

A regular day meeting of the Board of Supervisors of Albemarle County, Virginia, was held on May 1, 2019, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The 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: County Executive, Jeff Richardson, 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 1:02 p.m., by the Chair, Mr. Gallaway.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek asked that the Board discuss Item 8.9 at the end of the meeting under *Matters From the Board*.

Ms. McKeel **moved** that the Board adopt the final agenda. The motion was **seconded** by Mr. Randolph.

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

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

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

Ms. Palmer reminded all Bulky Waste Amnesty Days at the Ivy MUC on Dick Woods Road. She said items could be dropped off at no cost from 8:30 a.m.-4:00 p.m., on the following dates: May 4, furniture and mattresses; May 11, appliances; and May 18, tires. She mentioned that the Ivy MUC has run out of mulch and suggested that residents call the facility for information on when mulch would be available.

Ms. Palmer invited everyone to Batesville Day on Saturday, May 4, with a parade at 11:00 a.m., with food, music, vendors, and local nonprofits at the fairgrounds.

Ms. Mallek announced that the Crozet Arts and Crafts Festival would be held May 11-12, 2019, at Crozet Park, with over 100 artisans and artists from around the country, including open studios and businesses that would be connected by the Crozet trolley.

Ms. Mallek announced that the Monticello Wine Trail Festival began the previous weekend, with judging of 60 wines and awarding of the Monticello Cup. She said that the Monticello Wine Trail had 5 of its 12 wines selected for the Governor's Case of the best wines in the state, which should be a recognition of the quality of wine being made in the area. She said the gold winners were represented by Afton Mountain, Cardinal Point, Veritas, Barboursville, King Family, Pollak, Stinson, Keswick, and Trump wineries, with the winner being the Mountain Plains Bordeaux Blend from King Family, named after the 18th Century farm that reached from the Rockfish Turnpike over the mountain at Jarman's Gap.

Agenda Item No. 6. Proclamations and Recognitions.
Item No. 6a. Proclamation Recognizing Brigadier General Sandra Louise Alvey.

Ms. Mallek read the proposed proclamation and **moved** that it be adopted. The motion was **seconded** by Ms. McKeel.

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

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

BRIGADIER GENERAL SANDRA LOUISE ALVEY

WHEREAS, Brigadier General Sandra Louise Alvey, USAR, a distinguished military officer and an accomplished medical entomologist, will retire from the United States Army Reserve Force in May 2019, after 32 years of outstanding service to the Commonwealth and the United States; and

WHEREAS, Sandra Alvey was commissioned as a second lieutenant in the United States Army Ordnance Corps and served on active duty for 10 years before joining the United States Army Reserve Force; and

WHEREAS, Sandra Alvey's duty stations have included deputy commanding general of the 807th Medical Command, a command of approximately 11,000 Army Reserve soldiers; commander of the 196th Medical Support Unit in Germany; the 133rd Preventive Medicine Unit in Germany; the 20th CBRNE Command at Aberdeen Proving Ground, Maryland; and Joint Task Force-Bravo in Honduras; and

WHEREAS, Sandra Alvey has participated in numerous United States Army Reserve recruitment and yellow ribbon events, and she supports historical military reenactment events in Virginia to promote public awareness of the history of our Commonwealth; and

WHEREAS, Sandra Alvey is currently an analyst for the Defense Intelligence Agency at Rivanna Station in Albemarle County and her commitment to service has had an immeasurable impact on both our community and the nation.

NOW, THEREFORE BE IT RESOLVED, that we, the Albemarle County Board of Supervisors do hereby recognize Brigadier General Alvey's thirty-two years of service and acknowledge with civic pride her formal retirement from the US Army Reserve Force.

Signed this 1st day of May 2019.

Ms. Mallek added that she would be presenting the proclamation at the retirement service.

Item No 6b. Proclamation Recognizing May 5 - 11, 2019 as Public Service Recognition Week.

Mr. Randolph read the proposed proclamation and **moved** that it be adopted. The motion was **seconded** by Ms. Mallek.

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

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

Public Service Recognition Week

WHEREAS, Americans are served daily by public servants at the federal, state, county, and city levels. These unsung heroes do the work that keeps our nation working; and

WHEREAS, public service is among the most demanding and noble of professions; and

WHEREAS, Public Service Recognition Week is observed annually to celebrate and recognize the valuable service that public servants provide to the nation; and

WHEREAS, over 3,000 Albemarle County Local Government and Schools employees work tirelessly to serve our residents, businesses, and visitors, providing them with outstanding customer service while maintaining careful stewardship of the resources with which they have been entrusted; and

WHEREAS, we appreciate the many accomplishments and contributions made daily by these public servants;

NOW, THEREFORE, BE IT RESOLVED, that we, the Albemarle County Board of Supervisors, do hereby recognize

May 5 through May 11, 2019 as Public Service Recognition Week

and call upon the citizens of Albemarle County to join their fellow citizens across the County to recognize the significant and important contribution that public employees make to our community.

Signed this 1st day of May 2019.

Ms. Siri Russell, Director, Office of Equity and Inclusion, and members of the Employee Advisory Team came forward to accept the award. Ms. Russell thanked the Board for the recognition.

Item No. 6c. Kronos Team Recognition.

Mr. Richardson stated that it was an honor for him to recognize the Kronos Team for their amazing work and product and invited team leaders Kristy Shifflett and Molly Munsey to come to the podium. He introduced members of the Kronos team: Molly Munsey, Elizabeth Latta-Brother, Kim Shigeoka, Jennifer Weller-Kim, and Lisa Walker from Human Resources; Dave Shifflett, Geoff Preston, Emily Swift, and Lorenzo Wells from Information Technology; Tisha Jaudon from Finance; and Kristy Shifflett from Project Management. He reminded the Board that they first discussed the time and performance project during the FY16 budget development process.

Mr. Richardson explained that this was the County's first software and business process implementation of its kind as it automates timekeeping and integrating with the payroll system for local government and the school division. He said the implementation was rolling due to its complexity and impacts and first went live for local government on April 1. He said that it was designed to ensure compliance with federal laws and mandates, ensure the accuracy of pay, and improve efficiency and ease of use, moving to a centralized automated system which will alleviate significant administrative burdens. He said this effort included significant change management for the organization as it transitioned from many manual processes across the organization and went to a more centralized system of timekeeping and leave management. He explained this change affects every County and school employee, and there has been a focus on communication and training of 670 staff members, and 330 hours of open lab time in both County Office Buildings. He said the core team was comprised of 11 cross-departmental staff from Human Resources, Finance, Information Technology, and Project Management, who have worked for seven months to represent the County's service covenant: "We commit that we would provide every customer with an experience that was professional, empathetic, and responsive."

Mr. Richardson reiterated his heartfelt thanks to staff for their leadership and for being a truly amazing team.

Ms. Kristy Shifflett expressed thanks for the recognition and for the support of the Office of the County Executive. She added that while the core team did a lot of the heavy lifting, it took a lot of staff across all departments to backfill, pick up extra work and make the project come together. She thanked and recognized the contributions of staff.

Ms. Mallek recalled that she first learned of the discussion about improving time and attendance in 2008, and she was glad they have gotten to this point after 12 years.

Mr. Gallaway recognized the presence of Monticello High School students in the audience in observance of the meetings.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Charlie Kalnite, resident of Jack Jouett District and 7th grade student at Tandem Friends School, addressed the Board. He noted that discussion of public transportation has been centered around the urban and Route 29 corridor sections. He encouraged this discussion to be expanded to Crozet, Scottsville, and other parts of the County, so that all would have access to public transportation, and they could reduce their carbon footprint. He said that, in addition to important environmental impacts, rural transportation increases access to life saving healthcare and greater connectivity to satellite areas.

Ms. Emi Murphy and Ms. Mazie Whiting, students from Tandem Friends School, addressed the Board. They stated that plastic creates waste that ends up in oceans and fish. They said plastic uses a lot of energy in its creation, which contributes to climate change. They said students have visited restaurants at 5th Street Station to inquire about their policies on plastic use and found that most give out plastic straws to customers. They expressed appreciation to the County, Charlottesville, and the University of Virginia for contributing to their cause by taking actions to combat climate change; however, they would like these organizations to raise awareness of the impacts of climate change and to possibly enact a tax reward system to reduce plastics.

