

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on June 4, 2025, at 1:01 p.m. in Lane Auditorium, Second Floor, Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia, 22902.

PRESENT: Mr. Jim H. Andrews, Mr. Ned Gallaway, Ms. Beatrice (Bea) J.S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, and Mr. Mike O. D. Pruitt.

ABSENT: none.

OFFICERS PRESENT: Deputy County Executive, Trevor Henry; 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 1:01 p.m., by the Chair, Mr. Jim Andrews.

Mr. Andrews introduced the Albemarle County Police Department Officers present to provide their services at the meeting, Officers Tayvaun Richardson and Paul Quillon.

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

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Andrews said that there were a few proposed changes to today's agenda. First, Item 9, regarding the Albemarle-Charlottesville Regional Jail (ACRJ) Renovation Project Permanent Financing would be rescheduled for a later date. He said that in light of the additional time this may provide, he proposed moving Item 19, From the Board: Committee Reports and Matters Not Listed on the Agenda to the afternoon, just before the closed meeting, if time permitted.

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

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

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

Ms. McKeel reported that over the past week, there had been a series of graduations, each unique in its own way, reflecting the schools the students were graduating from. She said that they had been enjoyable to attend and heartwarming to see these students transition to the next phase of their lives. This morning, she had the pleasure of attending her grandson's graduation from Mountain View, and he would be attending Walton Middle School next.

Ms. Mallek agreed that it was wonderful to see the children she had taught, and now those children's children. She said that having connections with young people every day helped them stay young, and it had been a blessing. She added that her youngest grandchildren were graduating tomorrow from high school, which was great.

Ms. Mallek said that she had a couple of announcements. She reported that the Rivanna Water and Sewer Authority (RWSA) was the first water agency in Virginia to be approved to use a new testing method for total nitrogen, which would help fine-tune testing before wastewater was released into the river, ensuring proper reductions had been achieved by local treatment. This was a significant step in upholding the Clean Water Act and protecting the rights and needs of their downstream neighbors who also relied on the Rivanna and James rivers.

Ms. Mallek stated that on Friday, she was honored to attend the change of command ceremony for the U.S. Army HHC (Headquarters and Headquarters Company) Commander at Rivanna Station. She said that Captain Justin Hagerman had assumed a new role, while Captain Cecilia Ali'i Faleté-Goai had taken on logistics and operational management of the Army Garrison. She was a rising star and highly respected, despite having fewer years of service than many other captains. She said that Captain Hagerman had previously mentioned that being a captain meant having a colonel under operational command, which could be unusual. She also said that Colonel Eric Haas had been an exemplary partner at National Ground Intelligence Center (NGIC) and would be returning to Albemarle after a new assignment for his retirement.

Ms. Mallek said that the Albemarle Amateur Radio Club would be participating in the ARRL (American Radio Relay League) Field Day, a national amateur radio event, from noon to noon, on June 28 and June 29 at the Earlysville Volunteer Fire Department. She said that all were invited to attend and participate. She said that this event was a great opportunity to experience the benefits of amateur radio, which had been a valuable tool in emergency situations around the world. She hoped many of them would take advantage of this experience and attend the field day.

Ms. LaPisto-Kirtley stated that she had also attended a couple of graduations, which she was thrilled and excited about. Additionally, this past week, she had attended a junior class Life Science project, which was an annual event, with Supervisor Mallek also in attendance. She said that the project, led by Melissa Brown's class, presented a wonderful initiative on recycling, composting, and their plans to implement these practices at the school, which aligned with their climate initiatives.

Ms. LaPisto-Kirtley invited everyone to the 14th Annual Grace Church Historic Farm Tour, Beyond the Gates, would be taking place on June 7 in Keswick. She said that it was a wonderful opportunity to visit farms, enjoy the scenery, and see farm vehicles. For more information, she asked everyone to visit gracefarmtour.org.

Mr. Gallaway said that he previously made a public statement, but he would like to reiterate his thanks to the first responders who were on site during the emergency at his home a few weeks ago. He said these individuals continued to inspire him. What struck him profoundly was the care and compassion they showed while dealing with a dangerous situation. He extended his appreciation to all the first responders, including the Fire and Police Departments, emergency personnel, HART (Human Services Alternative Response Team), the chaplain, and the many community members who provided support, particularly to his children. The outpouring of support from the community, as well as the generosity and kindness shown to them, had been overwhelming. He said that he was grateful for the phenomenal community they lived in, the exceptional emergency personnel who kept them safe, and the kindness of strangers.

Mr. Pruitt expressed his gratitude for being able to attend some of the graduations this week. He had the opportunity to attend Monticello High's graduation, and he was always impressed by the creativity of their students and their outfits walking down the row. He noted that it was the second time the security personnel mistook him for a student, which was a bit bleak and frustrating.

Mr. Pruitt wished everyone a happy Pride Month. He highlighted the opening of the Rivanna Area Queer Center over the weekend. He said that this new queer community center was based in Charlottesville, downtown, on West Main, and served the entire region. He said that the center was located on West Main and was open from 9:00 a.m. to 5:00 p.m.

Mr. Pruitt reminded the public that while it was Pride Month in Charlottesville, they celebrated their Pride Festival in September. He said that this year's festival would take place on September 6 at Ting. He said that this was a common practice in many southern cities and communities with large college populations, as it was typically too hot to hold festivals in June and was a more convenient time for many student community members to attend.

Mr. Pruitt noted that Scottsville's Fridays on the Canal event was a huge success this year. This free concert series took place at Canal Basin Square every fourth Friday in the late afternoon and early evening. He announced that the next event would be on June 27 from 5:00 p.m. to 8:00 p.m., and would feature the Scottsville-based band, The Morning Buzzards. He looked forward to seeing everyone there.

Mr. Andrews extended his congratulations to the graduates. He said that he would like to take this opportunity to commend the professional service of their County Attorney. He said that Mr. Andy Herrick was one of only four attorneys to complete the Virginia State Bar Association's inaugural Local Government Attorneys Leadership Training Program, and he would like to offer his congratulations on this achievement. He said that as the President of the Local Government Attorneys Association of Virginia, Mr. Herrick had recently attended the Judicial Conference of Virginia in Williamsburg. He thanked Mr. Herrick for his dedication and making their County proud.

Agenda Item No. 6. Proclamations and Recognitions.
Item No. 6.a. National Gun Violence Awareness Day Proclamation.

Ms. Mallek **moved** to adopt the National Gun Violence Awareness Day Proclamation, which s/he read aloud.

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

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

NATIONAL GUN VIOLENCE AWARENESS DAY

WHEREAS, every day, more than 125 people in the United States are killed by gun violence, alongside more than 260 who are shot and wounded, and on average, there are nearly 19,000 gun homicides every year, and Americans are 26 times more likely to die by gun homicide than people in other high-income countries; and

WHEREAS, Virginia has 1,200 gun deaths every year, with a rate of 13.6 deaths per 100,000 people, and has the 34th highest rate of gun deaths in the US, and localities across the nation, including Albemarle County, are working to end the senseless violence with evidence-based solutions; and

WHEREAS, protecting public safety in the communities they serve is the local government's highest responsibility, and support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from those who are a danger to themselves or others. Local officials and law enforcement officers know their communities best and are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, gun violence prevention is more important than ever as we see an increase in firearm homicides and nonfatal shootings across the country, increased calls to domestic violence hotlines, and an increase in gun violence; and

WHEREAS, anyone can join this campaign by pledging to wear orange on June 6th, the first Friday in June in 2025, to help raise awareness about gun violence. By wearing orange, people across the United States will raise awareness about gun violence, honor the lives of gun violence victims and survivors, renew our commitment to reduce gun violence, pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby recognize the first Friday in June, June 6, 2025, as National Gun Violence Awareness Day and encourage all residents to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Signed this 4th day of June 2025

Ms. Katie Fox, representing both Moms Demand Action and Giffords Gun Owners for Safety, accepted the proclamation. She said that as a gun owner and a survivor of gun violence living in Crozet, she had multiple survivorship stories, and she would like to see fewer people join this club. Today, she would like to highlight a story that she held very close to her. She explained that her life was saved by secure firearm storage. She came from a gun-owning household of multiple generations, where firearms were a vital source of support during difficult times.

Ms. Fox stated that her father had three large gun safes in the master bedroom, and they were always locked. From a young age, she struggled with depression, and the only reason she did not act on her suicidal thoughts was because she could not access her father's guns. She knew that the only way to make sure it would work was with one of his guns, and she did not want it not to work. She said that unfortunately, her friend in high school was not as lucky as she was. She said that he was able to access an unsecured firearm at another friend's house and took his life in their garage during their sophomore year.

Ms. Fox said that passing good gun safety laws was crucial, but what was equally important was raising awareness about the toll of gun violence that did not receive headlines and educating their community about those laws and the resources available for support, including mental health services, reducing access to guns during crisis, and secure storage equipment. She thanked the Board for prioritizing their community's safety and raising awareness.

Ms. McKeel said that gun violence was a horrible challenge for their country. She said that she had recently learned that dealing with guns was not only a local and state issue; it was also a federal-level issue. She noted that the sweeping budget reconciliation bill going through Congress right now included a last-minute provision that would not require gun owners to register the purchase of silencers, ultimately taking silencers out of the National Firearms Act. She emphasized that they had a lot of work to do. She thanked Ms. Fox for accepting this proclamation today.

Ms. Mallek said that she was recently given a glimmer of hope in the Supreme Court's decision to uphold Maryland's gun law, which Virginia used to have. She hoped they would reinstate it again soon. She thanked Ms. Fox for her ongoing work to improve gun safety. She had heard many personal stories from people of all political opinions who supported better training for weapons. She said that she looked forward to improving safety with firearms.

Ms. LaPisto-Kirtley thanked Ms. Fox for her heartfelt comments. She noted that it was obvious they had a lot more work to do, and the main goal was to keep all of their citizens safe. She said that locking up guns safely was an easy way to prevent unnecessary accidents or willful harm. She hoped the proclamation was effective in expressing their care regarding this issue. She hoped that a lot of the progress they had made would not be undone.

Mr. Gallaway said that he joined his colleagues in thanking Ms. Fox for being there today and especially for sharing her personal story. He said that it was a blessing that her father was a responsible gun owner. He said that he appreciated the work she and her colleagues were doing to bring this issue to awareness, particularly the nuance that often got lost in the broader discussion. He thanked Ms. Fox sincerely for the effort she and her colleagues put into this effort.

Mr. Pruitt thanked Ms. Fox for being here and the vulnerability that came with sharing a personal story, which undoubtedly had a great impact on the public. He thanked her for highlighting the role of gun owners and responsible gun ownership as a critical component of how they fought for better gun safety

and reduced gun violence in their community. He acknowledged that this discussion had historically been bogged down by factionalism, which reminded him of a scene from *The West Wing* in which a character said to a firearm critic, "I don't think you don't like guns, I think you don't like people who own guns."

Mr. Pruitt said that it was important to recognize there were people who did feel that way, while also acknowledging there were also people who advocated for gun safety and were also gun owners. He expressed his appreciation for Ms. Fox and her group's incredible work in that intersection, which was where he believed real change could happen.

Mr. Andrews reiterated that the Board members all appreciated hearing her story. He wished they could do more; although they had adopted this proclamation in the past, it was difficult for local governments to figure out how to address gun violence. He believed that HART provided help in some situations, but it was definitely a nationwide solution. He thanked Ms. Fox for accepting the proclamation.

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

Ms. Alison Webb, Rio District, said that this was her first time speaking with the Board, and she hoped it would not be her last. She expressed concern about the situation involving their immigrant neighbors. She said that the courthouse action on April 22, when two individuals were taken by U.S. Immigration and Customs Enforcement (ICE) agents in plain clothes, was a wake-up call. She said that she understood that this event led to a Freedom of Information Act (FOIA) request by Delegate Callsen and Senator Deeds to gain a better understanding of the Albemarle County Police Department's (ACPD) role in the situation and other ICE-related incidents.

Ms. Webb said that although little light was shed on the actual courthouse incident, those documents revealed cooperation between the ACPD and the federal government that few residents, if any, were aware of. She said that the documents also showed that ICE commenced an "operational initiative" to locate unaccompanied alien children on January 25. She said that the documents also revealed that members of the ACPD senior leadership team had met with the regional Homeland Security agent and the ICE Regional Supervisor. In an email to the Board of Supervisors dated April 2025, Chief Reeves outlined the assistance being provided under this "operational initiative."

Ms. Webb said that on at least one occasion, a detective accompanied Homeland Security investigation agents to a home, under the guise it was a wellness check to protect children from human trafficking. She said that the operational initiative clearly stated that deportation was the goal for managing unaccompanied children. She emphasized that this meant that wellness checks of children were being used to locate individuals for possible deportation. She said that as a citizen, this gave her pause.

Ms. Webb said that she did not fully understand the agreements and informal cooperation between the Board of Supervisors, the ACPD, and the Sheriff's Department with ICE. She said that she did not believe residents should have to resort to a FOIA request to find out the answers to these questions. She said that with so many significant changes happening rapidly at the federal level, it was difficult to keep up and know what sources of information to trust. She urged the Board of Supervisors to provide more transparency and better communication with residents going forward.

Mr. Drew Goodman, White Hall District, said that as a parent of two children who attend a nature-based preschool, he was here today to express his strong support for early childhood centers and their alignment with Chapter 7, Objective 2 of the Rural Areas Master Plan. He said that Albemarle County had consistently demonstrated its commitment to preserving the region's extraordinary natural assets, including its mountains, rivers, forests, and biodiversity. He said that Chapter 7, Objective 2 clearly stated that they shared a responsibility to protect these resources and maintain unfragmented land for agriculture, forestry, and ecological balance.

Mr. Goodman said that when the pandemic led to the closure of preschools in 2020, his family discovered nature-based preschools as a new model of learning, one that seamlessly integrated the outdoors as a classroom and a sanctuary. He said that what began as a response to a crisis evolved into a long-term vision for how their children could safely and meaningfully engage with the natural world. He said that he wanted to highlight a serious and growing obstacle that nature-based schools and daycare centers faced. He said that only 5% of Albemarle County's land was zoned for development, and schools fell under commercial zoning.

Mr. Goodman said that this meant that educational programs had to compete for space with for-profit businesses, often in locations with little to no green space. He said that as new growth continued to strain their developmental areas, and their infrastructure failed to keep pace, nature preschools offered a way forward. He said that they addressed this crisis by utilizing their existing natural spaces with care and intention, rather than expanding development. He said that this approach was not sprawl or fragmentation, but preservation through purpose.

Mr. Goodman said that it aligned directly with Objective 2 of the Rural Areas Plan, protecting and preserving natural resources while maintaining continuous, unfragmented land that supported biodiversity and natural education. It also supported Objective 7, educating citizens about the ecological value of the rural landscape. He said that his children did not just learn in the forest; they learned from it, developing a

lasting respect for the environment they would one day inherit.

Mr. Goodman urged the Board today to prioritize early education, not just as a service, but as an opportunity to align policy with values. He said that they had found a model that honored the wonder of childhood and the integrity of their land. He said that they must work together to support the economic well-being of their County and the functionality of their communities. He said that they should build the infrastructure that supports working families where they live and do so in a way that upholds the very values Albemarle has committed to in the Comprehensive Plan.

Mr. Tom Loach, White Hall District, said that at a recent meeting, the Board discussed the AC44 document and explicitly stated there would be no expansion of the growth areas. He said that despite this assertion, the Board approved studies for the Crozet and Shadwell intersections. He said that the statement of no further growth expansion and the addition of two intersection studies for development were incompatible. He said that the approval of the study for Crozet was, in fact, a de facto expansion of the growth area. He said that the outline of the Crozet study area included areas that the community had worked hard to protect from overdevelopment.

Mr. Loach said that this led him to his second point. He said that before the Board was a segment of a report completed by Robert Tucker, the former County Administrator, in 1991. He said that the first highlighted section clearly stated that the program's purpose was to protect rural area development. He said that no other reason other than rural protection was mentioned in the document. He said that in the second highlighted section, Mr. Tucker explained who paid for land use, which today fell mostly upon the residents of the growth area.

Mr. Loach said that the next document showed 17 years of rural versus growth area development data. He said that what was impressive was the amount of development in the rural area and the cost for that growth, which was paid for by the taxpayers of Albemarle County. He said that while his friend Mr. Williamson often advocated for expanding the current growth area boundaries, behind his back, there had been an ongoing development expansion of the rural area, which currently covered an area 1.4 times larger than the growth area of Crozet and continued to grow each year. He said that more surprisingly still was the loss of rural land compared to growth area development, which averaged 20% per year.

Mr. Loach said that if applied over the 17-year study period, it showed a loss for the taxpayer of just under \$50 million on a total investment of \$249 million. He said that the actual cost was millions more, considering the program had existed since 1975. He said that if the Board continued to support the proposed expansion of the Crozet growth area and reneged on its commitment to protecting the rural area, he saw no reason why the residents of Crozet would continue to support such a program, given the significant loss rate of 20% at a time when they had already seen a 20% increase in their taxes in the past three years.

Mr. Neil Williamson, President of the Free Enterprise Forum, said that he appreciated Mr. Loach's comments, despite his difference of opinion. He said that he was before the Board to discuss another item on their agenda today, which was the historic preservation piece of the Cultural Resources Chapter work session. He said that he was aware that this Board had previously discussed enacting a Historic Preservation Ordinance (HPO) to preserve properties deemed historic. He said that it was something that he and Ms. Mallek had disagreed on for over 20 years.

Mr. Williams said that he had seen HPOs go crazy across the country, so it was a matter of degrees. He wondered if under some of the most stringent HPOs, the County would have been allowed to replace the windows in the County Office Building. He said that they had made significant energy-efficient upgrades, which were environmentally friendly, but he questioned whether those changes would have been permitted under a strict Historic Preservation Ordinance. He urged the Board to consider the potential impact on homeowners, particularly those with growing families who may be unable to expand their homes due to these ordinances. He said that they may even be prohibited from painting the house a certain color.

Mr. Williamson said that he implored the Board to tread carefully as they considered implementing a historic preservation ordinance, as it could trample property rights. He said that it was ironic that without such an ordinance, a popular house on the hill was considered historic, largely due to luck and private investment. He cautioned the Board against taking people's property rights without careful consideration, as that was the essence of an HPO.

Agenda Item No. 8. Consent Agenda.

Mr. Andrews noted that they had a hard copy of Item 8.2, Personnel Policy Amendments. He said that this had been posted to the calendar and their meeting materials, which included minor modifications to correct some cross-referenced changes. He said that this was the only change to the consent agenda.

Ms. McKeel **moved** to approve the consent agenda as amended. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: January 10, January 17, February 7, February 16, February 21, and February 28, 2024

Mr. Andrews had read the minutes of January 10, 2024, and found them to be in order.

Ms. LaPisto-Kirtley had read the minutes of January 17, 2024, and found them to be in order.

Mr. Pruitt had read the minutes of February 7, 2024, and found them to be in order.

Ms. Mallek had read the minutes of February 16, 2024, and found them to be in order.

Ms. McKeel had read the minutes of February 21, 2024, and found them to be in order.

Mr. Gallaway had read the minutes of February 28, 2024, and found them to be in order.

By the above-recorded vote, the Board approved the minutes of January 10, January 17, February 7, February 16, February 21, and February 28, 2024 as read.

Item No. 8.2. Personnel Policy Amendments.

The Executive Summary forwarded to the Board states that Albemarle County ended the shared service Human Resources (HR) model in Fiscal Year 2023 (FY 23) and approved the formation of a Human Resources Department dedicated to local government operations. Foundational work in establishing a local government-focused HR Department includes a full review and revision of all County Personnel Policies. During this review, staff identified opportunities to reconcile existing Personnel Policies with legislation and public sector best practices.

Under the County Code, personnel policies and amendments must be adopted by the Board of Supervisors.

Staff is proposing updates to the Personnel Policies listed below with a summary of the proposed changes for each.

§P-32 Employee Discipline

Attachment A. The proposed changes include: stipulation that formal discipline involving unpaid administrative leave, demotion, or termination must be approved by the Department Head and Human Resources; added requirements for notice of potential discipline and due process meeting in accordance with Virginia Code and federal law; stipulation that the due process meeting may only be attended by the employee, supervisor, and a representative from HR; a requirement that all reported or suspected level 3 offenses must be investigated by Human Resources; clarification that any disciplinary action will remain in the personnel file in accordance with the Library of Virginia requirements.

§P-34 Grievance

Attachment B. The proposed changes include: extends access to the grievance process to part-time permanent employees; eliminates certain redundancies in the dispute resolution process for employees; clearly articulates who is required and who is permitted to attend meetings for each step in the process; and, amends the time allotted to schedule the meeting with the County Executive's office to be realistic and attainable.

There is no budget impact associated with the proposed adoption of these amendments.

Staff recommends that the Board adopt the Resolution (Attachment C), to amend personnel policies § P-32 and § P-34.

By the above-recorded vote, the Board adopted the Resolution (Attachment C), to amend personnel policies § P-32 and § P-34:


RESOLUTION

WHEREAS, the Board of Supervisors may adopt Personnel Policies under Albemarle County Code §2-901; and

WHEREAS, the Board desires to amend the following Policies: §P-32 Employee Discipline and §P-34 Grievance.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of Albemarle County, Virginia, hereby approves the amendment to the County's Personnel Policies as set forth in the documents attached hereto.

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	<u>P - §32.0</u>	<u>Policy Name:</u> Employee Discipline	<u>Approved Date:</u> June 4, 2025
	<u>Prepared By:</u> Human Resources		<u>Adopted Date:</u> August 7, 1996
	<u>Amended Date:</u> May 3, 2017; December 13, 2023; June 4, 2025		

A. PURPOSE

Disciplinary action may be taken to correct unsatisfactory employee behavior or performance. The purpose of this policy is to categorize the severity of policy violations and outline the County’s progressive discipline process with regard to policy violations. This policy is not intended and must not be interpreted to negate or otherwise replace an employee’s at-will employment status.

B. DEFINITIONS

Administrative Leave – paid or unpaid leave from work that is taken at the direction of management, for purposes of investigation or a step in the disciplinary process, and without impact to an employee’s accrued leave or employment status.

Aggravating Factors – may support a higher category offense when the facts and circumstances associated with the employee’s actions negatively impact the employee’s credibility, particularly but not exclusively as it relates to the employee’s role as a supervisor/manager of subordinates, reveal a serious disregard for the safety and well-being of others, or damage the operations, credibility, or reputation of the County. This definition is not intended to be an exhaustive list of circumstances that may be aggravating.

Demotion – a reduction in status or pay, resulting from a change in position or scope of responsibilities.

Disciplinary Action – corrective action administered in response to unsatisfactory performance or behavior, violations of County personnel or administrative policies, or violations of Virginia or federal law.

Gambling – the activity of betting or risking money or something of value on the result of a game, lottery, contest, or event. County-sponsored employee engagement activities such as participation in raffles and office challenges are exempt.

Mitigating Circumstances - mitigating factors can reduce the severity of punishment. Mitigating circumstances are conditions that recommend a reduction to promote the interests of consistency or equity, account for an employee's otherwise history of satisfactory work performance or recognize a lower level of culpability.

Offense – an instance or course of unsatisfactory work performance or behavior, violation of a County personnel or administrative policy, or a violation of federal or Virginia law that impacts work performance or the ability of the employee to meet County job requirements.

C. ROLES AND RESPONSIBILITIES

Employees – responsible for reviewing and adhering to County policies and directives from supervisors and Department Heads.

Department Heads and Supervisors – Accountability and disciplinary action may be initiated and administered by the employee's direct supervisor or the employee's Department Head. Any disciplinary action that is more severe than a written reprimand must be approved by the Department Head and the Human Resources Department prior to issuance.

Human Resources - Human Resources assists supervisors and Department Heads with understanding and interpretation of County policy, investigates matters relating to harassment, discrimination, hostile work environment, retaliation, etc., provides coaching and advice for behavioral and performance management, and ensures compliance with federal, state, and local laws and policies.

D. IMPLEMENTATION

1. Progressive Discipline

The steps for progressive discipline are outlined below. Human Resources may determine that a given step should be skipped. This depends upon the seriousness of the offense, whether the recurrence of the offense is repeated despite counseling or training, the employee's record, the impact on the organization, and similar factors. Mitigating and

aggravating circumstances may generally be considered in determining the appropriate level of discipline. Failure to adhere to County policies will result in corrective action.

The steps are as follows:

First Step:	Counseling and verbal warning (non-disciplinary)
Second Step:	Written reprimand
Third Step:	Unpaid administrative leave
Fourth Step:	Removal from position (demotion or termination)

The County's P-§ 06.0 Standards of Conduct, P-§ 07.0 Code of Ethics, and all other personnel and administrative policies outline the standards that all employees must follow. Violations of these policies form the basis of disciplinary action.

2. Disciplinary Steps

Single incidents and/or patterns of poor work performance or behavior can form the basis for disciplinary action.

First Step: Counseling and verbal warning

For a first offense where the offense is minor, a verbal warning and counseling is the first step. More serious infractions may skip this step. Counseling and verbal warnings are typically appropriate for Category I offenses, as described in section 4.

Second Step: Written Reprimand

For most violations and offenses, a written reprimand begins the disciplinary process. More serious infractions may skip this step, as well. This level of discipline is typically appropriate for Category II offenses, as described in section 4, but may be applied in all offense categories.

Third Step: Unpaid Administrative Leave

Unpaid administrative leave may result from a pattern of inappropriate behavior or unacceptable performance. Exceptionally serious infractions and those where safety is at issue may begin with this step.

- Unpaid administrative leave may only be issued with approval from the Department Head and from Human Resources, following a thorough investigation and review of facts.
- Employees may not substitute or use any accrued annual leave, sick leave, or compensatory time in lieu of unpaid administrative leave.
- While on administrative leave, employees may not perform any work on behalf of the County except to remain available for phone calls and meetings with management pertaining to an investigation or a return to work plan. Employees

may be subject to additional disciplinary action for failing to respond in a timely manner.

Fourth Step: Removal from Position

The fourth step in the progressive discipline process is reserved for an exceptionally serious policy violation that threatens or jeopardizes the safety and security of a person or physical asset to the county. Step four may also result as a culmination of multiple policy violations or multiple management attempts to correct employee behavior or performance through prior steps of discipline.

A recommendation to terminate employment or demote an employee as a disciplinary step must be approved by the Department Head and Human Resources prior to issuance.

Where discipline is based upon criminal proceedings or other non-County proceedings, County decisions on disciplinary action may be made independently, without respect to the resolution of those other proceedings. This level of discipline is typically appropriate for Category III offenses, as described in section 4 of this policy.

3. Disciplinary Notice and Due Process

When considering unpaid administrative leave, demotion, or termination, the County must provide written notice to the employee that includes the charged policy violation(s), an explanation of the evidence supporting the charges, the discipline under consideration as a result of the investigation, and the date and time of the Due Process (Loudermill) meeting during which the employee may present their side of the matter.

- The employee must be provided reasonable time and opportunity to collect and compile facts that establish mitigating circumstances or that may not have been considered in the investigation.
- The Due Process meeting is held between the supervisor or the Department Head and the employee with a representative of Human Resources serving as facilitator and witness. Other employees, colleagues, family members, witnesses, or legal counsel are not permitted to be present during this supervisory discussion. Upon agreement of those participating in the meeting, the employee may be allowed additional time not to exceed five business days to submit additional information. The supervisor or Department Head will render a final decision on disciplinary action only after review and consideration of the information derived from the investigation and that presented in this meeting or afterwards as may be agreed.

4. Personnel Policy Violation

That a given action is not explicitly forbidden under this policy does not imply that it is permitted, but the actions that are specifically forbidden guide County decision-making on the permissibility of other actions.

- a. Category I Offense – Offenses in this category include acts of minor misconduct that require accountability and correction. A first Category I offense is sufficient to result in counseling or a verbal warning. An accumulation of two Category I offenses is sufficient to result in a Written Reprimand. Additional repeated violations may result in more severe steps in the discipline process. Category I offenses include but are not limited to:
 - Unsatisfactory attendance, performance, or tardiness;
 - Abuse of County time, such as unauthorized time away from the work area;
 - Obscene or abusive language, or shouting;
 - Conviction of a moving violation, for employees whose duties include driving; or
 - Sleeping on the job.
- b. Category II Offense – Offenses in this category include acts of misconduct of a more serious and/or repeat nature that require formal disciplinary action. One Category II offense is sufficient to result in a Written Reprimand, may result in administrative leave if an investigation is required, and may result in Unpaid Administrative Leave based upon the investigation's findings. An accumulation of multiple Category II offenses is sufficient to result in administrative leave without pay, demotion, or termination. Category II offenses include but are not limited to:
 - Failing to follow a supervisor's instruction, perform assigned work, or comply with another County policy;
 - Absence from work without proper notification to supervisor or Department Head;
 - Unauthorized use or misuse of County property or records. Personal use of County property, including telephones, computers, related devices, and peripherals to the extent that it interferes with an employee's performance;
 - Unauthorized removal of County records or property; or
 - Virginia Code § 15.2-1512.2(c) protects – and curtails – employees' right to engage in political activity. Political activity beyond those protected by that section is prohibited. In general, employees are prohibited from engaging in political activity while on duty or with the use of County property.
- c. Category III Offense – Offenses in this category include acts of misconduct of such a severe nature that a first occurrence could warrant administrative leave and/or consideration of unpaid administrative leave, demotion, or termination. This level of

discipline is appropriate for offenses that, for example, endanger others in the workplace, constitute illegal or unethical conduct; neglect of duty; disruption of the workplace; or other serious violations of policies, procedures, or laws. These types of suspected or reported actions and behaviors must and will be investigated by the Department of Human Resources. Category III violations include but are not limited to:

- Physical violence, assault, or battery;
- Violating County policy P-§ 10 Alcohol and Drug-free Workplace;
- Having an unauthorized firearm, weapon, or explosive on County property or worksite;
- Criminal arrest for acts on- or off-duty that are related to the employee's job or are of a nature that leaving the employee in the same position would be inappropriate with respect to the County's duties to the public or other employees;
- Falsifying any record;
- Damaging or defacing County records or property;
- Violating safety rules, where there is a threat of serious harm;
- Gambling on County property or while on-duty;
- Threatening or coercing employees;
- Unwelcomed solicitation of a personal relationship or any solicitation of a sexual relationship while on-duty, or any such solicitation where the employee is the target employee's supervisor;
- Founded acts of harassment, bullying, discrimination, or retaliation in the workplace or scope of performing work in violation of County policy P-§ 21 Equal Employment Opportunity, Inclusion, and Prohibition against Discrimination, Harassment, Bullying, and Retaliation.
- Failing to maintain any certification or licensure that is required to perform one's duties, such as a driver's or professional license.

5. Non-Disciplinary Termination

Employees unable to meet the requirements of their positions for reasons not disciplinary in nature may be demoted or subject to termination of employment without following the progressive discipline process. In this circumstance, the County will provide the employee with notice of the basis of its decision and an opportunity to present facts and circumstances the County should take into account when making its final decision.

Examples include, but are not limited to:

- Ineligibility for a required license;
- Ineligibility for necessary or advisable insurance coverage;

- A determination that continuing to employ the employee would constitute negligence on the part of the County;
- Incarceration;
- Inability to perform the essential functions of the job; or
- Residing outside of the Commonwealth of Virginia.

6. Recordkeeping

Employees will be asked to sign disciplinary documentation and are provided copies of those records, which indicates receipt and understanding of those records.

Documentation for disciplinary actions involving a written reprimand or Category II or Category III Offenses will be sent to Human Resources, placed in an employee's personnel file, and retained per Library of Virginia record retention schedules.

	<u>P - § 34</u>	<u>Policy Name:</u>	<u>Approved Date:</u>
		Grievance	June 4, 2025
	<u>Prepared By:</u>		<u>Adopted:</u>
	Human Resources		January 3, 2007
	<u>Amended:</u>		
	December 13, 2023		

A. PURPOSE

The Albemarle County grievance policy is established to provide eligible county employees an efficient and effective means by which to objectively resolve disputes.

B. ELIGIBILITY

All full and part time non-probationary county employees are eligible to file grievances, except temporary, limited term, and seasonal employees, county executives, department directors, and employees of constitutional officers.

C. DEFINITIONS

- a. **Adverse Employment Action** – any action by an employer that negatively impacts an employee’s terms or conditions of employment
- b. **Grievance** - formal employment-related complaint or dispute of an adverse employment action
- c. **Grievant** – employee who submits a grievance claiming to have personally suffered an adverse employment action.
- d. **Hearing Officer** - Third party neutral designated by the Office of the Executive Secretary for the Virginia Supreme Court who manages and presides over the final step in the grievance resolution process.

D. ROLES AND RESPONSIBILITIES

- a. **Departmental Management** - upon receipt of a timely written grievance complaint, management must review the grievance and respond to the merits thereof, at their designated step in the procedure. Each level of management review shall have the authority to provide the employee with a remedy, in accordance with County policies.
- b. **Director of Human Resources**
 - i. Is responsible for determination of the officers and employees by position that are excluded from the grievance procedure.

- ii. Serves as impartial administrator of the grievance process. Attends or designates another Human Resource employee to attend Steps 2-4 of these procedures.
 - iii. The Human Resources Director (or their Designee) may not serve as Designee of the County Executive for the purposes of their role within this procedure.
- c. **Grievant** – endeavors to resolve the grievance in accordance with the requirements of this Grievance Policy.
- d. **Hearing Officer** – manages and conducts a Step 4 Formal Grievance Hearing. Determines whether a grievance filed by an employee is substantiated by facts and orders an appropriate remedy in accordance with law and County policy.

E. GRIEVANCE ELIGIBILITY

- a. The provisions in this policy apply to full and part-time non-probationary County employees, except as listed in paragraph b. Covered employees include:
 - i. Those employed by all local government departments, including the Department of Social Services;
 - ii. Law-enforcement officers electing to initiate and pursue a complaint under this grievance procedure.
 - iii. Partner agency employees, if defined as County employees by agreement.
- b. Employees in the following positions are not covered by this policy and are ineligible to pursue a grievance hereunder:
 - i. Appointees of the Board of Supervisors;
 - ii. Officials and employees who by law serve at the will or pleasure of the Board of Supervisors or the County Executive;
 - iii. Deputies and Chief officers to the County Executive;
 - iv. Agency heads;
 - v. Employees appointed by elected Constitutional Officers;
 - vi. Employees whose terms of employment are limited by law;
 - vii. Employees in temporary, limited term, on-call, or seasonal positions;
 - viii. Probationary employees;
 - ix. Law-enforcement officers as defined in Chapter 5 of Title 9.1 of the Virginia Code who are subject to such provisions and who have elected to proceed pursuant to § 9.1-500 et seq. of the Virginia Code, the Law Enforcement Officers Procedural Guarantees Act, in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of their grievance.

- c. The County Executive or designee thereof must determine the officers and employees excluded from this grievance policy and is responsible for maintaining an up-to-date list of the affected positions.

F. COVERED EMPLOYMENT ACTIONS

The following is a list of common grievable adverse employment actions and is not intended to be all inclusive.

- a. Disciplinary actions (letters of written reprimand, suspensions, disciplinary demotions, and terminations, provided that any such action results from formal discipline or determination of unsatisfactory job performance or behavior.
- b. The application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in section G(b) of this policy.
- c. Acts of retaliation as a result of utilization of these grievance procedures or participation in the grievance of another covered employee.
- d. Complaints of discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, gender identity, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, military status, or any other characteristic protected by applicable federal, state, or local law.
- e. Acts of retaliation because the employee has complied with any law of the United States, the Commonwealth, or any applicable state or local law; has reported any violation of such law to a government authority; or has reported an incidence of fraud, abuse or gross mismanagement.
- f. For the purposes of clauses (c) and (e) of this section F, there shall be a rebuttable presumption that increasing the penalty that is subject of the grievance at any level shall be an act of retaliation.

G. EXEMPT EMPLOYMENT ACTION

The County retains the exclusive right to manage its governmental affairs and operations. Accordingly, complaints involving the following are nongrievable:

- a. Establishment and revision of wages or salaries, position classifications, or general benefits.
- b. The contents of ordinances, statutes, established personnel policies, administrative policies, departmental policies, procedures, rules, and regulations.
- c. Duties accepted by the employee as a condition of employment or duties that may be reasonably expected to be part of the job.
- d. The method, means and personnel by which such duties are to be carried out, including:
 - i. The provision of equipment, tools, and facilities.
 - ii. The scheduling and distribution of personnel.
 - iii. Training and career development.

- e. The hiring, promotion, transfer, assignment, and retention of employees within the County.
- f. Failure to promote, except where the employee can show that established promotional policies or procedures were not following or applied fairly in accordance with law and County policy.
- g. Employee performance evaluations, except when used in conjunction with merit pay initiatives.
- h. Except where such action affects an employee who has been reinstated within the previous six months as the result of a final determination of a grievance, termination, layoff, demotion, or suspension of duties due to lack of work, reduction in force, or job abolition. In any grievance brought under the exception noted in this clause (h), the employment action will be upheld if:
 - There was a valid business reason for the action, and
 - The employee was notified of the reason in writing prior to the effective date of the action.
- i. The relief of employees from job duties in emergencies.

H. PURSUANCE OF GRIEVANCE

A grievant must be personally and directly affected by an occurrence or condition before they shall be permitted to pursue a grievance. Thus, for example, no employee may grieve another employee's job performance unless such job performance directly and adversely affects the grievant's own terms and conditions of employment.

I. CONSOLIDATION OF GRIEVANCES

If more than one grievance arises from the same factual circumstances then, at any time before one of the grievances reaches a Step 4 hearing, the County Executive may consolidate those grievances. In that case, all time limits set forth in this procedure will, from that point on, be calculated from the date of the most recently begun grievance. The grievances will then be treated as a single grievance.

J. DETERMINATION OF GRIEVABILITY

A formal determination of grievability and access to these procedures may be requested of the County Executive or designee at any time prior to the Step 4 hearing, although it is preferred that such request be made prior to the formal meeting with the complainant's Department Head at Step 2. Such requests may be made by the Department Head, the Grievant, or Human Resources Representative in writing and must be signed by the party seeking the ruling. The County Attorney is not authorized to decide the question of grievability. The County Executive must make a written determination of grievability on all complaints within 10 calendar days of receipt of the request. A copy of the ruling must be sent to the grievant. Requests for determination of grievability may be made at any step of the grievance procedures as necessary and in accordance with this policy.

A Grievant may seek judicial review of the determination by appealing to the Albemarle County Circuit Court for a hearing on the issue of whether the grievance qualifies for an administrative

hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the County Executive within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the County Executive or designee shall transmit to the Clerk of the Albemarle County Circuit Court: a copy of the County Executive's decision, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the County Executive or designee to transmit the record shall not prejudice the rights of the grievant. The Court, on motion of the grievant, may issue a writ of certiorari requiring the County Executive to transmit the record on or before a certain date. The appeal proceedings shall then comply with the procedures contained in Virginia Code § 15.2-1507(9)(b), as amended.

K. REPRESENTATION DURING GRIEVANCE PROCEDURES

In Steps 1 and 2, the only persons who may be present are the grievant, the appropriate County official identified by the grievance step being heard, a representative from the Department of Human Resources, and any appropriate witnesses for each side. Witnesses shall only be present while actually providing testimony. A representative from the Department of Human Resources must be present at Steps 2, 3, and 4.

Employees who are necessary participants at a grievance hearing shall not lose pay nor be charged leave for time taken to participate in these proceedings. During Steps 1-3, meetings shall not be recorded and recording devices are not permitted during these meetings. At Steps 3 and 4, the grievant may, at their option and expense, have present legal representation of their choice. If represented by legal counsel, the County will also have the option of being represented by legal counsel. The grievant must provide the name, mailing address, e-mail address and telephone number of their representation or legal counsel to Human Resources at least 15 business days prior to the Formal Grievance Hearing (Step 4).

L. GRIEVANCE RESOLUTION PROCESS

- a. Grievances involving dismissals due to formal behavioral discipline or unsatisfactory job performance shall proceed directly to step 3, omitting the grievance resolution steps 1&2.
- b. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the Formal Grievance Hearing (Step 4), without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive or designee.
- c. The County Executive or designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The County Executive or designee shall determine compliance issues. Compliance determinations made by the County Executive shall be subject to judicial review by

filing a petition with the Albemarle County Circuit Court within 30 days of the compliance determination.

- d. The Director of Human Resources shall render all decisions related to compliance with nonsubstantial procedural requirements. Such decisions shall contain the reasons for such decision and shall be final.

