

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on June 8, 2016, at 3:00 p.m., Lane Auditorium, Second Floor, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from June 7, 2016. The regular meeting was held at 6:00 p.m., in the Lane Auditorium, County Office Building.

PRESENT: Mr. Norman G. Dill, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, Mr. Rick Randolph, and Mr. Brad L. Sheffield.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Greg Kamptner and Acting Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 3:00 p.m., by the Chair, Ms. Palmer.

Ms. Palmer also introduced staff present and the presiding security officer, Officer Levy.

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Agenda Item No. 2. **Discussion:** Review of 2016 Legislative Priorities.

The Executive Summary forwarded to the Board states that each year the Board considers and approves its legislative priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties (VACo), and the Virginia Municipal League (VML). Generally, the TJPDC's legislative program incorporates the County's legislative priorities. Other initiatives are sometimes added prior to the General Assembly session. This executive summary will provide a review of the Board's 2016 Legislative Priorities (Attachment A), which includes ongoing Legislative Priorities.

The purpose of Wednesday's discussion is to consider priority legislative positions the Board feels it should review with our legislators at a proposed meeting in September and to consider what actions the Board would like legislators to take to more fully support those positions. In preparation for that meeting, a review of the County's 2016 Legislative Priorities is provided in the attached "2016 Legislative Priorities Report". The report includes details regarding previous action taken on the priorities, an assessment of what priorities should be continued in the future, and links to the final legislative reports of the TJPDC, VACo and VML. Priorities added in 2016 are marked with an asterisk, and ongoing priorities are also listed. Many of the 2016 Legislative Priorities were carried forward from 2015. Six specific priorities that were added in 2016 are set out below:

#### **Local Government Administration and Finance**

**Body Worn Cameras.** The County supported legislation to amend Virginia Code § 2.2-3706 of the Virginia Freedom of Information Act to clarify that local law enforcement agencies have the authority to withhold from mandatory disclosure under FOIA those records, including body worn cameras and dashcam video, that contain identifying information of a personal, medical or financial nature where the release of such information could jeopardize the safety or privacy of any person. The General Assembly introduced three bills pertaining to body worn cameras, however, none of the bills made their way out of committee.

**Seat Belts.** The County supported legislation that would make the failure to use a seatbelt a primary offense. The General Assembly declined to introduce any legislation on this matter.

**Drones.** The County supported legislation enabling local governments to have authority to regulate the use of unmanned aerial vehicles in their jurisdictions not preempted by federal law. The General Assembly passed **HB 412**, which provides that no locality may regulate the use of privately owned, unmanned aircraft within its boundaries. The provisions of the bill expire July 1, 2019.

#### **Growth Management, Land Use and Transportation**

**Noxious Weeds.** The County supported changes to the Virginia Code and to the Virginia Invasive Species Management Plan, which directs efforts to prevent and control damage caused by invasive species. The General Assembly passed **HB 734**, which establishes an advisory committee to evaluate the risks of a plant or part thereof that is being considered for designation as a noxious weed.

**Water Quality and Resources.** The County supported state funding for the following: 1) agriculture best management practices, 2) stormwater grant initiatives, and 3) wastewater treatment plant upgrades. The General Assembly did not provide any new funding for the Stormwater Local Assistance Fund.

**Stormwater Management.** The County opposed any legislation that would impact the resource and funding needs of the Department of Environmental Quality to fully administer, enforce, and maintain the Stormwater Management laws. The General Assembly passed **HB 438**, **HB 448**, **HB 1250**, **SB 468**, and **SB 598** with regard to Stormwater Management laws. Bill summaries are detailed in the 2016 Legislative Report.

The County's legislative priorities seek to ensure that the state adequately funds its mandated responsibilities and does not jeopardize the County's ability to effectively and efficiently implement the policies (including fiscal) and programs that it deems necessary. There are no specific, identifiable budget impacts.

Staff recommends that the Board review the 2016 Legislative Priorities Report (Attachment A), and recommend any changes or additions it feels are appropriate for the 2017 Proposed Legislative Priorities to be brought back at a later date before submission of the final 2017 Priorities to the TJPDC, VACo and VML. In addition, staff recommends that the Board identify priority legislative positions it would like to discuss with legislators at the proposed September legislative meeting.

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Mr. Kamptner stated that the Board and members of staff have identified a need to start approaching the legislative schedule earlier in the calendar, with the review of draft legislative priorities typically coming to the Board in August; the Planning District Commission presenting a draft legislative program in November and the Board adopting it that month if it meets their approval; and the Planning District Commission then holds a legislative forum in December. Mr. Kamptner stated that it became evident to staff and the Board that with that schedule, the County is often behind other interest groups, which is part of the reason why they are starting this process now. He noted that staff has presented the Board with a legislative priorities report, reflecting a number of issues for the upcoming year, some of which have been addressed and some that remain to be addressed.

Mr. Kamptner stated that one piece of legislation that is of great interest to Albemarle County is Senate Bill 549, the proffer legislation, which limits the County's ability to address impacts from rezonings through proffers. He said that localities do have some enabling authority related to impacts on roads, but thus far only Stafford County has taken advantage of this impact fee legislation. Mr. Kamptner noted that it has been perceived by Albemarle that the proffers were the better and easier way to go, with some limitations in the impact fee legislation and complications with deriving the fee amount. He also mentioned that this deals only with roads, and not the other impacts that can arise from a rezoning, but one advantage is that the impact fees also apply to by-right developments.

Ms. Mallek stated that it also applies to rural areas.

Ms. Palmer asked if it applies only to the roads that are on the property getting developed. Mr. Kamptner said it would either be offsite road improvements or enhanced onsite road improvements, so within a subdivision, if a developer were to overbuild a road they would get a credit for those additional onsite improvements.

Ms. McKeel commented that it would also pertain to upgrades to intersections and amenities within the direct vicinity of the project. Mr. Kamptner stated that staff would still need to do an analysis to see if it might work in Albemarle County.

Ms. Mallek commented that this is a step forward, and asked Mr. Kamptner to confirm that the money would go into a fund that the County can use for leverage on the map or other projects. Mr. Kamptner explained that the County would establish a service area, which can be paid by the developer in a lump sum or when the building permit is issued, and it is accounted for that way.

Mr. Kamptner reported that there is also a bill that was pulled this year but may come back next year, and it may supersede local authority to regulate wireless, so staff will be monitoring it in preparation to oppose it.

Ms. Palmer asked if that will also apply to fixed wireless as well as mobile phones. Mr. Kamptner responded that it will pertain to anything that falls under personal wireless service facilities.

Mr. Kamptner reported that there have been concerns in the past about bio-solids, which were perceived to contain heavy metals and other chemicals, but that data is assumed now to be out of date, so the Joint Legislative Review Commission is embarking on a study that will be complete in a couple of years.

Mr. Kamptner reported that SB 416, the Airbnb bill, will be coming back in 2017 for further consideration, and it will require this type of transient lodging to register with a hosting platform that will collect the taxes, which will go to the state for disbursement back to localities. He stated the other key part is that in all material respects it supersedes local zoning authority.

Ms. Mallek asked if the localities are still not allowed to know where the B&B businesses are located, which was an issue raised last year, so there would be no possibility for safety oversight so that firefighters know the number of bedrooms for occupants in the event of a fire. Mr. Kamptner responded that he would have to pull up the legislation to look at that particular piece of it.

Mr. Kamptner reported that the concept for the scenic protection and tourist enhancement has been circulating for about 15 years and came up at the June 7 Planning Commission meeting with Scenic Crozet, the Scenic Byway, and effects of development on Route 250. Mr. Kamptner stated that around 2002, he and Sally Thomas had presented multiple times to a committee to get them to support some legislation, but were unsuccessful in that effort.

Ms. Mallek pointed out that the core of it is the capability for an overlay district that could be achieved for particular areas. Mr. Kamptner said that one of the responses the General Assembly might give is that there are other tools that could be used to achieve similar results.

Mr. Kamptner reported that the County had supported legislation for a FOIA exemption for

releasing images of a personal, medical or financial nature, or those that could jeopardize the safety or privacy of a person, related to the use of body-worn and dash-cam cameras, but that bill did not make it out of committee, so the Board may want to consider it again. He stated the County also supported legislation that would make failure to wear seatbelts a primary offense, but no bills related to this were submitted in the General Assembly in the most recent session. Mr. Kamptner said the County had supported legislation allowing localities to regulate use of drones to the extent that the FAA had not preempted it, and the result of that was a bill that directly usurped local authority, although it does have a sunset clause of 2019. He stated that the use of drones is becoming prevalent, and he predicts that the FAA will likely expand its regulatory authority.

Mr. Kamptner reported that there were some bills in the last General Assembly session that would have allowed localities to impose a local cigarette tax, similar to that imposed by cities, and a bill that would have provided other additional taxing authority, but those bills did not make it out of committee. He stated that related to the composite index issue, the County had supported legislation to amend the formula by redefining local true value of real property component to include land use taxation value, and while that bill had broader support from localities, it did not make it out of committee. Mr. Kamptner said that one of the challenges with this bill is the zero-sum component, because if one locality ends up paying less, then another would end up paying more.

Mr. David Blount, Legislative Liaison, Thomas Jefferson Planning District, stated that it was a very close vote in the subcommittee, but there would be winners and losers and those localities with more land in rural area or preservation would benefit, while those in more urban and suburban localities raised the point about adjusting the LCI for other impacts such as English language learners. He commented that overall, the legislature has been hesitant to open up the composite index, but there was additional support from Spotsylvania and some other localities.

Mr. Kamptner reported that two other pieces of legislation that the County had supported included having the state fund 100% of the public portion of community college capital costs, as localities currently fund a portion of that, and adequate funding of compensation for public defender compensation, but there was no legislation introduced this year for either item. He noted that this year, more so than others, there were some obvious frustrations in getting the County's message across.

Ms. Palmer asked about how the strategy will work this year, given that it is a short General Assembly session. Mr. Blount explained that historically the short session was intended to make adjustments to the biennial budget, but it has evolved into the same amount of work with two fewer weeks' time to do it in, because there are wholesale amendments proposed by the Governor, amendments made by the General Assembly, and the usual proliferation of legislation as seen in a regular year. He stated that this is an election year session for members of the House of Delegates, so there will be various campaign bills and other pieces of legislation that can crowd the process. Mr. Blount said that in terms of strategy, the County would not necessarily do anything differently because what legislators are dealing with is the same.

Ms. Palmer noted that they could still get someone to introduce a bill for them. Mr. Blount agreed that they could always introduce a specific piece of legislation and said that starting those conversations earlier is always advantageous.

Ms. Mallek mentioned that Delegates are limited with the numbers of bills they can introduce, whereas Senators are not. Mr. Blount confirmed that Delegates are limited to 15 total.

Ms. Palmer asked if they have to go through the Finance Committee for something like the cigarette tax, or if they could go through the General Government Committee. Mr. Blount responded that the bills are assigned in the House by the speaker, or in the Senate by the clerk, and they are assigned by subject area.

Ms. Mallek stated that even if they are not on that committee, they introduce the bill and fight for it.

Ms. Mallek asked if the term "retained" in the drug court means the money was retained for the drug court or retained and not given to the drug court. Mr. Kamptner responded that the money had been awarded.

Ms. Mallek said that is the first time in nine years they have not had to fight for the drug court money, so this is a positive development.

Ms. Palmer asked Mr. Kamptner what he feels is most important with respect to getting the proffer bill amended.

Ms. McKeel commented that in speaking with Senator Creigh Deeds and Delegate David Toscano, there seems to be a disconnect between how the County perceives the impacts of the proffer bill and how legislators perceive those impacts.

Mr. Kamptner stated that two of the concerns for the County would be the requirement that the proffers be specifically attributable to the impacts created, because the word "specifically" has a defined meaning but it is not defined in the bill. He explained that a level of certitude is necessary that he is not convinced a traffic analysis or school capacity analysis can provide, and the problem is that an applicant can come back and challenge it. Mr. Kamptner said the other term in the bill is related to offsite proffers,

including all cash proffers, and the requirement that they provide “a direct and material benefit.” He stated that there is often lag time between the cash contribution and the public facility being funded by the cash contribution as revenues are collected from different sources, so it opens another window for someone to challenge it, and those challenges eliminate the proffer in its entirety. Mr. Kamptner added that a fourth concern is that the mere suggestion by anyone affiliated with the County regarding a proffer, or the County’s acceptance of a proffer that exceeds the standard in the legislation, jeopardizes the proffer.

Ms. Mallek noted that the County also would have to assume the legal costs. Mr. Kamptner stated that it is less of a concern, although the trend in the General Assembly has been to punish localities in their land use decisions, and there was legislation several years ago that made localities liable for attorneys’ fees and costs.

Ms. Palmer asked if there are other localities that want these same amendments. Mr. Kamptner responded that he assumes they will want these amendments, and they may be seeking others as well.

Ms. Mallek stated that the High-Growth Coalition has fought this for many years and has made some incremental gains, so Albemarle is not by itself but will want to make sure it is on the list, and Loudoun officials have indicated in the past that they were unaware with some legislation that there were other localities supporting it.

Ms. McKeel stated that she would like to ensure that Albemarle’s legislators are aligned with the Board’s concerns.

Ms. Palmer agreed that this is very important, especially the education piece for legislators.

Mr. Kamptner stated that he has heard from other local government attorneys that members of their development community were very concerned about this legislation because in other localities boards and city councils have said that they will stop approving rezonings. He emphasized that a balanced approach would be better, and this legislation came about because some Northern Virginia localities had per-unit cash proffer amounts in the \$50,000-\$60,000 range, with some of them being used to diffuse neighborhood opposition but not directly address the impacts from a rezoning.

Ms. McKeel commented that when things get out of balance they will swing in as far a direction the other way, so they need to figure out how to bring some common sense to this.

Ms. Palmer asked what avenues they might be able to organize locally to reach out to developers. Mr. Foley said the real impact will likely come from the larger regional and state organizations pushing for this, with some local developers saying that the proffer bill had gone too far, and he suggested that Mr. Blount also respond to this.

Mr. Blount stated that there were concerns in the development community, and any changes to the bill would have to have broad support from the development community, particularly the homebuilders association in Richmond, which drove this legislation. He said that it would certainly help if there were localities in the districts represented by General Assembly leadership that can push hard to make some changes happen, and local developers need to be a part of that conversation. Mr. Blount emphasized that he does not think that local governments alone, either solely, regionally or on a statewide basis, can make the change, and it will require bringing other interests into the effort.

Ms. Palmer asked if VACO will be meeting with the homebuilders association to discuss the specific amendments. Mr. Blount responded that he is not sure of their specific strategy, but VACO would likely be working with the High-Growth Coalition, and while VML mentioned this at their legislative meeting the previous week, they did not talk at length about any strategy.

Ms. Mallek encouraged Board members to attend the August VACO meeting, as this topic will be a major focus.

Ms. McKeel stated that there are many reasonable people in this community, and she would like to talk with the development community locally to try to clarify concerns, as well as having a face-to-face meeting with Senator Deeds and other legislators. Ms. Palmer responded that it will definitely be a part of the Board’s meeting with legislators.

Ms. McKeel said that she is suggesting having more than one meeting, and asked Ms. Mallek for her opinion.

Ms. Mallek emphasized that the more meetings, the better, and more people hitting different committees will increase the County’s impact. She stated that the Board’s predecessors were very active in Richmond, and it makes a powerful difference even if the legislators do not always listen to all of the opposition prior to voting.

Ms. Palmer stated that they need to know what they are working off of, whether it is the High-Growth Coalition’s agenda, or the VACO platform, etc. Ms. Mallek responded that they will not have anything until January 10.

Mr. Kamptner said that they will need to see what everyone else is proposing, and he is assuming there will not be a knee-jerk reaction but instead would strike a more balanced approach. He stated that

given the timeframe for doing a rezoning, there may be very few that have gone through the process under the new legislation until the session starts, and asked Mr. Blount if it is possible that the legislature is waiting to see how things are working.

Mr. Blount stated that it is possible that the General Assembly is waiting to see if there are unintended consequences that have materialized, and if there is a disconnect between legislators in this region, the first step may be the education piece prior to discussing line item amendments. He said that individual localities' efforts to replicate this throughout the state and feeding into VACO's ultimate strategy will all be helpful and worthwhile, with education being a good first step.

Ms. McKeel commented that it seems they want to have a parallel path, even if their timelines may not be exactly the same, and asked Mr. Kamptner if he and Mr. Davis had some straightforward changes they had suggested. Mr. Kamptner confirmed that they did, but had not met with the development community yet to discuss the legislation.

Ms. McKeel stated that she would like to discuss this with the development community first, then meet with Senator Deeds and Delegate Toscano, as well as buying into whatever happens at the state level. Mr. Foley responded that they seem to be at the point of clarifying the County's position and what should be changed, which Mr. Kamptner has a handle on, and the Board will want to establish a clear legislative position to share with legislators in September. He stated that as a part of getting to that, they may want to bring in local developers and others to help inform that process so they are not doing it in isolation of what else is going on, and other localities, as well as VACO, will be doing the same work, so the County would want to tie into that. Mr. Foley said that they are all in the initial stages of this process, and many localities have probably not yet discussed amending their plans.

Mr. Randolph stated that the Fiscal Impact Advisory Committee had received a lot of input from the development community, with developers serving on that committee, and said that the chair is extremely well-versed on the issues. Mr. Randolph had mentioned to the chair the possibility of discussing this with the committee and he agreed that it would be the best approach to get input, so he would hate to bog this down because a committee created by the Board had already looked at this extensively and made recommendations.

Ms. McKeel said that Mr. Kamptner has a document that has specific changes within it that would be helpful to the County, so they may be able to start with that, especially since it is a short session year.

Mr. Foley suggested that it could be vetted with the Fiscal Impact Committee.

Ms. Mallek stated that their focus is primarily related to the math, and a good time for Board members to discuss this with constituents is when they are meeting with them about other matters in their districts. She said that when the national homebuilders' representative was asked by Roger Wiley about the consequences of this bill passing, his response was that it would likely shut down rezonings for three years, but their organization felt it was worth it. Ms. Mallek stated that when she shared this information with two local developers who do not have the ability to go out of state to work, they were horrified, so she reminded them that this was the position of the organization that is supposed to represent them.

Mr. Blount commented that this is the value of having these discussions with local developers, because then pressure will be put on the state.

Ms. Mallek noted that those extreme consequences were the reason the state had decided three years ago not to proceed with the legislation.

Ms. Palmer stated that the Board had just reappointed the Fiscal Impact Committee members, and suggested that staff discuss this with them.

Mr. Foley noted that Mr. Kamptner works directly with that group. Mr. Kamptner responded that he has not worked with them since they completed their last charge.

Ms. Palmer said that Tim Keller had talked with her about making sure they reappointed the committee for this.

Mr. Kamptner noted that it is on the committee's July agenda, and said that the Board's agenda item 20 attachments include his memo outlining possible County approaches. He stated that even if they cannot get the legislation amended, they can still go in a different direction.

Ms. Palmer asked if there are other areas on which they want to concentrate for the agenda and for their September meeting with legislators, and asked if they want to go after the cigarette tax again. Ms. Mallek responded that this will only work with a regional effort, and last year the other counties in Albemarle's region were not interested, although each year is different, so perhaps it might change.

Ms. McKeel stated that if they want to have the cigarette tax as part of the packet this year, it would be good to have some figures regarding the impact of smoking on the community. She said she had spoken to Chief Dan Eggleston about this, and he told her that fire/rescue has a lot of the data already, mostly from rescue, but there may also be costs related to brush fires from cigarettes. Ms. McKeel stated that she would be interested in looking at the cigarette tax as recovery, and she would like to know what the impact of smoking is on the community, perhaps because she is a nurse.

Ms. Mallek said she would also like to propose that the County Office Building become a smoke-free zone, and is tired of walking through clouds of smoke outside when she enters the building.

Ms. McKeel stated that she would support that, and also said that with Adopt-A-Highway, she is tired of trying to keep cigarette butts and packaging out of the waterways.

Mr. Foley said he also talked with Chief Eggleston about the cigarette tax and he is in the process of pulling some information together, adding that the Chief was not sure how complete the data would be.

Mr. Kamptner asked for confirmation that the angle here is that the data will support the tax, which could be applied for a specific purpose within general revenue. Ms. McKeel responded that her intention is cost for recovery, and she had also asked the Department of Forestry if they had any data on forest fires caused by cigarettes, but it had been harder to quantify.

Ms. Palmer asked if there is anything on here they want to take off or add on the legislative agenda. Ms. Mallek responded that she did not hear anything in Mr. Kamptner's presentation that she wants to remove, and said that even though the list looks long, they have spent a lot of time over many years developing the background on the items and she hopes that will make them better prepared in the event an issue arises. She stated that she is working at the state board level on making better connections with other counties so that all the burden is put on VACO, and she also hopes that technology will allow them to have targeted group emails to legislators and thus have a broader impact.

Ms. McKeel stated that the community college funding item is significant to her, given PVCC President, Frank Friedman's, recent statement to the Board that he will be coming to the County with a request for the college's capital needs, and the County is having trouble with its own capital program, much less PVCC's, even though that effort is worthwhile.

Mr. Foley stated that the County has a position on that, but in the meeting they could highlight how important it is. He stated that typically they also reached out to departments to solicit input on the legislative program and will do that again, but it looks as though the Board has already highlighted two issues that are priorities for them.

Ms. McKeel commented that she feels it would be more effective to highlight several key items, rather than having a big laundry list.