Mr. Solomon Goluboff-Schrader, a student at Tandem Friends School, addressed the Board. He said that affordable housing represents a win-win for those who cannot afford housing in urban areas or make commutes, with shorter commute times that result in a reduced carbon footprint. He noted that the County has many unused parking lots that could be sites for affordable housing.

Mr. Sean Tubbs, of the Piedmont Environmental Council, addressed the Board. Mr. Tubbs said he attended a workshop on form-based code held by the Department of Community Development on April 29, which was attended by three Supervisors as well as members of the community advisory councils and the Planning Commission. He urged students to learn more about and get involved with public transit and affordable housing as they rethink the Rio Road/Route 29 Corridor. He said that representatives from three Virginia localities presented on how they customized their zoning ordinances for specific areas in order to entice property owners to develop the 21st Century communities needed. He said he learned that Leesburg used form-based code for infill and redevelopment, while retaining its historic character; Virginia Beach wrote its code to concentrate density in the development areas; and

Arlington County took Columbia Pike, an aging commercial strip, and turned it into a walkable destination. He said as they begin the implementation phase of the plan, they could learn from what other communities have done. He said that a lot of the grid network has already been created by Route 29 Solutions, the County has invested in the Northside Library and in the Regional Transit Partnership, and the community has a vision for the future that it has been planning for decades. He noted that one of the planners for Columbia Pike told him that friction was inevitable, though he believes that if they could create a form-based code, they could set themselves up for a win-win situation that would avoid conflict.

Mr. Neil Williamson, of the Free Enterprise Forum, addressed the Board. He reminded the Board of the famous Abbot and Costello "Who's On First?" skit and said it reminds him of the current state of affairs with the Architectural Review Board regarding the maps and regulations it was charged with enforcing. He recalled that last year, the ARB staff informed this Board that one-third of the designated entrance corridors do not meet the state regulations for such a designation and are thus illegal. He noted that staff prepared a resolution of intent, which was part of the Board's February 7, 2018 consent agenda, which was pulled and never heard from again. He said they have been told the County was not enforcing the illegal entrance corridors, but the entrance corridor map on the County's website includes the legal and illegal corridors, which staff indicates to be correct as it reflects the Code. He recalled that in October, during consideration of a new entrance corridor, his organization appealed to the Planning Commission, but this fell on deaf ears, followed by an appeal to the ARB for which they asked for legal advice as to whether or not they may weigh in on such a topic. He implored the Board, in the interest of its stated desires for transparency and accuracy, to change the Code and the map to reflect reality, as absent these changes, confused applicants and potential applicants would be left to wonder "who's on first".

Mr. Machiah Ledford, resident of White Hall District, addressed the Board. He noted that he works for the County's Fire Marshal's office, was representing himself today, and would address the issue of residential open burning. He said he has lived in his home since 1987, maintains his land by burning leaves, sticks, etc., and would like to continue to have this option. He pointed out that if burning was not permitted, then this would cause an extra expense and result in more use of fossil fuels, as debris would have to be removed by truck or taken care of by a grinder. He said that he does not think there was enough data on open burning complaints to support any drastic changes to distances and requirements for permission from neighbors. He suggested the Board restrict burning to certain days as a compromise solution.

There being no further speakers, Mr. Gallaway closed the matters from the public portion of the meeting.

Introductions.

Mr. Gallaway recognized that he had neglected to introduce today's meeting attendees and would do so at this time. He recognized the presence of the presiding security officers, Lt. Terry Walls and Officer Laura Proffitt, and County staff at the dais.

Agenda Item No. 8. Consent Agenda.

Mr. Randolph **moved** that the Board approve the Consent Agenda. The motion was **seconded** by Ms. McKeel.

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

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

Item No. 8.1. Approval of Minutes: May 9, June 13, July 11, August 1, October 4, 2018; and February 6, 2019.

Ms. Palmer pulled her assigned minutes of August 1, 2018, and asked that they be carried forward to the next meeting.

Mr. Gallaway had read the minutes of May 9, 2018, and found them to be in order.

Ms. Mallek had read the minutes of June 13, 2018, and found them to be in order.

Mr. Dill had read the minutes of July 11, 2018, and found them to be in order.

Mr. Randolph had read the minutes of October 4, 2018, and found them to be in order.

Ms. McKeel had read the minutes of February 6, 2019, and found them to be in order.

By the above-recorded vote, the Board approved the minutes as read.

Item No. 8.2. FY 2019 Appropriations.

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

The total change to the FY 19 budget due to the appropriations itemized in Attachment A is (\$548,093.58). A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the appropriations for local government and school projects and programs as described in Attachment A.

Appropriation #2019081 **\$41,965.66**

Source: Local – Recovered Costs \$41,965.66

This request is to appropriate \$41,965.66 in recovered cost revenue from the Commonwealth of Virginia Department of Housing and Community Development's Community Development Block Grant (CDBG) program funding from the Porters Road/Yancey School Community Improvement Project. These revenues are restricted for use to CDBG-eligible activities, and are requested to be applied to the partially CDBG-funded Alberene Housing Rehabilitation project, which is a partnership between the County and the Albemarle Housing Improvement Program (AHIP). This additional funding will be used to complete this project.

Appropriation #2019082 **\$31,679.00**

Source: State Revenue \$ 31,679.00

This request is to appropriate the following School Division appropriation request approved by the School Board on April 11, 2019:

- This request is to appropriate \$31,679.00 in State revenue from the Virginia Department of Education's 2018- 2019 School Security Equipment Grant Program to support upgrading the main security alarm system at Monticello High School.

Appropriation #2019083 **\$23,800.00**

Source: Federal Revenue \$ 23,800.00

This request is to appropriate \$23,800.00 in Federal revenues for a part-time auxiliary deputy officer to work under the direction of the Albemarle County Sheriff's Office to assist with the administration and monitoring of Offender Aid and Restoration's (OAR) Drug Court cases. These expenses are for part-time wages and operating costs and will be funded through Federal grant revenues received from OAR. The Board first approved an appropriation for this program in FY 11 at its January 12, 2011 meeting, and the program has been ongoing. This appropriation will allow this program to continue in the current fiscal year.

Appropriation #2019084 **\$542.76**

Source: State Revenue \$ 542.76

This request is to appropriate \$542.76 from State revenue to support the Charlottesville Albemarle Society for the Prevention of Cruelty to Animals' (CA-SPCA) spay and neuter efforts. This revenue is provided by the State specifically for this purpose and is provided in addition to the County's formula-based contribution to the CA-SPCA.

Appropriation #2019085 **\$0.00**

Source: Reserve for Contingencies* \$ 8,000.00

*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$8,000.00 from the FY 19 one-time Reserve for Contingencies to the Voter Registration & Elections Department for electronic pollbook software licenses and related equipment for use in the June 2019 primary election. These expenditures were approved in the FY 20 budget; however, the Registrar would prefer to introduce this during a primary, which is typically less crowded than a November general election. An additional appropriation will be prepared in July 2019 to reduce the department's FY 20 budget by this amount and move the funding to the FY 20 one- time Reserve for Contingencies to reflect this change in timing.

After approval, the FY 19 General Fund Reserve for Contingencies balance will be \$131,145.00. Of that amount, \$39,219.00 is for unanticipated expenses that may require ongoing funding and \$91,926.00 is for expenses that may require one-time funding.

Appropriation #2019086 **\$(696,081.00)**

Source: State Revenue \$ (696,081.00)

This request is to amend Appropriation #2019017 that was approved by the Board of Supervisors at its August 1, 2018 meeting. The original appropriation was for State grant revenues and corresponding expenses for the Offender Aid and Restoration's FY 19 grant award from Virginia Department of Criminal Justice Services (DCJS) Comprehensive Community Corrections Act (CCCA) and Pretrial Services Act (PSA). This amendment revises the previous budget to reconcile to the final grant award amount.

Appropriation #2019087		\$50,000.00
Source:	State	\$ 50,000.00
	Economic Opportunities Fund*	\$ 30,000.00

*This portion of the appropriation does not increase or decrease the total County budget

This request is to appropriate \$80,000.00 to the Economic Development Authority (EDA) pursuant to an approved performance agreement between the County, EDA, and Potter's Craft, LLC, which was approved by the Board of Supervisors at its April 17, 2019 meeting.

This funding includes \$50,000 from the Governor's Agriculture and Forestry Industries Development Fund administered by the Virginia Department of Agriculture and Consumer Services and a \$30,000 match provided from the currently appropriated Economic Opportunities Fund. An additional \$20,000 match will be provided from the EDA's currently appropriated budget.