M. GRIEVANCE RESOLUTION PROCEDURE:

a. STEP 1- GRIEVANCE MEETING W/ IMMEDIATE SUPERVISOR

The grievant must discuss, and attempt to resolve, their complaint(s) informally with their immediate supervisor within 20 business days of the incident being grieved, or within 20 business days of the time when the employee reasonably should have known of the incident. The supervisor must respond to the grievance in writing, within 10 business days of that discussion. If the grievance alleges discrimination, harassment, or retaliation by the immediate supervisor, then the grievant may present the grievance instead to the supervisor's supervisor.

b. STEP 2- GRIEVANCE MEETING W/ DEPARTMENT HEAD

If there are remaining unresolved adverse employment actions and the grievant is not satisfied with the Step 1 response, or if a response is not provided within the required time, then the grievant may complete and submit a formal Grievance Form. The Grievance Form must be delivered to the department head within 10 business days of receiving the supervisor's response and must be signed by both the grievant and the supervisor demonstrating the complaint(s) which was unable to be resolved at the previous step. On the grievance form and preceding the Step 2 meeting, the grievant must specify the relief they are requesting. The department head must provide a copy of the documented grievance to Human Resources and meet with the grievant within 5 business days of receipt of the completed grievance form. The only people who may attend that meeting are the department head, the grievant, any witnesses for the purpose of testimony, and a representative from the Department of Human Resources. Following that meeting, the department head must provide a written response to the grievant within 10 business days of the meeting. If the grievant's immediate supervisor is a department head, then Step 2 may choose to bypass this step and proceed directly to Step 3.

c. STEP 3- ORGANIZATIONAL LEADERSHIP REVIEW

If there are remaining unresolved adverse employment actions and the grievant is not satisfied with the Step 2 response, or if a response is not provided within the required time, then the grievant may sign the Grievance Form requesting a Step 3 review. A copy of the signed Grievance Form must be delivered to the Department of Human Resources and County Executive within 10 business days. The Grievance form must include the department head's response and must be signed by both the grievant and the supervisor or department head identifying the complaint(s) which was unable to be resolved during the previous steps. Once received, the County Executive or Designee must meet with the

grievant within 10 business days of receipt of the completed grievance form. The only people who may attend that meeting are the County Executive or Designee, the grievant, a representative of the grievant's choice who may be legal counsel, any witnesses for the purpose of testimony, a representative from the Department of Human Resources, and the County's legal counsel if the grievant has legal representation present. Following that meeting, the County Executive or Designee must provide a written response to the grievant within 10 business days of the meeting.

d. STEP 4- FORMAL GRIEVANCE HEARING

If there are remaining unresolved adverse employment actions and the grievant is not satisfied with the Step 3 response, or if a response is not provided within the required time, then the grievant may sign and submit the Grievance Form petitioning to move to Step 4. Grievances involving dismissals shall follow the step 4 protocols for the grievance hearing. A copy of the signed Grievance Form must be delivered to the Director of Human Resources within 10 business days of receiving the County Executive's or Designee's response or the deadline by which the County Executive or Designee was required to respond, whichever comes first. Within 10 business days, the County must request a hearing officer to be appointed by the Executive Secretary of the Supreme Court of Virginia, as provided for in Va. Code § 15.2-1507. The timing of the hearing date is within the discretion of the hearing officer.

1. Presentation of Facts –
 - i. The hearing officer has no authority to formulate policies or procedures or to alter existing policies or procedures;
 - ii. The hearing officer has the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing.
 - iii. The hearing shall be private.
 - iv. The hearings is not intended to be conducted like proceedings in courts. The rules of evidence do not necessarily apply.
 - v. The County must provide the hearing officer with copies of the grievance record within 10 days of hearing officer's appointment and provide the grievant with a list of the documents furnished to the hearing officer. The grievant and their attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding if not previously provided by the County.
 - vi. That documents, exhibits, and witness lists be exchanged between the parties or hearing officer at least two days in advance of the hearing.

- vii. The grievance record shall be admitted as a matter of record in the hearing.
 - viii. The hearing officer has the authority to determine the admissibility of evidence without regard to the burden of proof and to determine the weight such evidence is given. The hearing officer has the authority to determine the order of presentation of evidence so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence; and
 - ix. That all evidence be presented in the presence of the hearing officer and the parties, except by mutual consent of the parties.
2. Grievance Decision –
- i. The hearing officer does not formulate or alter existing policies or procedures.
 - ii. The decision may either uphold or reverse the County Executive's or Designee's action, or may impose a lesser disciplinary sanction than that determined by the County Executive or his/her Designee.
 - iii. The decision may not award attorney's fees to a grievant.
 - iv. The hearing officer's decision is final, subject to compliance with County policy and law, and must be provided to both parties within 20 business days of the hearing or after receiving other evidence or information needed to render a final decision (i.e., a transcript of the hearing or legal briefs). The decision must summarize the grievance, make specific findings of fact, and state the reasons for the decision and the remedy granted (if applicable).
 - v. The County Executive may, within 10 business days, notify the hearing officer and the grievant or their legal counsel that the decision is not consistent with County policy or law and that the County will not implement the decision.
3. Petition to the Court –
- Either party may petition the Circuit Court of Albemarle County for an order directing the implementation of the decision. The Circuit Court's review is limited to determining whether the hearing officer's decision is consistent with County policy and law.

N. CERTIFICATION

The County Attorney and the County Executive must certify in writing that this Policy and all amendments hereto comply with Virginia Code § 15.2-1507, as amended. The County Attorney must file such certification with the Clerk of the Circuit Court for the County of Albemarle.

Item No. 8.3. Berkmar Drive Extension Revenue Sharing Project.

The Executive Summary forwarded to the Board states that on September 4, 2019, the Albemarle County Board of Supervisors (Board) adopted a resolution to support an FY21 application for funding for a 0.41-mile extension of Berkmar Drive from its terminus at Timberwood Boulevard (at the time of application) to the intersection of Airport Road and Lewis and Clark Drive. The project included a roundabout at the new intersection of Berkmar Drive, Airport Road, and Lewis and Clark Drive, as well as bicycle and pedestrian facilities along the extension of Berkmar Drive. This application for funding through the Virginia Department of Transportation's (VDOT) Revenue Sharing program was successful.

The Board reaffirmed its commitment to this project on September 6, 2023, when the Board adopted another resolution, this time to support a FY24 application for additional funding through the Revenue Sharing program to address project cost increases. The project cost estimate at the time of this application was \$19.2 million. This application was also successful.

VDOT's Revenue Sharing program provides up to \$10 million in state funding for local projects over the lifetime of the project. Successful Revenue Sharing applications require a 50% local match.

Preliminary engineering for the Berkmar Drive Extension project is nearly complete. VDOT advertised and held a Location and Design Public Hearing for the project on November 13, 2024. In order to begin construction, a Board Resolution of support for the Berkmar Drive Extension alignment, as presented at the Location and Design Public Hearing and included as Attachments A and B, is required.

This Resolution does not commit Albemarle County to any additional expenditures beyond the 50% local match for the Revenue Sharing funding agreed to in the two previous resolutions described above.

Staff recommends that the Board adopt the Resolution (Attachment C) in support of the proposed alignment of the Berkmar Drive Extension project.

By the above-recorded vote, the Board adopted the Resolution (Attachment C) in support of the proposed alignment of the Berkmar Drive Extension project:

**RESOLUTION OF SUPPORT FOR CONNECTOR ROAD
FROM ROUTE 1403 (BERKMAR DRIVE) TO ROUTE 649 (AIRPORT ROAD)
VIRGINIA DEPARTMENT OF TRANSPORTATION
PROJECT NUMBER: 9999-002-R98**

WHEREAS, Albemarle County submitted applications for Revenue Share funding in FY2021 and for additional funding in FY2024 for the Berkmar Drive Extension to Airport Road project, which proposes to construct a new roadway, including bicycle and pedestrian accommodations, to continue Berkmar Drive to Airport Road, where a roundabout is proposed to connect to Innovation Drive/Lewis and Clark Drive; and

WHEREAS, the Commonwealth Transportation Board approved funding necessary for the project in the FY25 SYIP cycle; and

WHEREAS, the Virginia Department of Transportation advertised and held a Location and Design Public Hearing for the project on November 13, 2024; and

WHEREAS, Albemarle County considers an extension of Berkmar Drive (Route 1403) to Airport Road (Route 649), with a roundabout at this intersection, an important part of the local transportation network;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors hereby endorses the location for the extension of Berkmar Drive (Route 1403) to Airport Road (Route 649) that was presented at the Location and Design Public Hearing and recommends that the Commonwealth Transportation Board approve the proposed alignment for design and construction.

Item No. 8.4. SE-2025-00004 Maplewood Setback Variation

The Executive Summary forwarded to the Board states that Under County Code §18-8.5.5.3(a)(1), the Board of Supervisors (Board) may grant a variation of an approved plan, code, or standard for minor changes to yard requirements, build-to lines or ranges, maximum structure heights, and minimum lot sizes. The applicant requests a variation to alter the Maplewood Planned Residential Development application plan approved in conjunction with ZMA202100006 (Attachment A). The proposed variation would establish the following interior setbacks:

- 5' minimum and no maximum interior side yard building setback
- 5' minimum and no maximum interior rear yard building setback

A detailed staff analysis is provided in Attachment B.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to grant a variation to establish the following interior setbacks:

- 5' minimum and no maximum interior side yard building setback
- 5' minimum and no maximum interior rear yard building setback

By the above-recorded vote, the Board adopted the attached Resolution (Attachment C) to grant a variation to establish the following interior setbacks:

- **5' minimum and no maximum interior side yard building setback**
- **5' minimum and no maximum interior rear yard building setback**

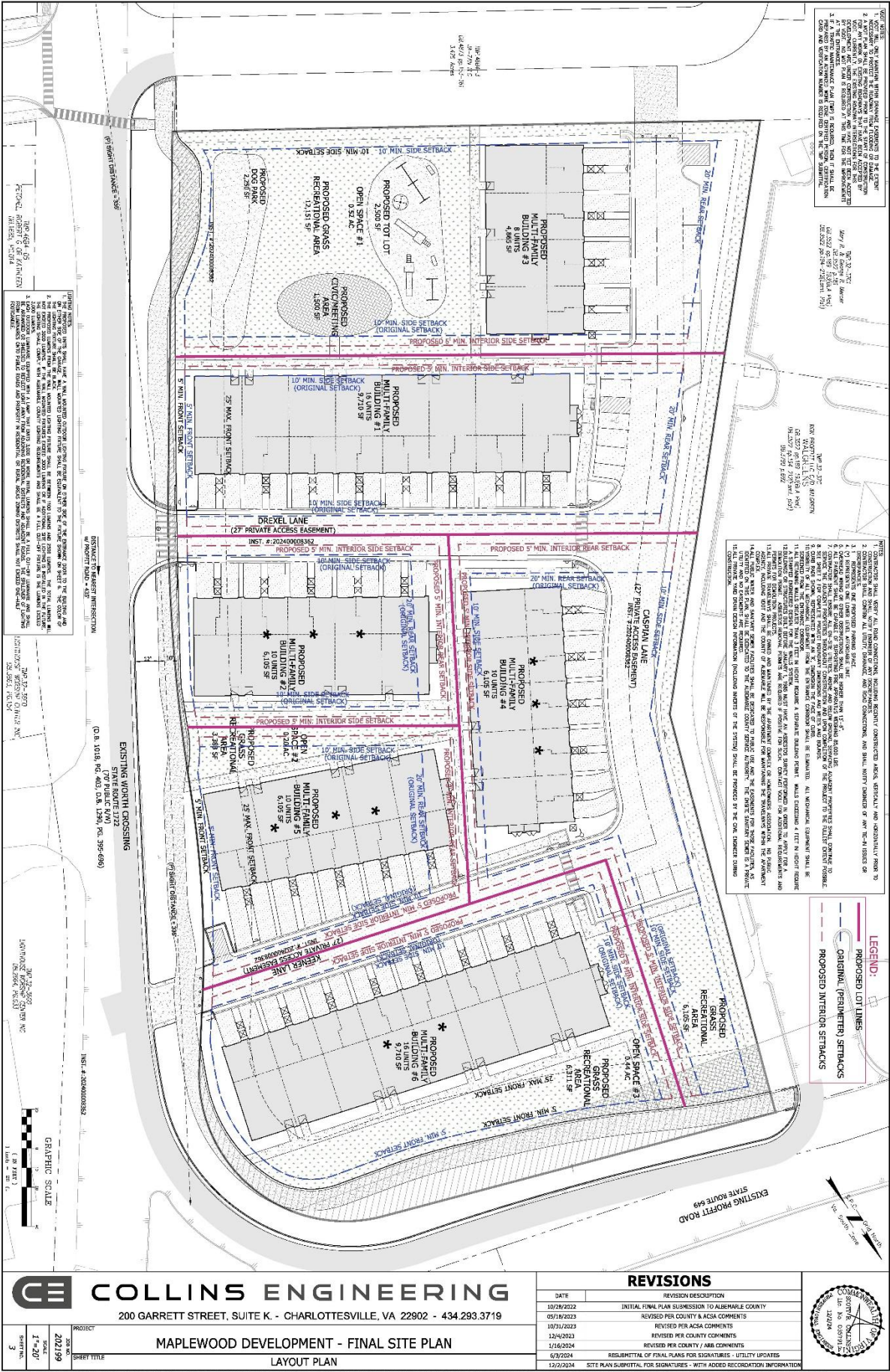
**RESOLUTION TO APPROVE SE2025-000004
MAPLEWOOD INTERIOR SETBACKS**

WHEREAS, the Owner of Parcel 046B4-00-00-00400 applied for a special exception to vary the Maplewood Development application plan approved in conjunction with ZMA202100006 to modify the required setbacks, as depicted on Sheet 2 of the application plan for ZMA202100006.

WHEREAS, upon consideration of the staff reports prepared for SE2025-000004 Maplewood Interior Setbacks Special Exception and the attachments thereto, including staff's supporting analysis, any comments received, and all relevant factors in Albemarle County Code §§ 18-5.5.3(c) and 18-33.9(A), the Albemarle County Board of Supervisors hereby finds that a variation would:

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

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SE2025-000004, granting the proposed special exception for a variation of the setbacks otherwise required by Albemarle County Code § 18-4.19 on Parcel 046B4-00-00-00400.



Item No. 8.5. Board-to-Board, A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information**.

Agenda Item No. 9. **Action Item:** Albemarle-Charlottesville Regional Jail (ACRJ) Renovation Project Permanent Financing.

This item was pulled from the agenda.

Agenda Item No. 10. **Work Session:** AC44 – Cultural Resources Chapter and Resilient Community Content.

The Executive Summary forwarded to the Board states that Albemarle County is updating the Comprehensive Plan through the Albemarle County 2044 (AC44) project. The project is in Phase 3: drafting language for the four-part Comprehensive Plan document and developing Plan actions.

The draft language for the Part III - Cultural Resources chapter in Attachment B and the Resilient Community content in Attachment C is built upon community input and reflects the Planning Commission's and Board's feedback. Note the content for the Resilient Community chapter has been reallocated to the Environmental Stewardship and Community Facilities and Services chapters. A crosswalk for this content is provided in Attachment C.

Cultural resources make Albemarle the unique county that it is. These resources contribute significantly to the quality of life of residents and business owners, and they form the basis for the experience of tourists. The importance of our cultural resources is reinforced by their inherent value in both climate resilience and placemaking. However, many of these resources are not protected, and some of the protections that are in place are not as effective as they could be. This leaves the county at risk of losing the features that are essential to county character, quality of life, and a strong economy.

The broad variety and extensive quantity of Albemarle's cultural resources make protection a challenge. Analyzing the relationships among the resources and studying how they overlap could reveal priority protection zones, inform new protection programs - both regulatory and incentive - and suggest updates for existing regulations.

For reference, community input themes associated with this topic are summarized in Attachment D. A summary of previous Planning Commission and Board of Supervisors feedback on Cultural Resources is provided as Attachment E.

An updated AC44 outline is provided as Attachment A. As a reminder, the topics within the red box will be the focus of today's work session. This work session focuses on proposed comprehensive plan language within Attachment B and C, with particular emphasis upon the draft actions.

The Planning Commission discussed these topics on May 27, 2025.

There is no budget impact associated with this agenda item.

Staff requests the Board review and provide feedback on the draft Cultural Resources Actions and Resilient Community content of the Comprehensive Plan document.

Ms. Tonya Swartzendruber, Planning Manager, said that she was joined by several colleagues to discuss the Cultural Resources Chapter and the Resilient Community content. She said that staff would first present the Cultural Resources content, followed by discussion. After that, staff would present the Resilient Community crosswalk. She said that they would then provide a summary of feedback from the Planning Commission on topics, community input themes, a topic overview, and chapter focus topics for discussion.

Ms. Swartzendruber said that to review the schedule, they had presented this information to the Planning Commission on May 27 and were now before the Board. She said that they would discuss specifically the implementation with the Planning Commission on June 24, then return to the Board on July 16. She would like to remind the public that there were opportunities for engagement on their Engage Albemarle website, specifically for AC44. She said that they could ask questions, sign up for newsletters, and explore the website, which had been available throughout the first, second, and third phases of the process.

Ms. Swartzendruber said that the Planning Commission recently encouraged staff to adaptively reuse structures, emphasize revitalization, and broaden the types of resources they inventory within Action 1.2. Additionally, they discussed dark sky regulations and utilizing local expertise to write regulations for dark skies. She said that they also emphasized the importance of partnerships in accomplishing preservation and conservation goals. She said that they also wanted to ensure they represented an inclusive history and more detail in current cultural events. They also asked that the County consider associated burdens on property owners related to historic preservation requirements.

Ms. Swartzendruber said that the Commission also noted the lack of a year-round farmer's market in the City or County and suggested allowing community gardens within public land, parks, green space, and protected areas. They also suggested allowing developers to include shared gardens within the required green space as an alternative to playgrounds or dog parks. She stated that staff heard similar themes from the community throughout their engagement process, including a desire for increased historic preservation requirements, enhanced corridor requirements, more historic markers, and more inclusive histories.

Ms. Swartzendruber said that provided on the slide were some of the other AC444 chapters that were related to historic resources. She said that these included the Thriving Economy, Transportation, and Environmental Stewardship.

Ms. Margaret Maliszewski, Planning Manager, said that she would like to take a moment to acknowledge the contributions of the AC44 team, as well as Khrist Taggart, Mariah Gleason, Scott Clark, and James Van Vranken, who had all worked on this chapter. She explained that in this chapter, staff had aimed to highlight the significance of cultural resources in making Albemarle the unique place it was. She said that cultural resources not only established community character but also contributed to their quality of life and supported their climate action goals.

Ms. Maliszewski noted that however, these positive attributes came with significant challenges. She explained that thousands of historic resources had been surveyed, but many of these technical surveys were outdated. Many early surveys had focused primarily on high-style architecture, overlooking the more modest buildings in the County including the landscaping they were set in, and the social context in which they were developed. She said that another challenge was the varying degree of protection in place for different resources. Many resources had some level of designation, but most of these designations lacked actual protection, such as their historic resources and scenic roads.

Ms. Maliszewski said that in some other cases, protections that were in place may be able to be refined to achieve better results, such as entrance corridors. She said that some resources were challenging to protect due to their size or scope, for example, scenic viewsheds could be difficult to protect solely because of their size. She said that the goal, objectives, and actions outlined in this chapter aimed to address these issues. She reminded the Board that the Cultural Resources Goal stated that Albemarle County would recognize, celebrate, and promote awareness of their resources, and actively work to identify, preserve, and protect them.

Ms. Maliszewski stated that this chapter had six objectives, focusing on maintaining accurate surveys, educating the public about resources, increasing protection through regulations, and increasing incentives and funding streams. She said that one of the key themes they had emphasized was their abundance of resources and the need to consider how they overlapped. For example, a historic house might be situated in a landscape of rolling farmland, part of an historic district, along a scenic stream, with a conservation easement nearby.

Ms. Maliszewski said that while it was not practical to protect every resource, they could look at this abundance more holistically, studying how resources were layered, and identifying overlapping resources to help set priorities for which resources to protect and what types of regulations might be most effective. She said that the Board of Supervisors had a couple of questions to answer today. She said that first, whether they supported the concept of an overlay study of cultural resources to help set protection priorities, and second, whether they supported establishing regulations to protect cultural resources. She said that staff would be glad to hear any other questions or feedback, as well.

Ms. McKeel said that she would address the three bullets, keeping in mind that they would revisit them later. Her responses to this initial portion would be at a high level. She stated that there was a delicate balance between property rights and the community, and she would like to explore one of her questions, which she would discuss further as they moved through this discussion, was that she wondered who determined what constituted the community, and what were the criteria for defining it.

Ms. McKeel said that she had become skeptical of surveys because she believed they often overlooked certain segments of the community. She said that the concept of conducting an overlay study to set protection priorities and methods of protection for cultural resources was intriguing, but the devil was in the details. She expressed great concern about the details. For instance, she recalled visiting a constituent in the Jack Jouett District, who was visibly upset about the historical marker on her front door. She said that she was unable to maintain her historic property in a way that she could afford, and it was greatly upsetting to her.

Ms. McKeel said that in their community, they had faced challenges such as a major state road that divided the community. She said that they were unable to build a bypass around their community, when it was desperately needed. She was not referring to the bypass that cut through hundreds of houses and neighborhoods in the urban ring; rather, she was referencing the original bypass had been blocked by using some of these historic protections. Additionally, she said that there was a need for cell coverage in their community, but over 50% of Albemarle County properties lacked or never had cell coverage. Some of these protections for historical districts had been used to prevent cell towers. She said that the devil was in the details about how they established the criteria and applied these protections.

Ms. McKeel said that she had concerns about the balance and the potential consequences. She said that she would like to reiterate that there was a delicate balance between property rights and the community, and she had concerns about how this balance would be achieved. She said that she believed this answered the first question. She said that she had enjoyed listening to the Planning Commission's discussion on this portion of the comprehensive plan. She explained that she maybe would support establishing regulations to protect cultural resources, but the devil was in the details, and she had concerns about what those details might be. She said that she would be able to provide more feedback on the content and objectives as they continued their discussion of the content.

Ms. Mallek clarified that when staff mentioned surveying properties for historic preservation, they were referring to the individual documentation of the property and description, such as the properties in the Crozet Historic District, and that staff were not referring to an online survey asking for public opinion.

Ms. Maliszewski confirmed that that was correct.

Ms. Mallek thanked Ms. Maliszewski for confirming that so she did not get confused. She said that she believed the overlay study would be a way for the County to get better understanding. She said that she was worried that there were a lot of things lumped together in this chapter, which may work together in theory, but it diluted the focus on any one aspect. There had to be a way, with careful analysis, to figure out the concept they were going for in the first bullet, so she thought it was worth the effort.

Ms. Mallek said that regarding bullet point two, she thought it was essential to respect the unique character of their community, which was what had drawn people there in the first place. As someone who grew up there, she valued the granular level of detail that made their community special. She said that she would be glad to support bullet points one and two, and they would have to flesh them out as they worked through the details.

Ms. LaPisto-Kirtley said that she agreed with Ms. McKeel. She said that everyone who lived there valued what they had and wanted to preserve it, but she did not think their regulations should be so restrictive that they prevented people from doing what they wanted to do on their own land, which she believed was a fundamental right, especially in Virginia. She said that they needed to find a way to balance preservation with the needs of those who may not be able to afford it but still wanted to keep their property. She said that perhaps the County should consider assisting owners of historic properties so they could afford to keep their property while also maintaining their quality of life. She agreed that details would be essential as they worked to preserve historic resources in the County.

Ms. LaPisto-Kirtley said that she wanted to make sure they were not overly restrictive and that they did not allow people to wipe out historic resources, either. She said that they could prevent people from destroying historic resources through education, but if someone really wanted to, she did not think the County could stop someone from demolishing a building. They could potentially provide incentives to property owners to keep a historic building, however. She said that it was important to consider allowing people to reuse and add onto a building that still preserved the footprint but made it more livable. She expressed concern that regulations done poorly could hinder rather than help their community. She hoped they could find a way to work with property owners rather than institute onerous ordinances.

Mr. Gallaway said that he endorsed Supervisor McKeel's overview of the topic. He said that on page 7, it stated that without protection and with a general lack of sufficient incentives, historic resources were being lost to development, redevelopment, demolition, neglect, and limited adaptive reuse. He said that notable losses included the historic Dunlora and Belvedere residences, which were now memorialized in the names of residential developments that replaced them.

Mr. Gallaway continued to quote the passage, which stated that the loss of these resources led to a gradual loss of rural character and degradation of the urban environment. To mitigate these impacts, establishing new programs with regulatory and incentive-based measures could be effective. He said his question was not intended to be argumentative but was to seek understanding. He asked what staff envisioned as an alternative to the existing situation in Dunlora and Belvedere if this vision had been implemented.

Ms. Maliszewski said that one of the suggestions made by the Historic Preservation Committee over the years was that the original houses could be retained and incorporated into the developments built around them.

Mr. Gallaway asked who would have been responsible for that.

Ms. Maliszewski said that it could vary. A Homeowners' Association (HOA) could use it as a clubhouse or another facility.

Mr. Gallaway said that the County would essentially require the preservation of the historic resource and then place the financial burden on the private entity, even if the farmhouse's resources were insufficient to meet the requirements. He said that as a result, the County would require preservation, and the private entity would be left to manage the associated financial constraints.

Ms. Maliszewski said that it was one option, and that there may be others.

Mr. Gallaway said that the costs would be passed on to the house prices because the developer would likely not keep the historic property. He added that perhaps a developer with deep pockets could. He noted that the man who owned Swannanoa was very wealthy and loved historic preservation, but he would suspect the cost of his home and HOA fees would be far greater if the requirement was that their clubhouse must be some other piece of property. He asked if staff were considering that the County provide an incentive so the developer would not be faced with prohibitive costs.

Ms. Maliszewski said that it was possible.

Mr. Gallaway asked if they had provided incentives like that in the past.

Ms. Maliszewski replied that they had not.

Mr. Gallaway asked where they would find that money.

Ms. Maliszewski clarified that they had not fully developed a program.

Mr. Gallaway said that to provide that incentive, the Board would need to allocate new dollars that were not currently programmed. They had recently gone through a budget process for affordable housing, which had been criticized. They would need to find a new funding stream that did not yet exist, unless they could secure grants, such as federal grants. He emphasized that he was uncomfortable putting certain things in the Comprehensive Plan, as he had seen instances where people quoted specific sections without considering the rest of the plan.

Mr. Gallaway stated that they would take one section, like this, and claim that they should not develop in the development area due to certain restrictions, but their own Comprehensive Plan may actually support that certain development in that area for many other reasons. He stated that he would be cautious in his approach. While it was great to say they supported an overlay study and establishing regulations, he agreed with Ms. McKeel that the devil was in the details. They needed to define the cultural resource's location, priority, and tier.

Mr. Gallaway said that if it was a high priority, they must address where it was and how to prioritize it. He was tired of having to explain to people that their Comprehensive Plan was a high-minded vision statement that they lacked the funds to achieve. He was not suggesting they steamroll over historic resources, but they needed the funding and resources to make it happen. He stated that Dunlora and Belvedere were both in the development area, and he did not like that this was being presented as an example. He felt like if it were going to be included in this chapter, it should be explained to better address what they were talking about. As stated, it seemed to go counter to their growth management policy and the purpose of the development area.

Mr. Gallaway stated that as the representative of Dunlora and Belvedere, when people asked why they were clearing-cutting all of this, his response was that it was in the development area; they had established this area for housing units, and this was how it would work. They could not preserve it like it was in the middle of White Hall or Samuel Miller because it was not in the rural area. They would do what they could to protect the scenic resource of the river, but if they did not have the units coming online currently in Dunlora and Belvedere, they would be further behind in getting the housing units online than they were now, and they were already behind.

Mr. Gallaway reiterated that it was essential to clearly word the examples and consider the implications. When they discussed these topics, he thought it was crucial that their definitions were precise. As he read through cultural, scenic, and historic resources, he realized that the six members of the Board of Supervisors were responsible for defining what these terms meant. He said that before even considering the details Ms. McKeel had emphasized, they must clearly define what a cultural resource was. He respected history and believed it should be included, but if they were serious about implementing this chapter's goals, they needed to have a conversation about how this plan would be realistically implemented. He did not think it was responsible to put something in a plan that they had no way of achieving.

Mr. Pruitt stated that his answer to the first focus topic question was yes. He said that he agreed with Ms. Mallek that there were various elements combined in this chapter. He said that it was crucial that they had a coherent language and a single document that they could all reference when discussing cultural resources. He noted that they had received an email from a constituent discussing potential Monacan archaeological sites in relation to a proposal before the Board today.

Mr. Pruitt said that the constituent cited some information from about a decade ago that seemed reliable, but he did not have a County document to support this as a cultural resource. He was unclear about how to distinguish the value, nature, and quality of Monticello, a Monacan artifact site, or an antique vehicle tag. These were all historic preservation techniques, yet they were radically different in kind.

Mr. Pruitt said that for instance, the car he learned to drive on, a Mazda 626, still functioned and was eligible for an antique vehicle tag next year. The key distinction lay in the quality, essence, and fundamental nature of what they were discussing. He reiterated that they needed a coherent vocabulary to articulate their thoughts. He said that vernacular architecture, to him, referred to a humble building, but they must spell out the criteria at which point it becomes historic and worthy of preservation and what does that mean.

Mr. Pruitt said that he believed this Board had already addressed the second question thoughtfully, and the answer ultimately was that it depended. He said that he would like to see proposed regulations that carefully considered the value of the resource being governed or controlled. It was essential to consider the intrusiveness of any interventions and the flow of costs, as Ms. McKeel had referenced in her comments. He said that the flow of costs and benefits was a critical factor in their decision-making process. As legislators, they must think about how costs and benefits trickled down and impacted various stakeholders, including taxpayers, homeowners, and individuals with significant estates. He said that in this case, the benefits were cultural and ephemeral, with some potential for financial benefit, but the costs were mostly financial. Therefore, the proposed regulations for historic preservation must be very thoughtful about where those dollars and cents flowed, and at whose desk the buck stopped.

Mr. Pruitt said that these questions significantly altered how they applied their preservation efforts. He clarified that he did not intend to suggest that historic preservation was not worth pursuing, as he believed there was real value to be understood and appreciated. He said that what set Albemarle County apart from other counties, such as Charlotte or Lynchburg, was unclear to him. He asked what

specific factors made them unique, and how did they distinguish themselves from other areas, like the Inland Empire, which had a proliferation of interchangeable places with generic names, created within his lifetime?

Mr. Pruitt stated that he used to live in Durham, where there was a historic neighborhood around the Duke University east campus called Walltown, a historically Black community that was named for the literal stone wall around Duke's campus. He explained that it was renamed from Walltown to "Trinity Heights" by a developer. He emphasized that this was an example of how place names could disappear, but those place names were a store of community history and identity. He said that he had shared this before, but during a recent visit to the Virginia History Museum, he noticed that the opening hall featured paintings of different Virginia regions.

Mr. Pruitt said that one of the paintings from the Albemarle area depicted a beautiful mill with a water wheel, and its description included a place name that no longer used. After spending hours trying to figure it out, he remained unsuccessful in identifying the location of the watermill. He said that it likely no longer existed, but he recalled a single private spur trail that had part of its name. He said that he was not entirely sure where it was located, but that information was still relevant.

Mr. Pruitt said that it was an important aspect of how they consolidated and preserved their identity. He said that as such, it was a valuable component of what they were. He said that he believed the Belvedere example was helpful because it discussed the importance of preserving identity and place names, setting aside the specific ways presented.

Mr. Andrews said that he shared some of the concerns that had been raised regarding this chapter, and he believed it was because he was struggling to understand the distinction between cultural resources, historic resources, and scenic resources. He said that on slide 6, it stated that the Planning Commission's feedback included representing an inclusive history through preservation and education, including more current cultural events and arts, and considering associated burdens on property owners related to historic preservation requirements.

Mr. Andrews said that he found several aspects of the presentation to be compelling, but the transition to the questions raised concerns about the balance between public good and private investment, and the potential for imposing additional costs on property owners. He said that specifically, he thought there was a tendency to conflate cultural resources with historic resources and scenic resources. He said that he recalled the Planning Commission discussing the Southern Albemarle Historic District, which covered 83,000 acres.

Mr. Andrews said that when considering potential restrictions, he was unclear about the scope of changes that would be allowed. He said that he shared the concerns of others and hoped that they could provide additional feedback to help clarify the areas that were causing pause and those that he could support. He reiterated that he believed that details were crucial, and he looked forward to reviewing the rest of the document to gain a better understanding of the proposed measures.

Mr. Pruitt said that he believed he had an answer to question three. He said that in part, it was because this chapter was called Cultural Resources, but it seemed to primarily focus on historic resources. He said that the Chair's comments reminded him of this. He said that if there was something missing from the content of the chapter, it appeared to be a discussion of discrete cultural resources that were not tied to historic and scenic resources. He noted that in his district, Visible Records was an important cultural resource. There was nothing in this chapter that related to that.

Mr. Pruitt explained that the Visible Records facility served as a major community hub, a major arts hub, and an anchor for what they had discussed potentially identifying as an arts district. They also previously discussed the importance of attracting cultural amenities that appealed to a younger population, which they did not adequately cater to, particularly the pre-family population. That aligned with Albemarle County's goals, as stated. It was a goal they were leaning into, potentially once they adopted the economic development strategic plan. However, cultural resources were not adequately addressed in this chapter. He was concerned that art, theater, and contemporary work were not given sufficient consideration.

Ms. Maliszewski acknowledged that they may not have focused on that in the chapter, but she would like to point to page 4, where they listed many of the resources that would be considered as part of the category of cultural resources.

Mr. Andrews said that he appreciated the list. He said that the question then became whether that was what was contemplated by the overlay study, protection priorities, and regulations. He said that he was unsure if they regulated some of these aspects in the same manner.

Ms. Mallek said that they were definitely not regulated the same way.

Ms. McKeel said that when she examined the list, considering they were looking at a study, and they had been waiting 20 years for some of their ordinances to be updated due to the work plan, she was struggling to understand how this could happen realistically.

Ms. LaPisto-Kirtley asked what they would do to protect the mountains, which were listed as their cultural resources. She agreed that mountains were important, but she was interested in how they would be addressed as a cultural resource. She asked if they would simply recognize them as important

features or if they would be regulated in some manner.

Mr. Pruitt said that he believed the ridge overlay in regards to cell towers was how they protected the mountains.

Ms. LaPisto-Kirtley said that they wanted historic and cultural resources, but people also wanted cell phone service, which could be lifesaving. She said that they had to find a way to get that. She said that regarding the three questions from staff, this work would require tax incentives and a funding stream, which would not happen this year because they had completed their budget. She said that she would appreciate having received these questions earlier so that she could consider them more thoughtfully.

Mr. Andrews said that he would now like to ask the Supervisors to provide feedback on the objectives and actions of the Cultural Resources Chapter. He said that they would review the objectives and actions as written and would come back to discuss any feedback on the specific wording in the chapter.

Ms. McKeel said that she thought the actions under Objective 1 may be able to be condensed more. She said that rather than having separate actions for 1.2 and 1.4, the Monacan Nation and African American communities, they could be collapsed into one and provide a more expansive and inclusive action related to preserving those cultural resources. She said that she was supportive of creating a database and expanding the Geographic Information Systems (GIS) layer. She said that she would like clarification on Actions 2.1 and 2.2 under Objective 2 to ensure they were not being redundant.

Ms. Maliszewski said that according to the plan, Action 2.1 was focused on gathering ideas from the community regarding the topics they were interested in, and Action 2.2 was more about making the information available to the community.

Ms. McKeel said that she had concern about how the County decided who constituted the community. She said that she did not want their wealthy citizens to be the only ones who were considered.

Ms. Maliszewski asked Ms. McKeel if she had specific language in mind that should be included.

Ms. McKeel said that she wished she could offer a suggestion, but she was simply sharing her concerns as the representative of the Jack Jouett District.

Ms. McKeel said that she was particularly enthusiastic about the Action 2.7 placemaking program, which included the art in public places program. She believed art initiatives had the potential to bring their community together. She said that there were many successful art projects in North Carolina, which had been sponsored by local governments and general assemblies. She said that she would support any efforts to incorporate art placemaking into this document. She said that in her district, they had three murals and a hydrant project that required no investment by the County government other than partnering with VDOT and other agencies to allow the projects to happen.

Ms. Mallek said that she supported Action 1.1. She said that she had written they should avoid repetition of research already done in established districts, and she had mentioned in her notes when people expressed concerns about what these districts represented. For example, in the Crozet Historic District, which was locally funded and accepted by the Department of Historic Resources, the majority of structures were ordinary homes, and they were very proud of that.

Ms. Mallek said that if they took the time to welcome participants in the process and engage with local communities, rather than expecting everyone to come to them or use computers, they would find people who were passionate about preserving their heritage. She noted that she had heard from long-time residents, including those with small families and rural homes, who had witnessed the changes around them, that people from various income levels benefited from past preservation work.

Ms. Mallek said that those who came before them had made significant efforts to preserve the viewshed, quality of life, and landscape for everyone to enjoy. She said that it was not just about wealthy people and their properties. She said many historic properties were off the road and not visible, but they required substantial investment. She said that she believed that while some homes were grand, the owners invested heavily in maintaining them, and she could attest that even painting fences was a significant expense.

Ms. Mallek said that regarding Action 1.2, the County was currently not meeting State law regarding protection of cemeteries. She said that she supported this action and believed they should strive to protect all private cemeteries. She said that there had been cemeteries of people from all races that had been obliterated by new owners who could not be stopped before deciding to bulldoze. She said that she also supported Action 1.3. Regarding 1.4, she supported the item but thought that the Monacan Nation should have their own action item because they were the only community who had been in this area for 10,000 years.

Ms. Mallek emphasized that many Monacans currently lived in their community. She added that there were numerous sites that could benefit from preservation efforts, such as the settlement in the Lickinghole basin that was preserved by the rockslide from the railroad trestle. She said that no one had begun to do any work with that, so it would be great to do a better job in Albemarle and be able to gain knowledge from their own resources.

Ms. Mallek stated that regarding Action 2.1, there had been discussion over the last couple of meetings in the Historic Preservation Committee about sponsoring educational programs, such as when Ed Lay gave a presentation that was standing room only, in which he discussed all sizes of houses from a certain time period that everyone wanted to know about. This was one example of education they could provide, which she thought would be well received by all of their citizens.

Ms. Mallek stated that regarding Action 2.6, she knew that the Virginia Department of Historic Resources (DHR) had tools readily available. She said that she was concerned that they were so eager to be helpful that they may inadvertently repeat something already being done by others. She said that Ms. Maliszewski had been incredibly resourceful with connecting new property owners with DHR guidelines, and they had had meetings in various situations in the White Hall District to connect people with historic resources funding, which could help bridge the gap for older properties that required extra care and often came with higher costs.

Ms. Mallek said that she firmly believed in the importance of the commons, and she thought the community as a whole benefited from the results of these efforts. She also appreciated the idea of community art; however, when private spaces were sold, art could be erased or destroyed by new owners. She said that this kind of arrogance and lack of care was what many people thought about when they considered the lack of preservation regulations in Albemarle.

Ms. Mallek stated that several people had mentioned the difficulties people faced in preserving historic buildings, but they had no rules in Albemarle about them. If they were going to get upset about something, they should make sure it was something that was specific to Albemarle and not happening elsewhere. She would like to know where people were having difficulties with their properties, especially whether they had purchased something knowingly or unknowingly.

Ms. LaPisto-Kirtley agreed that combining Actions 1.2 and 1.4 would be appropriate. She said that on Action 1.3, they were identifying and monitoring resources. She stated that during her time on the Historic Preservation Committee, she learned that they could not prevent someone from demolishing a historic building on private property. The only way the Committee could preserve a historic building was to take photographs of it before it was demolished. She asked if staff could please clarify why they needed to expand the County's historic resource GIS layer to include these resources because they already had photos.

Ms. Maliszewski explained that this initiative was focused on identifying resources that may not be properly maintained, abandoned, or neglected, and monitoring their condition over time. This aligned with some of their educational actions, which included contacting property owners and making resources available to help them understand the value of their property. The goal was to encourage property owners to take proactive steps to maintain and improve their historic properties.

Ms. McKeel clarified that this item was referring to a database.

Ms. Maliszewski confirmed that was correct. They could identify these features on one of the GIS layers, so that they could provide more accurate information using the available data and mapping tools.

Ms. LaPisto-Kirtley said that typically, a property owner who had a deteriorating building and did not intend to address the issue would not contact them about it. She said that this was her experience when she served on the Historic Preservation Committee.

Ms. Maliszewski said that some of the Committee members were aware of these resources and could bring that information to the group, moving forward from there.

Ms. LaPisto-Kirtley said that if they did not have an incentive to encourage a property owner to renovate and maintain a historic building, they ultimately could only take photos to preserve it.

Ms. Maliszewski confirmed that was correct.

Ms. LaPisto-Kirtley said that regarding Action 2.1, it referred to using historical markers. She said that it would be beneficial to specify "viewable" historic markers, as she had previously suggested to the Historic Preservation Committee during her tenure. She said that what she meant by this was that some markers were difficult to read, especially when driving at high speeds, and it was challenging to stop and view them. She said that she had not been able to do so. However, she believed it would be nice to have historical markers in a location where people could easily pull off the road and stop to read them.

Ms. LaPisto-Kirtley said that she fully supported Actions 2.5 and 2.6. Regarding 2.5 outreach, she was concerned that they did not know the locations of all potential historic sites to be preserved and documented. For instance, she had recently encountered an old family cemetery in the Keswick area while walking on private property. She said that the cemetery was small and dated back to an unknown time period. Additionally, remnants of a chimney were preserved, which also dated back to an unknown time. She was wondering if they were collaborating with the University of Virginia (UVA), Piedmont Virginia Community College (PVCC), and local high schools to identify and preserve historic places.

Ms. Maliszewski said that they were not aware of the location of all historic resources, which was why the first objective for this chapter was created. Their goal was to gain a more comprehensive understanding of Albemarle's historic, cultural, scenic, and rural resources and their locations. Currently,

the County did not have a specific program in place to partner with other groups, but that was what the Action 2.5 initiative was aiming to address.

Ms. LaPisto-Kirtley said that regarding Action 2.7; while they were discussing the historic and unique character of the County, it seemed to be focusing on the past and cultural heritage. She said that she saw this as extending beyond the past to encompass the present and future as well. She was considering the possibility of including a section that highlighted the current culture of artists in their community. For instance, if they planned to display art or host events that showcased local art, she wanted to ensure that the content was not solely historical but also reflected the current cultural landscape of their area.

Mr. Gallaway stated that staff's response to the questions about Objective 1 had answered some of his own questions about this section. It was clear that it was primarily about compiling the inventory, but it did require resources to do so. It was not a commitment to taking action; however, without a clear understanding of the actual inventory and its location, it was difficult to make decisions. He did not have an issue with Objective 2, as it mainly appeared to be focused on education and providing information to the public, without necessarily committing to any specific actions.

