and Sales Expansion.**

PROJECT: SP-2025-00003 Flow Honda/CDJR Outdoor Storage, Display, Sales Expansion
PARCEL ID: 04500-00-00-068D4
LOCATION: 960 Hilton Heights Rd.

The Executive Summary forwarded to the Board states that, at its meeting on October 28, 2025, the Planning Commission (PC) voted 7:0 to recommend approval of SP-2025-00003 with the conditions, and for the reasons, stated in the staff report.

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

The PC recommended approval of the special use permit request with the conditions recommended by staff. No members of the public spoke at the public hearing.

Staff recommends that the Board adopt the resolution included as Attachment D to approve SP-2025-00003 with conditions.

Khris Taggart, Senior Planner, presented the staff report on the request for a special use permit for outdoor storage, display, and sales expansion. He explained that the subject property, located at 960 Hilton Heights Road, contained the Flow Subaru Honda and Chrysler Dodge Jeep Ram showrooms, as well as the associated outdoor display area. The proposed amendment affected the display area located in front of the Honda and Chrysler Dodge Jeep Ram showroom building. The special permit request was for the expansion of outdoor storage and display, as well as sales of vehicles in the entrance corridor overlay district.

Mr. Taggart stated that to accommodate this expansion, the property owner had acquired approximately one-third of an acre of land from VDOT. He said that the concept plan shows that a portion of the existing landscape area along the frontage would be converted into paved parking, featuring triple-stacked parking arrangements on both the northern and southern sides of the right-end entrance. To mitigate the expanded outdoor display, the concept plan includes new landscaping consisting of large shade trees, ornamental trees, and shrubs between the frontage and the display area. He stated that motor vehicle sales was a permitted use in the zoning district, but outdoor display was a special use. Special permits for outdoor display were reviewed under Section 30.6, which limited the factors to consider when determining whether outdoor displays were consistent with entrance corridor design guidelines.

Mr. Taggart said that the Architectural Review Board (ARB) reviewed this request in September of last year and voted to recommend no objection to the special permit with conditions. He said that on October 28 of last year, the Planning Commission unanimously recommended approval of the special permit with no changes to the ARB's recommended conditions. The conditions were listed in the report and on the presentation slide for reference. He summarized that the favorable factor for this request was that the outdoor display use would be consistent with the entrance corridor design guidelines if the ARB's recommended conditions were upheld. For this reason, staff recommends approval of the special permit for outdoor display.

Mr. Missel asked if there were easements, overhead powerlines or any other issues that might reduce the ability for the applicant to complete the planting plan.

Mr. Taggart stated that there were easements in front of and behind the landscaping to the north and south, but the plan indicated they would avoid conflict with utilities and easements.

Mr. Gallaway opened the public hearing.

Mr. Missel read the rules of procedure for an applicant speaking during a public hearing.

Justin Shimp, Shimp Engineering, representing Flow Automotive, stated that he was joined by Chris Marshall from his office, who served as project manager for Flow's projects. He said that the purpose of this amendment, as Commissioner Firehock had mentioned during the Planning Commission meeting, was that these businesses needed more space. He thought about simply stating that, but he would like to provide a brief presentation with some interesting points about this project.

Mr. Shimp indicated the area for the amendment was located here, which was a grass zone that would be landscaped. There was a power line running over it, and they had been able to work around it with his design. As one went up Route 29, one would notice that most of the properties had parking lots closer to Route 29 itself. In this location, there was a large grass area that existed because when VDOT widened the road at some point, they had taken that space. The slope adjacent to the construction easement had made it difficult to use the land for anything else. Initially, this land was perceived as part of Flow's property, but it was actually VDOT's right-of-way until he had purchased it the previous year.

Mr. Shimp stated that it had taken approximately 18 months to complete the process of purchasing the property back from VDOT, and that was why they were here today. One thing he would like to note was that the County Economic Development folks and Planning staff had been very helpful to Flow in all of their projects. Flow was a significant investor and employer in Albemarle, and that was part of the reason for this amendment. They also had a lot of employees and generated a lot of traffic, so they needed more parking.

Mr. Shimp noted that Flow had an interesting arrangement with an off-site parking easement that was part of the original site plan. They had a legal right to use this space, but they had had issues with it, including conflicts with the Police Department, which occasionally used the space for training purposes. They had also had issues with storing inventory vehicles at the back of the Sam's Club. They did not utilize the space frequently, but it remained available to them. As a result, their on-site space was extremely limited.

Mr. Shimp said that to provide context for the lengthy process, they had initially approached VDOT to acquire the property in September 2023. Now, it was January 2026, and the process had taken some time. However, it had been worthwhile, as it allowed them to secure the necessary parking space. He would like to present a few additional exhibits, showing a few trees that needed to be removed, which would be replaced with the trees shown in the accompanying exhibit. The powerline generally followed the old property line. To skirt the trees in the front and behind, they were able to meet the ARB's required

landscaping standards.

Mr. Shimp had been submitted to the ARB for both the special use permit and site plan review. He said that the site plan review was scheduled to take place next week. He said that the County's assistance in completing this project had been greatly appreciated by Flow. He said that this project was particularly noteworthy because every space mattered, and it had enabled them to secure additional parking, which was essential for their business to continue thriving. He said that he was happy to answer any questions the Board may have.

Ms. LaPisto-Kirtley asked for confirmation that there were no plans for parking in the area where the new plantings were shown in the concept plan.

Mr. Shimp confirmed that was correct; it would remain grass. He said that people had parked there in the past, but it was not allowed and there would not be sufficient room to do so in the future.

Mr. Missel asked if the overflow parking in the back of Sam's Club would still be utilized if this plan moved forward.

Mr. Shimp said that they would still have rights to the property, essentially, but they would have less need to use it. One point he should make is that parking in the area behind the property was actually County required. To meet the site plan requirements, they had to include those extra spaces. However, the actual requirement for a car dealership was significantly more extensive than what the County required. As a result, they did not use those spaces often. Despite still having the right to them, they are trying to minimize their use.

Mr. Missel said that he was hopeful that the County could amend their parking standards and regulations as part of their Zoning Ordinance Modernization, as he felt that they were overparking.

Mr. Shimp said that that was true for almost all uses, but not this one. He said that the Ordinance required two parking spaces per service bay, but if they only worked on one car per day and new cars came in to be serviced, they could run out of parking space very quickly.

Mr. Missel asked how stormwater management was being addressed in the plan for this request.

Mr. Shimp said that it was not shown here, but an underground detention system was being built underneath these parking spaces. There was a stormwater filter on site as part of that facility.

Mr. Missel asked if there would be no above-ground filters, such as biofilter management.

Mr. Shimp confirmed there was no above-ground management; it was all below ground.

Ms. Mallek asked how large the replacement trees would be.

Mr. Shimp said that he believed that the trees needed to be planted at a minimum of three and a half inches in diameter, and the shrubs should be planted at a height of approximately two feet. He noted that there was a low success rate when planting trees larger than that, so the plantings started out small but grew to full-size trees.

Ms. Mallek said that there would certainly be less screening until the plantings grew taller, which would take some time. She asked if there was any consideration regarding the turn into this parking lot, which was easy to miss. She was unsure if it pertained to this application, but she was interested in whether they could provide some clarifying signage or making the lane consistent all the way through to Hilton Heights.

Mr. Shimp said that the design to which Ms. Mallek was referring had predated his involvement with Flow projects, but he did believe that VDOT could put up some signage. He said that the property owner would have to get a permit from VDOT to do it otherwise. He agreed that it was a dangerous setup in that lane, but it was a VDOT-specific issue due to it being their right-of-way.

Mr. Gallaway stated that he recalled a previous Metropolitan Planning Organization (MPO) update where they had discussed signage to guide people into the left lanes who wished to continue south, and the signage was subpar. It did not even begin until after Hilton Heights Road. He said that they could add signage before they were already in the parking lot. He noted that when requiring trees to be planted throughout car dealership properties, the trees may provide screening but also may result in the car dealerships cleaning the cars more, which required water and detailing. He said that they must consider plantings that were appropriate for this type of use.

Mr. Gallaway opened the public hearing. Seeing no speakers, he closed the public hearing and the matter rested with the Board.

Mr. Gallaway **moved** that the Board of Supervisors adopt the Resolution included as Attachment D to approve SP-2025-00003 with conditions.

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

**RESOLUTION TO APPROVE SP202500003
FLOW HONDA/CDJR OUTDOOR STORAGE, DISPLAY, AND SALES**

WHEREAS, upon consideration of the staff reports prepared for SP202500003 Flow Honda/CDJR Outdoor Storage, Display, and Sales and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-30.6.3(a)(2)(b) 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 Highway Commercial (HC) zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan and the applicable design guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP202500003 Flow Honda/CDJR Outdoor Storage, Display, and Sales, subject to the conditions attached hereto.