By the above-recorded vote, the Board adopt the attached Resolution (Attachment B) to approve the appropriations for local government and school projects and programs as described in Attachment A.

**RESOLUTION TO APPROVE
ADDITIONAL FY 19 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2019081, #2019082, #2019083, #2019084, #2019085, #2019086 and #2019087 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2019.
- *****

**COUNTY OF ALBEMARLE
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION	AMOUNT
2019081	3-1224-19000-319000-199930-9999	41,965.66	SA2019081 CDBG Program Income - Porters Road/Yancey School Community Improvement Project	41965.66
2019081	4-1224-81032-481030-563100-1008	41,965.66	SA2019081 AHIP - Alberene Project	41965.66
2019082	3-3224-63224-324000-240900-6599	31,679.00	SA2019082 School Security Equipment Grant	31679.00
2019082	4-3224-63224-464600-800100-6530	31,679.00	SA2019082 School Security Equipment Grant	31679.00
2019083	4-1000-21078-421070-130000-1002	20,994.00	SA2019083 Part-time Wages	20994.00
2019083	4-1000-21078-421070-210000-1002	1,606.00	SA2019083 FICA	1606.00
2019083	4-1000-21078-421070-600800-1002	1,200.00	SA2019083 Vehicle & Equipment Fuel	1200.00
2019083	3-1000-33000-333000-330240-1002	23,800.00	SA2019083 OAR DOJ Drug Court Program Fed Rev	23800.00
2019084	3-1000-22000-322000-220106-9999	542.76	SA2019084 SPCA Sterilization Fund - State Revenue	542.76
2019084	4-1000-39001-439000-565510-1003	542.76	SA2019084 SPCA Sterilization Fund	542.76
2019085	4-1000-13020-413020-800100-1001	8,000.00	SA2019085 Machinery & Equipment	8000.00
2019085	4-1000-99900-499000-999990-9999	-8,000.00	SA2019085 One-time Contingency Reserve-Registrar	-8000.00
2019086	3-1520-24000-324000-240440-1003	-696,081.00	SA20190786 OAR Budget Correction	-696081.00
2019086	4-1520-29406-421090-566120-1003	-696,081.00	SA20190786 OAR Budget Correction	-696081.00
2019087	3-1820-24000-324000-240219-1008	50,000.00	SA2019087 AFID	50000.00
2019087	4-1820-99900-499000-999954-1008	-30,000.00	SA2019087 Econ Opp Fund to EDA	-30000.00
2019087	4-1820-93010-493010-930222-1008	80,000.00	SA2019087 Transfer to EDA	80000.00
2019087	3-6850-51000-351000-512000-9999	80,000.00	SA2019087 Transfer from EDA	80000.00
2019087	4-6850-91095-491095-580000-1008	-20,000.00	SA2019087 Misc to Project McIntosh	-20000.00
2019087	4-6850-91095-491095-950031-1008	100,000.00	SA2019087 Project McIntosh	100000.00
TOTAL				-936,187.16

Item No. 8.3. Revenue Sharing Programmatic Project Administration Agreement Renewal.

The Executive Summary forwarded to the Board states that the current Programmatic Project Administration Agreement (PPAA) between the County and the Virginia Department of Transportation (VDOT) was extended on June 13, 2016 for an additional three- year term to allow County administration of projects awarded Revenue Sharing funds by the Commonwealth Transportation Board. This PPAA will expire on June 30, 2019 (Attachment A) requiring approval of a new PPAA. Bound to the current PPAA are the awarded FY13 Revenue Sharing funds for the Hydraulic and Barracks Road sidewalks, FY14 Revenue Sharing funds for sidewalks and pedestrian improvements on Rio Road, Avon Street Extended

and 250W/Rockfish Gap Turnpike, FY15 Revenue Sharing funds for the Ivy Road pedestrian and bike improvements, and FY19 Revenue Sharing funds for Crozet Square/Oak Street, Library Avenue, and the Commonwealth and Dominion Drive sidewalks.

Darryl Shifflett (VDOT Programming Management Analyst) has provided staff with the new PPAA and the Appendix A for each project included under the PPAA. VDOT requires the submission of a Board resolution assuring the Board's commitment to funding the local share and authorizing the County Executive to sign the new PPAA and Appendices. Staff has prepared the required Resolution using the VDOT template (Attachment B). The certified Resolution along with the new signed PPAA and Appendices (Attachment C) must be provided to Darryl Shifflett for his delivery to the VDOT Central Office before the June 30, 2019 expiration of the current PPAA. As the projects progress through the Preliminary Engineering, Right- of-way, and Construction phases, VDOT may request updates to the Appendices that also require County Executive signatures.

There is no budget impact related to this PPAA if VDOT receives and approves the PPAA on or before June 30, 2019. If the PPAA is not received and approved by VDOT on or before June 30, 2019, any project expenditures accrued during the lapse would not be reimbursed by VDOT.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the Revenue Sharing Programmatic Project Administration Agreement.

By the above-recorded vote, the Board adopt the attached Resolution (Attachment B) to approve the Revenue Sharing Programmatic Project Administration Agreement.

**A RESOLUTION TO APPROVE A NEW STATE-WIDE PROGRAMMATIC PROJECT
ADMINISTRATION AGREEMENT (PPAA) FOR REVENUE SHARING PROJECTS AWARDED FOR
FISCAL YEARS FY2013 THROUGH FY2019**

WHEREAS, the Virginia Department of Transportation and the County of Albemarle have executed a state-wide Programmatic Project Administration Agreement (PPAA), for Revenue Sharing projects funded solely with revenue sharing funds awarded in fiscal years FY2013 through FY2019, that will expire on June 30, 2019 and,

WHEREAS, the Virginia Department of Transportation requires the County of Albemarle, by resolution, to provide assurance of its commitment to funding its local share for each PPAA project for fiscal years FY2013 through FY2019, and in meeting its financial obligation under the Program;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia, hereby commits to fund its local share of preliminary engineering, right-of-way and construction (as applicable) of the project(s) under agreement with the Virginia Department of Transportation in accordance with the project financial document(s).

BE IT FURTHER RESOLVED, that the County Executive is hereby authorized to execute the Programmatic Project Administration Agreement (PPAA), subject to approval as to form and substance by the County Attorney, as well as the Appendices and amendments to the Appendices.

PROGRAMMATIC PROJECT ADMINISTRATION AGREEMENT
Revenue Sharing Projects

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 20____, by and between the County of Albemarle, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY may, in accordance with §33.2-357 of the *Code of Virginia* (1950), as amended (the *Code*), and Commonwealth Transportation Board (CTB) policy, submit application(s) for Revenue Sharing funding and may also administer projects approved for Revenue Sharing funding by the CTB; and

WHEREAS, Appendix A documents the funding allocated to each Project and shall be developed and included as an attachment to this agreement. Such attachment may be amended, revised or removed or an additional Appendix A may be added as additional projects or funding is approved by the CTB and allocated to the LOCALITY to finance the Project(s) within the term of this Agreement without the need to execute an additional project administration agreement; and

WHEREAS, current and future projects approved for Revenue Sharing funding by the CTB within the term of this agreement and subject to the terms and conditions specified herein shall be identified on a list which will be included as an attachment to this Agreement as Appendix B. Such attachment may be amended as additional projects are approved by the CTB and shall be signed by an authorized LOCALITY and VDOT official, without the need to execute an additional project administration agreement. If any active project with an existing agreement is incorporated herein, the original project agreement shall automatically terminate upon inclusion in this programmatic agreement of an updated Appendix A and an amended Appendix B to reflect that project; and

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in the attachments in accordance with applicable federal, state and local laws and regulations and that the locality will certify compliance with those laws and regulations as prescribed by the Department.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. This agreement shall be effective for an initial period of THREE fiscal years (each year beginning July 1st - June 30th) and may be extended by an addendum signed by each party for one additional term of THREE fiscal years unless a change in policy or the *Code* necessitates a change in terms and conditions before the term of this agreement shall have passed. This Agreement shall NOT extend beyond SIX fiscal years. In the event that a new agreement becomes necessary during the life of this Agreement, Appendix A and Appendix B may be incorporated within the new approved agreement upon mutual agreement by both parties.