Ms. Palmer said she would like to hear from the legislators as to what they feel is most likely to go through, as well as what they are sponsoring and have interest in.

Mr. Randolph stated they would likely get the same response that they traditionally get from the same parties. He suggested that in addition to looking at an increased cigarette tax, they should look at the other revenue sources identified by the Citizens Resource Advisory Committee. Mr. Randolph said that because this is a short session, they likely would not achieve their strategic objectives this year, but they should lay down the argument and consider this part of a two-year effort. He suggested that they put all of the identified revenue enhancements that need legislative approval on the table, then prioritize them and go after that.

Ms. McKeel said they would have a better shot by going after one specific tax that had demonstrated costs to the community in terms of health, etc.

Mr. Randolph agreed, but said they need to build an effective coalition with other counties who share Albemarle's concern. Mr. Foley responded that last year, the County put in a good deal of effort to pursue equal taxing authority for urban counties that met a certain density, an approach suggested by legislators, and he communicated with all of those peer localities' administrators. He explained that Delegate Steve Landes drafted a bill and had it ready to submit, but after a lot of back and forth with legislative colleagues, he decided not to submit it because he did not feel it had a chance of success. Mr. Foley said the question is whether the County wants to pursue it again, and emphasized that these are not things that happen in a year. He stated that they can provide a package of items that emerged from the work of the CRAC committee and add the cigarette tax, so the Board can consider continuing with that effort, and he had already discussed it with Mr. Blount.

Mr. Randolph stated that the approach has tremendous merit.

Ms. Mallek said that Mr. Blount will be attending the Finance Committee meeting in August and needs to raise the issue and ask localities that will be interested in this effort, so they can start building the networks.

Mr. Foley commented that staff will package that and bring it forward based on how they approached it last year, with the cigarette tax added.

Ms. Palmer pointed out that the Board needs to ask legislators what they think about these things, and if they are frank in their responses then the Board may want to figure out how to make a different approach.

Ms. Mallek said if they can get a draft agenda for the August meeting, even an informal one, it would be very helpful.

Mr. Blount commented that there is great value in meeting with the legislators earlier so they can provide direct input as to the merits of proposed ideas and the recommended approach.

Mr. Dill stated that unfunded state mandates seem to be a paradox with disallowing taxing authority, and it seems as though there should be a quid pro quo that if the state is not granting the taxing authority then they should not hand down unfunded mandates.

Ms. Mallek said that it is the right logic, the County has just not won yet.

Ms. Palmer stated that there was going to be a fiscal impact study on each of the mandates, with the estimated timeframe being about two years.

Mr. Blount clarified that the effort was intended more to design the local governments' fiscal impact analysis process, and that initiative came out of the regional legislative forum several years ago, and a task force was established, with legislation and funding for the Commission on Local Government the following year to undertake that effort. He stated that he has not seen a lot of benefit from that yet, and said the intent was more to streamline the process of allowing localities to provide input on bills that need to have a fiscal impact analysis during the General Assembly session. Mr. Blount noted that it had become a web-based application instead of a cut-and-paste application that the Commission on Local Government was doing, but he did not think that it had resulted in any additional bills. He added that the commission picks out various mandates every year to review, and localities have an opportunity to comment.

Ms. Mallek asked if JLARC typically does those or if another committee does them. Mr. Blount responded that it is usually done through the agencies to which the mandates apply.

Ms. Mallek stated that sometimes the delays involved in making the requests for analysis make it impossible to turn the information back around in 24 hours.

Mr. Foley noted that a lot of the mandates come out of the budget bill, which could be at the end of the session. Mr. Blount agreed, adding that there is often a 48-hour turnaround.

Mr. Foley stated that VML and VACO both monitor this, and there is also an ongoing commission that looks at mandates on localities.

Mr. Blount explained that there is a Local Government Mandates Task Force established in the administrative branch, with some turnover because of the gubernatorial change, but thus far they have only been focusing on the most obvious mandates for local governments. He stated that there have been some legislation and consolidation efforts that have been geared toward reducing administrative impacts such as reporting requirements, with a lot of those pertaining to the Department of Education and resulting in elimination of extraneous items.

Mr. Foley clarified that the Board's priority items include the proffer bill, equal urban taxing authority, and discussion of the community college issue.

Ms. Mallek commented that it bothers her that no legislator will carry the equal taxing bill, the public defender funding bill, or the seatbelt primary offense bill, which is a no-brainer that she thought Rob Bell was going to carry.

Ms. McKeel stated that law enforcement officials have said that many of the deaths from motor vehicle accidents could have been prevented with proper seat belt use.

Ms. Palmer noted that Mr. Foley may have some additional items once staff works with the department heads on their priorities.

Mr. Foley responded that staff will follow the normal process and will further explore the items the Board has identified, with proffers and equal taxing authority being the two biggest issues.

Ms. Palmer suggested that they have more back and forth with legislators to clarify their level of support and get their input on priorities. She asked if there is a list of the mandates available per Mr. Blount's discussion. Mr. Blount responded that the Commission on Local Government develops that every year, with periodic review across all agencies, with the process taking several months.

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Agenda Item No. 3. Closed Meeting.

At 4:06 p.m., Mr. Dill offered a **motion** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1): 1. To consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and 2. To conduct the annual performance review of the County Executive; and Under Subsection (5) to discuss a possible grant application concerning a prospective business because there has been no previous announcement of the business's interest in locating in the County; and Under Subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for court facilities. Ms. Mallek **seconded** the motion.

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

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

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Agenda Item No. 4. Certify Closed Meeting.

At 6:05 p.m., the Board reconvened into open meeting, and Mr. Sheffield **moved** that the Board certify by a recorded vote that to the best of each Board member'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 passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

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Agenda Item No. 5a. Boards and Commissions: Vacancies and Appointmentss.

Ms. McKeel then **moved** the following appointments/reappointments:

- **reappoint** Mr. Sean Moynihan and Mr. Stephen Davis to the Piedmont Virginia Community College Board with said terms to expire June 30, 2020.
- **appoint**, Mr. Marcus Gaither to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2018.

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

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

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Agenda Item No. 6. Call Back to Order. At 6:06 p.m., the regular night meeting was called to order by the Chair, Ms. Palmer.

Ms. Palmer introduced County staff and the presiding security officer, Officer Levy.

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Agenda Item No. 7. Pledge of Allegiance.  
Agenda Item No. 8. Moment of Silence.

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Agenda Item No. 9. Adoption of Final Agenda.

Mr. Sheffield offered a **motion** to remove Agenda Item No. 13 (truck traffic restrictions on Earlysville Road). He stated that VDOT has taken actions to reduce the speed limit on the segment from Dickerson to Woodlands Road and he does not feel that it still needs to be an action item, although having further discussion is fine.

Ms. Palmer asked if he feels they need to have any further explanation. Mr. Sheffield responded that he does not mind having further discussion, but he does not feel it should be an action item, and said that the public would still probably want to weigh in on the discussion, and Joel DeNunzio of VDOT also has some information to present.

Ms. Mallek said that she does not know why they would not just go ahead and receive the information, which may or may not solve the problems, and decide at the end of that whether they choose to take action, stop it, or defer it again. She stated that she feels it is preemptive to make that change prior to hearing from the public or from staff.

Ms. Palmer noted that they can take action not to do anything. Ms. Mallek agreed.

Mr. Sheffield stated that VDOT has addressed the concerns that the Board has requested and was able to reduce the truck speed limits, so he feels the item is no longer needed.

Ms. Mallek stated the most important part of the deferral was the implementation of enhanced fines, which is not going to be possible, so it is important to have a discussion.

Mr. Kamptner said that if there is going to be action on the through-truck restriction, it should be scheduled to a different date, and noted that this item was inadvertently removed from the June 1 agenda. He stated that the action would be to move it to a date in July, and his understanding is that Mr. DeNunzio will be explaining what VDOT is doing on Earlysville Road, and if the Board is inclined to take action on the through-truck restriction, his recommendation is to defer the item to a July meeting because the item is deferred to a specific date and because this is a matter of significant public interest.



Hearing no second, Ms. Palmer stated that the **motion failed**.

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

AYES: Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: Mr. Sheffield.

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Agenda Item No. 10. Brief Announcements by Board Members.

Ms. Mallek stated that she had distributed a flyer from the Rivanna Conservation Alliance, which is the first update since their merger with StreamWatch, and she commented that this is a good example of what nonprofits are doing in the community.

She said that on June 7, she welcomed the Charlottesville Municipal Band at their concert at Western Albemarle High School, which drew a huge crowd, and she hopes this is the first of many times the band will play in the County.

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Mr. Randolph thanked Mr. Robbie Savage for taking him and Mr. Dill on June 6 to fly over the watershed of the Rivanna River. He stated that the siltation was visible from the air and is coming from a large estate on which a tract of land had recently been cleared, and above the estate the river was green but below it was turning brown. Mr. Randolph said that where the North and South forks merge, there were high levels of siltation visible.

Ms. Mallek stated that the runoff from Route 20 is also visible at the fork.

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Agenda Item No. 11. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Stacy Norris, President of Voices for Animals and the founder and director of the House Project addressed the Board stating that she has been working for the past year with her legal team to develop a proposal to help improve the companion animal codes in Albemarle County, and they will be submitting their full proposal to John Blair in the very near future. She stated that there is neglect not only of animals in backyards in the County, but also of the integrity of the laws written to protect companion animals. Ms. Norris said that for the last eight years, she, along with compassionate and dedicated volunteers, has witnessed almost unbelievable accounts of neglect towards outside companion animals. She stated that due to ignorance, neglect, or both, many of the keepers of these animals walk the line of legality, with the laws archaic and vague, and allowing for it. Ms. Norris said that as a society, they validate what they tolerate, and her group's proposal was drafted with the intent to create the biggest impact possible for the animals and the least impact on their people, generating clear and common sense adjustments to make the role of animal control easier. She stated their proposal mainly targets the definitions of "abandoned," "adequate care," "adequate shelter," "adequate space," "adequate water," and "adequate treatment." Ms. Norris said the proposal also addresses the penalties associated with animal cruelty, including repeat offenses, and a loophole in the current code as it pertains to the prohibition of possession or ownership of companion animals once there is a conviction of animal cruelty. She stated that her group is eager to get this proposal before the Board for discussion, and thanked them for their continued interest in being a leader when it pertains to the welfare of outside animals.

Ms. Mallek thanked Ms. Norris for her outside efforts year round.

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Mr. Richard Rys addressed the Board, stating that he will address the truck speed limit on Earlysville Road and also comment on the speeding issue on Reas Ford Road. He stated that the plan to establish a truck speed limit on a part of Earlysville Road is a good approach, providing there is good enforcement of it on that road as well as Reas Ford Road. Mr. Rys said that to enforce on Earlysville Road without enforcement on Reas Ford Road will result in some trucks using Reas Ford to avoid exposure to speeding citations on Earlysville Road. He stated that this will result in a similar situation to what would be expected from an outright restriction on truck traffic on Earlysville Road, where some truck traffic would divert through Reas Ford Road. Mr. Rys said that sufficient police resources will need to be budgeted to Reas Ford Road to provide for a credible deterrent to trucks using it as a speeding ticket bypass, and he asked that it be done as there are a number of good spots for police to station themselves along the road. He stated that as a resident of Reas Ford Road, he knows there is a general speeding problem on the road that is not confined only to trucks but applies to the full spectrum from motorcycles on up, and while walking along the road, he has also experienced drivers veering back onto the road after drifting onto the shoulder. Mr. Rys said that he now anticipates this happening and gets out of the way, but his elderly neighbors who also walk may not have the reflexes to be able to do that. He stated that this is another reason for increased enforcement on Reas Ford Road, which will provide an added benefit to residents along that road.

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Mr. Eddie Gupton addressed the Board, stating that he is speaking on behalf of Rockydale Quarries, which is strongly opposed to truck restrictions on Earlysville Road for several reasons, but is in

support of the speed limit reduction as a good solution for all parties, trucks, cars and residents. Mr. Gupton said that stronger enforcement of the speed limit on Earlysville Road will also reduce any accidents there, and they are in strong support of a connector road between Rio Mills and the new Berkmar Drive Extended, as it would be a very viable solution that would keep Rockydale's trucks off of Earlysville Road and perhaps allow a lot of other truck and commuter traffic as an alternative.

Mr. Dill commented that residents will have an opportunity to speak about other road matters.

Ms. Palmer noted that this will take place during the Six-Year Secondary Road Plan public hearing.

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Agenda Item No. 12. Consent Agenda.

**(Discussion:** Referring to Item 12.4, Ms. Mallek expressed her appreciation to the Department of Parks and Recreation for closing on the property donation that provides access to the river from Milton.

Ms. Palmer echoed her gratitude and said that it is going to be very nice, with more spots for parking.)

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**Motion** was offered by Ms. McKeel to approve Items 12.2 through 12.4 on the consent agenda. Ms. Mallek **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

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Item No. 12.1. Approval of Minutes: February 24, February 25, March 30, April 12, and May 10, 2016.

Ms. Mallek pulled the minutes of February 24, February 25, March 30, April 12 and May 10, 2016, and carried them forward to the next meeting.

**By the above-recorded vote, the minutes were carried forward to the next regular meeting.**

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Item No. 12.2. Resolution approving the issuance of revenue bonds in an amount not to exceed \$65,000,000 for Westminster-Canterbury of the Blue Ridge.

The following letter was received from Mr. Elton Oliver, Secretary of the Economic Development Authority:

May 31, 2016

Board of Supervisors  
Albemarle County, Virginia  
401 McIntire Road  
Charlottesville, Virginia 22902

**Economic Development Authority of Albemarle County, Virginia  
Proposed Financing for Westminster-Canterbury of the Blue Ridge**

Westminster-Canterbury of the Blue Ridge (the "Borrower"), a nonstock, not-for-profit Virginia corporation, whose principal place of business is 250 Pantops Mountain Road in Albemarle County, Virginia 22911, has requested that the Economic Development Authority of Albemarle County, Virginia (the "Authority") issue up to \$65,000,000 of its revenue bonds, in one or more series at one time or from time to time (the "Bonds"), the proceeds of which will be loaned to the Borrower to:


(1) to finance various capital improvements at the Borrower's continuing care retirement community campus at 250 Pantops Mountain Road in Albemarle County, Virginia (the "Community"), including, but not limited to, (a) the construction, renovation and equipping of (i) common areas and (ii) resident care areas and (b) improvements to signage and landscaping,

(2) to refund all or a portion of (a) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bonds (Westminster-Canterbury of the Blue Ridge), Series 2007 in the original principal amount of \$51,245,000, (b) the Borrower's obligations under the Economic Development Authority of the Town of Louisa, Virginia's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015A in the original principal amount of \$10,000,000 and (c) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015B in the original principal amount of \$5,286,215, each of which financed the refunding of prior obligations of the Borrower, which prior obligations financed the acquisition, construction and equipping of improvements at the Community, and

(3) to finance capitalized interest on the Bonds, a debt service reserve fund for the Bonds and costs of issuance related to the issuance of the Bonds (collectively, the "Plan of Finance").

As set forth in the approving resolutions of the Authority attached hereto (the "Resolution"), the Authority has authorized the issuance of the Bonds to accomplish the Plan of Finance. The Authority has conducted a public hearing on the Plan of Finance and has recommended that you approve the Plan of Finance and the issuance of the Bonds by the Authority as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code").

Attached hereto is (1) a certificate evidencing (A) the conduct of the public hearing and (B) the resolutions adopted by the Authority regarding the Plan of Finance, (2) the Fiscal Impact Statement required pursuant to Section 15.2-4907 of the Virginia Code and (3) the form of resolution suggested by counsel to evidence your approval.

  
\_\_\_\_\_  
Secretary  
Economic Development Authority of Albemarle  
County, Virginia

\*\*\*\*\*

**At the request of the Economic Development Authority, and by the above-recorded vote, the Board adopted the following resolution:**

**RESOLUTION  
OF THE BOARD OF SUPERVISORS OF  
ALBEMARLE COUNTY, VIRGINIA**

WHEREAS, the Economic Development Authority of Albemarle County, Virginia (the "Authority") has approved the application of Westminster-Canterbury of the Blue Ridge (the "Borrower"), a nonstock, not-for-profit Virginia corporation, requesting that the Authority issue up to \$65,000,000 of its revenue bonds in one or more series at one time or from time to time (the "Bonds") to provide funds to the Borrower:

(1) to finance various capital improvements at the Borrower's continuing care retirement community campus at 250 Pantops Mountain Road in Albemarle County, Virginia (the "Community"), including, but not limited to, (a) the construction, renovation and equipping of (i) common areas and (ii) resident care areas and (b) improvements to signage and landscaping,

(2) to refund all or a portion of (a) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bonds (Westminster-Canterbury of the Blue Ridge), Series 2007 in the original principal amount of \$51,245,000, (b) the Borrower's obligations under the Economic Development Authority of the Town of Louisa, Virginia's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015A in the original principal amount of \$10,000,000 and (c) the Borrower's obligations under the Authority's Residential Care Facility Mortgage Revenue Refunding Bond (Westminster-Canterbury of the Blue Ridge), Series 2015B in the original principal amount of \$5,286,215, each of which financed the refunding of prior obligations of the Borrower, which prior obligations financed the acquisition, construction and equipping of improvements at the Community, and

(3) to finance capitalized interest on the Bonds, a debt service reserve fund for the Bonds and costs of issuance related to the issuance of the Bonds (collectively, the "Plan of Finance").

WHEREAS, the Authority held a public hearing on May 31, 2016;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended ("Act") sets forth the procedure for such approval;

WHEREAS, the Authority issues its bonds on behalf of Albemarle County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of Albemarle County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:**

1. The Board approves the issuance of the Bonds, in an aggregate principal amount up to \$65,000,000, by the Authority for the benefit of the Borrower, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the County.

3. This resolution shall take effect immediately upon its adoption.

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Item No. 12.3. SUB-2016-00004 Briarwood variation request.

The Executive Summary forwarded to the Board states that the Briarwood development is located off of Seminole Trail (Route 29) and is zoned Planned Residential Development (PRD) and has proffers associated with it. The development has been through numerous rezonings (ZMA91-13, ZMA95-05, ZMA2004-14, and ZMA2005-09) and over the years has been granted multiple variations to the phasing of the application plan to allow for changes in the size of lots to react to market demands. With this special exception request the applicant is seeking a variation to the phasing plan for the development as authorized by County Code § 18-8.5.5.3.

The applicant's request is for a special exception to modify the phasing plan to react to the current market and builder demands and fulfill the maximum lot counts permitted in phase 4 and phase 6. The current lot layout for phase 4 yields 58 lots, based on the desired lot sizes. This lot count exceeds the maximum lots permitted in phase 4, which is 52. The current lot layout of phase 6, based on the updated County mapping of the preserved slopes can only accommodate 20 lots; however, this phase is permitted 31 lots. The applicant requests a special exception to vary the phasing lines between phase 4 and phase 6 to accommodate the permitted lot yields per phase. The total number of townhouse units and single family units in each phase shall remain unchanged for each phase, and the total number of units within the entire development will also remain unchanged pursuant to Proffer #9. With this variation, phase 4 would be returned to its original lot boundaries per the amended application and phasing plan for ZMA2004-14.

The applicant submitted a request and justification for the special exception by letter dated January 4, 2016, which was updated on May 18, 2016, to address staff comments (Attachment A) with

the revised phasing plan dated March 19, 2016 (Attachment B). The request has been reviewed for zoning, engineering and planning aspects of the zoning regulations and staff finds no objection. This special exception would allow the revised phases as depicted on "Briarwood Phasing Letter of Revision" prepared by Collins Engineering, dated March 19, 2016 to become the phasing plan for Briarwood. County Code § 18-8.5.5.3 allows special exceptions to vary approved Application Plans and Codes of Development upon considering whether the variation: (1) is consistent with the goals and objectives of the comprehensive plan; (2) does not increase the approved development density or intensity of development; (3) does not adversely affect the timing and phasing of development of any other development in the zoning district; (4) does not require a special use permit; and (5) is in general accord with the purpose and intent of the approved application. County Code § 18-33.5(a)(1) requires that any request for a variation be considered and acted upon by the Board of Supervisors as a special exception. Staff opinion is that the requested variation meets the five criteria listed. A detailed analysis is provided in the staff report (Attachment C).

There is no budget impact related to this special exception request.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving this special exception request.

