

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 16, 2019, at 2:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. This meeting was adjourned from January 9, 2019. The regular night meeting was held at 6:00 p.m.

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

ABSENT: None.

OFFICERS PRESENT: Deputy County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 2:00 p.m., by the Chair, Mr. Gallaway.

Agenda Item No. 2. Closed Meeting.

At 2:00 p.m., Mr. Dill **moved** that the Board go into a Closed Meeting, pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (3), to discuss and consider the acquisition of real property located in the Route 29 corridor, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.
- Under Subsection (6), to discuss and consider the investment of public funds in the Route 29 corridor and competition or bargaining is involved where, if made public initially, the financial interest of the County would be adversely affected

The motion was **seconded** by Ms. Mallek.

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

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

Agenda Item No. 3. Certify Closed Meeting.

At 2:37 p.m., Mr. Dill **moved** that the Board certify by recorded vote that, to the best of each 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. Dill, Mr. Gallaway, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Randolph.
NAYS: None.

Agenda Item No. 4. Development Services Advisor - Final Pre-Marketing Report.

The Executive Summary forwarded to the Board states that Albemarle County was engaged for some time in a thorough analysis and assessment of the County's future court needs and the best way to meet those needs along with an investigation of the potential to which this project could promote its highest strategic priorities of development, redevelopment and revitalization in the County's urban areas.

At the December 14, 2016 Board meeting, staff presented a proposed process for moving forward with the exploration of a public-private partnership to relocate the courts and/or County administration to a site in Albemarle County. Stantec Consulting Services was contracted in June 2017 and provided a final report with findings and conclusions to the Board at its December 13, 2017 work session. Stantec consultants presented an initial report on the costs, fiscal impacts, cost benefit analysis and any updates to the previously submitted Program Analysis Documents and Adjacency Study report, along with overall recommendations and a proposal on next steps. The Board received public comment and feedback on the analysis at a public hearing on December 18, 2017 and provided direction to staff at a special meeting on December 20, 2017 that resulted in the initiation of a pre-marketing study by Stantec as a next step to this work. Funding for the pre-marketing study was approved by the Board on February 7, 2018 (see Attachments A and A1).

The Stantec final pre-marketing report is ready and will be presented to the Board at the meeting. Timing of the completion and presentation of the report was adjusted from the original schedule to allow coordination and synchronization with both the resolution of the courts project with the City of Charlottesville and the adoption of the Rio29 Small Area Plan, both of which were accomplished within the past month.

Stantec's Final Pre-Marketing Study Report is included as Attachment B, and highlights, findings and recommendations from the report will be presented by the Stantec team during the Board meeting. In addition to the Stantec report and the team's presentation, County staff would like to offer additional considerations regarding the study and its findings. Since the study was initiated in February, several significant conditions have developed and/or changed that have impacted the report schedule and influenced staff's reactions to the recommendations, including the following:

- The County and the City have reached a mutually agreeable resolution to the Court issue, removing court relocation as a possible factor in a potential public-private partnership.
- The Planning Commission and the Board of Supervisors recently adopted the Rio29 Small Area Plan, providing a more specific template for desired development in that area, and the County has already received development proposals that utilize its guidance.
- The Board of Supervisors has approved Project ENABLE, the County's first Economic Development Strategic Plan, that identifies priority goals and objectives that will drive policy, staff focus, and resource allocation.
- The School Division launched its Center 1 at the former Comdial building near Rio29.
- The County has recently undertaken public-private partnerships with willing and committed partners to achieve positive outcomes, and several more partnerships are under development. Continued efforts by the County to align staff and funding resources will be critical to maintaining a successful public-private partnership program.
- A conference center study undertaken on behalf of CACVB was provided during the restructuring of the organization and the reconstituted body will deliberate next steps in the coming months.
- The County is actively participating with UVA, PVCC, and the City to develop the entrepreneurial ecosystem within the community.
- The Board of Supervisors and School Board have directed staff to develop PPEA guidelines for consideration and action.

Based on the above factors, staff offers the following reactions to the Stantec final report:

- The findings and recommendations support the County's general direction towards public-private partnerships that have emerged since the time the pre-marketing study was initiated, including taking advantage of opportunities when willing and able partners present themselves.
- The findings and recommendations recognize the challenge of initiating a public-private partnership without concrete and defined County involvement, established incentive protocol and some element of site control - all of these issues are among the highest priorities of Project ENABLE.
- The report emphasizes the necessity for the County to build credibility and demonstrate competency in the arena of public-private partnerships - staff believes that improvement in these areas will be a direct outcome of successful involvement in ongoing projects at Woolen Mills, autonomous shuttle pilot testing, etc.
- The findings and recommendations generally support and add value to the work of the Rio29 Small Area Plan and will be integrated into that plan as it moves into the implementation planning stage.

The cost of services provided under the contract totaled \$56,000.

Staff recommends that the Board receive the Stantec report as written, there is no specific additional action required by the Board at this time. Staff also recommends the following:

- The County should continue to stress that County is open and eager to work with potential partners from the Rio29 area who are ready to engage with partnership opportunities.
- Focus on the successful completion of existing partnerships that are already underway in the economic development sphere.
- The County should focus on implementing the elements of Project ENABLE that will address challenges identified in the report, such as the lack of site control, ready sites, structured incentives processes, etc.
- Economic Development will refer appropriate actionable elements of the final report to Community Development staff for discussion with Planning Commission focusing on recommendations that inform and align with the Rio29 Small Area Plan.
- Staff will prepare and present PPEA guidelines for consideration as directed by the Board of Supervisors and School Board.

Mr. Doug Walker, Deputy County Executive, stated that he was joined in his presentation by Ms. Xuan Phan of Stantec. He reminded the Board that in December 2016, staff presented a proposed process to explore a public-private partnership (P3) specific to the relocation of the courts and/or County office facilities to a site in Albemarle County. He said that Stantec was contracted in June 2017 to present findings and conclusions, with a final report delivered at a public hearing in December 2017, during which the Board gave direction to staff to initiate a pre-market study.

Mr. Walker reported that the Board approved funding for the pre-marketing study in February 2018. The purpose of the pre-marketing exercise was to gauge property owner and developer interest in

creating a walkable, mixed-use community on property within the County, with a focus on the Rio Road/Route 29 area. He said that the effort would involve sensing this market's interest in developing a County Office Building and/or other civic, community or cultural building in order to improve the economics and desirability of a walkable, mixed-use community on such a property.

Mr. Walker stated that a lot has happened since then, all of which the Board has been involved in to some degree. He reminded the Board that it reached a mutually agreeable resolution with the City to remove court relocation as a possible factor in the consideration of a P3. He said the recent adoption of the Rio Road/Route 29 Small Area Plan provided a more specific template for development in the area, and the County has already received proposals that utilized the guidance identified within this plan. He said the recent approval of Project ENABLE, the County's development and strategic plan, identifies priority goals and objectives that would drive policy, staff focus, and resource allocation for the next two to four years.

Mr. Walker mentioned the launch of the School Division's Center One at the former Comdial building near Rio Road/Route 29, as part of its High School 2022 initiative, and the County has several active P3s with willing and committed partners and several more under active development. He stated that the best example was the partnership with the Woolen Mills property owner and Willow Tree as its tenant. He said the County was making continuing efforts to align staff and funding resources, as these would be critical to maintain a successful P3 program. He said they have enjoyed the success of delivering on the agreements and are now eager to enjoy the success of seeing these pay dividends and of having the projects come to fruition. He said the conference center study undertaken on behalf of Charlottesville-Albemarle Convention and Visitor's Bureau was provided during the restructuring and organization of a reconstituted body would take the next steps in the coming months to forward that consideration.

Mr. Walker reported that the County was actively participating with the University of Virginia, Piedmont Virginia Community College, and the City of Charlottesville to develop an entrepreneurial ecosystem within the community as an active aspect of the Office of Economic Development's implementation of its strategic planning work. He reminded the Board that along with the School Board, they directed staff to develop public-private education act guidelines for consideration and action to put the County and School Board in a better position to consider P3 opportunities. He then turned the presentation over to Ms. Phan of Stantec.

Ms. Xuan Phan of Stantec presented, stating that she was joined by Mr. Jeffrey Simon and Mr. Brent Sherman, as well as Mr. Matt Hunt of Grace Jones Management. She said the pre-marketing exercise was conducted last year and presented an agenda that outlined the study:

- 1) goals, process, and property selection
- 2) key feedback and findings
- 3) recommendations

She stated that the context of the process was to identify a potential walkable, mixed-use, development opportunity as a catalyst for further development, with a focus on the Rio Road/Route 29 area. She said they wanted to gauge property owners' willingness to develop or redevelop their property and to potentially respond to a County Request for Proposals (RFP). She said they also wanted to identify potential County-supported anchor uses that could be most interesting and attractive for private developers. Finally, she said they wanted to gauge the broader development community's appetite for the Albemarle market.

Ms. Phan reviewed the process, noting that her firm worked closely with County staff to prepare the marketing message and marketing materials to promote interest among developers. She said they identified and prioritized target parcels that would be part of the outreach effort. She presented a list with key criteria that would be important for a successful mixed-use, walkable community: scale, phasing, density, access, catalyst (ability to spur other development outside of its own site in the neighboring and abutting properties), and Comprehensive Plan consistency. She said that after following this process, they reached out to 10 property owners and found a clear hierarchy of preferred uses for a mixed-use site. She presented a slide with preferred uses:

- greatest interest in income-producing uses that were naturally compatible with office, retail, residential uses, and hospitality
- an office tenancy would be ideal, providing a credit tenant, daytime population, and shared parking to help project economics
- event or entertainment venue would strongly support mixed-uses, providing a place making anchor that would generate foot traffic for restaurants and retail and a market for hospitality, but operating subsidy structure may be required
- new model high school would be limited to strategic, institutional landowner
- a stand-alone structured garage was not seen as sufficiently valuable

Ms. Phan presented a slide with a list of themes:

- smaller parcels (<10 acres) have limited scale and potential for mixed-use development
- owners of large, vacant parcels had greatest interest in a mixed-use, walkable development but likely at a more car-centric density
- owners of occupied parcels had greater inherent complexity but perhaps greatest potential to complement existing uses and be a catalyst for surrounding redevelopment

- institutional owners require any development or P3 to be consistent with the institution's mission
- County's lack of specificity and lack of site control was a limiting factor

The next slide listed results of developer feedback:

- local developers were most bullish about the market; some are also owners of vacant land or property
- regional developers need a definitive site or a concrete use to discuss
- national developers' interest was mixed
- more experienced developers, especially with mixed-use track record, are likely to seek full site control, which may not be compatible with property owners' interests

Ms. Phan reviewed takeaways from the pre-marketing study. She said the lack of site control was a limiting but not a determining factor of what could be achieved. She said the County could decide on a specific and concrete County-sponsored facility that could be a requirement for an RFI or RFP, though this might be quite an ambitious pursuit. She said they could identify a sole sourcing strategy or platform from which they could welcome and encourage unsolicited proposals from individual property owners or development teams. She said they felt there was great progress made with the Rio Road/Route 29 Small Area Plan and recommend an expeditious rezoning or overlay district that facilitates redevelopment, particularly for the smaller parcels, as a way to allow the market to redevelop on its own without support. Last, determine if any financing or incentives were acceptable to help kickstart projects and generate developer inquiry.

Ms. Phan presented a slide with a list of potential future initiatives to cultivate a welcoming "open for business" environment:

- identify range of tools, financial incentives or other resources that could be deployed to attract direct investment and promote new businesses located in the County
- accelerate Rio Road/Route 29 Small Area Plan implementation – streamline as-of-right approvals process, achieve policy and economic development goals
- identify underutilized sites for a possible public benefit and partner one-on-one with owners
- determine possible facilities that County would commit to lease and/or fund in order to advance its goals

She said that they could create a more welcoming business environment by working with Mr. Roger Johnson of the Office of Economic Development.

Mr. Walker concluded the presentation and said he would offer some staff observations to position the report in a context that was meaningful, particularly with all that has happened within the County since the project was initiated. He noted that the project was initiated with Mr. Trevor Henry and continued by Mr. Roger Johnson and Mr. J.T. Newberry of the Office of Economic Development. He noted that Ms. Lee Catlin, in her role as a contract project manager, has been facilitating the relationships with Stantec and coordination of staff work. He emphasized that staff supports the underpinnings of the report and general direction towards P3s that have emerged since the time of the pre-marketing study initiation. He said the Board and other partners such as Economic Development Authority (EDA) have been involved in this work.

Mr. Walker stated that they effectively recognize the challenges in initiating a P3 without concrete and defined County involvement, stating that they would establish incentive protocols and some element of site control, which are among the highest priorities of Project ENABLE. He said it underscores the necessity for the County to build credibility and demonstrate competency in the arena of P3s. Staff believes that improvement in these areas would be a direct outcome of successful involvement in ongoing projects at Barnes Lumber and Woolen Mills. He said they are mindful of the need to build credibility over time and not just celebrate what they have done on paper but actually see it through. He said they believe the report provides support and added value for the work of the Rio Road/Route 29 Small Area Plan and would be integrated into the plan as it moves to the implementation planning stages.

Mr. Walker presented and reviewed staff recommendations/next steps:

- the County should continue to stress that County was open and eager to work with potential partners from the Rio Road/Route 29 area and other development areas who are ready to engage with partnership opportunities
- focus on the successful completion of existing partnerships that were already underway in the economic development sphere
- the County should focus on implementing the elements of Project ENABLE that would address challenges identified in the report, such as the lack of site control, ready sites, structured incentives processes, etc.
- Economic Development would refer appropriate actionable elements of the final report to Community Development staff for discussion with Planning Commission focusing on recommendations that inform and align with the Rio Road/Route 29 Small Area Plan and other plans

- staff would prepare and present PPEA guidelines for consideration as directed by the Board of Supervisors and School Board for consideration in upcoming meetings

Ms. Mallek asked if there was a potential timeline for Community Development's implementation phase of the small area plan. Mr. Walker indicated he does not know if there was a timeline but would research this and get back to the Board.

Mr. Dill noted that the County does not control the land and has decided not to move the courts or the County Office Building, and thus there was not a government push to do this redevelopment. He said it seems they need to expeditiously implement a rezoning overlay district that support market forces, including those who want to do retail, housing, or something else. He said that it would happen by itself if the County created the right atmosphere for it.

Ms. Palmer agreed with the comments made by both Ms. Mallek and Mr. Dill.

Mr. Randolph said he would echo what Ms. Mallek, Mr. Dill, and Ms. Palmer have said. He said they could enable Project ENABLE to take the next steps, as spelled out in Page 10 of the report. He said they could try to assert some site control, get ready sites, and structure a series of incentives that would attract people. He said the Rio Road/Route 29 area was a potential hub for increased economic activity and they need to incentivize and demonstrate a bona fide commitment.

Ms. McKeel said she agree with everything that has been said and urged them to get this scheduled on the agenda. She asked Mr. Roger Johnson to share his thoughts.

Mr. Roger Johnson, Director of Economic Development, addressed the Board. He noted that he obtained his professional experience in North Carolina, where UNC-Chapel Hill has a school of government, with its primary mission being to support local government at all levels. He said that UNC also has a subsection known as the Development Finance Initiative, a professional education course in which he participated. He said they teach a protocol on involving the community in public-private partnerships and that Stantec's report was consistent with the methodology taught at UNC, and he was pleased with the credibility of their report. He emphasized that Stantec's report validates that the community was headed in the correct direction. He said that much of the work the Board has done has changed the narrative of the community as it relates to the development community. He noted that the EDA met the previous night, have scheduled a joint work session with the Board of Supervisors for June 18, 2019 and have pledged to bring three programs to the Board for consideration, which could serve as additional tools. He invited questions.

Mr. Dill asked about form-based code. Mr. Johnson responded that at a recent meeting, Ms. Rachel Falkenstein talked about moving to a form-based code, which would make it easier for development to happen in certain circumstances.

Ms. Mallek asked for an update on the progress of the facilities analysis being conducted by Mr. Henry's office. Mr. Trevor Henry, Assistant County Executive, responded to Ms. Mallek's question. He said at the previous Wednesday meeting, the Board appropriated funds toward a facilities assessment from a growth perspective, which he described as a master planning process that builds on the work of Stantec and looks at how to optimize services in relation to growth. He stated that they would primarily look at the County Office Building as well as the 5th Street facility, in addition to a plan and options. He explained that they have to get a solicitation out and contract with a consultant, with the hope that they would have this ready in time for CIP discussions next fall. He thanked Stantec and Greystone for their analysis work prior to pre-marketing

Mr. Gallaway asked Ms. Phan if developers understood the County's intention and vision for the school centers. Ms. Phan responded that the outreach included a brochure they put together in concert with County and schools staff, and from a very high level, they tried to communicate that this was a unique school program, without a gymnasium or auditorium, and a desire to partner with local businesses to give students hands-on experience. She said she thinks they hit on key points, but also developers and property owners think practically about these issues, and she does not think a school would be the first choice from a menu of options for developers to select from unless there was some synergy between what the learning center was trying to achieve and what they could offer.

Mr. Gallaway urged Mr. Walker to communicate what the County was trying to do to developers and invite them to visit the Comdial facility.

Ms. Phan added that developers consider things like traffic, how students would get to the facility, and parking.

Ms. McKeel added that this was why it needs more discussion, as the schools are at the table for the regional transit partnership meetings, with the idea that students would need transit to move around the community.

Ms. Phan emphasized that the outreach was narrowed down to about 10 property owners who were only representative of themselves. She said the County may identify a partner that was aligned with its vision and willing to work with them.

Mr. Gallaway thanked Stantec for the quality of its work.

Ms. Mallek **moved** that the Board endorse the recommendations of staff. The motion was **seconded** by Ms. McKeel.

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

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

NAYS: None.

(Note: Staff recommendations set out below:)

- the County continue to stress that County is open and eager to work with potential partners from the Rio Road/Route 29 area who are ready to engage with partnership opportunities;
- focus on the successful completion of existing partnerships that are already underway in the economic development sphere;
- the County focus on implementing the elements of Project ENABLE that will address challenges identified in the report, such as the lack of site control, ready sites, structured incentives processes, etc.;
- Economic Development refer appropriate actionable elements of the final report to Community Development staff for discussion with Planning Commission focusing on recommendations that inform and align with the Rio29 Small Area Plan; and
- staff prepare and present PPEA guidelines for consideration as directed by the Board of Supervisors and School Board.

Agenda Item No. 5. Yard Maintenance Open-Air Burning.

The Executive Summary forwarded to the Board states that citizen complaints and Board of Supervisors concerns regarding open-air burning processes and laws in Albemarle County have generated discussion and changes over recent months. In framing the discussion, staff has referred to three types of open burning: commercial open-air burning (large scale, land clearing for development), Certified Burn Program (predominantly maintenance of land involved in agricultural or farming operations or the ACE program), and yard maintenance open-air burning (yard maintenance and garden trimmings). Although State and local codes regulate these types of burning, there are differences in processes and requirements. For further description of each and their associated processes, please see Attachment B - Open-air Burning Explained.

The Board discussed commercial open-air burning during its December 6, 2017; April 4, 2018; and June 6, 2018 meetings, and then enacted changes to the County Code on October 3, 2018. Throughout the conversation about commercial open-air burning, concerns and issues were discussed that are relevant to the Certified Burn Program and yard maintenance open-air burning as well. To further understand these issues ahead of the Board work session on the Certified Burn Program and yard maintenance open-air burning, staff engaged directly with individual Board members and residents to capture not only their concerns, but ideas for solutions as well. The purpose of this work session is to review those concerns and ideas, provide context where possible, and identify possible actions (along with pros and cons) the Board may wish to take as a means for addressing the concerns or issues.

The following are some of the specific concerns or issues which have been identified from either public discussion of open-air burning or specific conversations with a Board member or County resident on the topic:

- Negative environmental impact of open-air burning - carbon footprint.
- Negative effects on the health and welfare of residents (respiratory problems, smoke nuisance).
- Impact on adjoining property - ash and ember fallout.
- Burning of illegal material (plastics, rubber, etc.) and/or material from another property.
- Risk of fire spread in the urban/wildland interface. This is a concern on both sides of the issue. Those burning may have a fire burn out of control. On the other hand, if burning is not allowed or is heavily regulated, some argue that property maintenance will be discouraged, thereby increasing the risk of fire spread through land which has not been well maintained (downed or piled trees, limbs, and other trimmings left to rot that dry burn easily and may significantly contribute to fire spread, particularly to buildings, during a brush or woods fire).
- Neighbors are often put in the position of having to be the "bad guy" when an open-air burn is a concern. Or, neighbors don't say anything at all in fear of upsetting others.
- There are alternatives to burning (grinding, mulching, hauling) and those alternatives should be promoted by the County and utilized by residents.
- When it comes to open-air burning, a "one-size fits all" solution is not prudent. The issues facing a resident in the urban area of Albemarle County are different than those being faced in rural areas.
- Burning is an economical solution that allows those without the means (no vehicle for hauling, limited income for paying tipping fees or mulching service) to dispose of materials otherwise.
- The Certified Burn Program (see Attachment B for program description) allows for too long a period between re-certification. Effectively, this provides a land owner a permit to conduct burns for one year.