2. The LOCALITY shall:

- a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown on the Appendix B and on the respective Project's Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
- b. Receive individual prior written authorization from the DEPARTMENT to proceed with each project.
- c. Administer the Project(s) in accordance with guidelines applicable to state funded Locally Administered Projects as published by the DEPARTMENT.
- d. Provide certification by a LOCALITY official of compliance with applicable laws and regulations on the State Certification Form for State aid projects or in another manner as prescribed by the DEPARTMENT for each project included in Appendix B.
- e. Maintain accurate and complete records of each Project's development of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for not less than three (3) years following acceptance of the final voucher on each Project.
- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and also include an up-to-date Project summary and schedule tracking payment requests and adjustments.
- g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, the project becomes ineligible for state reimbursement, or in the event the reimbursement provisions of Section 33.2-348 or Section 33.2-331 of the *Code*, or other applicable provisions of state law or regulations require such reimbursement.
- h. Pay the DEPARTMENT the LOCALITY's matching funds for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 3.a.
- i. Administer the Project in accordance with all applicable federal, state, and local laws and regulations. Failure to fulfill these obligations may result in the forfeiture of state-aid reimbursements. DEPARTMENT and LOCALITY staffs will work together to cooperatively resolve any issues that are identified so as to avoid any forfeiture of state-aid funds.

County of Albemarle

- j. If legal services other than those provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
 - k. For projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
3. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
 - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 2.f, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
 - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible Project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
 - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with applicable laws and regulations.
 - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
4. Appendix A identifies the specific funding sources for each Project under this Agreement, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
5. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the *Code*.
6. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project under this agreement is anticipated to exceed the allocation shown for such Project on the respective Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its cost exceeds the allocated amount, however the

County of Albemarle

DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

7. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
8. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
9. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.
10. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 2.f, 2.g, and 3.b, subject to the limitations established in this Agreement and Appendix A. Should the LOCALITY unilaterally cancel a project agreement, the LOCALITY shall reimburse the DEPARTMENT all state funds reimbursed and expended in support of the project, unless otherwise mutually agreed-upon prior to termination.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THE LOCALITY and the DEPARTMENT further agree that should Federal-aid Highway funds be added to any project, this agreement is no longer applicable to that project and the applicable Appendix A shall be removed from this agreement and the Standard Project Administration Agreement for Federal-aid Projects executed for that project.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

County of Albemarle

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

COUNTY OF ALBEMARLE, VIRGINIA:

Typed or printed name of signatory

Title

Date

Signature of Witness

Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

Chief of Policy
Commonwealth of Virginia
Department of Transportation

Date

Signature of Witness

Date

Attachments

Appendix A (for each project covered under this Agreement)

Appendix B (listing each project covered under this Agreement)

Appendix A

Project Number: 0000-002-R78

UPC: 104159

CFDA # N/A

Locality: Albemarle County

Date: 3/25/2019

Project Location ZIP+4: 22903-4977		Locality DUNS# 066022047		Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596	
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Project Narrative

Scope:

Add sidewalks at various locations to improve safety for pedestrian traffic.

From:

Various Locations

To:

Various Locations

Locality Project Manager Contact info:

Jack Kelsey 434-872-4501 jkelsey@albemarle.org

Department Project Coordinator Contact Info:

Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$517,000	\$662,784	\$2,481,488	\$3,661,272
Estimated VDOT Project Expenses	\$33,000	\$15,000	\$30,000	\$78,000
Estimated Total Project Costs	\$550,000	\$677,784	\$2,511,488	\$3,739,272

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$550,000	Revenue Sharing	0%	\$0	\$550,000	
				\$0	\$0	
				\$0	\$0	
Total PE	\$550,000			\$0	\$550,000	\$517,000
Right of Way & Utilities	\$677,784	Revenue Sharing	0%	\$0	\$677,784	
				\$0	\$0	
				\$0	\$0	
Total RW	\$677,784			\$0	\$677,784	\$662,784
Construction	\$1,261,488	Revenue Sharing	0%	\$0	\$1,261,488	
	\$1,250,000	Revenue Sharing	50%	\$625,000	\$625,000	
				\$0	\$0	
Total CN	\$2,511,488			\$625,000	\$1,886,488	\$1,856,488
Total Estimated Cost	\$3,739,272			\$625,000	\$3,114,272	\$3,036,272

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$3,114,272
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$3,036,272

Project Financing						
Revenue Sharing State Match	Revenue Sharing Local Match					Aggregate Allocations
\$1,869,636	\$1,869,636					\$3,739,272

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality completed project scoping on 11/30/2016.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$3,114,272.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.
- Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:
 - FY08 - \$489,272 (\$244,636 locality match and \$244,636 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.
 - FY09 - \$2,000,000 (\$1,000,000 locality match and \$1,000,000 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.
 - FY14 - \$1,250,000 (\$625,000 locality match and \$650,000 VDOT match)
- This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.
- This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.

This attachment is certified and made an official attachment to this document by the parties to this agreement.

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

Appendix A

Project Number: 9999-002-R45

UPC: 104655

CFDA # N/A

Locality: Albemarle County

Date: 3/25/2019

Project Location ZIP+4: 22901-2706	Locality DUNS# 066022047	Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596
Project Narrative		
Scope:	Sidewalk Construction (Hydraulic Road and Barracks Road)	
From:	Rte. 654 - 29/250 Bypass Rte. 743 (Inglewood Drive)	
To:	Rte. 654 West of Rte. 565; Rte. 743 (Georgetown Road Intersection)	
Locality Project Manager Contact Info:	Jack Kelsey 434-872-4501 jkelsey@albemarle.org	
Department Project Coordinator Contact Info:	Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov	

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$376,000	\$338,000	\$1,603,734	\$2,317,734
Estimated VDOT Project Expenses	\$27,012	\$7,606	\$28,648	\$63,266
Estimated Total Project Costs	\$403,012	\$345,606	\$1,632,382	\$2,381,000

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$403,012	Revenue Sharing	50%	\$201,506	\$201,506	
				\$0	\$0	
				\$0	\$0	
Total PE	\$403,012			\$201,506	\$201,506	\$174,494
Right of Way & Utilities	\$345,606	Revenue Sharing	50%	\$172,803	\$172,803	
				\$0	\$0	
				\$0	\$0	
Total RW	\$345,606			\$172,803	\$172,803	\$165,197
Construction	\$707,682	Revenue Sharing	50%	\$353,841	\$353,841	
	\$300,000	Revenue Sharing	0%	\$0	\$300,000	
	\$624,700	Local Funds	100%	\$624,700	\$0	
				\$0	\$0	
Total CN	\$1,632,382			\$978,541	\$653,841	\$625,193
Total Estimated Cost	\$2,381,000			\$1,352,850	\$1,028,150	\$964,884

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$1,028,150
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$964,884

Project Financing						
Revenue Sharing State Match	Revenue Sharing Local Match	Local Funds				Aggregate Allocations
\$878,150	\$878,150	\$624,700				\$2,381,000

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality completed project scoping on 3/5/2013.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$1,028,150.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.
- Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:
 - ☐ FY08 - \$300,000 (\$150,000 locality match and \$150,000 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.
 - ☐ FY13 - \$506,300 (\$253,150 locality match and \$253,300 VDOT match)
 - ☐ FY14 - \$150,000 (\$75,000 locality match and \$75,000 VDOT match)
 - ☐ FY15 - \$800,000 (\$400,000 locality match and \$400,000 VDOT match)
- This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.
- This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.

