

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 9, 2016, at 3:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. This meeting was adjourned from November 2, 2016. The regular night meeting was held at 6:00 p.m., Lane Auditorium.

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

ABSENT: Mr. Brad L. Sheffield.

OFFICERS PRESENT: County Executive, Thomas Foley, County Attorney, Greg Kamptner, Clerk, Claudette K. Borgersen and Senior Deputy Clerk, Travis O. Morris.

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

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

Ms. McKeel announced that Mr. Sheffield would be absent from today's meeting as his wife is having surgery.

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Agenda Item No. 2. **Presentation:** Two Year Balanced Fiscal Plan in context of Five Year Financial Plan.

Mr. Foley said they will have a discussion about the two-year balanced fiscal plan followed by a joint meeting with the School Board to discuss the five-year financial needs of the schools; Trevor Henry, Director of Facilities and Environmental Services, will then review the Capital Improvement Plan (CIP) to obtain Board input before the CIP Oversight Committee begins its work. He stated that this discussion is an important milestone in the process approved by the Board, as the County moves away from the traditional needs-based approach, which failed to make hard choices and set clear priorities for schools and local government with constrained resources, despite the fact it was well intended.

Mr. Foley showed a graph of the Five-Year Financial Plan with revenue and expense projections for FYs 17-21 that indicate a growing budget gap. The next slide showed three building blocks of long range planning as follows: take organizational transformation to the next level while making strategic investments that reposition us for the future; determine Board and community priorities; and develop a realistic two-year fiscal plan with the five-year plan framework. He said this new process is known as "priority-driven budgeting," which will provide a more robust engagement with the Board in setting strategic priorities. He displayed a list of areas in which priority-driven budgeting provides improvements: prioritize services; do important things well; question past patterns of spending; know the true cost of doing business; and provide transparency. Mr. Foley presented the next slide, which showed a timeline of the budget preparation process, dating from May 2016 to October 2016 and culminating with the strategic plan. He said it is an evolving process and there could still be some new things added before the annual budget is presented in February 2017. Mr. Foley stated that they believe the Two-Year Fiscal Plan reflects the priorities set by the Board. Mr. Foley presented the next slide showing the following list of strategic priorities as set by the Board: redevelopment and revitalization, economic development, school facilities, educational opportunities for at-risk four year olds, salary compression remedy, family support program, General District Court expansion, water resources/storm water funding, and the Pantops Master Plan, including the Rivanna River corridor.

Mr. Foley said that staff has been studying transformational ideas that would help direct spending to priorities, rather than just cutting services. He presented a slide showing ideas that have sparked transformation, divided into external and internal perspectives, with external perspectives including resource management review and the Citizens Resource Advisory Committee (CRAC), and internal perspectives including the Innovation Fund and Joint Schools/Local Government Efficiency Study. Mr. Foley stated that CRAC has proposed a greater focus on economic development, expansion of taxing authority service districts, crowd and grant funding, and bond issues. He said they have reached out to employees under the Innovation Fund for ideas on restructuring, adding that schools and local government have worked hard to come up with transformational ideas.

Mr. Foley presented a second graph of five-year plan revenues and expenditures, demonstrating elimination of the budget shortfalls in FYs 18 and 19 and narrower shortfalls in FYs 20-22. He said that rather than a needs-based approach, the graph represents a 60/40 split between schools and local government. Mr. Foley then presented a slide outlining the focus areas of the two-year plan, with the following categories: overall highlights, strengthening the fiscal picture, how things have changed, repositioning for the future, and what still needs to be addressed. The next slide showed a summary of the highlights as follows: stronger than projected revenues, strategic use of new revenue and one-time money, transformation that reduces costs and improves productivity, enhanced use of dedicated revenue for specific services, no tax rate increases for operating expenses, CIP tax rate increases delayed, and continue to face unmet needs. The next slide related to the strengthening revenue picture, noting opportunities provided with stronger than projected revenues and one-time, year-end funds. Mr. Foley presented a slide showing a list of reasons for cautious optimism, with the following bullet points: positive change in housing market due to reassessments and new construction, better overall local economy, fund balance provision of one-time money for strategic investment, and shifting burden of storm water mandates from real estate tax rate to storm water fees. He also noted that economic uncertainty remains.

Mr. Foley referenced a chart depicting real estate, general property, local revenues, and state aid funds from FY07 to FY18, including projections. Mr. Foley said that real estate tax revenues are the largest source of funding followed by other local revenues, and noted that the graph shows relatively flat revenues from 2007 to 2012 and gradually increasing revenues since then. The graph also displayed the real estate tax rate for each fiscal year, with slight increases projected over the next two years and a drop in the .7 tax rate proposed for the dedicated storm water plan, which would be replaced by storm water fees. However, he said, 1.3 cents would be added to support the capital program.

Mr. Foley continued with a slide showing a revised assumptions for reassessment growth chart, depicting expected flattened revenues from real estate property taxes through FY19, and an adjacent chart showing the Community Development Department yearly expected increases in revenues from building permits. He stated that the median income of the average U.S. household increased 5.2% from 2015, representing the first increase since 2007. He said that year to date, the County has issued the most single-family home building permits since 2006, noting that the slide has the heading, "Cautious Optimism Tempered by External Realities." Mr. Foley referenced the four bullet points listed: continuing uncertainty/volatility in the national and international economy; concern about the possibility of economic slowdown based on historic trends; the state is struggling with its economic outlook; and local revenue growth is not likely to regain a steady, significant upward trend. Mr. Foley said the next slide shows three focus areas as follows: advancing strategic priorities, maximizing transformation, and sustaining a quality organization.

Mr. Foley presented a slide listing strategic priorities, with the first priority of redevelopment/revitalization encompassing three sub-headings: one time funding to catalyze strategic initiatives, substantial increase for transportation revenue sharing, current year one-time staffing resources, and a service district concept. He said that one-time funding to catalyze strategic initiatives includes small-scale neighborhood improvement money, improving deteriorating physical conditions in the urban ring, and funding for Rivanna River corridor planning. Under transportation revenue sharing, they have secured funding to support transportation and redevelopment efforts. Mr. Foley stated that under the service district concept, the County would try to generate more resources to areas that would benefit citizens in the urban areas. He said there would be the potential to impose a tax increase within a particular service district that benefits residents of that area, and staff would make a presentation to the Board about proposed service districts and how they would function.

Mr. Foley reported that the second priority is economic development, with the County establishing an economic development fund having three objectives: match specific state grant opportunities; encourage economic investment in development areas to support neighborhood revitalizations; and implement priority economic development initiatives. He said the establishment of the fund, with unused funds remaining for future projects, is a way to focus their priorities. Mr. Foley stated that a third priority is a remedy for salary compression to be fully implemented across the organization, including police officers. Mr. Foley stated that compression defines the situation of new hires earning the same as employees who have been with the County for several years. He reported that a fourth priority is support for other strategic initiatives, and listed expansion of the General District Court, school facilities, educational opportunities for at-risk four year olds, increased resources for the Family Support Program, and the Pantops Master Plan/Rivanna River Corridor.

Mr. Foley presented the next slide, with a heading of "Transformation," and listed four categories along with sub-categories: restructuring ongoing obligations, health insurance, CSA, boosting productivity and efficiency; P-card program budgeting lapse; reduced overtime, finance process improvements; reinventing business processes; consolidation; technology; and growing innovation. He said that County employees are being offered a consumer-driven, high-deductible health insurance plan with a health savings account, and recent efforts to reduce costs have included implementation of deductibles, changes in spousal eligibility criteria, dependent eligibility reviews, selection of a new provider, and analysis of the insurance market. Mr. Foley noted that all of these efforts together have had a significant impact and have allowed for slowing of premium increases. Mr. Foley said that consolidation efforts under "reinventing business processes" that include implementation of a pool of office assistants, combining Department of Social Services and Housing, and fleet maintenance consolidation. He next described some technology efficiencies to include conversion of the copy center to an imaging center and a kiosk for Finance Department customers to pay taxes. He summarized all of these efforts as providing savings as well as future cost containment aspects.

Mr. Foley's next slide was entitled "Quality Organization" and listed steps taken to support the existing workforce including: market adjustment for employee compensation, health care premiums, classification reviews, and compression remedy. He said there are 2% pay increases planned for each year of the two-year fiscal plan, and steps taken to build the workforce of the future include: one-time departmental work load support and a staffing plan to add full-time positions. Mr. Foley noted that the workload support includes contracting out some work and adding temporary staff, and the County plans to add two planners to help Community Development. He stated that they plan to add four police officers over two years. Mr. Foley presented a slide entitled "Capital Improvement Plan," and listed primary points: adjusted five-year time span from FY17-FY 21 to FY18-FY22, updated revenue projections, updated expenditure projections, CIP Oversight Committee beginning review, amendment year process.

Mr. Foley presented the next slide, entitled "Strategic Use of One-Time Monies," and listed the following funding initiatives and amounts:

Provide additional cash to CIP:	\$3,500,000
Provide additional cash to CIP Transportation revenue sharing	2,000,000
Board's Strategic Priority Support – Neighborhood Revitalization	320,000

Economic Development Fund – Investment Opportunities Support	480,000
Economic Development Fund – Economic Opportunities Fund	150,000
Board’s Strategic Priority Support -	100,000
Transformational Initiatives – Records and Fleet Management, OA pool	275,000
Grants Matching Fund:	100,000
Innovation Fund	150,000
Departmental Workload Capacity: contractual/temporary support	500,000
Staffing Plan – One Time Costs	230,000

Mr. Foley closed his presentation by reviewing continuing challenges that are not addressed within the strategic priorities, but on which they are making progress. He said the CIP is still strained, they still have staff capacity challenges, they are not able to fully meet aspirations for service levels, and they face a continued threat of an uncertain economy. Mr. Foley presented the next steps in the process as follows: Board of Supervisors Work Session, November 17, 11:30 a.m.–1:30 p.m.; Board of Supervisors Work Session to address Two-Year Balanced Fiscal Plan, December 7, 6 p.m.; Board of Supervisors Work Session to approve Two-Year Fiscal Plan and provide guidance for the annual budget, December 14, 3–5 p.m.

Mr. Randolph asked about the slide entitled, “Revenue Projection Update Reflects Stronger Economic Activity than Anticipated,” particularly what factors would explain the decline from 2015 to 2017, as there had been annual growth in the previous three years. Mr. Foley replied that a significant factor is the local market, and he will provide details once they get to the work session.

Ms. Mallek brought up sequestration as a potential factor as property values were inhibited because people were not coming.

Mr. Randolph referenced the strategic priority of economic development and noted that it does not mention “Go Virginia,” although he assumes it would be part of the matching of state grant opportunities. He added that he would like to see the regional dimension highlighted, as it would be critical for them to be able to think and operate regionally.

Mr. Foley agreed and said there is some good news on the horizon with this program.

Mr. Randolph referenced reinventing business processes and combining the Department of Social Services and Housing. He said that instead of viewing it as transformational, he sees it as a marginalization of housing, which he feels should be with Community Development. He added that by merging it with DSS, they lose opportunities for the cross fertilization and communication that would need to take place between Housing and Community Development as they work on projects. Mr. Foley replied that there was some logic to consolidation, but that Mr. Randolph’s point is well taken.

Mr. Randolph referenced strategic use of one-time monies and noted a gap between the proposed expenditures and the anticipated revenue surplus, and asked where the remaining funds would be assigned.

Mr. Foley said he would address Mr. Randolph’s questions at a future meeting.

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#### **Joint Work Session with School Board.**

School Board Members Present: Ms. Kate Acuff, Mr. Jonathan Alcaro, Mr. Jason Buyaki, Mr. Stephen Koleszar, Ms. Pamela Moynihan, Mr. David Oberg and Mr. Graham Paige.

School Staff Present: Dr. Pam Moran, Superintendent, Mr. Matt Hass, Assistant Superintendent of Schools, Mr. Dean Tistadt, Chief Operating Officer, Mr. Jackson Zimmerman, Executive Director of Fiscal Services, Mr. John Blair, Senior Assistant County Attorney, and Mrs. Jennifer Johnston, Clerk.

At 3:45 p.m., Ms. Acuff called the School Board meeting to order.

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#### **Agenda Item No. 3. Presentation: School Board – Five Year Needs.**

Ms. Acuff stated that the bond referendum passed with 73% support. She commended staffs of the County and the schools for their work on educating the community regarding the bond issue and believes their work ensured its passage. She commented that it is a good lesson demonstrating how they can work together.

Ms. Palmer thanked voters for approving the referendum and supporting education.

Mr. Haas addressed the Board and said he will discuss the five-year forecast. Mr. Haas thanked Ms. Lee Catlin, Mr. Phil Giaramita, Mr. Tim Shea and School Board members for their work in communicating the facts behind the bond referendum. He said that, as the parent of two children in County schools, he thinks about his level of trust in the Board of Supervisors to use resources wisely. Mr. Haas stated that the passage of the referendum is an indication of citizens’ trust in the Board of Supervisors.

Mr. Haas presented slides, with the first one showing an agenda consisting of the five-year

financial forecast, an overview of the Capital Improvement Plan, the Community Policy Management Team, and a joint resolution to honor veterans. According to the agenda, he said, the School Division is required by state code to provide a needs-based budget. Mr. Haas said the next slide, entitled "Primary Drivers of the Budget," lists the following drivers: salary, benefits, growth, special education, economic need, English as a second or other language, inflation, the Children's Services Act (CSA), and pre-kindergarten. He noted that salary and benefits represent 85%. Mr. Haas stated the next slide is titled "Desired Outcomes" and listed three points he hopes Board members will take away from the presentation as follows: understand updated figures, review major drivers, and consider the school division's Five-Year Financial Forecast as a framework for discussion; provide guidance to staff regarding Board priorities for the count as a whole; and consider the school division's needs-based forecast within the context of local government's Two-Year Financial Plan.

Mr. Haas explained the difference between the concepts of equality and equity in education, stating that equality means providing the same level of support to all students, and equity means providing the same opportunities to all students. He stated that some students are behind in learning, which could be influenced by race, gender, or economic level, and the system may have to provide additional resources to these students so they can gain from the same learning opportunities as other students. Mr. Haas said that equity must be achieved before there can be equality. Mr. Haas' next slide shows comparison pie charts of school division revenue sources, as well as enrollment levels for FY08-09 and projected FY17-18, noting that enrollment has risen from 12,541 to 13,451 over this period. He said that local government provides, by far, the largest source of funds to the schools, followed by state and federal aid, and he referenced a slide demonstrating a decline in state funding, which has been replaced by local funding to fill the gap. He stated that local funding now represents approximately 70% of revenues, compared to 67% in 2007-2008. Mr. Haas' presented a slide indicating that per-pupil, state aid has declined from \$3,653 to \$3,192 over this same period, and a slide showing past and current projected future enrollment levels through FY21-22, with increases projected each year.

Mr. Haas presented a slide showing that while enrollment has increased 7.5% since FY05-06, the enrollment of economically disadvantaged students has increased by approximately 38%. He explained the concept of mobility, which represents the challenge of students entering or leaving the schools during the middle of the semester, and how this occurs more frequently with those receiving free or reduced lunch. Mr. Haas stated that this can negatively impact their performance, and students often move among different schools within the County. Mr. Haas' next slide showed a chart of increasing spending on differentiated learning programs over the past several years and projected to continue in the near future, with differentiated learning programs, including Special Education, ESOL, CSA, SPED and differentiated staffing. He presented his next slide, entitled "Major Year 1 Expenses," and listed the following: a 2% salary increase, 1.78% VRS rate increase mandated by the state, additional funds for salary compression, and 7% health care increase.

Mr. Haas stated that he held a focus group with teachers last week to explain how the budget is created in terms of revenue sources and expenses, and to obtain their input as to how compensation levels should be determined. He next displayed a slide showing projected levels for the next five years with health care costs increasing at 7-8% per year, salaries at 2% per year, and VRS and life insurance benefits being eliminated by FY19-20. The next slide shows projected revenue shortfalls for each of the next five years with shortfalls of \$2.3 million for the next two years and then decreasing. He concluded his presentation, emphasizing that the schools require additional revenues to address current levels of service and they are operating under the assumption that the joint Boards support initiatives to address changing demographics.

Ms. McKeel asked for clarification that compression affects classified staff and not teachers. Mr. Haas confirmed this, as teachers have a separate pay scale.

Ms. Palmer asked how they calculated revenue estimates for future years. Mr. Zimmerman responded, explaining that in future years they anticipate additional revenue coming from the state for growth. He stated that every two years, they review Standards of Quality (SOQ), used to determine state aid. Mr. Zimmerman noted that federal revenues are minimal and only represent 2% of their revenues.

Mr. Foley stated that he has some good news, which is that the updated revenue projections are better, approximately \$700,000 over each of the next two years, than what was just shown in the school division presentation.

Ms. Acuff emphasized that the recent decreases in state funding are the cause of all revenue gaps and she urges the state to return to financing public education, and commended the Board for stepping in to fill the gap.

Mr. Koleszar said the 2% salary projection increases, particularly for teachers, is not realistic and they may see teacher shortages. He said the increases would likely have to be greater.

Ms. McKeel asked if the School Division representatives could address a letter to legislators regarding the impact of reduced state aid, which could be signed by the School Board and Board of Supervisors members. Ms. Acuff said the School Board has received about 80 letters within the past few weeks from teachers requesting pay increases. There is genuine concern by teachers in terms of considering healthcare costs and spouses no longer able to be covered under their health insurance, cuts to stipends and professional development, as well as increased workloads, and a 2% increase does not keep up with this.

Mr. Koleszar reminded her of a slide presented during the spring budget presentation that indicated a teacher hired in 2005 is earning less today than in 2005, when adjusted for inflation.

Ms. McKeel pointed out that the spouses dropped from health insurance coverage are those who had insurance available through their own employers.

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Agenda Item No. 4. Preliminary FY 18 – FY 22 CIP Overview (Amendment Year).

Mr. Trevor Henry, Director of Facilities and Environmental Services, addressed the Board. He presented a series of slides reflecting: the amendment year process, review of requests, maintenance funding levels, process input, and questions and discussion. He read a definition of the Capital Improvement Program: "A CIP is a combination of the Capital Improvement Plan and the Capital Needs Assessment and represents a statement of the County's policy regarding long-range physical development for the next 5 and 10 years, respectively." He further described it as being an intersection of the Comprehensive Plan and financial planning, stating that the CIP is a five-year balanced plan of revenues versus expenses that would come of the Oversight Committee with a recommendation to the executive office and to the boards. Mr. Henry described the Capital Needs Assessment as a forecast of what is on the horizon for years 6 through 10 that is updated every two years, and defined the capital budget as the appropriation authority for spending. He said the CIP is a two-year request process and described the steps for years one and two as follows: year one – a full needs assessment in which all departments and agencies forecast their needs; and year two – an amendment year, only for urgent requests and updates. He defined the multi-year CIP budget as previously approved projects expected to carry over into FY18.

Mr. Henry said he would address the amendment year process, which is designed to be a streamlined review of adopted projects as they have been amended or revised over the five-year plan. He stated they would review the adopted plan and allow submitting departments to make administrative changes, and said if there is an urgent funding need to address a critical safety, structural, or operational concern for FY18, this could be incorporated.

Mr. Henry stated there are 42 project requests in the adopted plan out of 45 total requests, and an additional 5 requests were not adopted as they did not meet the amendment year criteria as determined by the Technical Review Committee. He said the 45 requests total \$175 million over the five-year period, which represents a \$3.6 million increase over the adopted plan if all projects were included. He referenced the FY18 Capital Improvement Program amendment year two document that was handed out to the Board, and said it would be provided to School Board members. He said the projects are prioritized and classified as mandates, obligations, maintenance replacement projects, and non-maintenance replacement projects.

Mr. Henry presented a slide entitled "Facilities Maintenance Program," which listed the criteria of the planning methodology as: formal facility assessments, manufacturers recommended facilities maintenance, customer feedback, and maintenance history. He said over the past several years, both schools and local government have looked to compare their efforts with industry standards set by the Association of Physical Plant Administrators (APPA) and the International Facilities Management Association (IFMA). He said they recommend 2 to 4% of current replacement value be dedicated to facilities maintenance and repair budgets. He would provide reports to the Oversight Committee. His summary findings are that both schools and local government fall on the lower end of the recommended range for operational and capital maintenance/replacement programs as recommended by the National Research Council, but staff believes that overall the program is adequately funded. He showed photos of some recent maintenance projects that included rooftop air handling units at the County Office Building, expanded and paved a parking lot at Crozet Park, locker replacements at Albemarle High School, and renovations at Greer Elementary School.

Mr. Henry concluded his presentation with a list of items arising from process feedback of the Technical Review Committee that would be discussed with Oversight: consider better defining the amendment year, emergency submissions should be considered in the current year, better define "urgent" and provide examples to submitting entities, allow for adjustments to adopted plan provided they are properly justified, consider longer ranking maintenance/replacement, consider allowing new requests/resubmitted, non-funded back each year. He provided a summary of the next steps in the process: Oversight Committee meetings 11/21 and 11/29. Oversight Committee budget recommendations to CEO, memo to Boards and Planning Commission, Actions/Direction required by the Boards, input to staff and members of the Oversight Committee.