Based on the concerns noted above and ideas submitted by residents and Board members, staff has compiled a list of possible actions to change the County Code provisions and/or processes related to open burning within Albemarle County. Each will have an impact on the practice of open-air burning and may have other consequences as well. There are too many details and intricacies associated with each suggestion to list all the pros, cons, questions, or issues related to implementation at this point. During the work session a presentation will be made outlining each possibility and some considerations for discussion. It is the goal of staff that the Board will provide further direction on these suggestions so that a more detailed analysis of impact may be returned later to the Board for possible decision and implementation.

The list below includes possible actions that staff believes are worth further consideration at this point, either due to the ability to implement these options with existing resources and/or the limited burden these options pose to residents. Attachment C includes a list of options that are not recommended by staff due to the lack of staff capacity to handle the workload, as well as the burden placed on residents. All the following considerations will be discussed/explained during the work session:

- **Option One:** Increase burn pile distance requirements from buildings (occupied or not). See attachment A and B for further information on current requirements:
 - This option will effectively eliminate yard maintenance open-air burning in densely built areas depending on the distance decided upon. This may place a burden on property owners to dispose of yard waste and debris in other ways.
- **Option Two:** Remove the allowance for permission to be granted to burn within 300 feet of an occupied structure:
 - This option removes the ability for someone to be granted permission to burn closer to an occupied structure. This effectively eliminates one of the “neighbor in the middle” scenarios where a resident may feel pressured to grant permission to burn when in fact he/she does not wish to grant permission.
- **Option Three:** Require a permit for any/all burning. An on-line self-permitting process may be possible for yard maintenance open-air burning (lawn/leaf/garden).
 - This option will require significant staff work.
 - Staff estimates more than 6 months will be needed for implementation.
 - Staff recommends implementing this option with an online self-permitting process:
 - This will allow for online education of every resident who wishes to burn, which may help reduce improper burning techniques, increase adherence to codes and guidelines, and provide information on the frequency and location of burns.
- **Option Four:** Impose burning time constraints and/or time limits for length of any burn:
 - For example, limiting yard maintenance open-air burning to Monday and Wednesday evenings and on weekends.
 - This option may allow for neighborhoods and neighbors to more easily plan for the effects of burns, as they will occur on a narrower schedule.
 - This may not curb the number of overall burns.

Each possible action may or may not have a budget impact; the budget impact will be assessed once the Board provides direction as to what changes it would like to see proposed for implementation.

Staff recommends that the Board provide direction to staff as to which of the options above shall be considered for additional analysis and possible implementation at a future date.

Chief Howard Lagomarsino, Fire Rescue Prevention/Fire Marshal, presented and said he would discuss open-air burns that are not commercial or land-clearing for development related. He presented a slide with a problem statement: the level of passion in complaints received by Fire Marshal’s Office, and members of the Board have suggested open-air burning and its effects on the environment, property and quality-of-life are of major concern for the Board, staff, and citizens.

Mr. Lagomarsino presented a slide entitled “Purpose of this Work Session”:

- review concerns surrounding open-air burning processes other than commercial open-air burning
- provide context where possible
- discuss ideas to improve conditions and
- identify potential action steps to achieve those improvements
- return at a later date with more in-depth analysis of impact on public, staff and problem solution in regards to identified options/action steps

He emphasized that he was not looking for Board action but for guidance, with a more in-depth analysis of action steps identified today to be presented at a future date. He next presented a slide with a review of key definitions in the County Code:

- Built-up area: Any area with substantial portion covered by buildings
- Debris waste: Waste generated by land clearing operations
- Construction waste/Demolition waste: Waste generated by construction of buildings or demolition of buildings

- Yard waste: Grass, grass clipping, tree limbs, brush and other natural materials generated as a result of maintaining yards and public areas

Mr. Lagomarsino presented a definition of open-air burning:

Combustion of solid waste without:

- 1) Control of combustion air to maintain adequate temperature for efficient combustion
- 2) Containment of combustion reaction in an enclosed device to produce sufficient residence time and mixing for complete combustion
- 3) Control of combustion products' emissions

Mr. Lagomarsino explained that the three types of open-air burning were commercial, certified burn program, and yard maintenance open-air burning. He explained that commercial open-air burning was generally larger in scale and associated with land clearing for development, emphasizing that they have already changed the Code in relation to this type of burning. He explained that the certified burn program consists generally of larger land tracts, such as farms and agricultural operations. He said the program requires attendance at an open-air burning class, after which the attendee receives a certification card. He stated that the person certified must work for the specific farm where the burning was taking place and could not take the card and burn elsewhere. He continued that it also requires a site visit from the Fire Marshal to identify areas on a property suitable for this type of burning, and once an area on the property has been approved by the Fire Marshal and a permit issued that was valid for one year, another visit was required if a different portion of the property was to be burned.

The next slide presented was "Current Regulations for Certified Burn Program":

In addition to Education Program, Site Approval and Permit

- 300 feet from occupied structures, unless permission granted
- 50 feet from wood-line or structures minimum
- means of extinguishment available
- attended at all times
- can involve debris waste from land clearing, so additional distances could apply

He explained that a caveat resulting from the recent change of the commercial open-air burning was that additional 1,000 or 2,000-foot distances may have to be met for land clearing.

Ms. Mallek observed that Mr. Lagomarsino used the word "may" and asked if he should have used the word "will," in terms of meeting distance requirements for land clearing. Mr. Lagomarsino responded that it depends on what they are doing. If they are doing land clearing, it falls under this; whereas if it was storm maintenance, then it would not fall under the additional distances. He explained that if they are clearing storm debris and not knocking down trees to make new fields, they fall under the 300 feet under the current process. As they get further into these discussions, they may talk about increasing the distances.

Mr. Lagomarsino next reviewed yard maintenance open-air burning, which he explained was usually a residential burn by a property owner that involves brush, leaves, and grass trimmings, and it occurs on the curtilage of the property. He explained that curtilage was the living area inside the fence area and not out in the fields. He continued that a permit was not required, a 300-foot distance was required, it must be 50 feet from the wood line, a means of extinguishment must be onsite, and it must be attended at all times.

Mr. Lagomarsino presented a chart that listed the number of open-air burn complaints received by the Fire Marshal for each year from 2011–2018, delineated by type of burn. He said that over the seven years, there were only 72 complaints documented by the Fire Marshal's Office, with 46 related to commercial land clearing/development open-air burns, three involving the Certified Burn Program, five involving yards, and 18 under the category of Other. He explained that those listed under this category were determined not to be open-air burns and involved camping and cooking fires, as well as unfounded complaints.

Ms. Mallek asked if this discounted the burn barrel complaints, recalling that there were 45 in Laurel Hills a few years earlier. Mr. Lagomarsino clarified that the statistics are based on Fire Marshal data and does not include cases handled by another entity.

Mr. Lagomarsino next reviewed a synopsis of concerns gathered through Board and key citizen engagement:

- negative environmental impact
- negative impact on health, welfare, and quality-of-life
- migration of smoke, ash, and embers
- risk of fire spread (fire escapes property, fire load allowed to accumulate)
- neighbors are put in a bad position (give permission because of perceived pressure, reluctant to file complaints)
- one solution does not fit all circumstances (rural vs. urban impacts)
- alternatives such as grinding/mulching were available (truck traffic and noise impacts)
- open-air burning of materials was more economical (hauling impact/costs and tipping fees)

- enforcement issues/clarity of current codes
- appropriateness of Certified Burn Program

Mr. Lagomarsino emphasized that the impacts would affect staff and the public, and they have to make sure they draft a process the public understood and could comply with. He pointed out that not everyone has access to hauling, and they would have to assess the capability of the utilization center to be able to handle an increase in debris. He speculated that they could potentially incentivize people to haul away debris and assess the tipping fees, adding that they need to consider the impact on neighbors of debris piles. He emphasized that they must have the staff resources and capacity to achieve what was desired.

He next presented a slide with a Summary of Recommendations:

- increase distance of burn piles from structures
- eliminate the ability of neighboring property to provide permission
- utilize time restrictions for open-air burning
- disseminate educational materials for alternatives to open-air burning
- require a permit for all types of open-air burning, creating an online process for yard maintenance

Mr. Lagomarsino said he would review the pros and cons of each recommendation, and began with the recommendation to increase the distance of burn piles from structures. He said this requirement could eliminate the option to burn in densely populated areas and used the example of Belvedere, which has zero lot-line clearances. He stated that if burning was not allowed, the debris would accumulate on the property and must be removed somehow. He said this change would have a minimal impact on staff and have the potential to reduce open-air burns and related complaints.

He next reviewed the option to eliminate the ability of the neighboring property to provide permission. He said they would have a true minimum distance, reduce the pressure on neighbors, would not eliminate the reporting of violations, would have minimal impact on staff capacity, and, together with the first recommendation, has the real potential to reduce the number of burns and complaints.

Next was the recommendation to utilize time restrictions. Mr. Lagomarsino provided examples of the allowance of burns Monday–Friday or Monday and Wednesday evenings and weekends. He pointed out that this schedule would allow those who work weekends to burn during the week and those who work during the week to burn on the weekends. He said that adding a notification to neighbors increases the effectiveness of the process, it would have minimal to medium impact on staff capacity, and it has the potential to reduce open-air burning and complaints.

Next was the recommendation to disseminate educational materials for alternatives to open-air burning. Mr. Lagomarsino presented the options of disseminating information via A-mail, website, social media, etc. He said this could spur people to compost the material and show the public the choices available. He reviewed some potential negative impacts such as noise pollution from grinding or trucks taking materials off the site. He explained that staff would have to develop the materials, though as the program develops, the impacts on staff capacity and resources lessen.

Next was the recommendation to require a permit for yard maintenance open-air burning. Mr. Lagomarsino said a permit has not been required since 2005, certified and commercial burn permits averages 50–60 per year, and he estimates a total number of annual permits to be 150–200 if a permit for open-air burns was to be required. He suggested that they take a non-traditional approach with an online educational component, after which one could apply for the permit online. As some may not have access to the internet, he proposes that they set aside particular days when people could take the class in person.

Ms. Palmer asked why he used the example of the ACE Program versus any other farm. Mr. Lagomarsino responded that he used it to make it easy to visualize the types of properties that participate in the Certified Burn Program. He said those in the ACE Program would qualify.

Ms. Palmer said she was under the impression that the list of complaints does not include burn barrels and asked if this was correct. She said she believed burn barrels were a big issue from what she heard from constituents, and asked how they could obtain data on this. Mr. Lagomarsino explained that some burn barrel complaints are handled by the individual companies and never made it into the Fire Marshal data. He continued that it also depends on how the responding officer codes the burn and used examples of smoke scare, good intent call, or brush fire. He said the reporting system does not have a national code just for open-air burning, though they are exploring the possibility of adding this as a question.

Ms. Palmer asked if most of the calls go to the police. Mr. Lagomarsino responded that most come from 911 calls reporting that there was smoke in the area, and sometimes the police would notify the Fire Marshal and sometimes they do not.

Mr. Gallaway surveyed the Board for feedback.

Mr. Randolph said he would vote yes for Options 1, 2, 3, and 4. He said that increasing the burn pile distance from buildings was very smart; there was a difference between burning in the rural area and residential developments, and by having a yardstick they would promote good management practices by

residents to haul material to a landfill rather than burning it. He said Option 2 makes great sense. He said Option 3 was long overdue and an online process was a great idea, and he suggested that the applicant be required to identify their magisterial district so that Supervisors could be notified once a burn permit has been approved and be aware and responsive. He expressed approval for Option 4 to set burn time constraints. He made a suggestion that the list of items that should not be burned be increased, as there are a lot of wood products treated in creosote, which releases a very dangerous airborne carcinogen when burned. He said that paints and solvents should also be added. He asked if the permittee would be required to have a method of fire suppression onsite, such as a hose attached to a water source. He said he assumes they would have a step-by-step series of penalties for violators. Mr. Lagomarsino responded that it was a requirement that a means of extinguishment be onsite and the burn be attended at all times, with violations of the fire code a Class I Misdemeanor under state code.

Mr. Randolph emphasized that applicants should be made aware of the penalties for violation. Mr. Lagomarsino responded that this could be added.

Ms. Mallek remarked that if people are not burning in their yards, there would not be staff impacts. She said she spent 11 years in Amherst, MA, and the only people allowed to burn were orchard and vineyards in March and April, with fungus-laden branches, as they were required to burn for health reasons. She stated that fire officers came out to the sites on the day of the burn, and if the wind came up, the fire had to be put out immediately. She said currently people leave the burns for whatever reasons, even to have a beer, and then neighbors call in. She expressed her choice that burns not be allowed; most people do not burn and are figuring a way to take care of this. She questioned the assessment that it would be much costlier to haul away, as the haulers give this information, and she said they should use an impartial source for the staff report. She recalled comments made recently by Mr. Randolph that it was 20–30 times more damaging to the environment to burn than to haul away in a timber truck. She said if she could not get other members to join her and not allow burns, then she would support recommendations 1–5. She expressed support for a fee for an online process and for the inspection because otherwise it is placing a burden on already overworked staff.

Ms. Palmer reminded everyone that Albemarle does not have drop-off places like they have in a lot of New England states and expressed support to have one somewhere along Route 29 North. She said they should look into a partnership with a landowner for a drop off, as it could take 40–60 minutes to travel to the Ivy location from parts of the County, and they need a place for people to bring debris if they are going to require haul off of materials. She related her own experience in clearing debris from her property, stating that it was very expensive to rent a chipper and pretty expensive to hire a hauler, and many residents cannot afford this. She added that some haulers have a minimum fee of \$75. She agreed they should not allow burning in Belvedere and asked Mr. Lagomarsino if he has considered having a minimum land or density, which she speculated could complicate things in other ways. Mr. Lagomarsino confirmed that they thought a distance requirement might add a complication to the process.

Ms. Palmer said she could go with recommendations 1, 2, and 4, but she was not ready to require a permit, particularly for rural areas, as this would require staff time and would cause an inconvenience to property owners because they may be prepared to conduct a small burn at a particular time due to favorable weather conditions, and a permit requirement could negatively affect this. She said she would like them to try other things and establish a drop-off location before they make it difficult for rural landowners.

Ms. McKeel said she could go along with recommendations 1–4, and she expressed agreement with Ms. Palmer that they should try other things first. She said she does not think it is a good idea to implement rules or regulations unless they have the infrastructure to support it. She also agrees that the County needs a convenient drop off site.

Mr. Gallaway noted that those who have spoken have expressed support for recommendations 1–4 and asked Supervisors if they would like to direct staff to explore the permit requirement.

Mr. Dill said he wondered if they could start with an email or telephone notification requirement for a burn without requiring completion of a form to obtain a permit, which was cumbersome to all involved.

Ms. Mallek expressed support for a notification requirement, at a minimum. She emphasized the potential danger arising from an out-of-control burn, noting that with a notification requirement, they would at least know where to go if someone reported a fire.

Mr. Gallaway pointed out that an advantage of requiring an online permit was the property owner acknowledges that he understands the procedures and rules. He explained how this would require minimal staff time and would notify the County of burns.

Ms. Palmer reiterated that some residents do not have internet access.

Mr. Randolph responded that they could go to the firehouse to give notice.

Ms. McKeel asked Mr. Lagomarsino if the infrastructure would support an online process. Mr. Lagomarsino responded that they are studying this and pointed out that some volunteer fire houses are not staffed all the time. He brought up the potential to have a phone tree for those without internet access.

Mr. Randolph pointed out that a benefit arising out of this discussion was that they have recognized the need for a portfolio of notification methodology available for homeowners: online, in

person, and by telephone. He said the primary goal of notification was the public safety aspect, not to make money, as Fire Rescue needs to know if burning was taking place and its source, and to make sure residents are aware of the burn policy.

Mr. Gallaway asked Mr. Kamptner for confirmation that a homeowners' association with a more restrictive burn rule would override that of the County. Mr. Kamptner confirmed that it would.

Ms. Mallek pointed out that rural areas often have houses that are close to each other and suggested they use the same criteria they developed with homestays, under which anything in a rural neighborhood was considered as if it were in the growth area. She expressed support for a substantial increase in the distance requirement to avoid neighbor intimidation and impacts on neighbors. She asked if there was an existing limitation that exempted very small burn piles. Mr. Lagomarsino remarked that when you add burn pile size, you start getting into the urban and rural aspect. He said that a distance requirement seems like the easiest way to solve the problem from an enforcement standpoint. He recalled the bird flu when property owners could not haul carcasses offsite and had to dispose of them onsite. Ms. Mallek responded that they would call that an emergency special situation, and she disagree that they should be crafting everyday policy for something like that.

Mr. Gallaway asked that Mr. Lagomarsino be prepared to discuss pile size when he comes before the Board again.

Mr. Walker summarized that staff would take the Board's guidance and conduct due diligence, work with the County Attorney's office on specific language appropriate for an ordinance, and return before the Board for additional discussion, which could be followed by a public hearing.

(Note: The Board recessed at 4:06 p.m. and reconvened at 4:24 p.m.)

Agenda Item No. 6. 2019 Real Estate Reassessments.

The Executive Summary forwarded to the Board states that Albemarle County Code §15-1000 requires all real estate in the County to be assessed annually as of January 1st each year and requires the County Assessor's Office to conduct new reassessments. The Constitution of Virginia, Article X, *Taxation and Finance*, Section 2, *Assessments*, dictates that "all assessments of real estate and tangible personal property shall be at their fair market value, to be ascertained as prescribed by law." Also, County Code §15-1000 (C) requires all real estate assessments to be made at 100% of fair market value.

The Real Estate Assessor's Office has completed the annual reassessment process for 2019 and notices are scheduled to be mailed to property owners on January 25, 2019. Among the information traditionally provided by the County Assessor's Office is the average overall change in assessed value. At this point we are still completing our quality control on the County's almost 47,000 parcels.

Property owners who wish to request a review of their annual reassessment to the County Assessor must do so by February 28, 2019; this level of appeal is referred to as an Administrative Review and is allowed by County Code §15-1002. Appeals may be made also to the Board of Equalization, if filed by March 29, 2019 or 30 days after the County Assessor has rendered his decision on the Administrative Review, whichever is later.

Preparation of mass appraisals that result in fair and equitable assessments requires the work of competent, well-trained personnel in the Real Estate Office in their application of assessment principles and best practices, adherence to Virginia Code and Albemarle County Code, and compliance with regulations promulgated by the Virginia Department of Taxation.

The focus of the Assessor's office in 2018 was to continue the review of as many properties as possible, updating property descriptions as needed, to create more accurate assessed values. The best indication of the progress made in 2018 was the creation of 3,780 sketches in the Computer Aided Mass Appraisal (CAMA) system. We now have 20,380 properties sketched in the Vision CAMA system out of a total of 37,877 improved properties. This level of review has allowed us to find many improvements and additions to properties that had been added without permits over the past decade or missed due to other issues. The more accurate the improvement data in our records, the better our valuation model and assessment results.

County Assessor, Peter Lynch, will make a presentation to the Board of Supervisors regarding the reassessment process and outcome for 2019 as part of this agenda item consideration. The presentation will highlight statistical information about reassessment results by magisterial districts and the change in value for the "average" homeowner, as well as other useful statistical and demographic information.

A Frequently Asked Questions document (FAQs) has been prepared by County staff for distribution to property owners and will be included in the mailing of assessment notices. A copy of this FAQs sheet is included as an attachment for your reference.

Although the results of the 2019 reassessment process greatly inform the budget development process, there is no direct budgetary impact specifically related to this information.

Staff recommends that the Board receive the 2019 Real Estate Reassessment report as presented. There is no formal action required.

Mr. Peter Lynch, County Assessor, presented. He presented a slide entitled “Primary Functions for the Assessor’s Office”:

- 1. Reassessment – Reassess all properties annually
 - a. review all property data every 5 years (approximately 9,000 annually)
 - b. validate all sales and update description of sale properties
 - c. update valuation model annually and calibrate with sales
- 2. New Construction – Add all improvements to the tax rolls
 - a. add value of completed improvements when substantially complete
 - b. add partial value of incomplete structures as of January 1.
- 3. Land Use – Administer the Land Use Program
 - a. conduct biennial revalidation of all parcels in Program – 2019 was a revalidation year
 - b. review new applications for Program
 - c. review a portion of revalidation applications each year.

Mr. Lynch stated that they revised the Land Use Program two years ago and received positive feedback from the farming community that it was easier and more productive.

Mr. Lynch quoted Robert Louis Stevenson: “Don’t judge each day by the harvest you reap but by the seeds that you plant.” He said his office has been planting a lot of seeds over the last three years, including the addition of a new software system and an update of the evaluation model, which was a major milestone. He stated that two years ago, they reorganized rural areas in the geographic market areas to better allow for mass appraisal in the rural areas.