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Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

Appendix A
Project Number: 0250-002-R98 UPC: 105806 CFDA # N/A Locality: Albemarle County Date: 3/25/2019

Project Location ZIP+4: 22903-4977		Locality DUNS# 066022047		Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596	
Project Narrative					
Scope:	Construct Sidewalks, Bike Lanes and Paved Shoulders				
From:	Charlottesville City Limits				
To:	Near 29/250 Bypass				
Locality Project Manager Contact info:		Jack Kelsey 434-872-4501 jkelsey@albemarle.org			
Department Project Coordinator Contact Info:		Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov			

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$358,900	\$485,000	\$1,559,760	\$2,403,660
Estimated VDOT Project Expenses	\$11,100	\$15,000	\$48,240	\$74,340
Estimated Total Project Costs	\$370,000	\$500,000	\$1,608,000	\$2,478,000

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$370,000	Revenue Sharing	50%	\$185,000	\$185,000	
				\$0	\$0	
Total PE	\$370,000			\$185,000	\$185,000	\$173,900
Right of Way & Utilities	\$500,000	Revenue Sharing	50%	\$250,000	\$250,000	
				\$0	\$0	
Total RW	\$500,000			\$250,000	\$250,000	\$235,000
Construction	\$330,000	Revenue Sharing	50%	\$165,000	\$165,000	
	\$1,278,000	Revenue Sharing	0%	\$0	\$1,278,000	
				\$0	\$0	
Total CN	\$1,608,000			\$165,000	\$1,443,000	\$1,394,760
Total Estimated Cost	\$2,478,000			\$600,000	\$1,878,000	\$1,803,660

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$1,878,000
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$1,803,660

Project Financing						Aggregate Allocations
Revenue Sharing State Match	Revenue Sharing Local Match					
\$1,238,999	\$1,239,001					\$2,478,000

Program and Project Specific Funding Requirements <ul style="list-style-type: none">• This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.• In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality completed project scoping on 3/5/2013.• This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$1,878,000.• All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.• This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.• Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:<ul style="list-style-type: none"><input type="checkbox"/> FY08 - \$418,354 (\$209,677 locality match and \$209,677 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.<input type="checkbox"/> FY10 - \$291,299 (\$154,650 locality match and \$154,649 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.<input type="checkbox"/> FY14 - \$567,347 (\$283,674 locality match and \$283,673 VDOT match) Funds transferred from VDOT administered Revenue Sharing Project.<input type="checkbox"/> FY15 - \$1,200,000 (\$600,000 locality match and \$600,000 VDOT match)• This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.• This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.
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Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

Appendix A
Project Number: 0852-002-R70 UPC: 113183 CFDA # N/A Locality: Albemarle County **Date:** 3/25/2019

Project Location ZIP+4: 22901-1426		Locality DUNS# 066022047	Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596
Project Narrative			
Scope:	Sidewalk Improvements/Installation along Commonwealth Drive and Dominion Drive		
From:	Rte. 743 (Hydraulic Road)		
To:	Rte. 29		
Locality Project Manager Contact Info:		Jack Kelsey 434-872-4501	jkelsey@albemarle.org
Department Project Coordinator Contact Info:		Kim Cameron 540-435-2373	kim.cameron@vdot.virginia.gov

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$528,673	\$1,112,056	\$1,595,407	\$3,236,136
Estimated VDOT Project Expenses	\$16,351	\$34,394	\$49,343	\$100,088
Estimated Total Project Costs	\$545,024	\$1,146,450	\$1,644,750	\$3,336,224

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$545,024	Revenue Sharing	50%	\$272,512	\$272,512	
				\$0	\$0	
				\$0	\$0	
Total PE	\$545,024			\$272,512	\$272,512	\$256,161
Right of Way & Utilities	\$1,146,450	Revenue Sharing	50%	\$573,225	\$573,225	
				\$0	\$0	
				\$0	\$0	
Total RW	\$1,146,450			\$573,225	\$573,225	\$538,831
Construction	\$1,535,528	Revenue Sharing	50%	\$767,764	\$767,764	
	\$109,222	Local Funds	100%	\$109,222	\$0	
				\$0	\$0	
Total CN	\$1,644,750			\$876,986	\$767,764	\$718,421
Total Estimated Cost	\$3,336,224			\$1,722,723	\$1,613,501	\$1,513,413

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$1,613,501
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$1,513,413

Project Financing						Aggregate Allocations
Revenue Sharing State Match	Revenue Sharing Local Match	Local Funds				
\$1,613,501	\$1,613,501	\$109,222				\$3,336,224

Program and Project Specific Funding Requirements <ul style="list-style-type: none">• This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.• In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality Shall complete project scoping on or before 12/20/2019.• This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$1,613,501.• All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.• This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.• Reimbursement for eligible expenditures shall not exceed funds allocated each year by the Commonwealth Transportation Board in the six Year Improvement Program.• Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:<ul style="list-style-type: none">□ FY19 - \$2,000,000 (\$1,000,000 locality match and \$1,000,000 VDOT match)□ FY20 - \$1,227,002 (\$613,501 locality match and \$613,501 VDOT match)• This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.• This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.
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Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

Appendix A

Project Number:1217-002-R71

UPC:113188

CFDA # N/A

Locality: Albemarle County

Date:3/25/2019

Project Location ZIP+4: 22932-3133		Locality DUNS# 066022047		Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596	
Project Narrative					
Scope:	Reconstruction of Crozet Square (1217) and Oak Street to connect with Library Avenue (867) to improve the street network. Crozet Square would be reconstructed as a one-way road with angled parking and improved drainage and pedestrian accommodations.				
From:	Crozet Avenue				
To:	Library Avenue				
Locality Project Manager Contact info:		Jack Kelsey 434-872-4501 jkelsey@albemarle.org			
Department Project Coordinator Contact Info:		Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov			

Project Estimates					
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost	
Estimated Locality Project Expenses	\$316,753	\$101,850	\$1,046,096	\$1,464,699	
Estimated VDOT Project Expenses	\$9,797	\$3,150	\$32,354	\$45,301	
Estimated Total Project Costs	\$326,550	\$105,000	\$1,078,450	\$1,510,000	

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$326,550	Revenue Sharing	50%	\$163,275	\$163,275	
				\$0	\$0	
				\$0	\$0	
Total PE	\$326,550			\$163,275	\$163,275	\$153,478
Right of Way & Utilities	\$105,000	Revenue Sharing	50%	\$52,500	\$52,500	
				\$0	\$0	
				\$0	\$0	
Total RW	\$105,000			\$52,500	\$52,500	\$49,350
Construction	\$955,024	Revenue Sharing	50%	\$477,512	\$477,512	
	\$123,426	Local Funds	100%	\$123,426	\$0	
				\$0	\$0	
Total CN	\$1,078,450			\$600,938	\$477,512	\$445,158
Total Estimated Cost	\$1,510,000			\$816,713	\$693,287	\$647,986

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)		\$693,287
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)		\$647,986

Project Financing					
Revenue Sharing State Match	Revenue Sharing Local Match	Local Funds			Aggregate Allocations
\$693,287	\$693,287	\$123,426			\$1,510,000

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 12/20/2019.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$693,287.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.
- Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:
 - FY19 - \$1,386,547 (\$693,287 locality match and \$693,287 VDOT match)
- This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.
- This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.

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Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

Appendix A

Project Number: 0867-002-R72

UPC: 113385

CFDA # N/A

Locality: Albemarle County

Date: 3/25/2019

Project Location ZIP+4: 22932-3177	Locality DUNS# 066022047	Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596
Project Narrative		
Scope:	Construct the extension of Library Avenue (Rte. 867) east to connect to High Street (Rte. 1204) with two roundabouts and then continue east to Hilltop Street (1014). Project would include pedestrian and bike facilities.	
From:	Library Avenue (Rte. 867)	
To:	Hilltop Street (Rte. 1014)	
Locality Project Manager Contact Info: Jack Kelsey 434-872-4501 jkelsey@albemarle.org		
Department Project Coordinator Contact Info: Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov		

Project Estimates				
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$0	\$881,586	\$3,936,113	\$4,817,699
Estimated VDOT Project Expenses	\$20,000	\$27,266	\$121,735	\$169,001
Estimated Total Project Costs	\$20,000	\$908,852	\$4,057,848	\$4,986,700

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type <i>(Choose from drop down box)</i>	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$20,000	Revenue Sharing	50%	\$10,000	\$10,000	
				\$0	\$0	
				\$0	\$0	
Total PE	\$20,000			\$10,000	\$10,000	-\$10,000
Right of Way & Utilities	\$908,852	Revenue Sharing	50%	\$454,426	\$454,426	
				\$0	\$0	
				\$0	\$0	
Total RW	\$908,852			\$454,426	\$454,426	\$427,160
Construction	\$3,650,240	Revenue Sharing	50%	\$1,825,120	\$1,825,120	
	\$407,608	Local Funds	100%	\$407,608	\$0	
				\$0	\$0	
Total CN	\$4,057,848			\$2,232,728	\$1,825,120	\$1,703,385
Total Estimated Cost	\$4,986,700			\$2,697,154	\$2,289,546	\$2,120,545

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$2,289,546
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$2,120,545

Project Financing					
Revenue Sharing State Match	Revenue Sharing Local Match	Local Funds			Aggregate Allocations
\$2,289,546	\$2,289,546	\$407,608			\$4,986,700

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Revenue Sharing Program Guidelines.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality Shall complete project scoping on or before 12/19/2019.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$2,289,546.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated.
- Reimbursement for eligible expenditures shall not exceed funds allocated each year by the Commonwealth Transportation Board in the six Year Improvement Program.
- Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:
 - FY19 - \$1,446,192 (\$723,096 locality match and \$723,096 VDOT match)
 - FY20 - \$3,132,900 (\$1,566,450 locality match and \$1,566,450 VDOT
- This project is part of a Programmatic Project Administrative Agreement for Revenue Sharing projects and is included on the Appendix B that is part of the agreement.
- This project was previously under an executed Programmatic Project Administration Agreement (PPAA) that expires on June 30, 2019. This Appendix A is part of a new PPAA that supercedes all previous versions by the Locality and VDOT.