**By the above-recorded vote, the Board adopted the following resolution approving this special exception request:**

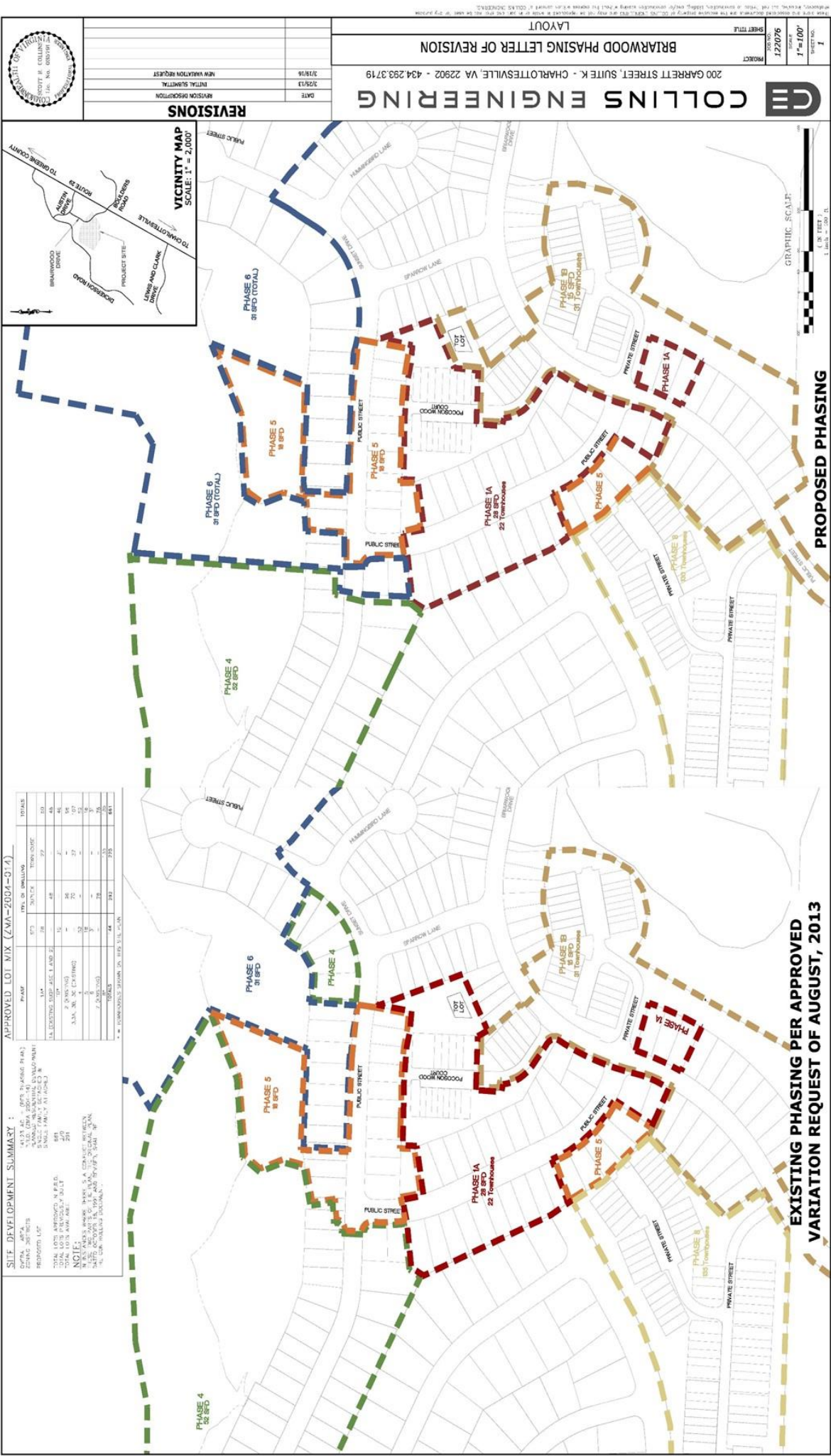
**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SUB 2016-00004 BRIARWOOD VARIATION TO THE PHASING**

**WHEREAS**, Woodbriar Associates (the "Owner") is the record owner of Tax Map and Parcel Number 032G0-00-00-00100 (the "Property"); and

**WHEREAS**, the Owner (through Collins Engineering) filed a request for a special exception in conjunction with SUB 2016-00004, Briarwood Variation to the Phasing, to modify the boundaries of Phase 4 and Phase 6 as depicted on the phasing plan prepared by Collins Engineering entitled "Briarwood Phasing Letter of Revision", dated March 19, 2016.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the executive summary prepared in conjunction with the application, and its supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-8.5.5.3, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to modify the boundaries of Phase 4 and Phase 6, as depicted on the phasing plan prepared by Collins Engineering entitled "Briarwood Phasing Letter of Revision", dated March 19, 2016 and attached hereto, by moving land from Phase 4 into Phase 6, but with the maximum number of dwelling units permitted within each phase unchanged.





Item No. 12.4. Milton Landing Clifton Lake property to be conveyed to the County.

The Executive Summary forwarded to the Board states that this request is to consider accepting the donation of a 1.353-acre parcel (TMP 79-23C) located on the south west side of Randolph Mill Lane near the Milton Boat Landing along the Rivanna River (see Attachment A) for the purpose of expanding

the County's boat landing facility at Milton. This land gift is being offered by the Virginia Land Trust, whose Trustees have signed a Deed of Gift to the County (Attachment B). Current conditions at the Milton Boat Landing site are not suitable to meet the growing population of river recreation users. Accepting this property would allow the County to potentially re-locate the boat launch and to expand the parking area, which would also serve as a trailhead for hikers and bikers along the Rivanna Greenway.

In recognizing the Rivanna River as a natural and cultural asset, Albemarle County, the City of Charlottesville, and private partners have recently been working together to improve conditions along the river to invite more use. There are currently only three public boat launch/landing sites along this segment of the river: Darden Towe Park, Riverview Park, and Milton. Of these three landings, Milton is the farthest downstream and serves as the final destination in Albemarle County for trips started upstream. The existence of the public boat landing at Milton was made possible due to the closure of Randolph Mill Lane for general public use in the early 1970's and the removal of a bridge and the abandonment of the road that served it. As a result, the facility is very limited and bound within the confines of the 45' right of way beginning from North Milton Road down Randolph Mill Lane to the Rivanna River, where few improvements are possible and existing conditions are barely suitable for current use. Improvements are needed to meet the growing demand anticipated for river recreation and trail use as plans to invite more recognition and use are put into place. The only way the current site condition can be improved is to acquire more area for much needed parking. Acceptance of this land gift would allow the County to make the necessary improvements to provide a much safer and better-functioning facility, and to potentially relocate the boat launch to a better location.

There is no immediate budget impact related to the acceptance of this land gift. Future budget impacts will be addressed and discussed through the CIP process.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the County's acquisition of the property and to authorize the County Executive to sign all documents on behalf of the County necessary for this conveyance once these documents have been approved as to form and substance by the County Attorney.

**By the above-recorded vote, the Board adopted the following resolution to approve the County's acquisition of the property and authorized the County Executive to sign all documents on behalf of the County necessary for the conveyance once they have been approved as to form and substance by the County Attorney:**

**RESOLUTION TO AUTHORIZE  
ACQUISITION OF PROPERTY**

**WHEREAS**, Charles Wm. Hurt, Trustee, and Shirley L. Fisher, Trustee, of the Virginia Land Trust (the "Owner") are the record owner of Parcel ID Number 07900-00-00-023C0 ("TMP 79-23C") consisting of 1.353 acres and located near the Milton boat landing along the Rivanna River; and

**WHEREAS**, the Owner proposes to donate TMP 79-23C to the County of Albemarle; and

**WHEREAS**, the Board finds it is in the best interest of the County to accept the donation of TMP 79-23C.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the acceptance of TMP 79-23C, and authorizes the County Executive to execute the Deed of Gift and all other documents necessary to acquire TMP 79-23C once the documents have been approved as to form and substance by the County Attorney.

Prepared by and return to:  
Richard G. Rasmussen, III, VSB # 40694  
McCallum & Kudravetz, P.C.  
250 E. High Street  
Charlottesville, VA 22902

Tax Map Parcel: 07900-00-00-023C0

This deed is exempt from taxation under Virginia Code § 58.1-811(A)(3) and from Clerk's fees under Virginia Code § 17.1-266.

**DEED OF GIFT**

**THIS DEED OF GIFT** is made this 27<sup>th</sup> day of April, 2016, by and between **CHARLES WM. HURT AND SHIRLEY L. FISHER AS TRUSTEES FOR THE VIRGINIA LAND TRUST**, pursuant to the terms of a certain Land Trust Agreement dated May 18, 1984 ("Grantor") and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("Grantee"),

**WITNESSETH:**

WHEREAS, the Grantor is the owner of that certain real property located in Albemarle County, Virginia, more particularly described as follows:

All that certain tract or parcel of land situated in the County of Albemarle, Virginia, containing 1.353 acres, more or less, as shown on a plat prepared by Dominion Engineering, dated March 10, 2011, recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 4018, pages 674-675 (the "Property").

Being a portion of property conveyed by Charles Wm. Hurt to the Charles Wm. Hurt and Shirley L. Fisher, as Trustees for the Virginia Land Trust, pursuant to the terms and conditions of a certain land trust agreement dated May 18, 1984, as amended, by deed dated May 18, 1984, recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 799, Page 433.

WHEREAS, the Grantor offers to grant and convey the Property to the Grantee in fee simple.

WHEREAS, the Grantee is willing to accept the Grantor's gift.

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby GRANTS and CONVEYS the Property to the Grantee and its successors and assigns, with SPECIAL WARRANTY OF TITLE. Said gift is made with the consent and approval of the appropriate authorities of Albemarle County, Virginia, as

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evidenced by the signatures set forth below. The gift of the Property is with the free consent and in accordance with the desire of the undersigned Grantor as evidenced by the signatures set forth below.

This conveyance is made expressly subject to all restrictions, conditions, rights-of-way and easements, if any, contained in duly recorded deeds, plat and other instruments constituting constructive notice in the chain of title to the Property conveyed hereby, insofar as the same affect the Property, which have not expired by a time limitation contained therein or have not otherwise become ineffective.

The Grantee, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts the conveyance of the Property pursuant to *Virginia Code* § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed of Gift.

*[Signatures on the following pages]*

Item No. 12.5. VDOT Culpeper District, Albemarle County Monthly Report, June 2016, **was received for information.**

Agenda Item No. 13. Earlysville Through Truck Restriction (Deferred from March 9, 2016).

Mr. Joel DeNunzio, Resident Engineer for Charlottesville Residency, addressed the Board and stated that they will be discussing three points to be addressed as of the last meeting, the new connection of Rio Mills to the new Berkmar Drive Extended, which has been added to the County's Six Year Secondary Plan as the top priority for non-unpaved road projects. He noted that the funding had been taken from Rio Mills unpaved road and reassigned it to the connector road. Mr. DeNunzio said that VDOT did a speed study on Earlysville Road and was able to reduce the speed limit for trucks on that



road from 45 mph to 40 mph. He stated that Ms. Mallek had requested going further north to Earlysville Forest Drive, and VDOT will extend the reduced truck speed limit to north of the roundabout at 40 mph, then down to 35 mph. Mr. DeNunzio explained that they cannot enact the \$200 enhanced speeding fine because that is intended for subdivision roads, but they will be putting a plaque below the truck speed limit as a regulatory plaque that says "Strictly Enforced." He stated that VDOT is currently paving Earlysville Road and adding shoulder stone, which should be completed within the week, and the pavement markers will not be done in that timeframe, but they will be installing the new signs within the next week.

Ms. McKeel asked what the timeline will be for Rio Mills Road, since that has changed in the Six Year Secondary Plan. Mr. DeNunzio explained that Rio Mills Road will require an HB2 application to get the remaining funds, and while there are tele-fee funds available, he feels it is better to apply for the HB2 funding this fall to free those funds for other projects. He stated that he does not have a specific timeframe for construction, but projects have to be funded within six years and can no longer sit on the Six Year Secondary Plan for 20 years.

Ms. Mallek asked if the paving on Earlysville Road is going north of the roundabout, all the way to the village. Mr. DeNunzio responded that the paving is done on this year's plan, with the shoulder stone being completed now and the paving markings yet to be completed. He confirmed that the paving may rotate in next year, but he would have to check on it.

Ms. Mallek commented that there has been a huge improvement on the road, and she is very appreciative of the way people have been driving on the new surface.

Mr. Sheffield asked for an update on the use of Jake brakes as it applies to Earlysville Road. Mr. DeNunzio explained that the term used is "truck compression braking," and said that there was an effort in the early 2000s for VDOT to put "no Jake braking" signs to reduce noise pollution. He stated that the results were that the signs were ineffective, and there were no laws in the Code of Virginia that support being able to penalize the use of Jake brakes in the state. He said that VDOT received a memorandum from their state traffic engineer in 2003 notifying them that all such signage would be removed from state routes and no others would be permitted.

Ms. McKeel stated that she heard complaints from the residents of Canterbury Hills about the trucks braking on the 250 Bypass. Mr. DeNunzio said that he will send the link to this information, which includes a document that states the enforcement should be on the maintenance of vehicles that are over the limit.

Mr. Sheffield stated that he has seen roads that have a safety zone and a minimum fine, and asked if that is something they could do on Earlysville. Mr. DeNunzio responded that he would have to look into that further, and said that he would have to look into Virginia's requirements for "safety corridors."

Ms. Mallek said the same principle would apply to Reas Ford Road, and noted that there are regulatory signs that say "Not Suitable for Trucks", which is different than a ban. She asked if there is a process they have to go through to get those, because having those at the southern edge of Woodlands at the four-way stop and another at the edge of the industrial park might help educate out-of-towners who are just following their GPS. Mr. DeNunzio responded that he will look into that measure, which requires a different type of study, and the last time VDOT did that locally was for Polo Grounds Road, with signs installed on both Route 29 and Route 20 on the approaches. He stated that he also received an email on the through-truck and truck lane restriction, which he is following up on.

Ms. Palmer asked how "strictly enforced" will be defined. Mr. DeNunzio responded that he would have to talk with the police and judges about it, and he thinks it occurs after it is put in place. He is looking at the speed study but it does not have a definition, only a recommendation to include it. He stated that it is a regulatory sign, but it is not in his purview because it pertains to enforcement.

Mr. Sheffield stated that there are many roads that deserve stronger enforcement, and the enforcement issue is not even part of the strategic priorities discussion the Board just had, but it is something that Mr. Foley should take into account in building future budgets, with the new Police Chief also providing input on enforcement.

Mr. Foley stated that there is a traffic component included in the County's strategic plan.

Mr. Randolph said that perhaps Mr. Sheffield is referring to a more specific enforcement measure.

Mr. Sheffield stated that the problem-oriented policing that Colonel Sellers had initiated and Colonel Lantz will carry forward would help with this, and it means beefing up the squad beyond its current level.

Ms. McKeel suggested that the new Police Chief come meet with the Board and provide an update on some of the initiatives he has in mind, with the Board mentioning some of its concerns.

Ms. Palmer said they can discuss it further at the end of the meeting, and asked if the Board needs to do anything further with the Earlysville Road item. Mr. Kamptner responded that to bring closure to the through-truck restriction, the Board may want to entertain a motion that they do not want to further

consider the restriction at this time.

Mr. Sheffield said it is not appropriate for him to make the motion since he opposed the item being on the action agenda.

Ms. Mallek commented that for the past many years, the community has been asking for more dedication on the part of truck-based businesses for the safety of both of these roads, and she has seen a dramatic change in the drivers from the quarry and other haulers who are driving the speed limit, which increases safety for everyone. She stated that cars also add a danger by trying to pass trucks on the road, and she appreciates everyone driving the speed limit, adding that people will just have to wait. Ms. Mallek said that she supports holding in abeyance the truck restriction, rather than fully abandoning it, because the possibility of the restriction is what brought the issue to the forefront. She stated that the County needs the public's continued partnership and monitoring of the independent contractors who are not driving safely on the road. Ms. Mallek said that she feels badly for the neighbors that the Board is not going further with the truck restrictions on the road at this time, but it does not mean they are giving up on safety there.

Ms. Palmer asked Ms. Mallek if she would be willing to make the motion to not pursue the through-truck restriction at this time.

Mr. Randolph then **moved** that in lieu of further considering the proposed through truck restriction at this time, the Board of Supervisors, support VDOT's actions to reduce the speed limit for trucks on the segment of Earlysville Road from its intersection with Woodlands Road Route 676 heading north and terminating at the intersection of Dickerson Road Route 606. Ms. McKeel **seconded** the motion.

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

AYES: Mr. Dill, Ms. McKeel, Ms. Palmer and Mr. Randolph.

NAYS: Ms. Mallek.

ABSTAIN: Mr. Sheffield.

Ms. Mallek commented that with special use permits and rezonings, traffic studies and counts are for a 24-hour period, but commercial traffic is not happening between 5 p.m. and 7 a.m., so those counts could be misleading and might show low volumes.

Ms. McKeel said that she thought traffic count timings varied.

Ms. Mallek stated that there are different ways to address it, and she looks forward to recommendations from staff to help them better understand and deal with it.

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Agenda Item No. 14. **Public Hearing: Six Year Secondary Road Plan.** To receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2016/17 through 2021/22 in Albemarle County, and on the Secondary System Construction Budget for Fiscal Year 2016/17. *(Advertised in the Daily Progress on May 23 and May 30, 2016.)*

The Executive Summary forwarded to the Board states that the purpose of this public hearing is to receive input on the proposed Virginia Department of Transportation (VDOT) Secondary Six Year Program (SSYP), FY 17-22 (Attachment A). The SSYP is the funding program for the construction of secondary road projects based on the County's Transportation Priority List and reflects available State road funding allocated to the County. The Board held a work session on the SSYP and the County's Transportation Priority List of Secondary Road Improvements on May 4, 2016 (Attachment B - Executive Summary). At the May 4 work session, the Board agreed to the following changes to the draft SSYP:

- > Remove the Rio Mills Road paving project from the SSYP and replace that project with a new Rio Mills to Berkmar Drive connector road project. Apply the Telefee funds (those funds not required to be used for paving of unpaved roads) for the six years of the SSYP to this new connector road project;
- > Continue to fund the three unpaved road projects in the current SSYP: Keswick Road (Rt. 731); Bunker Hill Road (Rt. 685); and Preddy Creek Road (Rt. 747);
- > Fund additional unpaved road projects from the attached priority list (Attachment C), which have been reprioritized based on the direction provided by the Board at the May 4 work session. The Board requested staff to reprioritize all of the current projects on the priority list using the existing criteria but without consideration of the year the project entered onto the list. The criteria used for prioritization include: a) whether road is located within and/or is serving a Development Area; b) traffic volume of road; c) crash data for road; d) surface condition/unique maintenance issues of road; and e) whether road is a through road or a dead-end road.

The Board also requested that the road paving priority list contain a listing of road sections that the Board has decided should not be paved. A draft of this list has been provided at the end of Attachment C.

VDOT staff has provided a draft of the FY 17-22 SSYP (Attachment A) that is based on the

direction provided by the Board at its May 4 work session. The available funding for the FY 17-22 SSYP would be used to complete the projects listed below:

1. Rio Mills Road to Berkmar Drive Connector Road (new road construction);
2. Brocks Mill Road Rural Addition (from Rt. 640 to dead end) - pave and add to state system, project in existing SSYP;
3. Keswick Drive (Rt. 744 to Rt. 22) - paving project, project in existing SSYP;
4. Bunker Hill Road (Rt. 616 to dead end) - paving project, project in existing SSYP;
5. Preddy Creek Road (Rt. 600 to Rt. 640) - paving project, project in existing SSYP;
6. Patterson Mill Road (Rt. 824) - paving project, new to SSYP;
7. Harris Creek Road (West of Rt. 20 to dead end) - paving project, new to SSYP;
8. North Garden Lane (Rt. 692 to Rt. 29) - paving project, new to SSYP;
9. Coles Rolling Road (Rt. 713 to Rt. 795) - paving project, new to SSYP;
10. Blair Park Road (Rt. 691 to dead end) - paving project, new to SSYP;
11. Dick Woods Road (Rt. 151 to Nelson County line) - paving project, new to SSYP.

The SSYP is for the expenditure of State/VDOT secondary road construction funds allocated to the County and does not require the expenditure of County funds except to the extent that any project may also utilize revenue sharing funds or otherwise necessitate County resources in support of the project.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment D) approving the FY17-22 Secondary Six Year Program (SSYP) and authorizing the County Executive to sign the SSYP.

Mr. David Benish, Acting Director of Planning, addressed the Board and stated that they annually review a six-year secondary road plan, which establishes the expenditures of funds allocated to the County for improvements to its Six Year Secondary Road system. He stated that in a May 4 work session, they reviewed the current Six Year Secondary Plan and the County's priority list, with most of the funding available primarily for unpaved roads. Mr. Benish said the projects that were agreed to move forward to public hearing included a replacement of the Rio Mills/Berkmar Drive connector road for the Rio Mills paving, and he noted an error in the terminus location of Ashwood Boulevard, which is corrected in the revised version. He stated that existing road projects still needing funding in the current plan are Keswick Road, Bunker Hill Road and Preddy Creek, as well as a Brock's Mill Road rural addition project that has been in the plan for a number of years and is reaching full funding.

Mr. Benish said that the Board also directed staff to consider reprioritizing of the six-year list of unpaved road projects, based simply on the criteria and not on the year the project entered onto the list, and directed them as to the parameters of projects to be approved based on the current list. He noted that the list in the Six Year Secondary Plan is consistent with that direction. Mr. Benish said that at the May worksession, the Board asked staff to continue to evaluate the unpaved road list to determine the problems that are no longer eligible for rural rustic funding so those projects can be removed from the list or changed to another type of project that will address the issue. He noted that staff will be working on that over the next six to nine months and bringing it back to the Board prior to next year's review. Mr. Benish reported that new projects added to the list include Patterson Mill Road, Harrison Creek Road, North Garden Lane, Coles Rolling Road, Blair Park Road, and Dick Woods Road from 151 to the Nelson County line. He stated that there is a resolution in the Board's packet for recommendation of adoption of the list, with the most recent cost estimates and the correction made to Rio Mills as mentioned.