Ms. Mallek commented that over the years there has been a question about how the division between maintenance and new construction is made and she understands Mr. Henry has been working on this and requests that he provide an update to the Board at a future date.

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Agenda Item No. 5. Community Policy and Management Team Update.

Ms. Phyllis Savides, Director of Social Services, addressed the Board. She said that she would represent her position as Chair, Albemarle Community Policy and Management Team (ACPMT). She also introduced Mr. Kevin Kirst, Director of Special Education and Student Services for Albemarle County Schools, and noted that several of her associates from the Albemarle CPMT and Charlottesville CPMT are in the audience, as well as the two CSA coordinators. Ms. Savides said that in 2015, the CPMT had a

retreat and developed an action plan to accomplish certain goals. She said their third goal was to increase the visibility of the CPMT and to gain support for its mission at the local, state, and regional level. She stated that they decided to target audiences to present information and gain understanding of the Children's Services Act, and the role of the CPMT and its mission. She said they would provide real life examples of what dollars could provide in terms of services, and some of the struggles that residents of the community face.

Ms. Savides next provided an explanation of the Children's Services Act, explaining that it was previously called the Comprehensive Services Act, which was a law enacted in 1993 that established a single state pool of funds to purchase services for at-risk youth and their families. She said that CSA is a partnership between state and local governments to provide an effective and efficient system of care, and is a state supervised, locally administered system in which the State Executive Council and its administrative agency, the Office of Children's Services, are responsible for oversight. At the local level, she said, the Community Planning and Management Team sets the local policies, and the Family Assessment and Planning Team hear requests for services.

Ms. Savides next explained the reasons for having a CSA, stating that a 1991 study looked at four agencies and found that multiple agencies were working on the same cases, so the state pooled eight funding streams from four agencies to create a single pool fund to strengthen community collaboration (DSS, schools, the community services board, and the court service unit). She presented a slide that listed the vision of the CPMT: children live safely and productively with their families and in their schools and communities; and the values as staying connected, engaged, productive, and local. Ms. Savides presented a slide showing sources of CSA funding, with 38.40% from local funding and 61.60% from state funding; the next slide showed demographic statistics of the youth they serve by race/ethnicity, gender, and age.

Ms. Savides next focused on the CSA's service population, which includes 151 youth who are in foster care or eligible for foster care services, and another group of 125 youth for whom CSA is hoping to avoid foster care placement, classifying this group as "foster care prevention."

Mr. Kirst continued the presentation and explained that 125 youth are served through private day school placement in special education; another 9 youth receive special education instruction in private residential congregate care facilities; and another 10 youth receive wraparound services. He noted that these are youth with disabilities who need additional services to maintain placement in the community, and they may also require in-home supports, family psychotherapy, and intensive care coordination.

Ms. Savides explained that 38 youth are served under Child In Need of Services (CHINS). She stated that services required may be intensive care coordination and therapeutic day treatment, and Region Ten can provide community based services to these youth and keep them out of foster care. She said another group of 14 youth fall under the non-mandated category, and they are youth who are involved in the courts and on supervised probation.

Ms. Savides listed some initiatives they have taken to reduce CSA costs: enhanced prevention services/decreased number of foster care cases, family partnership meetings, the addition of two prevention positions, community attention foster family respite; increased use of SPED-wraparound funding, high fidelity wraparound including intensive care coordination and parent partners, and the Department of Juvenile Justice transformation initiative; Region Ten's Crisis Stabilization Day Center; and public schools increasing capacity to serve children on the autism spectrum in their home school. She said the next slide shows the local match rate percentage required of the County over the period of FY11 to FY16, noting a decrease from 44% to 39% over this period and commenting that this has saved the County money. She commented that this change has resulted from the increased use of community-based services.

Ms. McKeel asked for confirmation that the CSA is not part of Ivy Creek, the Piedmont Regional Education Program (PREP) school for emotionally disturbed children. Mr. Kirst confirmed this, explaining that the regional program is considered to be part of the public school system whereas the CSA is private. He said that Ivy Creek is a public day school.

Ms. Savides said the Ivy Creek School helps offset costs for CSA.

Mr. Randolph asked if CSA interfaces with CASA to obtain a court-appointed advocate in the case of emotionally disturbed youth. Ms. Savides responded that all CSA foster children are assigned a court-appointed special advocate, as well as many youth who are before the court as a result of abuse and neglect. She said they have a very close relationship with CASA.

Mr. Dill asked about the line between children they serve and parents, and how far their services go in terms of siblings and parents. Ms. Savides expressed their goal to maintain families intact. She said parents often come from troubled backgrounds, and if they invest in the parents, the children are more likely to stay with them, which is better in the long run. She said there are times when families do not accept services and CSA has to respond accordingly.

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Agenda Item No. 6. Adoption of Joint Resolution Recognizing Veteran's Day.

Ms. Palmer recognized Mr. Randolph and Ms. Moynihan for their military service.

Ms. Moynihan of the School Board said she would make a motion to adopt the joint resolution. She said she is an Army veteran and served as an officer in military intelligence from 1979-1989, is proud to have served, and appreciates other veterans who have served.

Ms. Moynihan then **moved** that the Board of Supervisors and the School Board adopt the proposed Resolution of Appreciation. Ms. Mallek **seconded** the motion.

Roll was called and the motion for the Board of Supervisors carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

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Roll was called and the motion for the School Board carried by the following recorded vote

AYES: Ms. Acuff, Mr. Alcaro, Mr. Buyaki, Mr. Koleszar, Ms. Moynihan, Mr. Oberg and Mr. Paige.

NAYS: None.

### **RESOLUTION OF APPRECIATION**

**WHEREAS,** *the United States of America was founded on the principles of liberty, opportunity and justice for all; and*

**WHEREAS,** *America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and freedoms; and*

**WHEREAS,** *on Veterans Day we remember and pay tribute to the millions of patriots whose courage and sacrifice have secured our freedom and defended our values; and*

**WHEREAS,** *we also honor all men and women currently serving in the military for their sacrifices; and*

**WHEREAS,** *over one hundred veterans continue to serve their country in public schools and government as teachers and other professionals providing services to the students and citizens of Albemarle County; and*

**WHEREAS,** *these veterans employed by Albemarle County Public Schools and Local Government deserve recognition for their continued service;*

**NOW, THEREFORE, BE IT RESOLVED,** *that the Albemarle County Board of Supervisors and the Albemarle County School Board do hereby recognize all veterans and the men and women that are currently serving in our armed forces around the world; and*

**BE IT FURTHER RESOLVED,** *that the Albemarle County Board of Supervisors and the Albemarle County School Board do hereby recognize and honor the continued contributions and sacrifices of the Armed Forces veterans employed by local government and public schools; and*

**FURTHER RESOLVED,** *that this Resolution celebrating Veterans Day, be adopted this day of November 09, 2016.*

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Ms. Palmer then asked all the veterans present to stand up, and attendees applauded.

Slides were then presented that showed photographs of County and school officials and employees in uniform in scenes from their military service, with a listing of those who have served in the final slide.

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### **Recess.**

At 5:19 p.m., Ms. Acuff adjourned the School Board meeting.

**NonAgenda.** At 5:19 p.m., Mr. Dill **moved** that the Board enter into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to probable litigation where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the public body. The two claims arise from: 1) Alleged injuries sustained by a student at Yancey Elementary School; and 2) Alleged injuries sustained in a motor vehicle accident between a private vehicle and a JAUNT vehicle. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

ABSENT: Mr. Sheffield.

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At 6:02 p.m., Mr. Dill **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. The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

ABSENT: Mr. Sheffield.

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Agenda Item No. 7. Call back to Order.

At 6:02 p.m., Ms. Palmer called the Board back to order.

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

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Agenda Item No. 8. Pledge of Allegiance.

Agenda Item No. 9. Moment of Silence.

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Agenda Item No. 10. Adoption of Final Agenda.

Ms. Palmer stated that the applicant for Agenda Item No. 14. ZMA 2015-00001, Old Trail Special Exception to Modify Freestanding Sign Regulations, has requested a deferral.

Mr. Dill asked to that the Board add Agenda Item No. 14a. Pantops Pedestrian Crosswalk.

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

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

NAYS: None.

ABSENT: Mr. Sheffield.

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Agenda Item No. 11. Brief Announcements by Board Members.

Ms. Mallek announced that representatives from VDOT, PVCC and Mr. Kevin McDermott of Transportation will hold a field day to observe improvements in the roadway of Route 250 between Ivy and Afton tomorrow on November 10 from 7 a.m. to 2 p.m. She said this is part of the STARS program.

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Mr. Randolph referred to certificates he had distributed the previous day, which recognized vineyards. He said that while driving to Scottsville, he stopped at Montdomaine, located along Scottsville Road and associated with the Viewmont property. He stated that he was not aware the vineyard existed and learned that it is the only vineyard in Virginia that makes grappa. Mr. Randolph noted that the manager, Mr. Mike Bowles, told him of the challenges he faces in having ABC stores carry his product since it is classified as being both a wine and distilled.

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Agenda Item No. 12. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Dan Rosensweig, President and CEO of Habitat for Humanity of Greater Charlottesville, addressed the Board. He thanked the Board for their support for six homes at Wickham Pond in Crozet, which are almost finished, with families just a couple of months away from being able to move in. He stated that residents of Wickham Pond have come together to help build the homes and have been engaging in monthly meetings with the Habitat families, and things are going better than they could have imagined. Mr. Rosensweig said within a few weeks they would need to tap into the County water and sewer system, and have received \$20K from the County for this. He stated that he would be returning \$10,500 of this to the County for tapping into the sewer and water system. Mr. Rosensweig contrasted this with City of Charlottesville, where tap fees are reduced to \$1,600 per unit for homes sold to a family earning 80% or below the median income. He said the City's interest is protected by a five-year promissory note, which requires repayment of the delta between the \$1,600 payment and the regular rate if the home is resold. He stated that the program is working well and provides a real incentive for builders and nonprofits to build affordable housing, as well as stimulating mixed-income housing that is desired. Mr. Rosensweig said he would be delighted if the Board would consider relief at Wickham Pond, and hopes the County would explore the adoption of the City's policy for affordable tap fees, as it makes a difference and could serve as another tool in the toolbox to stimulate affordable housing.

Ms. Palmer addressed Mr. Rosensweig's request for a discount on tap fees. She said the County and City operate their water systems differently as the Albemarle County Service Authority is financially



separate from the County. She suggested that Mr. Rosensweig speak with the ACSA.

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Agenda Item No. 13. Consent Agenda.

(**Discussion:** Ms. Mallek pulled her assigned minutes of May 4, 2016, and asked that they be carried forward to the next meeting.)

Ms. McKeel **moved** that the Board approve Item 13.2 on the Consent Agenda. Mr. Dill **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

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Item No. 13.1. Approval of Minutes: May 4, 2016.

**By the above-recorded vote, the minutes of May 4, 2016, was pulled and carried forward to the next meeting.**

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Item No. 13.2. Memorandum of Understanding between Albemarle County Police Department and the National Park Service.

The Executive Summary forwarded to the Board states that the purpose of this Executive Summary is to request the approval of an Agreement for mutual aid between the U.S. Department of the Interior National Park Service Shenandoah National Park and the County. The Shenandoah National Park encompasses an area of approximately 311 square miles in eight Counties, including Albemarle County. It stretches for 105 miles from near the Town of Front Royal in the northeast to the City of Waynesboro in the southwest. National Park Service Park Rangers and Special Agents are sometimes called to investigate criminal violations that originate in the Park but lead to investigating suspects and evidence outside the Park boundary. Albemarle County Police Officers are sometimes called to investigate criminal violations that originate in the County but lead to investigating suspects and evidence in the Shenandoah National Park.

Virginia Code § 15.2 - 1728 authorizes mutual aid agreements between police departments and federal authorities. The attached Agreement (Attachment A) has been approved by the U.S. Department of the Interior National Park Service, and must also be approved by the Board.

Staff believes that approval of the attached Agreement would result in more extensive and effective law enforcement, emergency services, search and rescue efforts, and a safer working environment for officers of both entities.

Staff does not expect the approval of the attached Agreement to have any budget impact.

Staff recommends that the Board adopt the attached Resolution (Attachment B) approving the Agreement and authorizing the County Executive to sign the Agreement on behalf of the County once the Agreement after approval as to substance and form by the County Attorney.

**By the above-recorded vote, the Board adopted the following Resolution approving the Agreement and authorized the County Executive to sign the Agreement on behalf of the County once the Agreement after approval as to substance and form by the County Attorney:**

**RESOLUTION TO APPROVE THE AGREEMENT  
BETWEEN THE U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICES  
SHENANDOAH NATIONAL PARK AND  
THE COUNTY OF ALBEMARLE, VIRGINIA**

**WHEREAS**, the Board finds that it is in the best interest of the County to enter into a Mutual Aid Agreement with the U.S. Department of the Interior National Park Services Shenandoah National Park for cooperation in the furnishing of police services.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves the Agreement between the U.S. Department of the Interior National Park Services Shenandoah National Park and the County of Albemarle, Virginia for cooperation in the furnishing of police services, and authorizes the County Executive to execute the Agreement on behalf of the County after approval as to substance and form by the County Attorney.

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**GENERAL AGREEMENT  
By and Between  
THE U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE  
SHENANDOAH NATIONAL PARK**

**And  
THE COUNTY OF ALBEMARLE, VIRGINIA**

**Article I. BACKGROUND & OBJECTIVES**

WHEREAS, pursuant to 54 U.S.C. 102701 the United States Department of the Interior National Park Service, hereinafter referred to as the NATIONAL PARK SERVICE, has the authority, jurisdiction, and responsibility to detect, investigate, and apprehend persons violating the criminal laws of the United States, and to provide law enforcement and emergency services within Shenandoah National Park; and

WHEREAS, Title 54 U.S.C. 102711 authorizes the NATIONAL PARK SERVICE to render emergency and other cooperative assistance to other agencies outside the boundaries of units of the NATIONAL PARK SERVICE; and

WHEREAS, the Chief of the Albemarle County Police Department, hereinafter referred to as the CHIEF, has the authority, jurisdiction, and responsibility to detect, investigate, and apprehend persons violating State Law, and provide law enforcement and emergency services for THE COUNTY OF ALBEMARLE, VIRGINIA, hereinafter referred to as ALBEMARLE COUNTY; and

WHEREAS, Title 54 U.S.C. 102701 authorizes the NATIONAL PARK SERVICE to designate officers of a State to act as NATIONAL PARK SERVICE special police officers in areas of the National Park System where supplemental law enforcement may be needed; and

WHEREAS, Title 16 U.S.C. 1a-6 authorizes the NATIONAL PARK SERVICE to designate officers of a State to act as NATIONAL PARK SERVICE special police officers in areas of the National Park System where supplemental law enforcement may be needed; and

WHEREAS, the Code of Virginia under Section 15.2-1728 authorizes mutual aid agreements in any case where exclusive jurisdiction over any property or territory has been granted by the Commonwealth to the United States government, or to a department or agency thereof, the governing body of any contiguous locality or the Division of Capitol Police may enter into a mutual aid agreement with the appropriate federal authorities to authorize police cooperation and assistance within such property or territory. Subject to the conditions of any such agreement, all police officers and agents of the contracting governing body or agency shall have the same powers, rights, benefits, privileges and immunities while acting in the performance of their duties on the property or territory under federal authority as are lawfully conferred upon them within their own jurisdictions; and

WHEREAS, pursuant to Section 19.2-12 of the Code of Virginia, special agents and law enforcement officers of the Department of the Interior are designated as Conservators of the Peace within the Commonwealth of Virginia while engaged in the performance of their official duties; and

WHEREAS, criminal activity on a regional, statewide, and national level affect the quality of life inside Shenandoah National Park; and

WHEREAS, the NATIONAL PARK SERVICE Park Rangers and Special Agents are sometimes called to investigate criminal violations that originate within the park but may lead to suspects, evidence and investigative leads outside the park boundary; and

WHEREAS, The CHIEF'S officers are sometimes called to investigate criminal violations that originate within Albemarle County but may lead to suspects, evidence, and investigative leads inside Shenandoah National Park; and

WHEREAS, both the NATIONAL PARK SERVICE and the CHIEF have personnel, equipment, and skills suited to the task of managing law enforcement incidents and providing emergency services in their respective areas; and

WHEREAS, by pooling the resources of the NATIONAL PARK SERVICE and the CHIEF in mutual assistance, the combined strengths and efforts of these two agencies will provide more extensive and effective law enforcement, emergency services, search and rescue efforts, and a safer working environment for officers of both agencies in such a manner that will coordinate best considering geographic, economic, population, and other factors influencing the needs of outlying communities.

NOW THEREFORE, the NATIONAL PARK SERVICE and ALBEMARLE COUNTY, enter into this Mutual Aid Agreement.

**Article II. STATEMENT OF WORK**

**The NATIONAL PARK SERVICE and the CHIEF agree as follows:**

(1) To ensure that each of the entities referred to above may enjoy effective and the most efficient law enforcement, investigations, and police protection, as well as emergency services (search and rescue, public assistance, and other emergency assistance) the NATIONAL PARK SERVICE and the CHIEF agree to assist each other in carrying out law enforcement activities and other emergency operations on properties which are normally the concern of the other, as resources and circumstances allow.

(2) The CHIEF agrees that in the event that law enforcement or emergency assistance (beyond routine incidents) is needed, any request for such mutual assistance will be placed with a supervisor. Follow up requests will be made with written communications in the form of teletype, email or fax. Absent a request,

NPS may take action in an emergency situation as defined as follows:

*AN EMERGENCY SHALL BE DEFINED AS THE FOLLOWING:*

- a. The commission of a felony or serious misdemeanor which presents a direct threat to human life and/or safety;
- b. Officer "in trouble" (needing emergency assistance);
- c. Any incident resulting in a death;
- d. Assistance needed to preserve a crime scene;
- e. Serious injury and/or fatal motor vehicle accidents;
- f. Natural or man-made disasters, such as severe storms, floods, radiological emergencies, hazardous material incidents, train or aircraft accidents, fires, bomb threats, or other incidents involving injury or risk of injury to persons;
- g. Incidents such as accidents, downed trees, and similar emergencies which block roadways and which require control or rerouting of traffic to prevent hazards to the public;
- h. Search and/or rescue incidents involving missing, lost, stranded, or injured persons;
- i. Emergency medical incidents where human life and/or safety is threatened due to injury or illness.

(3) The NATIONAL PARK SERVICE agrees that in the event that law enforcement or emergency assistance (beyond routine incidents) is needed, any request for assistance will be placed with a supervisor. Follow up requests will be made with written communications in the form of teletype, email or fax.

(4) Criminal investigations within Shenandoah National Park will be conducted by NATIONAL PARK SERVICE Park Rangers or Special Agents. Criminal investigations that occur outside Shenandoah National Park in Virginia will be conducted by the CHIEF or the appropriate state or local agency. The NATIONAL PARK SERVICE or the CHIEF may request mutual assistance on criminal investigations, in cases that have a relationship with both jurisdictions, or have events that have occurred in both jurisdictions.

(5) Mutual assistance provided by and to each agency may include, but not be limited to, conducting interviews, surveillance, record checks, vehicle searches, K-9 use, sharing of informants and sensitive intelligence and case information, and assistance with arrests and warrant service.

(6) Law enforcement or emergency incidents occurring within the county will be directed by the CHIEF of the Albemarle County Police Department, or his/her representative. Law enforcement or emergency incidents occurring within Shenandoah National Park will be directed by the Chief Ranger of Shenandoah National Park, or his/her representative.

(7) The NATIONAL PARK SERVICE and the CHIEF agree not to comment to the media on incidents that occur in the other's jurisdiction. All media inquiries will be directed to the respective agency's information officer.

(8) The NATIONAL PARK SERVICE and the CHIEF each agree to permit personnel from each agency's enforcement and emergency services to attend training sessions and to use training facilities on a space available basis.

(9) The NATIONAL PARK SERVICE and the CHIEF each agree that members or employees of the assisting agency shall at no time be considered employees of the agency being assisted under any circumstances or be entitled to compensation from the assisted agency, nor shall the employees of one agency be considered to be borrowed servants of the other agency.

(10) The NATIONAL PARK SERVICE and the CHIEF agree to utilize the principles of the Incident Command System (ICS) to manage emergency responses and crossjurisdictional investigations. The following ICS principles will be observed.

- a) The legal and policy requirements of each agency shall be observed
- b) Planning will occur cooperatively
- c) The incident should be structured such that supervisors of each agency have control of their employees and shall ensure compliance with their policies. They may withdraw their personnel if the situation requires.
- d) In complex incidents the agencies will either:
  - 1) Establish a Unified Command or
  - 2) The lead agency will ensure that an Agency Representative from the other agency is requested. An Agency Representative's duties are to advise the Incident Commander (or equivalent person) of the abilities and limitations of their personnel.
  - 3) Incident Plans will meet the media relations needs of both agencies

**ARTICLE III - TERM OF AGREEMENT**

This Agreement will remain in effect for five (5) years from the date of approval by ALBEMARLE COUNTY, and may be reaffirmed at the end of the five (5) year period by a reaffirmation memorandum.