This attachment is certified and made an official attachment to this document by the parties to this agreement.

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Revised: July 3, 2018

Typed or printed name of person signing

APPENDIX B

Locality _____ County of Albemarle

Original Programmatic Agreement Date: _____
Programmatic Agreement Extended Date: _____

Locality Program Coordinator:	<u>Jack Kesley 434-872-4501 jkelsey@albemarle.org</u>
VDOT Program Coordinator	<u>Kim Cameron 540-435-2373 kim.cameron@vdot.virginia.gov</u>

[illegible]

Authorized Locality Official	Date
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Authorized VDOT Official	Date
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Item No. 8.4. Ordinance to Amend County Code Appendix A.1 (Acquisition of Conservation Easements (ACE) Program).

The Executive Summary forwarded to the Board states that the Acquisition of Conservation Easements (ACE) Committee is charged with reviewing the program's ordinance and recommending any changes needed either to maintain the program's consistency with the County's Comprehensive Plan and policies or to improve the administration, implementation, and effectiveness of the program. The ACE Ordinance was most recently amended in 2018.

The ACE Committee's recent review of the ACE Ordinance focused on its ranking criteria as it pertains to the scoring of property acreage. The Committee prefers to incentivize larger parcel applications to the program, those being 100 acres or more. Currently, the ranking criteria under County Code § A.1-108(A) (2) awards zero points to parcels less than 50 acres, one point for parcels larger than 50 acres, one point for each additional 50-acre unit, and one additional point for each 50-acre unit above 200 acres. The Committee proposes amending the criteria to award no points for parcels less than 100 acres and two points for parcels of at least 100 acres. The scoring for incrementally larger parcels would remain the same. This amendment may result in smaller parcels being less likely to reach the 20 point eligibility threshold or being ranked lower relative to other eligible applicants.

No budget impact is expected. No additional work for staff is anticipated.

Staff recommends that the Board schedule a future public hearing to consider the attached proposed.

By the above-recorded vote, the Board scheduled a public hearing for June 19, 2019, to consider the proposed ordinance.

Item No. 8.5. Special Exceptions for SDP 201800067, Northside Material Recovery Facility.

The Executive Summary forwarded to the Board states that the applicant has submitted a site development plan for a privately owned materials recovery facility. The applicant is proposing to process and recycle concrete, asphalt and masonry products. The property is located on Northside Drive, which is on the west side of Rt. 29 in the Hollymead Development Area. The property consists of five (5) parcels which are zoned Heavy Industry (HI). This use is permitted by-right in the HI zoning district. A portion of the property is located within the EC, Entrance Corridor. Approval of the site plan as proposed by the applicant will require approval of multiple Special Exceptions to modify or waive requirements found in the following sections of the Zoning Ordinance:

Supplementary regulations

- 18-5.1.51(a) and (b) – Outdoor Activities in Industrial Districts
- 18-5.1.52 (a), (c), (e) – Outdoor Storage in Industrial Districts

Industrial District – Generally

- 18-26.5(c) – Buffer requirements

General Regulations – Noise

- 18-4.18.04

Staff has evaluated the Special Exceptions and is recommending approval of all requested Special Exceptions with conditions as provided in Attachment C. Staff's analysis of this request is Attachment B.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the requested special exceptions.

By the above-recorded vote, the Board adopted the following Resolution to approve the requested special exceptions, with subject conditions:

RESOLUTION TO APPROVE SPECIAL EXCEPTIONS FOR SDP 2018-67 NORTHSIDE MATERIALS RECOVERY FACILITY

WHEREAS, the owner of Tax Map Parcels 03200-00-00-022C30, 03200-00-00-07000, 03200-00-00-07100, 03200-00-00-07200, and 03200-00-00-07300 filed a request for special exceptions to modify or waive requirements of the following Zoning Ordinance requirements in conjunction with SDP 2018-67 Northside Materials Recovery Facility as depicted on the pending plans under review by the County's Department of Community Development:

Supplementary regulations:

- § 18-5.1.51(a) and (b) – Outdoor Activities in Industrial Districts
- § 18-5.1.52 (a), (c), (e) – Outdoor Storage in Industrial Districts

Industrial District – Generally:

- § 18-26.5(c) – Buffer requirements

General Regulations – Noise:

- § 18-4.18.04; and

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum and Staff Analysis prepared in conjunction with the application, all of the factors relevant to the special exceptions in County Code §§ 18-5.1.51, 18-5.1.52, 18-26.5(c), 18-4.18.04, 18-4.18.07, and 18-33.49, and the information provided at the Board of Supervisors' meeting, the Albemarle County Board of Supervisors hereby approves the special exceptions to authorize the modification and waiver of the County Code sections set forth above, subject to the conditions attached hereto.

* * * * *

SDP 2018-67 Northside Materials Recovery Facility Special Exception Conditions

1. **MATERIALS (18-5.1.52):** The recycling processing center use shall be limited to recycling asphalt, concrete, dirt and materials associated with recycling these inert materials such as rebar. The recycling center shall not process trash, paper, glass, plastic, electronics, wood, or any other material not specified. A recycling collection station is prohibited.
2. **IMPORT OF ADDITIONAL MATERIALS:** No additional import of recyclable or recycled materials to the site is allowed until the existing stockpiles have been reduced to the allowable maximum heights specified on Sheet C5 of the plan titled "Initial Site Development Plan for Northside Material Recovery Facility" prepared by Shimp Engineering, P.C., last revised 4/10/2019 (the "Plan"). This requirement will be in effect on the date of the Special Exception approval. Once the stockpiles comply with the height restrictions the stockpiles must remain below the limits at all times.