Mr. Lynch reviewed 2018 achievements. He said they consolidated 103 of the small subdivisions into larger neighborhoods, which allowed them to more efficiently analyze the sales of properties and apply it to all properties. He noted that some subdivisions only contained 5–10 parcels, and sales would not occur in these areas for over 10 years, resulting in assessments that might not change. He stated that this work was not yet complete but they have taken a big chunk out of these neighborhoods, which should not have been neighborhoods in the first place. He continued that they reviewed and sketched more than 3,700 properties into the CAMA system, which means they have reviewed the properties and corrected and updated measurements of square footage, which has helped the department achieve accurate results. He said the increased reviews of the properties have resulted in more consistent results across the County.

Mr. Lynch presented the Goals of the Assessor’s office for 2019:

- a. add a minimum of 4,000 sketches to the CAMA system
- b. increase the quality of the data in the rural areas and reduce the COD (variance) of the sales to assessment ratios for the 2020 reassessment; this would be accomplished through a focus on property reviews and a contract with Wingate Appraisals to complete 1,000 rural area inspections in 2019.
- c. complete a more thorough review of properties under the land use program including an analysis of aerial photographs.

Mr. Lynch said the overall tax base would go up by 4% in 2019 and presented the percentage change by magisterial district:

Rio	4%
Jack Jouett	4.10%
Rivanna	3.60%
Samuel Miller	3.40%
Scottsville	5.60%
Town of Scottsville	0.40%
White Hall	4%

Mr. Lynch emphasized that these were very general averages within each district. He next presented a chart of reassessment results by use type:

Class Code	Category	Number	Change
01	Urban Residential	21,930	4.80%
02	Other Residential up to 20 acres	17,474	4.20%
03	Multi-Family	212	6.50%
04	Commercial Properties	1,391	1.30%
05	Rural (20 – 99.99 acres)	3,624	3.30%
06	Rural (100 acres+)	893	3.90%
7I – 7V	Exempt, Utility, HOA, etc.	<u>1,553</u>	N/A
	Total Taxable	47,077	4.0%

He noted that 706 parcels were added this year due to plat subdivisions. He next presented a slide with reassessment results by use type:

Use	Average Change
Single Family	4.50%
Vacant Residential	3.40%
Residential Condominiums	7.20%

Mr. Lynch said it was a surprise that condominiums have increased more than other property classes and reiterated that these are general averages, with individual properties can vary greatly from these numbers. He next presented a slide that indicated average change in assessments by value range. He remarked that there has been more appreciation at the lower end, as upper end homes have stagnated over the last few years. The next slide contained a chart of single family residential results by taxable assessment change. He stated that they are making the results much tighter and he expects more assessments would fall within the average range in the future.

The next slide contained a chart entitled “Residential Sales RATIOS”:

	Arms-Length Sales	Median COD A/S Ratio
2018 Residential Sales for 2019 Reassessment	2,138 1.00	5.33
2017 Residential Sales for 2018 Reassessment	1,980 0.99	6.20
2016 Residential Sales for 2017 Reassessment	1,918 0.98	7.69

Mr. Lynch said that the majority of properties fall within an acceptable range of the average, with more than 87% falling within 90–110% of the assessment-to-sales price ratio. He said they hope to decrease the COD and increase assessment accuracy as available information improved.

Mr. Lynch presented a slide entitled “Reassessment General Information”:

- 706 new parcels created in 2018 from subdivision plats
- 1982 completed permits were checked and improvements added to the assessment records
- 1,096 permits are currently pending (improvements not yet complete) including 395 new buildings
- the Land Book would be created in April, after the 2019 tax rate was set, and tax bills would be created from the values on the land book.

Mr. Lynch presented a slide with a chart of land use rates, which he said are set by the SLEAC manual and council. He said there was a question as to whether all of the land counted under land use was appropriate, and they have found through a pilot program he put in place last year that quite a few have areas that are non-qualifying within their property, which would make the actual taxable value higher than it has been. He said they have been checking land use for the last 10 years by going out and looking at a property, seeing if they have been cutting hay or if they have cows, though they cannot determine how much acreage or space was included and if the 5-acre minimum for agriculture or 20 acres for forestry was met. He explained that aerial photographs allow them to see where the forest and homes sites are and that the value of a two-acre home site was 25% higher than a one-acre site, which adds a lot of value to the taxable side.

Ms. Palmer posed a scenario in which someone with 50 acres of forest and a one-acre house site, and once they clear another acre for the house site, the cleared acre was worth more than the forested acre so the assessment goes up. Mr. Lynch confirmed the validity of her scenario, remarking that the forested acre would be worth from \$75–\$432 per acre, while the cleared acre as part of their home site would be worth \$15,000 or \$30,000. He stated that they could keep their trees and it was fine if they are not clearing in this area, but they are finding that either they already cleared the area and the County did not have the right amount, or over time they have cut down a few more trees and the yard kept expanding.

Ms. McKeel said she wants to be sure the County was accurately assessing properties depending on the actual use, emphasizing that they are going into the depth of the accuracy and into the details after having reviewed the big picture. Mr. Lynch confirmed this. He said he did the work for the initial pilot program and then hired a part-time person: a farmer preparing to graduate from Virginia Tech with a degree in Agriculture. He added that he hopes to hire a full-time person next year to do this type of work constantly, as the work needs to be done full-time and not just as a pilot program.

Ms. Mallek remarked that the County got revalidation because bona fide farmers were tired of carrying the water for people who did not belong and getting the blame from urban people who felt like they were unfairly treated. She expressed disappointment that he does not have the authority to show there was really valid and valuable production. She said she would take him on a tour of places where hay was baled up and sat in a field for six months, and she wished there was a way to say this does not suffice. Mr. Lynch responded that it was not that his office does not have the authority but that they do not have the knowledge, expertise in his office.

Ms. Mallek said the issue of the size of homesites was really going to be important for those in the 21–22-acre category, and she expressed hope that Mr. Lynch would be able to educate people about those consequences and that the Board could have a future discussion about this. Mr. Lynch agreed that the 21–22-acre parcels are the problem properties, ending up having a two-acre home site. He said they allow time for them to remedy the situation and to figure out a plan with the state forester to get to the minimum, or they allow the property owner to make the decision as to whether they want to.

Ms. Mallek asked if the information he released about the five-year walk back period to give people notice so they could fix those kinds of things. Mr. Lynch confirmed this.

Mr. Lynch presented steps to the review process:

- Step 1: ask the Assessor's office
- Step 2: request a Review (complete and sign assessment review form, provide a reason, interior inspection, written response from the County)
- Step 3: request a Board of Equalization Appeal (complete and sign BOE appeal form within 30 days of response letter, interior inspection)

Mr. Lynch noted that the review form was available on the website and the appeal form was available in his office. The deadline to file a review is February 28; the deadline to file an appeal to the BOE is March 29. The exception is that if a property owner files a review, the property owner has until 30 days after he (the Assessor) responds in his written response to file to the BOE, if he still does not like the results from the review.

Ms. Mallek asked that representatives of the media present emphasize the process that goes forward, as people wait until just before the deadline, and the sooner people could get on this the better. She asked Mr. Lynch to reiterate the request for review and appeal deadlines. Mr. Lynch responded that the request for review deadline was February 28, the appeal deadline was March 29, and the process was easier if the review was requested first, as they may get the desired result, though it was not required that it go to the review process first.

Mr. Dill asked how many people went to the Board of Equalization last year. Mr. Lynch responded that he does not have the figure but offered to research this and follow up with him.

Ms. Mallek asked that he review the hearing process and for clarification that it was not an open hearing where others could attend. Mr. Lynch explained that the BOE meeting was open and anyone could attend, though others do not have the ability to speak during the hearing. He informed the Board that notices would be mailed January 25.

Ms. Mallek urged that those who have not received a bill and notice by the first week of February notify the County as the post office could lose things.

Mr. Lynch remarked that they receive a lot of return notices and invite those who have not received their bill to contact his office.

Agenda Item No. 7. Closed Meeting.

At 4:57 p.m., Mr. Dill **moved** that the Board go into a Closed Meeting, pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and
- Under Subsection (6), to discuss and consider the investment of public funds where bargaining is involved and where, if made public initially, would adversely affect the financial interest of the County. The investments of public funds being considered are for:
 - 1. Infrastructure improvements in Crozet; and
 - 2. An affordable housing project in the northern portion of the Scottsville Magisterial District; and
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to:
 - 1. A possible agreement with a volunteer rescue squad; and
 - 2. The enabling authority of the County to provide financial support to volunteer firefighting and emergency services organizations.

The motion was **seconded** by Ms. Mallek.

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

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

Agenda Item No. Certify Closed Meeting.

At 6:10 p.m., Mr. Dill **moved** that the Board certify by recorded vote that, to the best of each 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. McKeel.

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

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

NAYS: None.

ABSENT: Ms. Palmer.

Mr. Randolph **moved** that the Board appoint Ms. Diantha McKeel to Piedmont Workforce Network Council, in absence of the Chair, with said term to expire December 31, 2019. The motion was **seconded** by Ms. Mallek.

(Note: Ms. Palmer returned during the motion.)

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

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

NAYS: None.

Agenda Item No. 9. Call back to Order.

At 6:11 p.m., Mr. Gallaway called the regular meeting back to order.

Agenda Item No. 10. Pledge of Allegiance.

Agenda Item No. 11. Moment of Silence.

Agenda Item No. 12. Adoption of Final Agenda.

Mr. Randolph requested that Item 16.2 be pulled until the next meeting to allow adequate time for full staff consultation about proposed changes to the personnel policy.

Ms. McKeel **moved** that the Board adopt the Final Agenda, as amended. The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

Agenda Item No. 13. Brief Announcements by Board Members.

Mr. Gallaway introduced staff at the dais, and the presiding security officers, First Sgt. Matt Powers and Officer Dominick Zambrotta.

There were no announcements.

Agenda Item No. 14. Proclamations and Recognitions:

There were none.

Agenda Item No. 15. From the Public: Matters Not Listed for Public Hearing on the Agenda.

As no one came forward to address the Board, Mr. Gallaway closed the public comment portion of the meeting.

Agenda Item No. 16. Consent Agenda.

Ms. McKeel **moved** that the Board approve the Consent Agenda, as amended. The motion was **seconded** by Ms. Palmer.

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

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

NAYS: None.

Item No. 16.1. Approval of Minutes: August 7, August 8 and September 7, 2018.

Mr. Dill had read the minutes of August 7, 2018, and found them to be in order.

Mr. Gallaway had read the minutes of August 8, 2018, and found them to be in order.

Ms. Mallek had read the minutes of September 7, 2018, and found them to be in order.

By the above-recorded vote, the minutes of August 7, August 8 and September 7, 2018, were approved as read.

Item No. 16.2. Personnel Policy Amendments.

By the above-recorded vote, the Board deferred this item to a future meeting.

Item No. 16.3. ZMA-2006-00019 - Special Exception Request: Variations to the Approved Willow Glen Application Plan.

The Executive Summary forwarded to the Board states that the owner/applicant (“Dickerson Ridge, LLC”) has submitted a special exception (SE) request to allow for multiple variations to the approved ZMA application plan. Specifically, the applicant requests multiple variations as described in the SE Written Narrative dated 12/3/2018, and as shown on the SE Application Plan dated 12/14/2018. (Attach. A)

The requested variations are summarized below, with reference to the applicable Zoning Ordinance (ZO) provision to which these variations are being requested:

Requested Variations:	ZO Provision:
1. Modification to overall unit types and their arrangement; reduction to approved density	8.5.5.3.a(2)
2. Modification to existing setbacks and yard regulations; modification to perimeter setback	8.5.5.3.a(1)
3. Reduction in the number of double-frontage lots in several blocks	8.5.5.3.a(2)
4. Minor adjustments to the private street layout	8.5.5.3.a(5)
5. Flexibility for the location and arrangement of recreational amenities in Block 6	8.5.5.3.a(2), 8.5.5.3.a(4)
6. Modification to the interparcel connections	8.5.5.3.a(5)
7. Modification to the overall project Phasing	8.5.5.3.a(3)

Please see Attachment B for full details of staff’s analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the SE request with the conditions of approval specified therein.

By the above-recorded vote, the Board adopted the following Resolution to approve the special exception, with conditions, for ZMA-2006-00019, variations to Willow Glen Application Plan:

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR WILLOW GLEN ZMA-2006-00019
TO VARY THE APPROVED ZONING APPLICATION PLAN**

WHEREAS, the Owner of Tax Map Parcels 03200-00-00-049F0, 03200-00-00-049I0, 03200-00-00-049J0, and 03200-00-00-049K0 filed a request for a special exception to vary the zoning application plan approved in conjunction with ZMA-2006-00019 as shown on the Plan entitled “Special Exception Request for Willow Glen” (Special Exception Application Plan) prepared by Edwards Design Studio and dated December 14, 2018; and,

WHEREAS, the special exception request as shown on the Special Exception Application Plan involves multiple variations from the approved zoning application plan, including: 1) Modifications to the overall unit types and their arrangement, and a reduction to the approved density; 2) Modifications to the existing setbacks and yard regulations, and modification (elimination) of the perimeter setback; 3) Reductions in the number of double-frontage lots in several blocks; 4) Minor adjustments to the private street layout; 5) Flexibility for the location and arrangement of recreational amenities in Block 6; 6) Modifications to the interparcel connections; and 7) Modification to the overall project phasing.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff’s supporting analysis, and all of the factors relevant to the special exceptions in Albemarle

County Code §§ 14-203.1(B)(2)-(3), 18-33.49(B), and 18-8.5.5.3(c)(1)-(5), the Albemarle County Board of Supervisors hereby approves the special exception to vary the zoning application plan approved in conjunction with ZMA-2006-00019 Willow Glen, as described hereinabove, subject to the condition(s) attached hereto.

* * *

**Special Exception to Vary the Approved Zoning Application Plan
For Willow Glen ZMA-2006-00019**

Special Exception Condition(s)

1. Development and use of the properties subject to ZMA-2006-00019 shall be as depicted in the Plan entitled “Special Exception Request for Willow Glen” prepared by Edwards design studio and dated December 14, 2018 (hereafter “Special Exception Application Plan”), as determined by the Director of Planning and the Zoning Administrator. In addition, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Special Exception Application Plan:
- a. Location and extent of private streets, other roads, and sidewalks;

b. Interparcel connections;

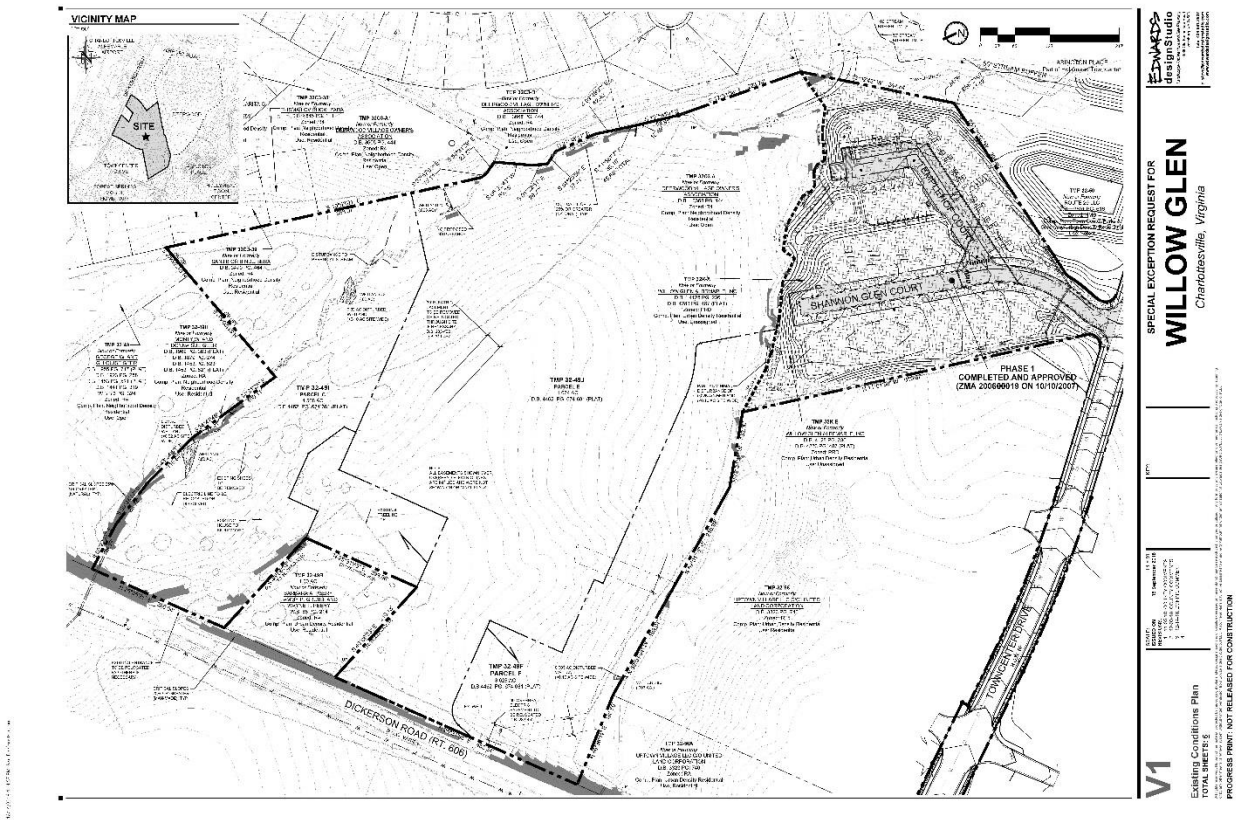
c. Location and orientation of blocks;

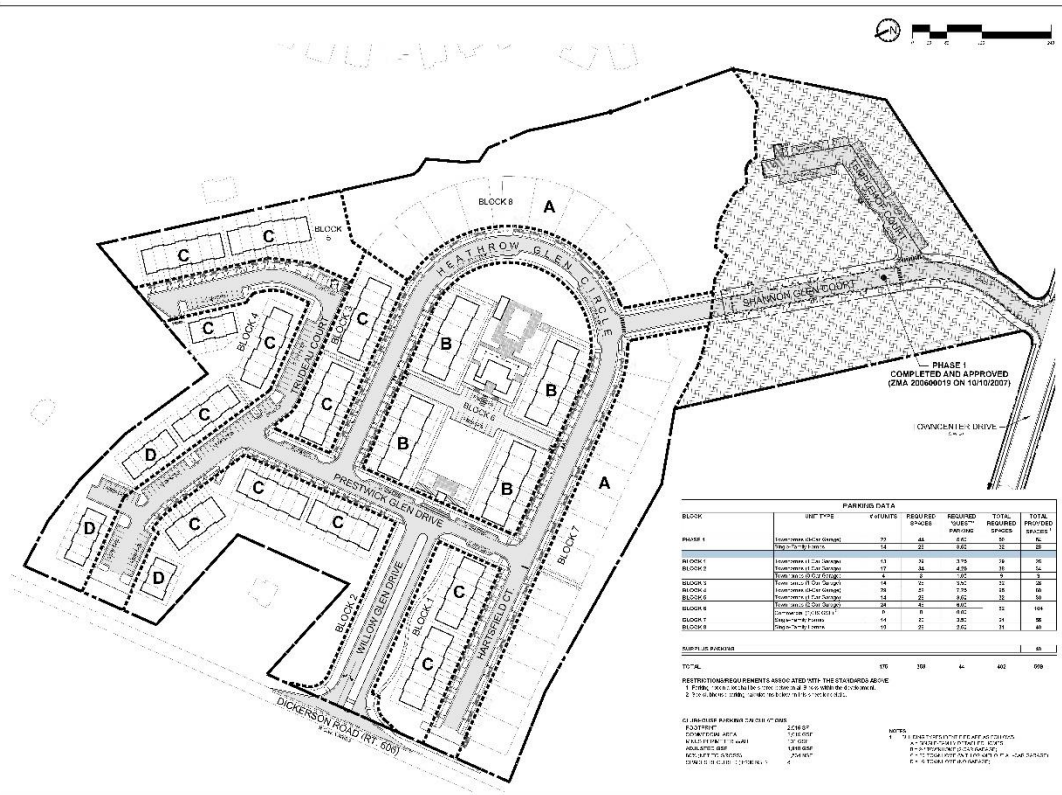
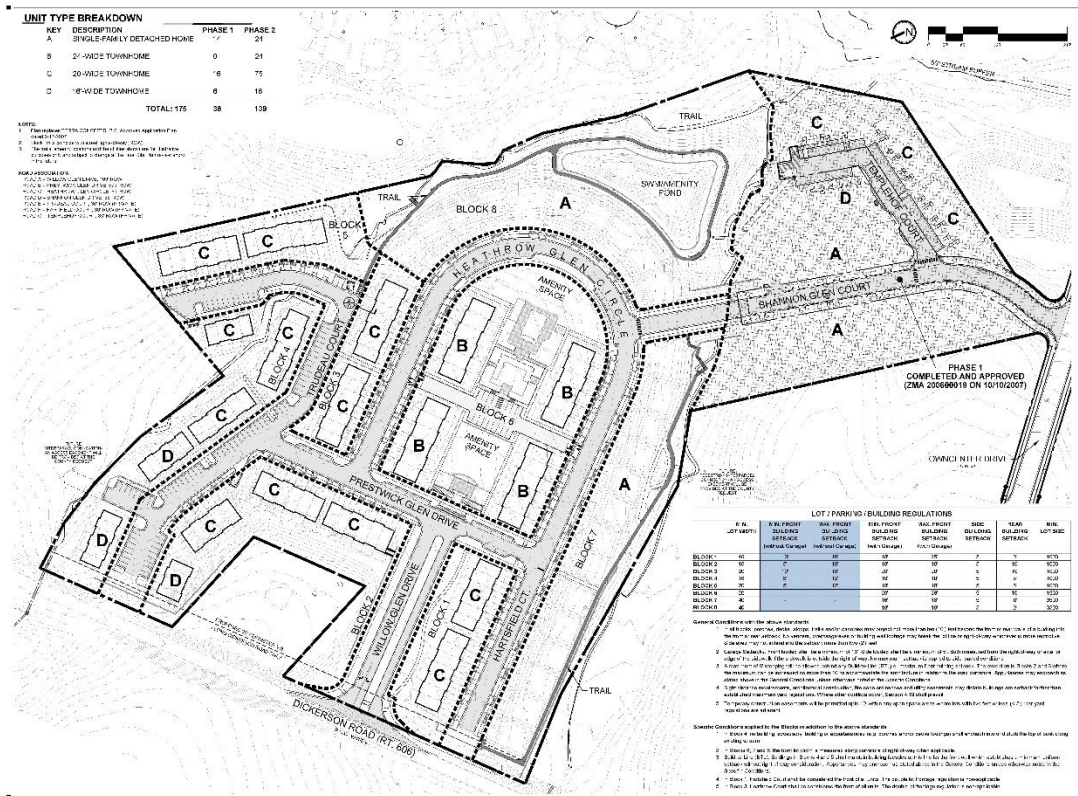
d. Location and orientation of lots and structures within blocks; and