Ms. Mallek asked for clarification of how the prioritization of the list included was done. Mr. Benish explained that the list was based on the prior approved priority list, with the strike-through text showing projects where they were previously located, and if they were reprioritized, they show up in red. He stated that Whites Mountain Road, for example, had been moved down the priority list at priority #16. He said the Board's prior direction was to only prioritize in the year in which the project is requested on the list, and once it enters the list it is not reprioritized, with the Board directing staff to prioritize a project based on criteria, not when it enters the list. Mr. Benish noted that the criteria include factors such as location in the development area or rural area, the most recent traffic data, whether the road is through or dead-end, and any unique circumstances. He stated that most of the changes are worked out by traffic volumes, and he presented the revised list based on using those criteria. Mr. Benish stated that in the May worksession, the general direction was to pursue the projects down to Burton Lane, or projects 1-8, and those that were lower were mostly those with traffic volumes of 70. He said that Dick Woods Road has 130 vehicle trips, so it ended up ranking higher on the list, and through roads tend to carry faster traffic and vehicles that are less familiar with the road. Mr. Benish stated that some dead-end roads are high priority, due primarily to agricultural activity, such as Harris Road off of Route 20 South, which has two wineries at the end of it.

Ms. Mallek stated that she does not know where the paving projects had come from, and it seems as though they are starting all over. Mr. Benish explained that this is a longstanding list and has always been page two, and these were projects that were determined to not be eligible for rural rustic road but have public requests associated with them. He stated that they do keep track of the roads that are eligible for rural rustic paving but goes back and reassesses those, which is primarily this list, and for various reasons those standards cannot be used, such as the geometry or volumes of the roadway, or roads that may serve growth areas, which is not the intention of the rural rustic design.

Ms. Mallek stated that nowadays people are looking at the list, and if there are roads that are

never going to be paved in any way they need to come off the list, such as Ballard's Mill Road, which has just 14 feet of right of way; and Wesley Chapel, which is completely flat, with residents not wanting it to be paved. She said that Sugar Ridge is a windy, narrow road, and those residents do not want it to be paved; Decca Lane also will not qualify. Ms. Mallek noted that people are aware that paving roads is the first step to rezoning or subdivision platting.

Ms. Palmer stated that what Mr. Benish has said is that staff will be looking at the list and criteria over the next six to nine months and coming back to the Board to see if the roads should be taken off the list. She said it is difficult to even call this a six-year road plan, and it is a good idea to have the criteria to defend for those people who want it paved.

Ms. Mallek said that some of the roads may have made it on the list with a phone call from a single person who never talked to their neighbors.

Ms. Palmer agreed and noted that there are roads on the list she would also take off, but said that staff needs to go through the six to nine months of evaluations.

Ms. Mallek said that this is three years in a row they have been discussing this. Mr. Benish stated that staff heard that in May but wanted to take a prudent step of evaluating what the original concerns with the road and the core issues were prior to just taking them off the list, such as maintenance, surface treatment, drainage issues, etc. He said this is why staff just did not delete them from the list, as they wanted to assess whether there was an issue that needed to be remedied.

Ms. Mallek said those issues are dealt with separately as maintenance projects from a separate fund, which is why they should not be on the six-year secondary road plan as it just exacerbates the problem. Mr. Benish stated that it was the Board's discretion as to whether to delete items from the list, but the projects have not been fully vetted to make sure there is not a reason they should be identified for spot improvements. Ms. Mallek responded that the spot improvements had not been done out of the six-year plan in the past. Mr. Benish said they can be. Ms. Mallek said they can be, but are not required to be.

Ms. Palmer stated that they may be able to better identify issues through this process, and said that parts of Decca Lane flood all the time, which would not be addressed by grading, and she hopes that more things can be done to correct these road problems by way of this process. Mr. Benish emphasized that the primary purpose of this process is to bring closure as to the issues and identify other alternatives, and he feels confident that all of the roads will go away as unpaved roads. He stated that this is not part of the Six Year Secondary Plan, it is simply the Board's priority list.

Ms. McKeel commented that two of these are on the list because the school transportation department requested them, due to busses having difficulty navigating them, and asked if Mr. Benish will be coordinating with Mr. DeNunzio on those. Mr. Benish responded that it is usually a narrowness or shoulder issue that causes the issues.

Ms. Mallek asked if Doctors Crossing is going to happen this summer, as it is marked "under construction," as there has been concern from neighbors. Mr. Benish responded that it is fully funded but is an issue of VDOT's timing for construction, and Mr. DeNunzio would be the best person to answer that question.

Mr. DeNunzio explained that Doctors Crossing and Brock's Mill Road are under construction, and for the past three or four years, rural rustic roads have been done by state maintenance forces, and while it takes longer it saves money and provides better service, but it also means that schedules get changed around. He stated that VDOT cannot start on Doctors Crossing Road until it is taken into the system, as rural rustic roads must first be taken into the state system, and they want to have the equipment in both locations to do the surface treatment at the same time. He noted the plan is to have the start of the surface treatment of Simms Road in Greene County on June 9, which will take about a week, and when that is done it will be pulled down to Doctors Crossing and Brock's Mill Road, and he anticipates those to be done in late June or early July.

The Chair then opened the public hearing.

Mr. Ronald Hahn addressed the Board, stating that he is a resident of White Mountain Road and bought his house in 1975. He said that when he purchased his home, he asked the County if there were plans to do anything about the road, and it was on the six-year plan at that time but only spot paving has been done over the years, which has helped but has not cured the problem. He stated that his road going towards Batesville Road is terrible, but going out to Craig's Store Road is not too bad. Mr. Hahn read a letter from Tommy Harvey, who is the Fire Chief at Rockfish Valley Fire Department, which would serve as first responders to this area. Mr. Harvey's letter expressed concern for the residents of White Mountain Road and said the concern is the narrowness of the road, which is over two miles long but half of which is not wide enough to pass a car safely. Mr. Harvey's letter stated that most of the people live back off of the road, making the homes impossible to reach by fire trucks in the event of a fire, and the roads are too narrow for them to turn around. Mr. Hahn noted that in the time he has lived on the road, he has called a total of 296 times and was told that about \$25,000 to \$30,000 is spent on improvements to the road. He added that he came to the meeting to ensure that White Mountain was still on the list, as it was put on two years ago, and thanked the Board for keeping it on.

Mr. Eric Schrank of the Rivanna District addressed the Board, stating that he is a resident of

Hammocks Gap Road, a gravel road that is 2.4 miles long, with 26 houses and more than 230 vehicle trips per day. Mr. Schrank said that a petition having the full support of residents of that road has been submitted, and he thanked Mr. Dill for his help and support, including attending a meeting of residents and contacting VDOT. He stated that there are important reasons for this request, particularly the dust problem on the road, which presents health problems, prevents people from using their decks and patios, interferes with visibility for drivers, and coats vehicles inside and out with dirt. Mr. Schrank said that when it rains, the road becomes muddy, which is dangerous for vehicles, especially large vehicles such as school busses, to come down the hill. He stated that a bus driver has indicated that the potholes get so bad that the emergency windows on the bus open on their own from the impact, and there are also large ruts in the road caused by poor drainage, with no culverts or ditches. Mr. Schrank stated that there are also the JAUNT bus, emergency vehicles, FedEx and UPS trucks, and it would be unfortunate to have a serious accident that could have been prevented by paving the road. He said that a plat shows ownership of the road to the centerline, which means they are assessed and paying taxes for the road bed, and with increased traffic in the area and new developments on Stony Point Road and Route 250, this no longer feels like a rural area. Mr. Schrank stated that since they are paying taxes on the road, they feel that it should be treated as the 99% of the other roads in the County, and about a half mile up the road there is a bridge that fire trucks refuse to cross because of the weight limit.

Ms. Cathy Clary, of White Mountain Road, addressed the Board and stated that any opposition to paving is enough to stop it, and she hopes that is the case as she and her husband do not want it paved, along with other property owners on that road. Ms. Clary stated that she moved to her home in 1985 and has observed spot paving along the road, stating that the County's plan seems to be to pave all rural roads as soon as money and time are available. She asked the Board to reconsider the idea that all rural roads need to be paved, or that it is an improvement to them, and said that this assumption is not shared by everyone. Ms. Clary stated that she understands that a good, well-maintained road is important for safety, but she has not heard that fire apparatus has trouble accessing homes there, as there was a fire about 10 years ago at her neighbors, and the fire trucks had no problem getting there to put it out. She said that she does not want the increased speed or number of vehicles that will result in having the road paved, and this will also increase the velocity of water running off of the pavement and through the gutters. Ms. Clary stated that this seems to be different from the County's policy of retaining more pervious surface and limiting storm runoff, with a lot of concern about streams, wetlands, and the impact of pollution.

Ms. Paula Brown Steedly addressed the Board and stated that she is present for clarification on Doctors Crossing, which was approved for paving last year but has still not been paved. Ms. Steedly said the documentation from the County shows that 2/10 of a mile has been paved, but that is not the case, although there has been some surfacing and resurfacing done. She stated that she had received an email asking her to back off because she was being too pushy, but received another stating that nothing was being done. Ms. Steedly said there have been varying answers to the question of timeline, and residents had asked for the road to be done for safety reasons, with two bus accidents, the first being in 1986, and other incidents involving school busses. Ms. Steedly stated that Larry Snead of Snead's Hill has indicated that the equipment has been there for weeks sitting idle, but occasionally VDOT takes the equipment to Brock's Mill Road, which is a dead-end road. She said that she hopes some progress can be made before students return on August 23, because at that point it will be too late.

Mr. Joel Mangham addressed the Board and said that he is a resident of Hammocks Gap Road and wants to support what Mr. Schrank had said, adding that residents had a petition and a meeting of the community on the road. Mr. Mangham said there was essentially unanimity to have it paved, and said that it is an environmental issue because this old historic road has gotten eroded into the roadbed, with no drainage and storm runoff going right into the creek. He added that paving it would not only satisfy a lot of the residents' issues, it would provide an environmental benefit for the County.

Mr. Leonard Lobo of Hammocks Gap Road addressed the Board and stated that he has called VDOT four or five times about the drainage issues on Hammocks Gap, which slopes toward his house and ushers rain into his property and then into the stream. Mr. Lobel also expressed concern about the health problems caused by the dust on the road, and stated that after living on the road for more than 20 years, something needs to be done.

Mr. James Jackson of Doctors Crossing addressed the Board and expressed his support for getting a definitive answer for the improvements on that road. He stated that VDOT had built up the roadbed in October 2015 but stopped work in November, and he called to find out when the work would resume and was told it would be spring, and was also told that it would happen when the weather became favorable for paving. Mr. Jackson said that he would just like to know when they plan to start and finish the work on Doctors Crossing.

There being no additional speakers from the public, the Chair closed the public hearing.

Ms. Palmer stated that the Board can start their discussion with an update on Doctors Crossing from Mr. DeNunzio.

Mr. DeNunzio explained that VDOT started improvements on Doctors Crossing last fall, with the work already done on building up the road and replacing all the culverts, so 90% of the road is complete. He stated that the weather needs to be right for surface treatments, which means they cannot do them past the middle of October, and surface treatments involve putting down a layer of tar and a layer of #8, #78 or #67 stones, roll and compact it, then letting it cure for 24 hours. Mr. DeNunzio stated that if you do not let it cure, then putting the next layer on it will not be a good surface, and they let it cure three times in

between layers until it becomes 1/2-3/4" of what's generally considered asphalt. He emphasized that if you do not let it cure, the road will fall apart, which happened last year in Louisa County when the weather turned cold and VDOT had to redo the road. Mr. DeNunzio stated that the process includes having adequate temperatures for the surface treatment, so the window of time runs from late April/May to mid-October. He said that Doctors Crossing is ready for surface treatment, and VDOT is rotating projects so they will start on Simms Road on June 9, with about a week needed, and the equipment currently on Doctors Crossing is not the surface treatment equipment, it is the grading equipment and apparatus needed to build up the road bed and get the road base ready. Mr. DeNunzio noted that the rock spreader and tar truck are needed to do the surface treatment. He explained that Doctors Crossing was funded as of July 1 and most of the work is complete there, with a small section of the road with some crowning and potholing when it rains, which is typical of gravel roads. Mr. DeNunzio said that it was likely that when roads were started in the fall, they would sit through the winter and start back up in the spring, and July to October is a fairly tight timeframe.

Ms. Palmer asked if Doctors Crossing will be worked on over the next month. Mr. DeNunzio responded that he would like for that road to have been done already, but the same equipment is needed for Brock's Mill Road, which is not yet ready for surface treatment. He stated that VDOT is improving Brock's Mill Road simultaneously, which saves him time and money, so both roads will be worked on in June.

Mr. Dill asked if Doctors Crossing will be completed in time for school in mid-August. Mr. DeNunzio responded that it would, stating that VDOT will complete Simms Road and then move the equipment to Doctors Crossing, with the time needed being about 2-3 weeks because the road base and culverts have been replaced.

Mr. Dill asked about the next steps for Hammocks Gap Road.

Mr. DeNunzio responded that when VDOT reviewed Hammocks Gap Road, it was determined to have very narrow and steep areas, with the road having less than 12 feet of width in some places. He explained that it is not a good road for the rural rustic program but is a candidate for the unpaved road program, but there is a lot more to that than just rural rustic roads. Mr. DeNunzio explained that the rural rustic roads is the simplest unpaved road program, with no widening or safety improvements needed and adequate 16-18 foot width minimum, so VDOT can just add stone and replace culverts. He stated that Hammocks Gap Road is very narrow in places and requires additional widening to get 16-18 feet, but given the 230+ vehicle trips per day, it should be 18-20 feet. Mr. DeNunzio noted that it is similar to the situation with Rio Mills Road, which was on the unpaved road plan but was not a rural rustic road because the truck traffic and associated impact would be excessive for the surface treatment, even though it had the adequate width. He stated that VDOT determined that Rio Mills did not qualify for the rural rustic road program and needs a full section of asphalt 8-12" deep on it, which is why the original estimate was \$2.7 million. Mr. DeNunzio said that Hammocks Gap Road would probably not be that wide, but would likely require right of way acquisition and more extensive widening to make it work, as well as a turnaround at the end.

Ms. Mallek asked if VDOT would need culverts to be put in, which would require the right of way acquisition, and even though VDOT will have to legally offer to buy the right of way, neighbors can donate that to speed up the process and help the funding come sooner. Mr. Dill stated that several neighbors have been willing to make contributions.

Mr. DeNunzio said that another big difference with rural rustic roads is that every gravel road is a prescriptive easement, which means that property owners own to the middle of the road, but VDOT has a 30-foot prescriptive easement for maintenance purposes, and they can do a hard surfacing without right of way acquisition.

Ms. Palmer commented that Hammocks Gap will have to go on the regular paving list. Mr. DeNunzio responded that it would still be on the unpaved road list, but it would not qualify for rural rustic road as it would require a bit more work.

Mr. Benish clarified that staff is still going through the vetting process for that road, including identifying what type of project it would be and the cost, but it would enter on the list.

Mr. DeNunzio mentioned that rural rustic roads are approximately \$150,000-\$225,000 per mile, but non-rural rustic roads require a closer examination of earthwork to get the estimate.

Ms. Mallek commented that drainage issues can be complicated and require additional study. Mr. DeNunzio agreed that drainage issues on gravel roads are always an issue.

Ms. Palmer asked for an explanation for the public as to why this is called a "Six-Year Road Plan." Mr. Benish explained that the Six-Year Road Plan is similar to the five-year CIP, and it is the program that VDOT uses to expend state funding for secondary roads in a way that is consistent with the Board's guidance. He stated that the Board's guidance comes from their priority list, which has no time limit but just identifies the important projects based on the Board's criteria, and then when the County does its annual review with VDOT, the priority list is used as guidance for the next projects to spend the funding on.

Ms. Palmer asked if there is something similar to the capital needs assessment that the projects could be placed on, so people looking it up online would know that the projects are not going to happen in the next six years. Mr. Benish responded that the transportation priority list is essentially that, a wish list

of projects or improvements, and depending on the amount of funding available from the state, it takes a long time to get through the list. He stated that if the Board changes priorities, a project that was ranked higher might end up ranking lower. Mr. Benish said that over time, they end up generically referring to the "six-year plan process" because that is where the money happens, and a lot of references are made to the priority list, which is a very, very long list. He emphasized that the six-year secondary road plan (SSYP) is the place at which the County is agreeing to the state's allocations.

Ms. Palmer expressed her appreciation for staff taking a good look at the projects, in order to provide more clarity for the public going forward. Mr. Benish added that the Board had also requested a "no build" list, and staff will have that available for them in August as they wrap up the priority list.

Ms. Mallek noted that up until 2010, the County received approximately \$3 million annually from the state in secondary road funds, and for the last three years it has been about \$300,000 per year. She stated that with projects going up in cost due to rising materials costs, it presents an additional challenge, and while she understands people's frustration in waiting, she wants them to know part of the reason why things move slowly.

Mr. Kamptner noted that the Board needs to approve the resolution with one correction; Mr. Morris was appointed Acting Clerk after the resolution was prepared.

Ms. McKeel **moved** to adopt the proposed resolution approving the FY17-22 Secondary Six Year Program (SSYP) with the correction as stated by Mr. Kamptner, and to authorize the County Executive to sign the SSYP. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

**(The adopted resolution is set out below:)**

#### **RESOLUTION**

**WHEREAS**, Virginia Code § 33.2-331 provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary System Six-Year Program; and

**WHEREAS**, the Board has previously agreed to assist in the preparation of this Program, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Program (FY 17-22), after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

**WHEREAS**, Joel DeNunzio, the Resident Administrator of the Virginia Department of Transportation, appeared before the Board and recommended approval of the Secondary System Six Year Program (FY17-22); and

**WHEREAS**, the Secondary System Six Year Program (FY17-22) is in the best interest of the County and of the citizens of the County.

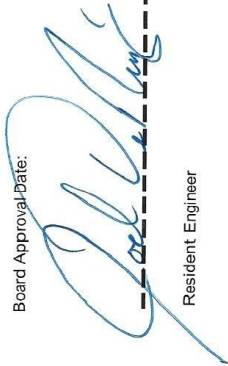
**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby approves the Secondary System Six-Year Program (FY17-22) and authorizes the County Executive to sign the Secondary System Six-Year Program (FY 17-22).

**BE IT FURTHER RESOLVED**, that the Clerk of the Board shall forward a certified copy of this resolution to the District Administrator of the Virginia Department of Transportation.

Secondary System  
Albemarle County  
Construction Program  
Estimated Allocations

Fund	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	Total
CTB Formula - Unpaved State	\$422,576	\$496,289	\$573,201	\$550,892	\$0	\$0	\$2,044,968
TeleFee	\$351,811	\$351,811	\$351,811	\$351,811	\$351,811	\$351,811	\$2,110,866
District Grant Unpaved	\$0	\$0	\$0	\$0	\$773,496	\$773,496	\$1,546,992
Total	\$774,387	\$850,100	\$925,012	\$902,703	\$1,125,307	\$1,125,307	\$5,702,816

Board Approval Date:

 6/8/16

Resident Engineer

Date

 6/8/16

County Executive

Date





SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

District: Quinceper  
County: Albemarle County  
Board Approval Date: June 8, 2016

2016-17 through 2021-22																			
Board Approval Date: June 8, 2016		Read Name		Estimated Cost		Previous Funding		Additional Funding Required		PROJECTED FISCAL YEAR ALLOCATIONS					Balance to complete	Traffic Count			
Route	PPMS ID	Project #	Description	FROM	TO	Length	Priority #	SSYP Funding	Other Funding	Total	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	FHWA #	Comments	
R10747			PREDDY CREEK ROAD			PE		\$20,000											
			RW			\$0													
			CON			\$400,000													
			Total			\$420,000													
			ROUTE 600																
			ROUTE 640																
			1.60																
			PE			\$10,000													
			RW			\$0													
			CON			\$260,000													
			Total			\$270,000													
			ROUTE 688																
			1.04 MI. N. ROUTE 688																
			1.04																
			PE			\$7,500													
			RW			\$0													
			CON			\$95,000													
			Total			\$102,500													
			ROUTE 720																
			T18157																
			S/F HIRED EQUIP.																
			S																
			NO PLAN, SECONDARY																
			0008.00																
			R10712																
			T18158																
			S/F HIRED EQUIP.																
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			NO PLAN, SECONDARY																
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			R10712																
			T18159																
			S/F HIRED EQUIP.																
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			R10712																
			T18159																

## SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

District: Culpeper  
County: Albemarle County  
Board Approval Date: June 8, 2016