3. **TIMING:** After the approval of the Special Exception (SE), the applicant must meet the following schedule for review and approval process to ensure that the site is brought into compliance with the special exceptions, ordinances and standards:
 - a. A VSMP application must be submitted within 30 days of the SE approval.
 - b. The final site plan must be submitted within 30 days of the SE approval.
 - c. The final site plan must be approved within 6 months of its first submittal. If it is not approved by that deadline *the recyclable and recycled materials must be removed and the site stabilized.*
 - d. The site must comply with the final site plan within 120 days of the final site plan approval with the exception of the tree buffer adjacent to the entrance and south of the stockpile of reclaimed material (shown on sheet C4 as “existing tree buffer (to remain)”). Site compliance in this area is extended for an additional 60 days to allow removal of material from this tree buffer. If it is not in compliance by that deadline *the materials must be removed and the site stabilized.*
 - e. The following improvements shall be installed prior to commencement of use:
 - i. The berm and landscaping
 - ii. Any tree conservation measures
 - iii. Security fence
 - f. Height of stockpiles visible markers must be certified by a registered surveyor prior to commencement of use and upon request by the Zoning Administrator.
4. **LOCATION AND HEIGHT OF STOCKPILES:** Storage of recycled or reclaimed materials shall be in accord with the exhibit shown on Sheet C4 of the Plan. Additionally, the following specific criteria must also be met:
 - a. The maximum height of stockpiles, 28 and 24 feet, shall be in accord with Sheet C5 of the Plan. Sheet C5 is used for stockpile heights only.
 - b. Visible markers shall be utilized to measure and limit the height of stockpiles according to this condition.
 - c. Stockpiles are not allowed within the 50-foot Outdoor Storage Setback.
 - d. A tree preservation plan must be submitted with the final site plan and must be in general accord with Sheet C4 of the Plan.
 - e. The horizontal location of stockpiles and stockpile management activities shall be in general accord with Sheet C4 and dimensioned on the final site plan.
 - i. Stockpiles and the stockpile activity may be no closer than the dripline of any tree shown as being preserved on Sheet C4 of the Plan, and the dripline shall be demarcated by a permanent tree protection fence or other physical barrier, the design of which shall be approved with the final site plan.
 - ii. Stockpiles shall not be located closer than 70 feet to the property line with TMP 32-73 and shall not be any closer than 10 feet to the property line with TMP 32-22C1 unless a barrier is installed in which case stockpiles shall not be located closer than 5 feet.
5. **LOCATION AND HEIGHT OF EQUIPMENT:** The location of the equipment required to process the approved recyclable materials shall be in general accord with the exhibit shown on Sheet C4 of the Plan. The height of the equipment shall be as specified in the Certified Engineers Report dated March 1, 2019 prepared by Shimp Engineering, P.C. Additionally, the following specific criteria must also be met:
 - a. No processing equipment or conveyors shall be more than 31’ feet in height and shall be lowered when not in use.
 - b. The conveyors, crusher, and screen plant shall not be located within the Entrance Corridor overlay district, as depicted on the final site plan.
 - c. Stockpiles and equipment utilized to move and maintain stockpiles shall never be within the first 50-feet adjacent to residential parcel TMP 32-22I.
6. **SOUND (18-4.18.04):** The zoning administrator may require a new zoning clearance, Certified Engineers Report, and sound study if operations, equipment, and/or equipment locations are changed from the Certified Engineers Report dated March 1, 2019, prepared by Shimp Engineering, P.C.
7. **USES WITHIN THE OUTDOOR ACTIVITY SETBACK (18-5.1.51 b):** The only use allowed within the portion of the property between the 50-foot outdoor storage setback and the 100-foot outdoor activity setback adjacent to TMP 32-22I is storage of the allowed recycled materials and activities associated with the storage.
8. **FENCE (18-5.1.51 a & 18-5.1.52 a):** A minimum 7 foot tall security fence shall be provided in general accord with the location shown on Sheet C4 of the Plan. The fence shall connect up to the existing fence within TMP 32-67. The segment of fencing located on TMP 32-67 shall be opaque unless the Planning Director finds that a berm or landscaping provides adequate screening.
9. **LANDSCAPING:** A landscape plan according to County Code §18- 32.7.9.4 and subject to Architectural Review Board (“ARB”) approval must be provided and no ordinance minimums (parking lot trees, street trees, etc.) of this section are waived. The landscape plan must be provided with final site plan and must include:

- a. Screening must be provided in compliance with County Code §18-32.7.9.7(d) where existing vegetation does not provide adequate screening on TMP 32-73. If deemed necessary by the Planning Director, a landscape preservation easement on TMP 32-73 must be recorded prior to approval of the final site plan to preserve the trees designated as “existing trees to be preserved for screening” as shown on Sheet C4 of the Plan.
 - b. Supplemental landscaping for screening is subject to ARB review and approval on the final site plan. Such screening shall include, but not be limited to, landscaping to compensate for trees in the drainage easement that are not under the control of the property owner.
 - c. Screening along the property line with TMP 32-22I shall include an 8 foot tall earthen berm with a double staggered row of evergreen trees planted on the top of the berm ten (10) feet on center as shown on Sheet C4 of the Plan.
 - d. The quantity and species of landscaping screening trees will be determined during the final site plan and ARB review process. However the minimum height of the evergreen screening trees on the berm adjacent to TMP 32-22I shall be 6 feet.
10. Final Site Plan: Anything not explicitly approved with this special exception, must satisfy all applicable Ordinance and Design requirements prior to final site plan approval.

Item No. 8.6. Resolution to accept road(s) in the Estes Park Phase I and II Subdivision into the State Secondary System of Highways.

By the above-recorded vote, the Board adopted the following Resolution to accept road(s) in the Estes Park Phase I and II Subdivision into the State Secondary System of Highways:

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 1st day of May 2019, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Estes Park Phase I and II Subdivision**, as described on the attached Additions Form AM-4.3 dated **May 1, 2019**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Estes Park Phase I and II Subdivision**, as described on the attached Additions Form AM-4.3 dated **May 1, 2019**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right- of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

- 1) **Regent Street (State Route 1856)** from Worth Crossing (State Route 1722) to 0.17 miles south to Decatur Drive (State Route 1859), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4421, pages 690-705, for a length of 0.17 miles.
- 2) **Conway Lane (State Route 1858)** from Regent Street (State Route 1856) to 0.05 miles east to Decatur Drive (State Route 1859), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4421, pages 690-705, for a length of 0.05 miles.
- 3) **Burgundy Lane (State Route 1857)** from Regent Street (State Route 1856) to 0.12 miles south to end of state maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4421, pages 690-705, for a length of 0.12 miles.
- 4) **Decatur Drive (State Route 1859)** from Regent Street (State Route 1856) to 0.09 miles east to end of state maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4421, pages 690-705, for a length of 0.09 miles.
- 5) **Decatur Drive (State Route 1859)** from Regent Street (State Route 1856) to 0.09 miles west to Burgundy Lane (State Route 1857), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4421, pages 690-705, for a length of 0.09 miles.

Total Mileage – 0.52

Item No. 8.7. Set public hearing for June 5, 2019, on an ordinance to amend Chapter 2, Administration, of the Albemarle County Code, **to amend Section 2-202, Compensation of board of supervisors**, to increase the compensation of the members of the Board of Supervisors by an inflation factor of 2.3% effective July 1, 2019.

By the above-recorded vote, the Board set the public hearing for June 5, 2019.

Item No. 8.8. Change start time of June 5, 2019, Meeting from 1:00 p.m. to 9:00 a.m.

By the above-recorded vote, the Board changed the start time for the June 5, 2019, meeting from 1:00 p.m. to 9:00 a.m.

Item No. 8.9. Environmental Services Division Quarterly Report – 3rd Quarter FY 19, ***was received for information.***

Item No. 8.10. VDOT Monthly Report (May) 2019, ***was received for information.***

Item No. 8.11. Board-to-Board, April 2019, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

At request of Ms. Mallek, moved to *Matters From the Board* at end of agenda for discussion.

Agenda Item No. 9. **Work Session:** VDOT FY 20-25 Secondary Six-Year Plan.

The Executive Summary forwarded to the Board states that this work session is intended to present information on the Albemarle County Secondary Six-Year Plan (SSYP) and road paving priorities in advance of the development and approval of the FY 2020- 2025 SSYP in June 2019. The information and Board direction produced from this work session will be used to develop this FY 2020-2025 SSYP.

The SSYP allocates funding for construction, maintenance, and improvement of roads in the state secondary system. The funds allocated to Albemarle County through the SSYP include state and federal funds for a variety of road improvement programs. The SSYP for Albemarle County is updated and approved annually and identifies the specific funding source, use, and levels allocated for the immediate fiscal year. The SSYP also identifies projected funding allocations for the next five fiscal years.

The Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads is a listing of all Secondary Roads that have been requested to be paved by the public, a County department, or the Board of Supervisors. This list is reviewed and approved by the Board annually, and forms the basis of the SSYP for Albemarle County.

The Secondary Six-Year Plan, Priorities and Recommendations Report (Attachment A) provides the background on the SSYP, the Virginia Department of Transportation paving programs, and Albemarle County's paving requests and priorities. The SSYP report and work session are held annually prior to development of the Draft SSYP in order to inform the development of the Plan. The SSYP establishes the program for expending state funds allocated to Albemarle County for road improvements to the Secondary Road System (roads with a route number of 600 or higher). The majority of the available funding must be used for paving unpaved roads. The report also provides information on the projected funding allocations, the status of the projects currently in the SSYP, and County and VDOT staff recommendations for any changes or additions to the SSYP. Also included in the report is information regarding the process for reviewing and prioritizing unpaved road projects.

This work session is focused on 1) the review of the prioritization strategies for unpaved roads, and 2) input on project recommendations for the SSYP for FY 2020 - FY 2025. Based on the direction received from the Board, staff will make any adjustments to the prioritization strategies and priority list of projects and will work with VDOT staff to finalize the SSYP for public hearing and adoption in June.

The SSYP outlines the expenditure of State/VDOT secondary road construction funds allocated to the County. The SSYP program does not require the expenditure of County funds unless the Board directs additional funding from the County general fund be appropriated to a project, such as through the use of the revenue sharing program.

Staff recommends that the Board: 1) Provide input on the unpaved road review and prioritization process; 2) Approve the recommended prioritized list of paving projects set forth in the staff report for inclusion in the County's draft FY2020-2025 SSYP; and 3) schedule a public hearing on the SSYP for June 5, 2019.