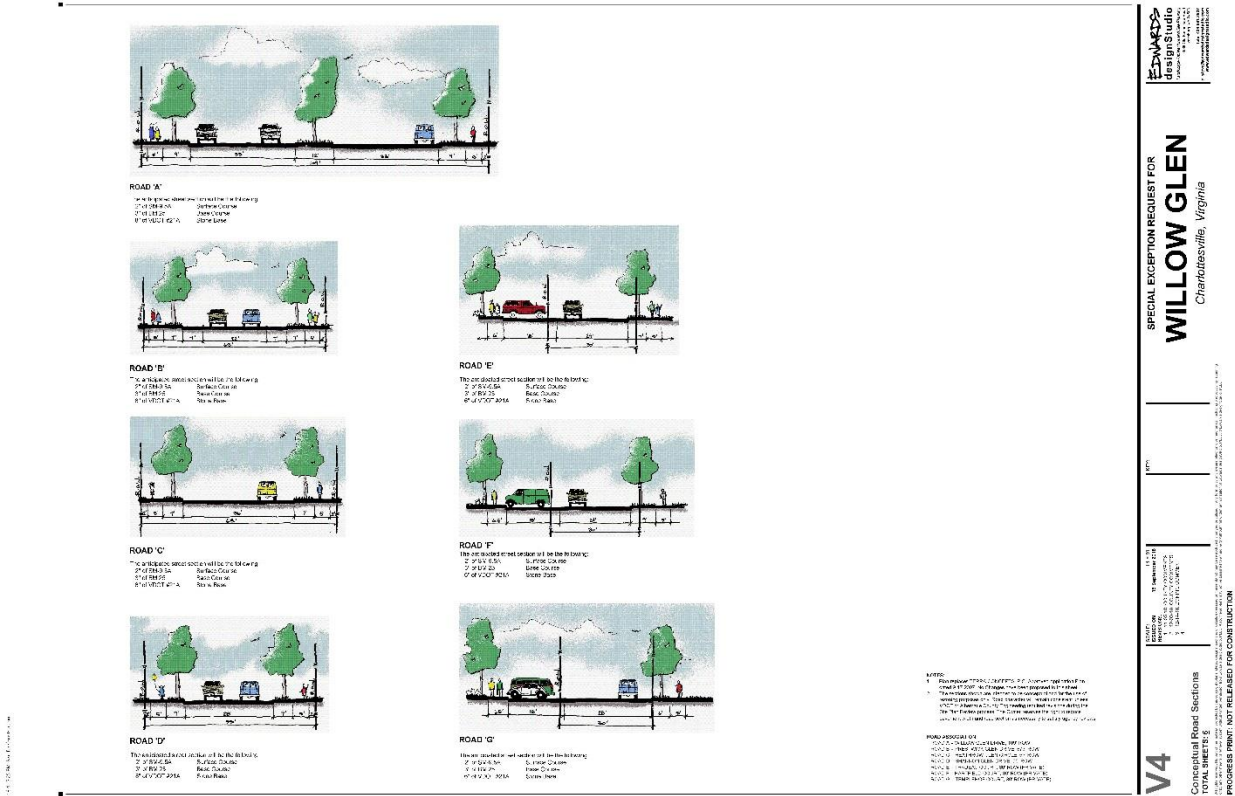
e. Recreational Open Space, amenity space and recreational amenities, and trails.

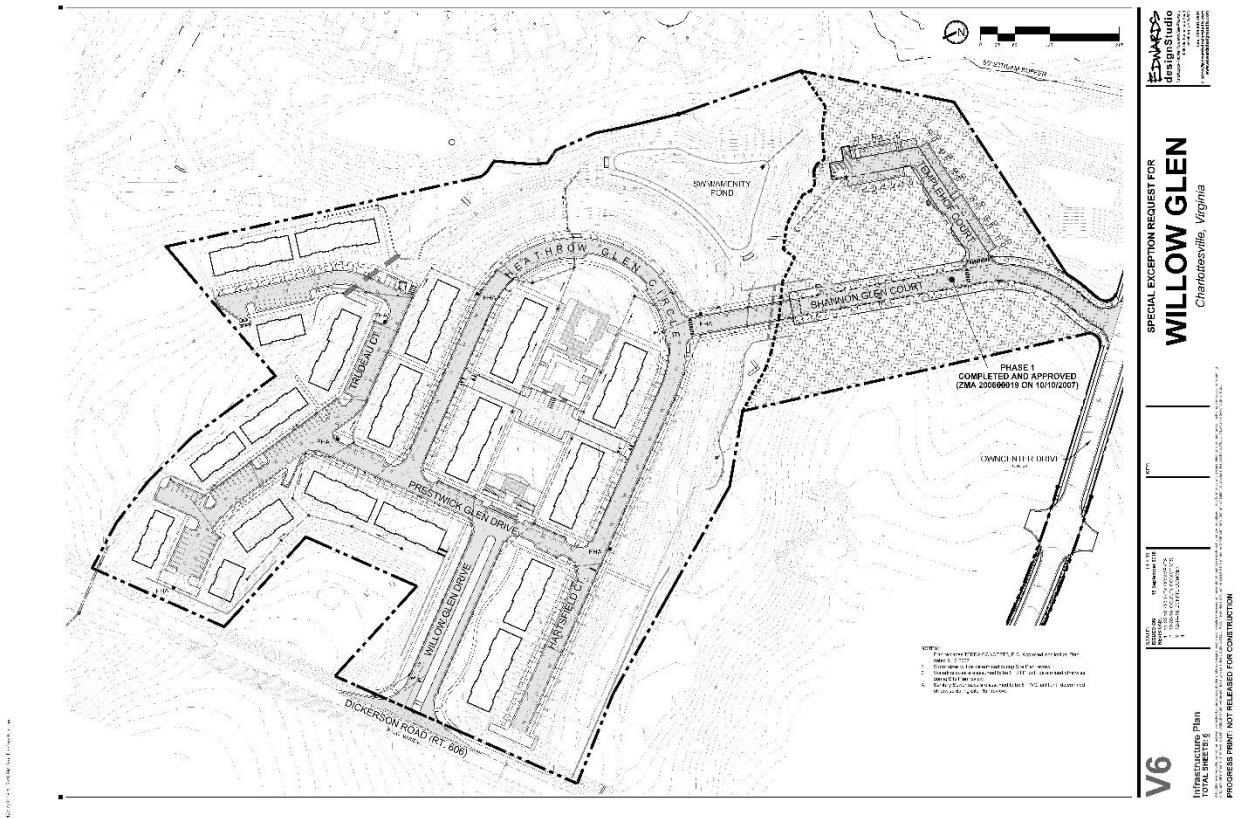
Subject to approval by the Director of Planning and the Zoning Administrator, minor modifications to the plan which do not conflict with the major elements above may be made to ensure compliance with the Zoning Ordinance.

2. All double frontage lots in Block 3 shall include screening between Trudeau Court and the rear of the double frontage lots in Block 3, as shown in Detail A “Conceptual Landscape Buffer” on Sheet V5 of the Special Exception Application Plan. This screening is to include (at minimum) a six (6) foot tall privacy fence as well as landscaping comprised of evergreen plant materials with a minimum height ranging from six (6) to eight (8) feet and with a minimum spacing of ten (10) feet on center.









Item No. 16.4. Capital Projects Status Report 4th Quarter CY2018, **was received for information.**

Item No. 16.5. Fiscal Year 2018 Annual Proffer Report, **was received for information.**

The Executive Summary forwarded to the Board states that in 2007, the Board directed staff to provide a quarterly report on the status of cash proffers. The last quarterly report was provided to the Board on April 5, 2017. With that report, proffer reporting was switched to a yearly basis. This report includes cash proffer information for fiscal year 2018.

Proffer Activity for Fiscal Year 2018

- A. New Proffered Revenue:** No rezoning's were approved this fiscal year that increased expected total proffer revenue.
- B. Total Proffered Revenue:** Total estimated proffer revenue is \$48,919,684.
- C. Cash Revenue:** The County received a total of \$1,005,058.60 from existing cash proffers during fiscal year 2018. (Attachment A)
- D. Appropriations:** A total of \$72,217.63 was appropriated during fiscal year 2018. (Attachment A)
- E. Expenditures:** A total of \$1,570,943.99 was expended. (Attachment A)
- F. Current Available Funds:** As of June 30, 2018, the available proffered cash on-hand is \$5,880,988.54 (including interest earnings on proffer revenue received). Some of these funds were proffered for specific projects (schools, parks, affordable housing, etc.), while others may be used for any project within the CIP. Of the available proffered cash on-hand, \$2,467,499.35 (including interest earned) is currently appropriated (Attachment B). The net cash balance is \$3,413,489.22 and may be used for future expenditures.

Cash proffers are a source of revenue to address impacts from development, and they support the funding of important County projects which would otherwise be funded through general tax revenue. Using cash proffer funding for current or planned CIP projects builds capacity in the CIP by freeing up funding for other projects. CIP projects are reviewed periodically to identify cash proffers that may be available towards projects. As the funds are matched to projects, appropriations are brought forward to the Board.

This Executive Summary is for information only and no action is required by the Board.

Item No. 16.6. Albemarle-Charlottesville Regional Jail Authority Financial Report, Year Ended June 30, 2018, **was received for information.**

Item No. 16.7. Blue Ridge Juvenile Detention Commission Financial Report, Year Ended June 30, 2018, **was received for information.**

Agenda Item No. 17. **Work Session:** CPA201800006 - Birdwood.

The Executive Summary forwarded to the Board states that at its meeting on November 13, 2018, the Planning Commission (PC) conducted a work session to review and discuss proposed amendments to the Southern and Western Urban Neighborhoods Master Plan (S+W Master Plan). Attachments – Attach. A and B are the staff report and action memo from the November 13 PC work session.

Proposed amendments to the existing S+W Master Plan (Attach. C) would include modifications to the “Future Land Use: Other Areas of Importance” section as well as minor updates to the “Existing Land Uses: Institutional” section. These proposed amendments (shown with “Track Changes” in Attach. D, and shown with “clean” formatting in Attach. E) relate to the University of Virginia Foundation’s proposed rehabilitation and reuse of the historic Birdwood Mansion and Grounds. This proposed project, and other elements of the Foundation’s Birdwood Master Plan, were formally endorsed by the Planning and Coordination Council (PACC) on September 20, 2018 as the “Birdwood Area B Study.” (Attach. F)

This Comprehensive Plan Amendment was initiated through a Resolution of Intent adopted by the PC. (Attach. G)

When designing this CPA review process, staff determined it was important for both the PC and the BOS to be engaged through formal work sessions prior to conducting any public hearings with either body. This work session provides the Board that opportunity to review and discuss details of the proposed amendments. Specifically, representatives of the University of Virginia Foundation will attend the work session to discuss the proposed plans for the Birdwood Mansion and Grounds, as well as any other element(s) of the PACC-endorsed Birdwood Area B Study; and County staff will be present to review and discuss the existing language in the S+W Master Plan, as well as the proposed amendments to it.

Staff recommends that the Board engage staff and representatives of the University of Virginia Foundation, and provide initial feedback on the proposed S+W Master Plan amendments including any requests or suggestions to modify the proposed amendments. Public hearings have been tentatively scheduled for February 19 (PC) and March 13 (BOS).

Mr. Tim Padalino, Senior Planner, presented. He explained that this would be a Comprehensive Plan work session to review a staff-generated proposed amendment to the Southern and Western Urban Neighborhoods Master Plan. He reminded the Board that the property was owned by the University of Virginia Foundation, located in the western urban neighborhood portion of the development area within Area B, which make it subject to the Planning and Coordination Council (PACC) joint planning agreement between the University of Virginia, the City, and the County.

Mr. Padalino reported that the origins of this amendment go back to 2018, when the UVA Foundation completed the Birdwood Master Plan to guide future development of the 544-acre property and became the basis for a Birdwood Area B study, which was subject to review by PACC Tech and eventually by PACC. PACC endorsed the study last September. He noted that the full Area B Study was provided in Attachment F (copy on file). He said the general purpose of the amendment was to incorporate elements of the PACC-endorsed Area B study into the Southern and Western Master Plan. He noted that almost all of the uses and improvements contained in the Area B study have already been approved, constructed, or some combination of those. He said the private street connector road has been approved, constructed, and was in permanent use and the UVA golf indoor practice facility has been approved, constructed, and was open for use.

Mr. Padalino stated that the Birdwood Golf Course renovation and the short course addition are under construction. The UVA tennis facility has received a special use permit approval and was in the final site plan and water protection ordinance plan review process. He said those four uses were determined to be expansions of existing use or to be university-affiliated athletic uses consistent with the currently existing Southern and Western Master Plan future land use designations. He explained that the one remaining proposed use from the endorsed Area B study, which has not yet been permitted or constructed, was the proposed rehabilitation and reuse of the Birdwood Mansion and surrounding grounds for special events and hospitality services. He said that proposed use was determined to be outside the language currently in the Southern and Western Urban Neighborhoods Master Plan. He continued that the future land use section, and more particularly the other areas of importance subsection, would need to be amended before the proposed Birdwood Mansion and Grounds Project could potentially be considered to be consistent with the County’s Master Plan.

Mr. Padalino next reviewed the elements of the Birdwood property within the Southern and Western Urban Neighborhoods Master Plan, adopted in 2015. He noted that the Birdwood property was identified as an other area of importance. The future land use plan designates Birdwood primarily for institutional land use uses, with a system of parks and greenspaces in the undeveloped southern portions, near Ragged Mountain Natural Area and Reservoir. He explained that under the proposed amendment those future land use designations would not change and would primarily affect the Other areas subsection, which has more detailed language about future land uses. He noted that the subsection contains language that lacks clarity among different users of the Master Plan about appropriate types of future uses and, as a result, this amendment proposes to address and resolve this ambiguity and update the vision for the property to reflect the main concepts contained in the Area B study.

Mr. Padalino noted that the exact proposed language was presented in Attachments D and E (copies on file). Staff has attempted to use the existing language of the County Master Plan when

possible, with edits to reduce ambiguity and efforts to draw upon the Area B study endorsed by PACC. He pointed out that the amendments would maintain the placeholder section for longer range future uses and development, which staff believes was important as it distinguishes the near future plans of the Foundation from hypothetical longer range future plans and that reserving the possibility of additional future uses seems appropriate for such a large development area property. He emphasized that the placeholder indicates that additional new uses not contemplated to date would require a separate amendment.

Mr. Padalino highlighted the distinction between the ongoing Comprehensive Plan Amendment process and the application the Foundation has submitted for a zoning map amendment for the same Birdwood property and mansion and grounds project. He noted that project specific details would be fully evaluated and reviewed during the ZMA review process and any site planning or Architectural Review Board processes. He emphasized that the primary purpose of tonight's work session was to consider whether the concept of reusing the historic mansion should be incorporated into the Master Plan and to evaluate the draft language provided with the agenda item. He invited questions.

Ms. Mallek asked if one benefit of the changes was that it would recognize the historic nature of the mansion with an expectation that it would be assisted in its sad and decrepit condition. Mr. Padalino confirmed this. He said the existing language has minor indications of the importance of historic preservation and the language presented for the Board's review indicates the reuse of the mansion was a good thing, provided it was done in a historically-sensitive way.

Ms. Mallek remarked that the new future use paragraph was more appealing than the current one, which emphasizes mixed use, which she does not care for.

Mr. Randolph complimented Mr. Padalino for insertion of the following wording: "Future use and development of the property should include pedestrian and bicycle connections to nearby residential developments." He said he thinks it would be important to be mindful that the City has purchased nearby property and, if it makes a future request for changes, connectivity would be something to keep in mind.

Mr. Randolph asked if slave labor was used to construct the Birdwood mansion. He remarked that, if this was so, he hopes the University would research the details and tell the historical story of its construction and the workmen.

Mr. Gallaway surveyed the Board. He said he was generally accepting of the plan.

Mr. Padalino stated that the plan was tentatively scheduled for a March public hearing.

Ms. McKeel, Ms. Palmer, and Mr. Randolph made positive remarks about the plan.

Agenda Item No. 18. **PUBLIC HEARING: SP201800015 - Albemarle Montessori School.**

PROJECT: SP201800015 Albemarle Montessori School.

MAGISTERIAL DISTRICT: Rivanna.

TAX MAP/PARCEL(S): 046B20100002F0 LOCATION: 1562 Insurance Lane, Charlottesville VA 22911.

PROPOSAL: New Special Use Permit to establish a 1,970 sq. ft. Montessori School in an existing building for grades 1-6, with a maximum enrollment of 36 students. The building would include one classroom and four office/storage areas. No residential units are proposed.

PETITION: Sections 20.4.2 and 23.2.2(6) School of Special Instruction.

ZONING: PUD- Planned Unit Development – residential (3 – 34 units per acre), mixed with commercial, service and industrial uses.

OVERLAY DISTRICT(S): Entrance Corridor, Airport Impact Area, Steep Slopes- Managed

COMPREHENSIVE PLAN: Commercial Mixed Use – commercial, retail, employment uses, with supporting residential (no maximum density), office, or institutional uses in the Hollymead area of the Places29 Master Plan.

(Advertised in the Daily Progress on December 31, 2018 and January 7, 2019)

The Executive Summary forwarded to the Board states that at its meeting on December 4, 2018, the Planning Commission voted to recommend approval of SP201800015 with conditions. The Planning Commission's staff report, action letter, and minutes are attached (Attachments A, B, and C).

The Planning Commission voted 6-0 to recommend approval of SP201800015 with the conditions set forth in the staff report. The Planning Commission did not request any changes. There have been no revisions to the application or the conditions.

Staff recommends that the Board adopt the attached Resolution to approve SP201800015 (Attachment D).

Ms. Tori Kanellopoulos, Planner, presented. She noted that the proposed school would have up to 36 students and be located at the entrance to the Hollymead planned unit development neighborhood, adjacent to Route 29 near Forest Lakes. She presented an aerial photograph of the property and surrounding area and noted that the school would occupy a portion of an existing building, with adjacent uses consisting mainly of offices and Montessori Daycare. She presented slides of the Zoning and Comprehensive Plans and noted that the property was zoned as Planned Unit Development (PUD),

which allows schools of special instruction by special use permit, and was designated as Commercial Mixed Use in the Places 29 Master Plan of the Comprehensive Plan.

Ms. Kanellopoulos presented the following highlights: Grades 1–6, established within existing 1,970 sq. ft. building, one classroom, 7:15 a.m.–5:45 p.m. hours of operation, and a shared playground with existing daycare. She said there would only be interior renovations. She presented a slide with the concept plan and emphasized that traffic would circulate around the parking lot of the school and daycare. She noted the shared playground and existing six-foot wooden fence between the playground and vacant office space to mitigate noise. She presented motions to approve or deny the special use permit request and invited questions.

Mr. Dill said he attended a presentation of the proposal at a Places 29 meeting and was very impressed with the academic achievements of the founder and his daughter, who run the school. He remarked that the location has an emphasis on safety, and the school was friendly with neighbors, allows room for drop off cars, and would begin with just grades 1 and 2.