* * *

SP202500003 Flow Honda/CDJR Outdoor Storage, Display, And Sales Special Use Permit Conditions

1. Use of this site must be in general accord with the Flow Honda/CDJR Concept Plan + Exhibits by Shimp Engineering dated September 26, 2025. To be in general accord, vehicles for sales, storage and/or display must be parked only in the spaces indicated for sales, storage and display on the Flow Honda/CDJR Concept Plan.
2. Vehicles must be parked in striped parking spaces.
3. Vehicles must not be elevated anywhere outside of a building on site.
4. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of the ARB guidelines and/or the Zoning Ordinance to mitigate the visual impacts of the proposed use.
5. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum light levels must not exceed 30 footcandles in the display lot and 20 footcandles in all other locations. The maximum height of pole lights must not exceed 20'. All fixtures must have lamps whose color temperature is between 2000 and 3000 Kelvin.

Agenda Item No. 17. Public Hearing: SP-2025-00006 Woolen Mills Industrial Fill in the Floodplain.

PROJECT: SP-2025-00006 Woolen Mills Industrial Fill in the Floodplain

PARCEL ID: 077000000040B2

ADDRESS: Franklin Street/adjacent to Moore's Creek Lane, which borders the property to the north.

The Executive Summary forwarded to the Board states that at its meeting on December 16, 2025, the Planning Commission (PC) voted 5:2 to recommend denial of SP-2025-00006. Several residents expressed concern at the public hearing regarding the proposal. Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

At the PC meeting, some Commissioners expressed concerns that the proposal (a) did not align with the comprehensive plan, which designated the subject parcel as Parks and Green systems, and (b) did not support the comprehensive plan's goals for protecting natural resources and habitat in the floodplain.

If SP-2025-00006 is approved, staff recommend certain conditions to address the fill activity and related concerns. The conditions would address the fill in the flood plain and its location/source, provide enhanced water quality, require native mitigation plantings specific to riparian areas, and a phase I archaeological study given the potential for Monacan artifacts. Staff also believe it's important to establish a timeframe to bring the site into full compliance. The recommended conditions are as follows:

1. The fill in the floodplain must be shown on a site development plan and must be in general accord with the Concept Plan titled "SP-2025-00006 Special Use Permit for Fill in the Floodplain Woolen Mills Light industrial Park," except as may be modified in order to meet the requirements of the County's Water Protection Ordinance, as determined by the County Engineer. The site must be filled to at least one-foot above the Base Flood Elevation (BFE).
2. The owner must submit a Virginia Erosion and Stormwater Management Plan (VESMP) application for the fill activity within 6 months of the approved special use permit. Fill activities, including the retaining wall and mitigation plan, must be completed within 2 years of approval of the VESMP application.
3. Fill is limited only to fill already located on the site or abutting parcels.

4. The applicant must apply for a Letter of Map Revision (LOMR) within 6 months of completing fill activities.
5. The applicant must submit and obtain approval of a mitigation plan with the VESMP application specifically for the portion of the property that was formerly proposed as a stormwater management facility and the immediate area surrounding that former facility that was disturbed to establish the storm water flow equalization basin as shown on SDP 2018-00065. Mitigation plant species must be native and listed as appropriate for the "Piedmont" region in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Virginia Riparian Buffer Zones," published by the Virginia Department of Conservation and Recreation.
6. Stormwater treatment must be provided on-site and must equal twice the total required phosphorus load reduction.
7. A phase I archeological survey must be conducted prior to approval of the VESMP application for the fill area and any prior disturbed areas.
Since the PC meeting, the applicant has provided an exhibit to clarify where mitigation planting areas will be required. (Attachment F)

The Planning Commission recommended denial of this request. Therefore, staff recommend the Board adopt the proposed Resolution (Attachment D) to deny the special use permit SP-2025-00006.

Rebecca Ragsdale, Planning Manager, said that she was joined by Tony Edwards, Deputy County Engineer. She said she was there to discuss a request for a special use permit. She said the request was to fill the floodplain for an industrial zone property, and she would walk through the location, regulatory and policy context, and the specific unique aspects of the request. The request was specific to one tax map parcel, and the special use permit request was for grading activities, including fill, of approximately 1.3 acres on a 7-acre site.

Ms. Ragsdale said the request had been previously heard by the Planning Commission in December, and they recommended denial. She said that the subject parcel was a sub-portion of a larger parcel with existing industrial uses, and a special use permit was approved adjacent to the site in 1997. The site was located at the edge of the City of Charlottesville along Franklin Street, between Moores Creek and the RWSA wastewater treatment plant. The area was located on the edge of the Broadway Blueprint area at the edge of the City-County boundary. Several residential uses were located across the street.

Ms. Ragsdale noted that adjacent to the parcel was an existing industrial use, TMP 77-40, which had previously received approval for a floodplain request. She noted that stormwater facilities were permitted in the floodplain, so the site provided a location for that kind of facility. She noted that the surrounding zoning was predominantly light industrial, but there was also commercial zoning, including Woolen Mills and WillowTree. She said that there was some rural area zoned property along Franklin Street.

Ms. Ragsdale said that the special use permit request was specific to the flood hazard overlay district. The flood hazard overlay district map showed the boundaries of the parcel in orange, with the 1.3-acre area on the upper part of the site away from Moores Creek. She said she would discuss the specifics of the floodplain and the areas defined within it in her presentation. There were two zoning districts that characterized this property: the by-right zoning for light industrial, and the flood hazard overlay district, which currently prevented development of the site within the permitted industrial uses.

Ms. Ragsdale said special use permits were evaluated on a case-by-case basis, and they reviewed a number of factors related to the impacts of the request. She noted that there were multiple processes and regulations after the special use permit stage which had to be completed before development could occur on the site. She outlined the factors for consideration when staff reviewed special use permits. She said that they considered impacts from the request, potential detriment to other properties, the character of the area, and consistency with the Comprehensive Plan.

Ms. Ragsdale highlighted the land use map and the nearby green system designations. Typically, the green system map included properties in the floodplain, but in this area, it extended beyond just the floodplain, applying to areas with important resources, such as steep slopes and stream buffers. She said that the green systems designation did not necessarily imply public access or a public park, but rather a desire to preserve the area for conservation or other goals. She said that the Comprehensive Plan aimed to manage floodplain activities with a high-level review, encourage native plantings, and discourage activities that would raise the base elevation of the floodplain.

Ms. Ragsdale said staff found that the request would not raise the base elevation. She said the site's light industrial zoning and the nature of the special use permit request led them to focus on technical criteria and floodplain ordinance findings. Although they did not discuss the Broadway Blueprint initially, it was brought up at the Planning Commission. She said that the Broadway Blueprint's goals aimed to preserve the industrial character and opportunities within the Broadway area, supporting smaller-scale industrial land and providing options for industries and support space. She said that they had acknowledged these goals in their discussion, recognizing that this site could be supportive of those objectives in their comprehensive plan related to the Broadway Blueprint.

Ms. Ragsdale reviewed the concept development plan. She said that with special use permits, they often aimed to regulate where and how sites developed. She said that in this case, the concept plan was focused on the fill area. She said that the Board had seen some other exhibits and sheets in the

concept plan that showed how the site could potentially develop with building footprints and parking. She said they had not reviewed that for compliance with all the requirements outlined in the ordinance. She said that this section aimed to demonstrate that they could meet some of the ordinance's requirements, but they were not holding them to those specific footprints in the detailed plan.

Ms. Ragsdale said that with the special use permit, they would review the conditions of approval and summarize this at the end. She said there would be areas where they would be limited in terms of disturbance, and the remainder of the site would need to meet landscaping requirements. She said that it was not just meeting their minimum landscaping requirements, but in this case, there were additional conditions of approval they would recommend related to plantings in riparian areas.

Tony Edwards, Deputy County Engineer, said that he would like to clarify the elements of the floodplain. He noted the boundaries of the floodway and indicated that the fill limit boundary was outside the floodway. He said that the floodway fringe was determined by FEMA, and fill was permitted within the fringe. He said that the fringe represented a still-water or backwater area of flow. He said that the applicant had analyzed three different models to evaluate the impacts. He said the request would not have an impact on the base flow elevation.

Ms. Ragsdale said that the fill-in request would not result in any increase in the base flood elevation, and it was outside the regulatory floodway. She said that the site was in an ineffective flow area and backwater area. Additionally, they had to comply with the flood hazard overlay district's regulations regarding additional standards for construction and non-polluting materials. Staff had also requested additional information to assess the request.

Ms. Ragsdale said that staff had developed conditions for approval requiring development to occur within demarcated areas to limit the areas of disturbance. She said that the site could not be filled beyond 1 foot beyond the base flood elevation. Staff added other conditions, including requiring steps to develop the site and address the current condition of the site. She mentioned the location of the fill and the concern about truck traffic on City and residential streets. As the applicant had proposed, the fill was limited to the adjacent site, so staff made a condition limiting fill to what was located on-site or abutting parcels.