2016-17 through 2021-22

SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Route	Road Name		Estimated Cost		Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count	
	Project #	Description	FROM	TO			Length	Ad Date	2016-17	2017-18	2018-19	2019-20			2020-21
PPMS ID	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Type of Project	Scope of Work FHWA # Comments
Accomplishment	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	Priority #	
T18160	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	COLES ROLLING ROAD	1.40 MI. E. ROUTE 713 2.75 MI. E. ROUTE 713 1.35	PE \$15,000 RW \$0 CON \$349,500  Total \$364,500	\$0	\$364,500	\$0	\$0	\$0	\$180,529	\$183,971	\$0	290 VPD 09/11/2012
T18321	S	SAAP CONTRACT	NO PLAN, SECONDARY	BLAIR PARK ROAD	0707-002-P43, N-501 RTE. 707 - RURAL RUSTIC RD (SURFACE TREAT NONHARDSURFACE RD) ROUTE 691 END STATE MAINTENANCE 0.35	PE \$10,000 RW \$0 CON \$100,000  Total \$110,000	\$0	\$110,000	\$0	\$0	\$0	\$0	\$110,000	\$0	180 VPD 08/09/2012
T18323	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	DICK WOODS ROAD	0637-002-P44, N-501 RTE. 637 - RURAL RUSTIC RD (SURFACE TREAT NONHARDSURFACE RD) ROUTE 151 NELSON COUNTY LINE 0.70	PE \$15,000 RW \$0 CON \$310,000  Total \$325,000	\$0	\$325,000	\$0	\$0	\$0	\$0	\$325,000	\$0	130 VPD 07/19/2012
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	ALBEMARLE COUNTY DISTRICT GRANT UNPAVED BALANCE ENTRY ACCOUNT VARIOUS LOCATIONS IN COUNTY	9999-002-P42, ALBEMARLE COUNTY DISTRICT GRANT UNPAVED BALANCE ENTRY ACCOUNT VARIOUS LOCATIONS IN COUNTY	PE \$0 RW \$0 CON \$0  Total \$0	\$0	\$0	\$0	\$0	\$0	\$0	\$154,525	\$773,496	DISTRICT GRANT UNPAVED FUNDS > \$0 VPD / LOCATIONS TO BE DETERMINED IN THE FUTURE
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015
T18189	S	S/F HIRED EQUIP.	NO PLAN, SECONDARY	BROOMLEY ROAD	0677-002-823, C-501, B-646 BRIDGE REPLACEMENT ROUTE 577 OVER BUCKINGHAM BRANCH RR	PE \$386,010 RW \$265,825 CON \$4,203,394  Total \$5,355,219	\$5,355,219	\$0	\$0	\$0	\$0	\$0	\$0	\$0	560 VPD 2015

District: Culpeper  
County: Albemarle County

Board Approval Date: June 8, 2016

2016-17 through 2021-22

SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2016-17	2017-18	2018-19	2019-20	2020-21	2021-22		
Project # Description FROM TO Length Priority #	Ad Data	PE RW CON Total	SSYP Funding Other Funding Total									
Rt.4007 99700	1204007 COUNTYWIDE TRAFFIC SERVICES VARIOUS LOCATIONS IN COUNTY	\$0 \$0 \$460,562 Total \$460,562	\$460,562	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	TRAFFIC SERVICES INCLUDE SECONDARY SPEED ZONES, SPEED STUDIES, OTHER NEW SECONDARY SIGNS
9999.99 Rt.4008 99775	1204008 COUNTY-WIDE RIGHT OF WAY ENGR. VARIOUS LOCATIONS IN COUNTY	\$0 \$0 \$54,345 Total \$54,345	\$54,345	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	USE WHEN IMPRACTICAL TO OPEN A PROJECT; ATTORNEY FEES and ACQUISITION COST.
9999.99 Rt.4006 99803	1204006 COUNTYWIDE FERTILIZATION & SEEDING VARIOUS LOCATIONS IN COUNTY	\$0 \$0 \$24,375 Total \$24,375	\$24,375	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	FERTILIZATION AND SEEDING TO IMPROVE SLOPE STABILIZATION ON SECONDARY SYSTEM
9999.99 Rt.4009 99846	1204009 COUNTYWIDE TRAFFIC CALMING VARIOUS LOCATIONS IN COUNTY	\$0 \$0 \$116,711 Total \$116,711	\$116,711	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	TRAFFIC CALMING MEASURES AS DETERMINED BY RESIDENCY AND DISTRICT TRAFFIC ENGINEER
9999.99 Rt.4005 99923	1204005 COUNTYWIDE ENGINEERING & SURVEY VARIOUS LOCATIONS IN COUNTY	\$0 \$0 \$25,065 Total \$25,065	\$25,065	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	MINOR SURVEY & PRELIMINARY ENGINEERING FOR BUDGET ITEMS AND INCIDENTAL TYPE WORK.
9999.99												

Agenda Item No. 15. **Public Hearing: PROJECT: CLE-2016-00032 Rose Garden.**

PROPOSED: Special exception to allow for a family day home to care for up to 12 children in a residence and may include up to two employees.

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) SECTION: 10.2.1.28. Family day homes (reference 5.1.56).

COMPREHENSIVE PLAN LAND USE/DENSITY: RA Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/acre in development lots).

ENTRANCE CORRIDOR: No.

LOCATION: 7338 Plank Road TAX MAP/PARCEL: 070000000039E0.

MAGISTERIAL DISTRICT: Samuel Miller.

(Advertised in the Daily Progress on May 23 and May 30, 2016.)

The Executive Summary forwarded to the Board states that a “family day home” is a “child day program offered in the dwelling unit of the provider or the dwelling unit that is the home of any of the children in care for one through twelve children under the age of thirteen when at least one child receives care for compensation.” (Virginia Code § 15.2-2292 and County Code § 18-3.1 - definition of family day home). Family day homes caring for five or fewer children are treated as a residential occupancy and, therefore, no zoning-related approvals are required. The provider’s own children and any children who

reside in the home are not counted in these numbers.

Virginia Code § 15.2-2292 enables localities to administratively approve family day homes for six to twelve children, provided that notice is given to abutting owners and none of them object. If a timely objection is received, a public hearing is required before the governing body. (See Attachment A for the current regulations in § 18-5.1.56). The Rose Garden applied for a family day home for six to twelve children. After notice was sent to abutting property owners, the County received objections to the proposal. Because of the abutting owner objections, a special exception is required.

The objections from abutting owners are provided as Attachment C and include concerns regarding traffic, quiet enjoyment of property, trespassing, and loss of property values. Detailed staff comments on the neighbor concerns are provided as part of the staff report (Attachment D). County Code § 18-5.1.56(b)(7)(b) provides that, in acting on a special exception, the Board "shall consider whether the proposed use will be a substantial detriment to abutting lots." Staff opinion is that authorizing the family day home to provide care for up to 12 children, with the proposed conditions, would not create a substantial detriment to abutting lots. Letters of Support are provided as Attachment E.

There is no anticipated budget impact related to this request.

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

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Ms. Rebecca Ragsdale, Senior Permit Planner, addressed the Board, stating that this application is for a special exception for a family day home, the Rose Garden School. Ms. Ragsdale stated that family day home applications are not seen very often and the application process is unique compared to other application types. She said the process is a zoning clearance that can be approved administratively, but the code requires neighbor notification and 30-days' notice, and if the County receives written objection in that timeframe, the item must be heard as a special exception before the Board. Ms. Ragsdale stated that at that point, the Board is asked to consider if the proposed use is a substantial detriment to adjoining lots, and this is the fourth special exception to have been brought before them, with staff approving 15 administratively. Ms. Ragsdale explained that a family day home is a child day program offered in the dwelling unit of the provider, or in the home of a child who is in care. She stated that the homes are provided for children under the age of 13, exclusive of the provider's own children, where at least one child receives care for compensation and there is a regular operating agreement. Ms. Ragsdale noted that some family day homes have a structured educational program and call themselves "schools," but they are still considered family day homes.

Ms. Ragsdale reported that the Rose Garden School has operated in the Batesville area for more than 10 years, and the applicant before them, Rebecca Garson, is a teacher at that school, located in Moran Forest off of Plank Road. Ms. Ragsdale stated that the proposal is for the existing school to close, with Ms. Garson taking it over at her home, and the school has typically operated from 8:30 a.m. to 3:30 p.m. with up to 12 children and one employee. She presented a map showing the location of the proposed school location, stating that it would be near Ortmann Road on the Route 250 end northwest of Batesville. Ms. Ragsdale noted that the information provided includes letters from parents of children at the school, as well as letters from residents indicating how it has been operating in the neighborhood. She stated that the Rose Garden School was approved through the new zoning clearance process with no objection, and the homeowners association has indicated there have been no issues with the current school.

Ms. Ragsdale referenced a map presented and the proposed location for the new school, with a large farm across the road from it and a 14-acre parcel behind it, as well as some other nearby properties. She stated that the neighbors having concerns include the abutting property owner with property wrapping around the day home, the property beside Ms. Garson's home, and a nearby property with a pond on it. Ms. Ragsdale mentioned that Ms. Garson's property is about two acres in size, with existing fencing on the property, a cabin near Plank Road, some existing parking areas, and some fenced paddock areas. She noted that the applicant has indicated where new fencing would be proposed, and some of the concerns relate to the location of playground areas and proposed fencing. Ms. Ragsdale said that staff has proposed a condition of approval that fencing shall be provided, with some standards taken from the building code and social services standards, so the fencing must be at least four feet tall so children cannot get over it.

Ms. Ragsdale stated that there were also concerns about traffic on that stretch of Plank Road, and there are traffic limits in the ordinance that the application would meet, and staff already evaluates entrances and access to family day homes. Ms. Ragsdale noted that staff has identified with VDOT what the improvements should be to that entrance to make it safer, improving sight distance to the west and widening it enough so if a car is waiting to pull out, a car on Plank Road does not have to wait and can pull into the driveway, and staff has recommended this as a condition of approval. She stated that staff has evaluated parking areas and determined that there is adequate parking that meets ordinance requirements. Ms. Ragsdale said that there were comments from neighbors regarding a disruption of the rural character of the area, so there is an hours of operation condition recommended for approval, as well as a condition regarding the location of playgrounds, which was not in the Board's original packet but is now in the resolution before them.

Ms. Ragsdale stated that there were concerns about property values with family day homes, but they are not permitted to have any signage nor are they required to have any commercial improvements



that would change the character of the property. She said there were comments from neighbors about the use of the cabin, and it is allowed to be an accessory structure but not a dwelling, and code enforcement staff have worked with the property owners and the applicant. Ms. Ragsdale stated that the applicant is renting the property, and there is no requirement that family day homes be owner occupied. She noted that these conditions of approval have been discussed with the property owner, who was present when staff was discussing the needed entrance improvements with VDOT. Ms. Ragsdale stated that there are letters of support in the Board's packet, and many feel that it has been a valued asset in Batesville, providing the early education opportunities hoped for when the County changed the family day home process to the clearance special exception process.

Ms. Ragsdale stated that staff has determined that there would not be any substantial detriment to the abutting property owners, with the fourth condition related to the playground equipment location, with an exhibit showing where it would be prohibited. She said there was concern about children being enticed by a nearby lake, which is why the playground and fencing requirements have been imposed. Ms. Ragsdale mentioned that the neighbor whose property wraps around this one sent an email earlier in the day stating that they no longer feel the need to object to the family day home.

Ms. McKeel asked if the cabin issue has been resolved. Ms. Ragsdale responded that it was determined that there is no zoning violation.

Ms. Palmer asked about the trees needing to be cut on the adjacent property. Ms. Ragsdale responded that the trees were all on the subject property, not the adjacent, and it was determined that their removal would be adequate without having to go on neighboring property.

The Chair opened the public hearing.

Ms. Rebecca Garson, the applicant, addressed the Board and stated that the Rose Garden School is a place for children of mixed ages, which is different than a daycare center that operates all hours of the day. Ms. Garson said there is a curriculum underlying what they do at the school, and Sherifa Oppenheimer was hired in the early 1980s to be the first teacher at the Crossroads Waldorf School, and Ms. Garson said that she joined the school in 1988. Ms. Garson said she was invited by Ms. Oppenheimer to join her when she established her family day home in Batesville, and said she has been teaching with her for the last eight years, and now Ms. Oppenheimer is ready to pass the school onto someone else. Ms. Garson stated that she considered moving the school to the Rockfish Valley Community Center in Nelson County and establishing an actual daycare, but it was most important to her to keep the family feel of the school. Ms. Garson said that she searched for a property and found this home in Batesville, just three miles from the current school site, which is not as wooded as Ms. Oppenheimer's Moran Forest location, but she is hoping to make it more of a garden in which children can grow their own food.

Ms. Garson referenced pictures of the house and noted the main entrance where children will arrive in the morning, and she has assured the abutting neighbors that they will not be looking at garish colors and playground items in the yard. Ms. Garson said there will also be swings where there is currently a basketball hoop in the back transitional area, to which the neighbor has also agreed, and the fence that will enclose the yard will curve around the edge of the driveway to the basement door, with the main playground located in the area leading to the horse paddock. She noted the location of the neighbors who have expressed concern about quality of life, and said that because of their concerns, she is willing to have the playground located on the front side of the house, and the old climbing structure pictured will be removed. Ms. Garson presented a view of the driveway and noted that a VDOT representative came and met with her and Ms. Ragsdale, adding that the white line as pictured notes how wide the driveway will become. She stated that the VDOT person also marked with spray paint the trees to be removed, which are all on the subject property, and that will greatly improve the site distance from the west. Ms. Garson noted the concrete column from the Bellevue estate will also be removed, so someone pulling in from the west will be able to get off of the road, with that particular curve on Plank Road presenting safety concerns. Ms. Garson said that with Crozet being a designated growth area, she hopes the school can serve families from that area in addition to those from Waynesboro, Staunton and Louisa, as well as those who have moved to Batesville to be close to the school.

Ms. Katherine Coleman addressed the Board and stated that her family moved here in 1977 and has lived on Plank Road in the property above the subject site for 20 years, building a home with a lake. Ms. Coleman stated the lake, which is more than 60 years old, is her primary concern given the possibility of putting 12 children nearby. She said the lake is 20 feet deep in some parts, and it is the reason she and her husband have invested their life savings in this tract of land in Albemarle County. Ms. Coleman emphasized that you do not have to look far in the news to see that four-foot tall "non-climbable" fences are only so effective in stopping a determined child, and her fear is that a small child will see her appealing lake, just 297 feet from this property, and be tempted to approach it. She asked the Board to consider the possibility of 12 children playing every day below her lake. Ms. Coleman also expressed concern about the traffic along the road and the trucks hitting their brakes as they go through the curve where this driveway is located, and there is not enough room on the site for a pull-off as many schools and businesses have. She asked the Board to think about the possibility for an unfortunate incident in their consideration of the special use permit for a school on this site. Ms. Coleman said that in 1978, she opened her own preschool in Scottsville, the Scott's Landing Preschool, which lasted for 35 years under four owners. She stated that one of the first things that she did as director was to find a commercial place for the school, knowing that children would be better served if they could get on and off the road safely, and have a safer place to spend their day. Ms. Coleman urged the Board to be careful when issuing special use permits not to erode the qualities that people come to the County to get.

Ms. Diane Guyer of Plank Road, addressed the Board and stated that her property is located two houses over from the subject site, and she operates a small farm in the area, which is intended to be a rural area with one house per property. She stated that there are trucks, cattle trucks, tractors, and hay bines that come through this area, and it is concerning to put a school on this site because of traffic on the road and the narrowness in some locations. Ms. Guyer stated that Mr. Prax is the owner of the rental property as well as the cabin, which he has also rented the entire time he has been there, he simply just moved the stove out of it. She said the County's laws do not seem to be equipped to handle these situations, and the residents who want to live a rural lifestyle have watched too many people come in and change the area. Ms. Guyer stated that putting a business in is not a very good idea, but if the Board grants permission for the school, then she would also like to take advantage of it by putting in a bed and breakfast or a rental property, and they need to consider the possibility of other businesses being put in this farm area. She said the Board also needs to consider the safety of the area in terms of the ponds, streams, and wild animals. Ms. Guyer stated that everyone wants to be progressive and put houses in, but the residents of Batesville want it to stay rural, and once that is lost it can never come back.

Ms. Sharifa Oppenheimer addressed the Board and stated that she was founder of the Charlottesville Waldorf School and would be owner of the Rose Garden School for a few more weeks. Ms. Oppenheimer stated that the Rose Garden School has served at least 75 families, 7 from the Batesville neighborhood, and many others from Charlottesville and Albemarle, as well as Staunton/Waynesboro and Louisa. She said that people move to the area because of the excellent public and private educational choices, and the Rose Garden offers families with children younger than school age a high-quality choice in the unique setting of a home. Ms. Oppenheimer stated that the Rose Garden features the care of young children in the warmth of a home and a focus on beauty and the natural world, which brings people, commerce and revenue to the County, while fostering a love of the natural and rural environment. She stated that the Rose Garden also has an asset in Rebecca Garson, who will lead the school in its next phase. Ms. Oppenheimer said that Ms. Garson has shown a natural talent with young children, and is warm and engaging while remaining firm, calm and dependable, making her an excellent access to the families of Albemarle County. She thanked the Board for considering the support of her efforts to continue the work of the Rose Garden.

Mr. John McKeon addressed the Board and said that he is a member of the Crozet Community Advisory Council but is here as a private citizen, and lives in Batesville a mile and a half from both the existing and proposed location of the Rose Garden School. Mr. McKeon stated that his daughter has been a student at the current school for three years, and he supports it as he feels it is a wonderful asset for the community. He stated that there is a stream within 10-15 feet of a fenced-in play area at the current Rose Garden, and there are no safety issues because the school offers a very controlled environment where the children are well-behaved and are not running wild. Mr. McKeon said that at the current school, you cannot hear the children playing in the play area, which is located 200-300 feet away where parents drop off their children, and he would encourage concerned residents to come visit the current school to observe this firsthand.

Mr. Kevin Moore addressed the Board and stated that he and his wife are Samuel Miller District residents, business owners, and parents of a Rose Garden student. Mr. Moore stated that he is before the Board to ask their consideration to grant a clearance in favor of the new school so that other parents can enjoy the same experience for their children. He said that while there is a plethora of choices for early education, he and his wife wanted was not a daycare or a preschool, but a home away from home where their daughter could begin her early education. Mr. Moore stated that Rose Garden exceeded their hopes of finding a place where their child could learn, play, socialize, grow, develop, and be loved and nurtured as if she were at home. He said the parents of her daughter's friends have become his and his wife's friends, making it a true community of people who have become a family. Mr. Moore stated that so often, a clearance is viewed as a compromise, but granting this clearance will directly enrich the community and future generations for years to come. He thanked the Board for their consideration and the continued service in making Albemarle County all that it is, and all it will continue to be.

Ms. Jennifer Prax addressed the Board and stated that she is one of the owners of this property along with her husband. She stated that the neighbors are parents and grandparents of young children, whom they adore and care for their protection, and while there have been comments regarding trespassing on their property, those situations occurred prior to her purchase of the property and installation of fencing, which now surrounds it. Ms. Prax said that you cannot see the water from the house and children have to go exploring to find it, noting that it is a natural home for families to live in. She stated that besides the additional fencing, there is increased supervision with a preschool because teachers are always present, which is actually safer than children coming and going from the house as a rental property and having to learn the boundaries when their parents let them go out to play. Ms. Prax said the concerns about the cabin have been resolved, and it has been determined that they are not in violation in terms of how they maintain the property. She stated the reason she wanted the Rose Garden School to come is because she wants to perpetuate the grace and beauty of the Waldorf School they had known when living in California, and her family was very happy to find Rose Garden when they moved to Afton. Ms. Prax commented that it would break her heart if the school is not able to continue, and the reason she and her husband are willing to do anything, including taking down trees, putting up fencing, and make other changes to the property, is because they want the school to continue.

Ms. Erika Howsare addressed the Board and stated that she is a current Rose Garden parent, with her older daughter attending the school for the past two years, and she hopes her younger daughter can also be a student there. Ms. Howsare stated that the orderly atmosphere at Rose Garden is very serene, with a school that embraces a teaching philosophy that values respect and calm and models

those qualities for the children. She said that in two years of coming and going from the school, she has seen how well it fits into the residential environment. Ms. Howsare stated that there is an especially considerate and mindful group of parents, which foster a very low-key environment; the teachers, Ms. Garson and Ms. Oppenheimer, foster respectfulness among the children, with an orderly flow to the day; and the aesthetics of the school are based on natural materials that blend into the surrounding rural environment, with wooden play structures and very little plastic. She said that if you were not looking for the current school, you probably could not find it because it blends in so well, and the enrollment is very small, with Ms. Garson striving to maintain the Rose Garden tradition of care and respect for neighbors. Ms. Howsare added that she hopes other families will have the same opportunity to benefit from the school as her family has.

Ms. Nina Alkhateeb, resident of Albemarle County, addressed the Board and stated that she and her family moved here six years ago from Germany, and it was a very unsettling time for her young son. Ms. Alkhateeb said that her son was afraid of groups and afraid to get lost, but they found the Rose Garden School and her son spent three years as a student there. She said that Ms. Garson and Ms. Oppenheimer have the ability to see the uniqueness of each child and have provided a nurturing kindness, while maintaining discipline within the group, and her son entered school with confidence and trust. Ms. Alkhateeb stated that he entered school with an openness in knowing that teachers are there for him, and she is grateful because she knows that what happens in early childhood is what sets them for the years to come. She said the children do not try to get away from the school's gentle tone and rhythm, and she hopes the fears of the neighbors can be allayed. Ms. Alkhateeb stated that she has also been a resident of Batesville and feels that having children start their life there is a tremendous gift because they will appreciate the rural environment and will treasure and become stewards of it when they grow up.

There being no further public comment, the Chair closed the public hearing.

Ms. Palmer stated that this is located her district, and she is very well aware of the volume of trucks on this road and had VDOT do a speed study recently on a section of Plank Road. She said that she does recognize the need for daycare, and there are other facilities like this in the community that are located on busy roads, and people are doing well with it. Ms. Palmer stated that given that the applicant is meeting all of the conditions and is trying hard to manage the situation, she would move for approval of the special exception with four conditions.

Mr. Kamptner noted that the resolution was prepared before Mr. Morris was named acting clerk, so they would want to reflect that change.