Mr. Gallaway said that the chapter narrative did mention some local incentives, which would likely be addressed in another section, so it made sense how this section was laid out. He said that he was reviewing the historical marker section, and he would like to note that they had two historical markers on Rio Mills Road, the Monacan Nation marker and the Rio Mills marker, but one was overgrown and the other was half-knocked over.

Mr. Gallaway said that he was not recalling who was responsible for resolving the issue, but his point was that when they had stringent requirements for their entrance corridors, yet the public spaces appeared very neglected, it created a disconnect between the County's ideals and actions. He emphasized that when their own actions did not align with their stated ideals, those ideals often lost meaning. He was curious to know how they planned to address this issue in the future.

Mr. Gallaway stated that if they needed to gain a proper understanding of who was ultimately responsible, and even if the County were not technically responsible, they had a responsibility to be responsible. If they valued history enough to support the placement of markers and other historical features, they should also be responsible for maintaining that ideal. They had a person and equipment in place to help with median maintenance and improving their entrance corridors, which suggested they had the potential for a department to handle these tasks.

Mr. Gallaway said that he was trying to tie together the various elements, as he had concerns about requiring funding for initiatives that they did not currently have the resources for. As a Supervisor, he would be stating that it was important, but not important enough to fund.

Ms. Mallek said that it would not be funded this year.

Mr. Gallaway said that it was unclear how they would fund it in three or four years, as well. He said that he had been doing this for eight years and continuously saw things such as this get tossed out because of other funding priorities, such as hiring police officers. He explained that without a feasible way to implement the comprehensive plan's priorities, if it required funding, or ensuring that they understood the organization's role in supporting it, they did not actually do much to promote art and music. They provided funding to the organizations that did it, but that was the extent of their involvement. He asked Ms. McKeel if the Jack Jouett District's hydrant and mural art was funded by grants.

Ms. McKeel replied that it was accomplished primarily through private fundraising.

Mr. Gallaway said that perhaps he was missing some objectives and actions that addressed it, but he felt it should be specified in this chapter how the County would proactively handle the upkeep of historic markers and other resources, even if the responsibility may technically fall to another entity, such as in the case of historic markers in VDOT right-of-way. He said that he believed that by including such action items, they could demonstrate the authenticity of their ideals and show that they were committed to making a tangible impact. He said that using the marker example, he thought it would be helpful to include specific steps on how they planned to move forward with their goals, given their available resources and personnel.

Mr. Pruitt said that many of his questions and comments were centered around how they were expanding their understanding of cultural resources because he saw potential gaps in this area. He asked if they were only considering tangible resources or if they were also looking at intangible ones, such as the Monacan language, which was now extinct. He said that Washington, D.C. would consider the D.C. hardcore music scene as a cultural resource, and New York City would consider the ballroom scene in the 1990s a cultural resource. He was wondering if they were considering equivalent resources in their community. He said that he was not sure if they had the capacity to address this, but there may be resources that they were not fully contemplating.

Mr. Pruitt stated that regarding Action 1.3, he would suggest that these were not particularly related actions. He thought that expanding the GIS layer to the specific distressed and vulnerable units seemed mistaken when they did not talk about GIS elsewhere. He said that it seemed like updating the GIS layer with their cultural resource hierarchy and schema legend in Action 1.1 would be a more logical step. He was not sure when they were looking at specific distressed and unmaintained buildings, whether

putting them in the GIS layer was the primary concern for GIS data. He said that he did not think an owner of slum properties would be concerned or change their behavior because they were called out in the GIS layer.

Mr. Pruitt said that he was trying to think of more examples of cultural resources in their community. He noted that he had mentioned Hello Comics before, which was a cultural resource that attracted tourists and was a focal point of a distinct subculture. He said that Next Door Neighbor and the End Games were also cultural resources that targeted specific subcultures and attracted attention. For instance, when people on Reddit asked for things to do while visiting Charlottesville, these businesses were often recommended by local users. This was something that floated under the County's level of engagement. He thought they needed to grapple with this if they wanted to make their community attractive to a younger generation.

Mr. Pruitt said that he might suggest identifying focal points of contemporary art culture and subculture as an additional action. They should also document, identify, and monitor those resources, as the other language in the chapter mentioned. He thought it was essential to include this in some form of public consciousness or government awareness of what these institutions were, their purpose, and their role in their culture.

Mr. Pruitt said that he thought Action 2.5 could be a good starting point, but given the potential for overlooking contemporary culture, he suggested breaking it out into a separate action item. After Action 2.5, partnering with stakeholders in the arts and culture community to develop events and marketing strategies to enhance their presence would be a well-placed initiative. He said that they should take a thoughtful look at contemporary culture and explore ways to make it more visible to the public.

Mr. Pruitt said that this was particularly important for Scottsville, where he spent a lot of time. He said that the town's desire was to raise awareness about the importance of these institutions, and he believed they could create a forcing function to attract people. Festivals, events, art walks, and other low-budget initiatives could be effective in promoting their local cultural resources, and he was not convinced it was entirely contemplated in this chapter. He said that he was also struck by Ms. Mallek's discussion about the loss of murals.

Mr. Pruitt stated that while this may not be directly related to the Comprehensive Plan, he saw it as a pressing issue. He said that public art, like murals, could be a powerful tool, but it was often tied to private property. He said that incentivizing its preservation through grants, such as a \$5,000 grant for murals could be a simple yet effective solution. He said that many local governments already offered such grants, and he believed they could see 10 murals in residential communities with such a program.

Mr. Andrews said that he wanted to build upon previous comments. He agreed that the cost issues had not been thoroughly considered. He said that he appreciated Mr. Pruitt's comments regarding Action 1.3 being two different pieces, where they needed to do more with GIS but not necessarily just use it to identify places in bad shape. Similarly, he thought that they should consider additional objectives that relate to the broader cultural context, rather than solely focusing on historic and scenic resources, which were indeed important. With that in mind, unless there were further comments, he wanted to move on to Objectives 3 and 4 and continue this exercise of examining the objectives and actions, with the hope that it would prompt additional discussion.

Ms. McKeel said that she would like to mention an app that was created by someone in Charlottesville that would bring up the information from historic markers as one was driving by them. She said that she thought they did not advertise this app enough, but it was free and could help them learn more about their historic markers, even those located on back roads.

Ms. McKeel said that regarding the action items under Objective 3, Action 3.1, establishing an Historic Preservation Ordinance with broad eligibility criteria concerned her. She said that she could consider supporting an ordinance that was very narrowly tailored, and they should not consider wholesale protection, because that was what had happened in some cases in the past that had led to issues. She said that she was talking specifically about some of their historically protected areas that led to so much of the property of Albemarle County protected, and then they could not do things in those areas.

Ms. McKeel said that regarding Action 3.2, she was concerned about creating a milestone around property owners. They needed to strike a balance and ensure that any demolition ordinance or enforcement tools were carefully considered. She said that regarding Action 3.3, she was also worried about the definition of historic resources. They needed to determine what exactly they were protecting.

Ms. McKeel said that regarding Action 4.1, evaluate and consider adopting real estate and tax incentives to encourage retention of historic resources, she was concerned about whether these potential tax breaks were considered by the majority of their community. They already had a number of tax breaks available, and some community members were skeptical about their accessibility and effectiveness. She said that she would like to consider having the language refer to a variety of incentives, rather than focusing solely on real estate and tax incentives. She was concerned about using the tax code to give some people a leg up.

Ms. McKeel said that she believed that there were people in their community who felt that this was happening too frequently. Additionally, she thought the tax code was overly complicated. Many people could afford to hire an accountant or someone to help them navigate the tax incentives and advantages available. However, she was concerned that she, and likely many of her constituents, would

struggle to do so.

Ms. McKeel agreed that exploring adaptive renovation and adaptive reuse, including energy-efficient upgrades, could be beneficial when done correctly. She believed that this approach could be a positive step, and it may align with some of the points Ms. LaPisto-Kirtley had discussed earlier. She asked what staff meant when they referred to a “toolbox” in the chapter language.

Ms. Maliszewski explained that she believed that the Planning Commission had shared similar comments, which referred to resources that could be used by people who wanted to renovate and rehabilitate historic structures, such as contractors, historic materials, and other sources of information that could help achieve historic preservation.

Ms. McKeel said that the language did acknowledge that as part of the budgetary process, establishing funding streams and financial incentives to encourage land and scenic conservation. She agreed with everything Mr. Gallaway had said earlier about their budget and their challenges. She encouraged the County to explore partnerships and utilize what they had in the community. She said that one of the best examples of what was happening in their community right now was the University of Virginia's restoration of a historic structure at Birdwood.

Ms. McKeel said that they had done an extraordinary job to tell the story of that property. As someone who had been in that building 40 years ago, she had been impressed by their process. She said that they had done extensive research on the building and the work they had done was outstanding. Although the property was owned by the University Foundation, the approach was worth studying. She said that they had a unique process for researching and renovating historic structures, and she thought it was worth considering as part of the County's process.

Ms. McKeel said that she also agreed with the language in Action 4.9 regarding African American cemeteries, but she would like to see the language expanded to be more inclusive. She said that given their current budget challenges and the lack of federal funding, she was concerned about providing more tax breaks by protecting resources through the conservation easement program.

Ms. McKeel commented that preservation of a lifestyle should not be an impediment to the future, which they had done in this community. She said that the plantation lifestyle that had been focused on in this County should not stop things from changing over time. She asked that staff consider looking at things through that lens. She clarified that a historic plantation should not be able to control their viewshed so that people sipping wine would not see a cell tower, such as Monticello's viewshed.

Ms. Maliszewski said that the example was very helpful.

Ms. Mallek recalled that she was on the Board when the Monticello Advisory was adopted, and there was no veto power or anything. She said that it was encouraging for people like Giant to reach out and have conversations with them, but it was not punitive or anything beyond that. She said that regarding Objectives 3 and 4, in their emails, she had suggested reframing Objective 3 to focus on developing processes to better protect the full range of cultural resources that define the character and sense of place of Albemarle County. She found this phrase appealing and welcoming, as it encompassed a wide range of cultural elements.

Ms. Mallek stated that more details for Actions 3.1, 3.2, and 3.3 would be helpful, but she was supportive of them in general. She noted that in her experience, historic districts had been successfully developed through collaborative efforts between landowners, who had worked together to create documents and contact DHR for approval. She said the County and City together had supported the restoration of the Carr-Greer farmstead and the historic marker at Ivy Creek, which she believed was an appropriate use of County resources, although it was a jointly owned property, so perhaps it was in a bit of a different category.

Ms. Mallek stated that regarding Action 4.1, she would only support it if it were means-tested. She agreed with a previous suggestion to include a variety of incentives to move forward with that action. She said that for 4.3, she would suggest updating the County's historic preservation plan in coordination with the proposed rural area land use plan, but there should also be a comprehensive approach to include preserving cultural resources in the growth area.

Ms. Mallek said that the example of Brookhill, where a developer chose to preserve a historic house and turn it into their community center, was a great illustration of this concept. She said that for 4.6, the Levy Opera House was an example that demonstrated the potential for creative reuse and preservation. Finally, she believed it was essential to have clear criteria for the Acquisition of Conservation Easements (ACE) program, including better protection for historic resources and natural heritage elements.

Ms. Mallek said that it could potentially consider to be a donation program under the Albemarle Conservation Easement Authority (ACEA), as opposed to a purchase program, which ACE was. She said that they had successfully acquired many acres under the donation program, so it may what they needed to do for the next generation. However, getting the criteria added would be very helpful.

Ms. LaPisto-Kirtley said that with Action 3.1, she did not agree with that action, as she would require a broad view of eligibility criteria and a detailed assessment before considering an ordinance. She said that she would need to see the specifics before moving forward; she did not get it.

Ms. LaPisto-Kirtley said that regarding Action 3.2, it stated they should investigate legal tools for historic preservation, including a demolition ordinance and stronger enforcement code; however, this pertained to private property. If it was on private property, she believed that this was an overreach. She personally thought this would be a challenging issue. She encouraged working with people, but she was concerned about taking a legal approach to some of these matters.

Ms. LaPisto-Kirtley said that perhaps they should look to State law to determine the feasibility of such actions. She said that on Action 4.1, she would combine this with 4.6. She said that she was not suggesting they implement these, but if they did, they needed to consider tax incentives and a funding stream. She said that personally, she preferred exploring private partnerships, donations, and other financial assistance options.

Ms. LaPisto-Kirtley said that she strongly believed in pursuing grants, donations, partnerships, tax credits, and financial incentives. She reiterated that they needed to decide whether to go all in and provide the necessary monetary solutions. If not, they should explore alternative methods, because they were done with their current budget. She noted that their history provided significant revenue for tourism, generating millions of dollars annually. This could serve as an incentive to encourage preservation, and they could potentially engage the Charlottesville Albemarle Convention and Visitors Bureau.

Mr. Gallaway said that regarding Objective 3, given the comments made earlier about cultural resources and definitions, it was essential to clarify that all of that must happen before they could even consider this objective. This could be an objective included in the chapter, but it should be stated that certain prerequisites must be met before this objective could happen. He said that he believed this was particularly relevant for this objective.

Mr. Gallaway stated that regarding Objective 4, a tax abatement did not require immediate cash on hand to provide an incentive or abatement. However, it did result in a loss of revenue, so they must ensure they understood this. He was wondering if this issue was simply a strategy or if it was a good idea in itself. If they included notations on objectives that stated, for example, Objective 4, increase the availability of incentives and funding streams, they should note that this was currently an unfunded item in their budget, requiring prioritization by the Board of Supervisors to be enacted in a future budget.

Mr. Gallaway said that he thought it would be helpful to include such notations throughout the entire plan. This would allow readers to understand that not all objectives were funded and may require a Board vote to implement. By doing so, they would clarify the responsibility of the Board to decide whether to prioritize and fund these objectives, and staff would be able to explain the situation to the public and the Board.

Mr. Gallaway said that regarding Action 3.3 and Action 4.9, 3.3 would protect the resource, which could include cemeteries, understanding there may be other archaeological sites. Action 4.9 talked about funding sources specifically for the cemeteries, so the difference was that 3.3 said that it was now protected, and 4.9 said here was the funding to help protect the resource. He said that he wanted to just make sure he understood those actions correctly.

Ms. Maliszewski said that she believed that what Mr. Gallaway was referring to were road projects that had federal or state funding, which were subject to certain requirements.

Mr. Gallaway stated that it was just an upzoning and had nothing to do with roads. He recalled the tiny cemetery off of Berkmar, near the Society for the Prevention of Cruelty to Animals (SPCA) facility. He said that as part of the redevelopment and zoning application for that property, the cemetery was protected, and the developer worked to preserve it. He noted that he believed there was a provision or condition in place that ensured the cemetery's protection and allowed access for those who wished to visit. He requested clarification on what was currently in place to protect a cemetery and allow access for visitors.

Ms. Maliszewski replied that if it were through a special use permit (SUP) or rezoning, the County had the ability to impose conditions or proffers where that sort of resource would be protected.

Ms. Mallek clarified that it was state law that cemeteries must be protected and accessible to descendants of those buried there; however, the County did not have a mechanism to achieve it without a special permit.

Ms. Maliszewski said that she did not recall the details of the requirements for that particular site. She confirmed that yes, cemeteries must be protected by state law, but the way it was treated, such as signage and fencing, was not required through state law and would be handled through a special use permit condition or rezoning proffer.

Mr. Gallaway stated that it would be beneficial for him, and possibly the Board, to understand the context behind these two items. He said that some of these issues arose due to existing mechanisms, rather than being entirely new regulations they were creating from scratch. If they already had something in place, such as a special use permit process that allowed for such protections, that should be prioritized. It would be easier to use those existing mechanisms and potentially expand the criteria. He was trying to understand what the yardage was between what currently existed and what they may want to exist, because that would be a smaller lift than creating an entirely new regulation.

Ms. Maliszewski clarified that cemeteries were a unique resource with specific protective requirements.

Mr. Gallaway said that historic structures other than cemeteries had been found to exist over the years. He recalled applicants stating as part of their proposal that they would be doing the proper work to understand how to handle the historic resource they had on their property.

Ms. Maliszewski explained that the County had the authority to incorporate certain protections or treatments into special use permits or rezoning decisions, which was one way to address this issue. Another way was that if state or federal funds were being used for transportation projects, there was a requirement to consider cultural resources and mitigate any negative impacts.

Mr. Gallaway said that it appeared that if this project was a by-right development, the cemetery would be protected by state law, but if it were another type of significant archaeological find or another protected resource, the by-right development might not require compliance.

Ms. Maliszewski confirmed that that was correct.

Mr. Gallaway said that he wanted to understand this better, so he thought a chart or something else that was explanatory would be helpful in clarifying the different requirements. He said that he was particularly interested in knowing how the different processes, such as a special use permit, upzoning, or rezoning, might impact the protection of historic resources. He said that regarding Action 4.11, he wanted to know more about the conservation easement programs and how they could provide greater protection for these resources. He was wondering if they were providing extra incentives or if they simply required extra protection.

Ms. Maliszewski said that for example, in the ACE program, changes to the criteria were being considered that could potentially award more points to historic resources. This could also be applied to the ACEA program, where currently, there was little emphasis on historic resources on these conservation properties, but it could be given more focus.

Mr. Gallaway asked if he applied for a conservation easement, which went through a scoring process, since he did not have any historic resources on the property, he received a score, but then his neighbor's property, which was identical to his, had a historic barn, and as a result, they received extra points in the application process, potentially increasing their chances of being accepted into the conservation easement.

Ms. Mallek clarified that an important aspect was the property owner's commitment to maintaining the resource.

Mr. Gallaway said that this was more about the entry into the program. It was not an added benefit to the property owner once in the program; it may help individuals initially get into the program and then commit to the resource.

Ms. Maliszewski confirmed that was correct.

Mr. Gallaway said that regarding Objective 4, his general note about donating and not funded would suffice. He said that regarding Objective 4, also related to some of the concerns Ms. McKeel may have been voicing, he would hope that any incentives or programs, regardless of the method chosen, should be income-based. He emphasized that it would be incredibly unfair to provide flat-rate support.

Mr. Gallaway stated that he was not convinced that Action 4.10 was necessary. He had always advocated for flexibility in the incentive program, regardless of the housing incentives or developer incentives. He thought it was essential to leave room for unforeseen incentives that might not have been considered. He said that if they put an incentive program out and explained it to the community, stating that they had come up with these incentives that they thought could work, but also left the door open for others to suggest alternative incentives, they would be more open to considering them.

Mr. Gallaway said that this approach was stronger than conducting periodic surveys about what incentives were needed. Instead of asking property owners to come up with their own incentives, they should be open to suggestions and willing to discuss them. This way, they could ensure that the historic preservation aspect was prioritized, rather than getting bogged down in well-defined incentives that might exclude other goals. If someone had a suggestion for an incentive, they should share it with the County, so they could discuss it and determine whether it was a good fit. This approach was better than periodic surveys; it should be built into the incentive program.

Mr. Gallaway said that to conclude his comments about Objectives 3 and 4, but he wanted to make a statement about something that had come up earlier in their discussion. He stated that he was concerned that they needed to remember that historic preservation, cultural resources, and conservation were not just about preserving history, but also about allowing people to live and develop in a way that was consistent with the community's goals. He said that when the Historic Preservation Ordinance was used to prevent growth or development, it could be seen as a tool to control people's lives, rather than a genuine effort to preserve history. He emphasized that he would never support anything that even hinted at this.

Mr. Pruitt agreed with Mr. Gallaway's last point. He said that he had also made the exact same

note regarding Action 4.10. He had asked whether there was a corresponding provision in every other incentive-based section of the Comprehensive Plan, and he did not believe they had. He noted that they frequently discussed incentives, and he believed there was an understanding that these were regularly re-evaluated and reconsidered in real-time. For example, the Albemarle Conservation Easement program was not functioning as intended because it was not being funded, so that demonstrated how they were evaluated in real time.

Mr. Pruitt said that Action 3.1 had been the subject of much discussion regarding its phrasing, and he would like to revisit the concept of a broad view of eligibility criteria. He said that if the sentence had ended with "ordinance," he believed there would be fewer thoughts shared on this topic, so he would like to understand what was meant by "broad view of eligibility criteria."

Ms. Maliszewski explained that that was intended to address the concept that early on, the historic resources registered were primarily focused on the high-style architecture buildings, leaving out other aspects and connections related to that. The goal was to broaden the scope and make it more inclusive.

Mr. Pruitt said that he thought that was where it was going, but he would suggest and what he thought he had heard from the Board was that a historic preservation ordinance, if it were to have affirmative obligations on people they would opt into, it should be very thoughtfully and narrowly tailored while also including low and vernacular type of architecture. He reiterated that it should be tailored and applied carefully, taking into account the costs and benefits, as well as the accrual of costs and how that was applied.

Mr. Pruitt said that in Action 3.2, he was unsure what a demolition ordinance would entail.

Ms. Maliszewski explained that it was something the Historic Preservation Committee had discussed for a long time. A historic preservation ordinance could be distinct from a demolition ordinance. She said that sometimes, a historic preservation ordinance included a demolition clause, but it could also be an ordinance that required documentation of the building before demolition. It could also require the property owner to attempt to sell the building or move the building to allow the chance for it to be retained in some form before resorting to demolition.

Ms. Maliszewski said that the primary goal of the demolition ordinance would be to prevent demolition, but there were different levels of ordinances. She said that currently, the Historic Preservation Committee had a policy to ask the property owner if a committee member could be allowed to document the building before demolition, but the property owner was not required to allow it and the committee had to request permission. She explained that one form of the ordinance could be to require the documentation before demolition.

Mr. Pruitt stated that he appreciated that additional context. It was easy to see this issue in the context of their blight remediation ordinance, which had similar concerns about costs and benefits. He said that by preserving resources and habitability, they were also trying to preserve the County's natural resources. Although the approach was different, both efforts ultimately shifted costs onto the public. However, he was open to exploring this idea further, so he did not have a major issue with it; he just wanted to ensure he understood the context fully.

Mr. Pruitt said that there was concern expressed about the real estate and tax incentives program. He did not see this as intrinsically problematic. If they were discussing public-private partnerships to bring in private dollars for preservation work, he could see how this would be an essential part of that. For example, using Tax Increment Financing (TIFs) in economic development or affordable housing, those tax incentives could be beneficial. He could understand how using tax incentives to promote preservation of historic resources in redevelopments was very important, and this approach could leverage private dollars and potentially increase the impact of their efforts.

Mr. Pruitt acknowledged that this probably was the most desirable way to do historic preservation because they could get the most bang out of their buck and also pushed the costs down the road. He said that the one thing he would like to explore was the potential for using tax incentive programs for personal residential preservation, such as individual historic homes. He was aware that currently, these homes likely relied on the Affordable Housing Investment Fund (AHIF).

Mr. Pruitt said that he was not aware of any constitutional authority to leverage real estate or tax tools for this purpose. However, if it were possible, that would be of interest to him. What he was concerned about was ensuring that the benefits of these efforts accrued to the populations that needed them most. He said that he would like to focus on this aspect and determine if they had the necessary legal tools to achieve this. When reviewing documents, he often looked for critiques at the sentence level, as one of his colleagues did during his time at the Office of Naval Intelligence.

Mr. Pruitt said that regarding Action 4.6, "acquire funding for historic preservation" would be more effectively phrased as "fund historic preservation." He said that he had some reservations and concerns about this action, partially due to the language insinuating that the County must create a direct County-funded incentive from the General Fund. They often complained about that language when it arose, but it was essential to avoid preemptively putting their feet to the fire and stating that they must fund this before they even knew the applicability of the historic preservation ordinance.

Mr. Pruitt said that there was a specific order of processes they needed to follow here. He said

that he was not even sure what they were protecting yet. He said that three hours ago, he did not know they were discussing cultural resources distinct from historic resources, so already talking about committing funding to it and what pools they were coming from felt premature. He said that he would want some kind of linguistic clarification on that, without limiting them from considering that possibility.

Mr. Pruitt said that regarding Action 4.11, they had already discussed it at length, but he would like to clarify whether historic resources were considered at all in the ACE program currently.

Ms. Maliszewski replied that she believed that they were.

Mr. Pruitt asked if they were saying they wanted them to receive more points than they currently were.

Ms. Maliszewski replied yes; she could not recall where the work on that ended, but she believed that was accurate.

Mr. Pruitt said that he was trying to recall the slide they had previously discussed, but unfortunately, he was unable to. Without having all the information on conservation easement programs in front of him, he would say that if they were currently contemplating benefits for people and properties with historic resources, committing to further increase this would be premature, as they should be taking a more nuanced approach, considering the actual impact of such a decision.

Mr. Pruitt stated that it would be one thing to acknowledge that they were not currently considering historic resources, and that they should incorporate this into their calculations, but since they currently did consider them, he was unsure of the outcome of this proposed action. He reiterated that he wished he had done more research on conservation easements to refresh his memory on this topic.

Mr. Andrews said that he wanted to make some comments in response to that and then elaborate on his more general comments. He said that regarding the language about emphasizing greater protection of historic resources, he believed the ACE or ACEA program would consider the value of the commitment to historic resources preservation made by the individual seeking a conservation easement. He said that in the ACEA program, the County was essentially asking whether it would hold the conservation easement, so the property owner was willing to relinquish development rights but also committing to preserving certain structures or features. He said that he thought it was reasonable to question whether this would be weighed in the process.

Mr. Pruitt thanked Mr. Andrews for clarifying that point. With that in mind, he did not have any issues with the language presented.

Mr. Andrews said that regarding Action 4.6, which included language about acquiring funding for historic preservation and pursuing grants, he was aware of the document that came before this that described how they were getting there. He said that broadly, the beginning of this chapter started out with identifying local resources, and he believed the first two objectives were ways of identifying them. He said that next was protecting local resources, and this was where Objectives 3 and 4 became relevant.

Mr. Andrews said that upon reviewing page 8, it stated that protections and regulations could include local historic district overlay, demolition ordinance, and deconstruction ordinance, which other jurisdictions had successfully leveraged as tools to protect resources. The document also mentioned that adoption of a local historic district ordinance was a requirement for becoming a Certified Local Government (CLG), which opened up opportunities for funding, as explained on the following page.

Mr. Andrews said that the document stated that CLG grant program and cost share program funding became available, providing access to the GIS database, stipends, and other resources. He said that suddenly, this opened them up to a plethora of resources. He said that hearing the concerns about committing themselves to spending this money, he had some confusion because he thought the whole purpose was to find a way to access these resources. If that was the case, he believed they should be more explicit about it. If they were trying to reach a point where they became a Certified Local Government and get those resources, they should be explicit about that in these objectives and actions.

Mr. Andrews said that they should not state that they would establish a historic preservation ordinance without acknowledging the potential unlocking of resources. He said that while it did denote federal resources, there were a lot of state-level resources that were available. He had approached this chapter assuming that they were trying to establish that, but he did agree with the comments made that they should be establishing incentives that benefited the public good, rather than just helping those who could help themselves. He said that he proposed that they re-examine their historic preservation and cultural preservation strategies in light of what public good they were aiming to achieve. Otherwise, he would defer to the comments made by others, which he believed were fair and to the point.

Ms. LaPisto-Kirtley agreed that it was important to emphasize that their incentives should be implemented with the purpose of leveraging them to access other funding opportunities.

Recess. The Board adjourned its meeting at 3:41 p.m. and reconvened at 3:56 p.m.

Agenda Item No. 10. **Work Session:** AC44 – Cultural Resources Chapter and Resilient Community Content, *continued*.

Ms. LaPisto-Kirtley stated that she had rated Actions 5.4, 5.5, and 5.8 as excellent, as she truly appreciated those actions. She said that she did have a question about Action 6.1. She asked if LED lights were a concern in terms of the number of lumens and the brightness of them at night. She asked if this action should be more specific to prevent light pollution.

Ms. Maliszewski replied that she believed the current issue with the LEDs was primarily related to their color temperature and appearance, but she believed the issue of lumens would be encompassed in the wording of that action.

Ms. LaPisto-Kirtley said that regarding Action 6.2, she would love to see a public service announcement (PSA) regarding dark skies.

Ms. Maliszewski recalled that the Planning Commission had suggested incorporating an educational component, so that would likely be included there.

Ms. LaPisto-Kirtley noted that their main source of light pollution was the University of Virginia. She asked if there were any plans to work with them to reduce their lighting.

Ms. Maliszewski confirmed that the Planning Commission had recommended for the County to work with local organizations to achieve dark skies, so that would definitely be considered.

Ms. LaPisto-Kirtley said that the elephant in the room was UVA, so she believed they needed to address that issue. She said that along Route 29, the established car dealerships posed a lighting concern. She asked if there was any possibility of reducing their lumens or changing the color temperature.

Ms. Maliszewski said that the ordinance could include a provision requiring existing developments to come into compliance, but they had not chosen to do so in the past.

Ms. LaPisto-Kirtley asked if it was possible for the County to require developments to make those lighting changes.

Ms. Maliszewski said that she believed they could do that.

Ms. LaPisto-Kirtley replied that that would be her recommendation.

Ms. McKeel said that regarding Action 5.1, she believed that when she spoke earlier at a higher level, she expressed her concerns about this particular action item. She reiterated that the devil was in the details, because this had been used by certain segments of their community in the past to block initiatives they did not agree with, even if that was not in the best interest of the community. She said that she was just saying they needed to be cautious here.

Ms. McKeel said that she believed a fundamental principle in most of their endeavors was that they must collaborate with community members in groups, voluntary programs, and efforts. She said that the entrance corridor regulations had been updated recently to address some of the ongoing concerns with those. She asked Ms. Maliszewski to clarify staff's reasoning behind the action item referring to those.

Ms. Maliszewski said that with Action 5.3, the previous scenic highway overlay was removed when the entrance corridors were created. It was assumed that the entrance corridor regulations would address all necessary aspects. However, recent work with the Architectural Review Board had led to a recognition that some corridors would benefit more from a scenic-oriented focus rather than an architectural focus.

Ms. Maliszewski said that as a result, some of the scenic highway regulations may be more effective on certain corridors where the Architectural Review Board did not review the developments. She said that there were several streets designated as entrance corridors that did not have arterial status, so they had worked with VDOT and the FHWA (Federal Highway Administration) to achieve arterial status on a few of those streets. Nevertheless, there were still some corridors that remained non-arterial, and they were not applying entrance corridor regulations to those corridors.

Ms. McKeel emphasized that she had some concerns about this, and she would caution that this could be used in a way that was concerning. She said the next section discusses reducing litter, which she thought they all agreed was important. She said that she appreciated the inclusion of an action to maintain landscaping and other vegetation. She noted that preserving native plant species was their ultimate goal, and that should be made clear. She expressed concern that bamboo plants were a particular nuisance in their community, and she was unclear of how to address them at the County level.

Ms. McKeel added that she was supportive of the action to eliminate non-permitted signs along their roads, but she was unsure of the mechanism by which they could control them. She said that she appreciated staff answering her question regarding Action 5.5. She stated that regarding the ARB (Architectural Review Board), she had been told numerous times that Albemarle's ARB would not allow solar panels due to aesthetic concerns. However, she had seen in many other communities that solar

panels were placed over parking lots and other underutilized spaces. She asked if Ms. Maliszewski could give some context to that situation.

Ms. Maliszewski said that there had been only a few applications for solar panel installations that had come to the ARB, so she would disagree with that statement, which made it sound like there had been dozens of applications turned down by the ARB, and that was not the case.

Ms. McKeel said that there was a process in place to approve solar panels through the ARB if they were deemed appropriate; they would not just blanket disapprove of them.

Ms. Maliszewski confirmed that was correct.

Ms. McKeel said that she must have heard it incorrectly. She believed there were some appropriate places for solar panels, and she had seen many examples of solar installations in other localities that were placed well. She emphasized that they should not discourage solar panel installations. She said that regarding Action 5.10, she would like some clarification about what was meant by “prioritize protection zones.”

Ms. Maliszewski explained that there were numerous resources available, but many of them overlapped. If they were to conduct a study that identified areas of overlap, it would provide an opportunity to prioritize certain areas. She said that for instance, historic districts often had scenic road designations, and there may be conservation easements in the same area. She said that by examining the stacking of these resources, they could gain a better understanding of how to prioritize them effectively.

Ms. McKeel said that in the past, they had had numerous protections in place for areas, which now covered a significant portion of the County. She said that at one point, the Scottsville District was entirely protected, resulting in many things not being able to occur there. She said that she was concerned when she saw language that suggested a blanket statement of protection.

Ms. Maliszewski said that she understood Ms. McKeel's point, but she was looking at it from the other side. She understood that there were all of these resources and no practical way to protect everything. However, if they examined the areas where they were stacked up and identified locations of greater significance, these may be the places that warranted protection.

Ms. McKeel asked if Ms. Maliszewski was referring to a more selective way of protecting areas, rather than an entire district or the whole County.

Ms. Maliszewski confirmed that that was correct.

Ms. McKeel said that regarding light pollution, she wholeheartedly agreed that dark skies was the way they wanted to go. Her neighborhood had been trying to achieve this for years, and she agreed with Ms. LaPisto-Kirtley that partnering with the City and University was essential to make this happen. While they may be able to make progress in certain areas due to their large County size, the issue of light pollution was primarily concentrated in the development areas and around the University of Virginia. For example, lights on unused athletic fields remained on all night.

Ms. McKeel said that they really needed to address this issue and figure out a solution. She was looking forward to the updated lighting ordinance, which would allow them to update the County's own ordinance. She agreed with the Dark Skies Initiative, and she thought it was essential to work with the community, especially the University of Virginia and the City, to make it a success.

Ms. McKeel said that she would again note that Land Use and Planning Environmental Committee (LUPEC) would be a great starting point, where all three entities could come together. Additionally, she had made a note about the biodiversity chapters and an environmental chapter. She believed there would be an appropriate place for that as well.

Ms. Mallek stated that regarding Objective 5, she thought these were admirable things to work on. With Action 5.4, for example, the sign jail used to work. She said that she understood the limitations of their staff, and she knew they conducted sweeps whenever possible, but those signs did tend to accumulate at certain intersections. She said that she had enjoyed carefully filling up her car with those non-permitted signs, although it was dangerous to pull over on the highway to do so. She agreed that it was essential to get things picked up as quickly as possible, and they did have the authority to fine people for it, which they should seriously consider acting on.

Ms. Mallek said that regarding Action 5.10, the overlapping asset that came to mind was Freetown. She clarified that while there had been mention of free towns in general, this was a real place called Freetown, inhabited by descendants of the original, formerly enslaved families from the 1860s, and it was surrounded by commercial areas that had threatened their quality of life. This was a situation where there were many phases of a cultural resource that was under threat.

Ms. Mallek said that there was a question about whether to repeat the lighting as in here or as in the stewardship chapter. She stated that she was open to it being included in both, but it needed to be included somewhere. While there were many different kinds of LEDs, having a requirement to shut off or reduce lighting when businesses were not in operation was very important.

Mr. Gallaway asked for clarification regarding Action 5.6 and elevating the quality of design.

Ms. Maliszewski said that this language came from a discussion with the ARB. She said that the Planning Commission also asked the same question, and she apologized for not having the ARB comments readily available to provide more details on that topic. She said that staff would get that clarifying information for the Board.

Mr. Gallaway asked if the sentiment behind that language was that the County was not strict enough. He said that he would be interesting to hear how exactly they were not strict enough. He said that anything that elevated the stringency of their current entrance corridors made him concerned. He asked if they had specific criteria for entrance corridors right now.

Ms. Maliszewski clarified that they did not; it was something they had been wanting to do for a long time. She said staff were working with the ARB to finish up an addenda to the design guidelines that studied each of the corridors, and that would make that more easily achieved.

Mr. Gallaway expressed concern about that approach. He believed the entrance corridors should be a County-wide consideration, and each area could have their own nuances that could be addressed in their respective area master plans. He was not ready to endorse Action 5.6 if it was establishing a whole different set of criteria based on where an entrance corridor was located.

Ms. Maliszewski explained that the existing guidelines allowed for consideration of individual context.

Ms. Gallaway replied that he believed their current regulations were sufficient; he did not see the necessity of Action 5.6. He said that in Action 5.7, he requested clarification on "to provide direction on coordinating strategies." He said that the action appeared to be the County providing direction on coordinating strategies for climate resilience, renewable energy sources, and sustainable building materials, while meeting the guidelines. He asked whether they were adding new requirements that must be met, or whether they were providing guidance on how one could achieve this, without making it a mandatory requirement.

Ms. Maliszewski said that the purpose of the entrance corridors was to promote development that was consistent with the historic character of the County. She said that she believed what this was trying to convey, and perhaps they needed to refine the language, was that the issue with the solar panels was a misconception that they could not be installed in the entrance corridors. This was an attempt to update the guidelines to demonstrate how solar panels and sustainable building materials could be integrated into these areas while still meeting the requirements.

Mr. Gallaway asked if the intent was that there may be consideration of prioritizing sustainable materials and renewable energy over aesthetics. He said he was not supportive of making their regulations more stringent at the level of the Comprehensive Plan. He asked if the streamlining of review of ARB applications meant that staff could sign off on more categories if they met what was defined.

Ms. Maliszewski explained that if additional categories could be added to the Countywide certificates, which underwent a staff-level review, then they should investigate this and consider pursuing it.

Mr. Gallaway said that with the new system, he was curious to know how many staff members were involved in the staff-level review process.

Ms. Maliszewski replied that currently, they had three individuals who were qualified to conduct ARB reviews.

Mr. Gallaway asked if they were consistent on their nuances in the reviews.

Ms. Maliszewski replied yes.

Mr. Gallaway said that if the new system could demonstrate that staff members were applying the same level of scrutiny to each review, he would be comfortable with that. He said that he did not want to see subjective reviews at the staff level being used to contradict the original assessment. He said that regarding Action 5.9, relative to vegetation, he felt they needed to have a discussion specifically about entrance corridors because he had the same concerns about this item. He felt that they already addressed vegetation and plantings in their applications, so he was unsure of how or why it was being prioritized in this action. He said that while this would address by-right developments' plantings, he thought they had other regulations that addressed that.

Ms. Maliszewski clarified that this was focused on native plants.

Mr. Gallaway asked if they had no regulations about native plants in their entrance corridors.

Ms. Maliszewski confirmed that was correct.

Mr. Gallaway asked if they had no regulations about native plants in by-right developments.

Ms. Maliszewski clarified that the approved County list was not limited to native species. While

they removed invasive species, it was not limited to native species only.

Mr. Gallaway said that he believed that should be clarified, because clearly the Supervisors were confused. He said that moving forward, he understood the prioritization of protection zones and how ten resources in one area should have priority over one resource in one area. He noted that however, it could be argued that one significant resource may be of greater priority. He said that regarding Objective 6, he did not think they could turn off all the lights in the development area, and there were a lot of lights along Route 29 and Pantops. He asked that they ensure that the Dark Skies Ordinance was not overly prohibitive on their roads and businesses in the development area. He noted that they had a lot of compliance with reducing lights so that they were less offensive. He said that they could discuss all the details when they reviewed the ordinance itself.

Mr. Pruitt asked for clarification regarding Action 5.3. He said that he understood it to have requirements that resemble the entrance corridor overlay but were distinct and discrete from them.

Ms. Maliszewski explained that the scenic overlay would focus more on the natural elements, whereas the entrance corridors would be scenic and architectural.

Mr. Pruitt asked if the requirements on property owners would be distinct from those in the entrance corridor overlay.

Ms. Maliszewski replied yes.

Mr. Pruitt said that he shared concerns regarding Actions 5.6 and 5.9. He agreed that they already had a strict entrance corridor overlay, and he received more feedback on this subject than on the opposite. He noted that it was not that they were not requiring high standards for their roads, but rather that they were not doing adequate upkeep on their roads, which often led to concerns about the preservation of the County's scenic viewshed, landscapes, and roads.

Mr. Pruitt said that he did not see this as a regulatory issue, but rather an ongoing maintenance issue. He added that he was concerned about the costs of any incentives programs they had discussed earlier, and he was one of those who was concerned about the costs. He said that he thought it was worth considering entrance corridor-specific criteria, and he was not opposed to them, but any kind of planning or revision to these ordinances would likely cost staff hundreds of thousands of dollars in human hours, which felt like an excessive investment for the County to make.

Mr. Pruitt said that updating their vegetation lists might be similarly unnecessary, as he was not sure he saw the value in requiring specific plant species. For example, if a property owner had a non-native maple tree that was not invasive, he did not think it was valuable to force them to replace it with a dogwood tree. When reviewing Action 5.7, he was concerned about the language used, particularly the phrase "to provide direction on coordinating strategies."

Mr. Pruitt said that he thought this phrase might be the source of some of the consternation about this issue. He said that if they were not including sustainability as a factor for strategizing in a qualitative way, it was solely an appearance-based way of regulating. He said that regarding Action 6.1, in the very first moments of their return from break, Mr. Andrews pointed out that LED was a type of technology. While this was a minor point, he did have concern that emphasizing LEDs as the offending cool temperature light with higher lumens, they were doing themselves a disservice because it was not always specifically LEDs that were doing it.

Mr. Pruitt noted that LEDs were a sustainable technology, as they took less power than other types of light sources. He said that he might suggest not including LED lights and instead address new technologies and trends, such as trends in color temperature and lumens. He said that many Supervisors had mentioned this, so it might be worth adding an action item about building partnerships with local stakeholders, including businesses, developers, and the University, on light pollution.

Mr. Andrews said that as he reviewed these items, he wanted to remain cognizant that they were discussing a Comprehensive Plan, which outlined the things they would be working on, rather than the details of each item. He said that with that in mind, he thought it was fine to exclude LED lights from the plan, as they could be accurately represented as a new technology with both benefits and drawbacks.