Ms. Ragsdale said that condition 5 was included to establish specific expectations for replanting areas and additional mitigation. They had worked with the conservation program manager to determine what was appropriate for these riparian buffer areas, considering native plantings and habitat-friendly plantings. She continued that condition six required twice the total required phosphorus load reduction to ensure enhanced water quality. This condition was added to ensure that what the applicant demonstrated was achievable on site.

Ms. Ragsdale said that they were sensitive to the information about historic resources in the area, so they had added a condition for a phase one archaeological survey to be conducted prior to any fill activity or the required VESMP (Virginia Erosion and Stormwater Management Program) application for any disturbed areas. She said that the Planning Commission recommended denial of the request. She said that staff's primary focus was related to the floodplain ordinance and any potential detriment to abutting properties. Staff had also noted the concern about the parks and green systems land use designation, as industrial development would not be consistent with that designation. However, development on the site was limited to the 1.3-acre area, and they had added recommended conditions to further goals toward preserving and enhancing the remainder of the property with plantings.

Mr. Missel asked if staff reviewed the larger impacts related to the loss of floodway in terms of habitat and other environmental impacts.

Ms. Ragsdale said that in this case, they reviewed the Comprehensive Plan. She said that they considered all available information, including the data and research provided by staff, as well as the insights from their conservation planner and the biodiversity work group. She said that they also took into account the information shared by the applicant about known sensitive sites. She said that they consulted with others to ensure that they were meeting all relevant policy considerations.

Ms. Duncan asked if the Board could require native plantings, stormwater management, and the archaeological survey without approving the request.

Ms. Ragsdale said no.

Ms. Mallek asked where she could find the comparison with the Comprehensive Plan and the report from the biodiversity work group.

Ms. Ragsdale said those findings may not be indicated in the staff report. She said that the condition related to plantings was done in consultation with a team that provided comments through the County's application tracking system. She said the information was not provided in the Board's packet.

Ms. Mallek clarified that it was a staff recommendation based on the adopted chapter in the Comprehensive Plan, not a report from the Natural Heritage Committee, for instance.

Ms. Ragsdale said that there was no consultation with the committee. She said it was developed through the County's adopted documents or those available through the County's biodiversity work.

Ms. Mallek said that it had been mentioned earlier that the relationship between this lot and the proposed fill to the industrial park site was being used primarily as a location to dispose of excess dirt. She said that she did not recall that discussion taking place when the Board approved the site up the hill several years ago. She said that she did not remember any mention of off-site stormwater management or off-site soil disposal as part of that discussion.

Ms. Ragsdale said that she was not entirely clear on what was covered in the steep slopes overlay district request. She said there were no approvals or Board actions addressing overburden. She said that there was always the option to haul the fill away to an offsite location. She said that they were not suggesting that this issue could not be addressed; rather, the applicant had indicated that they had the opportunity to utilize the fill on their other parcel.

Ms. Mallek asked if the stormwater management was part of the industrial site across from Moores Creek Lane.

Ms. Ragsdale said that stormwater facilities were a by-right use in the floodplain. She said that the subject parcel had been utilized to serve the construction of buildings, which is where the relationship with the other parcels came from.

Ms. Mallek said that she appreciated the blocks of work to come, but she thought logically, approval today meant that everything else would fall into place. She said that there would not be other obstacles beyond today, as mentioned earlier, because engineers had proven that this could be done. She said that she just wanted to reiterate that this was the chance for the Board to have an impact on the process.

Ms. Mallek asked for clarification about how the Comprehensive Plan green systems designation was considered among the other criteria. She noted that the staff recommendation was opposite of the Comprehensive Plan designation.

Ms. Ragsdale said that when staff reviewed special use permits, the nature of the permit may warrant extra consideration. She said that the factors staff considered when reviewing permits were not ranked in order of importance.

Ms. Mallek asked if the light industrial zoning had existed since the 1980s.

Ms. Ragsdale said that the light industrial zoning had existed since the 1980s.

Ms. Mallek asked what could change between the concept plan and the final site plan.

Ms. Ragsdale replied that the specific development within the yellow-outlined fill area could change. She said the applicant had provided a concept plan showing building footprints and parking areas, and the applicant would have flexibility in how the buildings and parking areas were arranged and oriented within the building envelope.

Ms. Mallek asked if there would be a taper on the fill.

Mr. Edwards said that the intention was for a retaining wall.

Ms. Mallek said that had not been mentioned in the previous discussion or in any of the materials that she could find. She asked what the height of the retaining wall would be.

Ms. Ragsdale said that the retaining wall would be 9 feet tall.

Ms. Mallek noted that historically, the floodway had crossed Franklin Street.

Mr. Gallaway asked if the proposed use would require a special use permit if the floodplain issue was not present. He asked if it would be by-right, in that case.

Ms. Ragsdale said that if there was no floodplain, the site was already zoned light industrial, and they would be permitted by-right uses that were allowed in the industrial district. She said that if they were seeking any special exceptions or special use permits in light industrial for properties that were not zoned and did not have the flood hazard overlay, then they might come before the Board.

Mr. Gallaway said that he suggested they could still debate and have a conversation about their feelings regarding the floodway and floodplain, which he was sure they would discuss that evening. He said that harmony existed relative to the fact that if it were not for that issue, this project would not even be before the Board. He asked if there was an estimate as to the amount of square footage that would be constructed on the site.

Ms. Ragsdale said that the applicant could provide more information.

Mr. Gallaway opened the public hearing for presentations from the applicant.

Mr. Missel read the rules for presentations from the applicant.

Kelsey Schlein, Tatalein Planning and Development Services, introduced herself, along with

Bryan Cichocki and Matt Denard from the Timmons Group, Tim Miller, the design and stormwater engineer on the project, and Chris Donaldson, the property owner and developer.

Ms. Schlein said she would present six slides that provided detailed information on the regulations from the County ordinance regulating floodplain development activity. Based on the public comments received at the Planning Commission, she understood that there was a perception that this application would allow the developer to make decisions without proper oversight, however, this was untrue.

Ms. Schlein explained that floodplain development activity was heavily regulated, and this application met the high standards set forth by FEMA and Albemarle County. The flood hazard overlay district was in place to prevent loss of life and property, ensure public safety, and protect the tax base. She said that the application had been thoroughly reviewed and met the requirements for minimizing obstruction, protecting against erosion, and non-polluting.

Ms. Schlein said that they also had additional prerequisites to development, such as required permits and certifications, that must be met. She said she would like to highlight the specific provision in the code that prohibited adverse effects on the capacity of channels and floodways. She said that the application met all the criteria and will continue to do so as it moved through the process.

Ms. Schlein said that she would like to outline the floodplain review process. She noted that a significant amount of work and engineering had already taken place. She said the Timmons Group obtained the current FEMA floodplain model and performed a technical study using precise survey data, taking into account impervious surfaces and anticipated impervious surfaces. She said that the County concurred with the application, ensuring it complied with the floodplain overlay district.

Ms. Schlein said that FEMA ultimately approved the conditional letter of map revision, which meant the full letter of map revision process will now need to be formally completed. As of now, she would like to highlight the significant work that had been done to determine that there was no rise or impact to adjacent properties from this special permit request.

Ms. Schlein said that the site context was crucial to understanding the situation. She said that the site was located in a historically industrial area, which was established 150 years ago with the establishment of the Woolen Mills wool factory. Over time, Broadway had become a significant light industrial corridor for the County. She said development of this site would be consistent with the context surrounding this area.

Ms. Schlein said that the property was within the Broadway Blueprint. She said that the plan called for generating additional tax revenue for the County through increased economic vitality, as well as increased passive and active recreational opportunities, including access to the river and Rivanna trail system. She said that place-making opportunities for areas adjacent to City neighborhoods and within one and a half miles of the downtown mall were also achievable on the site.

Ms. Schlein said that the site was 7 acres, but they were proposing to fill 1.3 acres, which was less than 20%. She said there were still ample opportunities for recreational uses, future trails, and other plans that may come to fruition for this property.

Ms. Schlein said that to provide an overview of the property, she would like to review the concept plan presented with the special use permit. She said that all fill that would be placed on the site would come from a stockpile that was currently staged on the adjacent property. She said that the fill area's closest point to the stream was 375 feet away, which was nearly twice the riparian requirement for reservoirs. She said that the water protection ordinance buffer for reservoirs was 100 feet from bank or stream on either side, so 200 feet in total. She said that approval of the request would apply an even more robust riparian buffer due to the mitigation plan and the stormwater requirements in the conditions for approval.