**ARTICLE IV - KEY OFFICIALS**

The key official for the NPS shall be: Chief Park Ranger Shenandoah National Park 3655 Hwy 211 East Luray, VA 22835 Telephone: (540) 999-3500 X 3401 Fax: (540) 999-3236

The key official for the County shall be: Chief, Albemarle County Police Department 1600 5th Street, Suite D Charlottesville, VA 22902 Telephone: (434) 296-5807

#### **ARTICLE V – AGREEMENT REVIEW**

The parties agree to confer on each anniversary date of this Agreement, or more often as necessary, to review the terms of this Agreement or other items of interest which will enhance their mutual cooperation.

#### **ARTICLE VI – PROPERTY UTILIZATION**

In rendering mutual assistance, each party shall be responsible for providing its own equipment, material, and supplies, except in emergency cases where it is mutually agreed that the sharing of use of equipment loaned or furnished by another party is necessary or proper.

#### **ARTICLE VII – REPORTS**

Nothing in this section shall purport to waive, limit, or remove confidentiality imposed or allowed by law in regard to any such reports or the content of the reports.

#### **ARTICLE VIII – FINANCE AND BUDGET**

No special or separate financial arrangements are made under this agreement. Each entity represented shall provide for its own financing and budget to cover the anticipated requirements of this Agreement, unless agreed to prior to a specific incident.

#### **ARTICLE IX – ORGANIZATION**

No separate legal entity shall be created by this Agreement.

#### **ARTICLE X – GENERAL PROVISIONS**

A. No member or delegate to Congress, or resident commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

B. As a result of the activities authorized hereunder, NATIONAL PARK SERVICE Park Rangers shall not under any circumstances be considered employees, agents or “borrowed servants” of the CHIEF or ALBEMARLE COUNTY. Under no circumstances shall the CHIEF’S employees be considered Federal employees, agents or “borrowed servants” of the NATIONAL PARK SERVICE; nor shall employees of either party receive or be entitled to any compensation or benefits from the other party for any service performed under the terms of this Agreement. NATIONAL PARK SERVICE Park Rangers will be subject to the policies, regulations and laws of the federal government while rendering emergency law enforcement assistance and will conform to state and local procedures where there is no contradiction of federal policy, regulation or law.

C. This Agreement and the obligations of the NATIONAL PARK SERVICE and the CHIEF hereunder are subject to the availability of funds and resources, and nothing contained herein shall be construed as binding The DEPARTMENT OF THE INTERIOR (the “DOI”) to expend in any fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purposes of this Agreement for that fiscal year or as involving the DOI in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations, or as obliging ALBEMARLE COUNTY to expend funds, other than as may be lawfully appropriated. Participation in this Agreement in no way obligates the NATIONAL PARK SERVICE to obligate and/or provide any funding to successfully implement the terms or conditions herein contained. The cost of furnishing services shall be borne by the agency furnishing the services and no claims for reimbursement shall be made upon the other.

D. Nothing contained herein shall be construed to be a waiver of any immunity against suit or as a limitation on the rights of the parties to assert any otherwise available defense, nor shall anything contained herein be construed as creating any third party beneficiary rights.

E. Each of the parties shall waive any and all claims against the other party hereto that may arise out of activities undertaken pursuant to this Agreement. Each party shall be responsible for administration of any claims or legal actions arising from the conduct of its own personnel pursuant to this Agreement, including the expense of investigation and/or defense of any such claim or legal actions, including, but not limited to, judgments, settlements, attorney and expert witness fees.

F. NATIONAL PARK SERVICE Park Rangers and the CHIEF’S OFFICERS will identify themselves by their credentials.

G. NATIONAL PARK SERVICE Park Rangers will wear only the official NPS uniform or, if required and approved by the Chief Ranger or designee, plain clothes.

H. At all times while rendering emergency law enforcement assistance NATIONAL PARK SERVICE Park Rangers shall remain under the authority and control of NATIONAL PARK SERVICE Supervisors.

I. At all times while rendering emergency law enforcement assistance the CHIEF'S OFFICERS shall remain under the authority and control of the CHIEF'S OFFICERS' Supervisors.

J. NATIONAL PARK SERVICE Park Rangers will be subject to the policy, regulations, and law of the federal government while rendering emergency law enforcement assistance and will conform to state and local procedures where there is no contradiction of federal policy, regulation, or law.

K. This Agreement may be amended only by mutual agreement of the parties. The Agreement may be terminated by mutual agreement or by either party upon sixty (60) days notice in writing to the other party.

#### **ARTICLE XI – ASSEST FORFEITURE**

The Shenandoah National Park Chief Ranger or their designee and the Albemarle County Police Department shall work toward establishing a fair and equitable agreement in individual case forfeiture. The NATIONAL PARK SERVICE and the Albemarle County Police Department will comply as provided by applicable federal and state law for the equitable sharing of federally forfeited property for state and local law enforcement agencies.

#### **ARTICLE XII – APPROVALS OF SUPERINTENDENT, SHENANDOAH NATIONAL PARK – FILING**

This General Agreement must be submitted to and meet the approval of the Superintendent, Shenandoah National Park. The agreement shall be filed in the Chief Ranger's Office, Shenandoah National Park.

#### **ARTICLE XIII – APPROVALS OF THE ALBEMARLE COUNTY POLICE**

As a condition precedent to this Agreement becoming effective, this Agreement must be submitted to and receive the approval of the Albemarle County Board of Supervisors. When the Albemarle County Board of Supervisors approves this Agreement, the Agreement shall be filed with the Chief's Office.

##### **THE U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE**

By: \_\_\_\_\_ Date \_\_\_\_\_  
James G. Northup, Superintendent  
Shenandoah National Park

##### **THE COUNTY OF ALBEMARLE, VIRGINIA**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Thomas C. Foley County Executive

Item No. 13.3. Brooks Family YMCA Quarterly Construction Update, ***was received for information.***

Agenda Item No. 14. ZMA 2015-00001 Old Trail Special Exception to Modify Freestanding Sign Regulations.

**At the request of the applicant, the Board deferred action on this item.**

Agenda Item No. **14a. Pantops Pedestrian Crosswalk.**

Mr. Dill said there has been a strong desire to find a way to cross Route 250 East, as people live on one side while stores and the walking trails at Peter Jefferson Place are on the other side. He said that sidewalks have been installed on State Farm Boulevard and that, as the project was completed under budget, they can use unused funds to construct a pedestrian, grade-level crossing with a mid-point refuge in the median.

Mr. Dill then **moved** to adopt the proposed resolution to allow design and construction of pedestrian crossing and improvements on Route 250 East at the intersection with State Farm Boulevard. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

**RESOLUTION TO ALLOW THE DESIGN AND CONSTRUCTION OF PEDESTRIAN  
CROSSING IMPROVEMENTS ON US-250E AT THE INTERSECTION WITH STATE**

## FARM BOULEVARD

**WHEREAS**, the County of Albemarle has constructed sidewalk and ADA ramps on the southwest corner of the State Farm Boulevard/US-250E intersection as part of a VDOT Revenue Sharing project (UPC-102886) and the construction contract is nearing completion; and

**WHEREAS**, the County approved a site development plan for Chick-fil-A on the north side of the State Farm Boulevard/US-250E intersection where pedestrian improvements including ADA ramps, painted crosswalk, traffic signal modifications and pedestrian signal heads were constructed from the northeast to northwest corners of the intersection; and

**WHEREAS**, VDOT and County Staff are concerned that the combination of these intersection improvements will promote pedestrians to cross US-250E at this signalized intersection; and

**WHEREAS**, VDOT supports the expansion of the Revenue Sharing project (UPC-102886) to include proposed pedestrian crossing improvements on US-250E shown on the Luxor Road Plan attached hereto as a change order to the current construction contract; and

**WHEREAS**, the project budget for Revenue Sharing project (UPC-102886) is adequate to fund the design and construction of the proposed pedestrian crossing improvements;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Albemarle County authorizes expansion of the project scope of Revenue Sharing project (UPC-102886) to allow the design and construction of pedestrian crossing improvements on US-250E at the intersection with State Farm Boulevard shown on the Luxor Road Plan, within the limits of the project budget.

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Agenda Item No. 15. **Public Hearing: Economic Development Ordinance Amendment.**

To receive comments on its intent to adopt an ordinance that would amend Article VI, Economic Development Authority, of Chapter 2, Administration, of the Albemarle County Code. This ordinance would amend Secs. 2-600, Economic Development Authority, and 2-601, Powers and duties generally, to update and clarify and to make non-substantive text changes and would also amend Sec. 2-601 to require the economic development authority (EDA), in the exercise of its powers, to obtain the prior approval of the board of supervisors when that approval is required by law before the EDA may act; would repeal Secs. 2-602, Financing, 2-603, Board of supervisors to approve location, and 2-605, Board of supervisors to approve by laws, etc.; and would renumber Sec. 2-604, Board of directors, as 2-602. (*Advertised in the Daily Progress on October 24 and October 31, 2016*)

The Executive Summary presented to the Board states that since the Economic Development Authority (EDA) was created by the Board of Supervisors on May 12, 1976, its primary role has been to serve as a conduit issuer of bonds. It also has served as a conduit for providing grants to businesses (Route 29 Solutions, and those under the Board's Economic Opportunity Fund in conjunction with State programs) and a loan to a non-profit organization (Lewis & Clark Exploratory Center).

Over the past six years, the Board has taken a more proactive perspective toward economic development, recognizing several community needs, particularly in the County's Development Areas. In 2010, the Board adopted an Economic Vitality Action Plan which translated the purpose and goals of the Economic Development Policy in the Comprehensive Plan at that time into concrete and measureable actions, being very mindful of the need to adhere to already established growth management objectives and natural resource protections. In 2012, the Board received the Albemarle County Existing and Target Industry Analysis prepared by the Thomas Jefferson Partnership for Economic Development, which analyzed target industry groups and sectors identified for the County. In 2015, the Economic Development Office was established and the director for that office was appointed. An Economic Development Strategic Plan is currently being developed and is expected to be presented to the Board in December.

The Board also has recently adopted several general policies related to economic development. The Economic Development chapter of the current Comprehensive Plan states the County's goal for economic development: "Albemarle's economy will be diverse, strong, and sustainable, and retain and benefit County citizens, existing businesses, and new local ventures." Comprehensive Plan, page 6.1. Goals 3, 4 and 5 of the County's Strategic Plan are related to economic development. Goal 3 states that, within the Development Areas, attract quality employment, commercial, and high density residential uses into development areas by providing services and infrastructure that encourage redevelopment and private investment while protecting the quality of neighborhoods. Goal 4 seeks economic prosperity by fostering an environment that stimulates diversified job creation, capital investments, and tax revenues that support community goals. Goal 5 encourages education to provide lifelong learning opportunities for all our citizens.

The EDA is authorized by the Industrial Development and Revenue Bond Act to play a vital role in the County's economic development. The EDA can fulfill that role because it is authorized to exercise powers the County does not have, including making loans and grants and providing other economic incentives to promote industry and develop trade, financing a range of various facilities including qualifying medical facilities, private education facilities, and governmental facilities, and acquiring, owning, leasing and disposing of land, and developing, owning, and operating an industrial park.

Although the EDA was created by the Board of Supervisors, it exists and functions under State law as a political subdivision of the State, it exists as a separate and distinct legal entity, and it is independent of the County in its operations. Nonetheless, under current County Code § 2-605, all by-laws, standards, and priorities of the EDA, and any amendments to those documents, must be approved by the Board of Supervisors prior to their adoption by the EDA. The requirements of County Code § 2-605 manifest themselves in the EDA's By-Laws and Rules and Procedures, as well as in its Fiscal Services Agreement with the County.

Upon review of the Industrial Development Review Act, as well as Virginia case law and the opinions of the Attorney General, to determine the appropriate regulatory oversight by the County of the EDA, the County Attorney recommends that County Code § 2-605 be repealed and that related changes be made to County Code § 2-600 et seq. The proposed ordinance is included as Attachment A. The County Attorney's analysis of the law and the reasons for his recommendation are included as Attachment B. See Section 3 of Attachment B for the analysis of the EDA-locality relationship.

Staff recognizes the concern that has been expressed that the EDA will diverge from the County's economic development policies, goals and objectives. Section 4 of Attachment B provides an overview of the legal and practical tools by which the activities of the EDA may remain aligned with the County's economic development and other policies, goals, and objectives.

There is no budget impact.

Following the public hearing, staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

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Mr. Kamptner addressed the Board and said the Economic Development Authority ordinance would amend County Code 2-600 to 2-605. He presented a brief history of the Economic Development Authority and the expansion of its authority over the years, stating that the EDA was created in 1976 and the ordinance was amended several times until 1994, and the 1994 amendments remain in effect today. Mr. Kamptner explained the legal status of EDAs under Virginia law, stating that they are political subdivisions of the Commonwealth, legal entities that are separate and distinct from the City or County that creates them, and independent of their creating localities in their operations, incurring of debt, and ownership of property. He said the Attorney General has concluded, in several opinions, that any limitations on EDA imposed by a local governing body under the Industrial Development and Revenue Bond Act are confined to those limitations in Virginia Code 15.2-4903(A) pertaining to the type and number of facilities that may be financed. Mr. Kamptner noted that a local governing body may not require that an EDA comply with the locality's economic development goals.

Mr. Kamptner presented a slide with background information as to how the County would amend the ordinance to align with state law, stating that the current County Code 2-605 requires that all by-laws, standards and priorities of the EDA, and any changes to the by-laws, standards and priorities, first be approved by the Board of Supervisors. He said the requirements of County Code 2-605 manifest themselves in the EDA's by-laws, rules, and procedures, and its fiscal services agreement with the County. Mr. Kamptner pointed out that it is inconsistent with the EDA's status as a political subdivision of the Commonwealth and as a separate and distinct legal entity, and is inconsistent with the opinions of the Attorney General explaining that limitations a local governing body may impose on an EDA.

Mr. Kamptner presented a slide that listed the County's vision statement, mission statement, strategic plans goal 3 and goal 4. He stated the next slide lists goals of the Comprehensive Plan adopted in 2015, including the goal of the growth management policy, goal for economic development, and goal for the County's development areas. He then listed reasons for zoning and why the County regulates the use of land: to facilitate the creation of a convenient, attractive, and harmonious community; to encourage economic development activities that provide desirable employment and enlarge the tax base; and to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.

He next presented a list of development projects the EDA is working on: Rio+29 Small Area Plan, revitalization in the County's urban ring, and Southwood redevelopment.

Mr. Kamptner presented a slide that listed the proposed changes to the ordinance: Section 2-600 would have terminology updated; Sections 2-601, 2-602 and 2-603 would be consolidated, with terminology updated as the current Sections 2-602 and 2-603 establish two circumstances when prior Board approval is required. He said that in the revised section, the requirement for Board approval whenever it is required by state or federal law is restated, and this covers not only when a facility would be financed, but also when it may be located outside the County. He said that Section 2-604 is renumbered, but otherwise unchanged; Section 2-605 would be repealed, as the Virginia Attorney General has repeatedly opined that any limitations on an EDA imposed by a local governing body under the Industrial Development and Revenue Bond Act are confined to those in Virginia Code 15.2-4903(A) pertaining to the type and number of facilities that may be financed.

Mr. Kamptner next presented a slide that summarized the Board's ongoing role in economic development: the Board is responsible for guiding and directing the County's economic development effort; the Board establishes the philosophical framework for the economic direction of the County; the Board is in the position to commit financial and staff resources; the Board, together with local business and education leaders, must join to help form the critical mass that would build the consensus for action;

and the Board can develop a practical approach for improvement where needed and ultimately a strategy that builds upon the community's unique assets and attributes.

Mr. Kamptner next presented a slide listing areas where the Board would maintain ongoing control of economic development as follows: activities of the EDA must serve public purposes, which are delineated in the Industrial Development and Revenue Bond Act; the Board may impose limitations on the type and number of facilities that may be financed; many EDA related matters are required by state or federal law to be approved by the Board; the Board may place conditions on gifts, loans and advances of funds to the EDA; the Board and EDA would operate under a memorandum of understanding; the Board appoints the Directors of the EDA; the Board may have liaisons attend all EDA meetings; County staff serve the EDA.

Mr. Kamptner's next slide was entitled "Planning Must Continue to be Paramount to Control Undesired Growth," and the following bullet points were listed: localities generally do not develop adequate capacity to plan for and manage growth until it is too late to effectively channel development; since urban growth processes are well understood, strategically directing development to the most favorable areas well in advance of urban pressures offers the greatest hope for controlling growth; localities should proactively plan to accommodate potential growth; successful localities capitalize on their distinctive assets; successful localities pick and choose among development projects; localities must develop a sense of place; businesses want a place, not just a site; quality urban development wants no part of an unstable, unplanned, uncontrolled environment as they know it is not a place to make a long-term investment; the best places to live, work, and visit are those that are willing to uphold their standards in the face of pressure to allow the lowest common denominator development; tourism simply does not go to a locality that has lost its soul. Mr. Kamptner concluded his presentation and invited questions.

Ms. Palmer says she has received questions from constituents, including why the County would not put the number and types of facilities into the ordinance. Mr. Kamptner responded that this could constrain the EDA and reduce the flexibility, to a limited extent, that the County and Board has to imposing limitations. He said it can be broad enough to allow for a reasonably broad range of facilities.

Ms. Palmer asked if the EDA can own land and, if so, whether the EDA would bear liability. Mr. Kamptner replied in the affirmative to both questions.

The Chair then opened the public hearing.

Mr. Tom Loach, resident of Crozet, addressed the Board and stated that he is glad Mr. Kamptner reviewed the growth areas and the need for the County to establish well-defined growth areas. He said he hopes there would be adequate representation from the growth areas, specifically on the community advisory councils (CACs). Mr. Loach stated that he hopes Crozet and other locations within the growth area can avoid a scenario where the County promotes land for relocation of a business, as had been done in Crozet, with land that had not been zoned for that purpose. He expressed his hope that the EDA would respect zoning that is in the master plans.

Mr. Jeff Werner of the Piedmont Environmental Council, addressed the Board, stating that he and other community members do not fully understand the authority of the EDA and their bonds. He said he has suggested they take the language of the MOU and insert this as replacement language in the ordinance, but was told this cannot be done. Mr. Werner stated that it is critical to have the MOU in place prior to amending the ordinance, as he understands the ordinance cannot be changed, and said he is troubled by some comments in the staff report such as "the oversight and involvement of County elected officials is constraining and hindering the work of the EDA and these constraints can be removed to allow the EDA to operate nimbly and flexibly." He said the Board is answerable to the electorate and not the EDA, and he thinks it is inappropriate for a member of the EDA to say that the elected body is hindering them. Mr. Werner emphasized the importance of making sure the MOU is monitored and enforced, and said it is up to the Board to make sure the EDA follows the guidelines, adding that members of the community would attend EDA meetings and pay attention to what is going on.

Mr. Morgan Butler of the Southern Environmental Law Center addressed the Board, stating that he would provide one recommendation, but would first provide some context. Mr. Butler said the SELC's view is that several provisions in the current ordinance that have been in place for quite a while may stretch the limits of the oversight the Board may legally exercise over the EDA, and thus should be fixed. He stated that there are two choices: the first is to revise them so they focus on exercising oversight over the type and number of facilities the EPA proposes to finance, which is clearly permitted by state law; a second choice is to eliminate the provisions, thereby giving the EDA freer reign over the projects it finances. Mr. Butler said the discussion has focused on the second option, with little attention paid to the first option. He stated that the choice to eliminate the provisions has generated concerns with the public that are understandable. Mr. Butler said his organization's view is that once the provisions are adopted, the EDA could help purchase properties in the rural areas with an eye towards development and thus generate pressure on the Board to expand the development areas and approve rezoning of the purchased properties that they might otherwise not support. He stated that a new MOU has been drafted to allay those concerns, which is to be used as a tool to assure the EDA's activities remain consistent with Board policies and goals, including preservation of rural areas for rural uses. Mr. Butler said the Board's decision to cut the oversight provisions, rather than revising them, would not result in the EDA taking actions that could undermine the County's rural preservation goals. He noted the MOU is a valuable safety net for the public and it does not make sense to formally vote on and adopt the ordinance changes until that safety net is clearly and firmly in place. Mr. Butler urged the Board not vote to approve the ordinance changes until the MOU has been signed and executed by both sides.



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

Ms. Mallek suggested that they vote, but with a provision that it would take affect after the MOU has been adopted.

Mr. Kamptner stated they can have a delayed effective date for the ordinance.

Mr. Randolph stated there is a good faith effort by the Board to approve the MOU, and he would prefer not to go through a process of multiple iterations and discussion of the ordinance while awaiting the MOU. He stated he would like to leave the motion on the table as is.