Mr. Andrews said that they were more energy efficient, but they also had different effects. He also had concerns about the entrance corridor design guidelines, such as the requirement to provide direction, which seemed innocuous to him. He thought the Board could benefit from a presentation on what these entrance corridor guidelines currently meant and the suggestions being made to change them. He said that he was not confident that the Board fully understood these guidelines, nor the ARB's perspective on these issues, and he would like for the Board to all to have a better sense of what was likely to be approved. He believed this would be best addressed in a separate work session, not a comprehensive plan amendment. He asked if Supervisors had any additional comments about the Cultural Resources chapter text before they discussed the next topic, the Resilient Community Crosswalk.

Ms. McKeel said that on page two of the narrative, Objective 3 stated "increase the number of protected historic resources through local regulations," she was concerned with that language, as she had previously mentioned. She said that she appreciated Mr. Gallaway's comments regarding page 7 about Dunlora and Belvedere. She expressed her support for the Planning Commission's recommendation to include before-and-after photos of the example property on page 8. On page 14, she

had made a note that she did not see any mention of agricultural events in the community, given that some of the discussion focused on tourism and regional events. While it was impossible to name every event, they did have some agricultural events that would be worth including.

Ms. Mallek stated that on page 5, there were some scenic things that needed to be added; the A-10 list had been approved, and the signs were already up. She said that this was not included here, but it highlighted that Skyline Drive was a local County scenic byway, and she felt like these things needed to be cleaned up, so she would send that to staff.

Ms. Mallek said that she was also struck by the mention of houses lost to development on page 7, which was put into the same category as the 18th-century Hessian-built barn at Enniscorthy, which was demolished by the owner because they wanted a view without the property's historic outbuildings. If there had been a documentation requirement, they may have been able to learn more about the buildings and potentially salvage their materials before they were destroyed. She said that she would send the rest of her comments to staff.

Ms. LaPisto-Kirtley said that she had one comment on page 14, second paragraph, last line. She said that it appeared that Albemarle had not yet instituted an ongoing Art in Public Places program, but it could benefit from one. She said that she suggested that Freebridge Lane, once it became permanent, could be a potential place for such a program. Other venues could also be considered, and she believed that this would be a valuable community-building event.

Mr. Gallaway said that most of his comments were covered during their discussion about the objectives. He said that there had been mention of the public good earlier, and he wanted to generally recognize that when they discussed historic preservation, if they were qualifying areas and tiering them for protection, so that one area may be of higher priority than another, a scenic view did not necessarily have to be public property in order to be viewed.

Mr. Gallaway said that when they were actually talking about specific sites and structures, they needed to consider the public's ability to access and appreciate them. In his opinion, properties that were accessible to the public, beyond just knowing they had been preserved, should be given higher priority than those that were privately owned and not accessible to the public. For example, he recalled an application a couple of years ago in Scottsville, where a water mill was being preserved.

Mr. Gallaway said that as part of the application, the property owner was willing to make the property accessible to the public, allowing students to take tours and learn about the historic mill. This was different from simply restoring a barn and making it functional without any public benefit. If a property owner was willing to allow public access, even if it was just for a short period, such as during the off-season, that should be taken into consideration when evaluating historic preservation projects.

Mr. Pruitt said that he did not have any suggested changes to the narrative, but he did want to state that he appreciated the inclusion of legends and captions on every single photo. He thought this was especially relevant here, and he was pleased to see it. He found it ironic that they were grappling with the early stages of a conversation on historic preservation, and looking at page 9, which appeared to be a history of the situation, which suggested they may not succeed in this endeavor. He noted that on page 9, the quotation had too many periods for an ellipsis.

Mr. Andrews said that his main comment was about Certified Local Governments being incorporated into the objectives and actions. He said that he would also like to make a similar comment regarding page 14, which discusses cultural resources today. There was a lot of valuable information in these three paragraphs that he did not think had been effectively incorporated into the objectives and actions; when they discussed objectives and actions, they were primarily focused on historic resources or streams that protected historic resources. However, this page addressed other types of cultural resources, and he believed it would be beneficial to reflect those in their objectives and actions, so that they could promote and raise awareness of these resources, and support their preservation, as he believed they enhanced to their quality of life. He said that next, they could take up the Resilient Community crosswalk.

Ms. Tonya Swartzendruber explained to the Board that staff had eliminated the Resilient Community chapter, primarily because they felt that the content was limited. Upon further development, they realized that the material could be effectively integrated into the Environmental Stewardship and Community Facilities chapters. By doing so, they avoided having a chapter with limited content.

Ms. Swartzendruber said that they could review the previous feedback on the Resilient Community content, as well as the community input themes, in the Board packet. She said that specifically, for the Community Facilities chapter, the subtopics included community resilience hubs, as well as the local food system topic. The objectives for this chapter were to promote programs that benefited community health and well-being, while focusing on healthy and affordable food systems.

Ms. Swartzendruber said that for the Environmental Stewardship chapter, the subtopics centered around resilience, climate adaptation and mitigation, and they included the findings and trends related to those topics. They also included an objective for preparing and recovering from natural and man-made hazards, as climate change had impacted them. Since this content overlapped with several chapters, including transportation, land use, parks, and housing, they decided to focus on the two chapters that most closely aligned with the topics.

Ms. Swartzendruber stated that staff had two focus topic questions for the Board, which were whether they supported expanding Urban Agriculture as a shared resource for public land and/or private property, as stated in Actions 2.1 and 2.2, and whether they had any questions or feedback on content, objectives, or actions.

Ms. McKeel said that she would like to start with the narrative, which she felt was particularly well done. The major findings were very important to her. However, they would be changing frequently, and she was not sure exactly how this would be incorporated into the document. She said that on page 4, it mentioned Albemarle County's target to reduce greenhouse gas emissions, which they had discussed previously. As she read that, she wondered where they currently stood with that progress.

Ms. McKeel stated that she was not even sure she knew the current status. If they included it in the narrative tomorrow, it would be out of date within a month, and she wanted to recognize that. She asked if, given their current technology and capabilities, there was a way to update key points, such as this one, on their website on a regular basis. It would be interesting for the public to see where they stood.

Ms. Swartzendruber confirmed that it was indeed possible. She stated that another aspect they were currently examining and would present to the Board in approximately five weeks was the implementation process and the metrics they would use to measure its success. These indicators may include changes in population and greenhouse gas emissions. She appreciated Ms. McKeel's point and believed it would be a valuable addition to their website. Staff could also incorporate it into their annual report, which they anticipated presenting to both the Planning Commission and the Board.

Ms. McKeel said that she believed their community was deeply focused on addressing climate change and raising awareness about the issue. She said that it was essential to continue sharing their progress, challenges, and the work that needed to be done. She thought it would be beneficial to keep this information on their website and provide a predictable update schedule for it. She said that she would go over her comments on the objectives. She said that regarding 1.4 and the Virginia regulated dams, she was impressed that staff had held a special work session with property owners who had dams on their property.

Ms. McKeel asked if staff could provide some more information on participation in the National Flood Insurance Program as it related to Action 1.8.

Ms. Swartzendruber said that it was out of her wheelhouse, but she could provide follow-up information to the Board.

Ms. McKeel said that was fine. She stated that she was in favor of establishing a fire hazard risk overlay. She said on a related note, she recalled Fire Chief Dan Eggleston mentioning the idea of hardscaping in response to the many mulch fires the Fire Department had to respond to. She said that implementing hardscaping around businesses, eliminating mulch, and starting to hardscape could significantly reduce the number of mulch fires. However, there appeared to be pushback to this issue. She felt that the County needed to create an ordinance or another document that addressed fire risk as it related to climate change.

Ms. Swartzendruber noted that in the Environmental Stewardship chapter, they had included language that specified fire-wise design was a priority.

Ms. McKeel replied that she believed it should be more regulatory than encouragement or a suggestion. She stated that in 1.12, it mentioned fire-resistant materials, which she felt could also be included in another fire-prevention document. She asked if there was a way to determine the locations and measurements of the County's aquifers and groundwater.

Ms. Swartzendruber stated that she would have to confer with Mr. Greg Harper to answer that question.

Ms. McKeel stated that they often discussed steep slopes and managed slopes in this community, and she believed that private businesses and industries may have more effective methods for determining these slopes than the County did. She said that perhaps it was due to technological advancements or other factors, and she was not sure if the County had already implemented these methods, but she thought it was crucial that they could accurately determine managed and steep slopes, as they encountered these slope issues frequently.

Ms. Mallek agreed that the narrative was really great, and having struggled through the language when LCAPP (Local Climate Action Planning Process) was being put together in 2010, she had learned all these new terms, and having a narrative like this one would have sped up her homework a lot. She said on page 7, she would like to draw attention to the river gauges mentioned by Chief Eggleston at a previous Board meeting when discussing emergency preparation. She wanted to ensure they did not forget that this was something they were aware of, and they could partner with state agencies and others to get those put back in.

Ms. Mallek said that regarding Action 1.5, she wanted to caution against duplicating efforts already being done by the DCR (Department of Conservation and Recreation). She said that she had received numerous letters from DCR about their dam trainings and initiatives, and they may have already partnered with Mr. Harper and Jamie Powers on this.

Ms. Mallek said that regarding Action 1.7, she asked if they had the authority to require this. She said that she assumed they did as far as stormwater updates, because that was in perpetuity as long as a business was in operation, but it did require the staff to be able to go out there and inspect and enforce it. She was unclear about what Action 1.8 was referring to, so she would appreciate it if someone could send more information via email. She said that she was also unsure about whether it referred to a federal program or something else.

Ms. Mallek said that regarding Action 1.9, she was concerned about the high-risk fire dangers in the White Hall District, particularly with houses being built in areas that were difficult to serve with fire apparatus. She said that she would like to learn more about possible solutions beyond downzoning, which had been implemented in 1980 to protect water.

Ms. Mallek said that with Action 1.11, she believed there were still state dollars available for this, but she recalled that for many years, volunteer fire companies recruited landowners with stream access and provided funding for dry hydrants at lakes, ponds, and off of bridges to ensure they had water sources available for fire suppression in rural areas. She believed the County's public relations team could disseminate the relevant information to their constituents.

Ms. Mallek stated that with Action 1.13, she would like to reiterate the importance of having appropriately sized trees, which was a recurring issue. She said she had failed to secure changes to the criteria allowing for 40-foot intervals, but she believed a moderate-sized tree at 30-foot intervals would be more suitable for survival and safety. Other neighborhoods may be facing similar issues. She said that as she was driving by Dunlora Forest the other day, she wondered if they were experiencing the same challenges that Old Trail was.

Ms. Mallek said that the sheer size of the trees, with their massive trunks and sprawling canopies, required a significant annual effort to prune them back from houses and remove their roots from basements. To address this, they needed to refine their approach to ensure that only trees of an appropriate size were allowed in these residential areas. She said that she believed that many homeowners and neighborhoods across the state would benefit from this.

Ms. Mallek said that she would ask Bill Mawyer to provide an update on Action 1.16. She noted that Rivanna had a well-established policy in place, but she was not familiar with the specific intervals and measurements that triggered each step. The locality only had authority to regulate municipal water, which was why they could not address the issue of private wells. This created a regulatory gap that led to resentment among residents who lived in areas with public water but still chose to install wells to water their yard, which could harm the aquifer. She said that she wished they had the authority to fix this gap, but for now, it remained a challenge.

Ms. LaPisto-Kirtley said that she was supportive of the phrasing on page 4 regarding their growth management policy, connective development, and infill. Furthermore, she said on page 7, Action 1.5, she believed it was important to identify and make accessible any grants and funding to assist property owners in maintaining private dams, which could be expensive.

Mr. Gallaway thanked staff for Actions 1.1 and 1.2, which he felt were effective in communicating that they should update their plans in tandem with each other. He was supportive of the narrative as it was written. He was glad that Action 1.3 referred to a Countywide resilience plan so that they addressed flood and fire issues wherever they arose in the County. He believed that strategies may differ based on the area of the County, and it was important to focus on prevention measures for any and all landscapes. He felt that the language with the flood protection plan was getting at it, but the fire protection plan would benefit from that same sentiment. He said that he would be interested to learn about the flow of stormwater and what the County could actually do to regulate it. He said that he did not believe Action 1.16 regarding drought was necessary because they already had all of that in place.

Mr. Pruitt agreed with the other Supervisors that the narrative was well-written, and he would not change much of it. He also liked the actions as written and did not see any major issues that needed to be addressed. However, he thought there were some key points that were conspicuously missing, and perhaps that was because they went into a different chapter than the Environmental Stewardship Chapter. He said that regarding resilience, he wanted to emphasize that the way that climate change would impact residents most directly was with home expenses, particularly heating, cooling, and maintenance costs associated with changing weather patterns.

Mr. Pruitt noted that there were federal programs for heating and cooling assistance, but they were notoriously bad at being implemented or meeting the needs. He would be supportive of exploring the extent of that need in their community to see if it warranted independent investment. This was likely to be a major concern for many residents, especially in the context of low-income, owner-occupied housing. Additionally, while they were discussing heating and cooling, it was essential to acknowledge the role of the electrical grid, which had not been adequately addressed.

Mr. Pruitt proposed that they include a line in the comprehensive plan that encouraged collaboration with state offices, agencies, and lawmakers to ensure the readiness of regulated energy providers to meet concerns and avoid shifting climate-related costs to ratepayers. This was abundantly applicable to this chapter and something he would assume the Board would agree upon as an essential aspect of climate resilience.

Mr. Pruitt said that he would also like to highlight the pressing concerns of climate change that

threatened their community, including increased pestilence from ticks and tick-borne illnesses, as well as injurious effects on their growing seasons. While he did not have specific action items for these concerns, they were important to address. He would not pretend to know the ideal government interventions for these issues, but there were concerns that they had identified in their own climate risk assessments.

Mr. Pruitt said that it would be expected that they would make some effort to address these concerns, as they were of significant importance to him and his constituents. For example, he had a large number of farmers in his jurisdiction, and many of his constituents were concerned about ticks and other health issues related to outdoor activities. He said that he would be interested in exploring the possibility of targeting an action towards addressing these issues.

Mr. Andrews said that he liked this chapter and did not have anything he would like to remove from it. He said that Action 1.14 stated "pursue federal funding," which should also include state funding. He was supportive of Mr. Pruitt's suggestions, and while he was unsure of how much they could include as a legislative agenda in these documents, he knew they could include some, so he thought it would be appropriate with respect to ratepayers. He felt that what they could do about Spotted Lanternfly and ticks was a whole other issue, but he agreed they should be thinking about those impacts.

Mr. Gallaway added that he liked Actions 1.1 and 1.2 because they specified that if it was in a plan and the plan was effective, then the Comprehensive Plan endorsed that. If those points were not in the relevant plan, then he did not know it was necessary to put it into the Comprehensive Plan; rather, they should update the other plans to ensure they were adequately addressed and therefore endorsed by the comprehensive plan.

Ms. McKeel noted that the University of Virginia Foundation had a lot of wooded properties, some of which bordered neighborhoods and therefore had effects on them. As the trees were felled, they stayed a fire hazard until they were removed from the property. She had recently paid to have UVA Foundation debris removed from behind her home because they were a fire hazard. She asked if staff would consider working with the Foundation to strengthen fire prevention.

Mr. Andrews said that they would next review the Community Facilities Crosswalk, which had two objectives for the Board to provide feedback on.

Ms. McKeel said that she assumed that expanding Urban Agriculture as a shared resource for public land referred to parks, because that was the majority of the public land the County had available. She supported that proposal; allowing community gardens in the appropriate places could be a great asset to the community. She asked if staff could explain the private property aspect of Urban Agriculture.

Ms. Swartzendruber explained that on private property, a development that was including green space for residents could consider setting aside space for community gardens.

Ms. McKeel said that she wholeheartedly supported that. She stated that it would be much more beneficial as opposed to dog parks in a development. She said that she was in full support of encouraging urban agriculture as presented by staff.

Ms. Mallek agreed with supporting Urban Agriculture as well. She said that regarding the question on page 0, she believed the Community Resilience Hubs layout was excellent, and incorporating renewable energy sources with battery storage would be a significant improvement. She said that while having solar power on one's roof was beneficial, it was not a complete solution, as it could be automatically shut off during power outages.

Ms. Mallek said that if one had their own energy source, they could truly be a resilient hub. She noted that there was substantial funding available for battery storage in the past. She clarified that the Earlysville and Buck Mountain farmer's market was year-round, with indoor operations during the winter months and outdoor operations during the summer. She said that there used to be 15 farmer's markets in the County, but she was unsure of how many of those remained operational.

Ms. LaPisto-Kirtley agreed fully with the Urban Agriculture priority. She said that she believed it was essential to have more community gardens and farmer's markets, specifically in the urban area of the County, where it would benefit a lot of people. She said that she had a question on Action 1.1. She asked if staff could clarify the statement regarding the life expectancy gap between any two census tracts is less than five years.

Ms. Swartzendruber said that what this was trying to convey was the provision of healthcare between census tracts. She said that for example, if census tract A had a life expectancy of 82 years, while census tract B had a life expectancy of 72 years, they should consider how they could ensure that individuals in that census area received adequate healthcare, given their significantly lower life expectancy compared to surrounding tracts. This might be an indication that certain populations were being underserved.

Ms. LaPisto-Kirtley said that she believed a Comprehensive Plan was a rather abstract concept, and she was wondering if it was also influenced by global and world events, such as declining life expectancies. She thought they had a wealth of information in the document that addressed the quality of health and access to healthy food, so it did not seem necessary to track census data in that way.

Mr. Gallaway said that the language in that action item was somewhat disjointed, but its intent

was noble. There were a number of factors that could affect life expectancy in a census tract, but without the right wording it was not really possible to address them. He stated that he was generally supportive of this crosswalk, but he struggled with the question about Urban Agriculture because Actions 2.1 and 2.2 did not get answered if he provided a "yes" or a "no."

Mr. Gallaway said that those actions did not specify private property. In 2.1, the phrase "opportunities in more locations" was vague, as it did not specify whether these locations were public or private. In Action 2.2, it only identified public spaces, unless part of a Community Resilience Hub was private. He said that if they were stating that a new development in the development area wanted to create a community garden for its residents, and it was up to them whether or not they wanted to allow it, he would be supportive of that.

Mr. Andrews said that he had read somewhere in the document that Urban Agriculture, such as community gardens, were described as being recommended as a use in a required green space in new developments.

Mr. Pruitt said that while the results of community gardens could vary in their success, he did believe they were something that should be promoted and likely would thrive in Albemarle. He said that he had very few comments about this section in general, but he wanted to express his support of Action 1.1. He believed it was a very helpful measure of health equity because it was a measurable goal that aligned with its intended objectives.

Mr. Pruitt said that the only thing he would add was that they typically defaulted to census tract-level data, which was not as granular as it was often presented. He would be curious if this data was available at the block group level. He said that going to the block group level might make disparities appear more arbitrary due to the smaller sample size. He wanted to ask that they consider looking into the block group level of data, which could be more appropriate because census tracts often did not represent contiguous communities in a meaningful way due to their large size. For instance, one could not see Esmont in a census tract because it was occluded by being submerged in multiple rural communities.

Mr. Andrews agreed that the census tract size may be too big, but he did like the idea in general. He said that regarding Actions 2.1 and 2.2, private property, as urban development came in and wanted to do something with it. He said that the only additional comment he had was regarding the formatting of the text. He noticed that the two call-out boxes had a light green background with white text, which was unreadable.

Ms. Swartzendruber thanked Mr. Andrews for the feedback.

Ms. McKeel stated that she felt it was important to leave Action 1.1 in, and she would recommend that they use Asset Limited, Income Constrained, Employed (ALICE) data. It did not use census data but got into the magisterial level. She emphasized that the ALICE data was well-defined and relevant to addressing the intent of Action 1.1, as well as other transportation issues in the County.

Ms. LaPisto-Kirtley added that with that clarification, she was more supportive of Action 1.1.

Ms. McKeel reiterated that the ALICE data was available to the public and could be used by staff.

Ms. Mallek stated that regarding Action 2.1, one thing that came to mind was that if they already had an existing commercial entrance, a zoning clearance was required to establish a farmer's market, and this process became cumbersome for other small groups who wanted to simply occupy a field on a seasonal basis. She said that for example, the Forest Lakes market on Route 29 had difficulty getting started without a special permit, and many people did not have the funds to apply for a special use permit. She stated that when they should consider this as part of their work when they update the Zoning Ordinance.

Agenda Item No. 11. Closed Meeting.

At 5:26 p.m., Mr. Pruitt **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 to various boards and commissions including, without limitation: the Albemarle Broadband Authority, the Community Policy and Management Team (CPMT), the Historic Preservation Committee, the Jefferson Area Board for Aging Advisory Council, the Natural Heritage Committee, the Pantops Community Advisory Committee, the Piedmont Virginia Community College Board, and the Region Ten Community Services Board

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

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

Agenda Item No. 12. Certify Closed Meeting.

At 6:09 p.m., Mr. Pruitt **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: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Mr. Pruitt.
NAYS: None.

Agenda Item No. 13. Boards and Commissions.
Item No. 13.a. Vacancies and Appointments.

Ms. McKeel **moved** that the Board make the following appointments to Boards and Commissions:

- **Reappoint** Mr. William Walsh, Mr. Waldo Jaquith, Mr. Trevor Henry and Mr. Bill Fritz to the Albemarle Broadband Authority with said terms to expire on June 7, 2029.
- **Reappoint** Mr. Ross Stevens to the Historic Preservation Committee with said term to expire on June 4, 2028.
- **Appoint** Ms. Kathryn Gehred and Ms. Milan Mookerjee to the Historic Preservation Committee with said terms to expire on June 4, 2028.
- **Appoint** Ms. Joanne Hoyle to the Jefferson Area Board for Aging Advisory Council with said term to expire on May 31, 2027.
- **Appoint** Ms. Jennifer Olsen to the Natural Heritage Committee with said term to expire on September 30, 2028.
- **Reappoint** Ms. Anne Oliver, Mr. Henry Light and Ms. Judith Joyce to the Pantops Community Advisory Committee with said terms to expire on June 30, 2027.
- **Appoint** Ms. Dylan Henry to the Pantops Community Advisory Committee with said term to expire on June 30, 2027.

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

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

Agenda Item No. 14. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Trevor Henry, Deputy County Executive, stated that he wanted to bring the Board's attention to an announcement he had made earlier. He had forwarded an email introducing three interns who would be supporting the County Executive's office this summer. He said that one of them, Mr. Noah Ellington, working on his dual master's degree from North Carolina, and he would be graduating in 2026. He said he would be directly supporting the County Executive's office.

Mr. Henry said that earlier in the day, they would have seen Leah Rockwell, a University of Virginia student graduating in 2027 with a B.A. in Public Policy, and Wyatt Scott, a master's student in Public Administration from James Madison University, graduating in 2026. They would both be supporting the Performance and Strategic Plan Division of the County Executive's office. He said that they were excited to have them on board to provide assistance and share their knowledge, and the Supervisors would see them participating in meetings and other support.

Agenda Item No. 15. Public Comment on: Matters Previously Considered or Currently Pending Before the Board (Other than Scheduled Public Hearings).

Ms. Alicia Lenahan, Scottsville District, said that the federal and state governments consistently labeled all immigrants as dangerous criminals committing assault, rape, and murder. She said that this was patently untrue, especially in communities that welcome and protect newcomers. She said that facts mattered, and a higher proportion of immigrants did not equate to a higher rate of crime. She said that according to a report by the Center for American Progress, sanctuary counties experienced an average of 35.5 fewer crimes per 10,000 people compared to non-sanctuary counties.

Ms. Lenahan said that a study conducted at UC Davis found that immigrant men had a lower incarceration rate than U.S. born men for the last 150 years of American history and continued to do so. She said that immigrant men were also 50% to 60% less likely to be incarcerated than U.S. born men. She said that the administration was accusing sanctuary jurisdictions of leading "a lawless insurrection against the supremacy of federal law." She said that however, facts mattered.

Ms. Lenahan said that a sanctuary jurisdiction was defined by its commitment to limit or refuse to share immigration information with federal immigration officers like ICE (Immigration and Customs Enforcement) and CBP (Customs and Border Protection), regarding its constituents or citizens. She said

that sanctuary jurisdictions were legal. She said that the 10th Amendment stated that the federal government may neither issue directives requiring states to address particular problems nor command the state's officers or those of their political subdivisions to administer or enforce a regulatory program, such as immigration enforcement. She said that last week, the Department of Homeland Security (DHS) identified Charlottesville and Albemarle as sanctuary jurisdictions.

Ms. Lenahan said that far from standing up for their values and principles, or the people who lived here, both local governments adamantly denied having any policies or practices that prohibited or impeded cooperation with federal immigration laws or law enforcement officers. She said that in fact, Virginia had been identified as an immigration enforcement hotspot, along with Texas, Florida, Georgia, and North Carolina, five southern states with Democratic-leaning cities. She said that these states had been most cooperative with ICE in rounding up immigrants through deals known as 287G agreements, described as force multipliers by Border Czar Tom Homan.

Ms. Lenahan said that these practices undermined public safety, ignored constitutional rights, and were wrong. She said that Albemarle County should proudly wear the label Sanctuary Jurisdiction as a badge of honor. She said that the public recognized that heroic leadership came with risks, for the Board of Supervisors and for the rest of the community. She said that transparency was essential in addressing the County's concerns. She said that it was crucial to acknowledge who and what they feared.

Ms. Susan McCulley, Samuel Miller District, said that she was an organizer with Keep Going Together, a group dedicated to reducing suffering and harm in their community. She said that the numbers of those suffering and harmed continued to grow. She said that on May 19, the federal administration received approval to revoke Temporary Protected Status (TPS) for approximately 350,000 Venezuelans designated in 2023. She explained that TPS provides temporary protection from deportation to individuals from countries affected by war, natural disasters, or severe humanitarian crises.

Ms. McCulley said that similarly, on May 24, the Supreme Court allowed the Trump administration to strip temporary legal status from nearly 500,000 migrants who came to the United States through humanitarian parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans. She said that these individuals were previously screened and vetted by the government as needing temporary status due to the inhumane conditions in their home countries. She said that those conditions have not changed.

Ms. McCulley said that marginalized people with status were now subject to detention and deportation and will undoubtedly be hunted by ICE. She said that yesterday, there was another ICE action at the Albemarle District Court. She said that judges across the country were standing firm in the face of the torrent of threats, defending the rule of law and honoring their oath, which states in part, "I will do equal right to the poor and to the rich and faithfully discharge all the duties incumbent upon me under the Constitution and the law of the United States."

Ms. McCulley said that communities were facing down heavily armed federal agents in defense of their neighbors. She said that like scores of Americans before them, they were standing up to the unjust, immoral actions of rich, powerful individuals. She said that as members of this community, they strive to embody Emma Lazarus' poem, The New Colossus, inscribed at the foot of the Statue of Liberty.

Ms. McCulley said that Lazarus refers to the statue as Mother of Exiles and wrote in part, "Keep, ancient lands, your storied pomp. Give me your tired, your poor, your huddled masses yearning to breathe free. The wretched refuse of your teeming shore, send these, the homeless, tempest-tossed to me. I lift my lamp beside the golden door." She emphasized that it was past time for their local government to be honest with them and to join them.

Agenda Item No. 16. **Public Hearing: Fiscal Year 2025 Budget Amendment and Appropriations.**

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

The cumulative total of the Fiscal Year 2025 (FY 25) appropriations itemized below is \$21,213,217, which includes both eight previously-approved appropriations and 14 proposed new appropriations (Attachment A) totaling \$18,201,190. Because the cumulative amount of the appropriations exceeds one percent of the currently-adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 25 Budget Amendment totals \$21,213,217. The estimated expenses and revenues included in the proposed amendment are shown below:

PROPOSED FY 2024-25 BUDGET AMENDMENT

ESTIMATED REVENUES

Local Revenues	\$	11,524,491
State Revenues	\$	2,981,675
Federal Revenues	\$	1,303,767
Proffer Revenue	\$	1,250,000
General Fund Balance	\$	13,202,664
Other Fund Balances	\$	(9,049,380)
TOTAL ESTIMATED REVENUES	\$	21,213,217

ESTIMATED EXPENDITURES

General Fund	\$	2,807,270
Special Revenue Funds	\$	7,118,573
School Fund	\$	9,455,791
Capital Funds	\$	1,796,225
Debt Funds	\$	35,358
TOTAL ESTIMATED EXPENDITURES	\$	21,213,217

The budget amendment is comprised of a total of 22 separate appropriations, eight of which have already been approved by the Board of Supervisors.

- Four appropriations were approved 3/5/2025.
- One appropriation was approved 4/2/2025.
- Three appropriations were approved 5/7/2025.
- Fourteen appropriations are proposed for approval on June 4, 2025, as described in Attachment A.

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

ATTACHMENT A

Appropriation #2025039

Sources:	Local Revenue	\$8,100
Uses:	Sheriff Department Operations	\$8,100
Net Change to Appropriated Budget:		\$8,100

Description:

This request is to appropriate \$8,100 in revenue and related expenses, for services provided by the Albemarle County Sheriff's Office related to fingerprinting services offered to the community. Revenue from this service is used to fund the cost of these services as well as program support for other community services provided by the Sheriff's Office.

Appropriation #2025040

Sources:	Local Revenue	\$9,225
	General Fund: Parks & Recreation (previously appropriated)	\$20,775
Uses:	Darden Towe Park Fund	\$30,000
Net Change to Appropriated Budget:		\$9,225

Description:

This request is to appropriate \$30,000 to the Darden Towe Park Fund. Pursuant to the funding agreement, the County's share is \$20,775 and will be provided from savings from previously appropriated General Fund funds in the FY 25 Parks & Recreation Department budget, and the remaining \$9,225 will be provided by the City of Charlottesville per the cost-share agreement. This funding will provide for increased maintenance costs in the fourth quarter of FY 25 that were incurred at Darden Towe Park due to inflation of material and utility costs.

Appropriation #2025041

Sources:	Reserve for Contingencies (previously appropriated)	\$216,906
Uses:	General Fund: Fire Rescue	\$216,906
Net Change to Appropriated Budget:		\$0

Description:

This request is to appropriate \$216,906 in previously appropriated funds, from the FY 25 Reserve for Contingencies to the Albemarle County Fire Rescue (ACFR) budget for operating costs associated with the procurement and distribution of the medications administered by the Emergency Medical Services (EMS) system. Prior to FY 25 this service was provided through a hospital-based drug box exchange program. That program was discontinued in November 2024, which was after the FY 25 budget had been adopted, at which time the County became responsible for procuring and distributing the medications for the EMS system. The County's process utilizes automated dispensing cabinets, which provides an increased level of security, meeting requirements of the Drug Enforcement Agency and Board of Pharmacy, while making the process for ambulances to restock more efficient.

Appropriation #2025042

Sources:	General Fund's Fund Balance	\$13,202,664
	Capital Fund's Fund Balance	(2,000,000)
Uses:	General Fund	\$2,792,670
	School Fund	7,659,994
	Children's Services Act Fund	750,000

Net Change to Appropriated Budget: **\$11,202,664**

Description:

Pursuant to the information shared with the Board of Supervisors and the School Board, and the direction from the Board of Supervisors during the FY 26 budget development process, this request is to appropriate \$13,202,664 of FY 24 General Fund year-end undesignated funds for the following uses:

- \$750,000 to the Children's Services Act Fund.
- \$2,000,000 to the Capital Budget. There is a corresponding reduction in the planned use of fund balance of this fund in FY 25. The funding is programmed to support the Adopted FY 26-30 Capital Improvements Program.
- \$2,407,670 to the Health Fund for the County government share of a one-time infusion to shore up fund balance.
- \$6,219,994 to the School Fund for the Public Schools share of a one-time infusion to the Health Fund to shore up fund balance.
- \$1,825,000 for the employer share of health insurance costs in calendar year 2025, which increased greater than budgeted in FY 25, including the following:
 - \$385,000 for the County Government share
 - \$1,440,000 for the Public Schools share.

Appropriation #2025043

Sources:	Proffer Funds' Fund Balance	\$1,356,911
	Affordable Housing Investment Fund's Fund balance	(106,911)
Uses:	Capital Project: Transportation Leveraging Program	\$1,250,000

Net Change to Appropriated Budget: **\$1,250,000**

Description:

This request is to appropriate \$1,356,911 from Proffer Funds' fund balances for the following uses.

- \$1,250,000 to the Capital Budget in support of the Transportation Leveraging Program. These proffer funds were included in the plan for the Adopted FY 26 – 30 Capital Improvement Plan.
- \$106,911 to the Affordable Housing Investment Fund (AHIF). As there are no identified uses in FY 25, there is a corresponding reduction in the planned use of fund balance of this fund in FY 25. The balance of the AHIF budget and fund balance remaining at the end of FY 25 will be recommended to be re-appropriated to FY 26.

Appropriation #2025044

Sources:	Capital Fund's and Debt Service Fund's Fund Balances	\$35,358
Uses:	Debt Service Funds	\$35,358

Net Change to Appropriated Budget: **\$35,358**

Description:

This request is to appropriate \$35,358 in the Capital Fund's and Debt Service Fund's fund balances to the Debt Service Funds to complete a reconciliation of bond paying agent fees and the reallocation of interest from one debt service fund to another.

Appropriation #2025045

Sources:	State Revenue – Grant Revenues	\$50,000
Uses:	Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund (VBAF)	\$50,000
Net Change to Appropriated Budget:		\$50,000

Description:

This request is to appropriate \$50,000 in State grant revenue to fund environmental assessment and site remediation planning for the former Purvis Store site in Esmont. This funding includes \$50,000 in State revenues from a Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund (VBAF) program grant to be passed through to the nonprofit Friends of Esmont, Inc.

Appropriation #2025046

Sources:	Federal Revenue – Grant Revenues	\$1,303,767
Uses:	Capital Project: Sugar Hollow Trailhead and Parking Area	\$1,303,767
Net Change to Appropriated Budget:		\$1,303,767

Description:

This request is to appropriate \$1,303,767 to construct the Sugar Hollow trailhead and parking area. This funding includes \$1,303,767 in Federal revenues from an Eastern Federal Lands Access Program (FLAP) grant.

Appropriation #2025047

Sources:	Local Revenue	\$300,000
Uses:	School Fund	\$300,000
Net Change to Appropriated Budget:		\$300,000

Description:

This request is to appropriate \$300,000 to the School Fund for grants, donations, and School activity funds. The Public Schools have exceeded the currently appropriated amount in grants, donations, and activity funds and anticipate that there will be additional revenue received throughout the year.

Appropriation #2025048

Sources:	Local Revenue	\$42,458
Uses:	Capital: Project Fund: – Courts Facilities Addition/Renovation	\$42,458
Net Change to Appropriated Budget:		\$42,458

Description:

This request is to appropriate \$42,458 in revenue from the City of Charlottesville. This funding is a reimbursement to cover the City's portion of utility permitting fees for the court facilities renovation per the City-County agreement on the project. This reimbursement is in addition to the City's original contribution and will provide increased funding for the project.

Appropriation #2025049

Sources:	Capital Project: Southern Elementary School	\$608,037
Uses:	Capital Project: Southern Elementary School	\$608,037
Net Change to Appropriated Budget:		\$0

Description:

This request is to appropriate \$608,037 in identified savings from allowances in the Southern Feeder Pattern Elementary School capital project to be used towards the purchase of two adjacent residential properties as approved by the School Board on March 27, 2025.

Appropriation #2025050

Sources:	Capital Project: Advancing Strategic Priorities Reserve	\$1,000,000
Uses:	Affordable Housing Investment Fund	\$1,000,000
Net Change to Appropriated Budget:		\$0

Description:

This request is to appropriate \$1,000,000 from the Advancing Strategic Priorities Reserve to the Affordable Housing Investment Fund pursuant to Board action at the April 7, 2025 Board of Supervisor's meeting.

Appropriation #2025051

Sources:	Local Revenue	\$11,069,903
	Capital Fund's Fund Balance	(\$7,084,738)
Uses:	Affordable Housing Investment Fund	\$3,000,000
	Economic Development Fund	\$985,165
Net Change to Appropriated Budget:		\$3,985,165

Description:

Pursuant to the information shared with the Board of Supervisors and direction from the Board of Supervisors during the FY 26 budget development process, this request is to appropriate \$11,069,903 of FY 25 General Fund revenue as the result of the calendar year 2025 tax rate increases for Real Estate and Personal Property. These tax rate changes are effective as of January 2025 and will be reflected in the revenue collected in the first half real estate and personal property tax bill collections. As discussed in the FY 26 budget development process, these revenues in FY 25 are recommended to be allocated according to the Board of Supervisors' Financial Management Policies for allocating shared revenues, which is as follows

- \$7,084,738 to the Capital Budget. This amount includes the Capital & Debt program's formula share of \$1,106,990 plus the Public Schools' formula share of \$5,977,748. There is a corresponding reduction in the planned use of fund balance of this fund in FY 25. The funding is programmed to support the Adopted FY 26-30 Capital Improvements Program.
- The County Government formula share of \$3,985,165 is recommended to be allocated as follows:
 - \$3,000,000 to the Affordable Housing Investment Fund (AHIF). The balance of the AHIF remaining at the end of FY 25 will be re-appropriated to FY 26.
 - \$985,165 to the Economic Development Fund. The balance of the Economic Development Fund remaining at the end of FY 25 will be re-appropriated to FY 26.

Appropriation #2025052

Sources:	Local Revenue	\$14,453
Uses:	Vehicle Replacement Fund	\$14,453
Net Change to Appropriated Budget:		\$14,453

Description:

This request is to appropriate \$14,453 in insurance recovery revenue to the Vehicle Replacement Fund to be used toward the purchase of replacement vehicles for the Police Department.

Mr. Ryan Davidson, Deputy Chief of Budget, stated that tonight, they had a public hearing and action item to amend the FY25 budget. He said that he would first provide an overview of the contents of this amendment, after which he would answer any questions the Board may have. He explained that Virginia Code required a public hearing before amending the budget when the total amount of the funding exceeded 1% of the currently adopted budget.

Mr. Davidson said that in this case, this budget amendment totaled approximately \$21.2 million. Of that, \$3 million had been approved by previous Board actions and appropriations in March, April, and May of this year, and \$18.2 million was under consideration for approval tonight. He said that he would like to bring to the attention of the Board and the public two appropriations that had been previously

discussed as part of the FY26 budget process.

Mr. Davidson said that the first was \$13.2 million of undesignated fund balance. This appropriation, as well as the one related to the tax rates, were discussed with the Board as part of the FY26 budget process. He said that these were uses above and beyond the County's financial management policies for the 10% fund balance and 2% budget stabilization that were worked in through the budget development process.

Mr. Davidson stated that the full details were included in Attachment A, but the main aspects included \$2 million for the capital budget, \$2.4 million for the Health Fund to fund the County government share of the one-time health care infusion, and \$6.2 million to be contributed to the Health Fund and schools, with the schools then contributing that amount back to the Health Fund for their share of the infusion.

Mr. Davidson said that the second appropriation was related to the FY25 General Fund revenue generated from the approved tax rate changes. He explained that the tax rates were approved on a calendar year basis, and half of FY25 would be under these increased tax rates. He said that they had not initially accounted for this revenue, and as part of the budget process, they had discussed potential uses for this additional revenue in FY25. He said that this was an administrative action to allocate those funds, which went through their normal revenue share split with the schools, which was 54% for the schools portion, 36% for the local government, and 10% for the capital program.

Mr. Davidson said that approximately \$7 million would be appropriated to the Capital Fund, including the schools' portion, and their normal County government capital portion of about \$1 million. The remaining local government portion of approximately \$4 million would be allocated as follows: \$3 million would be one-time funding to the Affordable Housing Fund, and just under \$1 million would be allocated to the Economic Development Fund. He said these allocations were aligned with the uses they had discussed as part of their FY26 budget process.

Mr. Davidson said that a summary slide showed the \$21.2 million in appropriations under consideration categorized the main areas of expenditure; however, he would not detail each item individually. He said for further information, he would ask that they refer to Attachment A from tonight's agenda, as well as Attachments A from their March, April, and May meetings. In conclusion, staff's recommendation was that the Board adopt the resolution in Attachment B to amend the FY25 budget after holding a public hearing.

Mr. Gallaway noted that it was mentioned that the savings from the Southern Feeder Pattern Elementary School would go towards two adjacent parcels where they would build the school. He asked if the information about those properties could be provided by staff as a follow-up.

Mr. Davidson replied yes.

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

Ms. McKeel **moved** that the Board of Supervisors adopt the Resolution to approve the additional Fiscal Year 2025 appropriations in the form of Attachment B. Ms. Mallek **seconded** the motion.

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

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

**RESOLUTION TO APPROVE
ADDITIONAL FY 2025 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 25 Budget is amended to increase it by \$18,201,190;
- 2) That Appropriations #2025039; #2025040; #2025041; #2025042; #2025043; #2025044; #2025045; #2025046; #2025047; #2025048; #2025049; #2025050; #2025051; and #2025052 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, 2025.