Ms. Mallek remarked that there would be easy access and it was a good spot.

Mr. Gallaway opened the public hearing and invited the applicant to address the Board.

Mr. Fred Catlin, resident of Washington, VA, addressed the Board. He noted that the school was located in the Rivanna Magisterial District. He described Montessori as a wonderful education that develops both academic and emotional intelligence, which was one of the fastest growing forms of education in the country. He said it develops social, collaborative, and leadership skills under the rigorous standards of the Association of Montessori International. He said his daughter would serve as lead guide of the classroom.

As no one else came forward to address this matter, Mr. Gallaway closed the public hearing.

Mr. Dill **moved** that the Board adopt the proposed Resolution to approve SP 2018-00015 Albemarle Montessori School, with the associated conditions. The motion was **seconded** by Ms. Palmer.

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

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

RESOLUTION TO APPROVE SP 2018-15 ALBEMARLE MONTESSORI SCHOOL

WHEREAS, Hollymead Professional Center, LLC submitted an application for a special use permit for Albemarle Montessori School to establish a school in an existing building with a maximum enrollment of 36 students on Tax Map Parcel 046B2-01-00-002F0, and the application is identified as SP201800015 Albemarle Montessori School ("SP 2018-15"); and

WHEREAS, on December 4, 2018, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2018-15 with staff-recommended conditions; and

WHEREAS, on January 16, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2018-15.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-15 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-20.4.2, 18-23.2.2(6), and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-15, subject to the conditions attached hereto.

* * *

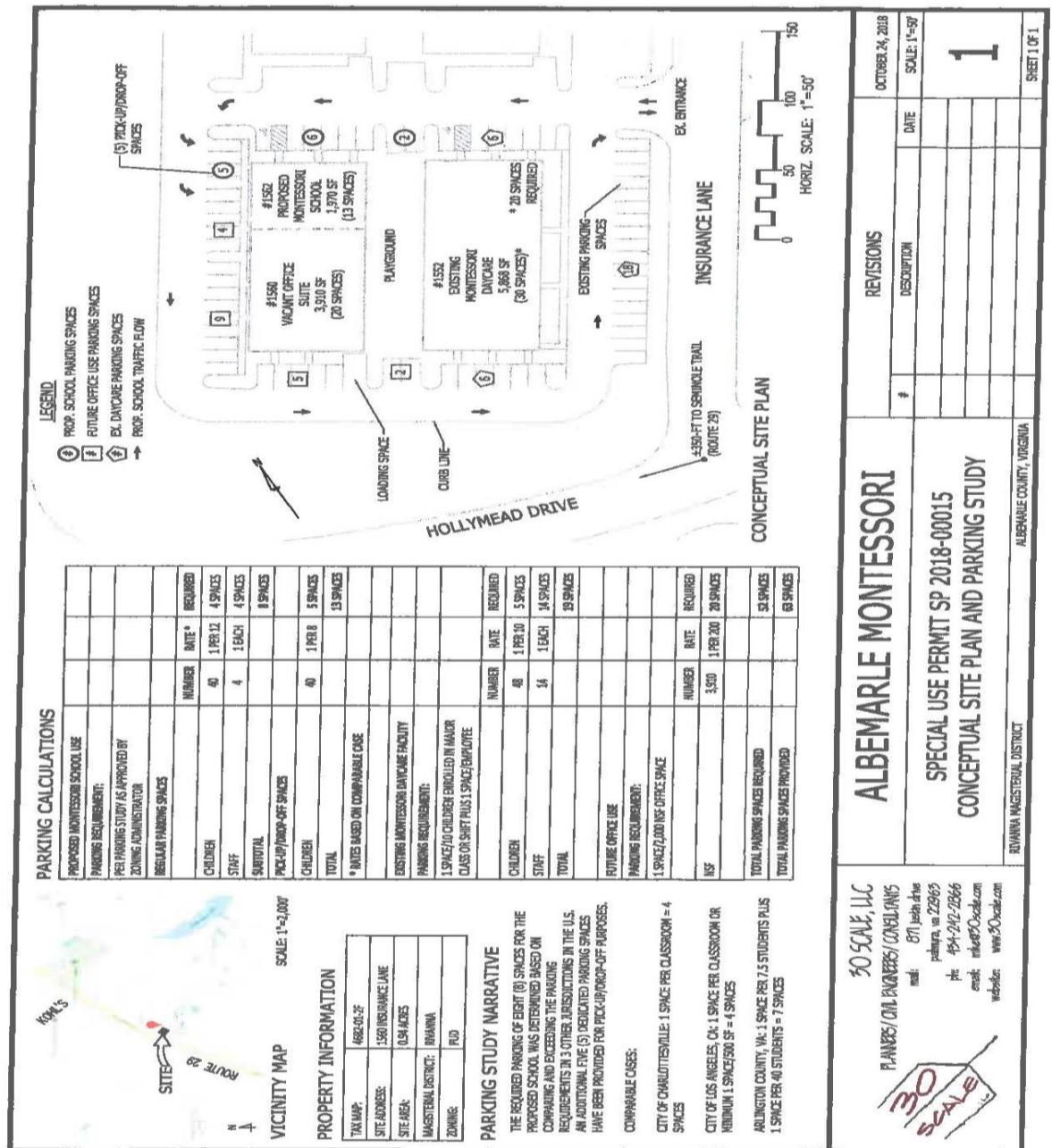
SP-2018-15 Albemarle Montessori School Special Use Permit Conditions

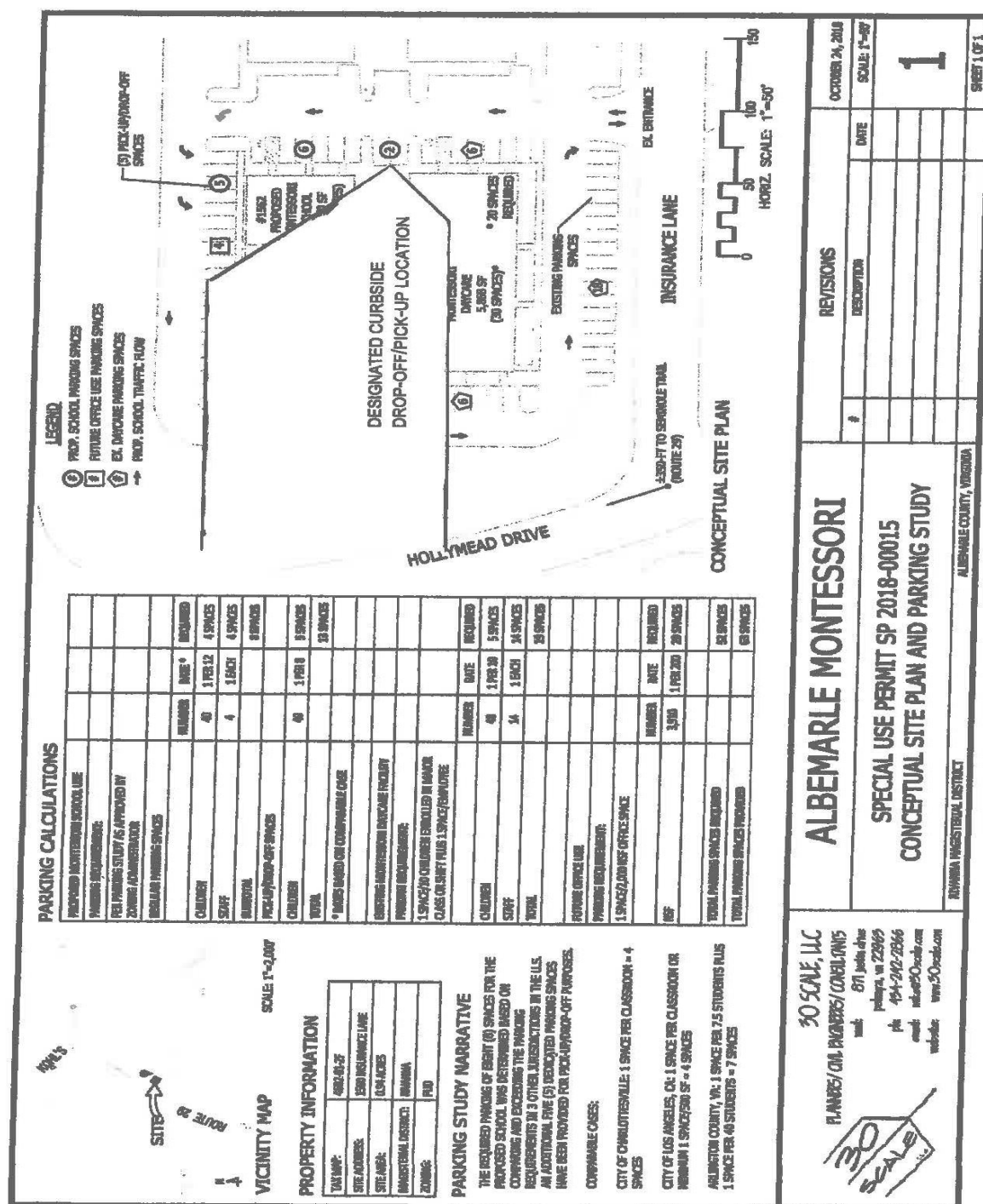
1. Development of the use shall be in general accord with the Conceptual Plan titled "Albemarle Montessori: Special Use Permit SP2018-00015 Conceptual Site Plan and Parking Study," prepared by 30 Scale, LLC, with the latest revision date of October 24, 2018, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:

- Location of parking areas
- Locations of drop off and pickup parking spaces
- General location of shared playground area with the adjacent Montessori Daycare

Minor modifications to the plan which do not conflict with the above elements may be made to ensure compliance with the Zoning Ordinance.

2. The maximum enrollment shall not exceed thirty-six (36) students
3. Normal hours of operation for the school shall be from 7:15 am to 5:45 pm provided that occasional school-related events may occur after 5:45 pm.





(Note: The next two agenda Items were heard concurrently:)

Agenda Item No. 19. **PUBLIC HEARING: ZMA201800008 - Commonwealth Senior Living.**

PROJECT: ZMA201800008 and SP201800017 Commonwealth Senior Living.

MAGISTERIAL DISTRICT: Rivanna.

TAX MAP/PARCEL(S): 078000000055A1.

LOCATION: 1550 Pantops Mountain Place, Charlottesville, VA 22911.

PROPOSAL: Request to amend proffers associated with ZMA201500004 to allow the increase of the square footage of enclosed space, through the repurposing of structured parking, along with a special use permit for professional office use in an existing structure in a Planned Residential Development.

PETITION: Request to amend proffers and application plan on a 3.851-acre property zoned PRD, Planned Residential Development, which allows residential uses at a density of 3 – 34 units/acre with limited commercial uses, to allow the total square footage of the building to increase from 110,000 square feet to 120,000 square feet to accommodate professional office space, which is allowed by special use permit. Request for special use permit for professional office use in an existing structure under Section 19.3.2.9 of the zoning ordinance. No additional residential units proposed.

ZONING: PRD Planned Residential Development which allows residential (3 – 34 units/acre) with limited commercial uses; ZMA201500004.

OVERLAY DISTRICT(S): Entrance Corridor, Steep Slopes – Managed.

PROFFERS: Yes.

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

POTENTIALLY IN MONTICELLO VIEWSHED: Yes.

(Advertised in the Daily Progress on December 31, 2018 and January 7, 2019)

The Executive Summary forwarded to the Board states that at its meeting on December 4, 2018, the Planning Commission (PC) conducted a public hearing and voted to recommend approval of ZMA201800008 and SP201800017, with conditions. Attachments A, B, and C are the PC staff report, action letter, and minutes from the PC meeting.

The Planning Commission voted 6:0 to recommend approval of ZMA201800008 and SP201800017, with the conditions set forth in the staff report, with one change to condition #4 as proposed by staff. This modification to condition #4 in the Special Use Permit was recommended by staff at the PC meeting and was included in the recommendation by the PC. The revised conditions including this change are included in Attachment D (the addition to the condition is underlined). In addition, a Parking Determination from the Zoning Division has been approved. This Parking Determination is included as Attachment F.

Staff recommends that the Board adopt the attached Ordinance (Attachment G) to approve ZMA201800008, with the Signed Amended Proffer Statement (Attachment H), and the attached Resolution (Attachment I) to approve SP201800017, with the conditions attached thereto.

Agenda Item No. 20. **SP201800017 - Commonwealth Senior Living.**

PROJECT: ZMA201800008 and SP201800017 Commonwealth Senior Living

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL(S): 078000000055A1

LOCATION: 1550 Pantops Mountain Place, Charlottesville, VA 22911

PROPOSAL: Request to amend proffers associated with ZMA201500004 to allow the increase of the square footage of enclosed space, through the repurposing of structured parking, along with a special use permit for professional office use in an existing structure in a Planned Residential Development.

PETITION: Request to amend proffers and application plan on a 3.851-acre property zoned PRD, Planned Residential Development, which allows residential uses at a density of 3 – 34 units/acre with limited commercial uses, to allow the total square footage of the building to increase from 110,000 square feet to 120,000 square feet to accommodate professional office space, which is allowed by special use permit. Request for special use permit for professional office use in an existing structure under Section 19.3.2.9 of the zoning ordinance. No additional residential units proposed.

ZONING: PRD Planned Residential Development which allows residential (3 – 34 units/acre) with limited commercial uses; ZMA201500004.

OVERLAY DISTRICT(S): Entrance Corridor, Steep Slopes – Managed

PROFFERS: Yes

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

POTENTIALLY IN MONTICELLO VIEWSHED: Yes.

(Advertised in the Daily Progress on December 31, 2018 and January 7, 2019)

The Executive Summary forwarded to the Board states that at the December 4, 2018 meeting, the Planning Commission (PC) conducted a public hearing and voted to recommend approval of ZMA201800008 and SP201800017, with conditions. Attachments A, B, and C are the PC staff report, action letter, and minutes from the PC meeting.

The Planning Commission voted 6:0 to recommend approval of ZMA201800008 and SP201800017, with the conditions set forth in the staff report, with one change to condition #4 as proposed by staff. This modification to condition #4 in the Special Use Permit was recommended by staff at the PC meeting and was included in the recommendation by the PC. The revised conditions including this change are included in Attachment D (the addition to the condition is underlined). In addition, a Parking Determination from the Zoning Division has been approved. This Parking Determination is included as Attachment F.

Staff recommends that the Board adopt the attached Ordinance (Attachment G) to approve ZMA201800008, with the Signed Amended Proffer Statement (Attachment H), and the attached Resolution (Attachment I) to approve SP201800017, with the conditions attached thereto.

Mr. Andy Reitelbach, Senior Planner, presented and described Commonwealth Senior Living as an independent assisted living, multi-family residential facility. He presented a ground view and aerial photos and noted that it was located near Westminster Canterbury along Route 250. He noted that the property was zoned Planned Residential Development (PRD), which allows professional office use by special use permit, and it was designated as Urban Density Residential under the Comprehensive Plan. He said the first proposal was for an amendment to Proffer 1 of the approved proffers and would allow for an increase in the enclosed space from 110,000 to 120,000 square feet.

Mr. Reitelbach explained that the purpose of the amendment was to enclose the parking garage for office space. He said the application plan would also be amended to show these changes. He presented a slide with the revised application plan and pointed out where the vehicle entrance to the garage has been closed and turned into pedestrian entrances. He next reviewed SP2018-00017, which he said would allow for professional office use in an existing structure in the PRD zoning district. He explained that it would convert an underground garage to an enclosed space to house the corporate

offices, with a maximum of 13,500 sq. ft. of office space. As shown on the application plan, there would only be minimal exterior changes in converting vehicular entrances to pedestrian entrances. He said a parking determination must be approved by the Zoning Administrator.

Mr. Reitelbach presented an aerial photograph of the site and surrounding area and reviewed neighborhood characteristics. He said it was residential to the north and east, near Westminster Canterbury, professional offices lay to the northwest, a hotel and restaurant are located across Route 250, and there are existing employees within the current building. He presented concerns expressed by neighbors at the December 4 Planning Commission meeting: additional employees to a majority residential area, additional traffic from offices, loss of parking from the conversion of the garage to office space, vehicular noise, and noise from HVAC systems.

Mr. Reitelbach presented factors favorable and unfavorable:

Factors Favorable

- consistent with Pantops Master Plan
- located in Development Area; would provide support to residents/employees who live/work in CSL building already
- reduction in travel of employees who may now travel between the residential building and the current offices in downtown Charlottesville

Factors Unfavorable

- additional vehicular trips along nearby roads
- reduction in amount of parking provided on the property; with increase use from offices
- additional noise produced at site

He noted that the Planning Commission recommended approval with a series of conditions, and proffers, that are contained in the staff report. He said that two actions were taken after the meeting of the Planning Commission:

- Zoning Division provided a final parking determination dated December 12, 2018, for this proposal, which was included in the Board of Supervisors packet as Attachment F (copy on file).
- Planning Commission requested further discussions be held between applicant and neighboring residents. Applicant provided letter, dated January 9, 2019, with updates pursuant to the Planning Commission's request.

Mr. Dill asked why Jefferson Cottages are dealing with a stormwater retention pond and their relationship to the applicant. Mr. Reitelbach responded that some concerns raised at the meeting are existing concerns not directly attributable to the new proposed use but could be exacerbated by the proposed use. He suggested the question about pond use be addressed to a representative of Senior Living or residents of the cottages. He noted that residents of the cottages have expressed concern with noise from the HVAC system, delivery vehicles, and vehicles using the parking area of the cottages to turn around.

Ms. Palmer remarked that there was parking on the street and people have to drive through that. Mr. Reitelbach confirmed this, adding that some residents in the more eastern portion of the Cottages at Jefferson Heights may have to drive through the parking lot of Commonwealth Senior Living to access their residences. Ms. Palmer remarked that there would be more cars in the parking lot because there would not be the 33 spaces in the garage. Mr. Reitelbach responded that was correct.

Ms. McKeel asked if the HVAC units are located on the roof or the ground. Mr. Reitelbach said he does not know.

Mr. Gallaway opened the public hearing and invited the applicant to address the Board.

Mr. Steve Blaine addressed the Board as the applicant's representative. He said that Mr. Reitelbach's report and the staff analysis for the ZMA and proffer amendments standards for the special use permit have been addressed and support a finding to approve them. He noted that this project was developed as mixed use and the cottages and senior facility were built as part of a master plan and share public amenities and a travel way through the parking lot. He said that the assisted living and memory care facility were built to have apartments, which requires much more parking than the current use that has been there for three years. He said they knew parking would be an issue and obtained a parking determination from the Zoning Department before they filed the applications for the permits.

Mr. Blaine said they conducted traffic counts on numerous days and supplied 174 data points to support what ended up being a 17% reduction in parking from what the ordinance would require, adding in the office uses of 25–30 employees. He noted that the current location on the Downtown Mall was too small, the lease was up, and they believe this was an appropriate repurposing of an underutilized, underground garage. He emphasized that there would not be changes to the building elevation other than the façade entrances to parking, which would replace cinder blocks with windows. He remarked that they failed to provide notice to their own residents of the Planning Commission meeting but have since told them of subsequent meetings.

Mr. Blaine acknowledged that residents of the cottages raised some neighborhood concerns, which the process has helped the applicant to become aware of and address. He remarked that as the corporate headquarters would be located at the facility, it would receive more attention and they have agreed to hold regular, quarterly meetings with community residents. He said they would all share in the cost of pond maintenance and would have to agree to a cost-effective solution. Addressing Ms. McKeel's inquiry about the location of HVAC units, he said they are all at ground level and they would make sure that any new units would be placed on the side of the building away from the cottages. He noted that Mr. Kevin Willis, Project Manager, was in the audience and invited questions for him.

Ms. Palmer asked if the cottages have a homeowners' association. Mr. Blaine responded that he was not aware of this, though there are covenants and restrictions that provides for contributions for maintenance, which he described as bare bones and not as comprehensive as what one would find in a residential subdivision. He said the informal quarterly meetings might be a first step to a governance.

Mr. Dill asked if this was originally built as one project. Mr. Blaine responded that it was all built pursuant to a master plan that included all of these uses, including the cottages and assisted living. He said he thought there was a plan to have apartments that was not pursued.

Ms. Palmer asked if the cottages are privately owned by their residents. Mr. Reitelbach confirmed this.

Mr. Frank Dogil, President of The Cottages at Jefferson Heights HOA Board, addressed the Board. He stated that Commonwealth Senior Living came before the Board four years ago to request approval to repurpose Jefferson Heights apartment building to a 24/7 assisted living and memory care facility. He said their written statement attempts to communicate how the quality of the residential living experience has changed over four years. He said there have been a significant increase in the intensity of 24/7 activity in the form of traffic and noise along the private street, which also functions as a parking lot around the Commonwealth Senior Living building, and these effects have been acutely shared with residents of the cottages. He said they expect that the move of the headquarters into the community would result in more than a doubling of traffic through the community, a parking lot that would often exceed capacity during business hours with overflow parking in adjacent residential streets, an increase in the safety risk from vehicle and pedestrian movements, and increased queuing and congestion at the intersection of Pantops Mountain Road and Pantops Mountain Place during business hours. He asked that the Board consider these impacts in its decision process.