Ms. Palmer asked why the MOU cannot be placed into the ordinance. Mr. Kamptner said the ordinance, as proposed, is much cleaner and truer to the state enabling authority, and the MOU can operate as an MOU. He said it is signed by both bodies and they both buy into the terms and obligations of the MOU.

Ms. Palmer said she would not mind delaying the effective date until the next Board meeting of December 2, but is comfortable with the MOU and where they are right now.

Ms. McKeel expressed her confidence that the MOU would be approved.

Mr. Randolph **moved** to adopt the proposed Ordinance amendment. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

#### **ORDINANCE NO. 16-02(2)**

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE VI, ECONOMIC DEVELOPMENT AUTHORITY, 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 2, Administration, Article VI, Economic Development Authority, is hereby amended and reordained as follows:

#### **By Amending and Renaming:**

Sec. 2-600      Creation of economic development authority  
Sec. 2-601      Powers, duties, and procedures

#### **By Amending and Renumbering:**

Old	New
Sec. 2-604	Sec. 2-602      Board of directors

#### **By Repealing:**

Sec. 2-602      Board of supervisors to approve financing  
Sec. 2-603      Board of supervisors to approve location  
Sec. 2-605      Board of supervisors to approve by-laws, etc.

### **Chapter 2. Administration**

#### **Article VI. Economic Development Authority**

##### **Sec. 2-600 Creation of economic development authority.**

There is hereby created pursuant to the Industrial Development and Revenue Bond Act (Virginia Code §§ 15.2-4900 *et seq.*) a political subdivision of the Commonwealth of Virginia to be known as the "Economic Development Authority of Albemarle County, Virginia," which is hereinafter, referred to in this article as the "economic development authority."

(5-12-76, §§ 1, 2; Ord. of 5-4-94; Code 1988, §§ 2-47, 2-48; Ord. 98-A(1), 8-5-98; Ord. 08-2(3), 6-4-08, effective 7-1-08)

**State law reference**--Va. Code § 15.2-4903.

##### **Sec. 2-601 Powers, duties, and procedures.**

The economic development authority shall have all public and corporate powers as are or may from time to time be conferred upon the economic development authorities pursuant to the Industrial Development and Revenue Bond Act (Virginia Code § 15.2-4900 *et seq.*) In the exercise of its powers, the economic development authority shall perform all applicable duties and comply with all applicable

procedures required by the Act, including obtaining the prior approval of the board of supervisors when that approval is required by state or federal law before the economic development authority may act.

(5-12-76, § 3; 11-1-78; 8-14-80; 12-2-81; 3-16-83; 12-21-83; Ord. of 12-16-92; Ord. of 5-4-94; Code 1988, § 2-49; Ord. 98-A(1), 8-5-98; Ord. 08-2(3), 6-4-08, effective 7-1-08; 5-12-76, § 4; 11-1-78; 8-14-80; Ord. of 5-4-94; Code 1988, § 2-50; Ord. 98-A(1), 8-5-98; Ord. 08-2(3), 6-4-08, effective 7-1-08)

**State law reference**--Va. Code §§ 15.2-4905, 15.2-4906.

#### **Sec. 2-602 Board of directors.**

The economic development authority shall be governed by a board of directors in which all powers of the authority shall be vested, composed of seven (7) members appointed by the board of supervisors as provided by law.

(Ord. of 5-4-94; Code 1988, § 2-52; Ord. 98-A(1), 8-5-98; Ord. 08-2(3), 6-4-08, effective 7-1-08)

**State law reference**--Va. Code § 15.2-4904.

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Agenda Item No. 16. **Public Hearing: ACSA-2016-00004. Barracks Road Area.**

To receive comments on its intent to amend the Albemarle County Service Authority (ACSA) Jurisdictional Area to provide water and sewer service to Tax Map Parcels 060A0-09-00-02400, 060A0-09-00-02500, 060A0-09-00-025A0, 060A0-09-00-02600, and 060A0-09-00-026A0. The parcels are located on the north side of Barracks Road between Huntwood Lane and Burgoyne Road. (*Advertised in the Daily Progress on October 24 and October 31, 2016*)

The Executive Summary presented to the Board states that the property owner of TMPs 60A-09-026 and 26A (James Harris) has requested that sewer service be provided to his two properties, which are currently designated for Water Service Only. This request is not based on any existing health or safety issue and, therefore, not consistent with the County's policy for extending public water or sewer service to properties within the designated Rural Areas. However, staff's further evaluation of Mr. Harris' properties and other nearby properties along Barracks Road has identified certain characteristics which merit the Board's consideration of adding a total of five parcels to the Jurisdictional Area (JA) for sewer service, three of which should also be considered for water service (two are currently designated as "Water Only to Existing Structures," and one has no service designation). These characteristics will be discussed further in the Discussion section of this report and in Attachment D.

Most of the current designations in this area appear to have been established in the early 1980s as part of a comprehensive update of the ACSA Jurisdictional Area maps. There has been only one other JA amendment in this area. In 2001, sewer service was granted to TMP 60A-09-00-28 in 2001, the parcel adjacent to Mr. Harris' parcels. The Health Department had determined that there was not adequate location for a septic system on that parcel. Most of that parcel had been subject to substantial fill activity and the existing soils and topography of the site were inadequate to support septic systems. The Health Department inspector also noted that there was not sufficient area for additional septic systems on the adjacent parcels (including Mr. Harris' properties) due to similar fill activity, topography, and existing development on those properties.

The Comprehensive Plan strategy regarding the provision of public water and sewer service within the County as it relates to properties located in the Rural Area states that "[t]he boundaries of the Development Areas are to be followed in delineating jurisdictional areas. Change to these boundaries outside of the Development Areas should only be allowed when: (1) the area to be included is adjacent to existing lines; and (2) public health and/or safety is in danger."

This strategy reflects the fact that public water and sewer systems are a potential catalyst for growth and capacities need to be efficiently and effectively used and reserved to serve the Development Areas. Continued connections of properties in the Rural Areas should be the exception as the further extension of lines into the Rural Areas will strain limited water resources and capacity.

While there is currently no documented health or safety issues on any of these parcels, staff believes that there are certain characteristics and circumstances regarding these five (5) parcels that merit granting sewer service to the parcels to address potential long term health and safety issues. Attachment D provides an assessment of the parcel characteristics and the issues/constraints regarding long term use of septic systems, as well an assessment of the proposed Jurisdictional Area amendment as it relates to the policies of the Comprehensive Plan for the provision of public water and sewer.

As noted in Attachment D:

- The five parcels are approximately 2 acres or less (two are 0.64 than 0.50 acres) and have limited area for new or replacement septic systems due to some combination of the parcel size, poor soils (fill areas), level of existing development, and/or the presence of a stream/stream buffer.
- Because the parcels are all zoned Rural Areas (RA) and are developed in a manner consistent with the land use recommendations of the Comprehensive Plan, the provision of sewer service to these parcels will not encourage or permit development inconsistent

with the Comprehensive Plan or a higher level of residential development that could otherwise occur through the use of private systems.

- Because existing water and sewer lines are already located in this area, this amendment would not result in new water or sewer lines being extended in the Rural Areas. Impacts to water and sewer system capacities will be limited and are probably inevitable at some point in the future, as health and safety issues arise on these parcels.
- All of the parcels except TMP 60A-09-00-25A already have either a "Water Only" or "Water Only to Existing Structures" designation. Staff recommends granting water and sewer service to TMP 60A-09-00-25A, and amending the water service designations of the other four parcels to "Water and Sewer". The impact from the "Water Only to Existing Structures" to "Water and Sewer" will be minimal due to the existing zoning and parcel sizes.

In summary, staff recommends that sewer service be provided to the five parcels noted above, and that water service also be provided to TMP 60A-09-00-25A (as well as TMPs 60A-09-00-0025 and 60A-09-00-24, which are currently designated "Water Only to Existing Structures") based on the assessment and findings noted above and in Attachment D.

There is no cost to the County. The property owners would bear any costs for water and/or sewer connection.

Staff recommends that the Board approve an amendment to the Albemarle County Service Authority Jurisdictional Area to designate Tax Map Parcel (TMP) 60A-09-00-26, TMP 60A-09-00-26A, TMP 60A-09-0025, TMP 60A-09-00-24, and TMP 60A-09-00-25A for Water and Sewer Service.

Mr. David Benish, Chief of Planning, addressed the Board. He said this amendment is staff initiated, and staff would like to delay the item to January 4, 2017, to allow for some matters taking place on the property to be resolved.

Ms. McKeel **moved** to defer action on ACSA-2016-000004 until January 4, 2017. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

Agenda Item No. 17. **Public Hearing: PROJECT: ZMA201500007 and SP201500025 Brookhill, Rivanna District.**

MAGISTERIAL DISTRICT: Rivanna.

TAX MAP/PARCEL: 04600000001800; 046000000018A0; 04600000001900; High school site or other public institution and road improvements: 046B50000001C0; 046000000018B and 0460000018D.

LOCATION: 2571 Seminole Trail (Route 29) at the intersection of Polo Grounds Road.

PROPOSAL: Request to rezone parcels to Neighborhood Model District for a maximum of 1550 residential units and 130,000 square feet of non-residential. A special use permit for grading activities within the floodplain for the improvements to Polo Grounds Road. Additionally, the proposal requires approval for the use of County property, on TMP 046B50000001C0, for a road connection to Ashwood Boulevard.

PETITIONS: Special use permit under Section 30.3.11 of the zoning ordinance for grading activities within the floodplain and rezone 277.5 acres from R1 Residential zoning district which allows residential uses at a density of 1 unit per acre to NMD-Neighborhood Model zoning district which allows residential mixed with commercial, service and industrial uses at a density of 3-34 units/acre. Request for the use of County property for a road connection to Ashwood Boulevard. Approximately 209 acres designated Neighborhood Density Residential; 7 acres designated Neighborhood Service Center; 30 acres designated Urban Density Residential; 15 acres designated Parks & Green Systems for a total density range of 817 to 2344 units under the Comprehensive Plan.

OVERLAY DISTRICTS: EC- Entrance Corridor; FH- Flood Hazard; AIA- Airport Impact Area; Managed and Preserved Steep Slopes.

PROFFERS: Yes, which also include property for a high school or other public institution on TMP 046000000018B and 0460000018D and road improvements on TMP 046B50000001C0.

COMPREHENSIVE PLAN: Neighborhood Density Residential – residential (3 – 6 units/acre) supporting uses such as religious institutions, schools and other small-scale non-residential uses; Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses; Urban Mixed Use (in Centers) – retail, residential, commercial, employment, office, institutional, and open space; NS-Neighborhood Service Center (6 – 20 units/acre); Privately Owned Open Space/Environmental Features – privately owned recreational amenities and open space/ floodplains, steep slopes, wetlands, and other environmental features in Hollymead-Places29 Masterplan. High school site and or public institution and road improvements: Rural Areas in Rural Area 1. *(Advertised in the Daily Progress on October 24 and October 31, 2016)*

The Executive Summary presented to the Board states that at its meeting on August 16, 2016, the Planning Commission voted 4:1:2 (Spain voted nay; Lafferty, Dotson absent) to recommend approval of ZMA201500007 and SP201500025 conditioned on the applicant making the revisions noted in Attachment G of the staff report prior to the Board of Supervisors' meeting. The Commission also recommended that the application plan be revised to show a pedestrian/bicycle connection only and not a full road connection to Coral Berry Court in Forest Lakes South. The Planning Commission's action letter, staff report, and minutes from the August 16, 2016 meeting are Attachments A – C.

The applicant has made all revisions to the proffers and the application plan that were recommended by the Planning Commission. In addition, staff recently received updated cash proffer amounts using the FY16-17 CIP. The analysis of how impacts from the development are being mitigated was previously reviewed using the FY 15-16 information. The applicant provided an updated spreadsheet using the FY16-17 CIP, and the credits far exceed the anticipated updated cash proffer amounts. Therefore, staff's analysis remains the same. The applicant's cash proffers reflect the updated amounts.

In order to approve the rezoning and special use permit requests, the Board will need to first approve a resolution authorizing the County Executive to sign any necessary plats and other related documents to allow the applicant to construct a public road (the Ashwood Boulevard Connection) and other improvements on County-owned property adjacent to the development. Attachment E provides staff analysis and a recommendation for approval.

Staff and the Planning Commission recommend that the Board adopt:

1. the Resolution authorizing the Ashwood Boulevard connection (Attachment I)
2. the Ordinance approving the rezoning (Attachment J); and
3. the Resolution approving the special use permit (Attachment K), subject to the conditions attached thereto.

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Ms. Megan Yaniglos, Principal Planner, addressed the Board. She said she has provided Board members with a staff report that contains extensive analysis of the development. Ms. Yaniglos said she will provide an overview of the location, highlight the proposal, and touch on the proposal for a connection to Ashwood Boulevard and the special use permit. She stated the rezoning consists of three properties located at the corner of Route 29 North and Polo Grounds Road and contain woodlands, wetlands, streams, slopes, a salamander habitat, and an historic manor house. She showed an aerial photograph of the property and stated the proposal is to rezone 277.5 acres from R1-Residential to NMC-Neighborhood Model District; there would be a minimum of 800 and a maximum of 1,550 residential units; there would be a minimum of 50,000 and maximum of 130,000 square feet of non-residential space; the project would contain open space, trails, parks, multi-modal transportation and civic areas; the developer would proffer an elementary school site; street connections include Polo Grounds Road, Ashwood Boulevard, Route 29, and Montgomery Ridge; there is a high school or other institutional use site and a Rio Mills Road connection to Berkmar Extended. Ms. Yaniglos presented the application plan architectural drawing of the development, noting that the property lies next to Forest Lakes South.

Ms. Yaniglos stated the Places 29 Master Plan designates these properties as urban mixed-use, urban density residential, and neighborhood density residential. She presented a slide showing the mixed-use, urban residential and neighborhood residential sections of the proposed development. She said the urban density, mixed-use, and residential were modified to be closer to Route 29 to allow for a larger buffer and less density near the stream, and to provide for a larger market area, which she said staff does not believe is problematic because there is an urban density residential block and extensive buffering and landscaping along Route 29. She said the designations are larger in size to allow for civic space within the center. She said the connector road has been adjusted to be closer to Route 29 to have less of an impact on the stream, and said the applicant has extended the green area so there would be additional protection to streams on the property. Ms. Yaniglos stated that the Board would have to approve a resolution to allow the applicant to construct a public road and other improvements on County-owned property adjacent to the development, which is detailed in Attachment H and supported by the Comprehensive Plan and Places 29 Master Plan. She said this meets the Comprehensive Plan strategy of providing interconnectivity in the development areas.

Ms. Yaniglos stated the applicant would proffer to build a trailhead to allow residents to access trails proposed for Brookhill and the greenway that is being dedicated to the County. She said the Forest Lakes community has expressed opposition to the trailhead, but staff recommends approval for the reasons stated in Attachment H. She said the applicant requests a special use permit for grading activities within the floodplain, which would result in a minor expansion of the floodplain horizontal limits. She stated the County engineer has reviewed the request and has found that it will not result in an increase in the 100-year floodplain elevation and will not detrimentally impact adjacent properties.

Ms. Yaniglos displayed a list of recommendations made by staff and the Planning Commission for the Board to adopt: a resolution authorizing the Ashwood Boulevard connection (Attachment L); an ordinance approving the rezoning (Attachment J); and a resolution approving the special use permit (Attachment K), subject to the attached conditions. She concluded her remarks and invited questions.

Ms. Mallek stated the parking lot at the trailhead seems to be of greater concern than the trailhead, and asked if there is a real reason why they need to develop a parking lot right away. Ms. Yaniglos replied that there was not.

Mr. Dill commented that the parking lot location could be changed to the town center.

Ms. Mallek asked if the County has asked all the pertinent traffic questions to get the best information. Ms. Yaniglos, speaking on behalf of Mr. Joel DeNunzio, said they have.

Ms. Palmer opened the public hearing.

Ms. Ashley Davies, Land Use Planner at Williams-Mullen Law Firm and member of the Brookhill development team, addressed the Board. She introduced Alan Taylor of Riverbend Development as a member of her team, stating that Riverbend has constructed the Charlottesville Pavilion, Whole Foods, Wegman's, and renovated the Coca Cola site on Preston Avenue, as well as the Jefferson Theater. Ms. Davies stated that over the last two years, their team has worked collaboratively with County staff and surrounding neighborhoods to understand goals, listen to concerns, and update the proposal to fulfill the vision set forth in the Comprehensive Plan. She said they feel the community would set the standard for future development in Albemarle. She stated that in the rezoning, they were asked to mitigate potential impacts, and Brookhill not only accomplishes this goal but provides solutions to other major County problems, such as traffic and overcrowding of schools. Ms. Davies said that Brookhill represents an evolution in development, exemplifying the Neighborhood Model with four major components: a solar-powered town center; 100+ acres of permanently preserved natural stream corridors and open space; new schools; and well-connected neighborhoods to promote strong community and active lifestyles. She stated that Brookhill almost exactly implements the Comprehensive Plan as environmental features are preserved, spotted salamanders are protected, new civic spaces are created, and the proposed number of residential units represents a modest 60% of the maximum contemplated. She said that 85% of the land in the development is designated low-density residential, with greenspace creating an appropriate transition to surrounding neighborhoods and rural areas. Ms. Davies noted that the 277-acre property represents over 10% of the available land identified by the County as developable within the growth area. She said that with steady population growth since 1960, Albemarle carries the responsibility to ensure the growth areas develop pursuant to the Comprehensive Plan, otherwise, and the priceless character of rural areas will be destroyed by premature development. She introduced Alan Taylor to provide additional information.

Mr. Alan Taylor of Riverbend Development addressed the Board. He said this presentation is a culmination of numerous years of work and a herculean effort of which they are very proud. He said that Brookhill is a mixed live, work, and play development that will set the standard for the future. Mr. Taylor stated that the development will be walkable, with a town center consisting of first floor retail, second floor commercial, and will be powered primarily by sunlight as they will install a megawatt of solar, which will generate the equivalent of 900,000 pounds of coal per year. He said they plan to put salamander tunnels in Polo Grounds Road to allow them to migrate underneath the road and reach the vernal ponds where they breed. Mr. Taylor stated that parking lot pavement will have pervious pavers. He said the amenity package includes multiple sport courts, a swimming pool and clubhouse facility, and miles of hiking and biking trails, while preserving green space along stream corridors. He said if these amenities are not provided, residents will rely on County amenities. He said the town center will create jobs, sale, meals, real estate, and property tax revenue which, when added to the proffers, results in a revenue positive development of an estimated \$8 million per year. Mr. Taylor noted that they will be directing \$58 million to the County from cash, in-line contributions with the schools, bus stop, and transportation improvements to allow better pedestrian and vehicular movement.

Mr. Taylor stated they have performed an exhaustive traffic analysis and have a plan that improves traffic flow with all key intersections expected to function better than they do now. He said the County has been looking at sites for a new northern high school for many years, which this proposal provides, in addition to a 7.5-acre site reserved for an elementary school that will be pad-ready and utility stubbed, located adjacent to the town center. He noted concerns that new development brings new residents requiring services such as schools, police, etc. However, he said, people are moving to Albemarle County because it is a great place to live and not because of Brookhill, so there is a flaw in this argument. Mr. Taylor stated there is over 50 years of empirical data to prove that land use policy dictates where people move to when they come, not if they will come. He said the rural area will provide the place for these new rooftops, and the County's growth management policies were created to stop that from happening. He said they do not want to chop up the rural areas with by-right sprawl, but want instead to have new residents move to walkable places like Brookhill. Mr. Taylor added that tonight is the night to implement the County's well thought out land use policies.

Mr. Dill said the Brookhill development was an issue brought up to him by constituents during the campaign, and in an attempt to learn about it, he has attended every community meeting over the last six months and studied it carefully. Mr. Dill stated that development will occur at this location and whatever it is will create traffic issues. He said the traffic plan is the best it can possibly be and that Route 29 expansion to three lanes is a large part of the solution to allow for easier side street exiting. Mr. Dill stated that work is being done at Polo Grounds Road to enhance the exits there, and expressed his appreciation for everyone who has worked to resolve the traffic issue.

Mr. Devin Welsh, resident of Scottsville, addressed the Board. He said he has looked at the project carefully and believes it has the potential to set a gold standard for development and hopes to see more of these projects in the future. Mr. Welsh said he has been a resident of the area for five years and realizes that some new residents want to close the door behind them, but this is not something they can do as growth is part of living in a desirable area. He said the challenge is to use their limited space to come up with ways to fill the community rather than spread it out. He said that he applauds the development team for innovations, such as the solar panel and extended stream buffers and believes they are worthy of special consideration, adding that this is a great project.

Mr. Jeremy Swing, resident of Scottsville, addressed the Board. He said that from listening to discussions, this seems to be setting the gold standard for development in the County and is textbook development at its finest. He expressed approval for having the town center and school onsite and approves of the layout of the neighborhood, so he hopes the Board will approve.

