

**ACTIONS**  
**Board of Supervisors Meeting of July 21, 2021**

July 22, 2021

AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 1:00 p.m., by the Chair, Mr. Gallaway. All BOS members were present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris.</li> </ul>		<a href="#">Link to Video</a>
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> <li><b>MOVED</b> item #11 from regular agenda to consent agenda.</li> <li><b>ADDED</b> discussion</li> <li><b>ADDED</b> Update of Process for Lewis &amp; Clark Statue disposition.</li> <li>By a vote of 6:0, <b>ADOPTED</b> Final Agenda as amended.</li> </ul>		
<p>5. Brief Announcements by Board Members.</p> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>Commented that she was concerned about the new Delta variant of the COVID virus, the current vaccination rates, and encouraged community members to think about masking, being safe, and if they had not gotten a vaccination to please do so.</li> <li>Announced that the Virginia Department of Environmental Quality had issued a code orange health alert for Virginia because of the air quality from the smoke that is coming from the forest fires on the West Coast.</li> </ul> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> <li>Mentioned that COVID-19 infections and deaths were occurring with people who were not vaccinated and that over 80% of the current infections were from the Delta or Delta plus variant and also on the effects this was having on the community and public body meetings.</li> <li>Recognized Jack Maxwell, the Scottsville mayor and town administrator, and Major Sean Reeves of the Albemarle County Police Department for their work to schedule a town hall with community members in the southern part of the County to address vehicular safety concern. She remarked that there had been five major vehicular accidents involving serious injury and death in the Scottsville town area in the previous 5-10 days</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Remarked that wearing a mask was a way to protect the immunocompromised who cannot take the vaccine and asked community member to take this into consideration.</li> <li>Commented on the current drought situation and that the community needed to be very careful.</li> <li>Encouraged community members to contact the fire marshal to learn about the open burn rules.</li> </ul> <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> <li>Announced that Darden Towe Park had a very successful opening with the first permanent public pickleball court in the County</li> </ul>		

7.	From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board. <ul style="list-style-type: none"> <li>There were none.</li> </ul>	
8.2	ZTA202100002 Resolution of Intent for Proposed Zoning Text Amendment to Clarify the Board of Supervisors' Authority to Approve Special Exceptions, Consistent with Case Law. <ul style="list-style-type: none"> <li><b>ADOPTED</b> Resolution of Intent.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 1)
8.3	SE202100011 VPM Media Corp Tower (Carters Mountain) Critical Slopes Waiver. <ul style="list-style-type: none"> <li><b>ADOPTED</b> Resolution to approve the special exception request.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 2)
9.	SE202100021 Homestay Special Exception Euans. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution to approve a Homestay special exception, subject to conditions.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 3)
10.	<b>Work Session:</b> Stream Health Initiative Phase II. <ul style="list-style-type: none"> <li><b>HELD.</b></li> </ul>	<u>Kim Biasioli/Community Development</u> : Proceed as discussed.
11.	Rivanna Water and Sewer Authority (RWSA) Quarterly Report. <ul style="list-style-type: none"> <li>Moved to Consent Agenda.</li> <li><b>RECEIVED.</b></li> </ul>	
12.	<b>Presentation:</b> Albemarle County Service Authority (ACSA) Quarterly Report. <ul style="list-style-type: none"> <li><b>RECEIVED.</b></li> </ul>	
16.	From the County Executive: Report on Matters Not Listed on the Agenda. <u>Jeff Richardson</u> : <ul style="list-style-type: none"> <li>Presented the County Executive Report.</li> <li>At the request of the Board, Mr. Richardson addressed the process of the Sacagawea statue placement at the Lewis and Clark Exploratory Center at the Darden Towe property owned jointly by the City and County.</li> </ul>	
13.	Closed Meeting. <ul style="list-style-type: none"> <li>There was no closed meeting.</li> </ul>	
	<b>Recess.</b> The Board recessed at 4:35 p.m., and reconvened at 6:00 p.m.	
15.	From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board. <ul style="list-style-type: none"> <li><u>Gary Grant</u>, Rio District, spoke regarding the history of slave ownership and the correlation to the names of magisterial districts, towns and roads in Albemarle County.</li> <li>The following individuals spoke towards right to counsel for tenants facing eviction: <ul style="list-style-type: none"> <li><u>Lydia Bunk</u></li> <li><u>Melissa Gilrain</u></li> </ul> </li> </ul>	
17.	<b>Pb. Hrg.: SP202100007 and SP202100008 Jefferson Mill Hydroelectric Project.</b> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution to approve SP202100007 and SP202100008 Jefferson Mill Hydroelectric Project.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4)
18.	<b>Pb. Hrg.: Consider the Adoption of an Ordinance to Amend County Code, Chapters 10, Firearms.</b> <ul style="list-style-type: none"> <li><b>HELD.</b></li> <li>General <b>CONSENSUS</b> to defer action to a later date.</li> </ul>	<u>Clerk</u> : Schedule on agenda when ready.  <u>County Attorney</u> : Proceed as discussed and notify clerk when ready to schedule.