APP#	Account String	Description	Amount
APP2025039	1000-2-23100-316000-0000-9999-00000-00000-160117-	Fingerprinting revenue	\$8,100.00
APP2025039	1000-2-23100-421800-0000-9999-00000-00000-592000-	Program Support from fingerprinting revenue	\$8,100.00

APP2025040	5804-7-71910-319000-0000-9999-00000-00000-190207-	Charlottesville City Share	\$9,225.00
APP2025040	1000-7-71400-471000-0000-9999-00000-00000-345200-	Reduce Athletics & Classes Instruction	-\$12,465.00
APP2025040	1000-7-71700-471000-0000-9999-00000-00000-601300-	Reduce Teen Programs Education & Rec Supplies	-\$4,155.00
APP2025040	1000-7-71700-471000-0000-9999-00000-00000-601100-	Reduce Teen Programs Uniforms	-\$1,385.00
APP2025040	1000-7-71100-471000-0000-9999-00000-00000-379300-	Reduce Admin Advertising	-\$1,385.00
APP2025040	1000-7-71200-471000-0000-9999-00000-00000-371000-	Reduce Maintenance Purchase of Services Govt	-\$692.00
APP2025040	1000-7-71400-471000-0000-9999-00000-00000-379300-	Reduce Athletics & Classes Advertising	-\$693.00
APP2025040	5804-7-71910-471000-0000-9999-00000-00000-600700-	Increase Towe Maintenance Supplies	\$20,775.00
APP2025040	5804-7-71910-471000-0000-9999-00000-00000-510121-	Increase Towe Utilities	\$9,225.00
APP2025040	1000-7-71910-471000-0000-9999-00000-00000-700007-	GF Transfer To Towe	\$20,775.00
APP2025040	5804-7-71910-351000-0000-9999-00000-00000-512004-	GF Transfer To Towe	\$20,755.00
APP2025041	1000-9-94000-499000-0000-9999-00000-00000-999990-	Reserve for Contingencies Transfer to ACFR	-\$216,906.00
APP2025041	1000-3-33100-432000-0000-9999-00000-00000-372200-	Technology Support	\$26,768.00
APP2025041	1000-3-33100-432000-0000-9999-00000-00000-432104-	Software License	\$440.00
APP2025041	1000-3-33400-432000-0000-9999-00000-00000-600000-	Pharmacy Materials and Supplies	\$12,500.00
APP2025041	1000-3-33400-432000-0000-9999-00000-00000-600800-	Pharmacy Vehicle Fuel and Maint	\$5,000.00
APP2025041	1000-3-33400-432000-0000-9999-00000-00000-600900-	Cabinet Locks for ACFR Vehicles	\$65,760.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-120000-	OT for Training	\$16,000.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-331211-	Building Maintenance for Pharmacy	\$1,775.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-520300-	Fire Pharmacy Cell Phone	\$480.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-600400-	Fire Pharmacy Drug Kits	\$16,183.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-600402-	Fire Pharmacy Medications	\$70,000.00
APP2025041	1000-3-33500-432000-0000-9999-00000-00000-800700-	Fire Pharmacy Admin Equipment	\$2,000.00
APP2025042	1000-5-51100-493000-0000-9999-00000-00000-935105-	Transfer to CSA	\$750,000.00
APP2025042	5320-5-51100-351000-0000-9999-00000-00000-512016-	Transfer In - CSA	\$750,000.00
APP2025042	5320-5-51100-453400-0000-9999-00000-00000-581001-	CSA Expenses (or other revenue reduction)	\$750,000.00
APP2025042	1000-9-99000-493000-0000-9999-00000-00000-939102-	Transfer to CIP one-time	\$2,000,000.00
APP2025042	9010-9-99000-351000-0000-9999-00000-00000-512074-	Transfer in - CIP	\$2,000,000.00
APP2025042	9010-9-99000-352000-0000-9999-00000-00000-510100-	Use of Fund Balance - CIP	-\$2,000,000.00
APP2025042	1000-9-94000-499000-0000-9999-00000-00000-999960-	Health Fund Infusion - Gen Gov Share	\$2,407,670.00
APP2025042	1000-9-99000-493000-0000-9999-00000-00000-932100-	\$1.44M for PY25 health insurance increase; \$6.22M for health fund infusion	\$7,659,994.00
APP2025042	2000-6-62000-351000-0000-6599-00000-00000-512004-	Transfer In - School Fund	\$7,659,994.00
APP2025042	2000-6-69998-461101-0000-6501-00000-00000-231000-	PY25 health insurance increase - Schools	\$1,440,000.00
APP2025042	2000-6-69998-461101-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$4,596,740.00
APP2025042	2000-6-69998-462150-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$289,838.00
APP2025042	2000-6-69998-462320-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$479,533.00
APP2025042	2000-6-69998-462420-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$486,015.00
APP2025042	2000-6-69998-494100-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$10,380.00
APP2025042	2000-6-69998-468200-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$175,353.00
APP2025042	2000-6-69998-463100-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$130,551.00
APP2025042	2000-6-69998-465301-0000-6501-00000-00000-400000-	School Fund Health Fund Infusion	\$51,584.00
APP2025042	1000-9-99000-352000-0000-9999-00000-00000-510100-	Use of Fund Balance - General Fund	\$13,202,664.00
APP2025042	1000-1-11100-411000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$20,150.00
APP2025042	1000-1-12100-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$3,690.00
APP2025042	1000-1-15100-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$10,850.00
APP2025042	1000-1-15200-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$13,230.00

APP2025042	1000-1-15400-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$1,380.00
APP2025042	1000-1-15500-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$13,590.00
APP2025042	1000-1-15600-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$270.00
APP2025042	1000-1-15700-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$5,540.00
APP2025042	1000-1-15800-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$0.00
APP2025042	1000-1-15900-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$120.00
APP2025042	1000-1-17100-413000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$2,650.00
APP2025042	1000-2-21100-421000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$290.00
APP2025042	1000-2-23100-421800-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$6,750.00
APP2025042	1000-2-24100-422000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$12,740.00
APP2025042	1000-3-31100-431000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$60,780.00
APP2025042	1000-3-33500-432000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$103,870.00
APP2025042	1000-4-41220-482000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$9,230.00
APP2025042	1000-4-41230-482000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$11,230.00
APP2025042	1000-4-41310-443000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$3,410.00
APP2025042	1000-4-41410-443000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$4,680.00
APP2025042	1000-4-41420-443000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$3,250.00
APP2025042	1000-4-41430-412000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$1,580.00
APP2025042	1000-5-51400-481000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$8,850.00
APP2025042	1000-5-51800-453000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$4,790.00
APP2025042	1000-7-71100-471000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$170.00
APP2025042	1000-7-71200-471000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$850.00
APP2025042	1000-7-71400-471000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$290.00
APP2025042	1000-7-71500-471000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$830.00
APP2025042	1000-7-71700-471000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$510.00
APP2025042	1000-8-81100-481000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$48,390.00
APP2025042	1000-8-81200-434000-0000-9999-00000-00000-231000-	PY25 health insurance increase	-\$8,740.00
APP2025042	1000-8-81300-481000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$2,860.00
APP2025042	1000-8-81500-481000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$14,380.00
APP2025042	1000-8-81600-481000-0000-9999-00000-00000-231000-	PY25 health insurance increase	\$22,540.00
APP2025043	8589-9-99000-493010-0000-9999-00000-00000-930239-	SA2025043 Proffers to Housing Fund	\$12,506.32
APP2025043	8589-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Housing Fund	\$12,506.32
APP2025043	8589-9-99000-493010-0000-9999-00000-00000-930242-	SA2025043 Proffers to Housing Fund	\$45,761.65
APP2025043	8584-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Housing Fund	45761.65
APP2025043	8573-9-99000-493010-0000-9999-00000-00000-930239-	SA2025043 Proffers to Housing Fund	48642.78
APP2025043	8573-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Housing Fund	48642.78
APP2025043	5801-9-99000-351000-0000-9999-00000-00000-512110-	SA2025043 Proffers to Housing Fund	12506.32
APP2025043	5801-9-99000-351000-0000-9999-00000-00000-512111-	SA2025043 Proffers to Housing Fund	45761.65
APP2025043	5801-9-99000-351000-0000-9999-00000-00000-512095-	SA2025043 Proffers to Housing Fund	48642.78
APP2025043	5801-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Housing Fund	-106910.75
APP2025043	9010-8-81000-494400-9136-0000-00000-00000-999999-	SA2025043 Proffers to Transporation Leveraging	1250000.00
APP2025043	8561-9-99000-493010-0000-9999-00000-00000-930243-	SA2025043 Proffers to Transporation Leveraging	500000.00
APP2025043	8561-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Transporation Leveraging	500000.00
APP2025043	8560-9-99000-493010-0000-9999-00000-00000-930244-	SA2025043 Proffers to Transporation Leveraging	750000.00
APP2025043	8560-9-99000-352000-0000-9999-00000-00000-510100-	SA2025043 Proffers to Transporation Leveraging	750000.00
APP2025043	9010-9-99000-351000-9136-0000-00000-00000-512112-	SA2025043 Proffers to Transporation Leveraging	500000.00

APP2025043	9010-9-99000-351000-9136-0000-00000-00000-512113-	SA2025043 Proffers to Transporation Leveraging	750000.00
APP2025044	9900-9-95000-495000-0000-9999-00000-00000-312810-	SA2025044 Debt Service Funds Reconciliation	18759.25
APP2025044	9910-9-95000-495000-0000-9999-00000-00000-312810-	SA2025044 Debt Service Funds Reconciliation	16598.25
APP2025044	9900-5-51000-351000-0000-9999-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	18759.25
APP2025044	9910-5-51000-351000-0000-9999-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	16598.25
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939901-	SA2025044 Debt Service Funds Reconciliation	18759.25
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939902-	SA2025044 Debt Service Funds Reconciliation	16598.25
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939201-	SA2025044 Debt Service Funds Reconciliation	-18759.25
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939101-	SA2025044 Debt Service Funds Reconciliation	-16598.25
APP2025044	9000-6-69000-352000-9184-0000-00000-00000-510100-	SA2025044 Debt Service Funds Reconciliation	18759.25
APP2025044	9000-6-69000-351000-9184-0000-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	-18759.25
APP2025044	9010-9-99000-352000-9136-0000-00000-00000-510100-	SA2025044 Debt Service Funds Reconciliation	16598.25
APP2025044	9010-9-99000-351000-9136-0000-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	-16598.25
APP2025044	9900-9-95000-495000-0000-9999-00000-00000-920089-	SA2025044 Debt Service Funds Reconciliation	-8744.00
APP2025044	9910-9-95000-495000-0000-9999-00000-00000-920091-	SA2025044 Debt Service Funds Reconciliation	8744.00
APP2025044	9900-5-51000-351000-0000-9999-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	-8744.00
APP2025044	9910-5-51000-351000-0000-9999-00000-00000-512004-	SA2025044 Debt Service Funds Reconciliation	8744.00
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939901-	SA2025044 Debt Service Funds Reconciliation	-8744.00
APP2025044	1000-9-99000-493000-0000-9999-00000-00000-939902-	SA2025044 Debt Service Funds Reconciliation	8744.00
APP2025045	1512-4-41300-324000-0000-9999-00000-00000-240053	Virginia Brownfields Abatement Fund - Purvis Store Site Cleanup - State Revenue	50000.00
APP2025045	1512-4-41300-494100-0000-9999-00000-00000-593000	Virginia Brownfields Abatement Fund - Purvis Store Site Cleanup - Expenses for Pass Through	50000.00
APP2025046	9010-4-41300-333000-9809-9999-00000-00000-330001	Sugar Hollow Trailhead Grant: Eastern Federal Lands Access Program Federal Revenue	1303767.00
APP2025046	9010-4-41300-494400-9809-9999-00000-00000-800605	Sugar Hollow Trailhead Grant: Eastern Federal Lands Access Program Expenses	1303767.00
APP2025047	2000-6-62000-324000-0000-6599-00000-00000-189900-	School Misc Revenue	300000.00
APP2025047	2000-6-62101-461101-0000-6599-00000-00000-580250-	Misc Flow Through	300000.00
APP2025048	9010-9-99000-319000-9323-0000-00000-00000-190207-	Court Facilities Addition/Renovation Charlottesville Share Utility Fee Revenue	42457.50
APP2025048	9010-4-41309-494200-9323-0000-00000-00000-800605-	Courts Facilities Addition/Renovation Construction Expenses	42457.50
APP2025049	9000-6-69985-466500-0000-6118-00000-00000-800605-	SA2025049 Southern Feeder Pattern Land Purchase	-608037.00
APP2025049	9000-6-69985-466500-0000-6118-00000-00000-800750-	SA2025049 Southern Feeder Pattern Land Purchase	608037.00
APP2025050	9010-1-11100-493000-9982-0000-00000-00000-930242-	SA2025050 ASPR To Housing Fund	1000000.00
APP2025050	5801-9-99000-351000-0000-9999-00000-00000-512114-	SA2025050 ASPR To Housing Fund	1000000.00
APP2025050	5801-9-94000-499000-0000-9999-00000-00000-999999-	SA2025050 ASPR To Housing Fund	1000000.00
APP2025050	9010-1-11100-499000-9982-0000-00000-00000-999955-	SA2025050 ASPR To Housing Fund	-1000000.00
APP2025051	1000-1-11000-311000-1000-0000-00000-00000-110122-	Revenue from RE Tax Rate Increase	9450642.00
APP2025051	1000-1-11000-311000-1000-0000-00000-00000-110325-	Revenue from PPT Tax Rate Increase	1619261.00
APP2025051	5801-9-94000-499000-0000-9999-00000-00000-999999-	GF Revenue Transfer to Housing Fund	3000000.00
APP2025051	5801-9-99000-351000-0000-9999-00000-00000-512004-	GF Revenue Transfer to Housing Fund	3000000.00
APP2025051	1000-9-99000-493000-0000-9999-00000-00000-935201-	GF Transfer to Housing Fund	3000000.00
APP2025051	1000-9-99000-493000-0000-9999-00000-00000-935203-	GF Revenue Transfer to Eco Dev Fund	985165.00
APP2025051	5807-8-82100-499000-0000-9999-00000-00000-999954-	GF Revenue Transfer to Eco Dev Fund	985165.00
APP2025051	5807-8-82100-351000-0000-9999-00000-00000-512004-	GF Transfer to Eco Dev Fund	985165.00
APP2025051	1000-9-99000-493000-0000-9999-00000-00000-939102-	GF Rev transfer to Local Gov CIP	1106990.00
APP2025051	1000-9-99000-493000-0000-9999-00000-00000-939202-	GF Rev Transfer to School CIP	5977748.00
APP2025051	9010-9-99000-351000-0000-9999-00000-00000-512074-	GF Rev Transfer to CIP	7084738.00
APP2025051	9010-9-99000-352000-0000-9999-00000-00000-510100-	GF Rev Transfer to CIP	-7084738.00

APP2025052	7200-9-99000-341000-0000-9999-00000-00000-410800-	ACPD Totaled Vehcile Insurance Reimbursement	14543.01
APP2025052	7200-3-31100-412560-0000-9999-00000-00000-800500-	Totaled Vehicle Replacement	14543.01

Agenda Item No. 17. **Public Hearing: SP202400022 & SE202400031 Living Earth School.**
PROJECT: SP202400022 Living Earth School
MAGISTERIAL DISTRICT: Samuel Miller
TAX MAP/PARCELS: 10100-00-00-020C0, 10100-00-00-02000, and 10100-00-00-01900
LOCATION: 3626 Red Hill Road
PROPOSAL: A request for a special use permit to allow a boarding camp on approximately 287.13 acres. The requests includes a max of 250 individuals at any given time for year-round activities and special events for up to 12 times per year with a max of up to 500 individuals. The proposed development includes camp facilities, staff residences, camping areas, and a pavilion.
PETITION: Request for a special use permit in accordance with Section 18-10.2.2 (20) and Section 18-5.1.05 for a Boarding Camp. Entrance Corridor: No
ZONING: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
OVERLAY DISTRICT: Flood Hazard
COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots) in Rural Area 4 in the Comprehensive Plan.

The Executive Summary forwarded to the Board states that at its meeting on March 11, 2025, the Planning Commission (PC) voted 6:0 to recommend approval of SP202400022 with the conditions stated in the staff report, with the following amendments:

- Removing Conditions 3b and 3c, which were inadvertently included by staff in the draft
- Changing Condition 5 from requiring that all attendees for events of up to 500 persons access the site by shuttle buses/vans, to requiring that attendees in excess of 200 access by shuttle buses/vans.
- Amending Condition 11 to allow amplified sound at the proposed “Welcome Center” on the site between 9 a.m. and 9 p.m.

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

SP202400022:

At its public hearing, the PC discussed the proposed attendance numbers at various times of year, streams on the site, and emergency-vehicle access. Seven residents spoke in support of the application. One adjacent landowner raised concerns with forest-fire safety given the applicant’s plans to have outdoor fires as part of the camp use.

Following the PC public hearing, Community Development and Fire-Rescue staff revised the recommended conditions. Specifically, these revisions address (1) safe site access for emergency vehicles (Condition 6) and (2) design and management of outdoor fire rings to address concerns about forest fires (Condition 12). Below are the revised conditions for SP202400022, which reflect amendments discussed at the PC and those added to address fire safety concerns:

- 1) Development and use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan prepared by Shimp Engineering, PC, titled “Living Earth Sanctuary,” revised 27 February 2025 (hereinafter "Concept Plan"). To be in general accord with the Concept Plan, development and use must reflect the following major elements as shown on the Concept Plan:
 - a) General location of structures, camping areas, and activity areas as shown on Sheet 2 of the Concept Plan;
 - b) Access-road cross section as shown on Sheet 5 of the Concept Plan
- Minor modifications, with the approval of the Zoning Administrator and the Director of Planning, to the Concept Plan that do not otherwise conflict with the elements listed above, may be made to ensure compliance with all applicable laws.
- 2) Vegetated forest cover on the site must be managed in general accord with sheet 6 of the Concept Plan.
- 3) For up to eight weeks each year, an overnight Summer Camp is permitted on the site during June, July, and August (“Summer Camp Season”). Summer Camp attendance must not exceed 250 campers on the site at any one time.
- 4) Outside of the Summer Camp season, camp attendance must not exceed 100 participants (excluding staff) on the site at any one time. Overnight camping is permitted only as part of a scheduled program run by the operators of the camp. The site must not be used as a commercial campground.
- 5) Programs or events on the site for up to 200 participants (excluding staff or contractors) must occur no more than 12 times per calendar year. Events on the site for more than 200 participants must occur no more than six times per calendar year, and the maximum number of attendees (excluding staff or contractors) for those events is 500 persons. For any event with more than 200 attendees, all

attendees in excess of 200 must arrive and depart the site in shuttle vans or buses rather than individual vehicles.

- 6) The existing crossing of White Oak Creek must be removed. The replacement crossing must span the stream bed. **The vehicle weight capacity of the crossing requires County approval prior to approval of a final site development plan.**
- 7) Existing stone walls and foundations on the site must not be removed or dismantled during development of the site or operation of the camp use.
- 8) Health Department approval is required for all well and septic facilities prior to issuance of a Zoning Clearance.
- 9) Fire/Rescue approval of an emergency-access plan for the site is required prior to issuance of a Zoning Clearance.
- 10) Outdoor lighting is limited to full cut-off fixtures, shielded to reflect light away from all abutting properties.
- 11) Outdoor sound amplification is permitted only in the Main Camp Area and Welcome Area shown on the Conceptual Plan. In the Welcome Area, outdoor sound amplification is not permitted between the hours of 9 p.m. and 9 a.m.
- 12) **Campfires on the site must only occur in constructed fire rings whose location has been approved by the County.**
 - a) **All fires must be attended by camp staff from lighting until complete extinguishment.**
 - b) **A fire extinguisher must be maintained at the site of each active fire.**
 - c) **Fire rings must have a clear zone without trees within 50 feet of the edge of the fire ring.**

SE202400031:

A special exception is proposed to disturb approximately 2,647 square feet (0.06 acre) of critical slopes on the property adjacent to the entrance. The disturbance would be to improve sight distance at the entrance for departing vehicles. A detailed staff analysis is provided in Attachment A. The Commission was not required to act on SE202400031 and did not do so.

Staff recommends approval of the special exception to disturb critical slopes, provided that the area of land disturbance on critical slopes not exceed the disturbed slopes shown on the "Living Earth School Critical Slopes Exhibit" prepared by Shimp Engineering, P.C.

Staff recommends that the Board adopt the attached resolutions (Attachment D and E) to approve SP202400022 and SE202400031 The Living Earth School.

Mr. Scott Clark, Conservation Program Manager, stated that this request was for a special use permit (SUP) and a Special Exception (SE) request for a camp for outdoor and environmental education on a site adjacent to Walnut Creek Park, which spanned approximately 287 acres. The request was for a maximum of 250 attendees for camp activities, as well as up to six events per year with up to 500 attendees. The development included camp facilities, staff residences, camp areas, and a pavilion. Provided was an aerial view of the site, outlined in red on the map. He said that the light green area to the west of the site was Walnut Creek Park. He stated that access to the subject property was along Red Hill Road at the north end.

Mr. Clark noted that for the remainder of this presentation, the maps would be rotated with north to the right, rather than up, to better fit on the screen and the concept plan. He said that in summary, the proposed use would include eight weeks of summer camps with up to 250 campers per week. For the remaining 44 weeks per year, there would be other programs for up to 100 campers for camping groups, environmental education, for both students and adults. He said throughout the year, there would also be permission for up to 12 programs for 200 or fewer attendees, and six events for up to 500 attendees. He said that for the six events with attendees above 200 people, they would be arriving by shuttle vans and buses rather than in individual vehicles.

Mr. Clark explained that the proposed structures on the site would include a welcome pavilion, a camp hall, cabins for campers, staff residences, and other small structures, as well as a nature library and an activity pavilion. He said that the applicant had also proposed a central water and septic system, which would be discussed separately and at a later date, depending on the results of engineering on the site. He said that the applicant's concept plan showed the main features of the proposed use. He said that north was to the right, so Red Hill Road was at the right, and that was where the entrance was.

Mr. Clark said that there was one staff residence proposed to be at the front of the property, and as one came south, there was a welcome area where the majority of campers would be dropped off. There would be a pavilion there and also a maintenance building. Just south of that was White Oak Creek, where there was an existing stream crossing for the road that would be replaced. To the south of that was the main camp activity area, where the camp hall and cabins would be. To the west of that was the area for the remainder of staff residences, and the light blue areas were the primitive camping areas, which would be tents mostly in the woods.

Mr. Clark said that farthest to the south is the pavilion and the floodplain area, which was the only floodplain area on the parcel and did not have a floodplain crossing for the access route. He continued to explain that the proposed use also included a vegetation management plan, which would control the degree of clearing and open area use on the site. There were four categories, ranging from light green to

dark. The light green area was the most impacted, consisting of largely open spaces with some trees, and it accounted for approximately 70% of the site. This area would be left in a lightly managed forest state, with only invasive species and dead trees removed.

Mr. Clark said that Zones 2 and 3 areas would be designated for camping and other activities, so about 70% of the site would remain in its natural forested state. To review the Zoning Ordinance factors for approval of special use permits, the first was regarding no substantial detriment, and in that aspect, the applicants had worked with neighboring landowners to address issues such as visibility and noise. He noted that the welcome area, located about 500 feet from a dwelling, was buffered by a band of trees to minimize visibility and sound impacts. Furthermore, the driveway would be relocated to be approximately 250 feet away from the nearest dwelling, reducing the impact on that property.

Mr. Clark said that the applicants had also implemented screening measures in the area near the front entrance to minimize visibility of the driveway from the adjacent dwelling. He stated that another criterion for special use permit review was that the character of the nearby area should be unchanged. He indicated that the proposed layout maintained the existing pattern of large residential and forest parcels, with more open areas isolated towards the center of the property and buffered by less managed forest areas.

Mr. Clark said that under health and safety, the site would be accessed via Red Hill Road, and VDOT had no objections to the proposed use. He said that the applicants had requested a special exception for critical slopes disturbance. He said that the image shown on the slide depicted the entrance to the site, and past the zoning site was a steep slope created by the road construction. The applicant would clear that area of approximately 0.06 acres, which would increase visibility, especially for vehicles leaving the site so they could see the approaching traffic.

Mr. Clark said that regarding emergency access within the site, there was no floodplain in the way of access to the internal areas where the main activities would be. The concept plan showed internal road design as requested by Fire Rescue, which was illustrated on the slide. It would be designed with a 20-foot improved surface and a 20-foot clear area overhead to ensure emergency vehicles could navigate safely, as well as adequate width for emergency vehicles. He said that conditions would also include approval of an emergency access plan. He noted that one safety-related issue had been addressed since the item was presented to the Planning Commission, with staff working with Fire Rescue to amend conditions related to fire vehicle access and campfires to address emergency access concerns and fire safety concerns.

Mr. Clark said that he had noted in the Transmittal Summary, Condition 6 had had the second underlined sentence added regarding ensuring that the replacement crossing for White Oak Creek would be sufficient to support the County's emergency vehicles. Additionally, Condition 12 at the bottom had been added, which was a new condition regarding campfire management. He explained that concern had been expressed before and during the Planning Commission public hearing about outdoor fires in a context where dwellings were located in a wooded landscape nearby, so this condition would require that outdoor fires be contained in fire rings in locations approved by the County.

Mr. Clark said that these fire rings may change over time, but they would need to be approved before being established. He stated that fires must be attended by camp staff, fire extinguishers must be present at each site, and fire rings must have a clear zone without trees around them. He said that also in the transmittal summary, this was recommended to be 50 feet. Earlier that day, there had been a request for clarification from the applicants regarding why this was 50 feet, a more reasonable area for a campfire.

Mr. Clark said that staff had double-checked with Fire Rescue, and the fire marshal had confirmed that the 50-foot clear area was intended for open fires on the ground that did not have a fire ring or pit. In contrast, fire rings should have a 25-foot clear area around them. Therefore, staff was recommending that the condition be changed to reduce that cleared area from 50 feet down to 25 feet from the edge of the fire rings.

Mr. Clark said that under consistency with the Comprehensive Plan, this application had been consistent with several items in the 2015 Comprehensive Plan, including increasing the community's awareness of biodiversity and retaining and improving land cover near rivers and streams and wetlands. Under the Rural Area Plan, this application met that plan's goals of protecting natural resources, protecting the County's historic, archaeological, and cultural resources, and to provide information to citizens so they were well-informed and understood the cultural, economic, and ecological aspects of the rural area. He noted that the existing old stone walls on the site were also subject to a condition of approval.

Mr. Clark said that when reviewing special use permits in the rural area, staff often compared them to what might be possible under by-right development if that special use permit were not approved. He said that this particular site could have as many as 23 dwellings built on it, with no particular limits on structure size, roads, and driveways. The County would have limited control over vegetation changes on the site, and residential lots could be cleared, with the exception of regulations on vegetation in stream buffers. In contrast, the proposed camp proposal would have less extensive construction and significantly less vegetation removal possible.

Mr. Clark said that they also wanted to compare the traffic impacts, as shown in the table on the right of the slide, which estimated 261 trips per day during the weekday and 134 on Sundays for the

potential 23 by-right dwellings. He noted that the applicant had estimated their daily trips for their summer camp weekend peak, summer camp weekday peak, and day camps, based on their prior camps. For the summer camp's eight weeks, with 250 overnight campers, there would be a peak of 333 trips on Sunday and Friday, and relatively few trips the rest of the week. For the summer camp with 250 day-only campers, they would have about 384 trips per day, Monday through Friday, which was higher than the residential level. However, these were worst-case scenarios.

Mr. Clark said that the actual traffic impact was likely to be somewhere in between. It was rare for this type of operation to have all overnight or all day campers; it would be a mix. Therefore, for the eight weeks, the traffic impact was likely to be slightly higher than that for the residential development, but not as high as the worst-case examples. For the remaining 44 weeks of the year, with proposed day uses of up to 100 people, the traffic count dropped to about 144 trips per day, which was lower than the traffic counts from the residential development.

Mr. Clark said that to address the special exception requested here, the proposed disturbance was located at the entrance to the site on Red Hill Road, requesting to disturb 2,674 square feet, approximately 0.06 acres, solely for the purpose of improving site distance on Red Hill Road. He said that this was a small disturbance area on an existing road cutting and did not impact a reservoir watershed, stream buffer, designated scenic highway, or entrance corridor. The disturbance area would be subject to site plan, stormwater, and erosion control requirements, as well as the remainder of the site when a site plan was prepared for construction.

Mr. Clark said that this disturbance would increase the sight distance at the entrance, which would be a safety benefit. He summarized that the Planning Commission had voted 6-0 to recommend approval of the special use permit with conditions. He said that staff had recommended approval with the following conditions, which were the same as those previously included in the transmittal summary, with the exception that the clear zone distance around the fire rings had been reduced from 50 to 25 feet under Condition 12.c. The staff analysis indicated that this request met the criteria for approval, and staff recommended approval of the request to disturb these critical slopes.

Ms. McKeel asked what the ages of the students would be at this camp.

Mr. Clark replied that the applicant could provide a more accurate range, but his own understanding was that the summer campers would be high school or younger, and the other 44 weeks of the year could be homeschoolers and adults, depending on what their programming was for the year.

Ms. McKeel said that she was concerned about fire safety, especially with young children. She was concerned about the reduction to 25 feet. She asked if the County would have the ability to prohibit the camp from being held during droughts.

Mr. Clark said that there was no mechanism in the conditions to achieve that level of control. He was unclear whether Fire Rescue or the fire marshal had the authority to do so.

Ms. McKeel said that she was very concerned about the potential fire hazards created by having multiple campfires in a wooded area such as this subject property.

Mr. Clark said that they could continue the discussion on that topic, and they had had a thorough conversation about it with Fire Rescue. He said that he would like to highlight two key points. Firstly, in comparison to a previous site considered by the same organization for a camp, this site was particularly close to a large water source, Walnut Creek Lake, which provided access to suppression water for County firefighters.

Mr. Clark said that additionally, the applicants intended to store water tanks on the site, which they had previously communicated to them. He said that they already had their own fire management criteria as part of their existing operations and had successfully implemented them on multiple other sites for many years. He said that for example, they typically located fire pits in vehicle-accessible locations, so the campfires were not in secluded and inaccessible areas. He said that the applicant could provide more details on that matter.

Ms. McKeel asked what parking would be like on this property. She said that it appeared that there was little to no parking.

Mr. Clark said that it was not intended to establish an exact number of parking spaces at this conceptual level of plan. He noted that many attendees would be dropped off at the welcome pavilion and then leave again, so the need for parking spaces for each attendee was reduced. He said that for the six large events, the shuttle vehicle recommendation was made to address the fact that a large, impervious parking area was not necessary for only a few events per year. He said that the exact number of spaces would likely be determined at the site plan stage rather than the special use permit. He acknowledged the concern, and the applicants could provide more information on how they planned to manage parking to reduce demand.

Ms. McKeel said that her experience with shuttle buses was that they were not consistently used. She asked who from staff would be monitoring the buses and parking to ensure they were using the buses properly and not parking along the roadway.

Mr. Clark said that there would be no active staff monitoring. He said that the process would be

similar to any other zoning enforcement, handled through complaints. If a neighbor or landowner suspected that the activities were not being carried out properly, they would file a complaint, and staff would conduct an inspection. They would not have staff on site daily or weekly to verify compliance with the checklist. They did not have the capacity to implement such a system. The enforcement would be handled through their existing system for other uses.

Ms. Mallek asked if there would be 250 children on site at the weekly camps, or if that was the total number spread across multiple weeks.

Mr. Clark clarified that during the eight-week summer camp period, there were 250 children.

Ms. Mallek asked if the clear zone canopy was the radius away from the fire pit.

Mr. Clark confirmed that it was 25 feet from the edge of the fire ring, not from the center of the fire ring.

Ms. Mallek asked if there had been any discussion about the protection of the Native American artifacts, which were scattered throughout the area, including properties to the west and down towards Walnut Creek. She said that she would ask the applicant about this. She said that she would support a condition about getting the fire marshal's approval for the campfires during a drought.

Mr. Gallaway asked if the 100 campers during the other 44 weeks of the year was due to the camp's programming or because the County had limited the activity at the site during that time.

Mr. Clark answered that it was the applicant's proposal outlined their standard programming, which would have fewer participants for non-summer programs. However, the scope could vary significantly, ranging from small groups of adults participating in environmental education or nature identification, to homeschool groups or small student groups for day programs, with occasional overnight stays.

Mr. Gallaway stated that it would be beneficial for someone to clarify the fire marshal's authority regarding outdoor burning before they reached a vote on the site. In his understanding, during the application process a few months ago, the fire marshal could prohibit outdoor burning during a drought. He would like to have this officially confirmed as it seemed like a topic of discussion.

Mr. Gallaway said that the case would be that, even with approval, if a drought was declared, the fire marshal could unilaterally ban open burning across the entire County, not just at this site.

Mr. Clark said that he would need to confirm that with the fire marshal.

Mr. Gallaway said that he was simply bringing this to staff's attention, in case they needed someone to come and officially clarify the fire marshal's authority regarding outdoor burning.

Mr. Andy Herrick, County Attorney, clarified that the open burning law in the County was located in Chapter 6 of the County Code, rather than the land use section. There was a provision in Section 6-404 of the County Code that prohibited open burning when atmospheric conditions or local circumstances made such fires hazardous.

Mr. Gallaway said that this would pertain to the campfires at this site. He said that regarding the bridge, it was noted that it needed to be signed off at the site plan stage. He asked if the applicant was being told what size vehicle they needed to build the bridge for.

Mr. Clark said that he did not know if it had been communicated yet, and to his knowledge, the applicants had not designed a bridge yet.

Mr. Gallaway said that it was a matter of them working together to figure out a solution, because it was essential to avoid engineering a bridge only to realize it did not work.

Mr. Clark said that this would be addressed during the site plan stage.

Mr. Andrews said that he wanted to follow up on the traffic questions. He asked if staff knew of the level of impact at which VDOT would have concerns. He asked if, for example, 500 event attendees would be a traffic concern if they were in individual vehicles rather than on buses.

Mr. Clark said that he was not aware of a traffic generation estimate for those six events per year.

Mr. Andrews said that he was trying to determine the threshold at which VDOT would express concern. He noted that a KOA campground was located down this road, which was a commercial operation, and he was unsure of that facility's traffic levels were.

Mr. Clark stated that the campground was relatively small and located a couple of miles away. He said that he was unsure if VDOT had conducted a thorough review of the exact numbers, but he knew that they had reviewed the application and expressed no concerns.

Mr. Andrews asked if there was a known history about the shape of this parcel. He noted there was a narrowing in one section.

Mr. Clark said that he had dug back into the history and found some subdivisions and transfers that occurred a long time ago, but he could not explain them.

Mr. Andrews opened the public hearing.

Ms. Kelsey Schlein, Planner with Shimp Engineering, said that she had been assisting the Living Earth School with their special use permit application. She said that she would like to thank Mr. Clark and the staff for their collaborative efforts throughout this process. She said that they had a proven track record of working with Mr. Hub Knott on various properties, and they believed this property was the ideal location for the Living Earth School to establish a long-term facility.

Ms. Schlein said that they had received several questions from the Board, but they would address them after their presentation. She said that Mr. Knott would provide an introduction to Living Earth School, and then she would delve into the details of the application.

Mr. Hub Knott, Executive Director of the Living Earth School, said that he would like to express his gratitude to Kelsey and Scott. He said that Mr. Clark had been a champion in working with them, and he appreciated his efforts greatly. He stated that he had a long and successful tenure as the co-founder of the Living Earth School, which had been in operation for 23 years. He said that they had established a great reputation in the community, with a strong safety record and happy neighbors. He said that their mission was centered around earth care and people care, and they were committed to designing their organization to be sustainable for the next 100 years.

Mr. Knott said that he believed that nature was more essential than ever, particularly for the mental health and well-being of children, who generally were spending more time indoors and less time in nature. He said that he had seen firsthand the impact that nature could have on a child's life, and he was proud to be a part of providing opportunities for kids to connect with nature. He clarified that their programs catered to a wide age range, from five to 80-something, with a focus on kids, but they also offered adult programming. He said that many parents had expressed their gratitude for the programs they provided, and he hoped that their work would continue to have a lasting impact long after he was gone.

Mr. Knott said that as a lover of nature and people, he felt a deep obligation to educate the next generation about the importance of caring for the earth. He said that he had been fortunate to have had mentors in his life, and he believed that was why he was there today; to provide that same kind of mentorship for the next generation. He said that it was a privilege to see the spark of curiosity in their eyes and watch them grow into confident, nature-loving individuals.

Mr. Knott said that over the years, they had developed a robust program that served over a thousand people annually, patching together various programs and facilities to make it all work. He said that it had been an exhausting but rewarding journey, and he was grateful to have had the opportunity to make a difference in the lives of so many people. He said that it was time, as a nature organization, to put their roots down in the community and on a piece of land that could serve as a learning environment for children.

Mr. Knott said that this land, with its rich history and natural features, offered a unique opportunity to teach people about the past and honor the Native American artifacts present, such as the grinding stone on the property. He said that he had spoken with neighbors about the property's past, and he was excited about the prospect of using these resources to educate people. He said that the parcel of land boasted a mile of the Hardware River, Walnut Creek, and White Oak Creek, as well as floodplains, old forests, and rare plants, including a hemlock forest.

Mr. Knott said that its accessibility, convenient location, and good road made it an ideal place to teach people about nature and inspire a love for the outdoors. He said that he believed that this land had the potential to be a valuable resource for their organization, and he asked that the Board consider approving it today. He said that he was open to any questions they may have, but he was confident in their organization's track record of responsible land management and education.

Mr. Knott said that they had been working with fire for 23 years without incident, and they took safety precautions seriously. He said that they also educated the next generation on how to handle fire properly, an essential skill that was often lacking in the community. He said that by providing this education, they could empower children to develop a deeper appreciation for nature and a greater understanding of how to responsibly protect it. He said that their students fell in love with nature and had mentors who cared about them, which he knew meant the world to them.

Ms. Schlein said that as Mr. Knott had mentioned, the property was absolutely stunning and offered the Living Earth School plenty of river frontage, walking trails, and areas for camping. She said that it was a 287-acre property, and from an impact's perspective, it was an excellent property to develop. She said that they could see on the map that they had 287 acres, and all the activity would be concentrated towards the middle to minimize impact on neighbors.

Ms. Schlein said that they had plenty of space to work with. She said that she would like to provide a brief overview of the plan, as outlined by Mr. Clark, as a condition of approval. She said that this vegetative management plan was a testament to the Living Earth School's commitment to conservation

and preservation. They had established different zones on the property for vegetation protection. She said that Zone 1 was where they had identified the welcome area and main camp area, where all camp structures, the dining hall, and welcome pavilion would be located. She said Zone 2 was home to smaller structures, staff residences, and other facilities.

Ms. Schlein said that Zone 3 was primitive camping, with minimal tree removal, and Zone 4 was a woodland protection zone. Between Zones 3 and 4, 83% of the site was highly protected from a vegetative cover standpoint. She said given the layout of the site, they had also ensured a great distance between camp structures and nearby residences. She said that they had worked with staff to shift the existing road, so it was further away from the property line. She said currently it followed the property line in this location, but the goal was to have it 200 feet from the nearest residence, and between the nearest structure and the existing residence, it was almost 500 feet from the nearest structure.

Ms. Schlein said that as part of the conditions of approval, they had included a 50-foot setback for structures, whereas depending on the property line, for side and rear it would be 25 to 35 feet for other properties in the rural area. Speaking toward the traffic impact, the 250-camper cap in the summertime was for both day campers and overnight campers. She said that they had presented a worst-case scenario for transportation impact, but 250 was the maximum total number of campers permitted on the property between day camp and overnight activities. To clarify, the table Mr. Clark shared was not the sum of day campers and overnight campers; it was 250 total campers permitted for the eight weeks in summer, with a limit of 100 campers per day or 100 program activities outside of the summertime months.

Ms. McKeel asked what the student-to-teacher ratio was for this camp.

Mr. Knott answered that the ratio was one to six. He explained that in their past 23 years of operating, they had never had more than 100 campers at a time, but they presented the 250 estimate as a potential future number, which he did not anticipate seeing until 30 years from now, if at all.

Ms. McKeel asked where they would stage the parking area for the buses.

Ms. Schlein clarified that Mr. Knott and his team were seeking a special use permit, which came with conditions and safeguards that were in their best interest to uphold in order to continue operating the camp and offering their program. She said in terms of parking, they believed they should avoid large gravel parking areas on the site altogether.

Ms. Schlein said that instead, they had designated specific parking areas: one near the welcome area and another near the main camp area, which were suitable for day-to-day use. She said that for larger events, the main camp area would serve as their temporary parking area, utilizing the existing large clearing, which was relatively flat.

Ms. McKeel asked how they were using buses.

Ms. Schlein clarified that buses were required for any event that takes place with more than 200 people.

Ms. McKeel asked where people would park their cars and get on the buses.

Mr. Knott said that many events required finding alternative parking arrangements, which involved utilizing underutilized parking areas during the event time and negotiating with those parking lot owners. He said that although they had not yet approached anyone about using their parking lots yet, he had been informed by shuttle services that they had used parking lots in the past. He said that at the site, if the buses needed to remain on site, they could potentially park on the gravel, rather than damaging the grass.

Ms. LaPisto-Kirtley asked if the children were separated by age groups and if adults had separate classes.

Mr. Knott said that if there was an adult program happening at that location, they were typically not mixed in with the children unless it was a family program. He said that for the children's camps, they were separated by age groups, and an adult was present at all times. He said that additionally, all of their staff undergo background checks and adhered to standard safety protocols that parents would expect with having a safe and secure environment for their children.

Ms. LaPisto-Kirtley asked if staff slept in the cabins.

Mr. Knott clarified that staff would either sleep in staff cabins or a tent outside the children's cabins in order to ensure they were present in case they were needed.

Ms. LaPisto-Kirtley asked if it was a no-smoking site.

Mr. Knott confirmed that they currently had a policy in place that prohibited smoking on site, and the same was true for alcohol.

Ms. LaPisto-Kirtley asked if families would stay in the cabins or would bring their own recreational vehicles.

Mr. Knott explained that they used to provide family programs but had stopped doing them due to a lack of a permanent site for their organization. During those past programs, the families would stay in tents, cabins, or whatever other options were presented at the time. However, they had never had someone bring an RV to a program.

Ms. LaPisto-Kirtley asked if the kitchen would be propane or electric.