Ms. Anne Eddins, resident of Polo Grounds Road, addressed the Board. She said she cannot imagine how they can think that Brookhill residents would not drive southbound on Route 29 to go into town, and it does not make sense to not have a traffic light at the entrance. She said she has seen estimates of 10,000 additional vehicle trips on Polo Grounds Road from motorists coming down Brookhill Road and turning right, and adding two turn lanes would not accommodate 10,000 car trips. She emphasized the need for a traffic light on Route 29.

Mr. Taylor Brown, resident of Albemarle County, addressed the Board on behalf of Suntribe Solar. He stated that as the County grows, they need to favor developments that benefit the community the most. He said the one megawatt solar system proposed for Brookhill would reduce fossil fuel consumption, adding that there have been five megawatts of solar installed in Virginia in 2015, so the system at Brookhill would equate to 20% of the total for the state. Mr. Brown said we need to support more developments with aggressive renewal energy goals and that Riverbend has gone above and beyond with Brookhill, and for this reason his organization strongly supports the Brookhill development.

Mr. Rich Allive, resident of Albemarle, addressed the Board. He said he is a homeowner and local business owner and supports the project. He stated it is clear that population will continue to grow, making it important to ensure that growth is managed appropriately. He said the development fits in with the Comprehensive Plan objectives and makes strides to mitigate sprawl, such as what is found in the D.C. area. Mr. Allive said he fully supports the development and hopes the Board will approve it.

Mr. Robert Archer, resident of Redfields in the Samuel Miller District, addressed the Board. He said when considering the development, he has thought about whether he and his family would like to live there. Mr. Archer stated that it fits within the Comprehensive Plan and VDOT is in support of the traffic plan, which makes sense to him. He said he supports the project as a wonderful addition to the community and a place where he would like to live.

Mr. Steve Liberman, resident of Forest Lakes, addressed the Board. He said the concept of the community is a good one, but it should not affect residents of Forest Lakes from a traffic standpoint. He said the picnic area at the trailhead will create problems for residents of Ravenswood, noting that the Forest Lakes trail system is private while the Brookhill trail is public, and they do not want a parking area where people can park and potentially enter Forest Lakes. Mr. Liberman stated that the picnic area will attract kids and possibly vagrants, and police will need to patrol. He also pointed out that the Ashwood Connector should limit left turns from Brookhill in the morning to avoid a traffic back up.

Mr. Don Rucker, resident of Bentivar, addressed the Board. He stated that he has participated in a neighborhood group and expressed appreciation to the Board for being available and listening to their concerns. Mr. Rucker said that Supervisor Dill asked him to write a list of their concerns, which he sent on November 2 to all Supervisors. He stated there are serious flaws in the traffic study commissioned by Riverbend, and his group has identified 13 as assumptions, oversights, or inconsistencies with the County staff summary. Mr. Rucker said a 15% reduction of the number of households from 1,550 to 1,350, discounting the amount of traffic to the commercial area by 45%, is questionable. He stated the traffic study assumes only 1.5 round trips per vehicle on an average day, which makes no sense. He said SOCA and safety were not considered, and there are a number of other errors. Mr. Rucker said his group is not anti-development or against Brookhill, but their concerns involve traffic impact in the immediate, surrounding area. He suggested a time out to consider the full traffic implications, with VDOT, the County, Riverbend, and the Board looking for a better solution.

Ms. Margaret Van Winkle, resident of Montgomery Ridge, addressed the Board. She said she and her husband completely agree with the arguments expressed in a letter addressed to the Board this week by residents Nat and Margie Howe. Ms. Van Winkle said Polo Grounds Road is a rural road with no shoulders, abrupt turns, and a hazardous one-lane railroad underpass that can barely support the traffic it currently carries. She stated there is no way Polo Grounds Road can be transformed into a primary egress point for a small city of 5,000 residents within a 277-acre tract. She stated if the Board were to approve Brookhill, primary access must be from Route 29 with a traffic light that controls vehicles coming from both directions. Ms. Van Winkle said area residents expected the tract to eventually be developed, but did not envision such a large development, and this would be one of the most densely concentrated developments in the County. She urged the Board to deny the Brookhill rezoning proposal in its current form and insist that traffic impacts be confined to Route 29, to not allow Polo Grounds Road to bear the principle burden of egress and ingress from the property.

Ms. Haiying Wei, resident of Montgomery Ridge, addressed the Board. She presented a petition signed by 43 households that objects to the plan to connect Montgomery Ridge Road with Brookhill. Ms. Wei read the petition:

"Dear Board of Supervisors, We, the residents living in the Montgomery Ridge community, oppose the current Brookhill development proposal that plans to interconnect the Montgomery Ridge Road with the Brookhill area. The Montgomery Ridge community is a natural-friendly low density residential neighborhood area. We enjoy our safe and peaceful environment with the Montgomery Ridge community and so do our kids. Our subdivision is kids safe, and a large portion of our households has

children of pre-school or school ages. Due to its intention to meet only neighborhood low traffic, the Montgomery Ridge Road is narrow in width and close to the front or backyards of two-thirds (40 out of 61) of the houses. As such, odds of children walking, crossing, biking and playing on the Montgomery Ridge Road is much higher than at other places. We are seriously concerned about the safety of our children if the current Brookhill project is approved. While it is understood that the developer needs to find several exits for the Brookhill area, using the Montgomery Ridge Road as an exit should not be considered. Any development plan that relies on routing thru traffic through existing communities and front or backyards of existing houses, leads to greatly increased risk of accidents, and is unfair to those residents who have chosen this quiet and safe place for living. We request that the Montgomery Ridge Road exit be removed from the Brookhill development."

Mr. John Pritzloff addressed the Board and expressed his approval for Brookhill. He said Charlottesville is a metropolitan statistical area that has grown to 200,000 residents and is one of the greatest places to live in America, as reported in many publications. Mr. Pritzloff stated that people come to Charlottesville because it is a great place to live, and part of the growth plan is controlling and approving positive and appropriately planned developments that address a multitude of things, including commercial and residential aspects, traffic and clean energy. He said this project looks to the future as clean energy is the path forward, and he supports approval of Brookhill.

Mr. Eddie Gupton of the Whitehall District, addressed the Board, stating that he will discuss pros and cons of the project. He said he has heard a lot of concerns about traffic and he understands the developer, VDOT, and the County have spent a lot of time looking to come up with solutions. Mr. Gupton stated that Brookhill is a well-planned, model community that is environmentally friendly. He said that over half the business energy will be derived from solar power, spotted salamander will be protected, the development provides public access to natural trails, and proffers will provide the County with over \$50 million in benefits, including two school sites and an access road to eliminate traffic on Earlysville Road. He stated the proposed businesses will create jobs and increase the tax base. Mr. Gupton commented that someone will develop the area and is hard pressed to believe that anyone has devoted the time and effort to look at all possible scenarios as Riverbend Development has. He said the positives outweigh the negatives and he urges approval.

Ms. Elizabeth Anne Oglesby Hall, resident of the Rivanna District, addressed the Board, stating that she lives on Brookhill Farm and will speak about the Brookhill development. Ms. Hall said she is the oldest of the surviving three of her father's five children and speaks on behalf of the entire family that owns Brookhill Farm. She stated that her parents purchased the farm in 1932 to house their growing family, and it consisted of a large, brick house built around 1800 and 500 acres. Ms. Hall said the school had been used as a boys school from 1857-1862 when Dr. Minor, the owner, died. She recalled the enormous amount of work the family had to do before moving in, and said that her mother died in 1969 and her father in 1989, both having served as teachers and her father serving on the Albemarle County School Board. Ms. Hall stated that she believes her parents, as educators, would be supportive of Brookhill as it provides land for both an elementary and high school.

Mr. Scott Eliff, resident of the Rivanna District and member of Forest Lakes Board of Directors, addressed the Board and stated that he requests mitigation of two small design elements: the connector road and the parking lot. Mr. Eliff said Ashwood Boulevard is currently a "D" level of service in the morning, and there will be additional traffic with the proposed connector road, which may cause it to become F level. He said the intersection is not designed to have much more traffic and already has backups, and suggested a no left turn sign from 7-9 a.m. on weekdays. Mr. Eliff stated the parking lot is an "attractive nuisance" that will draw people to park who will walk through Forest Lakes, as Ravenswood and Ashwood residents have iterated. He said that residents feel walkers would use the private Forest Lakes trails and suggested the parking lot, if needed, be located in Brookhill near the town center. Mr. Eliff requested that the Board consider impacts to the Forest Lakes community.

Ms. Lettie Bien, resident of the Rivanna District, addressed the Board. She stated that members of the community have provided enough inconsistencies, questions, and issues to cast serious doubt on the wisdom of an approval for the largest residential development in the County since 2004. Ms. Bien said that it is understood the property is within the development zone and would have something on it eventually. Ms. Bien stated that the proposal by Alan Taylor has merit, but asks the Board to remember the Neighborhood Model does not work when projected build out is up to 20 years and that, once upzoned, there is zero guarantee that Riverbend will build this as they can turn around and sell the property. She asked for a delay to formally reconsider alternative traffic management plans that would effectively mitigate negative impacts on the surrounding neighborhoods. Ms. Bien stated that addressing the concerns of only one neighborhood serves as a "whack-a-mole" solution forcing traffic to expand to other neighborhoods. Ms. Bien said a group of affected residents has carefully researched the traffic issue and they have reason to believe that an entrance on Seminole Trail that does not impede traffic flow could be approved by VDOT. She presented a petition with 529 signatures of area residents and users of Polo Grounds Road. She stated that a development of this size has a domino effect on the entire County and this should be done right. She asks that, if the project cannot be delayed, the Board disapprove it at this time.

Mr. John Duncan, Rivanna District, addressed the Board. He said he is speaking on behalf of the sixty households of the Montgomery Ridge Homeowner's Association. He agreed with a previous speaker about the Neighborhood Model not working over a twenty year build out period. He said he is not anti-development and understands that something will go on the property, but they would rather see it done responsibly by someone who has a commitment to the community. He said their concerns are traffic and also with the placement of a community with the population size of Crozet into a small area of land. He

said the geography of the property is unusual with Route 29 on one side, a river on another side and a railroad bridge on another with the development wedged inside. He said Montgomery Ridge Road is small and narrow and eighty children play in the road every day. He compared the use of this road for access to Brookhill as hooking a garden hose to a fire hydrant. He said a traffic analysis was not conducted of Montgomery Ridge Road.

Mr. David Schmitt, resident of the Bentivar community, addressed the Board. He said he has spoken to each member of the Board and to the community through a letter to The Daily Progress about this project. He said Brookhill has a good deal of merit to it, but the design is fundamentally flawed and the traffic study made faulty assumptions. He said it does not address specific details of the entrance to Polo Grounds Road and the authors of the study admit they do not have comparable data to make decisions, and so they pulled them out of thin air. He said the east bound projection of 1% of all traffic is laughable and vitiated by the real data provided by one of their citizens who sat and counted traffic. He said the estimate that 70% of the use of the commercial area of the development would come from within is extremely unlikely and they have not considered that it could become a destination for outside traffic and they have also not considered the impact of the proposed elementary school. He said his group has provided alternatives to the Riverbend proposal and he hopes the developer will withdraw his request tonight so that it can be considered at a later time.

Mr. Jimmy Dean, resident of Proffit Road in the Rivanna District, addressed the Board. He said he is not sure that real planning has gone into the traffic analysis. He said he lives near Baker-Butler Elementary School and knows about the amount of traffic that goes in and out of a school. He said he does not think that putting in an elementary and high school at the property will work in terms of traffic. He stated the ultimate responsibility to do what is right is up to the Board and not the developer and he urges the Board to do more planning.

Mr. Tom Wharton, resident of the Whitehall District, addressed the Board. He speaks in favor of the Brookhill development. He pointed out that only he and Mrs. Oglesby-Hall, the property owner, are pointing out the proffer of two school sites by the developer. He said the planning has been long lived and exceptional and we should think about what is best for the community at-large rather than just our own neighborhoods. He said it is not a secret that a high school is needed along Route 29 North as well as an additional elementary school. He said a well thought out development is essential to our welfare and that we need a precedent to learn from.

Mr. John Liebengood, resident of Montgomery Ridge, addressed the Board. He expressed his appreciation to the developer for working with the various neighborhoods, but cautioned against proceeding with the project without first conducting independent traffic studies. Mr. Liebengood said he is particularly concerned with the no left turn from Brookhill on to Ashwood Boulevard to mitigate traffic heading south on Route 29, and is concerned that southbound rush hour traffic will be funneled to Polo Grounds Road, which would make things difficult for residents of Montgomery Ridge and Bentivar. He stated the best solution for all parties, including the developer, is direct access to Route 29 South and North via a traffic light at the Brookhill development. He said he hopes this intersection can be addressed prior to any zoning decision.

Mr. Travis Pietila, Southern Environmental Law Center, addressed the Board. He thanked the applicant for meeting with him twice and walking through the property. He said there are a number of positive features to the proposal as it is consistent with the Comprehensive Plan's land use plan for the site, and will advance many of the County's neighborhood model principles. He expressed his approval for the commercial space not being oriented towards Route 29, the 100 foot forested buffer and the transit proffer. He stated the project is one of the largest rezonings ever proposed in the County and so it is important to examine the commitments the applicant has made to offset environmental impacts. He stated that water quality is of particular concern since the site borders a stretch of the Rivanna that is deemed impaired due to excessive storm water runoff. Mr. Pietila stated the applicant has committed to mitigating these impacts through a number of storm water and sediment control measures outlined in Sections 2.5 and 2.6 of its code of development. He said commitments and codes of development can be weakened administratively without the Board's knowledge or approval, although he is confident the developer would follow through with water quality measures. He said that, nevertheless, it is critical that as the project builds out County staff work to ensure these commitments continue to be carried out as proposed. He urges staff to use these on site mitigation measures as a precedent for reviews of future rezonings and to work towards their inclusion in proffers, whenever possible. Mr. Pietila stated it is harder to deviate from a proffer than from a code of development, and commitments like these are more likely to be implemented when they take the form of a proffer. He stated that, though they have not been able to review every aspect of this project in detail, they believe Brookhill has many features worthy of support and commends the applicant and County staff for their work in shaping this proposal.

Mr. Gene Rucker, resident of the Rivanna District, addressed the Board. He said his remarks are not planned and are reactionary to what has been said tonight. He said he has lived there since portions of Polo Grounds Road were unpaved. He said he is the person who conducted a ninety minute traffic count which he has provided to the Board. He said it is almost impossible to believe the traffic study found that only six vehicles from Brookhill will go east on Polo Grounds Road and pass through the one-lane underpass given that State Farm and Martha Jefferson Hospital, two of the largest area employers, are located in that direction.

Mr. Jeff Werner, Piedmont Environmental Council, addressed the Board. He stated the Comprehensive Plan promotes higher density for more efficient use of land as well as more fiscally efficient use of public services. He applauded the trail plan to open the trails to the entire community as



well as the parking lot where visitors can access the trail. He said there has long been a plan he would like to see implemented, to create a bike and pedestrian trail linking Route 29 North with downtown Charlottesville. He said street connectivity solves traffic problems and does not create them. He said he shares the concerns expressed tonight about increased traffic on Polo Grounds Road, which is not a tenet of smarter growth. He said there are numerous, simple ways to create rural traffic calming and he urges a commitment to the Polo Ground Road community to begin working with them now.

Mr. Gerald Long, resident of Bentivar, addressed the Board. He said that residents of Bentivar, Montgomery Ridge and Polo Grounds Road will be those directly impacted by a failed traffic study. He said those who conducted the study will not be living there tomorrow and next year and for decades to come. He said he fully supports Mr. Rucker's traffic study report and requested a delay in approval to facilitate discussions with VDOT and other traffic organizations.

Mr. Andy McGinzy, resident of Bentivar Forest, addressed the Board. He stated it is impossible to live next to a development of this size and not be concerned about the impacts. He described it as setting the gold standard for new development in the County and that, despite the positive aspects of it; it is scary to have a new development, particularly with concerns about traffic. He reminded the Board that a professional engineer works with the developer, a traffic engineer has conducted a study, the County engineer and VDOT have reviewed the proposal and they are all professionals. He said in five or ten years they will look back on this and see that it was a good thing and everybody's fears were unwarranted.

Ms. Palmer closed the public hearing.

Mr. Dennis Rooker addressed the Board as representative for the applicant, stating that there are many reasons to approve the project. He said the extensive proffered transportation improvements will result in no reduction in the level of service at major intersections at Polo Grounds and Ashwood at full buildout, noting that each road connection in Brookhill was recommended by staff, VDOT and the Comprehensive Plan. He said the transportation plan disperses traffic to avoid congestion at any one point. Mr. Rooker stated the total value of proffers and fees is over \$58 million, and said that with recent proffer legislation this may be the last rezoning in the County that can have proffers of this magnitude offered. He said there are terrific environmental features and amenities, though these are not the primary reason why the Board should approve Brookhill. Mr. Rooker emphasized that the primary reason the Board should approve it is because it conforms to the Comprehensive Plan, Places 29, the County's growth management policy, and the Neighborhood Model. He said over 40 years of work has been done to plan for more efficient use of the growth area to protect rural areas from suburban sprawl, in light of persistent population growth in the County. Mr. Rooker presented a graph of population growth in the County from 1970 to 2010, with an average of 1,400 new residents per year and expectations of increased growth of 1,900 per year over the next several years. He said the Comprehensive Plan calls for 15,000 additional housing units needed by 2030, stating that the issue is not whether people are going to come, but where they will live and what kinds of communities they will live in. He displayed a slide showing Objective 4 of the Comprehensive Plan which states: "The ability of the Development Areas to accommodate projected growth depends on the density and quality of new development." He next presented a slide showing Objective 5, which states: "To create these places where parks, playgrounds, shopping, transit and employment are all within a walking or bicycling distance of residents, density is needed."

Mr. Rooker stated that almost every rezoning would have opposition from the people living around it, but such opposition cannot replace sound planning as a basis for important land use decisions. He said the Comprehensive Plan envisioned such opposition and showed a slide of Strategy 5a with the following heading: "Provide ongoing education to the public on the relationship of density in the Development Area and efforts to prevent sprawl," with the following wording in 5a describing this strategy: "Many residents who move to the County expect that nothing would change after they arrive. However, in a vibrant area, change will occur and it is natural for residents to fear the effects of change. For this reason, education is important to help new residents understand the County's expectations for rural preservation balanced with high quality urban development." Mr. Rooker stated that zoning decisions should not be a series of one-off, ad hoc decisions, and the Comprehensive Plan, Master Planning and the Neighborhood Model exist to ensure that developments are consistent with community standards developed over many years. He asked, if this application were not approved, what developer would spend two years and invest millions of dollars pursuing a plan like Brookhill, which is precisely the type of plan the County has said it wants. He emphasized that it has been recommended for approval by County staff and the Planning Commission and meets all principles of the Neighborhood Model, and asked that the Board approve Brookhill.

Mr. Joel DeNunzio, VDOT Resident Engineer for the Charlottesville residency, addressed the Board. He said he will address concerns expressed at tonight's meeting and in correspondence he has received, and stated the traffic study considers three alternatives: A, B, and C. Mr. DeNunzio stated that Option A would be a continuous, green T, signalized intersection at the main entrance to Brookhill and Route 29. He said this would provide for all traffic movements, right-in and out, left in and out, and would have a southbound acceleration lane so that southbound traffic on Route 29 would not have to stop for vehicles exiting Brookhill. He said that Option B has right-in and out at the main entrance to Brookhill from Route 29; Option C is an R-cut or median U-turn with right-in and out and a left in. Mr. DeNunzio stated that exiting southbound traffic would take a right and go north until it could merge left and make a U-turn and head south. Mr. DeNunzio noted that an R-cut improves efficiency and safety at intersections.

Mr. DeNunzio said he would focus on the safety of the three options. He stated that most crashes

occur at intersections, and it is important to look at conflict points of an intersection and consider which option has the fewest conflict points, as well as the least severe conflict points, to make an assessment as to which option would result in the fewest number of crashes. Mr. DeNunzio stated that Option A presents 32 conflict points at Polo Grounds Road, with 16 of them being crossing conflict points where angle collisions could be expected, which are the most severe. He stated that Polo Grounds Road presents the same number of conflict points under Options A, B, and C. Mr. DeNunzio stated that the middle entrance would determine which option is safest. He said the new driveway with full access and the green T present 9 conflict points and 3 crossing conflicts, which is an improvement over Option A. Mr. DeNunzio stated that Option B presents 4 conflict points and 0 crossing conflicts. He said that Option C has 6 conflict points and 1 crossing conflict. Mr. DeNunzio stated that Option B presents the fewest number of conflict points, which would likely result in the fewest number of crashes and severe crashes, and said that VDOT supports Option B.

Mr. Dill asked why there cannot be a stoplight there. Mr. DeNunzio responded that he would get to this during his discussion. He next addressed traffic flows and service impacts of the three options. He stated that a right-in and out provides the least amount of delay to Route 29 traffic and the least delay for traffic turning left out of the three sites. Mr. DeNunzio said a traffic signal would increase the overall delay for Route 29 traffic as well as traffic at the three intersections. He said if they consolidate right-in and out and improvements to Polo Grounds Road of a double left turn lane and allow left turn access at Ashwood Boulevard, the delay for all left turns exiting the development and those turning left to Route 29 out of the development would be minimized, which is the second reason why VDOT supports Option B.