Ms. Palmer **moved** to adopt the proposed resolution to approve the special exception for Rose Garden School with the four conditions as presented and the change reflecting Mr. Travis Morris as Acting Clerk. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

**(The adopted resolution is set out below:)**

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR CLE 2016-32 ROSE GARDEN FAMILY DAY HOME (REBECCA GARSON)**

**WHEREAS**, Brian and Jennifer Prax are the owners of Tax Map and Parcel Number 07000-00-00- 039E0 (the "Property"); and

**WHEREAS**, Rebecca Garson resides at the property, and filed a request for a special exception in conjunction with CLE 2016-32 Rose Garden Family Day Home (Rebecca Garson) to allow Rose Garden Family Day Home to care for six to twelve children.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the executive summary prepared in conjunction with the special exception request, staff's supporting analysis included in the executive summary, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.56(b)(7)(b) and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to allow Rose Garden Family Day Home to care for six to twelve children in conjunction with CLE 2016-32, as described hereinabove, subject to the performance standards for this use in Albemarle County Code § 18-5.1.56(b) and the conditions attached hereto.

\* \* \*

**CLE 2016-32 Rose Garden Family Day Home (Rebecca Garson) Special Exception Conditions**

1. Hours of operation for the family day home shall be no earlier than 7:45 a.m. and no later than 3:45 p.m.
2. The applicant shall obtain a VDOT Land Use Permit and complete entrance and sight distance improvements to the satisfaction of VDOT prior to approval of a zoning clearance for the family day home.
3. Prior to approval of a zoning clearance for the family day home use, fencing shall be installed around the perimeter of playground areas. Any fencing shall satisfy the following:



- A. Fencing shall be at least four (4) feet tall;
  - B. Fencing shall be non-climbable with no accessible openings, handholds, or footholds that can be used by children to climb the barrier;
  - C. There shall be no more than a two (2)-inch gap under any fencing; and
  - D. Any fence openings shall be small enough that a four (4) inch sphere shall not pass through.
4. Playground equipment shall not be located in the red areas (north side of house) as shown on the attached exhibit.



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(Recess. At 8:17 p.m., the Board recessed, and reconvened at 8:24 p.m.)

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Agenda Item No. 16. **Public Hearing: PROJECT: SP-2016-00006. Generations Montessori School.**

MAGISTERIAL DISTRICT: Rivanna.

TAX MAP/PARCEL: 06200-00-00-025C0.

LOCATION: 1525 Stony Point Road.

PROPOSAL: Request for approval of a private school for up to 50 students in the existing Broadus Memorial Baptist Church facility.

PETITION: Private schools under Section 10.2.2.5 of the Zoning Ordinance. No dwelling units proposed.

ZONING: RA, Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).

ENTRANCE CORRIDOR: Yes.

MANAGED AND PRESERVED STEEP SLOPES: Yes.

FLOOD HAZARD OVERLAY: Yes.

SCENIC BYWAYS OVERLAY: Yes.

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01-34 units/acre); supporting uses such as religious institutions, schools, commercial, office and service uses within Neighborhood 3 – Pantops Master Plan.

(Advertised in the Daily Progress on May 23 and May 30, 2016.)

The Executive Summary forwarded to the Board states that at its meeting on May 3, 2016, the Planning Commission voted 6:0 to recommend approval of SP201600006 with conditions.

The hours of operation were discussed and revised during the Planning Commission meeting. The Applicants requested a start time of 9:00 a.m. in their application. Staff recommended a start time of 8:30 a.m. following an analysis of traffic information provided by VDOT. The Planning Commission expressed concern whether or not 8:30am was early enough to allow working parents to drop-off their children and still make it to work on time.

The Applicants stated that 8:30 a.m. should work for their request, but did not object to the Planning Commission's suggestion to change the start time in the conditions from 8:30 a.m. to 7:30 a.m.

Staff recommends that the Board adopt the attached Resolution (Attachment A) to approve SP201600006 with the conditions attached thereto.

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Mr. J. T. Newberry, Planner, addressed the Board and presented the staff report and a map of the area, noting that the proposed school is in the Broadus Memorial Baptist Church on Route 20 North. He stated the request is for up to 50 students, children aged 2 months to 6 years, and referenced the applicant's concept plan, stating that there are no external physical improvements proposed to the property. Mr. Newberry presented pictures of the site and noted the intersection with Route 20 and the driveway entrance to the church, and pointed out the lower parking area and proposed entrance to the school, as well as the pathway from the interior of the school out to the exterior play area. He said that there are four favorable factors and no unfavorable factors identified in the review, and staff has recommended approval with the conditions as shown, general accordance with the concept plan, enrollment not to exceed 50 students, and hours of operation from 7:30 a.m. to 5:30 p.m.

Mr. Dill stated that when he visited the site, he was under the impression the school would be fairly small, with 20 or 25 students, and asked if this is a change or if the school is going to get bigger in the future. Mr. Newberry responded that the current request reflects the original request made, and in the community meeting as well as the application materials, discussion of a slow start up is explained, and the applicant could explain their intentions, but the staff evaluation was based on 50 students.

Mr. Dill commented that this is the third Montessori school in the Pantops area, which is interesting to him, and the large one at the top of the hill is a whole lot more than 50 students.

At this time, the Chair opened the public hearing.

Ms. Rita Pace addressed the Board, with her daughter, Ms. Christina Pace, the applicants. Ms. Pace stated that she has been a preschool educator for 28 years. Ms. Rita Pace stated that she was a teacher at Pantops Montessori for 11 years and did her second Montessori certification last year, always wanting to do a school from birth so children could grow with the school. Ms. Pace said that one of her parents had just had a new baby and was excited about the school, and when he found out the minimum age was one year, he asked to be put on the waiting list. She stated that there were three parents at the informal public meeting held for the school who remarked on the lack of good infant care in the area, and until the project is formally approved by the Board, this has only been word of mouth, with eight students wanting to start in September and a ninth in January. Ms. Pace said that the first year, the school is planning to have no more than 16 students, with a class for 2-year-olds added the second year, and a third class added for students 3-6 years of age. She stated that this provides an opportunity for children to come into the school as infants and leave for first grade, and she is very excited about the project and loves her work.

Mr. Cal Morris addressed the Board, stating that he is a member of the Broadus Memorial Church and a resident of Key West. Mr. Morris said the church voted unanimously to allow the service to be provided, and offered to answer any questions about the facility.

Mr. Sheffield thanked Mr. Morris for his service on the Planning Commission.

Mr. Randolph thanked the Planning Commission for holding the public hearing on this topic and for making the recommendation that the school hours open at 7:30 a.m.

There being no further public comments, the Chair closed the public hearing.

Ms. Mallek noted that it is up to the school's operators when to open, although the Commission's recommendation might provide the flexibility to open sooner if they wish, and she draws the line with the Board trying to inform applicants that they should be doing something different than what they propose.

Mr. Randolph stated that he is not implying that the hours would be dictated, but said the Commission was trying to be sensitive to the transportation and congestion issue on Route 20 North in this area north of 250.

Ms. McKeel commented that there is certainly a need for high-quality childcare in the community.

Mr. Dill commented that the church is very active in the community and has been very welcoming to this and other organizations.

Mr. Dill **moved** to adopt the proposed resolution to approve the Generations Montessori School application with the conditions as presented. Ms. Mallek **seconded** the motion.

Mr. Kamptner noted that the authorization block for the Clerk would be corrected as in other applications.

Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.

NAYS: None.

**(The adopted resolution is set out below:)**

**RESOLUTION TO APPROVE  
SP 2016-06 GENERATIONS MONTESSORI SCHOOL**

**WHEREAS**, Broadus Memorial Baptist Church (the "Owner") is the record owner of Tax Map and Parcel Number 06200-00-00-025C0 and the Broadus Memorial Baptist Church building located thereon (collectively, the "Property"); and

**WHEREAS**, Rita Pace, Christina Pace, and the Church submitted an application for a Special Use Permit to operate a private school on the Property, and the application is identified as Special Use Permit 2016-00006 Generations Montessori School ("SP 2016-06"); and

**WHEREAS**, on May 3, 2016, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-06 with conditions; and

**WHEREAS**, on June 8, 2016, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-06.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2016-06 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code §§ 18-10.2.2(5) and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-06, subject to the conditions attached hereto.

\* \* \*

**SP-2016-06 Generations Montessori School Special Use Permit Conditions**

1. Use of site shall be in general accord with the concept plan "Generations Montessori School in Broadus Memorial Baptist Church" signed and dated by Rita Pace, 04/11/2016, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with this plan, development and use of the site shall reflect the general size, arrangement and location of the existing church facility and outdoor play areas. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. Enrollment shall not exceed fifty (50) students; and
3. The hours of operation for the school shall not begin earlier than 7:30 a.m. and shall not end later than 5:30 p.m., each day, Monday through Friday, except that occasional school-related events may occur after 5:30 p.m.

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Agenda Item No. 17. **Public Hearing: PROJECT: SP-2016-00005. Southland Rivers Edge.**  
MAGISTERIAL DISTRICT: Rivanna.

TAX MAP/PARCEL: 078B0010010100

LOCATION: Winding River Lane, approximately 700 feet from the intersection of Route 250 and Route 20.

PROPOSAL: Construction of PWSF on an existing high tension power transmission to include a monopole extension with antenna placed at 135' and associated ground equipment within a 450 square foot lease area.

PETITION: Tier III PWSF under section 22.2.2(14) of the Zoning Ordinance ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre).

OVERLAY DISTRICT: EC Entrance Corridor; FH Flood Hazard; Steep Slopes Overlay - Preserved Slopes; SC Scenic Byways COMPREHENSIVE PLAN: Neighborhood 3-Pantops; River Corridor – parks, golf courses, greenways, natural features and supporting commercial and recreational uses.

*(Advertised in the Daily Progress on May 23 and May 30, 2016.)*

The Executive Summary forwarded to the Board states that at its meeting on May 10, 2016, the Planning Commission voted 7:0 to recommend approval of SP201600005 Verizon Wireless "Southland"/River's Edge III, LLC. The Commission also recommended approval of the requested special exception to waive the requirements of County Code § 18-5.1.40(b)(3) for a tree conservation plan and to modify the requirements of County Code § 18-5.1.40(b)(2)(c) to allow antennas to extend beyond 18 inches from the tower structure for the reasons outlined in the staff report (Attachment B). The Commission's motion included a recommendation to amend the condition of approval for the special exception regarding the projection of the antennas.



The County Attorney has prepared the attached Resolutions (Attachment D and E) reflecting the recommendation of the Planning Commission, including the revised condition of approval for the special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c).

Staff recommends that the Board: 1) adopt the attached Resolution (Attachment D) approving the Special Use Permit subject to the condition therein; and 2) adopt the attached Resolution to approve the Special Exception (Attachment E) subject to the condition therein.

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Ms. Rebecca Ragsdale, Senior Permit Planner, addressed the Board and stated that the application is for a Tier III personal wireless facility, which would consist of constructing a monopole within an existing electric power lattice structure, and there are two special exceptions associated with this request. Ms. Ragsdale referenced a location map and noted that the site is located between Free Bridge Lane and Route 20, located next to Riverside Village and the County park parcel, with two other wireless facilities located on the powerline, one at the Clean Machine carwash and one at another structure at South Pantops. She noted that one of the requests is for a tree conservation plan, but it is requested that it be waived because there are no existing trees that would provide screening of the ground equipment or the lattice tower structure. Ms. Ragsdale presented a copy of the proposed plan and said the other special exception is for the antenna platform, and it would not meet the flush-mounting requirements of the ordinance, so the total width of the platform would be 14 feet, with the maximum standoff of 7'10", which staff has made a condition of approval. She noted that this is similar to what is proposed on Georgetown Road, and the applicant would likely speak more to Dominion Power's standards and requirements dictating this type of structure if the facilities are going to collocate on powerline structures.

Ms. Ragsdale presented a plan view and said there would be a robust landscaping plan as recommended by the ARB that will screen the base station equipment, and the concrete pad and wireless equipment will be within the footprint of the structure itself, with everything else in the plan being additional landscaping and fencing. She stated that the application includes two special exceptions, the request to waive the tree conservation plan, and modification of the standoff distance. Ms. Ragsdale said that when staff looked at the facility, they noted the visual impacts are already there, and staff looked at the photo simulations provided by the applicant as well as viewing different angles of the existing powerline structure in person, and do not feel there would be additional visual impacts. She stated that the Planning Commission and ARB recommended approval of the application, and staff did not identify any unfavorable factors, so staff's recommendation is to approve the special use permit with the condition in the attached resolution referencing the plan, and to approve the special exception limiting the standoff distance to 7'10".

Ms. Mallek asked if the fence around the facility is a solid board fence. Ms. Ragsdale responded that she does not know, but the applicant can provide that information.

The Chair opened the public hearing.

Ms. Lori Schweller of LeClair Ryan, representing Verizon Wireless, addressed the Board and stated that the location for this facility is at the River's Edge commercial condominiums at Pantops on an existing Dominion Power tower, located directly in front of one of the commercial condominium buildings. She noted the location of the closest power tower to the north, which is the Dominion Power tower in front of the Clean Machine carwash, which has the same type of structure being proposed here, a monopole through the center of the power tower to provide additional strength and antennas above. Ms. Schweller explained that the reason a special use permit is being requested is because the monopole through the center is considered a new structure as opposed to strengthening of the existing structure. She referenced the Southland site on a map provided, and said the primary objective of this structure is to provide additional capacity, as the closest towers in the Pantops area are very heavily used and in some cases overtaxed. Ms. Schweller said the new facility would provide full coverage in this area. She stated that in addition to doing computer modeling, Verizon's engineers visit sites in advance to see if new developments might require enhanced facilities. Ms. Schweller stated that Riverside Village is immediately north of the site and there is a County park between it and the proposed facility, as well as a 50-foot tree buffer, so once you drive into Riverside Village, you cannot see the existing power tower and there would likely be no visual impacts to residents in that development.

Ms. Schweller presented a few photo simulations, noting the existing facility in the distance, and stating that they could not do a balloon test because of the Dominion Power wires. Ms. Schweller presented the landscaping plan as recommended by the ARB and said that all of the planting has been approved by Dominion for appropriate distance from powerlines and acceptable species, and the landlord of the property, which is not in the Verizon lease area, has also approved the landscaping. Ms. Schweller referenced an elevation showing that the height of the broadest horizontal beam is 115', and Dominion requires 15' distance between the height of the top of their towers and the center of the facility, which are the exact same specs as the tower at Clean Machine, and noted that the tri-sector platform is 14' on each rectangle, and the distance from the face of the monopole would be 4'8", and the distance to the back of the furthest antennas would be 7'10", as reflected in the special exception resolution. Ms. Schweller stated that Dominion Power's design standards require that Verizon stay above the static line and incorporate platforms for the technicians, and that is reflected in the design. She presented an image of the existing nearby power tower and wireless facility, noting that it is 15' above the tower, and also referenced an image of the type of platform Dominion now prefers.

Ms. Schweller stated that electrical towers are already considered opportunity sites, and Verizon would like the Board to consider them as opportunity sites for full arrays where appropriate, and to permit

standoff for power towers, as Chesterfield County has done. She said that Verizon would also like to request that the installation of an interior pole to an existing power tower be considered a strengthening under the existing terms of the zoning ordinance, so that it could allow a facility such as this to be considered a by-right collocation.

Mr. Dill noted that he lives near this site, and said the Clean Machine carwash is located very near the Verizon retail store, and asked if there is any advantage to having them right next to a store. Ms. Schweller responded that she had not heard that rationale, and explained that each of these power towers can only support one carrier, and the Clean Machine facility is another carrier.

Ms. Mallek asked if, based on that provision, only one platform array per tower would be permitted, and a carrier could not come along and put a second or third one on, going 15' higher each time. Ms. Schweller stated that Dominion Power does not allow that.

Mr. Randolph said that you would have to have a new tower.

Mr. Neil Williamson, Free Enterprise Forum, addressed the Board and asked why applicants have to go through a special exception process, if the County has a goal of collocation at these opportunity sites, and he hopes they will consider the use of power towers in this way.

There being no other public comments, the Chair closed the public hearing.

Mr. Dill asked staff if Mr. Williamson's suggestion is something staff can look into. Mr. Kamptner explained that the Board can adopt a resolution of intent, which would direct staff to start a study to look at amending either the policy or the regulations.

Mr. Bill Fritz, Chief of Special Projects, stated that a zoning text amendment has already been filed, and staff is aiming to have a work session with the Planning Commission on this in August.

Ms. Mallek commented that she is always trying to determine whether what the Board is voting on will be better than the last approval, as she is remorseful over approval of the site on Owensville Road because the bushes there are very small and do not adequately shield the base of that wireless facility.

Mr. Dill then **moved** to adopt the proposed resolution to approve the special use permit subject to the conditions as presented, with the change reflecting Mr. Morris' title as Acting Clerk. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

Mr. Dill then **moved** to adopt the proposed resolution to approve the special exception subject to the conditions as presented, with the change reflecting Mr. Morris' title as Acting Clerk. Ms. Mallek **seconded** the motion.

Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

**(The adopted resolutions and conditions are set out below:)**

**RESOLUTION TO APPROVE  
SP 2016-05 VERIZON WIRELESS  
"SOUTHLAND"/RIVER'S EDGE III, LLC**

**WHEREAS**, River's Edge III, LLC is the owner of Tax Map and Parcel Number 078B0-01-00-10100 (the "Property"); and

**WHEREAS**, Dominion Virginia Power is the owner of an electric transmission tower (the "Tower") located on the Property; and

**WHEREAS**, Cellco Partnership, trading as Verizon Wireless, filed an application for a special use permit to install a personal wireless service facility consisting of a monopole with an antenna array mounted on a platform on the Tower, and the application is identified as Special Use Permit 2016-05 Verizon Wireless "Southland" / River's Edge III, LLC ("SP 2016-05"); and

**WHEREAS**, on May 10, 2016, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-05 with the condition recommended by County staff ; and

**WHEREAS**, on June 8, 2016, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-05.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2016-05 and all of its attachments, the information presented at the public hearing,

and the factors relevant to a special use permit in Albemarle County Code §§ 18-22.2.2(14) and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-05, subject to the condition attached hereto.

\* \* \* \*

**SP-2016-00005 Verizon Wireless "Southland"/River's Edge III, LLC Conditions**

1. The monopole, platform, antennas, and all equipment shall be installed as depicted on the site plan entitled "Verizon Wireless Site Name: Southland", prepared by Trent T. Snarr, P.E., and last revised on November 5, 2015.

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SP 2016-05 VERIZON WIRELESS "SOUTHLAND"/RIVER'S EDGE III, LLC**

**WHEREAS**, River's Edge III, LLC is the owner of Tax Map and Parcel Number 078B0-01-00-10100 (the "Property") and Dominion Virginia Power is the owner of an electric transmission tower (the "Tower") located thereon; ; and

**WHEREAS**, Cellco Partnership, trading as Verizon Wireless, filed an application for a special use permit to install a personal wireless service facility on the Tower (SP 2016-05, Verizon Wireless "Southland"/River's Edge III, LLC); and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(3) requires that the applicant submit a tree conservation plan showing tree protection measures, identifying trees to be removed, and identifying dead and dying trees, which may be waived by special exception; and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(2)(c) requires that antennas be mounted so that in no case shall the farthest point of the back of the antenna be more than 18 inches from the facility, which may be modified by special exception; and

**WHEREAS**, the Applicant filed a request for a special exception in conjunction with SP 2016-05, Verizon Wireless "Southland"/River's Edge III, LLC, to waive the requirements of County Code § 18-5.1.40(b)(3) and to modify the requirements of County Code § 18-5.1.40(b)(2)(c).

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the executive summary and staff report prepared in conjunction with the application, all of the factors relevant to the special exception in County Code §§ 18-5.1.40(b)(3), 18-5.1.40(b)(2)(c), and 18-33.9, and the information provided at the Board of Supervisors meeting, the Albemarle County Board of Supervisors hereby approves the special exception to authorize the waiver of County Code § 18-5.1.40(b)(3) and the modification of County Code § 18-5.1.40(b)(2)(c) as set forth above, subject to the condition attached hereto.

\* \* \* \*

**SP-2016-00005 Verizon Wireless "Southland"/River's Edge III, LLC Special Exception Condition**

1. No antenna shall project more than seven feet ten inches (7' 10") from the monopole structure to the back of the antenna.

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Agenda Item No. 18. **Public Hearing: PROJECT: ZMA-2016-00001. Hollymead Town Center (A-2).**

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL: 03200000004500, 03200000005000.

LOCATION: Hollymead Town Center Area A-2, the southwest quadrant of Seminole Trail (US 29) and Towncenter Drive to the west of Area A-1 in the Hollymead Development Area.

PROPOSAL: Request to amend Proffer 1 to reduce the percentage of affordable dwelling units to be provided from 20% to 15%.

PETITION: Amendment to rezoning for 44.29 acres on property zoned Neighborhood Model District zoning district which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses.

OVERLAY DISTRICT: EC-Entrance Corridor; AIA-Airport Impact Area; Managed and Preserved Steep Slopes.

PROFFERS: Yes.

COMPREHENSIVE PLAN: Urban Mixed Use (in Centers) and Commercial Mixed Use –retail, residential, commercial, employment, office, institutional, and open space; Urban Density Residential (residential (6.01 – 34 units/ acre) - supporting uses such as religious institutions, schools, commercial, office and service uses; and Light Industrial - manufacturing from prepared materials, processing, fabrication, assembly, and distribution of products.