Ms. Schlein noted the impacts of construction on traffic and infrastructure. She noted, however, that there was already an excess of dirt on the adjacent property, and the proposed fill site was a convenient location that would limit broader environmental impacts generated by transporting the fill to an off-site location. She noted that there was no rise in base flood elevation, and staff did not note any impacts to adjacent properties. She said that 80% of the site was dedicated to open space for stormwater management, and they had nearly 400 feet between their proposed development and the edge of the waterway.

Mr. Pruitt said that when the project first came before the Board, there was a discussion about the type of mitigation that would be implemented. He asked whether the unresolved issue of credits versus actual plantings was still a point of contention. He said that he was curious about how the project had progressed since then, particularly with regards to that specific point.

Ms. Schlein said that purchasing nutrient credits would not be permitted if this project were approved. She said that as a result, they would have to provide twice the total required phosphorus load reduction.

Mr. Pruitt said that a concern had been expressed regarding the physical space of the property, specifically its ability to accommodate the phosphorus load. He asked if the developer was confident in its ability to meet the requirement.

Ms. Schlein said they were. She said that they had thoroughly analyzed the request, they had met all the requirements of the ordinance, and they had staff's recommendation for approval. She said that it was unlikely they would be before the Board if they had not met those requirements. She said that regarding the stormwater item specifically, if they went into the design details, they were confident they could meet the requirements. She said that if there was any reason they could not, they would need to reduce their impervious footprint.

Mr. Pruitt said there was a significant amount of new information in the Board's packet that was not present last time pertaining to bald eagles and long-eared bats, specifically their breeding habits. He noted the issue was brought up by the Planning Commission, but he wanted to know more about the context.

Ms. Schlein said that it was worth noting that there was a protected bat species. She said that if construction activity occurred and a protected species was found, there were measures in place to prevent their habitat from being compromised. She said that specifically, the bats had limitations on the times of year when land clearing could take place.

Mr. Pruitt clarified that there was no immediate knowledge of bald eagle roosts or long-eared bat habitats. He asked if the developer would have to suspend operations if they discovered protected habitats.

Ms. Schlein said that there was a regulation implemented a few years ago that prohibited tree clearing during certain times of the year. She said that this regulation would need to be followed to not compromise the habitat. She said that any additional concerns regarding habitat preservation would likely be addressed by the conditions established by staff.

Ms. LaPisto-Kirtley said she appreciated the consideration of the long-eared bats. She asked if there were other protected species or habitats that had been identified.

Ms. Schlein said that there were none that they were aware of. She said that the site was previously permitted as the stormwater management area, so significant clearing had already taken place. She said that approving the request would require reestablishing the canopy and a more robust rate.

Ms. LaPisto-Kirtley confirmed that the developer would use native plantings to improve the area. She asked if the site could connect to a larger trail system.

Ms. Schlein said that according to their plan, they had an easement reservation shown. She said that there was not a specific plan in place for a trail on this property, but if there was a plan, they would accommodate that request.

Mr. Missel asked if the grading shown on Slide 10 of the staff presentation represented the current grading or the built-out grading.

Ms. Schlein said the grading showed the results of a recent site survey.

Mr. Missel said he had driven past the site and noted existing fill material and machinery. He asked why the material was present on the site.

Ms. Schlein said that the fill currently on the property was from the stormwater facility.

Mr. Missel asked if the fill was placed without approval.

Ms. Schlein said that the fill was placed on the site with what appeared to be the inspector's approval at the time, however, the inspector did not realize that moving the fill violated the existing zoning. She said it existed in that state for about a year before a new inspector flagged the floodplain violation. She said that triggered the current request.

Mr. Missel asked if the fill material was indicated in the topography map.

Ms. Schlein said that she would have to consult with Mr. Miller.

Mr. Missel said they were seeing an increasing frequency of 500-year storms, but they were still only designing for 100-year storms. He asked what the developer had done to accommodate or consider the increasing frequency of high impact storms.

Mr. Cichocki said that there was some consideration given to the FEMA requirements when studying floodplains. He said that specifically, they examined the 100-year floodplain and also the 500-year floodplain. He said that the 500-year floodplain was not currently regulated, but it was typically studied to understand its implications. He said that this type of analysis helped forecast the potential impact of a larger storm event. He said that by comparing the two, they could gauge the sensitivity of the stream. He said that until legislation was passed to modify the regulation, they had to adhere to the existing guidelines to ensure fairness and consistency across all applications.

Mr. Missel said that he appreciated the information about the grant opportunity. He asked for Ms.

Schlein to explain more about it.

Ms. Schlein said that when they were discussing the mitigation plan and how to implement it on this property, they explored various grant opportunities to determine what might be available to meet the requirements. She said that they looked into several grants, including a Department of Forestry grant that was open to property owners in rural, urban, and suburban areas. She said that this grant was only available for properties within 300 feet of the stream. When she was researching grant opportunities for her client, she said that she found this grant to be a promising option, but unfortunately, the property's flood impact and fill location made it ineligible for this grant due to its distance from the stream.

Mr. Missel asked if the grant could apply to the buffer area or the site itself.

Ms. Schlein said that the grant would only work in the buffer area, and it could not extend into the fill area. She clarified that the site was eligible for the grant within the riparian area, but not for the fill area.

Ms. Duncan asked if the developer was considering alternative sites for the fill if the request was denied. She asked how long it would take to move the fill if it had to be transported offsite.

Ms. Schlein said that there were about 1,900 truck loads of fill, and the time frame was subject to the trucking capacity and availability.

Ms. Duncan asked if it would take days or weeks to move the fill.

Ms. Schlein said that it would take weeks.

Ms. Mallek said that the technical focus was on downstream impacts, however, they had not considered the reduction in water storage capacity during floods. She said that they also had to consider upstream impacts from this reduced capacity. She asked for more information about those impacts.

Mr. Cichocki said he would like to explain the function of time at play here. He explained that the peak flow for Moores Creek rose and subsided hours before the Rivanna River peak flow. He said that as the Rivanna River rose, it spilled over into Moores Creek and created an equilibrium up the creek. He said that FEMA did not require studying the impacts of that spillover volume because it was at an equilibrium.

Ms. Mallek asked what the character of the site was currently.

Ms. Schlein said that the area toward the front of the site, where the fill was placed, had been cleared. She said that this was done in conjunction with the stormwater facility. She said that there was also a small amount of tree canopy in this area.

Ms. Mallek asked where the plantings would be located.

Ms. Schlein said that the planting and mitigation area in question was located where the stormwater facility previously stood.

Ms. Mallek asked about the flood impacts from the loss of water storage area.

Ms. Schlein said that this property had a unique condition that was not typical of most floodplains in Albemarle County in that it was a backwater condition. She explained that this meant the water reached an equilibrium, and any fill would not impact the base elevation or flow.

Ms. Mallek asked about the impact on the oxbows in the creek.

Mr. Cichocki said that the oxbow did not include any aquatic habitat that they were aware of.

Ms. Mallek asked if the stormwater management would be a mechanical solution.

Mr. Miller said that he had determined two manufactured treatment solutions called jellyfish units. He said that the units worked together, each removing specific nutrients.

Ms. Mallek asked if the units would be buried.

Mr. Miller said that the structures were 8 feet in diameter built within the retaining wall perimeter and discharged through the retaining wall into a level spreader to discharge the stormwater through the buffer.

Ms. Mallek asked what happened to the water velocity below the retaining wall. She said that she was reminded of the experience of wealthier communities in the Connecticut River during the 1960s and 1970s, who built breakwaters to protect their lowlands. She said that however, they soon discovered that the fire hose effect below the breakwater was actually causing significant damage to the next community that came along.

Mr. Cichocki said that the retaining wall was not directly related to velocities, but he would like to provide an example to illustrate a point. He said that if, for instance, an area that was contributing to the flow of the creek or river was filled in, it would likely have a significant impact on velocity and water

surface. He said that in this case, since the area was not flowing, there was no velocity. He said that consequently, there would be no effect or change to velocities, and no rise to the floodplain.

Ms. Mallek said that in regard to the unpermitted fill, there was additional crushed concrete not from the adjacent site, and this was a disparity in the presentation.

Ms. Schlein said that the crushed concrete was from the RWSA facility, and it had sat on the site for some time before they realized it was an issue.

Ms. Mallek said that the fill was not removed after the June denial.

Ms. Schlein said that was correct.

Mr. Gallaway asked for an estimate as to the total square footage of the proposed buildings.

Mr. Miller said that according to the concept plan, the total building footprint amounted to approximately 20,000 square feet.

Mr. Gallaway noted that on the concept plan there were several building structures. He asked if each building was designed to be one entity or would they be different when they got to that point in the business plan.

Mr. Miller said they most likely would become land condominiums.

Mr. Gallaway opened the public hearing for comments from the public.

Mr. Missel read the rules for public comment.