Ms. Palmer expressed some confusion and asked for clarification of his explanation. Mr. DeNunzio explained that if there are three traffic signals on Polo Grounds Road, the new Brookhill entrance, and Ashwood Boulevard, and they added left turns from all three together, the total delay would be greater with three intersections compared to having full access at Polo Grounds Road and Ashwood Boulevard and a right-in and out at the Brookhill entrance. He said the entire traffic network functions best with a right-in and out and full access at the two locations where they currently have full access.

Ms. Palmer asked about the proposed 7:00–9:00 a.m. restriction on Ashwood Boulevard. Mr. DeNunzio said this would create additional impacts as traffic would have to be distributed to other locations.

Ms. Mallek said she missed where the U-turn southbound would be, and asked if this would be at Ashwood. She also asked if they would have an extended slip lane coming out of Brookhill and turning right to Route 29 to then make the U-turn to go southbound. Mr. DeNunzio responded that he believes the U-turn would have to be at Ashwood Boulevard.

Mr. Randolph asked why VDOT would not support a sign prohibiting left hand turns from 7–9 a.m., Monday–Friday. Mr. DeNunzio stated that he understands the concerns with current queues at Ashwood Boulevard, but the addition of new lanes currently underway would make the intersection work much more efficiently. He said that improved north and southbound flow on Route 29 would allow for more green light time at the Ashwood Boulevard intersection. Mr. DeNunzio said the traffic study shows the queue of vehicles does not go past the intersection, and said that installation of a sign restricting left turns is probably unnecessary, would reduce overall efficiency, may be ignored, and would require policing to enforce.

Mr. Dill commented that it would take a while for Brookhill to build out, and said he attended a meeting where there was discussion of the option of installing a channel median or a sign if traffic back up were to become an issue. Mr. DeNunzio said there is a mitigation plan if it becomes a safety issue, which VDOT does not foresee occurring, and said it would be well into the buildout before this would occur, if it does occur.

Mr. Randolph said an assertion was made that Montgomery Ridge was not factored in the VDOT traffic analysis. Mr. DeNunzio said they would have to ask the engineer if they looked at the intersection of Montgomery Ridge and Polo Grounds Road. He stated that when looking at the overall traffic network of the plan and the connection, it does not seem there would be a lot of cut-through traffic from Brookhill through Montgomery Ridge to get to Polo Grounds Road. He said the real advantage of having this connection is having Montgomery Ridge traffic going through Brookhill to Ashwood Boulevard, especially because of the school, is to reduce impacts to surrounding intersections of Polo Grounds Road and other intersections.

Mr. Dill said he understands it is an option to put a bollard that would still allow a connection for pedestrians but not allow vehicles, except for emergency vehicles. Mr. Mark Graham, Director of Community Development, confirmed that a bollard is an option, though he is not sure it is a preferred option, from a technical perspective. He said the road connection would be constructed, but then bollards would be placed at the property line to limit traffic to emergency vehicles, and allow pedestrian and bicycle passage.

Ms. Palmer said the community could ask for the bollards to be removed if, at some point, they no longer desired them. Mr. Graham responded this would be at the Board's discretion, and at that point they could look at adding the street to the state secondary road system, as it would have originally been built to full VDOT standard.

Ms. Palmer asked about traffic going east on Polo Grounds Road and the potential for traffic calming, as suggested earlier by Mr. Werner. Mr. DeNunzio responded that the traffic study estimated

traffic at 1% on Polo Grounds Road, which equals about 150 vehicles. He said it is a narrow road but it can handle additional traffic, and they did a traffic safety study last year of Route 29 to Proffit Road when there was a Field School proposal, and they looked at five-year crash history and learned that 7 of 16 crashes were from people running off the road because there is no shoulder. He pointed out that the majority of traffic would be going to Route 29 and they would be improving the eastern most entrance to Route 29. Mr. DeNunzio stated that the majority of crashes was on the section of Polo Grounds Road where most of the traffic is, and this would be mitigated. He said on the other side of the road, the biggest problem point is at the railroad underpass, and the developer would proffer a signalized railroad underpass upon the request of VDOT and the County. He said they installed a temporary signal there in 2007 when they closed down Proffit Road for construction and detoured traffic to Polo Grounds Road, and it functioned well enough that they were asked to leave it there permanently. Mr. DeNunzio stated that if they see traffic problems at the underpass, they can request the proffer of the signal. He stated that as the efficiency of Route 29 improves as a result of recent improvements and those planned, there should be less traffic taking Proffit or Polo Grounds Roads to the Pantops area. Mr. DeNunzio noted that installation of more signals on Route 29 delays through traffic, which pushes traffic to other roads where traffic is not wanted.

Ms. Palmer paraphrased Mr. DeNunzio's explanations of some options: they can put a light at the railroad crossing if it turns out it is needed; if Ashwood Boulevard becomes full, they can take steps to deter a left turn from the hours of 7–9 a.m.; they can have traffic calming on Polo Grounds Road if the need arises; they can install bollards at Montgomery Ridge to prevent through traffic. She asked for examples of traffic calming.

Mr. DeNunzio responded that it already has pretty good traffic calming, as the narrow geography of the road results in most motorists traveling within five miles of the speed limit. He said Polo Grounds Road is below the district average for number of crashes and severity of injuries. He next read a list of concerns from area residents, with the first being that VDOT has not reviewed alternative plans. Mr. DeNunzio stated they have looked at three plans: A, B, and C, and each of these options has an alternative. He said that one alternative is to take Polo Grounds Road and make Rio Mills Road a right-in and out once the Rio Mills Road connector to Berkmar Drive is finished. He said this improves the efficiency of Polo Grounds Road at Route 29 by increasing the green light time by not having any green light time at Rio Mills Road. Mr. DeNunzio stated they made a recent adjustment to the signal by switching the phasing of side streets to allow Polo Grounds Road to go first and, if there is no traffic at Rio Mills Road, they could add green light time at Polo Grounds Road. He said another concern is that the plan routes 16,000 vehicle trips to adjacent neighborhoods, noting that Polo Grounds Road is a major collector road and Ashwood Boulevard can be considered a residential collector.

Mr. DeNunzio stated the majority of traffic exiting Brookhill on to Polo Grounds Road and to Ashwood Boulevard is going to existing collector roads that are set up to feed into the principal arterial system. He said that by placing a signal at Brookhill, they would be adding a conflict point, and the majority of traffic going to Route 29 would not pass through the residential areas of the development. Mr. DeNunzio stated that a key assumption of the traffic study is that no outside traffic would come into the Brookhill commercial area, but when looking at trip generation, you look at the number of trips and then distribute them, removing internal capture trips and pass-by trips. He stated that an internal capture trip is one where the vehicle never leaves the property but travels within it, and defined pass-by trips as those where a vehicle is passing through on the way to somewhere else and stops along the way, perhaps to pick up coffee at a retail store. Mr. DeNunzio stated that pass-by trips were not accounted for in the study, which results in a more conservative study, and said the total number of trips could have been reduced by capturing pass-by trips, so by not doing this, they are showing greater impacts to surrounding intersections. He said another concern expressed is that VDOT and the County will not consider a signal for Route 29. Mr. DeNunzio stated they have and found the overall road network to be safer and more efficient without a signal, with a right-in and out. He pointed out that Route 29 is a corridor with statewide significance, and the Commonwealth Transportation Board requires that alternatives be explored before installing a traffic signal. Mr. DeNunzio stated they have better options for this location, so they do not recommend a signal.

Mr. Dill asked to place some constituent suggestions in the public record: a constituent suggested they require a bollard at Montgomery Ridge Road and move the trail to within Brookhill and not install parking or a picnic area; a constituent suggested they request proffering of a fence to separate Brookhill and Forest Lakes South for the safety of children; the same constituent suggested that they obtain a commitment to take mitigation steps if they find there are backups in the left turn from Brookhill to Ashwood Boulevard.

Ms. McKeel said that VDOT would take care of monitoring traffic backups turning from Brookhill.

Ms. Mallek suggested they gauge the level of support for these suggestions: bollard at Montgomery Ridge, relocation of parking and trailhead on the County parcel, installation of fencing along the Brookhill/Ravenswood Court section. Ms. Mallek said the railroad underpass signal was incredibly successful and they tried to keep it, and she asked if they have to wait to install it or if they can install it soon. She said that vehicles must honk their horns when passing through, which is a nuisance to area residents. Mr. DeNunzio responded that he can review this request, but cannot provide an answer now. He said he is not sure a signal is the best option, but would have the traffic engineers review it and get back to the Board. He said the proffer does have a sunset provision, so they should address any issues within the sunset period.

Mr. Kamptner interjected that it has a 10-year sunset dating from construction of the first single-

family dwelling.

Ms. Palmer asked Mr. Graham about storm water runoff into the Rivanna River and the suggestion that a proffer be requested to address this. Mr. Dill said there is also an issue about the dam, and it posing a problem to Brookhill if it were to break.

Mr. Graham said the Code of Development could be changed, but staff cannot change it and is very comfortable with administering the proffer the way it is currently. Regarding dam safety, he said the South Fork Dam is regulated under the Federal Energy Regulatory Commission and additionally, Virginia Department of Conservation and Recreation has overlaid a set of dam safety regulations. He said the FERC goes further than the 100-year floodplain consideration by looking at probable maximal precipitation event, adding that there is already a dam response plan administered by the Rivanna Water and Sewer Authority.

Mr. Kamptner said the dam is regulated by the feds, and state law does not regulate dams licensed by the federal government. He stated there is no state dam break inundation zone established below this dam, as it is not within state jurisdiction because it is a federally licensed facility, though it is exempt from licensure. He emphasized that this issue really becomes relevant once construction has begun, and is not critical to the Board's decision on rezoning. He said the green space coincides with the inundation zone.

Ms. Mallek commented that if they did not require buffers and setbacks in lowlands, they would be in trouble.

Ms. Palmer asked who would bear responsibility if the dam needs to be replaced. Mr. Graham replied that it is the responsibility of the dam owner, which in this case is Rivanna Water and Sewer Authority. Addressing Mr. Dill's comments about adding fencing, he said it is his understanding the fence would be between Forest Lakes and the County property that concludes at the access road going to Ashwood. He said the fence would be on County property.

Ms. Palmer asked for Supervisor consensus regarding the proposal to install bollards on Montgomery Ridge.

Ms. McKeel said she does not support this, as they want interconnectivity and from her experience it has become a huge positive, so they should at least give them a chance to try it without bollards. She said she also does not support the fence.

Ms. Palmer said she agrees with everything Ms. McKeel said and believes that residents of Montgomery Ridge would ask for the bollards to be removed, but that allowing installation of the bollards would provide some comfort to the residents who are concerned about their children playing in the street and construction vehicles passing.

Mr. Randolph expressed his agreement with Ms. McKeel and said that either they support interconnectivity or they do not. He suggested they work out an agreement with the construction team that they not make the connection to Montgomery Ridge until near the end of the construction process. He stated that traffic would not be coming in to Montgomery Ridge until the evening when people return from work, but would instead be going from Montgomery Ridge to the center of Brookhill where the amenities are.

Ms. Yaniglos interjected that they are restricting construction traffic within the proffer.

Ms. McKeel stated that is great and a win-win.

Mr. Dill said he thinks residents would want to eliminate the bollards.

Ms. Mallek stated she is not in favor of the bollard. She is not in favor of the parking lot either.

Ms. McKeel concurred with Ms. Mallek.

Mr. Randolph concurred with Ms. Mallek.

Ms. Randolph and Ms. McKeel commented that the fence would no longer be needed.

Mr. Kamptner asked if everyone agrees to relocate the trailhead and parking lot off the County parcel.

All Board agreed.

Mr. Kamptner said they would have to find an alternative, as it is shown in the application plan.

Mr. Taylor said they would be happy to remove the trailhead parking from the application plan if the Board so desires. He said the logical place for the trail parking is around the town center.

Mr. Kamptner said that, since the parking is in the application plan, the way to resolve this would be for the Board not to adopt the resolution authorizing the County Executive to sign the applications that allow the County parcel to develop, which is a separate action. He suggested they recess to obtain a

version of the application plan whereby the applicant can make notations to address the parking area, so there is no ambiguity.

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**Recess.** At 8:47 p.m., the Board recessed its meeting, and reconvened at 9:05 p.m.

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Mr. Dill then **moved** that the Board adopt the proposed resolution authorizing the Ashwood Boulevard connection. The motion was **seconded** by Mr. McKeel. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

**RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO SIGN AN APPLICATION, SUBDIVISION PLAT, AND RELATED DOCUMENTS PERTAINING TO TAX MAP PARCEL 046B5-00-00-001C0**

**WHEREAS**, the County of Albemarle is the owner of Tax Map Parcel 046B5-00-00-001C0, a piece of land located at the intersection of U.S. Route 29 North and Ashwood Boulevard (the "County Parcel"); and

**WHEREAS**, the Places 29 Master Plan depicts a road through the County Parcel providing a connection between the lands to its south being considered for rezoning under Zoning Map Amendment 2015-00007, Brookhill ("ZMA 2015-07" and "Brookhill"); and

**WHEREAS**, pursuant to Proffer 1(C) of the proffers offered in conjunction with ZMA 2015-07, the owners would construct a public street that is referred to therein as the Ashwood Boulevard Connection across the County Parcel; and

**WHEREAS**, in order to create the public right-of-way on which the Ashwood Boulevard Connection would be constructed, the County Parcel must be subdivided; and

**WHEREAS**, when its construction is completed, the Ashwood Boulevard Connection will benefit the County and its residents by providing an important multi-modal interconnection.

**NOW, THEREFORE, IT IS RESOLVED**, that, if the Board of Supervisors adopts an ordinance approving ZMA 2015-07, the Board authorizes the County Executive to sign on behalf of the County of Albemarle any application, subdivision plat, easement plat, deed of easement granting a temporary construction easement, and any other related document required in order to subdivide the County Parcel to create the separate parcel on which the public right-of-way for the Ashwood Boulevard Connection may be constructed.

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Ms. McKeel **moved** to waive the requirement for a public hearing to amend the proffers. The motion was **seconded** by Mr. Randolph. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

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Ms. McKeel **moved** that the Board adopt the proposed ordinance to approve ZMA-2015-007. The motion was **seconded** by Mr. Randolph. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

**ORDINANCE NO. 16-A(9)  
ZMA 2015-00007 BROOKHILL**

**AN ORDINANCE TO REZONE 277.5 ACRES  
FROM R1-RESIDENTIAL DISTRICT TO NEIGHBORHOOD MODEL DISTRICT (NMD)  
FOR TAX MAP PARCEL NUMBERS 04600-00-00-01800, 04600-00-00-018A0, AND 04600-00-00-01900**

**WHEREAS**, the application to rezone 277.5 acres from R1-Residential District to Neighborhood Model District (NMD) for Tax Map Parcel Numbers 04600-00-00-01800, 04600-00-00-018A0, and 04600-00-00-01900 (the "Property") is identified as ZMA 2015-00007, Brookhill ("ZMA 2015-07"); and

**WHEREAS**, staff recommended approval of ZMA 2015-07 provided that minor revisions were made to the proffers, the application plan, and the code of development; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on ZMA 2015-07 on August 16, 2016, and recommended approval conditioned on the applicant making the staff-recommended revisions, as well as an additional revision, and such revisions have since been made.

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2015-00007 and its attachments, including the proffers dated October 13, 2016 and signed on October 21, 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 2015-00007 with the proffers dated October 13, 2016 and signed on October 21, 2016, the Application Plan dated June 15, 2015 and last revised September 16, 2016, and the Code of Development dated June 15, 2016 and last revised October 13, 2016.

Original Proffers   X    
Amendment           

**Brookhill**

**PROFFER STATEMENT**

Date: October 13, 2016  
ZMA No. 2015-007 Brookhill  
Tax Map and Parcel Number(s): 04600-00-00-018A0, 04600-00-00-01800 and 04600-00-00-01900  
Tax Map and Parcel Number(s) High School Site: 04600-00-00-018B0 and 04600-00-00-018D0

Owner(s) of Record: **CHARLES R. HAUGH & ELIZABETH ANN OGLESBY HAUGH; CHARLES R. HAUGH, & E. J. OGLESBY, JR., TRUSTEES; CROCKETT CORPORATION, a VIRGINIA CORPORATION; HORNE LAND CORPORATION, a VIRGINIA CORPORATION AND CRAFTON CORPORATION, a VIRGINIA CORPORATION**

Date of Proffer Signature: Oct 21, 2016

Approximately 277.5 acres to be rezoned from **R-1 Residential** to **NMD (Neighborhood Model District)**

**CHARLES R. HAUGH & ELIZABETH ANN OGLESBY HAUGH** are the owners of Tax Map Parcel **04600-00-00-018A0**; **CHARLES R. HAUGH & E. J. OGLESBY, JR. TRUSTEES** are the owners of Tax Map Parcel **04600-00-00-01800**; and **CROCKETT CORPORATION** is the owner of Tax Map Parcel **04600-00-00-01900**; all of the owners of such parcels are referred to herein, collectively as the "Owner" and the parcels are referred to herein as the "Property". **HORNE LAND CORPORATION** is the owner of Tax Map Parcel **04600-00-00-018B0** and **CRAFTON CORPORATION** is the owner of Tax Map Parcel **04600-00-00-018D0**. The Property is the subject of the rezoning application identified by Albemarle County (the "County") as "ZMA 2015-007" for a project known as "Brookhill"(the "Project"), which includes the application plan prepared by Collins Engineering entitled, "Brookhill Neighborhood Model District (NMD) Application Plan," last revised September 16, 2016 (the "Application Plan"), a Code of Development entitled the "Brookhill Neighborhood Model Code of Development," last revised October 13, 2016 (the "Code of Development"). Capitalized terms, not otherwise defined in these Proffers shall have the same definitions as set forth in either the Code of Development or the Application Plan.

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the proposed rezoning, and the Owner acknowledges that the conditions are reasonable.

**1. Transportation Improvements.**

- A. Polo Grounds Road Improvements. Pursuant to road plans approved by the Virginia Department of Transportation ("VDOT"), the Owner shall construct all intersection and turn lane improvements, including improvements to the horizontal alignment, vertical alignment and cross-section of Polo Grounds Road ("Polo Grounds Road Improvements"). The Polo Grounds Road Improvements shall be completed in two phases. Owner shall begin construction of Phase I, as depicted on the Figure A, Brookhill Traffic Phasing Plan ("Traffic Phasing Plan"), prior to the issuance of a building permit ("Permit") for the first (1<sup>st</sup>) dwelling within the Project, and the Phase I Polo Grounds Road Improvements shall be substantially completed prior to issuance of

either i) a Permit for the fiftieth (50<sup>th</sup>) dwelling (other than an Assisted Living, nursing home, rest home or convalescent facility) within the Project, or ii) a certificate of occupancy for any units within a multi-family dwelling within the Project, whichever first occurs. Phase IV, as depicted on the Traffic Phasing Plan, shall be completed prior to issuance of any Permit for a dwelling (other than a multi-family dwelling, Assisted Living, nursing home, rest home or convalescent facility) within Blocks 14-18 of the Project. The Polo Grounds Road Improvements shall be designed and constructed to applicable VDOT standards, including, without limitation, VDOT's Geometric Design. The Polo Grounds Road Improvements shall be determined to be substantially completed by: i) the Albemarle County Engineer, or its designee, or ii) when they are constructed, inspected and the VDOT construction bond is released, or iii) a VDOT official otherwise confirms that they are substantially complete.

Pursuant to approval by VDOT, Polo Grounds Road Improvements shall include salamander tunnels, shown conceptually in Figure B, ("Salamander Crossing Exhibit"). Maintenance of the salamander tunnels shall be the responsibility of the Owner, and a maintenance agreement shall be established and approved by VDOT during the VDOT review of the road plans for the Polo Grounds Road Improvements.

- B. Route 29 Intersection Improvements. Pursuant to road plans approved by VDOT, the Owner shall construct all intersection and turn lane improvements along Route 29, conceptually depicted on the Application Plan ("Route 29 Intersection Improvements"). The Route 29 Intersection Improvements shall be substantially completed prior to issuance of either i) a Permit for the fiftieth (50<sup>th</sup>) dwelling (other than an Assisted Living, nursing home, rest home or convalescent facility) within the Project or ii) a certificate of occupancy for any units within a multi-family dwelling within the Project, whichever first occurs. The Route 29 Intersection Improvements shall be designed and constructed to applicable VDOT standards, including, without limitation, VDOT's Geometric Design. The Route 29 Intersection Improvements shall be determined to be substantially completed by: i) the Albemarle County Engineer, or its designee, or ii) when they are constructed, inspected and the VDOT construction bond is released, or iii) a VDOT official otherwise confirms that they are substantially complete.
- C. Ashwood Boulevard Connection. Pursuant to road plans approved by VDOT and a temporary construction easement and maintenance agreement approved by the County, the Owner shall construct the Ashwood Boulevard Connection, as conceptually depicted with improvements and landscaping shown on Exhibit C, Ashwood Boulevard Connection ("Ashwood Boulevard Connection"). The Ashwood Boulevard Connection, which includes a pedestrian connection, shall be bonded prior to road plan approval and substantially completed prior to: i) the issuance of the five hundredth (500th) Permit for a dwelling (other than a multi-family dwelling, Assisted Living, nursing home, rest home or convalescent facility) or ii) the issuance of the eight hundredth (800th) Permit for any dwelling type within the Project, whichever first occurs. In any event, Owner shall have completed the Ashwood Boulevard Connection prior to the completion of the western extension of Ashwood Boulevard to Berkmar Drive Extension.