Mr. Knott said that the type of fuel used for the building's kitchen was unclear, but it may be either electricity or propane. He said that building codes had likely dictated the specific requirements for a commercial kitchen, which would influence the choice of fuel.

Ms. LaPisto-Kirtley asked if everyone would stay in tents or cabins.

Mr. Knott said that the primitive camping areas had what he would refer to as glamping tents. They were indicated by the blue zones on the concept plan and would be similar to the tents on platforms at Sugar Hollow, which were often used by the Boy Scouts and Girl Scouts. He said that these tents were nice because they were safe, elevated off the ground, and eliminated the need for kids to bring their own tents, which may not have poles or functional zippers.

Ms. LaPisto-Kirtley asked if they would be within walking distance to the restrooms.

Mr. Knott confirmed that yes, they would be.

Mr. Gallaway asked if the applicant could discuss the condition regarding sound amplification.

Mr. Knott said that they currently did not use sound amplification in their camps, but it was included in the case they used sound amplification during a fundraising event or music event.

Mr. Pruitt asked if staff residences would be dwellings with Certificates of Occupancy.

Mr. Knott confirmed that was correct.

Mr. Pruitt said that there were five on the concept plan, but the request was up to six. He asked if the sixth was not part of the plan at this time.

Mr. Knott confirmed that was correct.

Mr. Andrews asked if it was correct that in 23 years, the applicant had never had to call the Fire Department about a fire at one of their camps.

Mr. Knott replied that they never had.

Mr. Andrews noted that fallen trees could be considered fall hazards, fire hazards, and habitats for wildlife.

Mr. Knott said that for clarity, the Virginia Department of Forestry created a comprehensive management plan for this property, which included various aspects such as fire management, forest health, and habitat improvement. He said that he had specifically stated that they were not interested in extensive timber cutting for commercial production, but rather in improving the habitat for diversity and wildlife. He said that the plan focused on preserving the existing resources and keeping the area safe, with fire management being a key component. He said that if they would like, he could email the Board the full 50-page plan.

Mr. Andrews said that he had a final safety-related question. He said that they had witnessed severe flood events with tragic consequences. He said that the Hardware River and White Oak Creek were two areas of concern for this property. He said that although he was not as familiar with White Oak Creek, he would like to know how they planned to address the flood risks associated with it. He said that he would like to know the proximity of the creek to the river, the flood plain, and the associated risks.

Mr. Knott said that if one examined the lower left primitive camp area, it was likely the closest they would ever be to the river, especially during a flood event, due to the potential for the Hardware to rise. He said that he recalled last year's hurricane, which caused the river to rise 14 feet, as measured by the meter down the river. He said that although he was not certain what the exact elevation was at this location, he could see the lines where the water rose up. He emphasized that this was one the hazards they taught children about, which was to stay away from it. He said that based on the land's layout, he foresaw the best primitive campsite to be approximately 100 feet higher than the floodplain. He could not recall the river ever rising 100 feet, so they were confident it would not become an issue for their camping areas.

Ms. LaPisto-Kirtley asked why the staff residences were located so far apart from each other.

Mr. Knott explained that the front facility was partially for security purposes, as it appeared to have been a significant presence on the property. He said that there was already a current existing cell and septic tank in place, and prior to their purchase, the previous owner had removed the trailer that was previously located there. He said that the other facilities were primarily intended for year-round staff members who worked full-time jobs, rather than the day-to-day camp staff. He said that many of these

facilities were used for short-term purposes, with staff members often returning home after their shift.

Ms. McKeel asked if this organization was for-profit.

Mr. Knott clarified that they were a non-profit organization.

Ms. McKeel asked if they offered scholarships or sliding scale tuition.

Mr. Knott explained that they began as a for-profit institution and had been a non-profit for three years. Their organization had doubled their scholarship and financial aid offerings each year. He said that part of the reason they became a non-profit was so they did not have to turn away anyone that could not afford the programming, so it was one of their core tenets of their strategic plan. He acknowledged the wealth disparity was growing in many different directions, so they were dedicated to ensuring their programs were accessible to as many people as possible

Mr. Andrews asked if there were any members of the public who wished to address this item.

Mr. Scott Cunningham, Rivanna District, said that he appreciated all the information presented by Mr. Clark, particularly the fact that this application aligned so well with the Comprehensive Plan. He explained that prior to his current role, he was the Director of Finance and Operations for the Living Earth School. He said that he successfully transitioned the organization from a for-profit to a non-profit, establishing its structure. He confirmed that the Living Earth School offered many scholarships, which were not free, so they appreciated donations to subsidize those costs.

Mr. Cunningham explained that their employees worked in the nature industry and required living wages, which was why having residences was crucial to offset the cost of living there. He said that he was thinking on his way here that when he first became involved with the nature connection sector, he was aware of about a hundred entities like the Living Earth School across the U.S. However, only a handful had the community's support to establish permanent land for their homes and programs, which they could control for generations, not just for their own children or the Supervisors' children, but for their grandkids and future generations.

Mr. Cunningham said that they had looked at this and considered the impact for seven generations in the future. He said that this was what this organization was striving to achieve, and that was what they had been doing so well. He said that they taught kids risk management, responsibility, and how to assess what was sensible and what was not, as well as how to care for others beyond themselves. This was achieved through their mentoring, counseling, and the expertise brought in by Mr. Knott and others. He said that it was a great place for kids to heal, grow, and learn valuable life skills. He gave his whole heart to the organization and donated as he could. He emphasized that this was extremely important to their children and their future, so he hoped the Board would support it.

Ms. Robin Criscuolo, White Hall District, said that she operated a small nature preschool out of her home. She said that Living Earth School had changed her life. She said she had been a summer camp staff member and later a year-round staff member from 2009 to 2016. She said that witnessing the work and its effects on children, staff, and community members had been truly inspiring. She said that she was confident in the safety measures, as she had undergone extensive training during her time as a staff member.

Ms. Criscuolo said that Living Earth School had consistently demonstrated a strong commitment to fire safety and environmental stewardship, ensuring that the land would be well cared for by future generations. She said that she now worked with children aged two to four, and she knew for a fact that spending time outdoors was essential for children of all ages, as well as for humans of all ages. She said that scientific research supported this intuitive understanding.

Ms. Criscuolo said that this community and their people required it, and this organization had been a vital part of their community for 23 years, under exceptional leadership. She said that the founders of Living Earth School had made significant contributions, and would continue to do so, which was why she was thrilled about this initiative. She said that she hoped all of the Supervisors would vote in favor of it, and she appreciated their support.

Mr. John Outland, Scottsville District, said that he was fortunate to have three teenage children. He said that one of them had attended the Living Earth day camps, and he was a current board member for the school. He said that he was very excited that they had 287 acres, adjacent to 525 acres of a County park. He said that the area was already biodiverse, featuring old-growth forest, not loblolly pines. He said that he was glad that the school's concerns aligned with the County's, particularly regarding fire safety, forest management, and creating a sustainable environment that allowed everyone to have a positive experience in nature.

Mr. Outland said that he was confident that they could work together to achieve this. He said that as someone who had spent time with teenagers, he was aware of the challenges they faced, especially regarding overusing phones. He said that having run an outdoor school for 25 years and worked with teen mental health for 30 years, he understood that the current time was a difficult time to be a teenager. He said that the Living Earth School taught children about the importance of in-person connection and nature

connection and aimed to provide a space for kids to develop problem-solving skills and learn from nature.

Mr. Outland said that by spending time in nature, they could gain a deeper understanding of the world and its consequences. He said that he believed that their County had the opportunity to provide a home for an organization that already excelled in serving their youth. He said that he was excited to work with the County to develop this land. He noted that Val Washington, who was present, was passionate about taking people for walks on the property, and he was sure she would be happy to give the Board members a tour.

Mr. Outland said that the land was pristine, with a mile of river frontage and White Oak Creek, where it was great to wade in the water. He said that there was something special about gathering around a campfire; however, the County certainly had the right to say when fires were permitted and when they were not, and they would certainly follow those regulations. He said that he believed that kids who experienced a campfire experienced awe and told stories, which was a rite of passage that they would respect and nurture.

Ms. Kate Knott, Nelson County, said that she was the co-founder of Living Earth School, which they established in 2002 because they were passionate about the earth, nature, and people. She said that her partner, Hub, and she started this school because they felt a responsibility to carry on the love for the earth and nature that their mentors had instilled in them. That was the essence of mentoring, and it was how they would change the world and make this a better place.

Ms. Knott said that Hub and she had dedicated their hearts and souls to this organization, and it was truly a family. It was not just a program, but a place where people feel a sense of belonging. She said that they need that in their world. She asked the Board to consider, if not here, then where. She explained that this land was ideal for their Living Earth sanctuary. She said that they have been searching for it for 22 years, and she was convinced it is the right place. She said that they were close to town, and their neighbors seemed to be supportive. This could be a development, but it could also be a neighborhood with more traffic, deforestation, and impact.

Ms. Knott emphasized that there were people here who loved children and the earth, and they were stewards of the land. She said that she could not imagine a better opportunity for Charlottesville or Albemarle communities than Living Earth School making this its home and sanctuary. She said that she was blessed to attend the memorial for their dear teacher, Tom Brown, who they owe a debt of gratitude for creating Living Earth School. She said that when she was at his memorial, she was talking with family and friends about how when they first started this work, they did not see debris huts in the woods but now they were a common sight in parks and nature reserves across the country and the world.

Ms. Knott said that schools, like theirs, were popping up everywhere, connecting kids to nature and teaching them they belong, have a place, and love the earth. Her mentor, who just passed, passed on that love to her, and they were passing it on to future generations who would continue to do so because they belonged and loved this place. She said that she knew the Supervisors had questions and concerns, and she wanted to assure them that they were taking every precaution to ensure the kids' safety. She clarified that they had tended small warming fires in fire rings, and they were careful not to make bonfires. She reiterated that she wanted the Board to consider, if not here, then where?

Mr. Brian Bentzen, White Hall District, said that he wholeheartedly agreed with everything that had been said so far. He said that he would like to share his personal journey with the Living Earth School, which began seven years ago. He said that he joined one of their adult programs, which was a weekly commitment from Saturday morning to Sunday afternoon. He said that it was a much-needed reprieve from daily life, work, and everything else. He said that the connection he made with the other people there was about learning and reconnecting to something he had lost as an adult.

Mr. Bentzen said that as he went to college and worked, he found himself disconnected from that sense of wonder. He said that the Living Earth School gave him a chance to reconnect, and he enjoyed it so much that he sent his children to participate. He said that they had homeschooled them, and they had been part of the Living Earth School for the past six years. He said that the program offered a range of activities, including homeschooling, overnight camps, and day camps. He said that he had been impressed by the impact it had on his family.

Mr. Bentzen said that one significant point was the emphasis on screens. He said that they discussed the importance of being present and connected to nature with their family, and the Living Earth School provided a much-needed reprieve from the constant screen time. He said that his daughter had developed confidence in being self-sufficient and going out into nature. He added that in response to the concerns about fire safety, he wanted to clarify that the Living Earth School students were not starting fires with matches; they were learning to start a fire using a bow drill. He emphasized that the sense of accomplishment and satisfaction he felt as an adult was remarkable, so he knew it was even more impactful of an experience for children and their self-confidence.

Mr. Bentzen said that now, seeing his daughter apply that same confidence in other areas of her life, such as dealing with stress and conflict, was truly inspiring. He said that when his daughter and her mother got into fights, she often went outside and walked into nature, finding solace in the woods. He said that the skill set to manage stress and cope with life's challenges was something she developed through her experience at the Living Earth School. He said that he was grateful for the impact it had had on her

life, and he hoped she would continue to cultivate that sense of self-reliance and connection to nature throughout her future years.

Ms. Carolyn Schuyler, resident of Albemarle County, said that she recalled standing there about ten years ago to request a special permit for Wild Rock, and at the time, she was deeply emotional about creating a space for children. She said that she was there today because she saw that same emotion with the Living Earth family, and she was humbled by their dedication to building a community contribution. She said that she had heard countless stories about the positive impact of the Living Earth School, and she had immense respect for Hub and Kate as individuals and stewards of the land.

Ms. Schuyler said that they possessed the character and integrity to do this right. She wholeheartedly supported their efforts. She said that recently, she had the opportunity to walk with Mr. Knott on this land, and he shared with her his concerns about native plants in danger and his commitment to respecting Monacan history. He spoke about wanting to honor the wisdom of community elders and elevate their values, which were essential for passing on to their children. She said that she was there to express her support and celebrate the realization of their dreams.

Mr. Gallaway thanks to Mr. Clark for covering the potential development rights of this property, which was very helpful information for the Board to have.

Seeing as there were no other questions from Board members, Mr. Andrews closed the public hearing and said the matter rested with the Board.

Ms. McKeel thanked the applicant for addressing the Boards concerns regarding fire so thoroughly. She noted that about a year ago there was a fire in the community and drought conditions could add to the threat.

Mr. Gallaway expressed his gratitude to the fire marshal for signing off on the conditions and that they would be doing the inspections. He added that the rural location was the right place for programs such as these.

Mr. Pruitt noted that the application aligned with the Comprehensive Plan.

Mr. Andrews asked the County Attorney if it was necessary to add the proposed Condition 12D, which read “campfires may be prohibited when atmospheric conditions or local circumstances make such fires hazardous as determined by the fire marshal.”

Mr. Herrick explained that he had suggested this because he had read a passage earlier that was from the open burning law, which allowed the fire marshal to prohibit open burning. He clarified that this passage included an exemption for campfires, which meant that campfires were not subject to the open burning law. He said that if prohibiting open burning in hazardous atmospheric conditions was a concern of the Board, one way to ensure safety was to add condition 12D, which he had previously submitted to the Board.

Mr. Andrews stated that this would inform the applicant that they would have to comply with the fire marshal's determination that outdoor open burning was unsafe, regardless of any other exceptions.

Mr. Andrews **moved** that the Board of Supervisors adopt the Resolution attached to the staff report as Attachment E, to approve SP202400022 The Living Earth School with Condition 12C amended to require a clear zone of 25 feet without trees around the edge of the fire ring, and adding new condition 12.d. that campfires may be prohibited when atmospheric conditions or local circumstances make such fires hazardous, as determined by the fire marshal. Ms. LaPisto-Kirtley **seconded** the motion.

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

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

Mr. Andrews **moved** that the Board of Supervisors adopt the Resolution attached to the staff report as Attachment F, to approve SE202400031 The Living Earth School. Ms. Mallek **seconded** the motion.

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

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

**RESOLUTION TO APPROVE SP202400022
LIVING EARTH SCHOOL**

WHEREAS, upon consideration of the staff report prepared for SP202400022 Living Earth School, the recommendation of the Planning Commission and the information presented at the public hearing on

March 11, 2025, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-10.2.2(20), 18-5.1.05, 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 zoning district, with the applicable provisions of Albemarle County Code § 18-5.1.05, 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 SP202400022 Living Earth School, subject to the conditions attached hereto.

* * *

SP202400022 LIVING EARTH SCHOOL- Conditions

1) Development and use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plan prepared by Shimp Engineering, PC, titled "Living Earth Sanctuary," revised 27 February 2025 (hereinafter "Concept Plan"). To be in general accord with the Concept Plan, development and use must reflect the following major elements as shown on the Concept Plan:

- a) General location of structures, camping areas, and activity areas as shown on Sheet 2 of the Concept Plan;
- b) Access-road cross section as shown on Sheet 5 of the Concept Plan

Minor modifications, with the approval of the Zoning Administrator and the Director of Planning, to the Concept Plan that do not otherwise conflict with the elements listed above, may be made to ensure compliance with all applicable laws.

- 2) Vegetated forest cover on the site must be managed in general accord with sheet 6 of the Concept Plan.
- 3) For up to eight weeks each year, an overnight Summer Camp is permitted on the site during June, July, and August ("Summer Camp Season"). Summer Camp attendance must not exceed 250 campers on the site at any one time.
- 4) Outside of the Summer Camp season, camp attendance must not exceed 100 participants (excluding staff) on the site at any one time. Overnight camping is permitted only as part of a scheduled program run by the operators of the camp. The site must not be used as a commercial campground.
- 5) Programs or events on the site for up to 200 participants (excluding staff or contractors) must occur no more than 12 times per calendar year. Events on the site for more than 200 participants must occur no more than six times per calendar year, and the maximum number of attendees (excluding staff or contractors) for those events is 500 persons. For any event with more than 200 attendees, all attendees in excess of 200 must arrive and depart the site in shuttle vans or buses rather than individual vehicles.
- 6) The existing crossing of White Oak Creek must be removed. The replacement crossing must span the stream bed. The vehicle weight capacity of the crossing requires County approval prior to approval of a final site development plan.
- 7) Existing stone walls and foundations on the site must not be removed or dismantled during development of the site or operation of the camp use.
- 8) Health Department approval is required for all well and septic facilities prior to issuance of a Zoning Clearance.
- 9) Fire/Rescue approval of an emergency-access plan for the site is required prior to issuance of a Zoning Clearance.
- 10) Outdoor lighting is limited to full cut-off fixtures, shielded to reflect light away from all abutting properties.
- 11) Outdoor sound amplification is permitted only in the Main Camp Area and Welcome Area shown on the Conceptual Plan. In the Welcome Area, outdoor sound amplification is not permitted between the hours of 9 p.m. and 9 a.m.
- 12) Campfires on the site must occur only in constructed fire rings whose location has been approved by the County.
 - a) All fires must be attended by camp staff from lighting until complete extinguishment.
 - b) A fire extinguisher must be maintained at the site of each active fire.

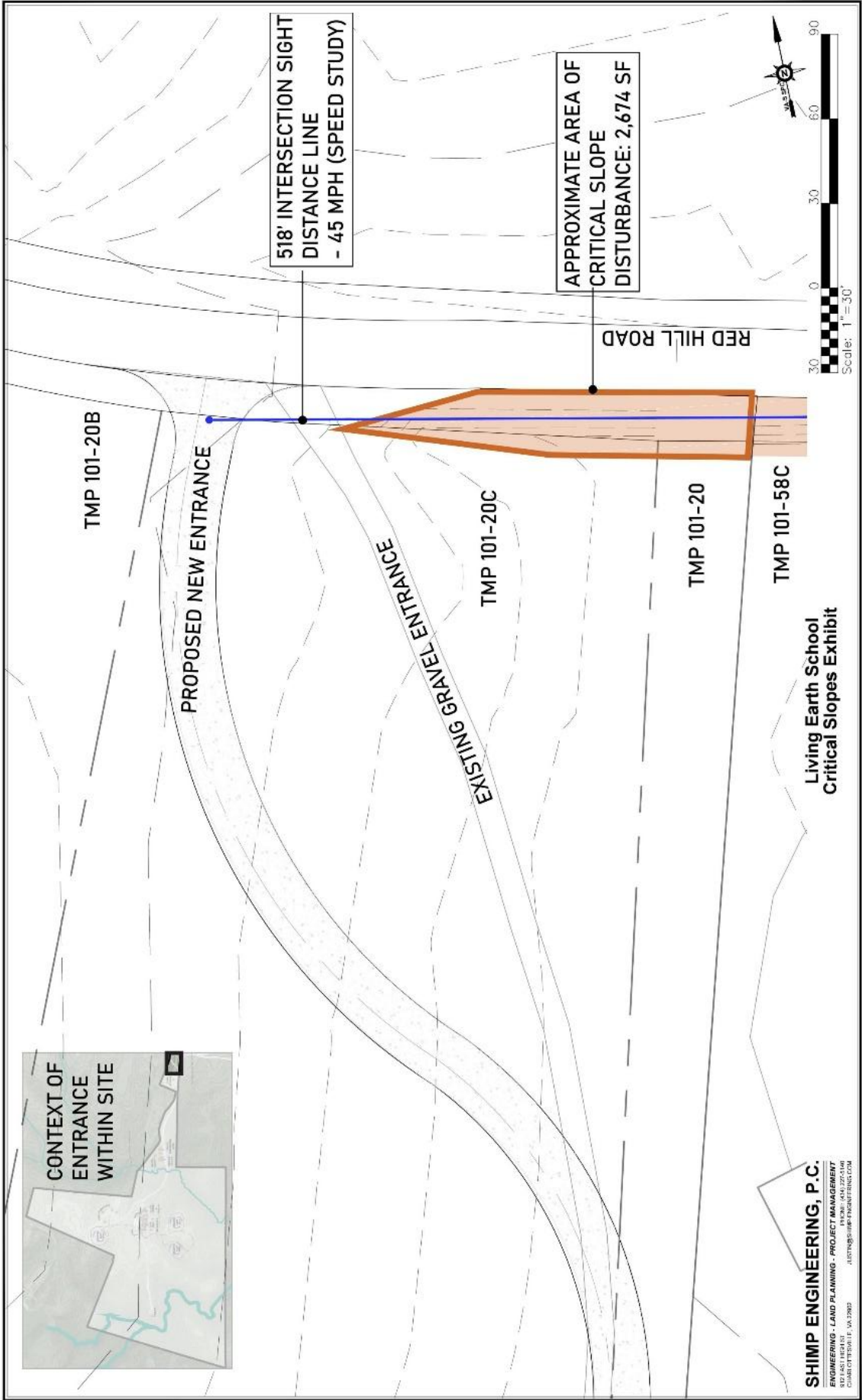
- c) Fire rings must have a clear zone without trees within 25 feet of the edge of the fire ring.
- d) Campfires may be prohibited when atmospheric conditions or local circumstances make such fires hazardous, as determined by the Fire Marshal.

**RESOLUTION TO APPROVE SE2024-000031
LIVING EARTH SCHOOL**

WHEREAS, upon consideration of the staff reports prepared for SE2024-000031 Living Earth School Special Exception and the attachments thereto, including staff’s supporting analysis, any comments received, and all relevant factors in Albemarle County Code § 18-4.2.5(a), the Albemarle County Board of Supervisors hereby finds that alternatives proposed by the developer or subdivider would satisfy the intent and purposes of Albemarle County Code § 18-4.2 to at least an equivalent degree, and that the proposed special exception:

- 1. would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; and
- 2. would not be contrary to sound engineering practices.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby grants the proposed special exception to modify the disturbance of critical slopes requirements otherwise required by County Code § 18-4.2.5(a), provided that the area of land disturbance on critical slopes not exceed the disturbed slopes shown on the “Living Earth School Critical Slopes Exhibit” prepared by Shimp Engineering, P.C.



Agenda Item No. 18. **Public Hearing: SP20240026 Woolen Mills Industrial.**

PROJECT: SP202400026 Woolen Mills Light Industrial Park (Signs#34&35)
MAGISTERIAL DISTRICT: Scottsville
PARCEL ID: 07700-00-00-040B2
LOCATION: Franklin St., south of 475 Franklin St. and south of Moore's Creek Ln.
PROPOSAL: Grading activities, including Fill in the Floodplain (Section 30.3.11)
ZONING: LI Light Industrial, Flood Hazard Overlay District.

The Executive Summary forwarded to the Board states that at its meeting on April 22, 2025, the Planning Commission (PC) voted 4:3 to recommend approval of SP202400026, for the reasons stated in the staff report. Several residents expressed concern at the public hearing that this proposal could increase flooding along Franklin Street. 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. Concerns were also expressed that the applicant could purchase off-site water quality credits and not treat the water quality on-site.

Following the PC meeting, staff added a recommended condition of approval (now #4) to address the Commissioners' concerns regarding water quality. Other conditions were re-worded by the County Attorney's Office:

1. The fill in the floodplain must be shown on a site development plan and must be in general accord with the "Special Use Permit Application Plan for Woolen Mills Light Industrial Park, Tax Map 77, Parcels 44B2, Scottsville District, Albemarle County, Virginia," dated December 20, 2024, 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 elevated/filled to at least one foot above the Base Flood Elevation.
2. Prior to commencement of the use under this Permit, the owner(s) must demonstrate each of the following:
 - a. The County Engineer's approval of an erosion and stormwater management plan.
 - b. The County Engineer's receipt of proof of compliance with Federal and State regulations of activities affecting wetlands and watercourses. The applicant must obtain and provide to the County Engineer a letter of map revision for fill in the floodplain (LOMR-F), as required, from the Federal Emergency Management Agency.
 - c. The County Engineer's approval of a mitigation plan outlining mitigation measures for any encroachments into the stream buffer.
 - d. The County Engineer's approval of computations and plans documenting changes to the floodplain. Computations must demonstrate compliance with Albemarle County Code § 18-30.3 (flood hazard overlay district). Plans must show the existing and proposed floodplain boundaries and elevations along with the applicable "No Rise" signed certification statement.
3. A phase I archeological survey must be conducted prior to approval of a floodplain development permit.
4. Stormwater treatment must be provided on-site and for phosphorus reduction equal to twice the total phosphorus load reduction provided by 1.496 acres of forest cover, as calculated using the Virginia Department of Environmental Quality's Runoff Reduction Method-New Development Compliance Spreadsheet (Version 4.1).

Staff recommends that the Board adopt the proposed Resolution (Attachment D) to approve the special use permit SP202400026 with the updated conditions.

Ms. Rebecca Ragsdale, Planning Manager, stated that she was joined here by their Deputy County Engineer, Tony Edwards, who had been very involved and served as the lead for engineering on the review of this request. She explained that this was a unique request, so staff wanted to take some time this evening to thoroughly review the floodplain characteristics and the location of the fill. She said that the fill request was for 1.496 acres located on a 7-acre site. She said that she would like to orient the Board to the location, and then they would take them through the Comprehensive Plan information, with a specific focus on the floodplain analysis, which Mr. Edwards would walk them through.

Ms. Ragsdale said that provided on the slide was the vicinity map to help them understand the location of the property, which was situated along Franklin Street, which was within the City limits. The property was located on the edge of the City-County line, between Interstate 64, the Rivanna Water and Sewer Authority (RWSA) facility to the north, and the Woolen Mills neighborhood to the south. She said that the next aerial view showed the location adjacent to Franklin Street, where the fill was requested. The yellow line outlined the site. There were RWSA facilities to the south and east of the site, as well as the RWSA property where the wetlands project had taken place.

Ms. Ragsdale stated that to the north, also referenced in the Planning Commission information, was the area where the Woolen Mills Industrial development was currently underway. She explained that there was a site plan approved for that area, and although the parcels had the same owner, they were separate parcels. She said that the City neighborhood across Franklin Street was zoned residential. She said that the next aerial view provided a more detailed view of the site, highlighting the existing industrial development that was already underway.

Ms. Ragsdale said that in terms of the neighboring property, it was an existing industrial use that has undergone a floodplain fill request, approved in 1997 or 1998. The following pictures showed the area, looking south, across, and adjacent to the residential, undeveloped, and nearby industrial uses. She said that on the zoning map, the blue on the map indicated the industrial zoning, which encompassed much of Woolen Mills. She said that the historic Woolen Mills was zoned commercial, located in the pink area on the map. Additionally, the Flood Hazard Overlay District was applicable to this review.

Ms. Ragsdale said that the floodplain map highlighted the critical resources, including the floodplain in blue and purple, the stream buffer in yellow and green, and the tan was the steep slopes and critical slopes. She said that Mr. Edwards would focus on the unique characteristics of this floodplain location in his upcoming slides. She said that this map referred to the backwater area of the floodplain, which would be explained in more technical detail by Mr. Edwards.

Ms. Ragsdale stated that the Comprehensive Plan designated much of the area, including sensitive environmental sites, as green systems. This included properties with floodplain slopes or stream buffers, as well as parks. She said that in this case, the parks designation was primarily due to environmental features. The area included developed properties and outside of the floodplain, so there was a significant amount of green space designated that included existing improvements. She said that this particular parcel did not receive specific recommendations in the recent review of the area with the Broadway blueprint.

Ms. Ragsdale stated that staff wanted to review the flood hazard overlay and light industrial (LI) zoning features, because the focus of this application was on the fill and floodplain request, which sought to allow grading and fill activities within the Flood Hazard Overlay District. She said that provided was a list of some of the other uses that were allowed in the light industrial district. Any fill or development in this area must be approved and occur before any light industrial uses could be developed. She said that this included manufacturing and processing, storage, warehousing, laboratory, and research and development.

Ms. Ragsdale said that the light industrial district had broad categories of allowed uses, but it also came with additional regulations. She said that the next slide aimed to clarify where they were in the process of considering the floodplain and to provide that information for the Board and the public. She noted that the applicant had submitted to the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision (CLOMR), which FEMA did not have any concerns about. Now, the County must review it under their local ordinance and Flood Hazard Overlay District to allow fill of the requested 1.496 acres. This would need to be addressed in the conditions of the special use permit, if approved.

Ms. Ragsdale said that after that point, they could conduct the fill and work with FEMA to amend the floodplain map. She said that Mr. Edwards would explain in further detail that any prior map revisions approved by FEMA on other sites in the County or City had been considered in the engineering analysis. They had already discussed the light industrial allowances, and they could revisit those if needed. The focus was on the issues surrounding the flood hazard overlay district.

Ms. Ragsdale stated that if the applicant moved forward with those next steps, they would need to comply with the light industrial district, as well as their ordinance. For industrial districts, they had many layers of regulations, including special use permits and supplemental regulations. She said that these regulations may include additional setbacks, buffers, and screening, as well as prohibiting certain outdoor activities. Any industrial uses that they had concerns about in the LI district would need to occur indoors. They also required a certified engineer's report to ensure that any industrial activity complied with the ordinance and applicable regulations, such as those related to materials, vibration, and noise.

Ms. Ragsdale said that if all necessary processes were completed, the final steps would be the building permit and zoning clearance process. Next, she would review the concept plan. She said that the site was shown in green, with the outer limits of the parcel in light green and the stream buffer area along Moores Creek in dark green. She indicated that the area between the floodway and the floodplain fringe was the only area where fill could be requested, so that 1.496 acres of that area were generally drawn on the map. She said that retaining walls would be necessary to add the fill.

Ms. Ragsdale said that Moores Creek Lane provided access to the RWSA property, and in this case, the request had the potential for the County to dedicate the stream buffer for a public greenway trail; however, it was not specifically mentioned in their Comprehensive Plan or in the County's current development. The criteria applicable to all special use permits was what they want to ensure they cover in their staff reports and discuss with the Board this evening. When it came to floodplain requests, the health and safety, as well as the potential detriment to abutting properties, were of paramount concern.

Ms. Ragsdale stated that staff had reviewed the Comprehensive Plan in this case and considered the nearby character of the area, as well as the industrial uses if it were to be developed. Staff did not believe the character of the area would be significantly altered, although it would be a change to this property given the other industrial uses. In the floodplain section, Mr. Edwards would focus on the substantial detriment and explain how they arrived at their conclusion that they did not find any in this case.

Ms. Ragsdale stated that they held a community meeting to receive feedback about this application, and the Board had received a summary of that meeting and other emails from constituents, but that was not included in the staff report. She said that they had taken into account the concerns raised during the meeting and addressed them in the special use permit conditions they had recommended.

Mr. Tony Edwards, Deputy County Engineer, stated that as depicted on the screen, they were referring to two sections of the floodplain, specifically the floodway fringe and the regulatory floodway. The floodway fringe was the outer limit, as depicted on the previous slide that Ms. Ragsdale had shown. He explained that the floodway itself was the channel that the river needed to carry the capacity for, in the adjacent area, that would be in reserve to handle the discharge from a base flood event, and any account of increasing the water surface area no more than one foot. The floodway fringe allowed for extra capacity on the outside, but it was not necessarily the area that was needed just to carry the floodway during a 100-year event or 1% chance flood.

Mr. Edwards stated that in the Planning Commission meeting, there was some concern about the

terminology of backwater conditions, so he provided this information to give the Board some grounding on what that would entail. This was a somewhat unique situation, as it discharged in close proximity to the Rivanna River. The Rivanna River acted as a constriction for this 1% flood event, creating a backwater condition, essentially slowing the flow that was coming out of Moores Creek.

Mr. Edwards said that provided on the slide were some characteristics of this backwater area. Considering placing fill in this backwater area may not cause a greater rise because the backwater area was typically a low-energy zone, and it had minimal flow connectivity to the main river channel, which would be the Rivanna in this situation during normal or potentially flood conditions. He noted that some of the characteristics to consider for this area were the hydraulic isolation characteristics, which was common in backwater areas such as oxbow lakes and wetlands, offering a disconnected, limited interaction with the main river flow.

Mr. Edwards said that this created a backward flow direction in Meadow Creek. He said that adding fill to this area did not significantly alter the main channel's capacity to convey the floodwaters, so the floodplain water elevations remained unaffected. Another characteristic was a low flow velocity, which was stagnant or slow-moving water, mainly because the area did not contribute substantially to the floodwater movement. This slower velocity often resulted in a very slow-flowing situation, reducing the risk of erosion and other damaging effects that sometimes occurred during a massive flood.

Mr. Edwards stated that floodplain storage capacity was primarily determined by the main channel, the Rivanna in this situation, and adjacent low-lying areas actively involved in floodwater conveyance. Backwater zones such as this often lay outside of the active zone and modifying them with fill did not reduce the floodplain's ability to store or convey the water. He said that this information was a broad overview of the potential situation.

Mr. Edwards said that next, he would provide information more specific to their location. He said that as they could see at the top of the satellite map, there was the parcel location. He said that overlaid on the satellite image was a FEMA floodplain map, which had also been provided in their study of this area for this proposal. The location was well within the Rivanna River, where the backflow condition began, up to the elevation line of 324, which was well upstream of the site.

Mr. Edwards clarified that the cross-sectional line indicated a 324 elevation. He said that this elevation marked the point where the backwater extended into Moores Creek, and subsequently, all the way down to the Rivanna River. The leveling or equilibrium of the elevation occurred at this 324 elevation point throughout the reach of the river. This was due to the restrictive force exerted by the Rivanna River in this scenario.

Mr. Edwards said that the next slide showed the floodplain without the backwater condition, used for comparison purposes. This was not the situation they were currently discussing; however, he wanted to highlight the difference between the two was primarily the difference in elevation. He said that if one looked at the site's location, just upstream from there, the elevations tended to decline as one got closer to the Rivanna River. He said that this information was based on new data from FEMA, which was currently producing new FEMA maps for all localities. These maps were expected to be adopted, hopefully within the next year, but may take longer.

Mr. Edwards said that the goal was to illustrate the point that the water surface elevations would decline as they approached the Rivanna River. In this scenario, one was actually at a lesser elevation than one would be with a backwater condition. He said that the key distinction was that the backwater condition was uniform, whereas the elevations in this scenario declined as one moved towards the river.

Ms. Ragsdale said that this information explained the unique characteristics of that property and why they wanted to ensure that the significance of the term "backwater" was explained. She said staff had reviewed the Timmons report, which was based on the most current floodplain information, as they had mentioned earlier. If any fill was allowed in the floodplain, there were the criteria that must be met in terms of minimizing obstruction, which were provided on the slide.

Ms. Ragsdale stated that they had discussed not being able to place the fill in the regulatory floodway, and the importance of the base flood elevation in any floodplain analysis, limiting it to one foot above 324 if they filled it. They also had provisions to protect against erosion and pollution. The floodplain administrator, which was the County Engineer, had the authority to require any additional documentation, engineering studies that may be needed in a certain circumstance. In addition, there was a requirement for a site plan. This was all in addition to the FEMA process.

Ms. Ragsdale explained that staff had recommended approval of the special use permit request, while the Planning Commission recommended approval with a vote of 4-3. The Commissioners had serious concerns regarding the green systems designation in the master plan and protection of the floodplain as it related to water quality. She said that when the item was presented to the Planning Commission, it was recommended for approval with Conditions 1 through 3, as Condition 3 added to address concerns regarding potential archeological resources.

Ms. Ragsdale clarified that they had the information from their Historic Resources planner and the state database, and based on those comments, staff had recommended a phase one archeological survey. Conditions 1 and 2 covered everything they had discussed in terms of the engineering aspects of the project and the limitations and additional requirements that must be met to conduct the fill and develop the site. Condition 4 required stormwater treatment to be provided on site and for the phosphorus

reduction to be twice what would normally be required for that 1.496 acre area that was requested for disturbance.

Ms. Ragsdale stated that staff felt that this condition was an appropriate way to mitigate and offset the proposed disturbance and fill in the floodplain. They had previously seen a similar condition in a proffer, but they were able to require it as a condition because they believed it addressed the concerns regarding impacts of the loss of that area of the floodplain to fill. She reiterated that staff had recommended approval and wanted to ensure that they had the updated conditions that they had discussed, including the one that was added.

Ms. Ragsdale said that they had reviewed the findings from the engineering study that was prepared by Timmons. She said that the applicant's team was also present and they would discuss this further. She said that as they had previously discussed, the property was already zoned light industrial, which would enable the use of the 1.496-acre area. She noted that there was a concern that this use was not consistent with the current green systems designation; however, the majority of the site, approximately 5.5 acres, would remain consistent with this designation. This was part of their recommendation and analysis for approval.

Ms. McKeel said that she needed some clarification regarding the regulatory process. She asked if there would be further steps in this process after the special use permit was approved and before the development began.

Ms. Ragsdale said that the first two steps in the regulatory process were where they currently were with this application, so they were considering whether or not to allow the fill. If they allowed the fill, that was when a lot more engineering would happen.

Mr. Edwards clarified that the Conditional Letter of Map Revision (CLOMR) was a revision based on fill. This had undergone review by FEMA, who had examined the same documentation that County staff had and reached consensus with them, concluding that it had no impact. He explained that however, it was conditional, meaning a final determination would not be made until the Letter of Map Revision (LOMR) was applied for, which was a subsequent review process.

Mr. Edwards said that this would occur later and would also be determined based on the County's reviews of the Water Protection Ordinance (WPO) and any decisions made tonight, as well as other requirements related to the site plan and floodplain permit. In this case, the County would be responsible for verifying that the fill was constructed in accordance with the approved design, and FEMA would then review that to approve it.

Ms. Mallek asked if this was the only chance the Board would have to review this application

Ms. Ragsdale answered that the special use permit was the only legislative action required for this application. There were no other steps subsequent to tonight that would require the matter to return to the Planning Commission and the Board, unless it was related to the industrial district regulations, or if they were requesting something else that needed a special use permit or another waiver from another section of the Zoning Ordinance. In terms of tonight's public hearing, the Board ultimately had the options to approve, deny, or defer action on the item.

Ms. Mallek asked when the FEMA conditional letter had been received.

Mr. Edwards replied that it was in 2024, but he did not have the exact date.

Ms. Mallek stated that that was fairly recently. She noted that right next door to this site was the remediation planting project for the Ragged Mountain, with the remaining portion of the project located at Buck Mountain Creek. She said that she was trying to comprehend how filling an acre and a half to a depth of four to six feet would not significantly increase the water flow into the backwater area, which was adjacent to the forest that was planted at great expense by the RWSA and ratepayers. She was struggling to understand why this proposed solution would not have a more substantial impact, considering there was nowhere else for the water to go.

Mr. Edwards said that his attempt at explaining what a backwater condition was meant to better define what it was like as opposed to a normal flow during a flood event. Due to the restrictive nature of the Rivanna, the backwater it created was a low-velocity, almost stagnant flow that establishes an equilibrium of elevation throughout the area. The hydrology of that condition was not influenced by the proposed fill, which was supported by the findings of the engineering study, FEMA's review, and their own assessment, so this fill would not displace and cause a rise in elevation in this backwater area.

Ms. Mallek said that if there was a lot of rain at the headwaters while there was also high water in the Rivanna, there would be a lot more water coming in while the Moores Creek water could not leave. She emphasized that the water would not just sit there; it would rise. She noted that the whole reason why the lower level of the Woolen Mills renovation had nothing in there was because it was designed to fill up with water, and that was eight feet above the creek's banks. She was trying to understand this when it seemed so counterintuitive to her own knowledge of hydrology, specifically in their local waters. She expressed great concern at the potential impacts this would have, because she was not convinced the waters would always be moving slowly.

Mr. Edwards clarified that it would be relatively slower compared to if the restriction was not there.

Ms. Mallek acknowledged that it was in comparison to if the neck was not present at the river, but even then, she considered that it was possible that even more Rivanna River water could enter. She said that that was a bit speculative. She said that another counterintuitive aspect was the relationship between grading activity, including fill, and floodplain fringe. She said that this was illustrated in one of the slides. She said that it was a flood hazard area, and she did not understand how filling in the area with soil would not impact that.

Mr. Edwards said that it should be kept in mind that the floodway was the carrying capacity that FEMA assessed to manage the flow of water needed to be transported through the area during a 100-year storm event. The floodway fringe was an additional factor to the capacity. Even if fill was placed within the fringe, it may only have minimal effect on the floodway capacity no more than one foot in elevation. That was the basis for their analysis, which FEMA and the County used to evaluate the situation.

Ms. Mallek asked if she understood that the conclusion was that if the fill were placed there, it would impact the rise of water no more than one foot in elevation.

Mr. Edwards replied that if floodway fringe were to be entirely filled, not just this site, but every location, it would be less than one foot.

Ms. Mallek noted that there was a large drop in elevation as the river flowed southeast, going from 324 feet to 316 feet.

Mr. Edwards added that with the new data FEMA was proposing regarding floodplain mapping, they were seeing more accurate data on existing conditions, so it was possible that some of the elevations they were currently using, such as the 324 elevation, may be reduced. He said that this was due to the availability of more accurate data.

Ms. Mallek said that a transit was a transit, so she did not fully understand the distinction, but she would leave that alone.

Mr. Frank Pohl, County Engineer, said that he wanted to expand on Mr. Edwards' statement. He explained that the backwater condition began at the Rivanna River. He said that if they examined the provided floodplain map, the 324-foot elevation was located at the confluence of the two rivers. It ran all the way from the Rivanna River to the back of this site. The reason for the lack of a rise in the floodplain due to fill was because the flow was controlled by the Rivanna River; it was not controlled by riverine flow through the channel in front of the site.