Alanah Horning said she resided at 720 Franklin Street, approximately 100 feet from the floodplain currently under discussion. She said that a main argument in favor of this project was that the land was zoned for industrial use. She said that zoning decisions made decades ago were based on conditions and environmental understandings that no longer reflected today's realities. She said that as some of the Supervisors had mentioned before, just because something could be built did not mean that it should be built. She said that they would not rely on outdated flood maps, building codes, or emergency response plans from decades ago and assume they still protected the community today.

Ms. Horning said that as climate patterns shifted and flood risks increased, responsible governance required decisions that reflected current risks, not outdated assumptions. In her perspective, this proposal did not align with the community's needs because of the floodplain. She said that if there were no floodplain, it would be in harmony. When they last approached this proposal, some of the supervisors had been persuaded by the assumption that it would generate financial benefits for both the local community and the County. She said that from her knowledge, those claims had not been substantiated. The proposal contained no set commitment to local employment, offered no evidence that the community would share in any economic benefits, nor did it demonstrate how this building would generate revenue for the County.

Ms. Horning said that the intended use of the building or buildings had not been clearly defined or required, but there had been suggestions. Therefore, any claim of economic gain remained speculative. Without a defined purpose, there was a possibility that the floodplain may be filled with no building ever constructed. She said the proposal was not occurring in isolation.

Ms. Horning said that the surrounding community already bore the burden of industrial development, as had been seen. And the suggestion that this was simply one more building or only an acre out of several acres disregarded the cumulative impact on residents, ecosystems, and a floodplain that played a critical role in environmental stability. She said the neighborhood and community had clearly expressed opposition, and she respectfully urged the Board to deny this application again and to reaffirm the same commitment to environmental stewardship and community well-being that they had demonstrated just seven months ago.

Eli Connell said that the County needed economic growth, but the question before them was whether this particular site was the right place for that growth or whether this land currently served the community better as an intact floodplain. He said that this question mattered because floodplains were not just undeveloped land; they were functioning parts of the water system and provided a unique ecosystem. Once they were filled, their storage capacity was permanently lost. He said they did not replace floodplains elsewhere, and they did not create new ones to offset what had been removed.

Mr. Connell said that when they looked at need, it appeared that the County was not facing an imminent shortage of light industrial land. The 20-year estimate suggested that long-term demand was five times lower than what was currently available. He questioned whether it was necessary to use this site when other land existed elsewhere in the County. This question became more relevant when they considered the nearby development.

Mr. Connell said there was a 160,000 square foot industrial building that had been under development for many years and seemed to have stalled. He said it was unclear whether it was fully leased, partially leased, or whether the demand was strong enough to warrant additional floodplain acreage. Understanding this context helped clarify whether this proposal responded to a real need, had

significant merit, or was simply a convenient place to put fill from another development.

Mr. Connell said that the County was capable of planning industrial growth thoughtfully. The Rivanna Futures Project was a good example of a coordinated effort with infrastructure and a clear economic vision. By comparison, this site had limited road access, potential cultural resources, it was adjacent to a low-income residential neighborhood, and it bordered an ecological preserve. Taken together, these factors raised reasonable questions about compatibility. What distinguished this site was not its physical suitability or access to infrastructure, but its historical industrial zoning. Zoning was an important planning tool, but by itself did not resolve the floodplain constraints, infrastructure limitations, or land use conflicts.

Mr. Connell said that what made this decision especially important was that costs were irreversible. He said that filling a floodplain permanently reduced the floodplain storage and altered natural water movement. Even where regulatory standards were technically met, the lost floodplain function was not restored elsewhere. Once filled, the capacity was gone permanently. He said the Comprehensive Plan was clear that natural boundaries like floodplains and stream buffers were areas to protect and avoid. That guidance existed precisely to help weigh decisions like this one.

Mr. Connell said that over the next five years, the County would not be adding any new square footage of floodplains but would see significant industrial development. He said that given the available land use, lack of clearly demonstrated need for a specific site, the permanent loss of floodplain fill this represented, and many other compromises the development demanded, he believed this land currently provided more value to the community as a functioning floodplain.

Bill Emory said that he had a prepared statement, but he would like to clarify a few points. He said that Ms. Schlein mentioned that historically, the Broadway Blueprint acreage had been industrial. He said that if they examined a 1937 aerial photo, they would see the Herndon Meeks Haggard House on the western part of the Broadway Blueprint. He said that the house was associated with the stone wall along Franklin Street. He said that the eastern portion, instead of being an industrial park, had been a park that served as a common area for Woolen Mills residents, featuring recreational facilities and allowing them to keep cows on the site, which they would milk daily.

Mr. Emory said that he hoped, after discussion and careful consideration, that they would decide to deny the special use permit because the request posed a substantial detriment to neighboring parcels. He said that it would change the character of the adjacent parcels in the nearby area, not align with the purpose and intent of the zoning ordinance, and not be in harmony with public health, safety, and general welfare. He said that it would also be inconsistent with the Comprehensive Plan.

Mr. Emory said that he hoped the Board would consider revitalizing the tools available under Municipal Code Section 33-1 to prevent harm to the flood hazard overlay district while also benefiting the ecosystem services provided by the County's riparian systems. Regarding the parcel, he said that he would like to know what steps would be taken to correct the current conditions on the site to bring it into compliance if the request were not approved. He noted that the zoning was stale and was enacted in 1969 that Rosser Payne used to wall off further annexation attempts and was not well thought out.

Jenny Mikulski said that she would like to clarify that when the site was cleared and filled, it was in early 2022. She said that that was when the grinding of the gravel started, and it was the clearing of the trees that first alerted her to the records she found, which included a reference to Monacan archaeology. She said there were 14 acres of private property lots in this floodplain, with two currently owned by Shimp Engineering and one being the historic livestock yard, which was over 200 years old. She said that the large open lot associated with the livestock yard was actually subdivided and sold to Shimp Engineering, and it was likely that they would be requesting permission to fill and build on that site in the future.

Ms. Mikulski said she had found brochure from the Army Corps of Engineers, printed in 1971, featuring the Moores Creek floodplain. She said it featured a man walking around with a large ruler, highlighting the high-water levels in the livestock yards and other areas after Hurricane Camille. She said the brochure stated that Moores Creek is only 1 to 2 feet deep and 20 feet wide, but during a large storm event, it can reach depths of up to 39 feet and widths of several hundred feet. As urbanization continued in the City and expands into the County, the 1971 document noted that suitable building sites will become scarce, and pressure to utilize the floodplain for development will increase, but this should not happen. With the available data on probable flood frequencies and heights, local authorities can now guide development in this floodplain.

Ms. Mikulski said she found the end of the brochure particularly interesting, stating that if anything were to be constructed, it would require features such as removable bulkheads, dikes, and levees for stormwater management. She purchased her home in 2019 on 718 Franklin Street as a single, low-income first-time home buyer on a grant. She did pay for flood insurance, and reading the brochure was terrifying. If she had known the risks, she may not have purchased her house. However, after this, she intended to work on a flood evacuation plan for her neighborhood.

Katie Chester said she lived on East Market Street. She was concerned about the vague responses to Ms. Mallek's question regarding biodiversity concerns. She said that just because they could not see habitat did not mean it did not exist. The applicant's presentation also stated that the fill material would not pollute surface water or groundwater, yet there was still crushed concrete present, which was previously mentioned as being removed if the project was denied. She said that they should consider the jobs that would be created by requiring the fill to be hauled offsite. She said that the request

was not a valid reason to develop the floodplain, and it represented poor planning on the part of the property owner.

Robin Hanes said that she would like to echo the concerns regarding a serious water event, as they were currently experiencing a time of unpredictable weather. She said that the elevated water levels already shown on this floodplain should raise serious concerns for the Board.

Erin Wiseackenbom, remote, said that she appreciated the Board's concern and care for the floodplain building, as she believed each of them recognized the destruction and potential future costs associated with it. She urged the Board to deny the proposal once again. She said she agreed with the previous commentators. She said that any changes to the floodplain regulations had a significant impact on their environment, water quality, habitats, and even trees. She said that these changes did not consider the well-being of the local wildlife, including the bats and tiny bugs that called the area their home. Given the current state of climate change, she hoped that they would continue to prioritize preserving their waterways, floodplains, and environment. She said that she hoped they would deny the proposal once again.

Mr. Gallaway afforded the applicant five minutes for rebuttal.

Ms. Schlein said that she believed it was essential to acknowledge the significant challenges they faced in this day and age, including climate change and flood impacts. She said that the reason they were before the Board with a special use permit was because the County had implemented an additional check that responded to the world and climate they lived in.

Ms. Schlein said that in other localities, a special use permit may not be required for this type of project. She said that if they could demonstrate to FEMA that there was no impact and no rise, they could proceed with filling the floodplain. She said that the County's unique approach had allowed them to have robust conversations with staff, resulting in seven conditions proposed to require reestablishment of habitat on the property, as well as enhanced stormwater management.