Until such time as the County determines to submit the Ashwood Boulevard Connection for public dedication, the Owner shall be responsible for all maintenance, repairs, bonding and insurance of the Ashwood Boulevard Connection. The Owner shall submit a temporary construction easement and maintenance agreement that is acceptable to the County prior to approval of road plans for Phase I roadway improvements. The Owner's improvements shall be dedicated, together with the County-owned right-of-way at such time as the County determines to submit the Ashwood Boulevard Connection for public dedication. The Ashwood Boulevard Connection shall be determined to be substantially completed by: i) the Albemarle County

Engineer, or its designee or ii) when it is constructed, inspected and VDOT has accepted the Ashwood Connection for dedication, or iii) a VDOT official otherwise confirms that they are substantially complete.

- D. Rio Mills Road Connection. Pursuant to road plans approved by VDOT, the Owner shall construct a two lane road connection from Rio Mills Road to the newly-constructed, Berkmar Drive Extension in the approximate location shown on Exhibit D, Rio Mills Roadway Connection ("Rio Mills Road Connection"). The Rio Mills Road Connection shall be substantially completed prior to: i) issuance of the two hundredth (200th) Permit for a dwelling unit (other than a multi-family dwelling, Assisted Living, nursing home, rest home or convalescent facility), or ii) the occupancy of twenty five thousand (25,000) square feet or more of non-residential space within Block 1 of the Project, which ever first occurs.

With the first final subdivision plat, or first final site plan for any of the Property, excluding the subdivision of Block 19, Owner shall dedicate sufficient land to permit the construction of the Rio Mills Road Connection (including right of way and grading easements) as conceptually shown on the Application Plan. (The dedication plat for the Rio Mills Road Connection shall not be approved until all road and infrastructure plans are approved and constructed or bonded). Owner shall bear the costs associated with preparation of the Rio Mills Road Connection dedication plat for review and approval by Albemarle County (the "County"). The Rio Mills Road Connection shall be determined to be substantially completed by: i) the Albemarle County Engineer, or its designee or ii) when it is constructed, inspected and VDOT has accepted the Rio Mills Connection for dedication, or iii) a VDOT official otherwise confirms that they are substantially complete.

- E. Transit Stop. The Owner shall construct a Transit Stop within the general location shown as a proposed Transit Stop on the Application Plan (the "Transit Stop"). The Transit Stop shall be designed and constructed in coordination with, and approval by the County Director of Community Development and Regional Transit Authority (if in place) and shall incorporate a shelter, including a rest bench, pedestrian access, and signage equal to or better than the current transit stops for Charlottesville Area Transit (CAT). The Transit Stop shall be installed and completed concurrently with the installation of surrounding roads and sidewalks within Block 1. The Transit Stop and above referenced features shall be dedicated to public use, or the Owner shall grant an easement as necessary to allow for the public access and usage of such facilities.
- F. Public Transit Operating Expenses. Within sixty (60) days of transit services to the Property having commenced by CAT, a regional transit authority, or other provider of transit service selected by the County, the Owner shall contribute Fifty Thousand Dollars (\$50,000) to the County to be used for operating expenses relating to transit service to the Property; and Owner shall contribute Fifty Thousand Dollars (\$50,000) to the County each year thereafter for a period of nine (9) additional years, such that the cash contributed to the County pursuant to this Proffer 1G, shall not exceed Five Hundred Thousand Dollars (\$500,000). The monetary contribution in years two (2) through ten (10) shall be paid by the anniversary date of the first contribution and each such contribution shall be conditioned upon transit service being provided to the Property during the twelve (12) month period prior to such contribution.
- G. Construction Traffic Management. The Owner shall establish Construction Entrances to the Property in locations as approved by the County and VDOT as part of the Erosion and Sediment Control Plan and Site Plan process. During the period in which all roads will be constructed within the Property (and until completion), construction traffic shall be required to use the Construction Entrances as designated in the approved Erosion and Sediment Control Plan. The



Owner shall prohibit such construction traffic from entering the Project via Ashwood Boulevard and Montgomery Ridge Road. Once the roads are completed and dedicated for public use the Owner shall no longer have the authority or responsibility to regulate traffic thereon.

- H. Road Improvements, Generally. The road improvements listed in paragraphs 1C and 1D (the "Road Improvements") above shall be constructed in accordance with road plans submitted by the Owner and approved by VDOT, and shall be dedicated to public use. All of the Road Improvements shall be designed and constructed to applicable VDOT standards, including, without limitation, VDOT's Geometric Design.
  - I. Polo Grounds Road Railroad Overpass. Within ninety (90) days after the request by the County and the approval by VDOT, Owner shall cause to be installed, at Owners expense, a traffic signal at the Polo Grounds Road and Norfolk Southern Railroad Overpass. If, within ten (10) years after the date of issuance of the first (1st) CO for a single family dwelling within the Project, the County has not so requested, (or VDOT has not approved the traffic signal within that time period) the Owner shall be relieved of any obligation to install a traffic signal.
2. Trails, Parks and Civic Spaces. The Owner shall provide the following improvements within the property:
- A. Trail Network. A primitive trail network (the "Trail Network"), consistent with the County's design standards for a Class B- type 1 primitive nature trail, shall be established within the Greenway as described within the Code of Development. The general location of the Trail Network is shown on the Application Plan; however exact trail locations shall be determined by the Owner based on site conditions and in coordination with the County. Installation of the Trail Network shall commence concurrently with the site work for the first Block developed within the Project and the entire trail network shall be substantially completed prior to issuance of the five hundredth (500th) Permit for a dwelling (other than a Multi-family dwelling, Assisted Living, nursing home, rest home or convalescent facility) within the Project. The Trail Network shall be determined to be substantially completed by the Albemarle County Engineer, or its designee.
- Upon written request by the County, but not prior to the issuance of the five hundredth (500th) Permit for a dwelling within the Project, the Owner shall dedicate to the County an easement for public use over the Greenway area, as shown on the Application Plan. Prior to the County's request to dedicate such easement, the Owner may dedicate portions of the Greenway by easement concurrently with one or more subdivision plats for areas lying adjacent to the Greenway; provided however, that Owner may reserve in such easements, rights of access for grading, utilities and maintenance. Each subdivision plat shall depict the Greenway area to be dedicated and shall bear a notation that the Greenway area is dedicated for public use. If, at the time the County requests dedication of the Greenway, any part of the Greenway that has not been dedicated by subdivision plat, shall be (within six (6) months of such request) at Owner's cost, surveyed, platted and recorded with one or more deeds of easement dedication.
- Pursuant to signage plan approval by the Rivanna Water and Sewer Authority (the "RWSA"), the Owner shall install signage along the Trail Network within the Dam Break Inundation Zone designating evacuation routes. Signage shall be installed as the Trail Network is established.
- B. Parks and Civic Spaces. The Owner shall provide not less than 3.2 acres of land within the Project for Parks and Civic Spaces as described in the Code of Development and generally shown on the Application Plan. Each Park or Civic Space shall be substantially completed prior to the issuance of the fortieth (40th) CO for a residential dwelling unit in the Block in which it is

located. Parks and Civic Spaces shall be conveyed to, and maintained by the Owner's Association.

**3. Cash Proffer for Capital Improvements Projects.**

- A. The Owner shall contribute cash on a per "market-rate" dwelling unit basis in excess of the number of units that are allowed by right under the zoning in existence prior to the approval of this ZMA 2015-007 for the purposes of addressing the fiscal impacts of development on the County's public facilities and infrastructure, i.e., schools, public safety, libraries, parks and transportation. For the purposes of this Proffer 3, the number of units allowed by right under the R-1 Residential zoning is two hundred sixty-nine (269) single-family detached units. A "market rate" unit is any dwelling unit in the Project that is not either a For-Sale Affordable Housing Unit or For -Rent Affordable Unit as described in Proffer 4 ("Market Rate Unit"). The cash contributions shall be Seven Thousand Three Hundred Thirty-three and 18/100 Dollars (\$7,333.18) for each single family detached Market Rate Unit, other than a constructed For-Sale Affordable Dwelling Unit within the Project qualifying as such under Proffer 4. In other words, the cash contribution for market rate single family units shall begin after the issuance of a CO for the 269th single family dwelling unit and prior to the issuance of a CO for the 270th single family dwelling unit. The cash contributions for each single family attached Market Rate Unit shall be Five Thousand Four Hundred and Forty-seven and 57/100 Dollars (\$5,447.57), other than a constructed For-Sale Affordable Housing Unit or a For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 4. The cash contributions for each multifamily Market Rate Unit shall be Seven Thousand Four Hundred Nineteen and 91/100 Dollars (\$7,419.91), other than a constructed For Sale Affordable Housing Unit or For Rent Affordable Housing Unit within the Project qualifying as such under Proffer 4.

**4. Affordable Housing.**

The Owner shall provide affordable housing equal to fifteen percent (15%) of the total number of residential units constructed on the Property. For example, if one thousand (1000) total units are constructed in the Project, one hundred fifty (150) units, or their equivalent, are required to be provided to satisfy this Proffer 4, subject to paragraph 4C. The Owner or its successors in interest reserve the right to meet the affordable housing objective through a variety of housing types, including but not limited to for sale units, rental units, accessory units and Carriage Units, ("Affordable Units") or through cash contributions, as more particularly described in sections 4A, 4B and 4C below.

- A. **For-Sale Affordable Housing Units.** All purchasers of the For-Sale Affordable Housing Units, (defined below) shall be approved by the Albemarle County Housing Office or its designee. "For-Sale Affordable Housing Units" shall be dwelling units offered for sale at prices for which households with incomes less than eighty percent (80%) of the area median income may qualify, and shall not exceed sixty-five percent (65%) of VHDA's Maximum Sales Price for first-time homebuyers. The Owner shall provide the County or its designee a period of one hundred twenty (120) days to identify and prequalify an eligible purchaser For-Sale Affordable Housing Units. The one hundred twenty (120) day period shall commence upon written notice from the Owner that the unit(s) shall be available for sale. This notice shall not be given more than ninety (90) days prior to receipt of the Certificate of Occupancy for the applicable For-Sale Affordable Housing Unit; the County or its designee may then have thirty (30) days within which to provide a qualified purchaser for such For-Sale Affordable Housing Unit. If the County or its designee does not provide a qualified purchaser during the one hundred twenty (120) day period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of

the purchaser(s). Carriage Units, as defined in the Code, shall not exceed twenty-five percent (25%) of the total Affordable Units.

**B. For-Rent Affordable Housing Units.**

- (1) **Rental Rates.** The initial net rent for each rental housing unit for which Owner seeks qualification for the purposes of this Proffer 4, ("For-Rent Affordable Housing Unit") shall not exceed the then-current and applicable maximum net rent rate approved by the Albemarle County Housing Office. In each subsequent calendar year, the monthly net rent for each For-Rent Affordable Housing Unit may be increased up to three percent (3%). For purpose of this Proffer 4B, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rents for such For-Rent Affordable Housing Units may not exceed the maximum rents established in this paragraph 4B 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 Housing 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 Housing Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of paragraph 4B. In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Housing Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 4B. At least thirty (30) days prior to the conveyance of any interest in any For-Rent Affordable Housing 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 paragraph 4B(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 Housing 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.

**C. Cash in lieu of Constructing Affordable Dwelling Units.**

In lieu of constructing For-Sale, or For-Rent Affordable Dwelling Units for fifteen percent (15%) of the total number of Units, the Owner has the option to make a cash contribution to Albemarle County for the affordable housing program in the amount of Twenty-Four Thousand and Three Hundred Seventy Five Dollars (\$24,375.00) (the "Affordable Housing Cash Proffer") for each such unit as follows: the Owner shall exercise the option to make, and thereby shall pay the Affordable Housing Cash Proffer to the County, if the Affordable Housing requirement has not been proportionally met otherwise, in four (4) installments; after an inspection and prior to the issuance of approval of a CO for each of the two hundredth (200th), five hundredth (500th), eight hundredth (800th), and one thousandth (1000th) dwelling unit within the Project. The total Cash in lieu contribution due to Albemarle County at each of the four

(4) payment periods as noted above shall be calculated based on the total number of Certificates of Occupancy issued for Market Rate and Affordable Housing Units.

**5. Cost Index.**

Beginning January 1 of each year following the approval of ZMA 2015-007, the amount of each cash contribution required by Proffers 3 and 4 (collectively, the "Cash Contributions" and individually "Cash Contribution") shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index for masonry walls in the Mid-Atlantic ("MSI"). The annual adjustment shall be made by multiplying the proffered Cash Contributions amount due for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the preceding calendar year, the denominator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended (the "Annual Percentage Change"). By way of example, the first annual adjustment shall be  $\$7,333.18 \times 2017 \text{ MSI} / 2016 \text{ MSI}$ . Each annual adjustment shall be based on the amount of the proffered Cash Contribution due for the immediately preceding year based on the formula contained in this Proffer 5 (the amount derived from such formula shall be referred to hereinafter as the "Cash Contribution Due"), provided, however, in no event shall the Cash Contribution amount paid by the Owner be less than Seven Thousand Three Hundred Thirty-three 18/100 Dollars \$7,333.18 per single family detached Market Rate Unit and Five Thousand Four Hundred Forty-seven and 57/100 Dollars \$5,447.57 per single family attached Market Rate Unit and Seven Thousand Four Hundred Nineteen and 91/100 Dollars \$7,419.91 per multifamily Market Rate Unit under Proffer 3 or Twenty-Four Thousand and Three Hundred Seventy Five Dollars \$24,375.00 per affordable dwelling unit under Proffer 4 (the "Minimum Cash Contribution"). The Annual Percentage Change shall be calculated each year using the Cash Contribution Due, even though it may be less than the Minimum Cash Contribution, HOWEVER, the amount paid by the Owner shall not be less than the Minimum Cash Contribution. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

**6. Credit For In-Kind Contributions.**

Notwithstanding the provisions of these Proffers to the contrary, the Owner's obligation to pay Cash Contributions shall not commence until the number of units, to which such Cash Contributions apply have been completed that results in what would otherwise have been a total Cash Contribution equal to the total value of: i) the Elementary School Site, and related improvements to be completed by Owner, ii) the High School Site and iii) the Rio Mills Road Connection, (collectively referred to as the "In-kind Contribution"). The In-Kind Contribution shall be \$31,086,662.86. The In-kind Contribution reflects the value of the improvements that the Owner has committed to make in these proffers that are for the benefit of the public. In other words, the Owner shall not be required to pay any per unit Cash Contributions until the time of the issuance of the building permit for a new unit completed after applying a credit for the In-kind Contribution. In the event that the Project is completed prior to the balance of the In-kind Contribution being exhausted, any remaining balance of the In-kind Contribution may not be applied for any other project or development.

**7. Elementary School Site.**

Within one year after written request by the County, but in no event earlier than one year after the date of issuance of the first (1<sup>st</sup>) CO issued for a dwelling within the Project, the Owner shall dedicate to the County, by General Warranty Deed and without consideration, fee simple title to a parcel of land for a public elementary school of, as shown on Figure E: Brookhill School Sites Exhibit and labeled "Elementary School Site" (the "Elementary School Site"). The Elementary School site shall not be less than seven (7) acres, and shall abut a publicly-dedicated right of way. The Elementary School Site shall

be a graded and compacted pad site with water, sewer and electricity utility connections constructed to the edge of the parcel to accommodate an elementary school according to standards of the County School Division's Building Services Department. At the option of the County, and in lieu of the construction of a school, a public park may be established by the County on the Elementary School Site.

**8. Public High School or Institutional Use Site.**

Within one year after written request by the County, the Owner shall dedicate to the County, by General Warranty Deed and without consideration, fee simple title to a parcel of land for a public high school, and/or such other use as the County may determine suitable, of not less than sixty (60) acres abutting a publicly-dedicated right of way, as shown on Figure E: Brookhill Schools Sites Exhibit and labeled "High School Site" (the "High School Site"). The High School Site shall be conveyed as-is, without any improvements or warranty as to suitability.

**9. Historic Resources.**

- A. National Register of Historic Places Eligibility. The existing Brookhill dwelling is eligible for the National Register of Historic Places. Owner shall address any adverse impact to this designation as part of the Section 106 Review under the National Historic Preservation Act of 1966 (NHPA), which is administered by the Virginia Department of Historic Resources (DHR).
- B. Cemetery Delineation. Owner shall i) delineate any cemeteries encountered within the Project on the site plan or subdivision plat for the area to be developed which contains such cemetery or cemeteries, and ii) submit a treatment plan for any such cemetery for approval by the County Director of Community Development, or its designee at the plan or plat review.
- C. Greenway Area Woodlands Camp. There shall be no land disturbance by Owner or by any of its licensees, or successors of the Woodlands Camp located in the Greenway Area and identified in the Phase I Historic Resources Study for the Project.

This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Signature Pages to Follow]

WITNESS the following signature:

**OWNERS of Tax Map Parcel 04600-00-00-018A0:**

By:   
CHARLES R. HAUGH

By: Elizabeth Ann Oglesby Haugh  
ELIZABETH ANN OGLESBY HAUGH

Date: 10/20/16

**OWNERS of Tax Map Parcel 04600-00-00-01800:**

By:  , trustee  
CHARLES R. HAUGH, TRUSTEE

Date: 10/20/16

**OWNER of Tax Map Parcel 04600-00-00-01900:**

**CROCKETT CORPORATION**, a Virginia corporation

By: Ann O. Haugh, President  
Ann O. Haugh, President

Date: 10/20/16

**OWNER of Tax Map Parcel 04600-00-00-018B0:**

**HORNE LAND CORPORATION**, a Virginia corporation

By: Ann O. Haugh, President  
Ann O. Haugh, President

Date: 10/20/16

**OWNER of Tax Map Parcel 04600-00-00-018D0:**

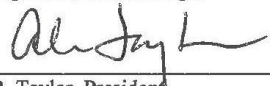
**CRAFTON CORPORATION**, a Virginia corporation