<p>19. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• <b>CONSENSUS</b> to authorize the chair to sign a letter to the Governor, state legislature, local delegates and the Senate Appropriations and Finance committees to request additional resources to provide the necessary resources and personnel at the mental health facilities to resolve the shortcomings of the state's refusal to accept patients into mental health facilities.</li> </ul>	<p><u>Clerk</u>: Send a signed copy of the letter to the Governor, state legislature, local delegates and the Senate Appropriations and Finance committees</p>	
<p>20. Adjourn to August 4, 2021, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 9:20 p.m.</li> </ul>		

ckb/tom

Attachment 1 – Resolution of Intent

Attachment 2 – Resolution to Approve Special Exception for SE 2021-00011 Media Corp Tower (Carters Mountain)

Attachment 3 – Resolution to Approve Special Exceptions for SE2021-00021 Euans Homestay

Attachment 4 – Resolution to Approve SP202100007 and SP202100008 Jefferson Mill Hydroelectric

**RESOLUTION OF INTENT**

**WHEREAS**, certain provisions in County Code §§ 18-2.5, 18-4, 18-5, and other sections of the Zoning Ordinance (the "Provisions") appear to direct the Albemarle County Planning Commission and certain administrative officers to consider and act on requests for waivers, modifications, variations, and substitutions; and

**WHEREAS**, the Provisions appear to direct the Planning Commission to make certain decisions not expressly enabled under Virginia law, which has created confusion because the Provisions conflict with the procedures and factors for special exceptions in County Code §§ 18-33.5, 18-33.9, and 18-33.10 requiring that such waivers, modifications, variations, and substitutions be approved only by special exception; and

**WHEREAS**, the procedures and factors for special exceptions in County Code §§ 18-33.5, 18-33.9, and 18-33.10 have superseded the Provisions since April 1, 2013; and

**WHEREAS**, it is desired to amend the Zoning Ordinance to provide that all of the actions described hereinabove be made by the Albemarle County Board of Supervisors as special exceptions pursuant to County Code §§ 18-33.5, 18-33.9, and 18-33.10, which are expressly enabled under *Virginia Code* § 15.2-2286(A)(3).

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend County Code §§ 18-2.5, 18-4, 18-5, and any other sections of the Zoning Ordinance deemed relevant to clarify and confirm that the Board is to consider and act on special exceptions to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and return its recommendations to the Board of Supervisors at the earliest possible date.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SE 2021-00011 MEDIA CORP TOWER (CARTERS MOUNTAIN)**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE 2021-00011 VPM Media Corp Tower application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.2.3(b), 18-4.2.5(a), and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the proposed special exception would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; would not be contrary to sound engineering practices; and

- i. Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of [County Code § 18-4.2](#) to at least an equivalent degree; and
- ii. Due to the property's unusual size, topography, shape, location or other unusual conditions, excluding the proprietary interest of the developer or subdivider, prohibiting the disturbance of critical slopes would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the property or adjacent properties.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the special exception to allow the disturbance of critical slopes, subject to the conditions attached hereto.

\* \* \* \* \*

**SE 202100011 VPM Media Corp Tower Conditions**

1. The area of land disturbance on critical slopes must not exceed the disturbed critical slopes shown on Sheet C-2 Proposed Compound Plan of the plans titled "Site Name: Carters Mountain," prepared by NB+C Engineering Services LLC and last revised May 12, 2021.
2. The erosion and sediment control measures shown on the plans titled "Site Name: Carters Mountain," prepared by NB+C Engineering Services LLC and last revised May 12, 2021, must be installed prior to commencing land disturbing activities.

**RESOLUTION TO APPROVE SPECIAL EXCEPTIONS  
FOR SE2021-00021 EUANS HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the SE2021-00021 Euans Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exceptions would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

**NOW, THEREFORE, BE IT RESOLVED**, that in association with the Euans Homestay, the Albemarle County Board of Supervisors hereby approves the special exceptions (a) to modify the minimum 125 foot front southern and western yards required for a homestay in the Rural Areas zoning district and (b) to permit the use of an accessory structure in association with a homestay in the Rural Areas zoning district, both subject to the conditions attached hereto.

\* \* \* \*

**SE 2021-00021 Euans Homestay Special Exception Conditions**

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the House and Parking Location Exhibit dated June 28, 2021.
2. Homestay use is limited to the existing structures, as currently configured and depicted on the House and Parking Location Exhibit dated June 28, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated June 28, 2021, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained. Additional screening must be established directly west of the homestay and homestay parking area as shown on the Buffer Exhibit dated June 28, 2021, and maintained with screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

**RESOLUTION TO APPROVE  
SP202100007 AND SP202100008 JEFFERSON MILL HYDROELECTRIC**

**WHEREAS**, upon consideration of the staff report prepared for SP202100007 and SP202100008 Jefferson Mill Hydroelectric and the attachments thereto, including staff's supporting analysis, the information presented at the public hearing, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(39), 18-30.3.11, 18-5.1.26 and 18-33.8, the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

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

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves SP202100007 and SP202100008 Jefferson Mill Hydroelectric, subject to the conditions attached hereto.

\* \* \* \*

**SP202100007 and SP202100008 Jefferson Mill Hydroelectric Special Use Permit Conditions**

1. Development and operation must be in general accord with the information included in the applicant's special use permit application.
2. Development and operation must comply with all State and Federal requirements.