Ms. Schlein said that she believed this application was about finding balance, and she noted that preserving 20% of the site was a key compromise. She said that living in a community with all of these wonderful people was a daily compromise, as they navigated their shared spaces and roads. She said that construction was always a compromise, and whether this fill went here or elsewhere, there would be an impact from the trucks traveling further to their destination, potentially compromising habitat in rural areas.

Ms. Schlein said that they had checked all the boxes according to the ordinance, and she believed this special use permit existed to allow applicants to evaluate their property's unique characteristics and demonstrate whether there was an impact. She said that in the confines of the code, they had met the requirements. She said that the unique situation with the backwater condition had shown no impact and no rise in base flood elevation. She hoped the Board could be supportive of this and look at the broader impact that would occur if they could not utilize this site.

Mr. Gallaway closed the public hearing and brought the matter back before the Board.

Ms. LaPisto-Kirley said that from what she understood regarding the equilibrium flow, was that that was the backflow so that it just slowly would rise rather than rush through.

Mr. Cichocki confirmed that there was an equilibrium that occurs as the flow of the Rivanna moves past the confluence with Moores Creek. He said the backflow was a slow rise of the equilibrium of water that comes back up Moores Creek.

Ms. Mallek said that what she has taken away from the discussion was that Moores Creek cannot subside until the Rivanna River subsides. She said the opposite was described because the water cannot get out.

Mr. Gallaway closed the public hearing, and the matter was back before the Board.

Mr. Pruitt said that he wanted to share with the public and the Board what he believed was already evident from their previous review of this matter. He said that he found this very challenging, and it would feel absurd, given the context of other decisions this Board made. He said that compared to other issues they grappled with, he thought this was a relatively minor one. He said that the impacts on either side were relatively minor. He said that an additional building was constructed, or a negligible amount of floodplain was disrupted.

Mr. Pruitt said that this was one of the less impactful issues they faced as a Board, but it was frustratingly close to an edge issue. He said that he was frustrated with having to cast a vote the previous time, and here they were again. He said that he wanted to begin by saying that several people had commented about the potential value of preserving this site as a conservation area, conducting an archaeological survey without disrupting it, or establishing a public access boardwalk.

Mr. Pruitt said that he agreed that these ideas were worth considering. However, he said that there was no mechanism to compel the property owner to take these actions. He said that the property owner had no reason to do so, absent a moment of largesse or a desire to offset taxes. He said that the notion that this fill did not increase the floodplain from a modeling perspective overlooked the literal

physical reality of what happened.

Mr. Pruitt said this brought him back to a point he had made previously, which was that while there may not be a quantifiable increase in the floodplain's elevation or spread, water was still displaced. He clarified that what was being said was that the amount of displaced water was so negligible that it could not be measured. He said that if there were 100 identical projects, it would. And so, they were asked to decide whether to deny the first one, the 50th one, or the 100th one. He thought there were broadly two approaches to consider. One approach was to always deny the first one, as there was no limiting principle, so the limiting principle should be absolute. The other approach was to execute an individualized cost-benefit analysis.

Mr. Pruitt said that personally, and he believed that most members of the Board agreed, he exercised an individualized cost-benefit analysis in situations like these, where they did not have a limiting principle. He said he did not see the marginal value to the community of a single development outweighing the regulatory interests. He had since struggled with this, as he was unsure, but the studies had consistently shown that a less harmful project in the floodplain was nearly impossible to present. The harm from this project was so negligible that it was not quantifiable, which he found remarkable.

Mr. Pruitt said there was a concern that resonated with him, which was the justice issue of trying to impose an industrial project on a working-class neighborhood situated adjacent to industrial zoning. This concern resonated with him. He said that they had a working-class neighborhood with naturally occurring affordable housing and nearby successful parts and cultural amenities, in part due to the sympathetic relationship between industrial and residential uses, which kept prices down.

Mr. Pruitt said that this remained a challenging issue for him. He said that a site visit and examining the potential use of this site had shown that it could have a sympathetic result, whether or not the developer had created his own sense of exigency by delaying or pausing on exporting his current fill to use his own fill, which was cost-efficient. He said that this had a broader impact beyond the individual parcel under consideration. He said that he found this compelling and persuasive, and it had shifted his stance on this issue. He said that he was now on the line that there was a more compelling argument in favor of its use at this moment.

Ms. LaPisto-Kirtley said that she believed the project would be a small-scale, light industrial development, approximately 20,000 square feet, comparable to artistic spaces. She said that it would feature small startups, such as a bike repair shop, and provide opportunities for entrepreneurs who did not require large spaces. She said that this development would provide jobs, although the exact number was uncertain. She said that this flexibility would allow diverse businesses to thrive. She said that one business owner had already expressed the need for multiple locations due to insufficient space. She said that she thought it was essential to consider accommodating startups and new businesses, as this would diversify their tax base and reduce their reliance on real estate taxes.

Ms. LaPisto-Kirtley said that this aligned with the County's goal of diversifying its tax base and focusing on industry, manufacturing, light manufacturing, and light industry. She said that this project checked several boxes, but it required compromises from the owner and the County. She said that the development process involved nine steps, including environmental repairs and habitat restoration. She said that although the site was currently in poor condition, she believed this project would benefit the community, particularly the working-class district, and provide a valuable resource. She said that there was a harmony here because it met a lot of needs.

Ms. LaPisto-Kirtley said that she did not think it would be a problem; she was not worried about the backwater or the flood fringe because she believed it had been proven, and FEMA had approved this. She said that she was not the expert, but FEMA was. She said that they had approved this, so this was something she was not worried about. She said that if she was concerned, she would not approve it. She said that they were going through all the necessary steps. She said that this was economically beneficial, as it diversified their tax base. She said that it was a small-scale industrial startup that she thought would really benefit their community.

Ms. LaPisto-Kirtley said that in Albemarle County, nothing fits neatly into a box. She said that each parcel was unique, and they had to consider each one on a case-by-case basis. She said that every time they had a rule, there was an exception to the rule. She said that that was just the nature of the County. However, she did believe that this would be extremely beneficial for the County.

Mr. Missel said that they had received a significant number of comments, and he had spent considerable time thinking through the pros and cons of this issue. He said that he initially voted in favor of it at the first public hearing, then changed his vote at the second hearing, and continued to learn more. He said that he was grateful to the individuals who had shared their perspectives with him over the past few months. He said that he also understood and shared the applicant's perspective.

Mr. Missel said that his struggle was not with the boxes they had checked, but rather identifying all the boxes in the application process. He said that they had only seen the ones they had checked, and he understood that was what they needed to focus on. He said that their current focus was too narrow, and they needed to consider the broader impacts of the request on the natural systems. He said that he wanted to emphasize that he supported growth in development areas. He said that economic development was crucial in the County to diversify their tax base and for other reasons.

Mr. Missel said that he did not think they needed to be desperate to find locations for economic

development that would require filling in a floodway. He said that they could talk about smart growth, and there were other examples within their jurisdiction where they dealt with natural feature limitations, and this was one of those areas.

Mr. Missel said that he had reviewed the Broadway Blueprint study and highlighted several points. He said that placemaking involved incorporating creative design elements in public spaces along Broadway to showcase the area's unique character and elevate it as a complete and compelling destination for businesses and residents. He said that he had noted observations about existing amenities and resources, including an abundance of environmental, recreational, and historic resources. Under opportunities, he had highlighted greenway connections and trail hubs, as well as environmental and historic resources that were mentioned throughout the document.

Mr. Missel said that he appreciated the site visit and acknowledged that many areas were already degraded. He said that he believed they had three options: leave it as is, fill it, or take action to protect and enhance these areas. If they were committed to strengthening and emboldening their natural features in urban areas, this was an opportunity to do so. He said he believed they needed to shift their approach to resilience and take a proactive stance. He said that as a County, they had a resilience focus through a climate action plan.

Mr. Missel said that if they allowed this project to proceed, they risked being reactive rather than proactive. He said the Boards responsibility as a County was to focus on enhancing these areas and find ways to do so without relying on their development community. He said that they should not be asking the development community to pay for these enhancements; instead, they should take the initiative to do so as a County. He said that ultimately, he believed they should trust their natural systems to function as intended and acknowledge that they needed to take steps to help them, especially in areas like this. He said that filling more of the floodway was not a solution in his opinion.

Ms. Duncan said she appreciated the plant and water quality mitigation measures, and the archeological survey, but she was not sure how that could be done on private property. She said that with over 2,000 miles of streams and rivers in the County, she believed it was crucial to protect the health of their waterways by keeping industrial areas in the development area and maximizing their usage. She said that this site was adjacent to the sewage treatment plant, which made it an ideal location for industrial development.