By: Ann O. Haugh, President  
Ann O. Haugh, President

Date: 10/20/16

**BROOKHILL INVESTMENTS, LLC**, a Virginia limited liability company (Contract Purchaser)

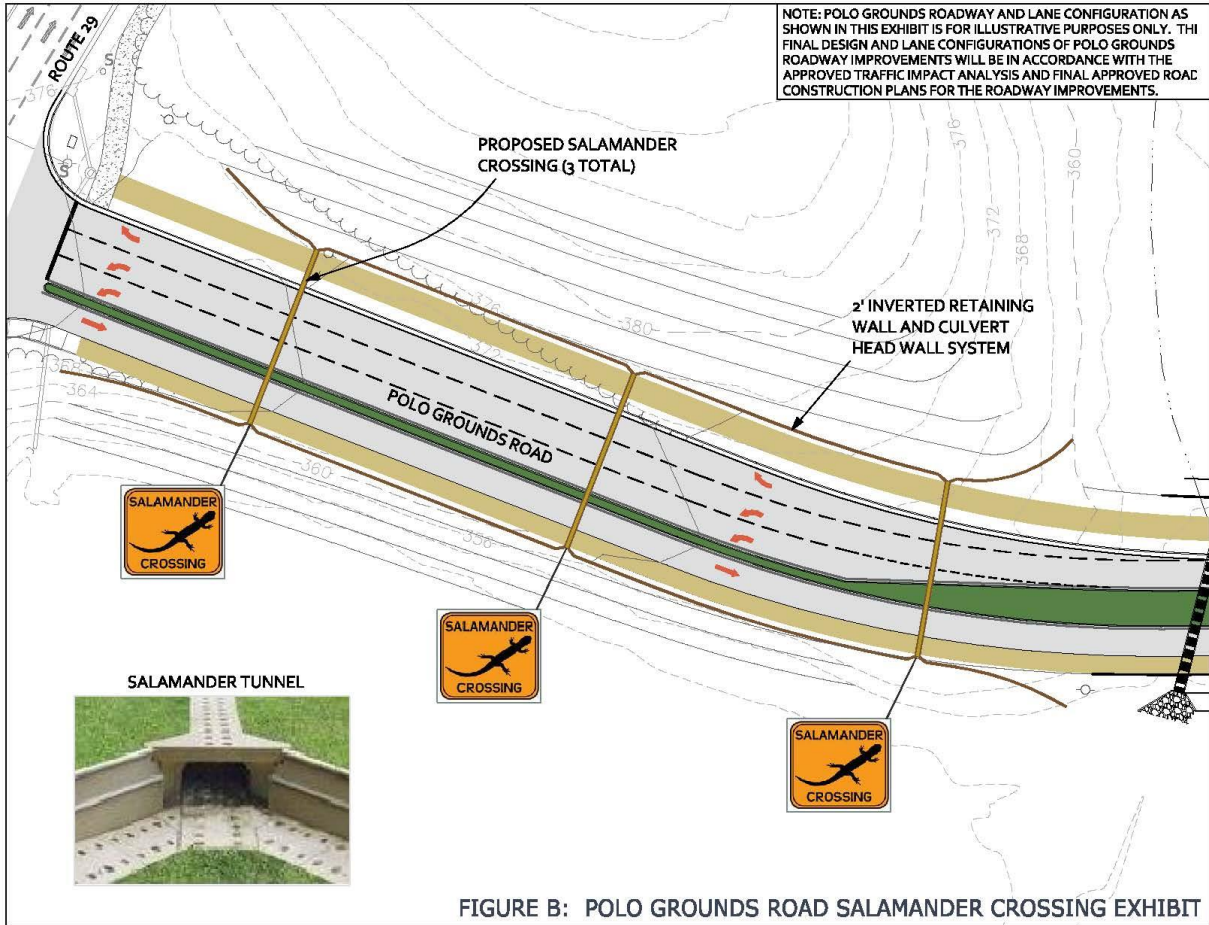
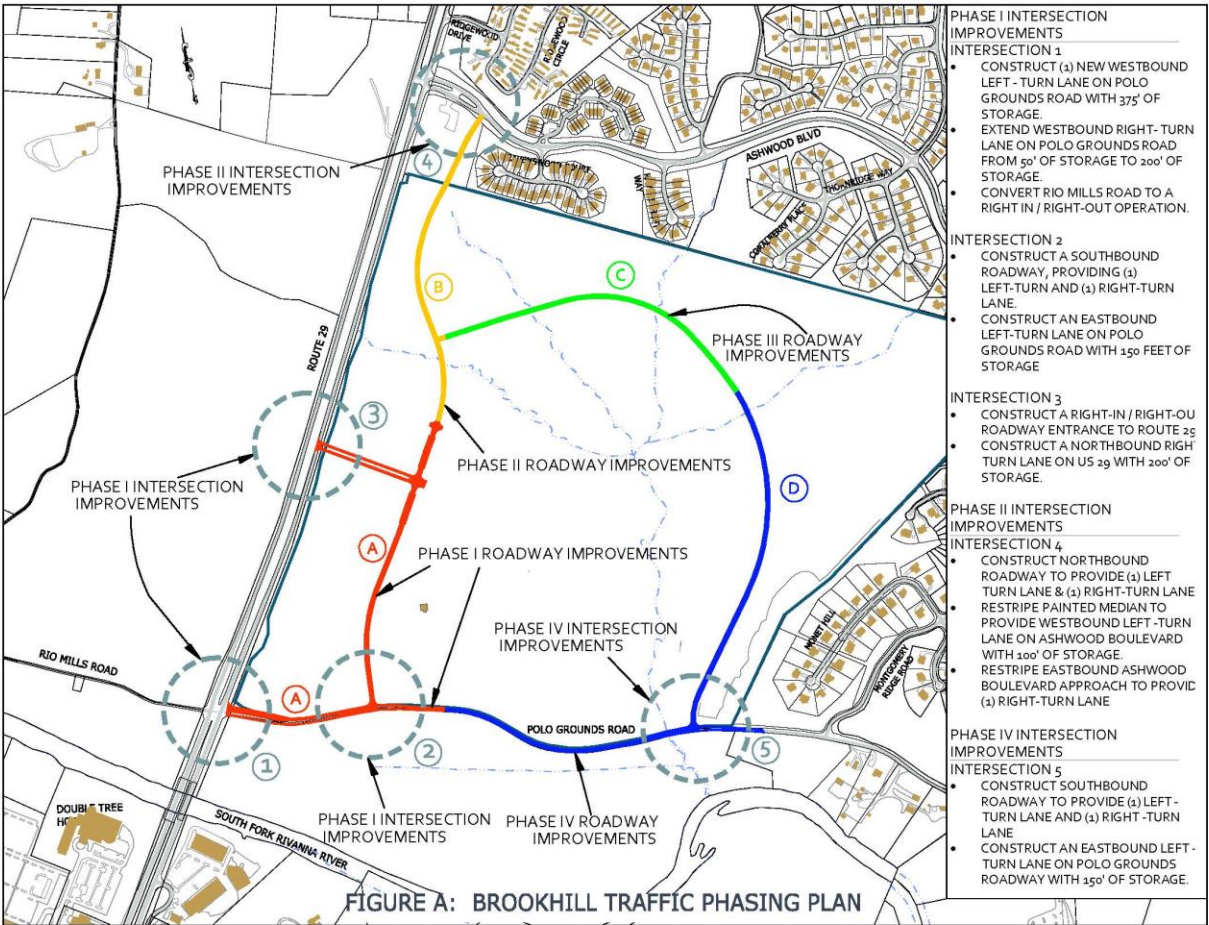
By: River Bend Management, Inc., Manager

By:   
Alan R. Taylor, President

Date: 10/21/2016

30581191

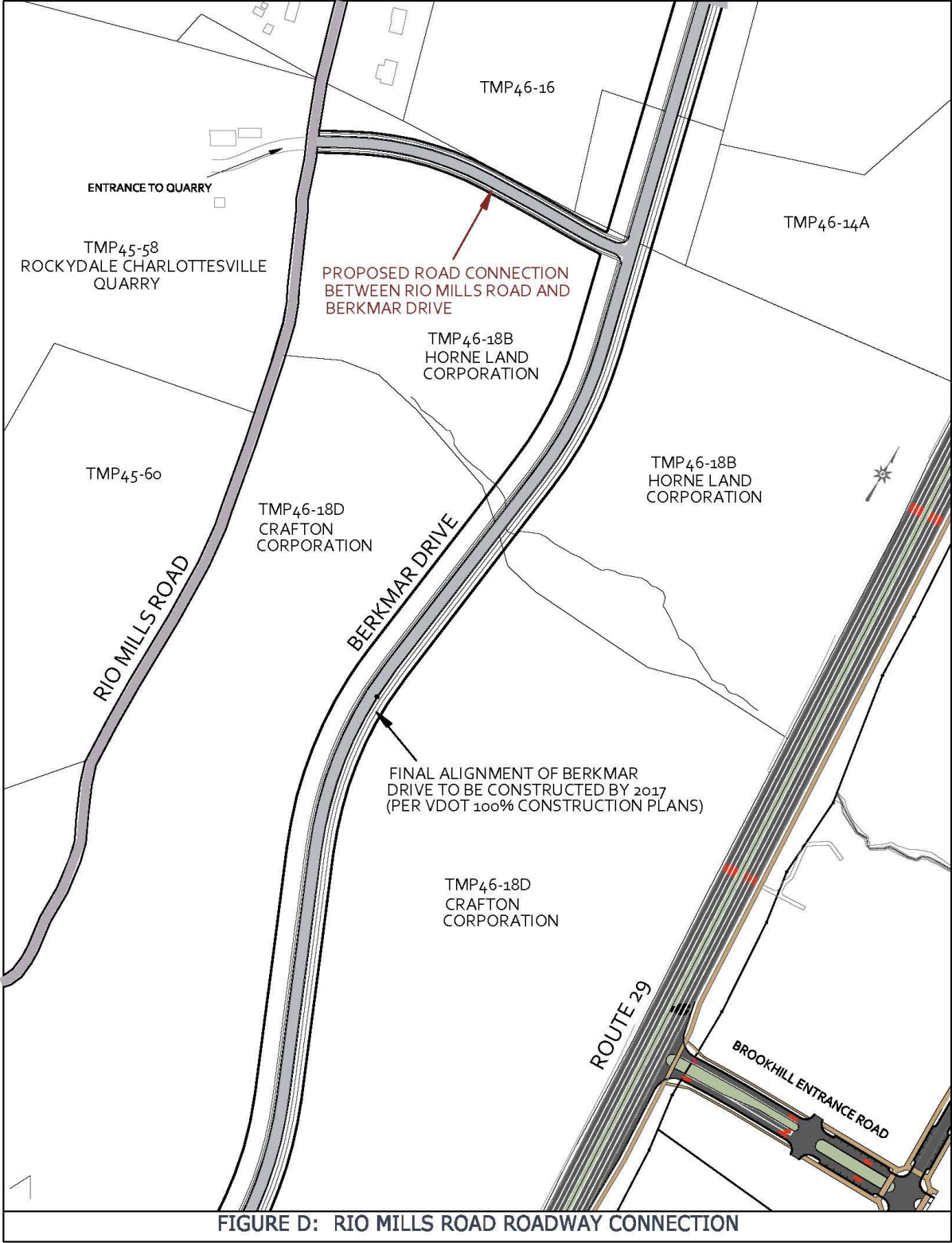


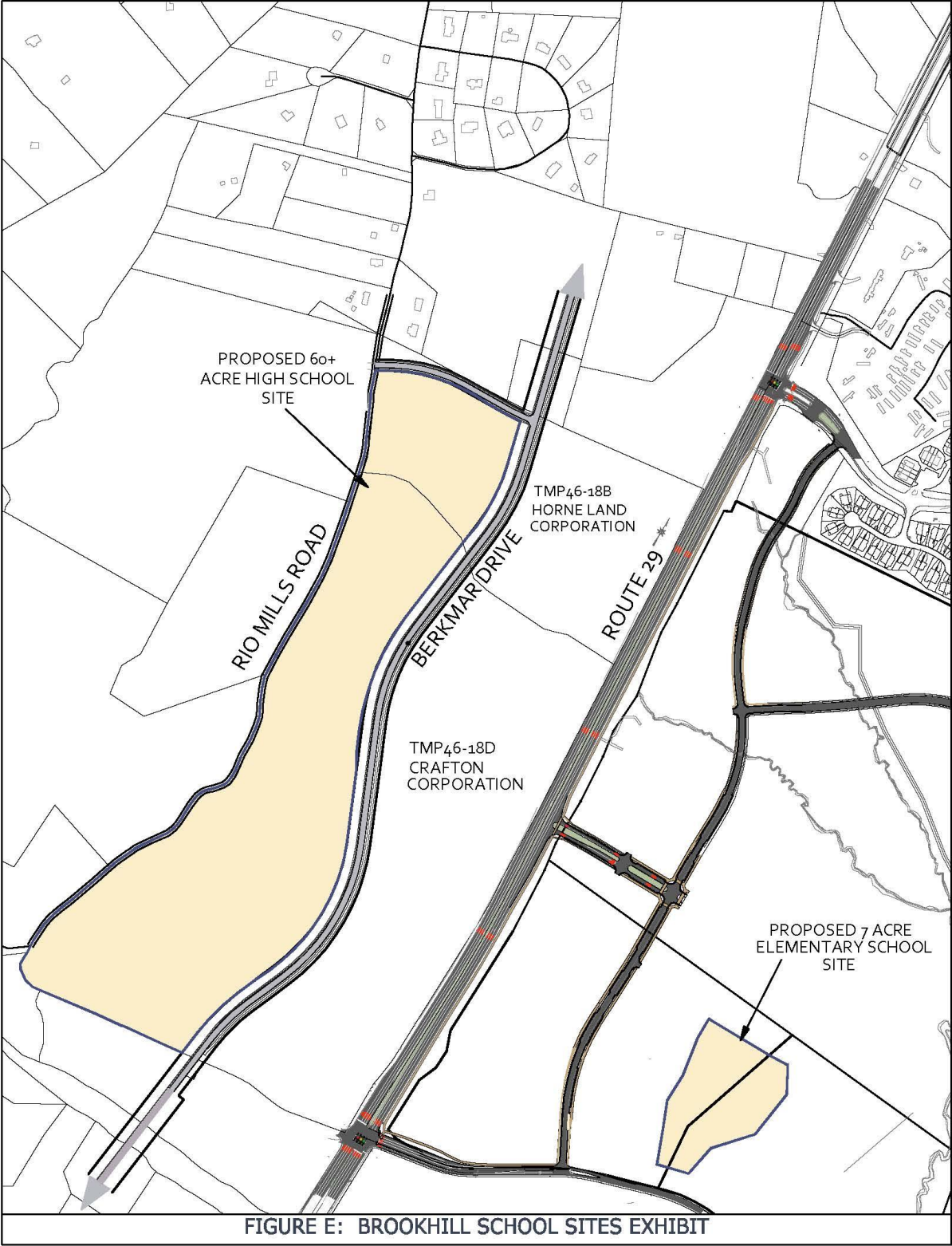






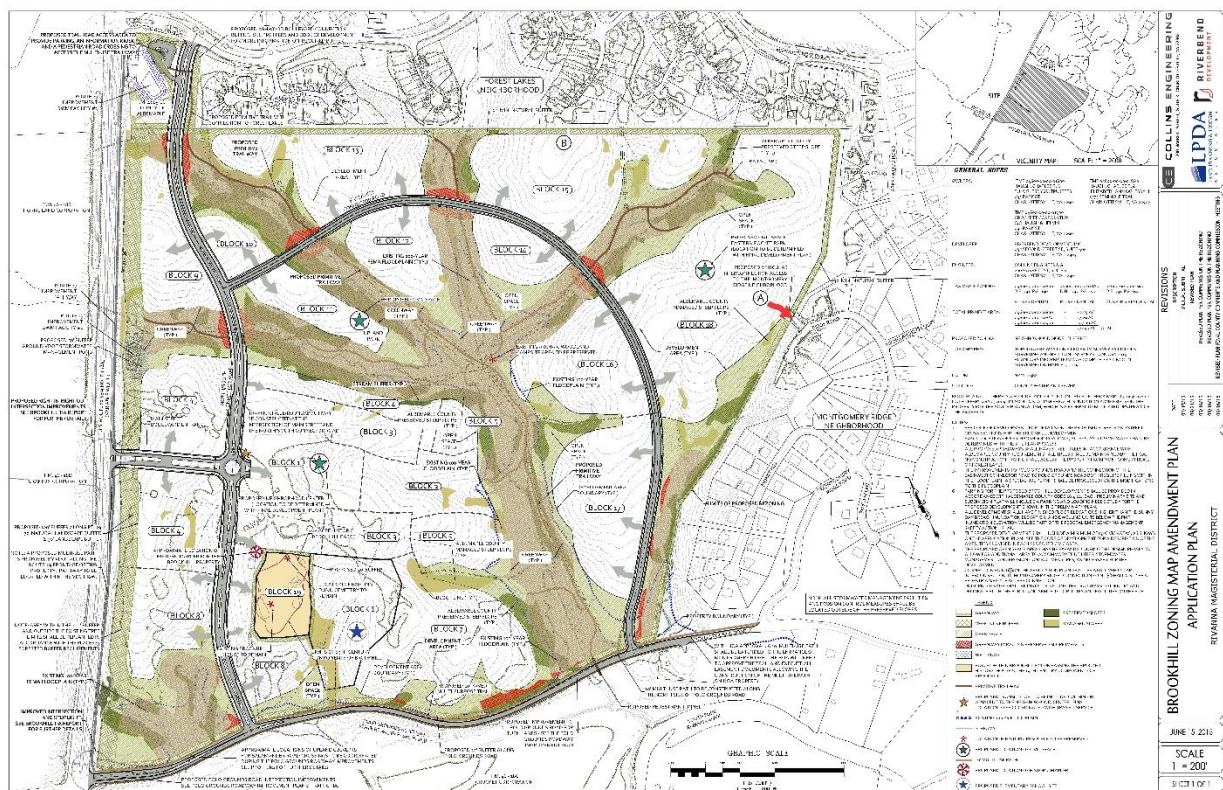






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Ms. McKeel **moved** to adopt the proposed resolution to approve SP-2015-25 subject to the recommended conditions. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote

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

**RESOLUTION TO APPROVE  
SP 2015-25 BROOKHILL**

**WHEREAS**, the Owners of Tax Map Parcels 04600-00-00-01800 and 04600-00-00-018A0 (collectively, the “Property”) filed an application for a special use permit to permit grading activities within the floodplain that would expand the floodplain limits, and the replacements of culverts within the floodplain, on the property, and the application is identified as Special Use Permit 2015-00025 Brookhill (SP 2015-25”); and

**WHEREAS**, on August 16, 2016, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2015-25 with staff-recommended conditions; and

**WHEREAS**, on November 9, 2016, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2015-25.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2015-25 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 §§ 18-30.3.11 and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2015-25, subject to the conditions attached hereto.

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**SP-2015-00025 Brookhill Conditions**

1. Prior to final road plan approval or permitting of a land disturbance in the floodplain, the applicant shall obtain from the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision Based on Fill (CLOMR-F), and prior to road acceptance, the applicant shall obtain from FEMA a Letter of Map Revision based on Fill (LOMR-F). In addition, the applicant shall copy the County Engineer on all correspondence with FEMA. Construction of the road shall be in compliance with approved road plans and the FEMA approved CLOMR-F.
2. Any residential or commercial lots and associated streets (public or private) resulting from the subdivision of the Property, with the exception of the stream crossings, shall be located outside of the 100 foot stream buffer (as shown on the Brookhill Special Use Permit & CLOMR Plan, Existing Conditions, Sheet 2, last revised 6/15/16), the Flood Hazard Overlay District, and preserved slopes on the property. Approval of lots located within the stream buffer shall be subject to Subdivision Agent approval.

Mr. Dill said he talked to some people during the recess and would like to comment that he thinks

this is a good development for this area. He said he understands there are issues with traffic that would change as time goes on.

Mr. Randolph pointed out that all the magisterial districts in the County have absorbed growth, noting Rivanna Village with 300+ units in 2014 in the Scottsville District, Old Trail in the Whitehall District, and the extension of the growth area within the Samuel Miller District. He complimented the developer and his team for a premier, environmentally sensitive project, and he has never seen anything like this while serving on the Planning Commission or on the Board. He stated that he looks forward to seeing the site plans, which would incorporate affordable housing in this community.

Mr. Rooker addressed Mr. Kamptner and said his recollection is that the ZMA was passed as an ordinance instead of as a ZMA. Mr. Kamptner confirmed that it was passed as an ordinance to amend the zoning map.

Ms. Mallek said she feels this development will work out, and they will be watching to make sure it does.

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Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda.

There were no committee reports from Board members.

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Ms. McKeel **moved** to adopt the proposed resolution to disallow claims for damages pertaining to Christina N. Somers, Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

#### **RESOLUTION TO DISALLOW CLAIM FOR DAMAGES**

**WHEREAS**, Christiana N. Summers has asserted a claim against Albemarle County as set forth in the letter dated October 7, 2016, for alleged injuries that she sustained in a motor vehicle collision between the vehicle in which she was a passenger and a JAUNT vehicle on April 12, 2016 at the intersection of Monticello Avenue and Quarry Road; and

**WHEREAS**, the Board of Supervisors finds that the claim should be disallowed because it does not state a cognizable claim of negligence against Albemarle County as required under Virginia Code § 15.2-209; and

**WHEREAS**, the Board of Supervisors finds that the claim against Albemarle County is not supported by the facts or by law.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia disallows the claim of Christiana N. Summers for alleged injuries sustained by her on April 12, 2016 at the intersection of Monticello Avenue and Quarry Road.

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Ms. McKeel **moved** to adopt the proposed resolution to disallow claims for damages pertaining to Stacy Rush, David Jones, and Stacy Rush as next friend of Sasha Jones. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

NAYS: None.

ABSENT: Mr. Sheffield.

#### **RESOLUTION TO DISALLOW CLAIM FOR DAMAGES**

**WHEREAS**, Stacy Rush, David Jones, and Stacy Rush as next friend of Sasha Jones, by counsel, has asserted a claim against Albemarle County as set forth in the letter dated September 15, 2016, from William T. Woodrow to Thomas C. Foley, County Executive, and Greg Kamptner, County Attorney, for alleged injuries sustained by Sasha Jones on June 3, 2016, at Yancey Elementary School; and

**WHEREAS**, the Board of Supervisors finds that the claim should be disallowed because it does not state a cognizable claim of negligence against Albemarle County as required under Virginia Code § 15.2-209; and

**WHEREAS**, the Board of Supervisors finds that the claim is not supported by the facts or by law.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia disallows the claim of Stacy Rush, David Jones, and Stacy Rush as next friend of Sasha Jones for alleged injuries sustained by Sasha Jones on June 3, 2016, at Yancey Elementary School.

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Agenda Item No. 19. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley indicated that he did not have a report.

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Agenda Item No. 20. Adjourn to November 17, 2016, 11:30 a.m., Lane Auditorium.

At 9:19 p.m., Mr. Dill **moved** to adjourn to November 17, 2016 at 11:30 a.m. in Lane Auditorium. Mr. Randolph **seconded** the motion. Roll was called and the motion carried by the following recorded vote

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

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Chairman

Approved by Board
Date 08/02/2017
Initials CKB