Mr. Pohl said that instead, the hydraulic head controlled the elevation in the backwater area. He said that he believed the Timmons engineer may be able to explain this concept in simpler terms, but essentially, the site was not subject to riverine flow due to the backwater condition. It was controlled by the head created from the confluence of the Rivanna and the creek.

Ms. Mallek stated that she understood the explanation, but in her experience of driving down Franklin Street, she had the intuitive feeling that it was very prone to flooding, especially considering the new houses there were built on stilts.

Mr. Pohl clarified that flooding would continue to occur on Franklin Street. He explained that this specific request for fill would not exacerbate the flooding, as the model indicated and as FEMA approved. He said that County staff agreed with the model, which was a standard in the industry and was being met in this request. The County's regulations permitted this type of filling in a floodplain, although it did require a special permit. He summarized that this was the basis on which County staff made their recommendation.

Ms. LaPisto-Kirtley asked if the adjacent property had filled in part of the floodplain on their land.

Ms. Ragsdale confirmed that was correct.

Ms. LaPisto-Kirtley asked what elevation it was filled in to.

Mr. Edwards replied that he was unsure of the exact number, but he believed it was the same base flood elevation.

Ms. LaPisto-Kirtley asked if staff was aware of any problems on that neighboring industrial site due to filling in the floodplain.

Mr. Edwards replied that there were none that he was aware of.

Ms. LaPisto-Kirtley said that regarding the zoning map, the light blue area was zoned light industrial. She asked if the green systems designation overlapped with that area.

Ms. Ragsdale said that they had two slides, one covering the comprehensive plan and one on the broader category of parks and green systems. She said that the adopted Comprehensive Plan did not specify any particular park or trail amenity for the area. She noted that this was one of their master plans that had not been updated to reflect their current preference for green systems and parks designations. It

was essential to recognize that this designation did not necessarily distinguish between public parks and private green systems, which may include parks but were primarily designated as green systems due to their environmental critical resources.

Ms. LaPisto-Kirtley said that she understood the industrial zoning was for warehousing and research and development as allowed uses.

Ms. Ragsdale said that the light industrial district allowed for a broad range of uses, including manufacturing, processing, assembly, fabrication, recycling, and storage, warehousing, distribution, and transportation. Additionally, labs and research and development facilities were allowed by right. However, they also had uses that were prohibited, as well as those that required special permits, which were discussed in the slide referring to the Certified Engineer's Report. They did not know the specific use that would take place on the 1.496 acres of fill in the floodplain, although the owner may be able to provide more specific information about potential future users on this site. They also had a site plan showing the footprints of the development.

Ms. LaPisto-Kirtley acknowledged the identified need for light industrial space in the County, which was part of their Economic Development Authority's (EDA) planning. She understood the CLOMR was approved by FEMA without issue, and once the subsequent steps in the process went through, it would eventually receive a regular LOMR, and then the landowner could begin development.

Mr. Edwards confirmed that the owner was required to demonstrate that the construction met the required standards.

Mr. Pruitt said that regarding the overlays in relation to their floodway, floodplain, and fringe areas, he wanted to clarify that these terms and designations were not assigned by the County, but rather by FEMA.

Mr. Edwards confirmed that they were FEMA designations and terminology.

Mr. Pruitt said that he would like to know if they had an estimate of the total tonnage of fill that would be required for this request.

Mr. Edwards replied that he did not have information about the total tonnage required.

Mr. Pruitt said that he was attempting to ascertain the intrusiveness of the fill operation itself and the number of truck trips involved. They had become familiar with the concerns surrounding the number of truck trips for fill operations, so he wanted to bring it up as a point to consider.

Mr. Andrews said that they were exploring the impact on nearby areas, as analyzed by the County. He said that specifically, he was wondering if the County's analysis considered the area on the other side of Franklin Street. He asked if they had examined the entire area, regardless of whether it fell within the County's jurisdiction or the City's jurisdiction.

Mr. Edwards confirmed that they were looking at the area the floodplain currently occupied, evaluating whether there was any change or impact to that, which would include Franklin Street and the other side of it.

Mr. Andrews said that it appeared the goal of this request was to prevent a massive erosion event that resulted from fast-moving water and did not prevent the rising of the water from the confluence of the river and creek at 324 feet.

Mr. Edwards explained that the concept of the backwater is that it was the controlling factor. Yes, it slowed it down and reduced the risk with erosion. The County's review process with the Water Protection Ordinance would do the same, so they would be looking at that in finer detail. What it was saying was that this proposed fill would not increase that surface water elevation any more during a storm event.

Mr. Andrews asked how the applicant would achieve the proposed condition for phosphorous load reduction at this site.

Mr. Edwards said that they would need to develop their site with the necessary stormwater management systems that could handle the increased phosphorus. He said that it was possible that a variety of measures could be considered, but at this point, they did not have that information.

Mr. Andrews asked if it would be inside the retaining wall.

Mr. Edwards replied that it could be. They would want to limit it to the edge of the floodway.

Mr. Andrews asked if the wall would be built before the fill was put in.

Mr. Edwards said that, yes, however, the applicant may have more information on the context because they had also considered sloping options before deciding on the retaining wall.

Mr. Andrews said that there was also discussion about the buffer being enabled for use, and he was wondering if there was any access. He noticed that there was green space being maintained, but he

was not seeing any indication of access to the preserved area along the stream buffer zone, which was intended for future dedication. He asked what the access to that area would be.

Mr. Pruitt said that there was a road along where the bakery was located.

Mr. Andrews asked if that was the only way in.

Mr. Pruitt said yes; he remembered talking about it at the community meeting.

Mr. Andrews said that according to his understanding, Franklin Street was already at approximately 324 feet in this area, which meant that this project was essentially bringing the fill up to street level, and the homes were mostly located higher than that on the other side.

Mr. Edwards said that one of the conditions for the special use permit stipulated that they must elevate the site one foot higher, so it had a freeboard of one foot in relation to the flooding.

Mr. Pruitt said that he had one other question to ask. He said that the point had been made that the pressure head of the Rivanna regulated Moores Creek, which meant it did not increase the elevation of the flood fringe during a flood event, even with this fill. He said that he understood that. He said that it was also being asserted that the footprint of the flood fringe was not altered by this. He was having trouble understanding how the pressure head of the Rivanna would regulate the footprint, so he wondered if it was simply because the footprint was negligible.

Mr. Edwards confirmed that it would be negligible.

Mr. Pruitt said that it seemed that the displacement of water was occurring laterally, but in a way that was negligible and therefore not measurable.

Mr. Pohl clarified that it would change the footprint, because raising it above the elevation meant that the line that used to go along the bread company building to Franklin Street would now jog around the site and the fill area. He reiterated that it would change, and that was related to the LOMR. The LOMR had to be issued prior to the applicant doing anything on the site, because until the letter was issued, the regulatory floodplain would remain at its current location on the site.

Mr. Pruitt asked if they already knew what the redesignated footprint would be after the fill was put in.

Mr. Pohl said that it was indicated roughly by the yellow line on the concept plan map. The floodplain would still flow between and into Franklin Street, as depicted on the other map that showed flooding on Franklin Street.

Mr. Pruitt asked Ms. Mallek if that was the issue she was trying to understand earlier.

Ms. Mallek said that it was nice to know the water would actually be higher than what she thought would result from the change. She asked if the wall would be located at that yellow line.

Mr. Edwards confirmed that it would be located at that yellow line.

Ms. Mallek said that this meant that high water in the floodway would be constrained by the wall, resulting in higher velocity once it went past the wall. She asked how that was taken into consideration in terms of impacts.

Mr. Edwards explained that the constriction would not be the primary influence on that reach because it was still in the backwater conditions. He reiterated that it was still the Rivanna River that was mostly controlling the flow of the water.

Ms. Mallek said that she was considering the scenario of a flood stage in Moores Creek, and that was where her questions lay. She was trying to distinguish between the ordinary day's facts and the potential outcomes on another day, which she was attempting to understand.

Mr. Andrews opened the public hearing.

Ms. Rebecca Ragsdale, Planning Manager, stated that she was joined here by their Deputy County Engineer, Tony Edwards, who had been very involved and served as the lead for engineering on the review of this request. She explained that this was a unique request, so staff wanted to take some time this evening to thoroughly review the floodplain characteristics and the location of the fill. She said that the fill request was for 1.496 acres located on a 7-acre site. She said that she would like to orient the Board to the location, and then they would take them through the Comprehensive Plan information, with a specific focus on the floodplain analysis, which Mr. Edwards would walk them through.

Ms. Ragsdale said that provided on the slide was the vicinity map to help them understand the location of the property, which was situated along Franklin Street, which was within the City limits. The property was located on the edge of the City-County line, between Interstate 64, the Rivanna Water and Sewer Authority (RWSA) facility to the north, and the Woolen Mills neighborhood to the south. She said that the next aerial view showed the location adjacent to Franklin Street, where the fill was requested.

The yellow line outlined the site. There were RWSA facilities to the south and east of the site, as well as the RWSA property where the wetlands project had taken place.

Ms. Ragsdale stated that to the north, also referenced in the Planning Commission information, was the area where the Woolen Mills Industrial development was currently underway. She explained that there was a site plan approved for that area, and although the parcels had the same owner, they were separate parcels. She said that the City neighborhood across Franklin Street was zoned residential. She said that the next aerial view provided a more detailed view of the site, highlighting the existing industrial development that was already underway.

Ms. Ragsdale said that in terms of the neighboring property, it was an existing industrial use that has undergone a floodplain fill request, approved in 1997 or 1998. The following pictures showed the area, looking south, across, and adjacent to the residential, undeveloped, and nearby industrial uses. She said that on the zoning map, the blue on the map indicated the industrial zoning, which encompassed much of Woolen Mills. She said that the historic Woolen Mills was zoned commercial, located in the pink area on the map. Additionally, the Flood Hazard Overlay District was applicable to this review.

Ms. Ragsdale said that the floodplain map highlighted the critical resources, including the floodplain in blue and purple, the stream buffer in yellow and green, and the tan was the steep slopes and critical slopes. She said that Mr. Edwards would focus on the unique characteristics of this floodplain location in his upcoming slides. She said that this map referred to the backwater area of the floodplain, which would be explained in more technical detail by Mr. Edwards.

Ms. Ragsdale stated that the Comprehensive Plan designated much of the area, including sensitive environmental sites, as green systems. This included properties with floodplain slopes or stream buffers, as well as parks. She said that in this case, the parks designation was primarily due to environmental features. The area included developed properties and outside of the floodplain, so there was a significant amount of green space designated that included existing improvements. She said that this particular parcel did not receive specific recommendations in the recent review of the area with the Broadway blueprint.

Ms. Ragsdale stated that staff wanted to review the flood hazard overlay and light industrial (LI) zoning features, because the focus of this application was on the fill and floodplain request, which sought to allow grading and fill activities within the Flood Hazard Overlay District. She said that provided was a list of some of the other uses that were allowed in the light industrial district. Any fill or development in this area must be approved and occur before any light industrial uses could be developed. She said that this included manufacturing and processing, storage, warehousing, laboratory, and research and development.

Ms. Ragsdale said that the light industrial district had broad categories of allowed uses, but it also came with additional regulations. She said that the next slide aimed to clarify where they were in the process of considering the floodplain and to provide that information for the Board and the public. She noted that the applicant had submitted to the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision (CLOMR), which FEMA did not have any concerns about. Now, the County must review it under their local ordinance and Flood Hazard Overlay District to allow fill of the requested 1.496 acres. This would need to be addressed in the conditions of the special use permit, if approved.

Ms. Ragsdale said that after that point, they could conduct the fill and work with FEMA to amend the floodplain map. She said that Mr. Edwards would explain in further detail that any prior map revisions approved by FEMA on other sites in the County or City had been considered in the engineering analysis. They had already discussed the light industrial allowances, and they could revisit those if needed. The focus was on the issues surrounding the flood hazard overlay district.

Ms. Ragsdale stated that if the applicant moved forward with those next steps, they would need to comply with the light industrial district, as well as their ordinance. For industrial districts, they had many layers of regulations, including special use permits and supplemental regulations. She said that these regulations may include additional setbacks, buffers, and screening, as well as prohibiting certain outdoor activities. Any industrial uses that they had concerns about in the LI district would need to occur indoors. They also required a certified engineer's report to ensure that any industrial activity complied with the ordinance and applicable regulations, such as those related to materials, vibration, and noise.

Ms. Ragsdale said that if all necessary processes were completed, the final steps would be the building permit and zoning clearance process. Next, she would review the concept plan. She said that the site was shown in green, with the outer limits of the parcel in light green and the stream buffer area along Moores Creek in dark green. She indicated that the area between the floodway and the floodplain fringe was the only area where fill could be requested, so that 1.496 acres of that area were generally drawn on the map. She said that retaining walls would be necessary to add the fill.

Ms. Ragsdale said that Moores Creek Lane provided access to the RWSA property, and in this case, the request had the potential for the County to dedicate the stream buffer for a public greenway trail; however, it was not specifically mentioned in their Comprehensive Plan or in the County's current development. The criteria applicable to all special use permits was what they want to ensure they cover in their staff reports and discuss with the Board this evening. When it came to floodplain requests, the health and safety, as well as the potential detriment to abutting properties, were of paramount concern.

Ms. Ragsdale stated that staff had reviewed the Comprehensive Plan in this case and considered the nearby character of the area, as well as the industrial uses if it were to be developed. Staff did not believe the character of the area would be significantly altered, although it would be a change to this property given the other industrial uses. In the floodplain section, Mr. Edwards would focus on the substantial detriment and explain how they arrived at their conclusion that they did not find any in this case.

Ms. Ragsdale stated that they held a community meeting to receive feedback about this application, and the Board had received a summary of that meeting and other emails from constituents, but that was not included in the staff report. She said that they had taken into account the concerns raised during the meeting and addressed them in the special use permit conditions they had recommended.

Mr. Tony Edwards, Deputy County Engineer, stated that as depicted on the screen, they were referring to two sections of the floodplain, specifically the floodway fringe and the regulatory floodway. The floodway fringe was the outer limit, as depicted on the previous slide that Ms. Ragsdale had shown. He explained that the floodway itself was the channel that the river needed to carry the capacity for, in the adjacent area, that would be in reserve to handle the discharge from a base flood event, and any account of increasing the water surface area no more than one foot. The floodway fringe allowed for extra capacity on the outside, but it was not necessarily the area that was needed just to carry the floodway during a 100-year event or 1% chance flood.

Mr. Edwards stated that in the Planning Commission meeting, there was some concern about the terminology of backwater conditions, so he provided this information to give the Board some grounding on what that would entail. This was a somewhat unique situation, as it discharged in close proximity to the Rivanna River. The Rivanna River acted as a constriction for this 1% flood event, creating a backwater condition, essentially slowing the flow that was coming out of Moores Creek.

Mr. Edwards said that provided on the slide were some characteristics of this backwater area. Considering placing fill in this backwater area may not cause a greater rise because the backwater area was typically a low-energy zone, and it had minimal flow connectivity to the main river channel, which would be the Rivanna in this situation during normal or potentially flood conditions. He noted that some of the characteristics to consider for this area were the hydraulic isolation characteristics, which was common in backwater areas such as oxbow lakes and wetlands, offering a disconnected, limited interaction with the main river flow.

Mr. Edwards said that this created a backward flow direction in Meadow Creek. He said that adding fill to this area did not significantly alter the main channel's capacity to convey the floodwaters, so the floodplain water elevations remained unaffected. Another characteristic was a low flow velocity, which was stagnant or slow-moving water, mainly because the area did not contribute substantially to the floodwater movement. This slower velocity often resulted in a very slow-flowing situation, reducing the risk of erosion and other damaging effects that sometimes occurred during a massive flood.

Mr. Edwards stated that floodplain storage capacity was primarily determined by the main channel, the Rivanna in this situation, and adjacent low-lying areas actively involved in floodwater conveyance. Backwater zones such as this often lay outside of the active zone and modifying them with fill did not reduce the floodplain's ability to store or convey the water. He said that this information was a broad overview of the potential situation.

Mr. Edwards said that next, he would provide information more specific to their location. He said that as they could see at the top of the satellite map, there was the parcel location. He said that overlaid on the satellite image was a FEMA floodplain map, which had also been provided in their study of this area for this proposal. The location was well within the Rivanna River, where the backflow condition began, up to the elevation line of 324, which was well upstream of the site.

Mr. Edwards clarified that the cross-sectional line indicated a 324 elevation. He said that this elevation marked the point where the backwater extended into Moores Creek, and subsequently, all the way down to the Rivanna River. The leveling or equilibrium of the elevation occurred at this 324 elevation point throughout the reach of the river. This was due to the restrictive force exerted by the Rivanna River in this scenario.

Mr. Edwards said that the next slide showed the floodplain without the backwater condition, used for comparison purposes. This was not the situation they were currently discussing; however, he wanted to highlight the difference between the two was primarily the difference in elevation. He said that if one looked at the site's location, just upstream from there, the elevations tended to decline as one got closer to the Rivanna River. He said that this information was based on new data from FEMA, which was currently producing new FEMA maps for all localities. These maps were expected to be adopted, hopefully within the next year, but may take longer.

Mr. Edwards said that the goal was to illustrate the point that the water surface elevations would decline as they approached the Rivanna River. In this scenario, one was actually at a lesser elevation than one would be with a backwater condition. He said that the key distinction was that the backwater condition was uniform, whereas the elevations in this scenario declined as one moved towards the river.

Ms. Ragsdale said that this information explained the unique characteristics of that property and why they wanted to ensure that the significance of the term "backwater" was explained. She said staff had reviewed the Timmons report, which was based on the most current floodplain information, as they had

mentioned earlier. If any fill was allowed in the floodplain, there were the criteria that must be met in terms of minimizing obstruction, which were provided on the slide.

Ms. Ragsdale stated that they had discussed not being able to place the fill in the regulatory floodway, and the importance of the base flood elevation in any floodplain analysis, limiting it to one foot above 324 if they filled it. They also had provisions to protect against erosion and pollution. The floodplain administrator, which was the County Engineer, had the authority to require any additional documentation, engineering studies that may be needed in a certain circumstance. In addition, there was a requirement for a site plan. This was all in addition to the FEMA process.

Ms. Ragsdale explained that staff had recommended approval of the special use permit request, while the Planning Commission recommended approval with a vote of 4-3. The Commissioners had serious concerns regarding the green systems designation in the master plan and protection of the floodplain as it related to water quality. She said that when the item was presented to the Planning Commission, it was recommended for approval with Conditions 1 through 3, as Condition 3 added to address concerns regarding potential archeological resources.

Ms. Ragsdale clarified that they had the information from their Historic Resources planner and the state database, and based on those comments, staff had recommended a phase one archeological survey. Conditions 1 and 2 covered everything they had discussed in terms of the engineering aspects of the project and the limitations and additional requirements that must be met to conduct the fill and develop the site. Condition 4 required stormwater treatment to be provided on site and for the phosphorus reduction to be twice what would normally be required for that 1.496 acre area that was requested for disturbance.

Ms. Ragsdale stated that staff felt that this condition was an appropriate way to mitigate and offset the proposed disturbance and fill in the floodplain. They had previously seen a similar condition in a proffer, but they were able to require it as a condition because they believed it addressed the concerns regarding impacts of the loss of that area of the floodplain to fill. She reiterated that staff had recommended approval and wanted to ensure that they had the updated conditions that they had discussed, including the one that was added.

Ms. Ragsdale said that they had reviewed the findings from the engineering study that was prepared by Timmons. She said that the applicant's team was also present and they would discuss this further. She said that as they had previously discussed, the property was already zoned light industrial, which would enable the use of the 1.496-acre area. She noted that there was a concern that this use was not consistent with the current green systems designation; however, the majority of the site, approximately 5.5 acres, would remain consistent with this designation. This was part of their recommendation and analysis for approval.

Ms. McKeel said that she needed some clarification regarding the regulatory process. She asked if there would be further steps in this process after the special use permit was approved and before the development began.

Ms. Ragsdale said that the first two steps in the regulatory process were where they currently were with this application, so they were considering whether or not to allow the fill. If they allowed the fill, that was when a lot more engineering would happen.

Mr. Edwards clarified that the Conditional Letter of Map Revision (CLOMR) was a revision based on fill. This had undergone review by FEMA, who had examined the same documentation that County staff had and reached consensus with them, concluding that it had no impact. He explained that however, it was conditional, meaning a final determination would not be made until the Letter of Map Revision (LOMR) was applied for, which was a subsequent review process.

Mr. Edwards said that this would occur later and would also be determined based on the County's reviews of the Water Protection Ordinance (WPO) and any decisions made tonight, as well as other requirements related to the site plan and floodplain permit. In this case, the County would be responsible for verifying that the fill was constructed in accordance with the approved design, and FEMA would then review that to approve it.

Ms. Mallek asked if this was the only chance the Board would have to review this application

Ms. Ragsdale answered that the special use permit was the only legislative action required for this application. There were no other steps subsequent to tonight that would require the matter to return to the Planning Commission and the Board, unless it was related to the industrial district regulations, or if they were requesting something else that needed a special use permit or another waiver from another section of the Zoning Ordinance. In terms of tonight's public hearing, the Board ultimately had the options to approve, deny, or defer action on the item.

Ms. Mallek asked when the FEMA conditional letter had been received.

Mr. Edwards replied that it was in 2024, but he did not have the exact date.

Ms. Mallek stated that that was fairly recently. She noted that right next door to this site was the remediation planting project for the Ragged Mountain, with the remaining portion of the project located at Buck Mountain Creek. She said that she was trying to comprehend how filling an acre and a half to a

depth of four to six feet would not significantly increase the water flow into the backwater area, which was adjacent to the forest that was planted at great expense by the RWSA and ratepayers. She was struggling to understand why this proposed solution would not have a more substantial impact, considering there was nowhere else for the water to go.

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Ms. Mallek asked if she understood that the conclusion was that if the fill were placed there, it would impact the rise of water no more than one foot in elevation.

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Mr. Pohl said that instead, the hydraulic head controlled the elevation in the backwater area. He said that he believed the Timmons engineer may be able to explain this concept in simpler terms, but essentially, the site was not subject to riverine flow due to the backwater condition. It was controlled by the head created from the confluence of the Rivanna and the creek.

Ms. Mallek stated that she understood the explanation, but in her experience of driving down Franklin Street, she had the intuitive feeling that it was very prone to flooding, especially considering the new houses there were built on stilts.

Mr. Pohl clarified that flooding would continue to occur on Franklin Street. He explained that this specific request for fill would not exacerbate the flooding, as the model indicated and as FEMA approved. He said that County staff agreed with the model, which was a standard in the industry and was being met in this request. The County's regulations permitted this type of filling in a floodplain, although it did require a special permit. He summarized that this was the basis on which County staff made their recommendation.

Ms. LaPisto-Kirtley asked if the adjacent property had filled in part of the floodplain on their land.

Ms. Ragsdale confirmed that was correct.

Ms. LaPisto-Kirtley asked what elevation it was filled in to.

Mr. Edwards replied that he was unsure of the exact number, but he believed it was the same base flood elevation.

Ms. LaPisto-Kirtley asked if staff was aware of any problems on that neighboring industrial site due to filling in the floodplain.

Mr. Edwards replied that there were none that he was aware of.

Ms. LaPisto-Kirtley said that regarding the zoning map, the light blue area was zoned light industrial. She asked if the green systems designation overlapped with that area.

Ms. Ragsdale said that they had two slides, one covering the comprehensive plan and one on the broader category of parks and green systems. She said that the adopted Comprehensive Plan did not specify any particular park or trail amenity for the area. She noted that this was one of their master plans that had not been updated to reflect their current preference for green systems and parks designations. It was essential to recognize that this designation did not necessarily distinguish between public parks and private green systems, which may include parks but were primarily designated as green systems due to their environmental critical resources.

Ms. LaPisto-Kirtley said that she understood the industrial zoning was for warehousing and research and development as allowed uses.

Ms. Ragsdale said that the light industrial district allowed for a broad range of uses, including manufacturing, processing, assembly, fabrication, recycling, and storage, warehousing, distribution, and transportation. Additionally, labs and research and development facilities were allowed by right. However, they also had uses that were prohibited, as well as those that required special permits, which were discussed in the slide referring to the Certified Engineer's Report. They did not know the specific use that would take place on the 1.496 acres of fill in the floodplain, although the owner may be able to provide more specific information about potential future users on this site. They also had a site plan showing the footprints of the development.

Ms. LaPisto-Kirtley acknowledged the identified need for light industrial space in the County, which was part of their Economic Development Authority's (EDA) planning. She understood the CLOMR was approved by FEMA without issue, and once the subsequent steps in the process went through, it would eventually receive a regular LOMR, and then the landowner could begin development.

Mr. Edwards confirmed that the owner was required to demonstrate that the construction met the required standards.

Mr. Pruitt said that regarding the overlays in relation to their floodway, floodplain, and fringe areas, he wanted to clarify that these terms and designations were not assigned by the County, but rather by FEMA.

Mr. Edwards confirmed that they were FEMA designations and terminology.

Mr. Pruitt said that he would like to know if they had an estimate of the total tonnage of fill that would be required for this request.

Mr. Edwards replied that he did not have information about the total tonnage required.

Mr. Pruitt said that he was attempting to ascertain the intrusiveness of the fill operation itself and the number of truck trips involved. They had become familiar with the concerns surrounding the number of truck trips for fill operations, so he wanted to bring it up as a point to consider.

Mr. Andrews said that they were exploring the impact on nearby areas, as analyzed by the County. He said that specifically, he was wondering if the County's analysis considered the area on the other side of Franklin Street. He asked if they had examined the entire area, regardless of whether it fell within the County's jurisdiction or the City's jurisdiction.

Mr. Edwards confirmed that they were looking at the area the floodplain currently occupied, evaluating whether there was any change or impact to that, which would include Franklin Street and the other side of it.

Mr. Andrews said that it appeared the goal of this request was to prevent a massive erosion event that resulted from fast-moving water and did not prevent the rising of the water from the confluence of the river and creek at 324 feet.

Mr. Edwards explained that the concept of the backwater is that it was the controlling factor. Yes, it slowed it down and reduced the risk with erosion. The County's review process with the Water

Protection Ordinance would do the same, so they would be looking at that in finer detail. What it was saying was that this proposed fill would not increase that surface water elevation any more during a storm event.

Mr. Andrews asked how the applicant would achieve the proposed condition for phosphorous load reduction at this site.

Mr. Edwards said that they would need to develop their site with the necessary stormwater management systems that could handle the increased phosphorus. He said that it was possible that a variety of measures could be considered, but at this point, they did not have that information.

Mr. Andrews asked if it would be inside the retaining wall.

Mr. Edwards replied that it could be. They would want to limit it to the edge of the floodway.

Mr. Andrews asked if the wall would be built before the fill was put in.

Mr. Edwards said that, yes, however, the applicant may have more information on the context because they had also considered sloping options before deciding on the retaining wall.

Mr. Andrews said that there was also discussion about the buffer being enabled for use, and he was wondering if there was any access. He noticed that there was green space being maintained, but he was not seeing any indication of access to the preserved area along the stream buffer zone, which was intended for future dedication. He asked what the access to that area would be.

Mr. Pruitt said that there was a road along where the bakery was located.

Mr. Andrews asked if that was the only way in.

Mr. Pruitt said yes; he remembered talking about it at the community meeting.

Mr. Andrews said that according to his understanding, Franklin Street was already at approximately 324 feet in this area, which meant that this project was essentially bringing the fill up to street level, and the homes were mostly located higher than that on the other side.

Mr. Edwards said that one of the conditions for the special use permit stipulated that they must elevate the site one foot higher, so it had a freeboard of one foot in relation to the flooding.

Mr. Pruitt said that he had one other question to ask. He said that the point had been made that the pressure head of the Rivanna regulated Moores Creek, which meant it did not increase the elevation of the flood fringe during a flood event, even with this fill. He said that he understood that. He said that it was also being asserted that the footprint of the flood fringe was not altered by this. He was having trouble understanding how the pressure head of the Rivanna would regulate the footprint, so he wondered if it was simply because the footprint was negligible.

Mr. Edwards confirmed that it would be negligible.

Mr. Pruitt said that it seemed that the displacement of water was occurring laterally, but in a way that was negligible and therefore not measurable.

Mr. Pohl clarified that it would change the footprint, because raising it above the elevation meant that the line that used to go along the bread company building to Franklin Street would now jog around the site and the fill area. He reiterated that it would change, and that was related to the LOMR. The LOMR had to be issued prior to the applicant doing anything on the site, because until the letter was issued, the regulatory floodplain would remain at its current location on the site.

Mr. Pruitt asked if they already knew what the redesignated footprint would be after the fill was put in.

Mr. Pohl said that it was indicated roughly by the yellow line on the concept plan map. The floodplain would still flow between and into Franklin Street, as depicted on the other map that showed flooding on Franklin Street.

Mr. Pruitt asked Ms. Mallek if that was the issue she was trying to understand earlier.

Ms. Mallek said that it was nice to know the water would actually be higher than what she thought would result from the change. She asked if the wall would be located at that yellow line.

Mr. Edwards confirmed that it would be located at that yellow line.

Ms. Mallek said that this meant that high water in the floodway would be constrained by the wall, resulting in higher velocity once it went past the wall. She asked how that was taken into consideration in terms of impacts.

Mr. Edwards explained that the constriction would not be the primary influence on that reach because it was still in the backwater conditions. He reiterated that it was still the Rivanna River that was

mostly controlling the flow of the water.

Ms. Mallek said that she was considering the scenario of a flood stage in Moores Creek, and that was where her questions lay. She was trying to distinguish between the ordinary day's facts and the potential outcomes on another day, which she was attempting to understand.

Mr. Andrews opened the public hearing.

Mr. Bill Emory, 1604 Woolen Mills Road, City of Charlottesville, said that water was an elixir essential for life, and rivers served as the circulatory system. He said that owning property in the James River watershed in close proximity to a stream or river came with a responsibility. He said that while industrial polluters could purchase nutrient credits to cover their bad behavior, these purchases were of little value to local and downstream riverine fauna. He said that he had a lifelong dream to bike to the Bay, stand in the water, and see his feet.

Mr. Emory said that when Europeans first arrived, the bottom of the Bay was visible 50 feet down, and the water was crystal clear. Therefore, they had not been doing a good job. They were 27 years past the Rivanna River Basin Project and nine years since the 2016 Charlottesville-Albemarle Memorandum of Understanding (MOU) on the environment. In 2017, the localities' Planning Commissions agreed in a joint session to support the Rivanna River Corridor Renaissance. In line with these commitments, he prayed they would continue with these river-supportive behaviors, as the Albemarle Board had an exemplary record of water quality protection.

Mr. Emory said that they had not approved floodplain fills in 28 years. He implored the Supervisors to do the good work and continue to support the river, the Bay, and their natural and cultural heritage. This project would cause substantial damage to quality of life on adjacent parcels. He said that the character of adjacent parcels would be changed by the proposed special use, and public health, safety, and welfare would not be improved. He said that the proposed fill was inconsistent with the Comprehensive Plan. He said that he would like to read some abstracts and comments from Commissioner Firehock.

Mr. Emory read, "There were lots of things we can do with engineering with big machines and modern equipment, so we do have the ability to build up soil and help create an island of elevation that would put the structure in a 100-year floodplain. We could also pipe the creek and pave it over so we wouldn't have to have a buffer. We could actually get a permit from the Army Corps of Engineers to do things like that. But should we? I'm also looking at this from two perspectives: one is death by a thousand paper cuts, which is all the little fills accumulating together. I don't have the confidence we're looking at it from that perspective. I think that zoning can be old, zoning can be wrong, zoning can be a bad idea. I think this zoning is outdated. Today, putting industrial zoning along our rivers is a bad idea. I don't think the zoning is good. We're not here tonight to decide about the zoning; we're here to decide whether to fill in the floodplain. I'm going to stick with the Comprehensive Plan; I think this site is best designated as a green system."

Ms. Jenny Mikulski, 718 Franklin Street, said that her driveway was approximately 200 feet from the driveway of this project. She said that the first-floor elevation of her home was 322 feet. She said that she had heard several inaccuracies tonight and did not have time to address them, but she would appreciate the opportunity to send some comments after this meeting. Notably, one of the photographs presented was misquoted; it was actually Moores Creek Lane, not Franklin Street, so the Board actually had not seen a photograph of Franklin Street.

Ms. Mikulski emphasized that this was the third meeting she had attended where she had heard no mention of their homes or the vibrant environmental conservation area that was set aside by the RWSA, which was immediately abutting to this site. She said that in fact, there would only be a culvert shared by this site and the conservation area. She said that this area was a critical urban habitat, serving as a hotspot for migratory birds, and there was a popular Christmas bird count conducted by the Audubon Society in this exact area.

Ms. Mikulski said that locals had affectionately referred to this neighborhood as "Hogwallers," a term that could be either a slur or a badge of gritty pride, depending on who they asked. She said that historically, Hogwallers were stockyards near railroads for livestock exchange. She said that in the 2000s, one in Lenoir, North Carolina, had been transformed into a historic district with recreational trails, commerce, and culture. She said that they could achieve a similar revitalization in this neighborhood.

Ms. Mikulski said that, however, tonight, they were discussing reckless development in a floodplain. She said that the plot she had shown them, with the blue highlighted areas, dated back to 1891. She said that the culvert adjacent to the proposed project was depicted on the map as the stormwater diversion system for Franklin Street in 1891. She said that this 135-year-old system was being flippantly proposed to change. Additionally, Ms. Mallek had made a valid point about the RWSA's elevated location, which would create a canyon.

Ms. Mikulski said that she did not understand how it would be feasible to build a 13-foot floodwall with heavy equipment on a 312-foot elevation floodplain without compacting and damaging the shoreline. She said that they knew the FEMA line maps were outdated, and they had seen national disasters where backwaters met with runoff from heavy storm events, with the collision resulting in catastrophic

consequences. She said that upstream of this parcel, they had the Wegmans Plaza construction, the steep slopes off Old Ridge, new homes on Stonehenge, and the new homes on Nassau, built on fill on this same floodplain. The City View Apartments on Carlton and the three-tier Woolen Mills parking lot were also all impacting this floodplain.

Ms. Alanah Horning, 720 Franklin Street, said that she was a five-year resident of this neighborhood and situated approximately 100 feet from the land being proposed for this industrial development. As a licensed clinical social worker and someone trained to understand how environmental stressors impact the well-being of communities, particularly those who were low-income and underserved, she wanted to raise concerns about this proposal in regards to the social injustices to their vulnerable community that had been overlooked in this planning process.

Ms. Horning said that it was well-known that construction in residential areas not only negatively impacted the environment but also affected the people who lived there. She trusted that each of the Supervisors chose to be on the Board of Supervisors because they cared about the people they represented. Although their community, which was being most impacted, may not fall fully within their County lines, she hoped that their concern did not end there. In the Planning staff report, there was a list of requirements that the project must align with public health, safety, and welfare. The comment provided within the report stated that no issues with public health, safety, and general welfare had been identified.

Ms. Horning said that however, she was unsure of what research or analysis was conducted to support this determination, because she had identified several significant issues that warranted further consideration. Research showed that vulnerable communities often lacked physical and mental safety due to systemic inequality. This proposal would deepen those vulnerabilities by disrupting the limited safety and stability their community had worked hard to build. She explained that environmental safety would be compromised, noise pollution would increase, and there would be more trucks and tractors clogging up the only accessible road, which was already extremely narrow.

Ms. Horning said that additionally, there would be a loss of sunlight due to the proposed building's height, which was essential for general well-being. Economic safety was at risk, as property values of their homes would drop. These homes were ones that they had worked hard for as a working-class community. Social safety would be damaged, as there were no large backyards in the trailer park community, which were evident if they had reviewed photographs of visited the neighborhood. The roads were used for families to gather and children to play; it was a communal space. Without social support systems, mental health and well-being could weaken.

Ms. Horning said that in the previous Commission meeting, there were hypothetical claims of job creation and financial gain, but these claims were unsubstantiated, lacked community input and had not been properly examined. It was unclear how such assumptions could serve as a valid basis for approving this proposal. She said that if caring about their community's well-being wasn't enough reason to reject this proposal, she would like to ask the Board to consider their own home and the peace and comfort they had. She asked if they would they rather live next to a natural space full of life that supported flood prevention or an industrial building that disrupted their daily life. She assumed they would choose the former. Therefore, she urged them not to impose something on their community that the Supervisors themselves would not want in their own neighborhoods.

Ms. Sabrina Juliano, resident of Fluvanna County, urged the Board to vote against this proposal. Over the past three years, she believed without the County's knowledge, the floodplain in question had been subjected to demolition, rubble crushing, and stockpiling by this developer. The developer's activities raised serious legal, environmental, public safety, and planning concerns. She said that the crushing and stockpiling of demolition dust, which may contain hazardous substances like asbestos, lead, and silica, pose significant health risks. She said that prolonged exposure, especially to silica dust, was known to cause silicosis and increase the risk of lung cancer.

Ms. Juliano said that furthermore, these operations risk contaminating soil and nearby waterways and destroying sensitive floodplain habitat essential to urban wildlife. She said that the unauthorized fill of the floodplain likely violated several regulations, including the County's water protection ordinance, the Clean Water Act, and national flood insurance program requirements. She said that the developer has also stockpiled construction material in piles exceeding 25 feet high, placed dangerously close to the stormwater infrastructure.

Ms. Juliano said that additionally, this activity increased flood risk by displacing flood waters and accelerating runoff, overwhelming drainage systems. She said that the FEMA requires hydraulic modeling before any fill was approved, but that safeguard was bypassed. She said that this behavior undermined the public planning process by preempting community input, bypassing environmental review, and disregarding proper technical assessment. She said that it set a troubling precedent of "build first, ask later," eroding public trust and making it harder to enforce rules equitably.

Ms. Juliano said that finally, this could impact the entire community's eligibility for federal flood insurance and disaster relief. Noncompliance with flood plan regulations may jeopardize the County's standing in the national flood insurance program, leading to higher premiums for residents and potential disqualification from future federal assistance. In summary, the developer attempted to reverse engineer approval by acting first and seeking permission later. She respectfully urged the Board to reject this proposal.

Ms. Kristen Davis, said that she was here to respectfully urge the Board to vote against this proposal. She said that she would like to extend a few thank-yous. She said that she appreciated her neighbors for bringing this issue to her attention. She said that she was unsure of what the County's requirements were for notifying people on the other side of the City-County line, but if it were not for her neighbors, she would not know about this application nor be able to speak to their community's concerns.

Ms. Davis said that she wanted to thank Ms. Mallek for her desire to understand this was the Board's one chance to act on this proposal, thank Mr. Pruitt for being the first to bring attention to human impact, and thank Mr. Andrews for his questions about FEMA and how to interpret FEMA's conclusions about this proposal. She said that she wanted to provide a few thoughts she had regarding this application. She said that in the Charlottesville area, they often talked about being good neighbors, particularly in regards to the relationship between UVA and their community.

Ms. Davis said that she believed that voting yes on this proposal would not be neighborly. She said that Mr. Rogers would not approve. Another point to consider was the Planning Commission's vote of 4 to 3. She said that out of respect for those who voted against it, she hoped the Board would ask, what is the true benefit of this and if it was really worth it. She believed a lot of the people here tonight were wondering why they would take this chance.

Ms. Davis said that the word "fill" may seem harmless, but in this case, it was definitely not. She said that it was going to lead to the destruction of these wetlands, which had not been mentioned in the presentations and was only brought up by another public speaker. She emphasized that the zoning for the parcel was light industrial, but the zoning did not reflect its ecological value. It was not a vacant lot; it was a rare and thriving pocket of urban wilderness that had developed over a very long period of time. She said that losing it now would be a serious failure of planning and environmental responsibility. She hoped the Board would keep this in mind.

Mr. David Slezak, 722 Franklin Street, City of Charlottesville, said that he previously was a 40-year resident of the White Hall District, where his son was currently a farmer. He said the closest residential house next to the trailer park. He said that as he watched the light industrial development on the hill above, to the left of his house, he was pleased to learn that it would be used as a drain field for that structure. He said that he wondered if this was always the intended plan, rather than simply putting it off until a later date.

Mr. Slezak said that he also noticed that the word "groundwater" was rarely mentioned anymore, which he believed was the original reason for this 1.4-acre field being left as it was, intended to mitigate the other light industrial site. He said that he found it concerning that they were still discussing a 100-year flood plan, given the reality of global warming, which had led to more frequent 500-year floods. He said that, in his opinion, considering 100-year floods was not the most prudent approach. Therefore, he did not support this project.

Ms. Peggy Gilges, Jack Jouett District, said that she was present this evening to ask the Board to deny the special use permit to add 11 feet of fill to one and a half acres of the Moores Creek floodplain to create a building pad for light industrial use. She said that she had been present at the Weldon Cooper Cost of Community Services presentation in Lane Auditorium just a few weeks ago. She said that while she understood that industrial development may contribute more taxes to County coffers with fewer service costs than residential development, open space also had significantly fewer service costs than residential development.

Ms. Gilges noted that furthermore, the Weldon Cooper study did not take into account the value of the ecosystem services provided to a community by natural systems such as floodplains. She said that recently, the World Meteorological Organization reported that global temperatures were rising faster than expected, and the world would officially pass the 1.5 degrees Celsius temperature mark in the next two years. They added that there was now more than a 1% chance of at least one year exceeding 2 degrees Celsius, or 5.4 degrees Fahrenheit, in the next four years.

Ms. Gilges said that for every 1 degree Celsius of warming, the atmosphere could hold 7% more moisture. As they were aware, Albemarle's 2022 Climate Vulnerability and Risk Assessment stated that due to climate change, the County would see less predictable patterns of precipitation and more extreme weather events, resulting in increased flooding. The risk of human fatalities was of serious concern to her and it was much on her mind that they had now experienced three flash flooding deaths in Albemarle County in the last seven years.