Ms. Duncan said that she supported this proposal because she valued expertise and the input of multiple experts, including design engineers, FEMA, and County staff, who had thoroughly evaluated the potential impact on the floodplain rise. She said that she also appreciated the work done on the Broadway Blueprint, which involved public hearings and a thorough analysis of the community's needs. The County's decision to keep the area zoned for light industrial was a deliberate choice, as it was essential for their tax base and alleviated the burden on homeowners. She said that if they set stringent rules and conditions, they should support businesses and industries that met these requirements. She said that she was in support of this proposal.

Ms. Mallek said the reason this was not by-right was because there were valid reasons to consider whether it was in the right space and what the balances were. She was interested that the applicant had presented that they should evaluate the unique characteristics of the property, and the Board should decide whether the work should be done. This was the core of her comments, as she was not in favor of granting the request.

Ms. Mallek said she disagreed that these impacts were limited and minor. She believed these impacts were felt broadly across the community, both in the City-County border area and in the domino effect it would have across the County. She recounted that RWSA had invested over \$400,000 of ratepayer funds in 2015 to establish a multi-acre constructed wetland next door to this site. The construction and disturbance would impact the success of this ratepayer-funded wetland and the mitigation efforts.

Ms. Mallek said that the Army Corps of Engineers had required mitigation to inundate some wetlands at Ragged Mountain to provide extra water for the growth area water system. Cumulatively filling the floodplain would eventually result in total loss of the floodplain and would ignore the stream buffer and floodplain rules that Albemarle County had maintained for over 50 years. In zoning, the County had experience with owners creating disturbance of 9,999 square feet of land at a time for four years in a row, resulting in over an acre of hard surface with zero stormwater compliance, causing runoff and damage to surrounding properties and streams.

Ms. Mallek said that this behavior was no longer allowed, as a 10,000 square foot limit for the life of the parcel was now in place to prevent it. Approving this application would make floodplains more vulnerable to cumulative damage than a dry land parking area. Both Planning Commissioner Firehock and Natural Heritage Commission Committee Chair Christine Putnam had written compelling words about the broader issue, urging the Board to not to approve the SUP to fill the floodplain. Approval would be counterproductive to their resiliency efforts. She said her concern was not only with the filling of the floodplain, but the increase in impervious surface area, which contributed to flooding and the heat island effect.

Ms. Mallek said that the Rivanna Corridor was listed in the Biodiversity Action Plan as a conservation-focused area. This riparian area supported a myriad of wildlife, birds, salamanders, frogs, turtles, and many other species. They may say it was just an acre of land, but that was how they lost

natural spaces. She doubted that future generations would applaud the approval of another concrete pad for industrial use, but a protected wetland was indeed a precious gift to their grandchildren.

Ms. Mallek said that engineers had skillfully described the math regarding how the proposal could be done, but no one had talked about if it should be done. She said in slide 17, it was shown that fill is possible without raising the flood elevation. She said that in her nearly 76 years, she had seen many unpredicted, unexpected and unprepared for flooding events, which had left a lasting impression on her about the power of water and the good reasons why the County had maintained rules for protecting water flow areas.

Ms. Mallek said, unlike Houston, which had prohibited housing in its low-lying areas for 100 years and then allowed thousands of houses to be built there, only to be underwater when Hurricane Harvey flooded them out. She said she had witnessed the devastating effects of hurricanes, such as Hurricane Camille when she was a teenager, which had caused landslides and washouts on dam spillways across the state. She said that Hurricane Agnes had also had a similar impact.

Ms. Mallek said what was different now was that these storms were more frequent and more narrowly focused, with a greater impact than those historic events. On May 28, 2018, on her farm, 11 inches of rain fell in four hours, causing her dam to over top for the first time in 60 years. The rain band had affected Crozet, Ivy, Free Union, Earlysville, and Greene County, causing significant damage. Two of her constituents had been swept away.

Ms. Mallek said that last year, three inches of rain had caused flooding on the northeast side of Charlottesville, causing \$15 million in damage at the operations center for RWSA. She said this year, there had been two unexpected flooding events in the White Hall District. In January, a mechanical failure at the Sugar Hollow Dam caused a sudden drop in water level, flooding the Mormons River and carrying debris 8 to 10 feet up in elevation and on to the roadway. It had been a miracle that no one was killed. Later in 2025, seven inches of rain that fell in the upper Jarman Gap in one afternoon had rapidly flooded a stream, covering 50 acres and sweeping away a child. These events were real, unpredictable, and uncontrollable.

Ms. Mallek said that what they needed to protect the health and safety of their residents was regulation, which prevented obstruction of areas for water storage, not walls, which would increase the velocity of moving water and cause increased damage downstream. Additionally, in December, many planning commissioners discussed the broader environmental benefits of greenway protection to provide wildlife corridors and habitats. Unfortunately, nowhere in this proposal was a report from the Department of Wildlife Resources on the impact of this project.

Ms. Mallek said that only 12 inches of water was required to move a car, and four inches could support 1,000 pounds. She said she had to weigh the known environmental damage against the potential benefits of an unknown light industrial use, including unknown jobs, businesses, and uses. She said that all they knew was that the project would result in a dirt pile covering critical oxbow wetland, and she had to consider the benefits.

Ms. Mallek said that any project must balance on-site storage or removal of dirt at the project's expense. She said this was a short-term solution with a permanent consequence for everyone. She said that destroying a floodplain for no benefit in perpetuity was not permissible. She said that she would vote no.

Mr. Gallaway said that this was a development area, and if they said that certain activities were not allowed in the floodplain, then they would not consider special use permits. He said that approving one did not require approving others, as each was considered on a case-by-case basis. He said that when the item was previously before the Board, the vote was split, 3 to 3, which meant it did not pass. He said if the vote was 6-0 or 5-1, the item would likely not have been brought back before the Board.

Mr. Gallaway said that as the representative of the Rio District, he had seen many applications that had developed an area, and it was clear that habitat and environmental features were being eliminated in the name of development. The Comprehensive Plan reinforced this by stating that 95% of the County was rural, and they were protecting it by doing development in the 5% designated as such. While the Board tried to be careful and pragmatic in their development decisions, they also aimed to protect their values of environmentalism and preserving stormwater management. When they approved something, they considered factors like stormwater management and the placement of utilities.

Mr. Gallaway said that the Broadway Blueprint had included this property, and he did not recall any Supervisor objecting to this property being developed in this way at the time of the Blueprint approval. He said they had a thorough public process, and community members had been allowed to weigh in. He said the Board approved the plan without debate about classifying the property as LI (light industrial). In fact, he had publicly stated that this was the one area of the development area that he had been trying to protect against residential development. Developers would greatly benefit from acquiring this area for residential units. He said they were aware that allowing residential units in this area would negatively impact the neighborhood's nature and character, as well as the rents and living costs, particularly for those living across the City border.

Mr. Gallaway said that this was the last remaining area in the County where light industrial properties could be rented at affordable rates. He said that he had done his own research and found that in the Woolen Mills neighborhood, rents ranged from \$13 to \$15 per square foot per year. For a 20,000

square foot building, that was \$260,000 per year, or a monthly rent of \$21,666. In other areas, such as Rio Road, rents were in the \$15 to \$16 per square foot range. He recently spoke with someone who was looking to develop a similar project on Airport Road but could not find it feasible. When asked what the rent would be, he estimated \$17 per square foot, which would be \$340,000 per year, or a monthly rent of \$28,333. The difference between the rent for businesses in Woolen Mills and Airport Road was almost \$7,000 per month.

Mr. Gallaway said that the Board had stated support for small and home-grown businesses in the County, but they were not willing to protect an area that was planned to have low rents to allow businesses to thrive. Instead, they were essentially pricing them out of the market and forcing them to move to Waynesboro or other areas. He said that he felt for the applicant, who had reviewed the Board's plans and saw an opportunity to develop in an area that they thought was suitable for low rents.

Mr. Gallaway said that the applicant was providing them with what they had initially requested. He appreciated the concerns raised about environmental features, the floodplain, floodway, and the discussion on habitat and the additional values and benefits of a floodway beyond engineering reports on water. However, these were the difficult choices they must make if they wanted to preserve their development area. Allowing a development that struck a balance between growth and their concerns would be crucial in maintaining a 5% development area.

Mr. Gallaway said that to balance their concerns, they must allow a development that effectively protected against their concerns. This approach would preserve most of the property. The mitigation efforts, such as replanting trees in areas previously destroyed, would help. The stormwater practices that would be implemented would likely have a more positive impact than the City's current mitigation efforts, given that Moores Creek was a designated impaired stream.

Mr. Gallaway said that this project aligned with their previous experiences in other areas of the development area, where stormwater protection, as required, actually treated runoff better than it would under natural conditions. He said that it collected and held the runoff, preventing it from spreading faster. He said that the additional filters required as part of this condition would further improve the runoff.