*(Advertised in the Daily Progress on May 23 and May 30, 2016.)*

The Executive Summary forwarded to the Board states that at its meeting on April 26, 2016, the Planning Commission voted 5:2 (Dotson and Keller voted nay) to recommend denial of ZMA201600001 due to the fact that the proffer was voluntarily offered, was reasonable at the time, and met a serious

need in the county for affordable housing, which still exists. Due to an advertising error, a Planning Commission re-hearing has been scheduled for June 7, 2016. No change in their recommendation is anticipated. Staff will present the June 7 Planning Commission recommendation to the Board at the Board's June 8, 2016 meeting.

Attachments A, B, and C contain the Planning Commission's action letter, staff report and minutes from the April 26, 2016 meeting. The staff report indicated that minor changes to the initial proposed amended proffers would need to be made prior to the Board meeting in order for the proffers to be in approvable form and for staff to be able to recommend approval of the proffer amendment. The applicant has made all of the changes to the proffers requested by staff and noted in the staff report. The County Attorney has prepared the attached Ordinance (Attachment E) should the Board of Supervisors wish to approve the proffer change request.

The Planning Commission recommends that ZMA201600001 be denied. However, if the Board wishes to approve this ZMA, staff recommends that the Board adopt the ordinance to approve the ZMA.

Ms. Elaine Echols, Acting Chief of Planning, addressed the Board, stating that this request is for a single change to a set of proffers for Hollymead Town Center area A-2 to reduce the amount of affordable housing from 20% to 15% of units. She stated the Planning Commission had originally heard this application in April, but due to an advertising error, they heard it again on June 7. Ms. Echols said that Hollymead Town Center is actually five different areas that were rezoned, and the area in question is area A-2, with B being the Target location, C located to the north, and area D being the Abingdon Place development. She stated that area A-2 was approved in 2008 for 1,222 dwelling units, and almost 369,000 square feet of commercial, and the rezoning was amended in 2010 to allow for a movie theater. Ms. Echols pointed out the area identified for residential units is the first the developer would like to develop, and the work being done on that particular area is what has spurred his request to modify the proffers. She stated that staff has found that the reduction in affordable housing is consistent with the County's affordable housing policy, but also notes that the proffer was voluntarily made and considered to be reasonable at the time.

Ms. Echols said that in their original report to the Planning Commission, staff recommended approval of the proffer change with some other proffer changes, with the proffers dated May 27, 2016. She stated that in their April hearing, the Commission recommended denial for the reasons that the proffer was voluntary and reasonable and helped to meet a serious need in the County for affordable housing, which still exists. Ms. Echols stated that at the Commission's meeting on June 7, one member changed her vote and one of the former "nay" voters was absent, and there was a vote taken to approve the rezoning, but it failed on a 3-3 vote. She said the reasons given by the Commissioners who voted in favor of the rezoning were that economic conditions have changed and it was not this owner who made the original proffer, but the developer defaulted and the property reverted back to the original owner. Ms. Echols stated that the request has been modified to address minor staff concerns, and it does conform to the County's requirement for 15% affordable housing. She said the applicant is providing housing units and not cash in lieu, which the Commission believed was an important factor.

Mr. Sheffield commented that he supports reducing the affordable housing component to 15%, and multi-family housing was one of the taxable bases that remained stable during the recession, so trying to encourage as much multi-family as possible is one of his side goals. He stated that this development provides about \$280,000 a year under the current development, and said that the developer, Cathcart, is strong, and they are local. Mr. Sheffield said that in discussing it with the developer, he feels the County must do more to encourage affordable housing, and he is concerned with the tap fees being charged the same on these units versus the regular priced housing. He stated that one of the reasons he would not object to a further reduction down to 10% is that these units will be paying \$300-\$400 less in rent, yet Cathcart will be paying the same amount in taxes. Mr. Sheffield emphasized that with multi-family housing, there seems to be a disconnect between the County's encouragement of affordable housing and the economics of actually making it happen, and he does not think they would find single-family homes being a target for affordable housing as much as multi-family units.

Ms. Palmer asked how decreasing the percentage of affordable housing would help in that regard. Mr. Sheffield responded that it helps with the economics of making this a viable option to build, and the developer is barely able to proceed with the project and would likely walk away from it if it rose above 15%. He stated this is a quality builder that can produce a good environment for renters, and the 10% encourages the quality of housing the County is seeking, especially in an area like this where development has been stagnant.

Ms. Palmer asked if the developer is required to do 20% to meet the proffer requirements. Ms. Echols confirmed that this is what the proffer states.

Mr. Dill said they have the option of doing it at 20% or not doing it at all.

Mr. Sheffield noted that the developer will walk away if the affordable housing exceeds 15%.

Mr. Dill stated that what he likes about the project is that these units will be located right behind the grocery store and shopping, and this is the Neighborhood Model form of development the County has been encouraging as a walkable community, and they will gladly take 15% with any other project, so he feels they should be eager to make this change in order to get the project going.

Ms. Palmer said that she does not understand why if the applicant proffered 20% and the County did not reduce it, it would stand at 20%, it is not a matter of doing it or walking away. Ms. Echols responded that this is a question best asked of the developer, because as it stands now the Board can vote to keep it at 20%, and then in the future the owner will have to see what he could do with a future developer.

Mr. Sheffield explained that United Land is not the builder, that is Cathcart, and it is they who would walk away, so Mr. Wood would have to find another builder who could make the 20% work. He clarified that in his conversations with Cathcart, it will be hard for any builder to come in and make the financials work with a 20% requirement, and at the time this proffer was put forward, the economy was more robust and 20% was more realistic.

Mr. Randolph said there was a lot of discussion at the Planning Commission about moving from 20% to 15%, and that was reiterated at their June 7 meeting. He stated that this is a question of what is appropriate now, and in 2007 there was a very different market than there is today. He said that 20% was above the standard, and 15% is at the norm level, so the question is whether it is unreasonable to expect the developer to hold fast to the 20% in current market conditions. Mr. Randolph stated that three Commissioners voted in favor of switching to 15%, including the Samuel Miller District representative, who initially had concerns about setting a precedent but no longer feels that is an issue and ended up switching her vote. Mr. Randolph said that having met with the Planning Commission Chair and the Scottsville District representative, he feels that demanding 20% is an unrealistic expectation in the current market, and asking the developer to provide 20% affordable housing is excessive and unreasonable on the County's part, whereas 15% is a reasonable level and generous under the current circumstances.

The Chair opened the public hearing.

Ms. Nina Harrell with United Land Corporation addressed the Board and stated that the proffer was not agreed to by the current owner, it was agreed to in 2007 by a second owner, a New York-based developer who thought there would be parking decks and other amenities that will likely never come to fruition. Ms. Harrell stated that it has been nine years since the proffers were agreed to and approved, and there has not been a single residential unit built at Hollymead Town Center since. She said the Planning Commission asked if Mr. Wood knew about the proffers, and while he did know about them, he did not make the proffers, he was simply the developer and the bank in the transaction, and ended up stuck with the proffers when he took the property back. Ms. Harrell stated that in speaking with many other developers who have wanted to build apartments there, they have not wanted to move forward because the numbers do not work at 20%. She said that now there is a local builder with experience in building successful local apartment projects who has agreed to the 15% after much coaxing, and that will equate to about 35 or 40 units that otherwise might not be provided. Ms. Harrell emphasized that it was extremely difficult to provide the 15%, with all the new additional costs related to stormwater and water quality regulations. Ms. Harrell stated that the costs do not go down here when building affordable housing, they are the same as with any other unit, and in this instance there is an owner with a 50-year track record of providing affordable housing to the community. She said they have brought 5,000 jobs to the community, many of which have benefits, and this is a perfect opportunity to allow a local apartment developer with a proven track record to expand their business and provide needed apartments in an area that is already rezoned, which will contribute \$300,000 in annual tax revenues to the County. Ms. Harrell stated that there are many benefits to the project, and United Land hopes the Board will allow the project to move forward with 15%, and reminded them that the 20% proffer was brought forth by another owner, not this one.

Mr. Wendell Wood addressed the Board and offered to answer any questions. Mr. Wood stated that in nine years, not one unit has been built, and three serious residential developers who expressed interest in building this project walked away when they learned the affordable housing level was 20%. Mr. Wood stated that at the time the project was first envisioned, when he sold the property, it was for 1,220 units, which would need to be six stories, plus parking decks. He said he had to take the property back, with the proffers still in place, and now there is a developer ready to make this work at the highest affordable housing level he has ever done at 15%, and he does not want to miss the opportunity to make this work.

There being no other comments from the public, the Chair closed the public hearing.

Ms. Mallek stated that she is happy to support the change from 20% to 15% because it is the County's policy, but she would strenuously object to changing their policy below 15%. She stated that a rezoning goes with the land, so the change in ownership should not erase things that were committed to in the original decision, and she wanted Mr. Kamptner to know her concerns in that regard and the fact she does not want her vote tonight to imply that future owners can disregard previous proffers made. Mr. Kamptner confirmed that the proffers do run with the land, but this particular property presents a unique set of circumstances, and new ownership does not in and of itself justify it.

Ms. Mallek asked if there was any change made to the pocket park provision. Mr. Randolph responded that it was back to the status quo on that item.

Ms. Mallek asked for an explanation of the residential housing proffer not beginning until the 151<sup>st</sup> unit is built. Ms. Echols explained that it refers to the cash proffer, and the reason is because there were in-kind contributions that were made during the rezoning, and the value of those contributions is applied as a credit.



Ms. Mallek asked if the \$500 per unit for recreational facilities is still in effect. Ms. Echols responded that it still is in effect and is being considered with a subsequent amendment, but not tonight.

Ms. Mallek said that she thought the rules were designed for 100% capture rate for erosion and sediment control, but the staff report says 80%, and asked if they are dealing with that tonight. Ms. Echols responded that they are not.

Ms. Mallek commented that in future public hearings, she hopes the Board will refrain from starting their debate before the public has a chance to say what they think, because it intimidates a group of people who might have different views and gets everything out of order. She stated that questions about what things mean makes great sense, but she hopes they will refrain from trying to make the decision before having the public hearing.

Ms. Palmer said this was well noted.

Mr. Dill thanked Ms. Mallek for the reminder.

Ms. Mallek stated that she is a stickler for process.

Mr. Sheffield said that he views the process a bit differently, and he likes to get his views out so people can respond to them.

Ms. Mallek noted that when this happened a month or so ago, many people got up and left before the public hearing because they felt there was no point, and this was concerning to her.

Mr. Randolph stated that he felt it would be helpful to let people know about the discussion at the Commission's public hearing the previous evening.

Ms. Mallek said that it would be, after the Board has held their public hearing.

Ms. Palmer stated that perhaps they can have that discussion at another time.

Ms. Palmer asked if there was any precedent being set by the Board's action on this item. Mr. Kamptner responded that each of these circumstances is unique, and said that this is the only rezoning he is aware of that has proffered 20% affordable housing.

Ms. Echols stated there are other rezonings that have proffered more than 15%, but not 20%. Mr. Benish clarified that the County always looks at the requests on the merits of the original proffer and the facts, and the basis for the proffer that was received, as well as all changes in circumstance.

Ms. McKeel asked about the request to reduce the pocket park, as mentioned by Ms. Mallek. Ms. Echols confirmed that it is no longer part of this request.

Ms. McKeel asked about the public transit stop construction. Ms. Echols responded that it is not being considered as part of this, only the 20% down to the 15% proffered affordable housing.

Ms. McKeel commented that she is just interested in seeing how it will play into this.

Mr. Randolph stated that in terms of voting on this, if the owner was the same as the one who had provided the original proffer in 2007, he would vote against this. Mr. Randolph said that he would also vote against this if the pocket park was not restored back to the 10,000 square feet and the phasing plan was not restored back to the 100 dwelling units, but now that the package of this has been collectively restored, he will vote in favor of it.

Ms. McKeel stated that she will also vote in favor of it.

Mr. Kamptner noted that the motion will be to adopt the ordinance.

Mr. Sheffield **moved** to adopt Ordinance No. 16-A(2) for ZMA 2016-0001 Hollymead Town Center A-2 Proffer Amendment. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

**(The adopted ordinance is set out below:)**

**ORDINANCE NO. 16-A(2)  
ZMA 2016-00001 HOLLYMEAD TOWN CENTER  
AREA A2 PROFFER AMENDMENT**

**AN ORDINANCE TO AMEND THE PROFFERS APPROVED WITH ZMA 2010-00006  
FOR TAX MAP AND PARCEL NUMBERS 03200-00-00-04500 AND 03200-00-00-05000**

**WHEREAS**, the application to amend the proffers that were approved with ZMA 2010-00006 for

Tax Map and Parcel Numbers 03200-00-00-04500 and 03200-00-00-05000 (the "Property") is identified as ZMA 2016-00001, Hollymead Town Center Area A2 Proffer Amendment ("ZMA 2016-00001"); and

**WHEREAS**, ZMA 2016-00001 proposes to amend Proffer #1 to reduce the amount of affordable housing proffered from 20% to 15%; and

**WHEREAS**, staff recommended approval of ZMA 2016-00001 provided that minor revisions were made to the proffers, and such revisions have since been made; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on ZMA 2016-00001 on June 7, 2016-0001.

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2016-00001 and its attachments, including the proffers dated May 27, 2016, the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2016-00001 with the proffers dated May 27, 2016.

Original Proffer:  
Amended Proffer: **X**

#### **PROFFER FORM**

Date: May 27, 2016  
ZMA #: ZMA2016-001, Hollymead Town Center Area A-2  
Tax Map Parcel Numbers: 32-45 and 32-50

**44.5 Acres to be rezoned from NMD to NMD**

In conjunction with the Application Plan entitled "ZMA Application Plan for NMD Portion of Hollymead Town Center A-2," dated March 13, 2006, revised August 31, 2007 (the "Application Plan" and the Amendment to the Application Plan entitled, "Amendment to the General Development Plan for ZMA 2007-001," dated November 1, 2010 (the "Amended Application Plan for Blocks B1, B2 and B4") and Hollymead Town Center Area A-2 ZMA 2010-006 Rezoning Application and the revised Code of Development approved in conjunction with ZMA 2010-006.

Tax Map Parcel Numbers: 32-45 and 32-50, comprising 44.5 acres and also identified as Hollymead Town Center Area A-2, are subject to rezoning application ZMA 2010-006 and to this Proffer Statement (the "Property"). The Property is described with more particularity on the Application Plan, which applies to all portions of the Property except for Blocks B1, B2 and B4, and the Amended Application Plan for Blocks B1, B2 and B4. The Application Plan and the Amended Application Plan for Blocks B 1, B2 and B4 are attached hereto as Exhibits A and B, respectively.

The Owner of the Property is Route 29 LLC, a Virginia limited liability company (the "Owner").

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property to Neighborhood Model District (NMD) as requested, the Owner shall develop the Property in accord with the following proffers pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the requested rezoning, and the Owner acknowledges that the conditions are reasonable. These proffers supersede the proffers accepted in conjunction with ZMA 2007-001 and ZMA2010-006. If rezoning application ZMA 2016-001 is denied, these proffers shall immediately be null and void and of no further force and effect, and the proffers accepted in conjunction with ZMA 2007 -001, as well as the Application Plan and the Code of Development approved in conjunction with ZMA 2007-001, shall continue to apply to Hollymead Town Center Area A-2.

1. **Affordable Housing.** The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential units constructed on the Property, in the form of for-sale condominiums and townhouses, and for-rent condominiums, townhouses, apartments and

accessory units. At least 40% of the affordable units will be in the form of for sale condominiums and townhouses. Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will be subject to the terms and conditions of this proffer, incorporate affordable units as described herein, and the aggregate number of such lots or units designated for affordable units within each subdivision plat and site plan shall constitute a minimum of fifteen percent (15%) minimum on any future subdivision plat or site plan, provided however, that the maximum number of affordable units that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on any subdivision or site plan.

The Owner may "carry-over" or "bank" credits for affordable units in the event an individual subdivision plat or site plan designates affordable units that in the aggregate exceed the fifteen percent (15%) minimum for such subdivision plat or site plan, and such additional affordable units may be allocated toward the fifteen percent (15%) minimum on any future subdivision or site plan, provided however, that the maximum number of affordable units that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on any subdivision or site plan. The Owner shall convey the responsibility of initially constructing the affordable units to the subsequent owners of lots within the Property. With the written approval of the County's Subdivision Agent, the Owner or its successors may revise which lots and unit-types are designated on the subdivision plat or site plan that will contain affordable units as provided under this proffer; provided that the number of the lots so designated shall not be reduced. The actual owner at the proposed time of construction shall offer units affordable to households with incomes less than eighty percent (80%) of the area median income such that housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income.

A. **For-Sale Affordable Housing Units.** Affordable units shall be affordable to households with incomes less than eighty percent (80%) of the area median family income (the "Affordable Unit Qualifying Income"), such that the housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the Affordable Unit Qualifying Income; provided, however, that in no event shall the selling price of such affordable units be required to be less than the greater of One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) or sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) maximum mortgage for first-time home buyers at the beginning of the 90-day identification and qualification period referenced below. The Owner or its successors in interest may at its option provide down payment assistance or soft seconds (silent second mortgages) to reduce the costs to the homebuyer so that the resultant first mortgage and housing costs remain at, or below, the parameters described above. All financial programs or instruments described above must be acceptable to the primary mortgage lender. Any soft second (silent second mortgage) executed as part of the affordable housing proffer shall be donated to the County of Albemarle (the "County") or its designee to be used to address affordable housing. Each dwelling unit qualifying under these parameters counts as one (1) affordable unit.

**B. . Affordable Units.**

(1). **Rental Rates.** The initial net rent for each for-rent affordable unit shall not exceed the then-current and applicable maximum net rent rate as published by the County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent affordable unit may be increased up to three percent (3%). For purposes of this proffer statement, the term "net rent" means that the rent does not include tenant-paid utilities. The

requirement that the rents for such for-rent affordable units may not exceed the maximum rents established in this Proffer 1B shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each for-rent affordable unit, or until the units are sold as low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the "Affordable Term").

(2). **Conveyance of Interest.** All deeds conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Proffer 2. In addition, all contracts pertaining to a conveyance of any for-rent affordable unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this Proffer 1B. At least thirty (30) days prior to the conveyance of any interest (other than for the securing of a mortgage or deed of trust) in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Proffer 1B(2) have been satisfied.

(3). **Reporting Rental Rates.** During the Affordable Term, within thirty (30) days of each rental or lease term for each for-rent affordable unit, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current owner shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

2. **Road Improvements.** Within one (1) year after approval of ZMA 2007-001, the following streets shall be completed:

A. Meeting Street from the intersection of Town Center Drive to the northern boundary of Area A. Meeting Street will have two northbound and two southbound travel lanes, one northbound and one southbound bicycle lane. Initially, one lane in each direction may be utilized as on-street parking

B. Town Center Drive (Previously Access Road A) from the Eastern edge of the NMD zoning boundary at the intersection of Meeting Street to its intersection with State Route 606, also known as Dickerson Road. This section of Town Center Drive shall be constructed to accommodate two travel lanes, with a cross section approved by the county and VDOT in a minimum 60-foot wide right-of-way.

For purposes of this Proffer 2, construction of each street shall be deemed complete when it is ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the state-maintained system, and the Owner has obtained from the County Engineer a written determination that the street is safe and convenient for traffic.

The road improvements listed herein shall be constructed in accordance with the NMD Code of Development as approved as part of ZMA 2010-006 (which with respect to the road improvements are the same as those contained in the Code of Development approved in conjunction with ZMA 2007-001), and with road plans submitted by the Owner and approved by the Virginia Department of Transportation ("VDOT").

3. **Public Transit Stop Construction.** The Owner shall construct two public transit stops within Hollymead Town Center Area A-2. The location of the public transit stops shall be identified on the Application Plan and retained in the County files. The locations shall be approved by the Director of Planning prior to approval of the first subdivision plat or site plan for Hollymead Town Center Area A-2. Construction of the public transit stops shall occur in conjunction with improvements for the subdivision plat or site plan or the public street plans which include the area for the transit stops. The design of each public transit stop shall be subject to approval by VDOT and the County Engineer, and shall include no less than 200 square feet of paved surface and two benches.

4. **Cash Proffer.** Beginning with the 151st Market Rate unit, the Owner shall contribute cash on a per dwelling unit basis for the purposes of funding Berkmar Drive Extended, other County infrastructure, transportation, public safety, school, parks and library improvements. The cash contributions shall be: \$12,400 cash for each attached/townhouse/condominium dwelling unit, other than an affordable dwelling unit ("Market Rate Unit"), and \$11,900 cash for each multifamily/apartment dwelling unit other than an affordable dwelling unit ("Market Rate Unit"). Such cash contribution shall be paid at the time of the issuance of the building permit for each new unit, unless the timing of the payment is otherwise specified by state law.