Ms. Gilges said that development of this lot may seem tempting, but she reminded the Board that they were not in the 20th century any longer. They could not continue to make land use decisions as if they were. She urged the Board to carefully consider engineering reports based on typical or current models that may not be relevant to their rapidly warming future. She noted that as Karen Firehock had pointed out during the Planning Commission's review, creating an industrial site on this lot was inconsistent with the Comprehensive Plan because floodplains served important roles ecologically and in mitigating the effects of flooding. She urged the Board to be proactive in protecting their community and improving their resilience in the face of climate change.

Ms. Robin Hanes, 1709 East Market Street, City of Charlottesville, said that she lived just around the corner from this property. To continue the previous speaker's point, she wanted to emphasize that floodplain was floodplain. It was a fairly scary designation. She said that while there may be specific issues with the confluence of the Rivanna and Moores Creek, they were experiencing extreme storms now. She said that she had moved from Asheville to here, and she still had family there. The hurricane was a totally bizarre thing that happened in Asheville, and Albemarle had been lucky. The river was nearby and could become a giant.

Ms. Hanes said that this was a small area of land, only 1.5 acres. However, acreage could make a significant difference in drainage and stormwater management. The owner had already begun using the land in question for dumping fill, and they noticed the large machinery and debris piles, driving by them on a daily basis. If this was temporary, she would request them to remove it now. The stormwater from this property would flow to adjoining land and across the street. As the number of residences would soon grow with Habitat for Humanity's plan, she worried that this issue would become more pressing. She asked if all of this was truly of no concern to the Board of Supervisors.

Ms. Katie Chester, 812 East Market Street, City of Charlottesville, said that she lived just across the railroad tracks from this proposal. She said that she was deeply struck by the significant difference in the presentation's thoroughness and research compared to the previous one, as well as how many people came out to speak against it. Notably, the prior owner had not had a fire call in 23 years, and the current property owner had already had mounds of debris that he had not disposed of properly. He had offered to donate a certain area of the stream buffer, probably because it was unusable.

Ms. Chester said that the applicant did not notice the stormwater offsetting had to be on-site. She was surprised that Mr. Edwards did not do his homework about the elevation of the bakery site and was just assuming it was filled to the BFW (base flood elevation). She asked how he could not know that. She noted that the gentleman in the blazer called this a unique situation, but the slide said that backwater area may not cause a rise in floodplain, backwater areas such as lakes or wetlands, were often disconnected, and fill placement here may have had little impact on the overall floodplain, and backwater zoned often laid outside.

Ms. Chester emphasized that this type of vague language was not a substantial basis for justification when considering filling in floodplains. She was reminded of the concept of slow violence, which involved crimes committed slowly and incrementally, such as allowing lead to contaminate water, which was often discovered after the fact. Filling in floodplains was reckless and egregious. The homes across the street were not elevated, and many were trailers on cinder blocks. She urged the Board to deny the special use permit request.

Mr. Kirk Bowers, Rivanna District, said that he had been a resident for 38 years and lived 33 miles from this site. He said that he had submitted comments this morning. He said that he had not been informed until yesterday, so he was not able to complete a full review of this site. He said that as a licensed principal engineer (PE) since 1989, he currently worked for an engineering company reviewing stormwater plants and stormwater inspection reports. He said that he had a couple of comments to share. He said that he would highlight the key points from his comments.

Mr. Bowers said that the historic resources in this area warranted full exploration due to its proximity to Piraeus. He said that the port of Charlottesville, which was once billed as the Athens of the South, and the presence of Native Americans who lived along Moores Creek, may have been a burial ground for early residents, settlers, and slaves. He said that before receiving approval, he strongly recommended a thorough exploration of this site. Secondly, the computations should be based on future impacts from climate change, including higher flow rates and frequency of storms. If the current computations were not based on future projections, they should be revised and submitted up to the year 2050.

Mr. Bowers said that he also recommended changing the grading elevation to 325.5, not 324, as shown in the application. Furthermore, the floodplain fringe was not accurately represented. He recommended revising these aspects. Additionally, he noted the proposal to create a public park in the remaining 5.6-acre parcel or encourage a conservation easement on the remaining site. In light of this, he recommended delaying approval for the SUP until after the LOMR was approved by FEMA. It appeared that they were putting a cart before the horse, and further action and submittals were needed.

Mr. Andrews apologized to Mr. Kent Schlusell, Rio District, who they were unable to hear clearly over Zoom. His comments were unable to be heard.

Mr. Andrews asked if the applicant had a rebuttal to public comments.

Mr. Miller stated that they did not have a rebuttal at this time but would be glad to answer questions.

Ms. McKeel asked if the applicant could address the numerous concerns regarding this proposal's impacts to flooding on Franklin Street and the residents of the area.

Mr. Cichocki said that Franklin Street was not part of their specific study regarding the homeowners and the potential impact to them. He said that their evaluation indicated that they would not affect the floodplain. He said that if the homes were currently in the floodplain, they would remain in the floodplain, and the water surface elevation on their property would remain unchanged due to the fill placed with this proposal. Therefore, there was no impact, no effect, and no exacerbating condition, as certified by Timmons, reviewed by FEMA, and concurred by the County.

Ms. McKeel said that some residents voiced concerns regarding storage and the current situation on adjacent properties. She said that she was not entirely sure which specific properties they were referring to, but she believed they were concerned about the accumulation of debris and storage issues. She asked if the applicant could address the situation on that other site.

Mr. Miller explained that the site was approved for use as a stockpile area for the construction of the industrial site. He said that the County was monitoring it for erosion control measures, and RWSA contracted with them to help grind up the concrete that was removed from the treatment plant improvements. He said that this was done to prevent the concrete from having to be transported across the County.

Mr. Miller said that the owner, Chris Donaldson, agreed to transport the concrete to his property, where it could be crushed and recycled, and then used for the construction of the Woolen Mills Industrial Park. He said that it was intended for a temporary stockpile, and that the stockpile was to be removed once the construction was completed. He said that currently, it was allowed to be used as a temporary stockpile area, and recently, an amendment to the WPO plan was required to show that area as a stockpile as well.

Ms. Mallek asked if staff could speak to the zoning impact of crushing being allowed in a place where stockpiling was permitted. She said that the area was a wetland right now, so she would like to understand the relationship between all of these factors.

Mr. Edwards said that in the light industrial area, having a stockpile or staging area like this was permitted. He said that it was later determined that it was not located in the floodplain, which was identified at a later date. He said that the decision tonight would guide the action taken regarding that stockpile, determining whether it should be permitted through the existing special use permit or if not, it would need to be removed.

Ms. Mallek asked if, before any work began, all necessary permits were obtained from the County, before materials were transported to the site uphill before any construction took place.

Mr. Pohl said that this area was not included in the original permit, so when the modifications were submitted for the new permit, it was required to include the stockpile area. He said that upon review, staff determined that it was located in the floodplain, which prompted them to advise the owner that they needed to either remove it or obtain a Special Permit. He said that they were currently working with the owner to bring the site into compliance.

Mr. Pohl said that as Mr. Edwards had mentioned, if this was denied, they would assist the owner in achieving compliance. He said that regarding the crushing of rock, he understood that it was allowed on the site by the owner for use in their own site, provided they utilized the materials for that purpose. He said that he was unsure of the situation regarding other materials from other sites being brought in to be crushed at this site.

Bart Svoboda, Deputy Director of Community Development and Zoning Administrator, said that this was where the special permit would help them determine the compliance issues here. He said that without the SP for the fill or activity within that floodplain, the uses were limited, and the storage of dirt or other materials was not permitted. When they discovered the issue, they told the applicant to stop and there had been no additional activity since the initial discovery of the materials on site. He said that as a result, this would determine, as they had done in other cases, if the SP was granted, there were certain steps to come into compliance with the SP and the regulation. He said that if it was not, then there were certain steps to come into compliance, including removal of materials and activities must cease in that area.

Ms. Mallek asked if materials coming from a different location and different owner onto this site played a role in their considerations.

Mr. Svoboda replied that as it related to this subject application, it was probably a different issue. If the SP were approved tonight, it was incorporated into the plan, even though it was a different parcel, because it was part of the project. If they were crushing something on site and using it for something outside of the specified plan, that was a different scenario.

Ms. Mallek asked if staff would investigate and determine whether that had been occurring or not.

Mr. Svoboda replied yes.

Ms. Mallek thanked Mr. Svoboda for the clarification. She said that she believed it was time to review the math, and Mr. Pruitt had also inquired about the number of trucks. She said that if she had done the math correctly, 1.5 acres was approximately 64,000 cubic feet, which was 2,364 cubic yards,

equivalent to 168 trucks per foot of fill raise, totaling 1,800 trucks.

Ms. Mallek said that while she was glad that the proposed route may not involve traveling down Franklin Street, she was deeply concerned about the impact that trucking had on street conditions, neighborhood quality of life, and overall community well-being. She believed this was a pressing issue that warranted careful consideration. She said that while they had a good understanding of the environmental aspects, they seemed to be lacking in their understanding of the human impact.

Ms. LaPisto-Kirtley said that she was cognizant of the fact they would have to bring in fill, but it was good that it would be from a nearby location. She said if they based everything on the amount of fill they had to move for different sites, they would not be building anything.

Mr. Gallaway said that he would like to ask the applicant about their plan for meeting the on-site stormwater treatment requirement. He said that specifically, he would like to know where the facility would be located. He noted that in their previous experience with similar applications, they typically asked about the location of on-site water treatment systems when off-site nutrient credits were not an option.

Mr. Gallaway said that the special use permit condition required on-site treatment, and now that the applicant had been given that information, he would like to know how the applicant planned to implement on-site treatment. He said that although the applicant had just been informed of this requirement, he assumed that they had some general knowledge of the site and potential locations for the facility. He said that he believed it was pertinent to know more about the applicant's concept for a location and what they could potentially do there.

Mr. Miller said that they would put pervious pavers, biofilters, and other on-site practices to meet the condition.

Mr. Gallaway said that he was inquiring about what the applicant believed might be the most viable option for the site, given that on-site treatment was currently the only approach allowed.

Mr. Miller said that he was not in a position to design the site within the last 30 minutes. He said that he would address this issue when the site plan process was typically conducted. He said that there were various options to use, and they would have to determine which one would be best for this site and their project.

Mr. Pruitt said that members of the public had referenced a lack of notice given. He said that his understanding was that their notice would apply to all residents within half a mile of the subject property, regardless of jurisdiction.

Ms. Ragsdale said that notice of the public hearing was required for the abutting property owners.

Mr. Pruitt asked what the notice requirement was for the community meeting.

Ms. Ragsdale said that they did have guidelines regarding the radius for that, which was 500 feet in the development area. She would need to review what notice was given for this particular project.

Mr. Pruitt said that he knew several individuals who were notified of the community meeting, but apparently, some were not. He said that he wanted to clarify what that was. He asked how they determined when stockpiling became fill.

Mr. Edwards said that one possible answer was that the fill would be a compacted material, properly placed in lifts, and inspected as it was being done.

Mr. Svoboda said the County defined fill in the Zoning Ordinance, so within the confines of the ordinance, there were some qualifiers on what fill was based on for a project. For instance, if he were to backfill along a house for zoning purposes, that would not be considered fill. However, from an engineering and building perspective, it would be considered fill because it was associated with the construction of the house. Within the County regulations, if something was associated with a site plan, the cut and fill, as referred to in engineering terms, would not be considered fill for zoning purposes; it was part of the project.

Mr. Pruitt thanked Mr. Svoboda for clarifying that distinction. He said that he also wanted to seek further clarification on a point, which was mentioned in one of Timmons Engineering's final comments, that the floodwaters would not be elevated by the fill project, but that the impact would not be increased. He said that however, Mr. Pohl had mentioned that there would be a shift in the location of the floodplain. These statements appeared to be mutually exclusive, as one asserted that the floodplain would remain unchanged, while the other suggested the floodplain footprint would be altered; however, that alteration had negligible impact.

Mr. Cichocki clarified that both statements could be true. He said to clarify what Mr. Pohl had said was that he anticipated a change down the road, after the construction was completed and a letter of map revision was processed to remove the area that had been elevated by fill from the floodplain. He said that this change would only affect that property, not the surrounding areas across the stream, either upstream or downstream. He said that the floodplain limits for other properties would remain unchanged. He said that the only change would occur on this property, and it would follow the conditional approval FEMA had given them for the amount of fill and its location, which would essentially carve out an island from the

floodplain on that property.

Ms. Ragsdale reiterated that the floodplain map would change once the fill was placed. The main point staff was trying to convey was that even with this elevation change from the fill, it would not change where the water would go during a flood event. It would not increase the velocity of the water nor make flooding worse; so, the floodplain would not change for other parcels, but based on the elevation change on the subject parcel, the map would change around the area where the fill had been put in.

Mr. Svoboda acknowledged that they would assume that by shifting water away from this area, it would come out in another place. However, their engineering analysis concluded that there was not enough of a change to result in different flooding patterns.

Mr. Pruitt asked if they were impacting the hydrological system of the Rivanna River, rather than that of Moores Creek.

Mr. Svoboda said yes. He explained that the net result of this was that, despite the area being removed from the floodplain due to elevation, it did not create a push that expanded the floodplain elsewhere. In fact, the engineering showed that it did not expand the floodplain at all and did not cause it to rise. He said that this was demonstrated in the submittals to FEMA. He said that while it may be slightly outside the zoning realm, his attempt to explain it in simpler terms was that it was essentially a unique situation where they did not see the typical push and pull dynamic at play.

Ms. LaPisto-Kirtley asked if the fill done on an adjacent parcel in 1998, which was subsequently removed from the floodplain, and what was proposed for this subject property, would make those filled levels the same elevation and therefore they would have the same negligible impact.

Mr. Svoboda said that he did not have the elevations, so he did not want to agree that they were the same. However, he agreed with the second part, which was that based on the current engineering, the non-net result of no change would be the same. He said that the issue was that their minds tended to focus on the area of the parcel, rather than the larger area that included the backwater region where Moores Creek and the Rivanna converged.

Mr. Svoboda said that this larger area was what they should be considering when analyzing the situation. He said that as a result, they may struggle to accurately assess the impact. He noted that staff faced the same analytical problem when working on this project. He said that the issue was that when they expanded the scope of the area, the net impact of the change became less significant or even negligible.

Mr. Andrews expressed concern that a number of issues raised by public speakers had not been adequately addressed. He said that he found some of the comments difficult to understand, particularly those from Kirk Bowers regarding the different levels of floodplain elevation, specifically 325.5 versus 324. He said that some speakers mentioned insurance and this project's potential impact. He said that he believed they stated that because it did not affect the location of the floodplain, it could not affect their insurance, but he did not know that for certain because it was not addressed directly.

Mr. Andrews said that his second question was regarding the proffer to double 1.56 acres on site, which he understood they could not engineer it within 30 minutes, but he was fundamentally worried that treating twice of 1.56 acres did not make sense to use permeable pavers or other types of treatment in the spot they were going to develop to treat that. Therefore, they would have to put it somewhere else on the site, but the rest of the site was already in the floodplain and could not be built on. He did not see how this condition could realistically be met.

Mr. Cichocki said that regarding FEMA and flood insurance, typically, FEMA assessed localities for flood insurance rates, and it was the localities' responsibility to maintain their maps. He said that they had followed a process of submitting a Conditional Letter of Map Revision based on fill to FEMA at the request of County staff. He said that this process was essential to keeping maps current. Once the fill was placed, revising the map with a letter of revision ensured that Albemarle County received the highest grade for the lowest insurance rates.

Mr. Cichocki said that the impact on insurance rates due to this project was negligible, as they were updating the maps and keeping them current. He said that they did not affect other properties. He also said that he recalled another question about climate change, which he believed they could all agree was a shared concern. He said that FEMA regulated today's conditions, not future projections. He said that they did not want to require people to pay flood insurance on areas that were not expected to flood today.

Mr. Cichocki said that as climate change evolved, FEMA and localities would update regulations, which would be reflected in their evaluation and planning for projects. He said that if they had submitted a proposal to FEMA with a projection of hydrology to 2050, they would not have accepted it, as they did not want to force people to pay flood insurance on future conditions for today's dollars.

Ms. McKeel asked if the applicant could address a question from a citizen regarding how the wall would be built.

Mr. Cichocki said that typically, for a fill wall, the process began at the toe of the wall. He said that he imagined it would likely be a block wall made of concrete. He said that in essence, the wall was built

and then fill was placed behind it. The operation started near the edge of the work and filled the grade, gradually working its way back in. He said that the outcome largely depended on the contractor's methods and means. He said that he did not see any concern with a wall near a floodplain. It was similar to those seen in adjacent areas, such as the walls near the Woolen Mills development, which had been channelized to redirect Moores Creek. He said that in general, this was the approach taken for fill walls, but he did not have many specifics to provide.

Mr. Miller said that there were 14 different DEQ-approved options for on-site water quality treatment. They must determine the required pounds of phosphorus removal, an extensive calculation process had to be undertaken and then determine the method that would best remove them. A 1.5-acre site may not seem like a large amount from a water quality standpoint, but without doing the calculations, he was uncertain. He said that after 30 years of designing, he had never had an issue. He could confirm it was more expensive, which was why purchasing nutrient credits was often the more cost-effective option for sites of this size. He agreed that it would be better to treat the phosphorous on-site at this location, but it was also more expensive.

Mr. Andrews said that at the existing site that was raised up around 1998, it was about the same size, approximately 1.6 acres. He asked if anyone knew the history of how the fill at this site was achieved at that time.

Mr. Edwards said that he did not have the history of that site.

Mr. Miller clarified that that site had no walls; it sloped down.

Mr. Andrews said that he was trying to determine what disruptions the proposed fill operation would have on the neighborhood.

Ms. Mallek said that multiple times in the various staff reports and responses, people had discussed the significance, which meant that there would indeed be an impact, but it seemed that they did not care. She said that it was not enough to sound alarm bells, but she could not determine exactly what it was. She asked if there was a definition of significance to give them a concrete standard or criteria that could be applied consistently across different properties, areas, and situations.

Ms. Mallek asked if, alternatively, they were simply relying on the fact that they had not found anything yet and therefore labeling it as having no impact. She said that she was not trying to be confrontational, but there appeared to be a significant gap in understanding regarding the meaning and implications of these changes. She said that public comments mentioned that the language in the analyses for this project downplayed the potential risks, but they also did not give a sense of confidence. It was not reassuring when people's quality of life could potentially being dramatically changed. She said that she would appreciate it if more concrete information could be provided about that.

Ms. Ragsdale said that the criteria was substantial detriment, and they may use alternative phrases to describe these concepts and impacts. State codes also may define these terms, and each special use permit was unique in its specific circumstances and ordinance provisions. In this case, they were focusing on the criteria they had previously discussed. She said that they were considering the fill-in floodway fringe standards and evaluating the potential consequences of filling this area.

Ms. Ragsdale said that they were heavily relying on the engineering analysis, which indicated that filling this area would not make flooding worse or push water towards other properties. So, when examining this area in terms of its current functioning and its relationship to the floodway, they were looking at the expected outcomes of placing the fill in this area. This was why Mr. Edwards and she wanted to ensure the Board understood their reasoning in this case, given that it was a backwater area and the analysis they had conducted.

Ms. Ragsdale said that as a result, they concluded that there were no significant impacts specific to the engineering analysis. This area was already experiencing residential development near industrial uses, so if it were a completely undeveloped corridor with no other non-residential uses or was not adjacent to industrial uses, they would consider it more significant. She said that they looked at these factors to determine the potential impact of changes.

Ms. Mallek asked if they were considering this area as already being impacted by the bakery, which was the only thing nearby this site.

Ms. Ragsdale said that she believed that it was subjective, and there was no clear-cut definition or bright line test for special use permits. However, they did have an ordinance that provided criteria to guide their decision-making. She said that this was why they carefully evaluated the level of change, which was where they were focusing on this specific site and comparing it to others. They did not extend their review all the way down to Franklin Street but rather concentrated on this area because the proposed activity was being introduced there. She noted that they also considered the nearby industrial site.

Ms. LaPisto-Kirtley asked if the proposed fill would raise the level by 24 feet or 34 feet.

Mr. Miller said that their final grade of this site would be at 325, one foot above the 324 elevation.

Ms. LaPisto-Kirtley said that there had not been any reported problems or significant impacts

from the previous fill development on the adjacent property, which was no longer in the floodplain.

Mr. Edwards said that he was not aware of any.

Ms. LaPisto-Kirtley said that they were talking about doing the same thing on a parcel of the exact same size and bringing it up to the same elevation.

Mr. Miller confirmed that was correct. He noted that one of the main favorable aspects found by the Planning Commission was the creation of jobs that would result from this project, especially because it was nearby residential areas.

Ms. LaPisto-Kirtley said that this property was currently zoned for light industrial use, and it could not be redeveloped as residential due to its current zoning designation.

Mr. Miller said that it could be used for the purposes that they had previously discussed, including manufacturing, processing, and storage.

Ms. LaPisto-Kirtley asked if the rest of the property would be dedicated to the County as greenway.

Mr. Miller said that currently, the stream buffer along Moores Creek was proposed to be dedicated, while the remaining property within the floodway would remain as-is.

Ms. Mallek said that in the middle zone of the property, it was mentioned that it would be forested. She asked if that was temporary or would be a condition that they would uphold in the future, so that they would preserve the tree canopy between the floodway line up to the stream buffer. She asked if they would be planning to return in a few years to request fill of that area.

Mr. Miller clarified that current floodplain regulations would not allow fill in the floodway, so it could not possibly be disturbed based on those current regulations.

Mr. Cichocki said that if there was any increase to the work they wanted to do within the floodplain or floodway on this site, they would have to request that allowance by the Board of Supervisors. They likely would not be doing that because they understood the potential for the site in terms of what fill could be placed without impact to the floodplain. If they were to increase it, they would expect impact and therefore would not be seen as a viable option to the site.

Mr. Pohl reiterated that filling in the floodway was not allowed in their ordinance at this time.

Ms. Mallek explained that the references to "at this time" was what worried her.

Mr. Andrews closed the public hearing and said the matter rested with the Board.

Ms. McKeel said that she agreed with everyone in the room that this was a challenging issue. She said that it was complicated and involved numerous variables, making it difficult to navigate. She said that they had been discussing this area for years, and the Board of Supervisors had been exploring ways to utilize it. She said that she appreciated the audience members who had shared their concerns, and it had been good to hear their perspectives.

Ms. McKeel asked if staff had any further relevant information for the Board to consider, even if the Supervisors had not asked for that information directly.

Mr. Pohl said that someone had raised a question regarding the fill and placement of the wall. He said that there was a similar fill operation at the Starbucks location on Fifth Street, where a similar wall was built in the floodplain. He said that the wall at this site was shorter, but it was a wall that enclosed the development. He said that this type of fill was done infrequently, but that was one similar one he was aware of. He said that it also was an area where two creeks converged near 5th Street Station.

Mr. Pruitt said that he was aware of the difficulties the developer faced during that process.

Mr. Pohl confirmed that it was a much longer wall; the site was much more exposed to the floodplain in that area. He believed it was approved before his tenure in the County but did not undergo fill and construction until much later. He believed there was a 0.1-foot rise in that case, as well.

Ms. Ragsdale noted that deferral was an option if the Board felt that they needed more information before making a decision on the request.

Mr. Herrick said that it would depend on the timeline for review of the application.

Ms. Ragsdale said that they had 32 months to process the application, and since this was submitted at the end of 2024, they had time to review it further before they reached that time limit.

Mr. Pohl added that a no-rise FEMA evaluation was measured down to the hundredth of a foot, resulting in a value of 0.00. He said that if there was a rise of even a hundredth of a foot, it was considered a rise. He said that to clarify, when the engineer certified that there was no rise, that was what

they were specifically referring to.

Ms. McKeel stated that she was inclined to support this application with the assurances from the well-respected Timmons Group and their County staff. She sympathized with those folks who lived in this area, because she understood that any construction could be disruptive and difficult. However, she had heard repeatedly from staff that this proposed development would not make the flooding worse. She said she would still like to hear what other Supervisors had to say, but at this point she was leaning towards supporting the application.

Ms. Mallek stated that during the last Broadway Blueprint update, the planning area stopped at Moores Creek Lane, and she did not recall any discussions about this particular area. She said that the high ground from Rudy's dry cleaners to the Woolen Mills was the area of consideration with that update. She emphasized that they needed to be careful about how that was characterized. She said that construction was one thing, but there was also the ongoing impact on the area for future operations of the industrial building. She said there was also the issue of the fill that was placed on the neighboring property and the rock crushing that was done.

Ms. Mallek said that they were asking for forgiveness, but these were things that residents would be stuck with, because a special permit would make them allowable. She said that this was a great concern because it eroded trust in their community when those things happened, and there did not seem to be any accountability for that. She said that there was no clear response about the 1,800 trucks, and she wanted to note that even 100 trucks was a lot.

Ms. Mallek said that the damage to City and neighborhood streets would likely be the same as in the White Hall District that was not built with pavement to the standard of Interstate 64, because she knew that was true for Franklin Street and the other connections down there. As a result, she was inclined to vote against this proposal at this time. She had not been convinced, and she did not see how pervious pavers or other methods could substitute for the process of removing phosphorus, because that was a plant activity that took phosphorus out of the water. She said that she would need a lot more information about the details of these things before she could vote yes.

Ms. LaPisto-Kirtley said that they had addressed the paver issue by stating that there were approximately 15 alternative methods to deal with phosphorus, and the applicant was simply providing an example. She said that it was possible that pavers could be used in conjunction with another solution, but they were highlighting an example. She said that she was not aware of the other 14 alternatives, and the applicant was not prepared to decide on a method at this time.

Ms. LaPisto-Kirtley said that in terms of their economic strategic plan, their strategy included increasing light industrial development. She said that this was currently limited to a light industrial zone, and it was not intended for residential use. She said that even if it was considered for residential use, there would still be construction going on, and that would impact the community in the same way as the fill work. She said that she had experienced this firsthand in her own neighborhood.

Ms. LaPisto-Kirtley said that if they decided as a County not to build or moved forward with light industrial or affordable housing due to impacts from the construction of those types of projects, they should clearly state their intentions and put up a "closed for business" sign up. She said that in contrast, they already had a proven track record with the existing facility, which had been operating successfully since the late 1990s without issues.

Ms. LaPisto-Kirtley said that they were now proposing to do the same thing on this site, and staff, the Planning Commission, and other agencies had all approved this plan. She said that she believed the proposed solution had been thoroughly vetted, and she was confident in its execution. She said that otherwise, this land would lay fallow, and that was not a good use of their land. She said that she was in favor of this project.

Mr. Gallaway said that this was not an easy situation for anyone involved. He said that he would like to ask a follow-up question that Mr. Pohl had addressed earlier. He said that on other applications for which they included conditions, such as those related to sound, they often required that the activity cease if the condition was not met. He said that when Mr. Pohl stated that the hundredths of a foot could not move and was certified by the engineer, he was wondering if that certification was absolute. He asked what the outcome would be if they measured it and it was determined that there was a rise in elevation. He asked if they would ask them to cease operation after the facility was built.

Mr. Pohl said that they would need to measure storm events to demonstrate that they were 100-year events. He said that he was not sure how that was done. He said that it could be a 110-year event, and it was not a guarantee that it would happen every 110 years, but it was a percentage, a 1% chance that it could occur in a given year. He said that the question was, how would one measure it and prove it? He explained that they relied on the modeling and processes developed by FEMA to weigh the risk and identify potential hazards.

Mr. Gallaway said that Condition 2D stated that computations and plans documenting the changes were required. He said that the computations had to demonstrate compliance, which was being provided by the applicant's engineer. The plans had to show the existing and proposed floodplain boundaries and elevation, along with the applicable "no rise" signed certification statement. He asked if there was a factor in this condition that they could not verify due to the potential for the 100-year or 110-year level to be movable.

Mr. Pohl replied no; his point was that if they had a 100-year storm event, or a 1% storm event, they should see no rise.

Mr. Gallaway said that their sound ordinance stated that if a noise exceeded a certain decibel level, it was considered out of compliance and could be shut down. He asked if a flood event occurred and exceeded the specified level, they would shut it down due to the violation.

Mr. Pohl said that measuring noise was significantly easier than measuring a rain event. He said that in a rain event within this channel and watershed, it would be necessary to accurately identify that this was a 1% storm event to consider shutting them down, according to his understanding.

Mr. Gallaway said that he would make his other comments and then ponder on that. He said that he would like to speak to the Broadway Blueprint. He clarified that this area was located within the red outline of the study blueprint for the Broadway Blueprint. He explained that for those unfamiliar, the 2022 Broadway Blueprint was their comprehensive plan for the entire area, which took into account feedback and concerns from neighboring areas in the City.

Mr. Gallaway said that based on that information, the County had consistently stated that they did not want residential development or large multi-use projects in this area, as it would compromise the current character of the LI. This area was the most affordable location for commercial activity in the entire County, and it was essential that they preserve it because they did not have any other comparable areas for those uses.

Mr. Gallaway said that their concern was that if they allowed other types of development, it would lead to gentrification, increasing property rates and changing the character of the entire area. He said that they had been committed to maintaining the status quo, and their plan included exploring tax incentives and overlays to keep rents affordable for commercial users and property owners. He said that this had been their plan since 2022, when the final plan was adopted. He said that to understand the context, they should review the process that led to this plan, which began several years prior.

Mr. Gallaway said that during this time, they had held community meetings and considered the potential impacts on the neighborhood. He said that he was reminded of this tonight when someone mentioned that property values would drop if this site were developed differently. He would like to respond by saying that if another use were allowed there, it may increase their property values and make it unaffordable, which they had seen this happen in other areas, and it was essential that they conduct thorough due diligence. He said that the plan for this property aligned with their previous statements and the Broadway Blueprint.

Mr. Gallaway said that he often tried to provide a clear explanation of how he might vote, and when engineers came to an agreement and he had to decide whether to trust their assessment or not. He said that in the past, he had trusted the engineers and the studies that had been conducted; however, there was disagreement between them. He was concerned about the fuzziness in the discussion tonight, so he would take some time to think about it and hear what others had to say.

Mr. Gallaway said that this also applied to staff, because the green area in the current Comprehensive Plan map was a prime example of why they were changing these designations in the new Comprehensive Plan. He said that the issue was that this designation suggested that it was public land that County controlled and could dictate the use without using zoning, but that was untrue because it was private property, and the County was not the owner. He said that the County's method of control was provide allowed land uses, and this one was light industrial, which was in accord with the rest of the area's zoning designations.

Mr. Gallaway stated that he was leaning towards support of the application, but he would need to take some time to consider what happened if conditions were not met. He said that he was not supportive of requiring conditions that could not be met or enforced.

Mr. Pruitt acknowledged Mr. Gallaway's point about the texture of the Broadway neighborhood and the sympathetic relationships between property values. He said that he wanted to mention the concerns that people wrote to the Board, as well as those who spoke to the Board today, regarding the historically working-class nature of this neighborhood and the need to protect it. He said that it was also worth noting that the neighborhood's proximity to light industrial areas could impact property values and contribute to naturally occurring affordable housing. He said that he knew this as someone who lived in a relatively affordable owner-occupied home next to light industrial.

Mr. Pruitt said that he had found this issue to be particularly challenging to consider as a Supervisor. He said that initially, he was likely to oppose the project, but it did appear that the consensus among staff and engineering reports that the impact was negligible. He said that he recognized that the applicant had made a concerted effort to prepare a proposal that met the zero-impact standard. Despite this, there were still several elements of the project that gave him pause, particularly the construction's potential for intrusiveness to the neighborhood. He said that this concern was not unique to this project, as it applied to all proposals that came before them.

Mr. Andrews agreed that this project was particularly challenging for him because of the engineering certifications that suggested it was not as impactful as it may initially appear. He said that for instance, a project in the City that was proposed in the floodplain had significantly different impacts due to

its relationship with the Moores Creek floodplain versus the Rivanna River and its backup patterns. He did trust the engineers, and he found their explanations somewhat plausible, yet difficult to fully understand in terms of the hydrology.

Mr. Andrews said that he would reiterate the question of whether they should pursue this development simply because they could do so. He said that regardless of whether it was dark green or light green, it was a green space designation on the Comprehensive Plan, and he questioned whether they should take it out of that designation, as it was currently zoned light industrial. He said that he was concerned about the impacts on the neighbors, but he also was reminded of more affluent areas that were concerned about developments destroying their neighborhoods, and in those circumstances, he had to acknowledge on the fact that the property was zoned for this type of development, despite it being unpleasant to live next to.

Mr. Andrews said that this project would affect a group of people who he felt more affinity for and worried about impacts to their community, but that was primarily the impacts of the process. He was daunted by the number of trucks and the amount of work that would go on, and he wished he knew how long it would be going on for, as it had the potential to be between six months or a number of years. Depending on how that process was handled, it could become unlivable for their neighbors. He said that this was a very difficult decision, and he could see that they may not get any results.

Ms. Mallek said that something that alarmed her was Mr. Pohl's remark that it was difficult to measure storms. She would like to remind everyone that on May 29, 2018, they experienced 11 inches of rain in four hours at her home, which was equivalent to a thousand-year storm. She said that since 2018, they had several other storms, referred to as 500-year storms by the National Weather Service. She said that this was not just her own opinion. This made it difficult for her to have confidence that they were adequately addressing the issue.

Ms. Mallek said that she was worried that they were setting themselves up for potential problems, similar to those seen in Asheville and other unlikely areas that had been severely impacted in recent months. She said that she respected the engineers' training and diligence in being as objective as possible, but she agreed with the concerns about the 'should we' element that had been raised by Ms. Firehock. She emphasized that as the Board, it was their responsibility to manage that aspect.

Ms. Mallek said that she was becoming increasingly opposed to this project, and she did not agree that denying this application would be "closing them for business," because they had hundreds of acres of light industrial land available that did not have the same constraints in terms of flooding or impacts to neighbors, and she believed they needed to give more credibility to the ecosystem services provided by open space and the health benefits it offered. She emphasized that places that had neglected these aspects had suffered greatly, and she would not want to bring that problem here.

Ms. Mallek said that she appreciated the efforts made to explain things to her, and she was glad that she understood the concept of the backwater area. However, what she could not bring herself to do was set aside the human impacts. As a child, she used to take livestock to the livestock market in this area. It was a place that had been home to people to work and live for years, and it had a loyal and active community of residents who were working to keep the area alive. The walks she had taken around the Woolen Mills property and learning about the Monacan sites had shown her the complexity of the issues and impacts.

Ms. McKeel disagreed with Ms. Mallek's remark that they had hundreds of acres available for light industrial, especially because they had often talked about the lack of availability for those uses in past meetings. She said that she wanted to thank the people involved in this proposal for addressing the Planning Commission's concerns. Upon reviewing the document, it appeared that several of their concerns had been addressed, and she appreciated that.

Ms. McKeel said that looking back at the regulatory process and the checks and balances they would be implementing after this point, she found it reassuring. She particularly appreciated what Mr. Gallaway said, as they had been discussing this area for years, and it had been a priority to avoid gentrification, preserve jobs, and provide affordable living options. She understood that some of the citizens in the audience may have personal connections to the area and had jobs, but what they were aiming for was a place that could offer more jobs, allowing people to walk to their jobs and have a better quality of life.

Ms. McKeel said that over the past 27 years, they had made significant progress in understanding hydraulics, water treatment, and stormwater management. While they were not perfect, they had learned a great deal. She acknowledged that tonight's discussion had been counterintuitive, but she had come to accept it. She wished they could lessen the impact but based on what she had heard from staff and experts, she felt more comfortable with this proposal now than she did initially.

Mr. Andrews said that upon reviewing the GIS maps and elevation data, he had noticed that most of the properties on the other side of the river were slightly higher, at least after the first level. He said that there were some areas down the street that may be below the 324 line, which meant they already were at some risk. He expressed his concern regarding the other operations taking place without approvals, and he had also observed that the GIS data, property information, and current assessed value of the 7-acre property were \$14,200. If fill operations were allowed, this valuation may not be fair. However, if the property could not be used for anything, the assessed value may be more reasonable. He said that would all change if the project before them was approved.

Ms. LaPisto-Kirtley moved that the Board of Supervisors adopt the Resolution attached to the staff report as Attachment D. Ms. McKeel seconded the motion.

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

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

NAYS: Mr. Pruitt, Mr. Andrews, and Ms. Mallek.

Mr. Herrick asked if the Board wished to consider a resolution to deny the application.

Mr. Andrews said that he did not think it would make a difference, but they could take it up if it was the will of the Board.

Mr. Pruitt asked what the outcome of this vote would mean for this application.

Mr. Herrick clarified that the Board had taken action and duly considered the application by taking up the motion to approve.

Mr. Pruitt asked if the public understood what had just happened.

Mr. Andrews clarified for the public that with a Board of an even number of members, a tie vote resulted in a no, meaning that the application was denied. The application must require a majority vote to be approved.

Non-Agenda Item. Discussion of Board-to-Board reports from the School Board to the Board of Supervisors.

Mr. Andrews said that he would proceed with committee reports, but before he did so, he would like to bring to the Board's attention one item that he wanted to be aware of and consider. He said that originally, the agenda had included an in-person Board-to-Board report from the School Board, but due to numerous commitments and reasons, the School Board representatives were unable to provide the presentation and instead provided the Board-to-Board report, which was placed on the Consent Agenda for information as Item No. 8.5.

Mr. Andrews said that this raised the issue of whether continuing to require quarterly in-person reports was still necessary, or if they should consider reducing the frequency to three times a year, twice a year. This had been discussed by the Chair of the School Board, and he said that he would like to bring it to their attention. He said that he raised this matter for discussion, and he said that he would like to open it up for everyone to share their thoughts.

Ms. McKeel said that she believed it was valuable for the School Board to provide them with quarterly reports, personally. She said that she was not willing to make this a contentious issue, but if the Board wished to adjust the frequency, such as moving to twice a year, she understood. She said that she did think there was value in receiving reports from them. She said that personally, she wished the Supervisors could provide the School Board with reports more frequently.

Ms. McKeel said that to be honest, in her conversations with the School Board, she often found that they were not well-informed about the Board of Supervisors' work and discussions. She said that she understood that and was not placing the blame on them, but she felt it would be beneficial for the Board of Supervisors to provide the School Board with reports, and for the School Board to continue giving regular reports to the Supervisors. She believed the two-way communication was most beneficial to their work.

Ms. Mallek said that she very much appreciated having the in-person reports from the School Board, and she felt that quarterly was a good frequency for receiving them.

Ms. LaPisto-Kirtley said that she would support them coming twice per year instead.

Mr. Gallaway asked why the School Board could not attend the Board meeting to give the presentation.

Mr. Andrews said that they were busy with graduations, so the timing was not the best for them. He said that it was the first time it had been brought up.

Mr. Gallaway recalled that when he was Chair of the Board, the School Board provided updates every other month. He asked if he had missed when it transitioned to quarterly reports.

Ms. McKeel said that she believed there had been some confusion between both Boards.

Mr. Gallaway said that based on his experience as both the Chair of the School Board and giving reports to this Board, as well as receiving reports as a member of this Board, he had found that the in-person report often provided additional information beyond what was included in the written report. He said that this had been particularly valuable for matters that required a higher level of attention from both the School Board and the Board of Supervisors. He said that he also appreciated the opportunity to

engage in dialogue during in-person reports, particularly when answering questions that went beyond the information presented in the report.

Mr. Gallaway said that while he may be nostalgic, he was struggling to understand the rationale for changing a practice that he had come to value as a proper and effective way of sharing information. He said that he would accept whatever the School Board decided on as their best process, but he had appreciated the in-person reports, which had provided more insight than the written reports in those instances, as well as their willingness to answer questions and engage with constituents, which was a crucial aspect of their role.

Mr. Andrews said that according to the email sent by the Chair of the School Board, they suggested March and September in-person reports. He said that it was stated that they felt the quarterly reports were not the best use of either Board's time, unless they had specific issues the Board wanted them to report on. He said that regarding this particular meeting, the School Board felt they did not have adequate updates to provide the Board for an in-person report and had some scheduling conflicts, and the second meeting in June may have been better.

Ms. McKeel said that she believed open communication between their two Boards was always beneficial, and she disagreed with the idea behind the comments from the School Board. She said that she would be happy to provide the School Board with a report, and any time the Boards had shared dialogue, it improved their working relationships and progress. She agreed with the other Supervisors that the quarterly reports allowed them to ask and answer important questions that may not be addressed in the written report.

Ms. Mallek said that it was totally fine if they did not have the answers either; they could always follow up with answers at a later time. However, if they never came to give the report, they would never hear the questions.

Mr. Pruitt agreed that the Board-to-Board reports were valuable, but he had less experience with them than his fellow Supervisors. He appreciated receiving them when they had the opportunity to. If they were not here in person, he definitely would not be gaining the same level of information from the report on the consent agenda.

Ms. LaPisto-Kirtley asked if it would be more helpful for the School Board to simply let the Board of Supervisors know when they were available. She said that she liked receiving reports from them.

Mr. Andrews said that they had to ensure that the Board-to-Board reports worked with both Board schedules, and the Clerk could determine the meetings that had availability in their schedule.

Ms. LaPisto-Kirtley said that their one-on-one and two-on-two meetings with the School Board members had been greatly beneficial this year.

Mr. Andrews said that he would like to hear more from the School Board about this matter.

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

There were no reports or other matters from Board members.

Agenda Item No. 18. Adjourn.

At 10:44 p.m., the Board adjourned its meeting to June 18, 2025, 1:00 p.m. in Lane Auditorium, Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA, 22902. Mr. Andrews said information on how to participate in the meeting would be posted on the Albemarle County website Board of Supervisors home page and on the Albemarle County calendar.

Chair

Approved by Board
Date: 12/3/2025
Initials:CKB