Mr. John Kattwinkel, resident of The Cottages at Jefferson Heights, addressed the Board. He said he would focus on the effects to quality-of-life issues outlined by Mr. Dogil. He said the problem was more than insufficient parking. He remarked that when he and his wife purchased their property in 2016, they knew they were going to a residential neighborhood with 17 other cottages, plus a routine, three-story apartment building, all handling housing and senior tenants with everyday lives and schedules similar to their own. He said they then found that the new owners of the apartment building planned to convert it to a 24/7 extended care facility with a memory care unit.

Mr. Kattwinkel stated that it would now house the corporate headquarters and have an additional 35 employees, who would train employees from over two dozen similar facilities around the state without substantially increasing the surrounding support resources. He said this type of facility was not designed to function within an already relatively compact residential community. He noted that Mr. Dogil's handout addresses the impacts of increased traffic, noise, safety, and inadequate parking for the building. He asked to whom they should address their concerns, assuming the approval was awarded, and their concerns of congestion and noise are realized. He said they hopes that when the Board was presented with future similar applications where major changes in mission and intensity are described, the Board become fully cognizant of all the variables likely to impact the immediate neighborhood.

There being no further comments from the public, Mr. Gallaway closed the public hearing.

Ms. Mallek remarked that she was trying to identify if there would be new traffic at the site. She asked if the full-time employees downtown have already been coming to the site at different times of the day to work and been going back and forth between the sites. She asked if there would be a substantial number of out-of-town employees training at the facility. Mr. Blaine said the trainees would number one or two new managers; the site was not a training facility. He said they have excess parking capacity because the current use was much less intensive than when they started in 2015.

Ms. Palmer expressed that she understood the need for parking for new residents. She emphasized that a memory care unit would have caretakers and family going in and out at all different hours and assumes it would be a more intensive use. Mr. Andrew Gast-Bray, Director of Planning, responded that the memory care unit was not changing and it was just the offices that were changing.

Ms. Palmer added that it has changed substantially since the four years earlier. Mr. Gast-Bray responded that this may be so. He said he does not have data that indicates a concern of traffic impacts for the area.

Ms. Palmer asked if the residents of the cottages have private parking spaces and if the overflow has been addressed. Mr. Gast-Bray responded that he does not know how this would perform in the future, though the applicant likely knows from its experience with other facilities. He noted that the Board has the result of the parking analysis, and he does not want to contradict this.

Ms. Palmer asked how residents of the cottages could direct complaints if parking overflows into their parking area. Mr. Blaine responded that the corporate office personnel could manage this and take action, which was part of why they want to hold a periodic dialogue. He agreed that the quality or character of the use was different. He noted that they could not control when residents have visitors. He said the employees would have regular shift schedules, which was going on presently, and they have excess parking capacity. External threats to the neighbors do not exist.

Mr. Dill observed that residents of the cottages have their own parking garages. He remarked that he visited the cottages and the parking was tight and almost an urban environment. He said he had driven there the previous day at lunch time and counted 38 empty spaces. He said he thinks the issue was more of congestion and tightness of the streets and not a lack of parking spaces. He said he was sympathetic to the residents, but reluctantly feels the proposal should be supported and the owners of the Commonwealth Center are the ones who should be taken to task as far as care and maintenance. He said he knows some of the managers and hopes they are aware and would react to their needs.

Mr. Blaine agreed, adding that the employees could be trespassing if they parked at the cottages.

Ms. McKeel said she hopes things could be worked out through dialogue among the residents of the cottages and the facility.

Mr. Dill **moved** that the Board adopt the proposed Ordinance to approve ZMA 2018-00008, Commonwealth Senior Living, with amended proffers. The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

ORDINANCE NO. 19-A(1)
ZMA 2018-00008

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX MAP AND PARCEL NUMBER 07800-00-00-055A1**

WHEREAS, the application to amend the zoning map for Tax Map and Parcel Number 07800-00-00-055A1 is identified as ZMA 2018-00008, Commonwealth Senior Living ("ZMA 2018-00008"); and

WHEREAS, ZMA 2018-00008 proposes to revise the proffers and the application plan that were previously approved with ZMA 2015-00004 to increase the allowable square footage of the enclosed space of the existing residential building from 110,000 square feet to 120,000 square feet and to allow the conversion of the parking garage into the enclosed building space for use as professional offices; and

WHEREAS, on December 4 2018, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2018-00008; and

WHEREAS, on January 16, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2018-00008.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2018-00008 and their attachments, including the proffers and the application plan, 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 2018-00008 with the proffers dated December 26, 2018, and the application plan entitled "ZMA Application Plan 201800008, An Amendment To ZMA201500004 for Commonwealth Senior Living, Tax Map 78, Parcel 55A1, Rivanna District, Albemarle County, Virginia," prepared by Shimp Engineering, P.C., dated October 26, 2018.

* * *

Original Proffers _____
Amendment X

PROFFER STATEMENT

ZMA No. 2018-00008 Commonwealth Senior Living Proffer Amendment

Tax Map and Parcel Number(s): **07800-00-00-055A1**

Owner(s) of Record: **Osprey/Pantops Place LLC**

Date of Proffer Signature: December 26, 2018

3.851 acres zoned **PRD**

Osprey/Pantops Place LLC is the owner (“Owner”) of Tax Map and Parcel Number **07800-00-00-055A1** which is subject to this zoning map amendment (the “Property”). The Property is a portion of the property that was the subject of rezoning applications ZMA 1999-001, and ZMA 2001-011, for a project formerly known as “Pantops Place,” (the “Pantops Place Rezoning”). The portion of the overall Pantops Place Rezoning property affected by these Proffers consists of an existing building of approximately 110,000 square feet that now contains assisted living units in addition independent living units. The Owner proposes to convert the the structured parking area, located on the lower level of the building on the Property, into office space for the corporate office of the Owner’s parent company, Commonwealth Senior Living(the “Project”).

ZMA 1999-001 and ZMA 2001-011 also pertained to Tax Map and Parcel Number 07800-00-00-055A5. Pantops Place Limited Partnership is the owner of Tax Map and Parcel Number 07800-00-00-055A5 which consists principally as open space (the “Open Space”). The Property and the Open Space were subject to Proffers dated January 5, 2000 and August 28, 2001 (the “Previous Proffers”) as part of the actions approving rezoning applications ZMA 1999-001 and ZMA 2001-011. The Proffers for ZMA 2015-0004 sought to amend the Previous Proffers as they relate to the *Property* only. The Proffers are intended to amend the Proffers for ZMA 2015-0004 only. .

Pursuant to Section 33 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. Residential density limits shall be as follows:

The building containing the Assisted Living units, the Independent Living units, and professional offices will be no greater than 120,000 square feet. The total number of Assisted Living units and Independent Living units together shall not exceed **140**. The Owner reserves the right to adjust the ratio of Assisted Living to Independent Living for this site.

2.

- a) Vehicular access to the Property from Route 250 East shall be limited to a single location via Pantops Mountain Place, as shown on the Application Plan, revised October 26, 2018, and attached hereto (the “Application Plan”).
- b) The Owner shall provide for access to the adjoining property described as Albemarle County Tax Map 78, parcel 55A7 in the general location shown on that certain Application Plan for Peter Jefferson Overlook, dated October 18, 2010, attached.
- c) The Owner shall provide shuttle service at a minimum of three (3) times a week to convey residents to appointments, shopping, and other destinations.

- 3. The Owner shall maintain a 15 wide foot buffer upon the property along its entire common boundary with the Glenorchy subdivision as shown on the Application Plan prepared by McKee Carson, entitled Pantops Place, sheet 2 of 3, dated October 18, 1999. The 15 foot buffer shall be shown on any approved site plan for the Property. The purpose of this buffer is to ensure the preservation of an existing fieldstone wall and a mature hedgerow along this common boundary line. The existing fieldstone wall shall not be removed or modified . No plant removal, other than dead, diseased or noxious vegetation shall take place in this area. Only limited grading as shown on the approved site plans shall be permitted, and new beneficial plant material may be sensitively introduced to augment the efficacy of the hedgerow as a screening element. Pedestrian access to this area shall not be restricted.
- 4. The Owner shall not disturb the existing natural and landscaped screening along or adjacent to the Glenorchy subdivision, to ensure that the service areas for existing or future buildings will be properly screened from the Glenorchy subdivision.

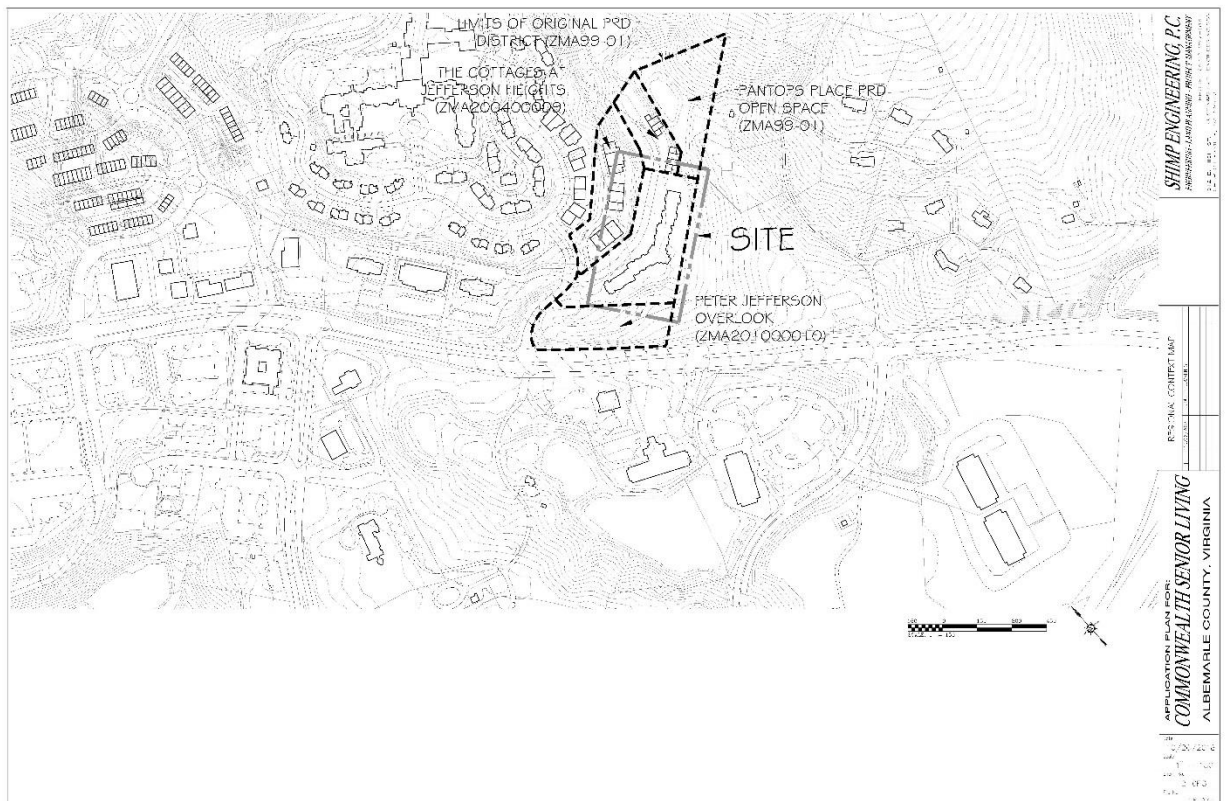
This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

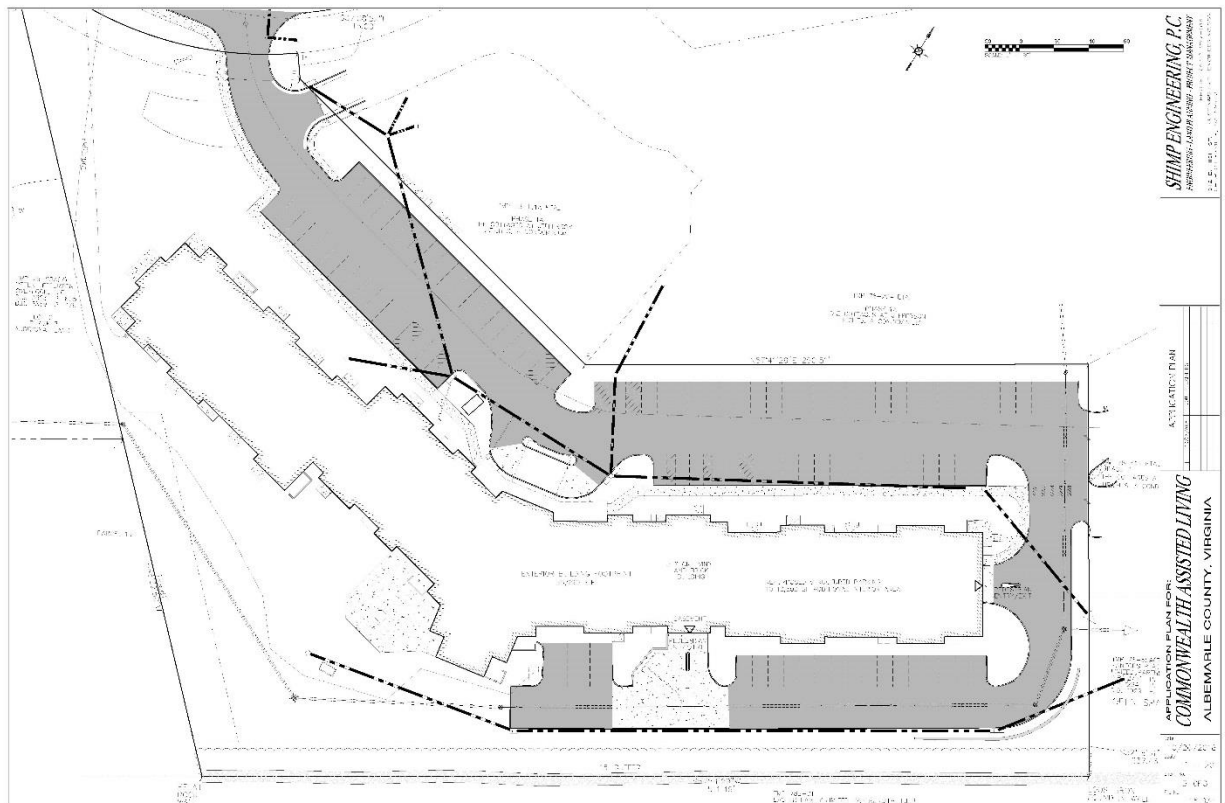
WITNESS the following signatures:

OWNER:

Osprey/Pantops Place LLC, a Delaware limited liability company

By: 
Richard G. Corey, President





Mr. Dill **moved** that the Board adopt the proposed Resolution to approve SP 2018-00017 Commonwealth Senior Living, with associated conditions. The motion was **seconded** by Ms. Mallek.

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

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

**RESOLUTION TO APPROVE
SP 2018-17 COMMONWEALTH SENIOR LIVING**

WHEREAS, Commonwealth Senior Living submitted an application for a special use permit to allow a professional office use on Tax Map Parcel Number 07800-00-00-055A1, property zoned Planned Residential Development – PRD, and the application is identified as SP201800017 Commonwealth Senior Living (“SP 2018-17”); and

WHEREAS, on December 4, 2018, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2018-17 with a revised condition as recommended by staff at the Planning Commission meeting; and

WHEREAS, on January 16 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2018-17.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-17 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-19.3.2.9 and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-17, subject to the conditions attached hereto.

**SP-2018-17 Commonwealth Senior Living
Special Use Permit Conditions**

1. Development of the use shall be in general accord with the conceptual plan titled “ZMA Application Plan 201800008, an Amendment to ZMA201500004 For Commonwealth Senior Living,” prepared by Shimp Engineering, P.C., dated October 26th, 2018, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
 - Conversion of the existing structured parking facility into an enclosed space for professional office use.
 - No exterior changes to the site, except for minor changes to the existing vehicle entrances into the structured parking area to convert them into pedestrian ingress/egress areas.

- Maintenance of the fifteen (15) foot buffer along the southeastern portion of the property.

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. A Parking Determination shall be granted by the Zoning Administrator or their designee prior to the beginning of the operation of the professional office use.
3. The professional office use shall be no greater than thirteen thousand five hundred (13,500) square feet in area.
4. Any change in the professional office use or the residential use that would increase the number of required parking spaces, including any alteration in the number or ratio of independent living and assisted living units, shall require the submission of a request for a new Parking Determination by the Zoning Administrator or their designee.

Agenda Item No. 21. **PUBLIC HEARING: Charlottesville-Albemarle Convention and Visitors' Bureau Agreement; Amendment.** To receive public comment on its intent to adopt an Ordinance to Approve an Amended Agreement to Operate a Joint Convention and Visitors' Bureau between the County of Albemarle, Virginia and the City of Charlottesville, Virginia for the funding and operation of the Charlottesville-Albemarle Convention and Visitors' Bureau (CACVB). The Amended Agreement would amend the composition of the CACVB's Executive Board and would eliminate the CACVB's Advisory Board and make related necessary changes. *(Advertised in the Daily Progress on December 31, 2018 and January 7, 2019)*

The Executive Summary forwarded to the Board states that the City of Charlottesville and the County have jointly funded and undertaken the operation of a joint convention and visitors' bureau since 1979 for the purpose of promoting the Charlottesville-Albemarle area as a tourist destination and site of convention facilities. The Charlottesville-Albemarle Convention and Visitors' Bureau (the "CACVB") has been funded and operated pursuant to a series of agreements between the City and the County. The current agreement was entered into on June 28, 2018 and became effective July 1, 2018 (the "Agreement").

The Agreement is enabled by Virginia Code § 15.2-1300, which authorizes the parties to, among other things, establish a joint governing board and to determine its composition. Consistent with that authority, the Agreement changed the organization of the CACVB and established an Executive Board and an Advisory Board. The Agreement provides that one member of the Board of Supervisors (the "BOS") and one member of the Charlottesville City Council (the "Council") are among those appointed to the Executive Board. Supervisor Mallek and Councilor Galvin are their respective bodies' appointees to the Executive Board. The Executive Board has met four times since it was established.

Following the Executive Board's November 2018 meeting, Supervisors Mallek and McKeel, as well as Councilors Galvin and Signer, informally discussed amending the Agreement to increase the number of members from both the BOS and the Council appointed to the Executive Board from one to two. One of the reasons for this proposed increase is to allow broader representation by elected officials on the Executive Board.

At its meeting on December 20, 2018, the Executive Board took action to request the BOS and the Council to amend the Agreement to change the composition of the Executive Board by: (1) increasing the representation from both the BOS and the Council from one to two; (2) converting the Chamber of Commerce and Thomas Jefferson Foundation representatives from non-voting to voting members; and (3) adding two additional voting members - one representing the arts community and one representing the tourism industry. The Executive Board also recommended that the Agreement be amended to eliminate the Advisory Board.

A draft First Amended Agreement (Attachment A) shows the revisions to the Agreement required to make these and related necessary changes, with the exception that this draft does not include adding another representative from the tourism industry as recommended by the Executive Board. Under its proposed revised composition, the Executive Board would have 14 voting members, five of whom would be representing the tourism industry.

Because the Agreement is a joint exercise of powers agreement authorized by Virginia Code § 15.2-1300, any agreement (and by implication, any amendment to an agreement) must be approved by an ordinance adopted after holding a public hearing.

The City Council is expected to consider this proposed First Amended Agreement in January as well.

If the Board desires to amend the Agreement as proposed, staff recommends that the Board adopt the attached Ordinance (Attachment B) approving the final draft of the Draft First Amended Agreement (Attachment A).

Mr. Kamptner presented. He said this is a first amendment to an amended agreement to the CACVB. He reminded the Board that the current agreement was approved by the Board and City Council in June 2018, effective July 1, 2018, and was a joint exercise of powers agreement. He said it comes with unique features, with one being that it needs approval by the Board by ordinance and a public hearing and the second feature being that the bodies that created this entity are allowed to establish its composition. He noted that the CACVB Executive Board has met four times and was being led by an interim executive director. The CACVB staff became County employees as of January 1, 2019. The County became the CACVB's fiscal agent, as well, with legal representation by the County Attorney's office. He explained that the CACVB was composed of an executive board and an advisory board, with the executive board serving as the governing body and consisting of nine voting and four non-voting members. He noted that the advisory board only has advisory capacity.

Ms. McKeel corrected Mr. Kamptner and clarified that the executive board consists of four voting and nine non-voting members. Mr. Kamptner concurred with the correction.

Mr. Kamptner continued that the Advisory Board consists of seven members, a carryover from the old management board of the prior version of the CACVB.