Mr. Gallaway said that regarding revenue, there was a comment about the potential for a subjective financial gain. He said that in the Comprehensive Plan, they stated that they would use a scorecard to evaluate projects like this, ensuring they understood the benefits. Someone mentioned that the applicant could receive a tax benefit by donating or placing the property in an easement. He said that the assessed market value of this property was \$14,200. He said that they had expressed a desire to diversify the tax base in their economic development plan. However, it was essential to consider the facts: the \$14,200 assessed value would increase with just the construction of a 20,000 square foot warehouse building on the property.

Mr. Gallaway said that the increase in assessed value would be due to the building itself, not the property's inherent value. He said that the tradeoff became whether the benefits of this project outweighed the potential environmental and floodplain impacts. While he may not support this project if it were the entire property, the proposed addition seemed appropriately placed and would help maintain stabilized rents with the existing facilities. He said this plan had received due process and a public review through the Broadway Blueprint approval. He said he appreciated comments about the zoning being stale, but the Board had reaffirmed it in the Broadway Blueprint.

Mr. Gallaway said that the project had only improved since it was last considered. He was comfortable making this statement because he had had to make many decisions on various matters and had faced his constituents in his district, who had concerns similar to this one. He explained to them how he thought about it, and he emphasized the importance of having a development area in a rural area. He said it was important to find a solution that met the needs of the County, the applicants, and the residents living nearby.

Mr. Gallaway also acknowledged the concern for public safety, but he asked what City Council was doing to address the concerns of the residents in that area. If the residents were truly in harm's way, then the outcome of this project did not change that, regardless of whether it was approved or not. He was concerned for those residents and would ask questions because a City Councilor had weighed in on this project previously. He said that simply getting insurance and having citizens develop evacuation plans was not a sufficient answer. He said that he would support the request.

Mr. Pruitt **moved** that the Board of Supervisors adopt the Resolution to approve SP-2025-00006 with conditions (Attachment E).

Ms. LaPisto-Kirtley **seconded** the motion.

Ms. Mallek said she thought Moores Creek Lane and the bakery were the boundaries of the Broadway Blueprint. She said she was surprised to see the actual map, but she took responsibility for that misunderstanding. She said that she hoped that in the future, they would be able to incorporate modern construction methods, moving away from using old warehouse buildings like the one currently on Broadway. She said that she also hoped that reduced rents would be implemented to make it more affordable for startup businesses.

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

AYES: Ms. Duncan, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Mr. Missel, and Mr. Pruitt.
NAYS: None.

**RESOLUTION TO APPROVE SP202500006
WOOLEN MILLS INDUSTRIAL FILL IN FLOODPLAIN**

WHEREAS, upon consideration of the staff report prepared for SP202500006 Woolen Mills Industrial Fill in Floodplain, the recommendation of the Planning Commission and the information presented at the public hearing on December 16, 2025, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-30.3 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 Light Industrial zoning district, with the applicable provisions of Albemarle County Code § 18-30.3, 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 SP202500006 Woolen Mills Light Industrial Fill in the Floodplain, subject to the conditions attached hereto.

* * *

SP202500006 Woolen Mills Industrial Fill in Floodplain- Conditions

1. The fill in the floodplain must be shown on a site development plan and must be in general accord with the Concept Plan titled "SP-2025-00006 Special Use Permit for Fill in the Floodplain Woolen Mills Light industrial Park," except as may be modified in order to meet the requirements of the County's Water Protection Ordinance, as determined by the County Engineer. The site must be filled to at least one-foot above the Base Flood Elevation (BFE).
2. The owner must submit a Virginia Erosion and Stormwater Management Plan (VESMP) application for the fill activity within 6 months of the approved special use permit. Fill activities, including the retaining wall and mitigation plan, must be completed within 2 years of approval of the VESMP application.
3. Fill is limited only to fill already located on the site or abutting parcels.
4. The applicant must apply for a Letter of Map Revision (LOMR) within 6 months of completing fill activities.
5. The applicant must submit and obtain approval of a mitigation plan with the VESMP application specifically for the portion of the property that was formerly proposed as a stormwater management facility and the immediate area surrounding that former facility that was disturbed to establish the storm water flow equalization basin as shown on SDP 2018-00065. Mitigation plant species must be native and listed as appropriate for the "Piedmont" region in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Virginia Riparian Buffer Zones," published by the Virginia Department of Conservation and Recreation.
6. Stormwater treatment must be provided on-site and must equal twice the total required phosphorus load reduction.
7. A phase I archeological survey must be conducted prior to approval of the VESMP application for the fill area and any prior disturbed areas.

Agenda Item No. 17. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Gallaway noted that Agenda Items 18.1, 18.2, and 18.3 would be deferred to the meeting next week out of respect for time.

Mr. Pruitt asked if they were in another planning and consulting phase with respect to CARTA. He asked why they were not simply asking for more governance control. For starters, he believed there were multiple visions for CARTA, and he would speak for himself. He envisioned CARTA as a unified service provider, offering City transit, County transit service, and UTS, and potentially expanding to outlying counties and collaborating with school divisions to increase ridership and subsidies. This vision sat in tension with MicroCAT, JAUNT, and CAT.

Mr. Pruitt said they had two major studies: a governance study to inform the structure of CARTA's articles of incorporation and a needs survey to identify specific transit needs. However, there was a disconnect between these studies and the proposed third study, which would be a prioritization and implementation study based on the needs survey. This had led to a fractious discussion, with some questioning the need for another study and advocating for requesting funding directly. The takeaway was

that they were frustrated with kicking the can further down the road and needed to come up with their own notional budget to request funding support from the General Assembly. They had the option to establish a budget based on a tax power granted by the General Assembly, or to determine their desired budget and request that power.

Mr. Pruitt said that since they must obtain permission from the General Assembly, they would first develop their own needs and implementation assessment to create a strong case to present to them. He did not think anyone was satisfied with the initial answer, as they were also tired of conducting studies. However, he believed this was the only way they felt equipped to effectively advocate for their needs with the General Assembly. In the meantime, they could begin laying the groundwork by discussing the need with their delegations and continuing to build strong relationships with the University. He asked if the process had started.

Ann Wall, Deputy County Executive, said that the prioritization study had started in December. She said they expected to have preliminary data available by early summer.

Ms. Mallek said that in the implementation study, it would be beneficial to propose a plan for consolidating assets under the authority's ownership. She said that this was a major concern in 2002, and she hoped it would be addressed.

Ms. LaPisto-Kirtley said that the 29 North CAC (Community Advisory Committee) held a meeting, and a new development was being considered called Cornerstone Village. She said the development was located in the Rio District, and it proposed up to 147 units. She said there was another development at Reuben Lane with 110 units.

Mr. Missel said he had not yet met with his committees, and his first meeting was scheduled for the next day.

Ms. Duncan said that on Monday, the Hydraulic CAC held a meeting, which included presentations for the Charlotte-Humphreys Park improvement project. She attended the Chamber Public Policy Committee meeting. She said that the majority of the discussion centered on updates regarding the state of the community, but they also touched upon the General Assembly, announcing a Chamber Day at the Capitol and a reception for it. She said there was also a Transit Day and Commonwealth Housing Coalition Day, both scheduled for January 26. She said the meeting concluded with a brief discussion on the City's efforts to address homelessness, and the committee was exploring potential ideas to collaborate with the business community to support the City in this endeavor.

Ms. Mallek said the Crozet CAC met, but she was not able to attend. She said that they would be receiving a transportation presentation from Mr. McDermott. She reported that she and Mr. Missel had taken a hike to a cabin built in 1805. She said the landowner had requested that they try to find some information about who had lived at the cabin. She said they learned about the mountain farmsteads, and the typical size of houses like this, which were usually around 16 by 16 feet. She said that this cabin had a unique three-layer structure. It featured an underground storage area, possibly for roots or animals, and a beautiful spring. This discovery was particularly significant to her as a member of the Historic Preservation Committee.

Mr. Gallaway said that he had recently learned that the NACo Community Economic and Workforce Development Committee met just before their meeting today. He said that he would like to share some links with the Board. One of the links was a map tool available on the NACo website, which provided a comprehensive view of the United States. He said that they could explore this tool in Albemarle County, where the red areas represented housing costs and population growth.

Mr. Gallaway said that as their County was experiencing high costs and growing population, it was interesting to note that similar trends were observed in other parts of the state, such as Fairfax, Loudoun, and the Henrico area. He said that the other link provided some tools on how localities could create affordable housing projects on land they owned. The presentation broke down the four L's for a house: labor and materials, land, laws and regulations, and lending costs. According to the presentation, labor and materials typically accounted for 60% of the cost, land for 15%, laws and regulations for 21.2%, and lending costs for 2.8%. He said that the site and tools provided offered insights into what localities were doing nationwide to address affordable housing.

Agenda Item No. 18. Adjourn.

At 10:42 p.m., the Board adjourned its meeting to January 21, 2026, 1:00 p.m. in Lane Auditorium, Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA, 22902.

Approved by Board
Date: 04/15/2026
Initials: CKB

Chair