Beginning January 1, 2008, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/lc/a Marshall and Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if Marshall & Swift cease publication of the index identified herein. In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the calendar year most recently ended, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

5. **Greenway.** The Owner shall dedicate in fee simple a minimum 7.6 acre "greenway" to Albemarle County for public use. The dedication is identified on the Application Plan as "Greenway Area dedication to Albemarle County," and shall include a strip of land that runs along Powell Creek with minimum width of 50 feet on the each side of Powell Creek, subject to the limitations of the Property boundary. The dedicated area will also include all flood plain area along Powell Creek within the Property boundary. The Owner shall complete the improvements shown on the Application Plan and shall dedicate the Powell Creek Greenway to the County at the time of the first site plan or subdivision plat approval. After it is dedicated to public use, the Greenway Area shall continue to be included in the total area of open space and amenities within the Property. If the Greenway is not dedicated by subdivision plat, the Owner shall be responsible for the cost if a survey and preparing the deed to convey the Greenway to the County.
6. **Pocket Park.** In conjunction with the subdivision plat or site plan that includes the land described in this Proffer 6, the Owner shall establish an approximately 10,000 square foot pocket park (the "Pocket Park") located on the northern edge of Block B1 fronting Town Center Drive as shown on the Amended Application Plan for Blocks B1, B2, and B4, and shall include all such improvements, landscaping and other features identified in the Code of Development. The Pocket Park shall be included in the total area of open space and amenities within the Property. The subdivision plat or the site plan shall include a note stating that the Pocket Park is reserved for future dedication to the County of Albemarle and, upon the request of the County; the Owner shall dedicate in fee simple the Pocket Park to the County. If the Pocket Park is not dedicated by subdivision plat, the Owner shall pay the costs of surveying the Pocket Park, preparing one or more plats thereof and preparing and recording one or more deeds of dedication.
7. **Recycling Center or Other Community Facility.** Upon the request of the County, the Owner shall dedicate in fee simple a two (2) acre parcel of land for use by the County or its designee as a Recycling Center, or other community facility identified in the CIP, to be located in an area most appropriate for such use as agreed by the County and the Owner. If the land for the Recycling Center or Community Facility is not dedicated by subdivision plat, the Owner shall pay the costs of surveying the land, preparing one or more plats thereof and preparing and recording one or more deeds of dedication.
8. **Recreational Facilities.** The owner shall contribute \$500.00 cash per residential unit, to be paid at the time of issuance of each building permit unless the timing of the payment is otherwise specified by state law, for the purpose of funding the expansion or new development of regional outdoor recreational facilities as determined by the County Parks and Recreation Department.
9. **Critical Slopes, Erosion and Sediment Control and Stormwater Management.**
  - A. **Critical Slopes.** The owner shall apply for critical slope waivers for any roads located in critical slopes governed by § 18-4.2 et seq. of the Albemarle County Code.
  - B. **Erosion and Sediment Control.** The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and



sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate.)

- C. **Revegetation.** Within nine (9) months after the start of grading under any erosion and sediment control permit, permanent vegetation shall be installed on all denuded areas, except for areas the Program Authority determines are otherwise permanently stabilized or are under construction with an approved building permit. A three (3) month extension for the installation of permanent vegetation may be granted by the Program Authority due to special circumstances including but not limited to weather conditions.
- D. **Stormwater.** The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional stormwater management to achieve a removal rate 20% better than would otherwise be required by the Water Protection Ordinance (Albemarle County Code § 17-100 et seq.) up to a maximum of an eighty percent (80%) removal rate for each phase.

10. **LEED Standards for Core and Shell Development.** The Owner shall cause the commercial and mixed-use buildings in the Project to be designed and constructed to meet minimum standards for certification (twenty-three (23) credit points) under LEED Green Building Rating System for Core and Shell Development as set forth in the U.S. Green Building Rating System, Version 2.0, and July 2006. Prior to the issuance of a building permit the Owner shall submit a certification from the LEED certified architect to the Director of Community Development that the building meets LEED standards. Before the Owner requests that a certificate of occupancy for any building for which a licensed architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development a written statement for the architect that the building was built to the plans on which the certificate was based.

11. **Phasing Plan.** Prior to the issuance by the County of a building permits that would authorize the construction of any square feet of gross floor area (aggregate) of commercial and office gross floor area within the Property, building permits shall have been issued for at least 100 dwelling units. Prior to the issuance by the County of a building permit that would authorize construction of up to 200,000 sq ft of gross floor area (aggregate) of commercial and office gross floor area with the Property, building permits shall have been issued for at least 600 dwelling units.

12. **Willow Glen Connection.** Upon the request of the County, the Owner shall dedicate for public use a public right-of-way determined to be appropriate by VDOT and the County Engineer, extending from Town Center Drive to the Property's boundary with the purposed Willow Glen development, as shown on the Application Plan and within Block C6 as shown on the Block Plan (the "Willow Glen Connection"). Upon the request of the County, the Owner shall grant all necessary drainage easements required for the Willow Glen Connection and all temporary construction easements to appropriate parties, including developer of the proposed Willow Glen Development, to allow the construction of the Willow Glen Connection. Approval of the County Engineer and the owner for the location of the connection to Willow Glen may be shifted from the



area shown in the Application Plan to a more suitable location to both the Owner and the County which still provides access from Willow Glen to Town Center Drive.

13. **Community Development Authority.** Upon the request of the County, Owner shall petition for and consent to a Community Development Authority ("CDA") established pursuant to Section 15.2-5152, et seq. of the Code of Virginia ("Code") to be created, excluding residential property within the Property, for the purpose of financing, funding, planning, establishing, constructing, enlarging, extending, or maintaining (except to the extent VDOT maintains any public improvements) Route 29, and roads and other improvements associated therewith.

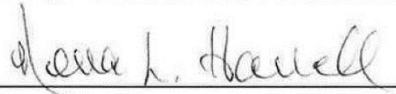
**WITNESS the following signature:**

**Route 29 LLC,  
A Virginia Limited Liability Company  
P.O. Box 5548  
Charlottesville, VA 22905**

By:   
**Operating Manager**

**COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Albemarle, to-wit**

**The forgoing instrument was acknowledged before me this 27<sup>th</sup> day of May, 2016,  
By Wesley W. Wood, Operating Manager of Route 29 LLC, a Virginia limited  
liability company.**

**My Commission expires: April 30, 2017   
**Notary Public****

**Notary registration number: 102181**

7

Agenda Item No. 19. **Public Hearing: PROJECT: ZTA-2016-00005. Family Day Homes.** An ordinance amending Sec. 18-5.1.56 to reduce the maximum number of children receiving child care services in a dwelling unit that would be considered and regulated as a single family use from 5 to 4 children, and to reduce the minimum number of children receiving child care services in a dwelling unit licensed and regulated as a family day home by the Virginia Department of Social Services from 6 to 5 children, all as provided by Virginia Code § 15.2-2292 and other State laws.

*(Advertised in the Daily Progress on May 23 and May 30, 2016.)*

The Executive Summary forwarded to the Board states that on May 3, 2016, the Planning Commission voted 6:0 to recommend approval of ZTA 2016-05 to amend family day home regulations.

The Planning Commission's staff report and minutes from the May 3, 2016 meeting are attached (Attachments A and B), which provide background on this zoning text amendment.

Staff recommends that the Board adopt the proposed ordinance (Attachment C) to amend family day home zoning regulations.

Ms. Rebecca Ragsdale, Senior Permit Planner, addressed the Board and stated that this is a housekeeping text amendment in response to a state law change to the enabling legislation for zoning of family day homes, which are permitted in all residential and planned developments allowing residential uses and are allowed in all dwelling unit types. Ms. Ragsdale stated that the zoning regulations for family day homes will not change, nor will the process, and she presented a slide on what will change. She explained that currently, if you care for 5 or fewer children in a family day home, it is treated as a single-family use, which means that no clearance requirements or special use permits can be required; a family day home for 6-12 children would be handled through the zoning clearance process, and special exception, if needed. Ms. Ragsdale stated that the proposed ordinance in response to state law changes

will move the number down to 4, so beginning July 1, family day homes wanting to care for 5-12 children will need to go through the Department of Social Services licensing process for family day homes, and the County's zoning clearance process as established. Ms. Ragsdale stated that the changes are a result of some fatal fires at family day homes that were not regulated, and said that a copy of the proposed ordinance can be found in Attachment C of the staff report.

Ms. Mallek asked if DSS is not required to be involved with family day homes with 5 or fewer children, and if the 4 children did not include the caregiver's own children. Ms. Ragsdale responded that there is a voluntary registration program for fewer than 5 children, but it is not required, and the limit is exclusive of the provider's children.

Ms. Mallek asked if there is no specified ratio of teachers to children as part of the state regulations. Ms. Ragsdale responded that the ratios of staff of numbers of children and ages are part of the DSS regulations, and confirmed that it will only apply to ages five and above.

The Chair opened the public hearing.

There was no public comment, and the Chair closed the public hearing.

Ms. Palmer asked if the family day homes for five children and under are licensed, and if the County would have to find them and instruct them of the changes. Mr. Kamptner said the state will require those with five or more to come forward and demonstrate that they are in compliance with zoning.

Ms. Mallek stated that they would have to find them, which would be an impossible task.

Ms. Palmer asked for clarification about the voluntary registration. Ms. Ragsdale responded that there is no requirement to get the registration with social services, although they offer a program to encourage additional training, which they call a voluntary registration program. She stated that currently, that is for five or fewer children, and the change would make it four or fewer children, and the state has sent letters to all of the providers in their system to make them aware of the change, so they would either go down to four children or contact the County and DSS to go through those clearance processes.

Ms. McKeel commented that this is not very tightly regulated.

Ms. Mallek **moved** to adopt Ordinance No. 16-18(6) to approve ZTA 2016-00005 Family Day Homes, with the standing correction of Mr. Morris as Acting Clerk. Mr. Randolph **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.

NAYS: None.

**(The adopted ordinance is set out below:)**

#### **ORDINANCE NO. 16-18(6)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

#### **By Amending:**

Sec. 5.1.56      Family day homes

#### **Chapter 18. Zoning**

#### **Article II. Basic Regulations**

#### **Sec. 5.1.56 Family day homes**

Each family day home shall be subject to the following:

- a.      *Care for four or fewer children.* Each family day home providing care for four (4) or fewer children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be regulated as a single-family residential use.
- b.      *Care for not fewer than five but not more than twelve children.* Each family day home providing care for not fewer than five (5) but not more than twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be subject to the following:
  1.      *Traffic.* The additional traffic generated by a family day home, excluding trips associated with the dwelling unit, shall not exceed twenty-four (24) vehicle round trips per day. For the purposes of this section, a "vehicle round trip" means one vehicle entering and exiting the site. The limitation on the number of vehicle round trips per day may be waived or

modified by special exception. In acting on a special exception, the board shall consider whether the waiver or modification of the number of vehicle round trips per day will change the character of the neighboring agricultural area or the residential neighborhood, as applicable, and whether the additional vehicle trips per day will be a substantial detriment to abutting lots. Notice of the application for a special exception shall be posted as provided in section 33.4(m)(2).

2. *Parking.* Each family day home shall provide one (1) parking space plus one (1) parking space for each additional employee. The parking spaces may be located on-site, on the street where authorized by law, or in a parking lot safe and convenient to the family day home.
3. *Entrance and access.* In conjunction with each application for a zoning clearance, the zoning administrator shall identify, if necessary, the applicable design and improvements required that are at least the minimum necessary to protect public health and safety by providing safe ingress and egress to and from the family day home site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator may consult with the county engineer or the Virginia Department of Transportation regarding the minimum design and improvements for the entrance and access.
4. *State licensure.* Each family day home shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the family day home shall provide a copy of the license to the zoning administrator. The owner or operator's failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter.
5. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the family day home. The owner or operator's failure to promptly admit the fire official onto the premises and into the dwelling unit to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter.
6. *Waivers or modifications by special exception.* Except as provided in subsection (b)(1), no requirement of this section may be waived or modified.
7. *Zoning clearance and notice of request.* No family day home shall commence without a zoning clearance issued under section 31.5, subject to the following:
  - a. *Notice to abutting lot owners.* At least thirty (30) days prior to acting on the zoning clearance, the zoning administrator shall provide written notice of the application for a zoning clearance to the owner of each abutting lot under different ownership than the lot on which the proposed family day home would be located. The notice shall identify the proposed family day home, its size and capacity, its location, and whether a special exception under subsection (b)(1) is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed or hand delivered at least thirty (30) days prior to the action on the zoning clearance. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement.
  - b. *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.
8. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01; § 5.1.56, Ord. 13-18(5), 9-11-13)

This ordinance shall be effective on and after July 1, 2016.

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Agenda Item No. 20. **Public Hearing: CPA-2016-00001. Comprehensive Plan – Cash Proffer Policy.** Repealing the cash proffer policy, which is part of Appendix 3, Growth Management, of the Albemarle County Comprehensive Plan. The cash proffer policy established a maximum cash contribution per residential unit to address impacts to certain public facilities resulting from a zoning map amendment.

*(Advertised in the Daily Progress on May 23 and May 30, 2016.)*

Roll was called, and the motion passed by the following recorded vote:

The Executive Summary forwarded to the Board states that the attached May 10, 2016 Planning Commission ("PC") staff report (Attachment A) explains that Senate Bill 549, which will be codified as Virginia Code § 15.2-2303.4 effective July 1, 2016, changes the law pertaining to proffers addressing impacts resulting from rezonings approving new residential developments (see Legislation Memorandum, Attachment D). Because the County's current Cash Proffer Policy, which is included in the Comprehensive Plan as Appendix A.3.3, will be inconsistent with this new legislation, a Comprehensive Plan Amendment is necessary to repeal the County's Cash Proffer Policy.

On May 10, 2016, the PC unanimously recommended repealing the Cash Proffer Policy. The PC discussion was limited due to the fact that the Cash Proffer Policy must be repealed due to the new legislation.

The County may still collect cash proffers based on the impacts of the development. However, these impacts must be addressed on a case by case basis and will vary from project to project.

See the PC staff report for information regarding staff's anticipated budget impact to the County resulting from the repeal of the Cash Proffer Policy.

The PC, during its May 10, 2016 discussion, commented that it may be appropriate to consider comprehensive rezoning to align zoning with the designation in the Comprehensive Plan, as was done in Crozet.

Staff and the Planning Commission recommend that the Board adopt the attached Resolution (Attachment C) to amend the Comprehensive Plan by repealing the Cash Proffer Policy.

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Mr. Bill Fritz, Chief of Special Projects, addressed the Board and stated that the County's cash proffer policy was adopted in 2007, and this year the General Assembly passed Senate Bill 549, which becomes effective July 1 and requires that proffers address impacts that are specifically attributable to the new development and provide a direct and material benefit to the development. Mr. Fritz stated that the new legislation also limits proffers to addressing public safety, schools, transportation, and parks and recreation, which the County's existing proffer policy considers along with libraries, which are no longer allowed under proffers as of July 1. He said the County's current cash proffer policy is not consistent with the new legislation because of the library provision and because it uses countywide averages to determine impacts. Mr. Fritz stated that this does not prevent the County from accepting cash proffers, it just requires that the proffers are addressing impacts that are specifically attributable to the development and are providing a direct and material benefit to the development. He said the Planning Commission unanimously recommended approval and also discussed the possibility that the County consider a comprehensive rezoning to match the comprehensive plan.

The Chair opened the public hearing.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board and stated that they are at an important pivot point with proffers, specifically cash proffers, and as the County costs out the number for specific cash proffers that provide a direct benefit, they will be better off walking away from cash proffers. Mr. Williamson stated that the Forum believes this is a "welcome stranger" tax that penalized people moving here, and also longtime residents who have been paying into the CIP all along and decide to move down the street.

Ms. Valerie Long addressed the Board and stated that the Planning Commission had an interesting discussion regarding the possibility of considering a proactive rezoning of the entire County so it would match the designations spelled out in the Comp Plan. She stated that she thought this would be a welcome process, but she has concerns that it would take an extremely long time and would be a controversial process. Ms. Long said that an easier step would be to not create any additional hurdles on top of those already there, and just develop in accord with the Comp Plan. She stated that the addition of cash proffers complicate the challenges of rezonings, which is already a time-consuming and expensive process that scares of a lot of projects, and when her law firm explains the process to potential applicants, they simply calculate the time and investment involved and decide it is not possible. Ms. Long said that eliminating the additional challenges of cash proffers will eliminate one of the most significant challenges with redevelopment, to be consistent with the Comp Plan.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board and stated that he serves on the Fiscal Advisory Committee and they are struggling with the proffer calculations. He stated that he is not sure how he comes down on the proffer issue because there is a cost for rezoning, but the proffers only cover a part of it, and there is still a lot to be funded from other sources. Mr. Werner stated that if they want the growth area to work, they need to look at the entirety of what it will take to make it a desirable place. He stated that he really bristles at the claim that getting rid of proffers will make houses \$20,000 cheaper, as sellers are driven by what the market will bear, and houses all over the County are being bought and sold. Mr. Werner said that it will be interesting to see if the cost of homes actually drops by the eliminated proffer amount.

Mr. Wendell Wood addressed the Board and stated that what they should be looking at is what constitutes affordable housing, and said that he has been building in the community for 55 years, and the

Briarwood subdivision was affordable housing before it was even called that, with finished lots selling for \$4,800, and those same lots today cost him \$55,000 just to meet the regulations to build on it. Mr. Wood stated that it is getting to the point that housing will only be available to the very wealthy, and he feels that would be a mistake.

There being no further public comment, the Chair closed the public hearing.

Ms. Mallek stated that the Board really does not have a choice in this matter, given the new state legislation.

Ms. Palmer noted that the conversation about proactive rezoning should take place at another time.

Regarding the proffer issue, Ms. Palmer asked if the County can use averages in determining impacts when denying a rezoning. Mr. Fritz explained that the Code of Virginia contains the provisions to be considered when drawing zoning boundaries, and the impact on infrastructure and facilities is one of those factors, so repealing the cash proffer policy may give the Board broader flexibility in taking into consideration all of the provisions of the Comp Plan.

Mr. Randolph stated that as they move beyond SB549, one of the things they would benefit from is to get together with the Planning Commission and the Fiscal Impact Advisory Committee to look at some other funding models, which the chair of that committee has been exploring. He said they would be well served to discuss this and invite members of the development community to participate. He stated that it is also apparent that they need to separate affordable housing from proffers, as the County has tried to use the latter to achieve the former. Mr. Randolph stated that they need to be mindful of affordable housing in the rural area, much of which is in southern Albemarle County, in addition to the affordable housing in the urban ring.

Mr. Sheffield **moved** to adopt the resolution to approve CPA-2016-0001 to repeal the cash proffer policy as found in the Comprehensive Plan, noting the correction to the authentication block to reflect Mr. Morris's role as Acting Clerk. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.

NAYS: None.

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Ms. Mallek commented that she would like the Board to ask the County Attorney to prepare training for staff, Board members, and citizen committee appointees to deal with the risk management aspect of this issue. She stated that this was a major discussion at VACO, and there will be serious consequences if people do not know how to be quiet about this issue.

Mr. Kamptner stated that he has already done a training session with Community Development staff and has spoken with the Planning Commission, and citizen advisory committees are getting a broad training in July and that will be included in the discussion, which he will also have with the Board. He emphasized that if there are any pending applications, they should not make any suggestions about proffers at this point.

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**(The adopted resolution is set out below:)**

**RESOLUTION TO APPROVE CPA 2016-00001  
AND TO REPEAL THE CASH PROFFER POLICY**

**WHEREAS**, Senate Bill 549, which was passed by the General Assembly in 2016, and which is to be codified as Virginia Code § 15.2-2303.4 effective July 1, 2016, changes the law pertaining to proffers addressing impacts resulting from rezoning map amendments approving new residential developments; and

**WHEREAS**, because the County's current Cash Proffer Policy, which is included in the County's Comprehensive Plan adopted on June 10, 2015 as Appendix A.3.3. (the "Cash Proffer Policy"), will be inconsistent with this new legislation, a Comprehensive Plan Amendment is necessary to repeal the Cash Proffer Policy; and

**WHEREAS**, Virginia Code § 15.2-2229 authorizes the Albemarle County Board of Supervisors to amend the Comprehensive Plan after having received the recommendation of the Albemarle County Planning Commission; and

**WHEREAS**, the Comprehensive Plan amendment identified as CPA 2016-00001 proposes to amend the Comprehensive Plan by repealing the Cash Proffer Policy; and

**WHEREAS**, on May 10, 2016, after a duly noticed public hearing, the Planning Commission recommended approval of CPA 2016-00001; and

**WHEREAS**, on June 8, 2016, the Board of Supervisors held a duly noticed public hearing on CPA 2016-00001; and

**WHEREAS**, the Board of Supervisors has carefully considered the discussion and recommendations of the Planning Commission, and the information and comments provided by the public during the public hearings held by the Planning Commission and the Board of Supervisors; and

**WHEREAS**, the Board of Supervisors concludes that approval of CPA 2016-00001 to amend the Comprehensive Plan by repealing the Cash Proffer Policy is necessary to ensure that the County's Comprehensive Plan policies are consistent with Virginia Code § 15.2-2303.4.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, and for the purposes articulated in Virginia Code § 15.2-2223(A), the Albemarle County Board of Supervisors hereby approve CPA 2016-00001 to amend the Comprehensive Plan by repealing the Cash Proffer Policy, which is Appendix A.3.3 of the Albemarle County Comprehensive Plan adopted on June 10, 2015; and

**BE IT FURTHER RESOLVED THAT** the Board of Supervisors authorizes County staff to make any other changes to references to the Cash Proffer Policy in the Albemarle County Comprehensive Plan adopted on June 10, 2015 that do not change the substance of the text.

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Agenda Item No. 21. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Sheffield mentioned that the Route 29/Rio construction tour was full, but he is working with Mr. Philip Shucet to establish a tour just for County officials and staff.

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Agenda Item No. 22. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

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Agenda Item No. 23. Adjourn to June 14, 2016, 6:00 p.m., Lane Auditorium.

At 9:46 p.m., Ms. McKeel **moved** to adjourn the Board meeting to June 14, 2016 at 6:00 p.m. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Dill, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.  
NAYS: None.

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Chairman

Approved by Board
Date 06/08/2017
Initials CKB