Mr. Kamptner presented a slide with a list of proposed changes to Section 3:

- add one Supervisor and one Councilor
- add arts community and recreation community representatives (appointed by the four Supervisors and Councilors serving on the Executive Board)
- elevate the Chamber of Commerce representative from a non-voting to a voting member (appointed by the four Supervisors and Councilors serving on the Executive Board)
- elevate the Thomas Jefferson Foundation representative from a non-voting to a voting member
- eliminate the Chair of the Advisory Board as a non-voting member because the Advisory Board itself was recommended to be eliminated

The next slide listed the Current and Proposed Executive Board composition:

Current (nine voting members): three County representatives, three City representatives, two tourism industry representatives (one each selected by County and City), one UVA representative

Proposed (fifteen voting members): four County representatives, four City representatives, two tourism industry representatives, one UVA representative, one arts community representative, one recreation community representative, one Chamber of Commerce representative, one designated representative of Thomas Jefferson Foundation, one non-voting member (Executive Director)

Ms. Palmer asked why the Executive Director was a member of the Board. Mr. Kamptner responded that it was the agreement of the County and City representatives when the currently composed CACVB was established.

Mr. Randolph remarked that it was typical of nonprofit organizations that the Executive Director participate on the board as a non-voting member.

Ms. Palmer asked for confirmation that eight of fifteen board members would be ex-officio or elected officials. Mr. Kamptner confirmed this.

Mr. Randolph pointed out that one of the reasons for enlarging an organization such as this was that elected officials are often pulled in several directions and could not always attend meetings, and with more members they ensure representation even if someone was absent, which he said was critical in maintaining a level of confidence in the community.

Ms. Palmer expressed concern that the board was too big with 15 voting members, staff interaction was affected when elected officials serve on a board, and that four elected officials were overkill, unwieldy, and would change the character of discussion. She agrees that they should have a Supervisor on the board, noting that County and City elected officials sometimes have disagreements and with so many officials serving on the board, this could show up in discussions.

Mr. Dill asked if there were any other commissions or organizations with four elected officials. Mr. Gallaway responded with MPO.

Ms. McKeel added the Regional Transit Partnership.

Mr. Dill added PACC.

Mr. Randolph added the TJPDC Board.

Ms. Palmer remarked that those boards are more government oriented.

Ms. McKeel remarked that CACVB was government oriented.

Ms. Palmer remarked that CACVB also has a lot of industry representatives.

Mr. Kamptner reported that a key change would be the elimination of the Advisory Board. He stated that at the December 20 Executive Board meeting, someone conveyed that members of the Advisory Board did not want to be on the Advisory Board.

Ms. McKeel remarked that they did not see the purpose of the Advisory Board. She said she feels these are positive changes and she likes the addition of representatives of the arts community and Chamber of Commerce to the overall governing board.

Mr. Dill asked for the CACVB budget this year. Ms. Mallek responded that Albemarle County would put in \$850,000, with more from the City. She described this as serious dollars and said they need to be sure they are getting their money's worth out of the operation.

Addressing concerns that elected officials in the driver's seat, Ms. Mallek said there was discussion early on about not having an elected official serve as chair. She expressed confidence that County staff would say what they need to say and be helpful.

Ms. McKeel said it was her experience that industry representatives could stand up for themselves. Addressing Ms. Palmer's concern about the size of the board, she noted that there are other boards of this size, and she was impressed with how they work together in trying to solve problems. She stated that she has not seen tensions between City and County elected officials on any of the boards on which she serves.

Ms. Palmer countered that in her years serving on the boards of Rivanna Water and Sewer and Solid Waste authorities, she has seen some dramatic things. She added that while things might be okay with the current composition of the boards, this could change in the future. She reiterated her opinion that 15 members was a lot and questioned the need for an alternate.

Mr. Randolph pointed out that if Albemarle and Charlottesville each have two members, they are easily outvoted.

Ms. Palmer expressed skepticism that staff would vote against their board members.

Ms. Mallek and Ms. McKeel disagreed.

Ms. McKeel emphasized that they are modeling this on other boards they serve on that have two and two.

Mr. Gallaway opened the public hearing.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board. He expressed appreciation to the Board for the discussion and described this as an imperfect fix. He noted that the eight public officials and staff would be able to outvote the seven industry members, and there are often opposing positions. He expressed concern that a transient occupancy tax (TOT) levy increase would not necessarily go to this group, and the amount that goes to the group was the minimum allowed by the state. He added that this was money dedicated to the promotion of tourism. He described this as an unfortunate but necessary fix. He said the people running businesses and collecting taxes should have the majority vote until such a time when localities contribute an amount equal to or greater than revenue from the TOT. He emphasized that the Free Enterprise Forum see this as tourism money, while others saw it as taxpayer money, which he said was a clear disconnect. He said the question is whether public officials and staff have to be super majority.

With no other public comments, Mr. Gallaway closed the public hearing.

Mr. Dill remarked that everybody thinks they are an expert on retailing because they go into stores and know what they liked. He recommended that those who are not specialists in the area of tourism promotion should not be making decisions as to how to promote tourism.

Ms. Mallek remarked that over the past 11 years, decision makers have totally ignored requests made by County representatives, particularly Ms. Lee Catlin, because she was only one of eleven and the County received almost no attention for its annual investments. She noted that the majority of the board consisted of hoteliers, whose hotels were almost always full, and who expressed that they do not care about what was going on and went along with what the executive director wanted. She said these people do not have great management expertise and expressed her need to change the input and get more programmatic aspects.

Ms. Mallek remarked that she has traveled around the state with the VACO Board and solicited input from different agency representatives as to their efforts, and she learned that they held events and had creative ideas. She said that when they asked CACVB representatives to do these things, they folded their arms and said "No, our charter does not require it." She expressed hope that they would continue working in a joint venture with the City and in a few years have the ability to step back. She acknowledged that hoteliers are collecting the money but emphasized that it was coming from the visitors and should be used to enhance the visitors' experience and not to fill the beds of the hoteliers.

Ms. McKeel said she saw this as an expansion of experts versus having the committee consist mainly of hoteliers. She said that by broadening this, they could look at tourism holistically and not just from the window of “heads and beds,” even as important as that is.

Mr. Dill stated that he was not saying he thought what they were doing before was better, but that going forward it was a little bit of a danger to have non-experts in the field. He remarked that the Albemarle County Historical Society has dramatically improved with Coy Barefoot as Chair, as he was an historian who really knows that field.

Ms. Palmer said she completely agrees with all the other changes and understands why this was being done. She said she hopes the experts would be the executive director and the management team, as they are the advertising professionals, though her issue was with the size of the board and the need for two elected officials. She said she agrees with Neil Williamson’s comments that they are heavy on elected officials and staff, stating that she would vote against it.

Ms. Randolph said he visited Roanoke this summer for an annual VAPDC meeting and noted that a board for downtown Roanoke has 21 members, representing retail, restaurant, professional, industrial businesses and property owners, with only one elected official. He commented that they have been so successful in attracting tourism that public officials could pull back and allow the private sector to seize the bull by the horns, which would probably happen here as well. He said he feels this was transitional and they need to revisit the board’s composition every few years as things stabilize, much as what has been done in economic development in the County.

Ms. Mallek asked if the subcommittee of elected officials that would choose from among the applicants to represent the recreation, Chamber of Commerce, and the arts communities would consult with the entire board. Mr. Kamptner responded that it was not in writing, but the Board and Council representatives could work with their main bodies to choose.

Ms. Mallek asked if the Executive Committee would have to be consulted in the awarding of contracts and for confirmation the Executive Director could not act by himself. Mr. Kamptner quoted the agreement: “Acting through its Executive Director arrange or contract for ...”

Ms. Mallek **moved** that the Board adopt the ordinance approving the first amendment to the CACVB Agreement, dated January 16, 2019. The motion was **seconded** by Ms. McKeel.

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

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

NAYS: Ms. Palmer.

ORDINANCE NO. 19-A()

AN ORDINANCE TO APPROVE AN AMENDED AGREEMENT TO OPERATE A JOINT CONVENTION AND VISITORS’ BUREAU BETWEEN THE COUNTY OF ALBEMARLE, VIRGINIA AND THE CITY OF CHARLOTTESVILLE, VIRGINIA FOR THE JOINT FUNDING AND OPERATION OF THE CHARLOTTESVILLE-ALBEMARLE CONVENTION AND VISITORS’ BUREAU

WHEREAS, the County and the City are each enabled by Virginia Code § 15.2-940 to “expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality”; and

WHEREAS, the County and the City are each enabled by Virginia Code § 15.2-1300 to jointly exercise the authority granted to them pursuant to Virginia Code § 15.2-940; and

WHEREAS, the County and the City most recently entered into an agreement for the joint funding and operation of the Charlottesville-Albemarle Convention and Visitors Bureau (“CACVB”) to promote the resources and advantages of the County and the City, and that agreement became effective July 1, 2018 (the “Agreement”); and

WHEREAS, the Agreement provided that one member of the Board of Supervisors and one member of the City Council would be among the membership of the CACVB’s Executive Board; and

WHEREAS, the County and the City desire to amend the Agreement to authorize two members of the Board of Supervisors and two members of the City Council to serve on the CACVB’s Executive Board and to making any corresponding changes to the Agreement as provided in the amended agreement attached hereto as Attachment A (the “First Amended Agreement”).

NOW, THEREFORE, BE IT ORDAINED THAT the First Amended Agreement is hereby approved, and that the County Executive is hereby authorized to execute the First Amended Agreement on behalf of the County of Albemarle after it is approved as to form by the County Attorney.

This ordinance shall be effective immediately.

**FIRST AMENDED AGREEMENT TO OPERATE
A JOINT CONVENTION AND VISITORS' BUREAU**

THIS AGREEMENT is entered into this 15th day of January, 2019, by and between the County of Albemarle, Virginia (the "County") and the City of Charlottesville, Virginia (the "City"). This agreement may be referred to as the "CACVB Agreement" and "this Agreement." The County and the City may be referred to collectively as the "Parties."

RECITALS

- R-1** The County and the City are each enabled by Virginia Code § 15.2-940 to "expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality"; and
- R-2** The County is enabled by Virginia Code § 58.1-3819 to expend Transient Occupancy Taxes collected by it (amounts in excess of two percent of the total five percent authorized to be collected) solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with tourism industry organizations, including representatives of lodging properties located in Albemarle County, attract travelers to the County, increase occupancy at lodging properties, and generate tourism revenues within the County; and
- R-3** The County and the City are each enabled by Virginia Code § 15.2-1300 to jointly exercise the authority granted to them pursuant to Virginia Code § 15.2-940, and they desire to enter into an agreement with one another to continue to jointly fund and operate the local convention and visitors' bureau; and
- R-4** The County and the City desire to promote the resources and advantages of the County and the City, and to do so through the Charlottesville-Albemarle Convention and Visitors' Bureau as provided in this Agreement.

STATEMENT OF AGREEMENT

The County and the City agree to the following:

1. Convention and Visitors' Bureau Established and Authorized.

The Charlottesville-Albemarle Convention and Visitors Bureau (the "CACVB") is re-established and re-authorized.

2. Purpose of the CACVB.

The purpose of the CACVB is to promote the resources and advantages of the County, the City, and the region pursuant to the terms and conditions of this Agreement, including marketing of tourism, as well as marketing of initiatives that attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County.

3. Organization of the CACVB.

The CACVB shall be organized to have an Executive Board, an Executive Director, and staff serving the CACVB.

A. Executive Board. An Executive Board is hereby established, and its composition and powers and duties are as follows:

- 1. Composition.** The Executive Board shall be composed of the following fifteen voting members and one non-voting member:
 - a. Two members of the County Board of Supervisors.
 - b. Two members of the Charlottesville City Council.
 - c. The County Executive or his designee.

- d. The Charlottesville City Manager or his designee.
 - e. The County Director of Economic Development or his designee.
 - f. The City Director of Economic Development or his designee.
 - g. The Executive Vice President of the University of Virginia or his designee.
 - h. One tourism industry organization representative appointed by the County Board of Supervisors as provided in Section 3(A)(2)(b).
 - i. One tourism industry organization representative appointed by the Charlottesville City Council as provided in Section 3(A)(2)(b).
 - j. One representative of the arts community jointly appointed by designated members of the County Board of Supervisors and the Charlottesville City Council as provided in Section 3(A)(2)(c).
 - k. One representative of the recreation community jointly appointed by designated members of the County Board of Supervisors and the Charlottesville City Council as provided in Section 3(A)(2)(c).
 - l. One representative of the Chamber of Commerce jointly appointed by designated members of the County Board of Supervisors and the Charlottesville City Council as provided in Section 3(A)(2)(c).
 - m. The President or Chief Executive Officer of the Thomas Jefferson Foundation or his designee.
 - n. The Executive Director of the CACVB (non-voting member).
2. **Appointments to the Executive Board.** Appointments to the Executive Board shall be made as follows:
- a. **Appointment of Members of the County Board of Supervisors and the Charlottesville City Council; Alternates.** The members of the County Board of Supervisors and the Charlottesville City Council who serve on the Executive Board shall be appointed by their respective governing bodies for terms determined by the respective governing bodies. The County Board of Supervisors and the Charlottesville City Council may appoint alternates to attend any meeting(s) that the regular appointees cannot attend. An alternate attending a meeting in place of the regular member may vote on behalf of the Board or Council at any such meeting.
 - b. **Appointment of Representatives of Tourism Industry Organizations; Term.** The tourism industry representatives identified in Sections 3(A)(1)(h) and (i) shall be appointed by a majority vote of the members of the County Board of Supervisors or the Charlottesville City Council, respectively, present and voting. Each appointment shall be for a two-year term; no person serving under this appointment may be appointed to more than four consecutive two-year terms, exclusive of time served in the unexpired term of another.
 - c. **Appointment of Representatives of the Arts and Recreation Communities and the Chamber of Commerce; Term.** The arts and recreation community representatives and the Chamber of Commerce representative identified in Sections 3(A)(1)(j), (k), and (l) shall be made by a majority of the four members of the County Board of Supervisors and the Charlottesville City Council appointed to the Executive Board. Each appointment shall be for a two-year term; no person serving under this appointment may be appointed to more than four consecutive two-year terms, exclusive of time served in the unexpired term of another.

3. **Powers and Duties of the Executive Board.** The Executive Board shall:
 - a. **Adopt a Strategic Plan.** Adopt a strategic plan for the CACVB that is consistent with the purposes of the CACVB.
 - b. **Adopt By-laws.** Adopt by-laws, which shall include procedures and rules for electing a chair, a vice-chair, the conduct of its meetings, and regulating the business of the Executive Board.
 - c. **Adopt Policies and Plans.** Adopt any policies or plans consistent with the purposes of the CACVB and that may provide direction to the CACVB.
 - d. **Marketing Strategies, Performance Measures, and Indicators.** Approve general marketing strategies and programs, and establish performance measures and indicators.
 - e. **Hold Meetings; Quorum; Voting.** Hold a regular meeting at least once every two months. Each meeting shall be conducted in compliance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). Eight voting members of the Executive Board physically present at the meeting constitute a quorum. The Executive Board shall act only by a majority vote of those voting members present and voting at a lawfully held meeting.
 - f. **Adopt a Budget.** Adopt a budget for the CACVB's operations and activities each fiscal year.
 - g. **Contracts.** Acting through its Executive Director, arrange or contract for (in the name of the CACVB) the furnishing by any person or company, public or private, of goods, services, privileges, works or facilities for and in connection with the scope of Section 2 of this Agreement and the administrative operations of the CACVB and its offices. The contracts may include any contracts for consulting services related to tourism marketing and to promoting the County, the City, and the region.
 - h. **Appoint the Executive Director; Performance; Termination.** Appoint the Executive Director, who shall serve at the pleasure of the Executive Board, and evaluate the Executive Director's performance each year. If the CACVB does not have an Executive Director or an interim Executive Director on July 1, 2018, until the Executive Board appoints an interim or permanent Executive Director, the County shall provide an employee currently on its payroll to serve as an interim Executive Director for the CACVB, commencing July 1, 2018 and continuing only until such time as the newly constituted Executive Board has appointed an interim or permanent Executive Director.
 - i. **Offices.** Provide regular staffed visitor services at one location within the City of Charlottesville and one location within the County of Albemarle. Additional locations may be approved by the Executive Board. The Executive Board shall approve the location and terms and conditions for purchasing or leasing any CACVB office(s), and may, by recorded vote or resolution, authorize the Executive Director to execute any required instrument pertaining thereto.
 - j. **Official Seal.** Establish and maintain an official seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it, or in any other manner reproducing it.
4. **Attendance.** Members of the Executive Board or their designees are expected to attend all regular meetings of the Executive Board. The Executive Board may request the County Board of Supervisors or the Charlottesville City Council, as the case may be, to replace any Executive Board Member appointed by that body, or the designated members thereof, to replace any Member who is absent, or whose designee is absent, from more than three regular meetings during a calendar year.

B. **Executive Director.** The position of Executive Director is hereby established. The powers and duties of the Executive Director are as follows:

1. **Promotion.** Promote the resources and advantages of the County, the City, and the region pursuant to the terms and conditions of this Agreement, the Strategic Plan, and other policies and plans adopted by the Executive Board within the scope of Section 2 of this Agreement, subject to the following:
 - a. **Services Provided Until Executive Board Directs Otherwise.** Beginning July 1, 2018, and until the Executive Board directs otherwise, the Executive Director and the persons hired to provide services for the CACVB shall provide the services identified in **Attachment A**, incorporated by reference herein.
 - b. **Services Identified by the Executive Board to be Provided.** When the Executive Board identifies different or additional services to be provided by the CACVB, the Executive Director and the persons hired to provide services for the CACVB shall provide those services. The different or additional services may include, but are not limited to, expanding destination packages focusing on the arts, wineries, breweries, and distilleries; promoting heritage and cultural tourism and including this area's African-American heritage; promoting agritourism; promoting outdoor recreational tourism for activities such as hiking, bicycling, kayaking, and canoeing; and developing and promoting events and activities related to the arts, local resources, and local businesses.
2. **Budgeting.** Recommend an annual budget to the Executive Board.
3. **Contracting.** Execute contracts on behalf of the CACVB; perform the duties of purchasing officer on behalf of the Executive Committee, subject to compliance with Albemarle County procurement ordinances and procedures. The Executive Director shall procure all goods and services in compliance with the County's procurement laws and procedures, or may delegate procurement responsibilities to the County's purchasing agent.
4. **Reports.** The Executive Director shall provide to the Executive Board any reports required by this Agreement or requested by the Executive Board.
5. **Distribute the Budget and Provide a Balance Sheet.** The Executive Director shall provide the CACVB's adopted annual budget to the County and the City and a balance sheet showing the CACVB's revenues and expenditures for the prior fiscal year and the fund balance, if any, from the prior fiscal year. The budget and the balance sheet shall be provided by December 31 each year.
6. **Employees.** The Executive Director shall recruit, hire, and manage persons to be employed to perform services for the CACVB, subject to Section 8 of this Agreement.

4. **Funding the CACVB.**

The CACVB shall be funded as follows:

- A. **Funding Cycle.** The County and the City agree to fund the activities and responsibilities of the CACVB during each Fiscal Year (July 1 through June 30 of each calendar year) in which this Agreement remains in effect, beginning with the Parties' Fiscal Year 2019.
- B. **Funding Levels.** Subject to Subsection 4(F), the County and the City shall provide funding for the CACVB in each Fiscal Year in an amount equal to 30 percent of its Transient Occupancy Tax revenues collected by it in the most recent Fiscal Year ("Actuals"). This specified percentage and obligation is based on, and specifically limited to, a Transient Occupancy Tax of five percent in each locality. If either the County or the City enacts a Transient Occupancy Tax greater than five percent, that Party's funding obligation under the formula in this subsection is not changed by the increase in the tax rate for the Transient Occupancy Tax.

- C. **Payments to the Fiscal Agent.** Annual funding provided pursuant to Subsection 4(B) shall be delivered by the Party that is not the Fiscal Agent to the Party that is the Fiscal Agent in equal quarterly payments, payable on July 1, October 1, January 1, and April 1 each year, due upon receipt of an invoice from the Fiscal Agent.
 - D. **Budget.** The budget prepared and recommended by the Executive Director shall be presented to the Executive Board, and the recommended budget shall use the Actuals provided by the County and the City and referenced in Subsection 4(B), and any other revenue sources. Following receipt of a recommended budget from the Executive Director, the Executive Board shall take action to approve an annual budget, no later than May 1 each calendar year.
 - E. **Documenting Costs.** All costs incurred and expenditures made by the CACVB in the performance of its obligations under this Agreement shall be supported by payrolls, time records, invoices, purchase orders, contracts, or vouchers, and other documentation satisfactory to the County and the City, evidencing in proper detail the nature and propriety of the costs. Records shall be maintained in accordance with Virginia law. Upon request by either the County or the City, the Executive Director shall allow City or County officials to inspect the documentation and records pertaining in whole or in part to this Agreement, or the Executive Director may, if acceptable to the requesting party, provide reports summarizing information within CACVB's records.
 - F. **Appropriations.** Notwithstanding any other provisions of this Agreement, the County's and the City's obligation to fund the CACVB is expressly contingent upon the availability of public funds derived from Transient Occupancy Tax revenues and the annual appropriations of those funds thereof by the Parties. The City's appropriations of funds for the promotion and advertisement of the City are and shall be further subject to the provisions of Section 21 of the City's Charter.
5. **Permitted and Prohibited Uses of Funds, Goods, and Services by the CACVB.**
- The CACVB shall expend revenues and use its funds, goods, and services only as follows:
- A. **Purposes for Which Tax Revenues May be Spent.** Revenues appropriated by the County and the City to the CACVB shall be expended only for the purposes for which their respective Transient Occupancy Tax revenues may be spent, as may be governed by state enabling legislation, the City's charter, and local ordinances.
 - B. **Prohibited Use of Funds, Goods, and Services for Political Purposes.** The CACVB shall not expend its funds, use its materials or property, or provide services, either directly or indirectly, for any partisan political activity, to further the election of, or to defeat, any candidate for public office.
6. **Duration of this Agreement; Termination.**
- This Agreement shall be effective on July 1, 2018 and remain in effect until it is terminated by the Parties, or either of them, as follows:
- A. **Termination by One Party.** Either the County or the City may terminate this Agreement by giving at least six months' written notice to the other Party.
 - B. **Termination by Mutual Agreement.** The County and the City may mutually agree to terminate this Agreement under any terms and conditions they agree to.
 - C. **Termination by Non-appropriation.** If either the County or the City fails to appropriate funds in the amount required to support its obligations under this Agreement for a subsequent fiscal year, then this Agreement shall automatically terminate at the end of the then-current fiscal year.
7. **Performance.**
- The performance of the CACVB shall be measured as follows:

- A. **Until New Performance Measures and Performance Indicators are Adopted.** From July 1, 2018, until the Executive Board adopts new performance measures and performance indicators, the CACVB shall:
1. **Return on Investment.** Meet a return on investment ratio of 7:1 annually that is based on seven dollars of total direct visitor expenditures for every one dollar of funding provided to the CACVB by the County and the City pursuant to the formula in Attachment A.
 2. **Performance Measures.** Measure performance using the specific measures in Attachment A.
 3. **Performance Indicators.** Track the performance indicators identified in Attachment A.
- B. **Adopted Performance Measures and Performance Indicators.** When the Executive Board adopts a new required return on investment, new performance measures, and new requirements to track performance indicators, the CACVB shall meet and perform those new measures and requirements.
- C. **Audits.** The County and the City may, at their option, request an independent audit of the CACVB's books and records. The cost of the audit shall be shared equally by the County and the City.
8. **Fiscal Agent Designation; Services.**
- The County and the City will provide the following fiscal services for the CACVB:
- A. **Fiscal Agent.** The City will continue to serve as Fiscal Agent for the CACVB through December 31, 2018. Effective January 1, 2019, the County shall serve as Fiscal Agent for the CACVB. The Fiscal Agent shall be entitled to a fee of two percent of the Actuals referenced in Section 4(B) as compensation for acting as Fiscal Agent. This fee may be deducted from the Fiscal Agent's funding contribution pursuant to Section 4 each year.
- B. **Insurance.** The County will provide liability insurance coverage to the CACVB.
- C. **Legal Services.** The City Attorney will continue to provide legal services to the CACVB through December 31, 2018. Commencing on January 1, 2019, the County Attorney shall provide legal services to the CACVB, provided that representation does not create a conflict of interest under any rules of professional responsibility or other ethical rules of conduct. In the event any such conflict arises, the County Attorney shall so advise the Executive Board, so that the Executive Board may make necessary arrangements to obtain legal services. If the County Attorney anticipates any such conflict(s), he shall advise the Executive Board prior to January 1, 2019.
- D. **Other Services.** The County shall act as the CACVB's accounting and disbursing office; provide personnel administration services; maintain personnel and payroll records; provide information technology services; provide procurement services and maintain purchasing accounts and monthly statements; and contract for annual audits. Personnel administration shall include the matters referenced in paragraph E, following below.
- E. **Personnel Administration.** The employment of the Executive Director and any other persons hired to perform services for the CACVB are subject to the following:
1. **County Employees.** Any Executive Director or other person hired on or after July 1, 2018 to perform services for the CACVB shall be hired as an employee within the County's personnel and payroll systems.
 - a. **Transition of Employees Hired Prior to July 1, 2018.** Effective January 1, 2019, or as soon thereafter as the County and the City have created and funded an Employee Transition Plan, any person who was hired prior to July 1, 2018 to perform services for the CACVB

shall be transitioned to become an employee of the County and shall be classified within the County's pay system and shall be paid in accordance with the County's payroll system and policies and its personnel policies. Until January 1, 2019, all such employees shall remain within the City's personnel/payroll system.

- b. **Pay and Benefits for Transitioning Employees.** Within their Employee Transition Plan, the City and the County shall provide benefits and funding, as necessary to assure, to the fullest extent practicable, that no employee will lose pay or retirement benefits as a result of making the transition from City to County employment. With respect to retirement benefits, it is the intention of the Parties to keep each person transitioning from City to County employment whole, and to ensure that they neither lose retirement credit for time employed nor monetary contributions made to the City's retirement plan.
2. **Duty Owed to Both the County and the City.** The Executive Director and any other persons hired to perform services for the CACVB owe a duty of good faith and trust to the CACVB itself as well as to both the County and the City as the localities which provide public funding for the CACVB.
- F. **Sooner Transfer of Fiscal Agency.** Notwithstanding the January 1, 2019 date for fiscal agency to transfer from the City to the County as provided in this section, fiscal agency may transfer sooner if the County and the City have created and funded the Employee Transition Plan as provided in subsections 8(E)(1)(a) and (b) and the County and the City are otherwise prepared for fiscal agency to transfer.

9. Disposition of Property Upon Termination or Partial Termination.

Upon the expiration or earlier termination of this Agreement, all personal property of the CACVB shall be and remain the joint property of the County and the City for disposition, and the proceeds of disposition shall be pro-rated between the County and the City in accordance with the ratio of the amounts provided by each of them to the CACVB: (i) as capital contributions since 1979; and (ii) as contributions of operating funds during the 10 years preceding the date of termination, as compared with the aggregated contributions of the County and the City during that same 10-year period.

10. Liability.

Any liability for damages to third parties arising out of or in connection with the operations and activities of the CACVB and any persons employed to provide services for the CACVB shall be shared jointly by the County and the City, to the extent that any liability is not covered by funding within the CACVB's budget or liability insurance proceeds, and only to the extent that the County and the City may be held liable for damages under the laws of the Commonwealth of Virginia.

11. Miscellaneous.

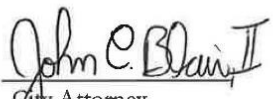
- A. **Ownership of Materials; Copyright; Use.** Any materials, in any format, produced in whole or in part pursuant to this Agreement are subject to the following:
1. **Ownership.** The materials are jointly owned by the County and the City.
 2. **Copyright.** The materials are copyrightable only by the County and the City. Neither the CACVB, the Executive Board, nor any of its members, the Executive Director, any CACVB employee, nor any other person or entity, within the United States or elsewhere, may copyright any materials, in any format, produced in whole or in part pursuant to this Agreement.

3. **Use.** The County and the City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared by or for the CACVB pursuant to this Agreement.
- B. **Amendments.** This Agreement may be amended in writing as mutually agreed by the County and the City.
- C. **Assignment.** The CACVB shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of the County and the City.
- D. **Severability.** If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect the validity or enforceability of any other part of this Agreement.
- E. **Entire Agreement.** This Agreement contains the entire agreement of the County and the City and supersedes any and all other prior or contemporaneous agreements or understandings, whether verbal or written, with respect to the matters that are the subject of this Agreement.
- F. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia.
- G. **Approval Required.** This Agreement shall not become effective or binding upon the County and the City until it is approved by ordinances of the Charlottesville City Council and the Albemarle County Board of Supervisors.

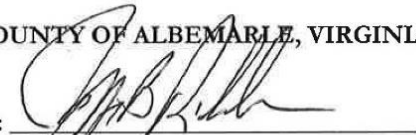
IN WITNESS WHEREOF, and as authorized by duly adopted ordinances of the Albemarle County Board of Supervisors and the Charlottesville City Council, the County and the City each hereby execute this Agreement as of the date first above written, by and through their respective authorized agents or officials:

CITY OF CHARLOTTESVILLE, VIRGINIA

By: 
City Manager

Approved as to Form: 
City Attorney

COUNTY OF ALBEMARLE, VIRGINIA

By: 
County Executive

Approved as to Form: 
County Attorney

Attachment A

A. Services

The CACVB shall perform the following services for the benefit of the County and the City in a satisfactory and proper manner, as they determine:

1. **Meeting Booking and Sales.** The CACVB shall respond to inquiries, provide information to the public, and as part of its convention marketing efforts, shall aggressively promote the bookings and sales of sites within the City and the County for regional, national, and international conventions, trade shows, and corporate meetings.
2. **Convention Services.** The CACVB shall provide customary convention services to those clients who have booked their convention or meeting through the CACVB. All other conventions or meetings will be serviced on an availability basis. The particular services to be provided depend upon the agreement between the CACVB and the meeting planner at the time of booking and other requests, which may be made in the course of servicing the convention or meeting. Customary convention services may include but are not limited to the following:
 - a. Assistance in promoting attendance.
 - b. Visitors guides and appropriate literature.
 - c. Shuttle bus coordination.
 - d. Attraction and itinerary scheduling.
 - e. Dining and restaurant scheduling.
 - f. Bonded registration.
 - g. Tourism information tables.
3. **Tourism.** The CACVB shall promote tourism within the County and the City. Strategies may include but are not limited to: visitor information services; attendance at industry and travel/trade, consumer, planner, hotel and attraction conferences and meetings; and responses to phone inquiries, advertising, public relations, promotions, and packaging. The CACVB will oversee the operation and maintenance of at least one visitor center within the City and at least one visitor center in the County.
4. **Reports.** The CACVB shall advise the County and the City advised of its activities and accomplishments, and shall deliver the following reports:
 - a. The CACVB shall provide to the Parties an annual marketing/operational plan ("Marketing Plan") submitted annually on or before December 31 each year, which includes at a minimum: situation analysis, measurable expected outcomes, data driven rationale for strategies, and budget reflecting strategies.
 - b. The CACVB shall provide to the Parties quarterly reports of the following: (i) program performance, including a comparison of the CACVB's performance during the quarter with the performance goals set forth in sections B, C and D; and (ii) tracking report of the performance measures listed in section C; and (iii) an expenditures report, accounting for dollars spent for marketing, promotion, publicity, and advertisement, shown by category. The quarterly performance reports shall be submitted to the Parties within 30 days after the end of each quarter that this Agreement is in effect.
 - c. On or before September 1 each year, the CACVB shall provide to the Parties an annual report of the outcome of the contract performance measures for the previous year. The Parties will review the annual

report no later than October 1 and determine compliance with the return on investment. The Parties will provide these findings to the CACVB.

- d. When requested by either or both Parties, the CACVB shall provide statements, records, reports, data, and any other information, pertaining to matters covered by this Agreement.

B. Calculating “Direct Visitor Expenditures”

The term “direct visitor expenditures” shall refer to the following sum:

Group room revenue [(Group Room Nights Booked) x (ADR*)] plus [(# of delegates/ visitors) x (# days spent in City/County) x (ADE**)]	\$ _____
Leisure inquiries (consumer and trade) [(room nights generated) x (ADR*)] plus (# of visitors) x (# days spent in City/County) x (ADE**)]	\$ _____
Direct Visitor Expenditures	\$ _____
Off Season Adjustment Add 20% to direct expenditures in off-season (off-season shall be November, December, January and February of each year).	\$ _____
Total Direct Visitor Expenditures	\$ _____

*ADR = Average Daily Rate (calculated annually by CACVB based on research)
**ADE = Average Daily Expenditure (excluding room rate) (calculated annually by CACVB, based on research, excluding room rate)

C. Performance Measures

Performance Measures shall be utilized to indicate the performance of the CACVB. These measures will be used to calculate the total economic expenditure for inclusion in the formula set forth within paragraph A, above:

Performance Measures	Tracking Mechanisms	Target
1. ROI (total direct expenditures ÷ \$ invested)	ROI Formula	7:1
2. Room nights booked for meeting groups	CACVB tracking, Through Sales Department Software programs	Determined by CACVB via marketing plan Supported by research/rationale
3. Group tour definite bookings	CACVB tracking	Determined by CACVB via marketing plan
4. Leisure inquiries converted (consumer and trade)	Conversion Analysis	
5. Destination awareness (trade and consumer)	Contract with outside resource	Supported by research/rationale
6. Coop Resources Raised (in kind, marketing, alliances)	CACVB tracking	Equal to 25% of total marketing budget
7. Media Coverage (scope, demographics, reach)	Clipping Service	Determined by CACVB

8. Overhead expenditures*	CACVB budget	Reduce by 5% annually toward goal of <30% of total budget
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**calculations include Finance and Administrative divisions plus support costs for the Executive division*

D. Performance Indicators

CACVB will track certain performance indicators to monitor the performance of the local tourism industry, using the method described below.

Performance Indicators	Tracking Mechanisms
1. Economic Impact of Tourism (Annual basis)	Visitor Profile and VTC Statistics
2. Transient Occupancy Tax Collections	City and County Records
3. Occupancy	Smith Travel Research Reports
4. ADR	Smith Travel Research Reports
5. Length of Stay (Annual basis)	Visitor Profile
6. Per-Person expenditure (Annual basis)	Visitor Profile
7. Attraction Attendance	Compilation from Industry Records

Agenda Item No. 22. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Item No. 22a. Board of Zoning Appeals Discussion.

Mr. Kamptner reminded the Board that they held a discussion about this at its December 12 meeting. He recounted that staff had asked the Board for direction as to whether the County should change the role it played in the Circuit Court appointing members to the BZA. He said that staff has recognized three options: 1) to continue to not play any role, 2) the County would publicly solicit or advertise that it could compile applications and forward them to the Court without comment, and 3) the County would publicly solicit and advertise the vacancy, compile and review applications, and forward them to the Court with recommendations.

Ms. McKeel recognized that the first option was currently in effect. She asked if the other two processes are used by other communities and are not something unusual. Mr. Kamptner said he thinks it varies across the state. He remarked that some communities had the General Assembly change the law to enable the governing body to appoint the BZA member. He described the BZA as quasi-judicial with a level of impartiality that should be maintained. He pointed out that the Board of Equalization and other bodies that make decisions are appointed by the Board. He suggested that they not take this step but consider whether the Board would play some role in the process.

Mr. Walker remarked that it has been his experience that some Circuit Court judges benefit from having it come from the elected body.

Ms. McKeel suggested that they move away from the first option and try to create more urgency in application process, as well as more racial and gender diversity.

Ms. Mallek suggested that they send a letter offering the second and third options and see if there was a favorable response.

Ms. McKeel agreed with Ms. Mallek.

Mr. Kamptner agreed to draft a letter.

Ms. McKeel said she would like the Board to discuss having an attorney at BZA meetings as the EDA and some other boards have. She noted that the BZA has no attorney to advise them, and it has been obvious that this was not a good situation in some circumstances.

Mr. Kamptner remarked that his office represents the County on matters before the BZA. He noted that the laws and practices have changed and said it would be better if they had counsel.

Ms. McKeel emphasized that this would not be a full-time attorney but one that attended the meetings, which are held four times a year.

Ms. Mallek asked about the process to select an attorney. Mr. Kamptner responded that they would first have to find funding and have a procurement process to solicit proposals.

Ms. McKeel surveyed the Board and asked if there was pushback.

No members were opposed to this.

Mr. Dill asked if those who appear before the BZA for appeals have a lawyer. Mr. Kamptner responded that they usually did.

Ms. McKeel emphasized that staff represents the County and the BZA does not have anyone to turn to for questions.

Mr. Dill asked Mr. Kamptner why it was not appropriate for County Attorney staff to attend. Mr. Kamptner responded that there may be a direct conflict on matters that come before the Board.

Mr. Gallaway asked who would appoint the attorney. He asked what the difference was between paying an attorney and sending their own. Mr. Kamptner responded that it would be the BZA.

Ms. McKeel said the attorneys would be representing differently.

Item No. 22e. E-Scooter Use Discussion

Mr. Randolph explained that he wanted to bring this item to the Board's attention, as a second e-Scooter company has arrived in Charlottesville and they would have a drift of the scooters into the County, so it was timely to have a discussion on the matter. He said he read an article in Sunday's *Washington Post* about clashes for space between pedestrians and e-Scooters, and he spelled out a number of options in an e-mail he sent to Supervisors, including the prohibition of e-Scooters on pavements and bike trails.

Mr. Randolph stated that he would like the County Attorney to research whether the County would be legally liable if someone operated an e-Scooter in the County when it was prohibited. He noted that Denver and Cincinnati prohibited them on city pavements, and Summit County, CO banned e-Scooters from its extensive bike trail network. A second option he reviewed was to prohibit e-Scooters from parking on County-owned property as an end-use destination. He speculated that there could be an event in the County with people arriving from Charlottesville by e-Scooter and emphasized they would have to figure out how to handle that. A third option he reviewed would be to require e-Scooter companies operating in the County to create a fund to cover medical expenses and lost wages for pedestrians injured by users, which Cincinnati has done. He said they currently could not hold e-Scooter companies liable for pedestrian injuries.

Ms. McKeel said she has begun seeing some abandoned scooters in the County. She also recalled a yellow bicycle pilot conducted by the City a few years ago, and bicycles were abandoned all over the community.

Ms. Mallek remarked that she likes the idea of regulating this.

Mr. Andrew Gast-Bray, Director of Planning, addressed the Board. He acknowledged the concerns of the Board on this complicated issue, which pertains not only to e-Scooters but to e-Bikes and other kinds of things. He said that Mr. Kevin McDermott was not present tonight as he was attending a Community Advisory Council meeting but Mr. McDermott has suggested that the Board take time to consider things and not act rashly, as there are a lot of things to take into consideration.

Mr. Dill explained that the e-scooters are not abandoned but could be picked up anywhere, like a Zipcar, by utilizing an app and determining which one was closest.

Mr. Dill asked if e-scooters are legally allowed on streets. Mr. Randolph confirmed they are and they do not have a license plate, do not always obey traffic lights, and sometimes turn into pedestrians.

Ms. McKeel asked if they are allowed on sidewalks. Mr. Kamptner remarked that the County was enabled to adopt an ordinance to prohibit them on sidewalks.

Mr. Walker noted that staff was engaging with both companies, as there was a concern about the disposing of vehicles on County property and its facility use policy. He said it was a tedious issue they are working through as they learn how these businesses operate. He emphasized that there was a difference between users arriving on County property versus a private company depositing e-scooters in the middle of the night without permission.

Ms. Mallek asked if the County has the authority to confiscate property left on its property. Mr. Kamptner responded that current policy does not allow County grounds to be used for any commercial purpose, and they need to determine if e-scooters are being dropped off as an end destination or are just passing through County property on the way to another destination.

Ms. Palmer suggested that they follow Mr. Gast-Bray's recommendation that they allow Mr. McDermott to look into this.

Mr. Dill asked that Mr. McDermott also review the environmental aspect and said if it was keeping cars off the road, it could be a positive.

Ms. McKeel recounted how she was returning from Williamsburg on Route 60 over the holidays and came across a yellow VDOT sign at a bridge that said "Truckers: Do Not Use GPS in This Area." She said she would like to bring this to the attention of Mr. McDermott.

Ms. Mallek reviewed the recent efforts of the High Growth Coalition in working with the state legislature. She said some bills have been introduced regarding proffers, though some of the major counties in the Coalition are not supporting this, as they said it was not what they needed, though it was better than what they had now. She asked Mr. Kamptner if he would like to comment.

Mr. Kamptner agreed that it was better than what existed now but cumbersome, and in his opinion, it would be a trap for localities as they work with multiple rezoning applications and try to figure out which subsection they fall under. He said it also deflects from what he believes should be the primary effort: to transition over to impact fees and away from the proffer system.

Mr. Randolph remarked that Senator Stewart's SB208 was still very much on the agenda.

Ms. Palmer said she would like to have a conversation with Mr. Trevor Henry about establishing a formal process to find a site for a satellite drop-off facility in the northern part of the County. She said she was not talking about putting any funds into it at this time.

Ms. Mallek remarked that what discourages them from having a drop-off facility in the past was the need to staff it, though she has seen drop-off facilities in other localities that are clean, despite not being staffed.

Ms. Palmer said she was talking about having a small compactor, as these are neat and contained.

Mr. Randolph said they also need to talk about the southern part of the County. He said it would be profitable to have some prospective sites identified in both the northern and southern parts of the County, and eventually they should have sites for residents of the eastern and western areas.

Agenda Item No. 23. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 24. Adjourn to January 30, 2019, 6:00 p.m., TJPDC, Water Street Center, 407 E. Water Street.

At 8:12 p.m., Mr. Gallaway adjourned the meeting to January 30, 2019, 6:00 p.m., TJPDC, Water Street Center, 407 E. Water Street.

Chairman

Approved by Board
Date 06/05/2019
Initials CKB