Mr. Daniel Butch, Senior Transportation Planner, stated that he would provide an update and recommendations and be assisted in the presentation by Kevin McDermott. He noted that Darryl Shifflett of VDOT was in the audience and had assisted with the drafting of the plan. He said the Secondary Six-Year Plan represents dedicated state and federal funding to the County for construction, maintenance, and improvements of secondary system roads, which are those with a route number of 600 or higher. He noted that the plan was updated and approved by the Board annually, and \$550,000 was available for FY20 that must be spent for the paving of unpaved roads. He said the preferred method of paving was through the Rural Rustic Road Paving Program and that an additional \$355,000 of TeleFee funds are available in FY20, which could be used for a broad range of projects besides paving.

Mr. Butch provided updates on projects for the FY19–24 period. He said the Rio Mills Connector was funded through SmartScale, with construction expected to be completed by 2023. He noted that it was one of six VDOT packaged design/build projects. He said Keswick Road was expected to be completed by late spring of 2019, Preddy Creek Road was complete, Patterson Mill Lane construction would begin sometime during the summer or fall of 2019, Dick Woods Road between Route 151 and the Nelson County line was expected to begin by spring of 2019, North Garden Lane was expected to begin in late 2019 or early 2020, and Cole's Rolling Road has two segments, with the first segment being fully funded for FY20 and the second segment funded for FY21. He said they have \$2.2 million TeleFee funds directed to the Berkmar Drive Extended project.

Mr. McDermott continued the presentation on the Secondary Six-Year Plan and asked for Board direction on the projects presented and listed in Attachment B (copy on file), with approval in June before the funding year starts in July, as well as the established prioritization policy. He noted that projects are listed by order of priority as determined by traffic counts. He said that Cole's Rolling Road would require funding approval while the other projects were already approved. He noted that new projects have been added to the priority list as a result of citizen or Board requests: Bird Mountain Road, Reservoir Road, Wesley Chapel Road, Henderson Lane, and Via Lane. He suggested that the Board refer citizen requests for paved roads directly to his office, as they would work with VDOT to verify that a road could be paved and prioritized. He stated that the previous Secondary Six-Year Plan has \$2 million allocated for the Berkmar to Lewis and Clark Drive Connector under TeleFee funding, which gives the Board leeway as to how to use it as long as it was used for a secondary road or for projects such as sidewalk maintenance, additional paving funds, and other transportation priority projects. He requested the Board's direction for these projects, and to approve the scheduling of a public hearing on the six-year plan on June 19. He invited questions and comments.

Ms. Mallek said she was pleased to see the tiny cost for the small section of Wesley Chapel, which drivers have requested for many years; dust has caused problems for residents living along the road. She said she received calls this week about the Via Road project. She recognizes that the road has potholes, but that it does not have public support from residents to be on the list. She asked that they not proceed with paving this road but focus instead on fixing ditches.

Ms. Mallek asked for confirmation that five years of TeleFee funds have been set aside for the Berkmar Extension. Mr. McDermott explained that it was not exactly five years; at the Board's direction last year, some of the money was left carried over into Berkmar, since the project was not selected for SmartScale funding.

Ms. Mallek suggested they leave this funding and find other money rather than use it for something else. She stated that there are narrow country bridges in the County that present safety nightmares but are not structurally insufficient enough to qualify for federal funds, and suggested that these could be an appropriate use for TeleFee funds.

Ms. Palmer asked if all the roads listed have been evaluated and determined to meet the criteria. Mr. Butch responded that those in yellow have been verified by VDOT as qualifying under the Rural Rustic Road Program. He added that they believe it would be a good idea for VDOT to update traffic counts and verify that the roads still qualified.

Ms. Palmer asked if Reservoir Road has been evaluated. Mr. Butch confirmed this.

Ms. Palmer remarked that Henderson Road was very short with chronic problems. She pointed out that there was a working farm past the church whose owner has contacted her to express support for paving of the road. Addressing the fact that Berkmar Extension does not qualify for SmartScale funding, Ms. Palmer said she assumes the TeleFee funding would be left in place and used if they do not obtain funding within a certain amount of time. Mr. McDermott responded that they have over \$2 million for this line item and approximately \$2.2 million of TeleFee funds available, which could be moved to any project they want. He said that VDOT would probably recommend that they keep the Berkmar project as a high priority, though they have the option to go for another grant or to use FY20 transportation leveraging funding that was left over, blend the funds and then seek a revenue sharing grant, could bring them close to the total amount needed. He said they would have to look at the next few fiscal years CIP to find additional funding and move this up.

Ms. Palmer asked for the total amount needed to get the Rio Mills Connector. Mr. McDermott responded that it costs \$3.8 million, with \$1.3 million provided by SmartScale and the remainder from old TeleFee money.

Ms. Palmer remarked that should they not keep the money for the connector, she was in favor of putting it towards the already prioritized sidewalk and infrastructure items.

Ms. McKeel stated that they have access to \$18 million for the Zan Road Bridge and recalled that they recently received a report indicating that the Hydraulic Road intersection area was the top safety concern and noted that Zan Road could affect this. She said she was in favor of holding onto this money and any other money they have while considering that this could be used, along with the \$18 million, to leverage the Zan Road project and to figure out how to connect over Route 29 from Stonefield into Charlottesville, which could have a huge impact for residents.

Mr. Dill asked Ms. McKeel if she was asking how fungible the \$18 million was. Ms. McKeel responded that they have the \$18 million, and her concern was that the state could take it away unless they spend it fairly quickly. She clarified that this money could help leverage the difference of what they would have to come up with for the County's share and the City has agreed with the County on the Zan Road connection; she asked if this was considered to be a secondary road.

Mr. McDermott offered to inquire with VDOT.

Mr. Gallaway asked Mr. McDermott to clarify whether or not this money was available. Mr. McDermott responded that he would have to discuss this with VDOT.

Mr. Dill agreed with Ms. McKeel that they should look into this.

Mr. Randolph complimented Mr. Butch for Pages 2-3 of the presentation, which provide information on the VDOT paving program. He asked if the Keswick Road project would be done in May or June, as this information would be helpful to know since many residents in his district take this road to get to church. Mr. Butch offered to send Mr. Randolph and Mr. Dill an update once the dates are confirmed.

Mr. Randolph asked for clarification as to whether they would wait to begin the Cole's Rolling Road project until it was fully funded or if paving of the first segment would begin in FY20, and in which month would they begin if it begins in FY20. Mr. Butch said he would let him know.

Mr. Randolph noted that Harris Road has been on the list for some time, it has two vineyards at the end that receives a fair amount of weekend traffic, and he hopes this segment would be completed in the very near future because it gets washed out during significant rainfall. He added that he does not expect an immediate answer to his questions.

Mr. Gallaway remarked that although he was not saying he would not be supportive of what Ms. McKeel has suggested for Zan Road, he wants to make sure the money was available should there be a way to still get the last piece of the connector done from Berkmar to Airport Road. He asked Mr. McDermott for the cost of this project. Mr. McDermott responded that the cost was \$10.2 million.

Mr. Gallaway remarked that this was within reach and the \$18 million was specific for Route 29 Solutions, but if there was another way to get that project done, it sounds like a good strategy to keep some money back to go to something. Ms. McKeel agreed.

Ms. Mallek asked for confirmation that Dick Woods Road would be worked on this calendar year. Mr. Joel DeNunzio, VDOT Resident Engineer, confirmed that it would be this year and they began grading work a couple of weeks earlier. He said that when he first met with Ms. Mallek, it was not on the Rural Rustic Road Program and they talked about paving a portion of it, until the Board decided to allocate funding. He acknowledged that VDOT has not indicated specific dates for projects, in order to retain some flexibility.

Ms. Mallek asked if VDOT has a program to reclaim the gravel that was left over from repaving of Dick Woods Road that went from the ditch to the Paulson property. Mr. DeNunzio responded that they do not have such a program but could work with the property owner if this was requested by the property owner.

Ms. Palmer asked if Patterson Mill Road paving has been put off to 2020. Mr. DeNunzio responded that he would get back to her with that answer. He said the Yancey Mills headquarters would first do a section of Dick Woods Road, followed by Patterson Mill Road, which he hopes they could start by late summer or fall.

Ms. Palmer observed that the materials presented to the Board indicates that Rio Mills Road would need to be evaluated upon completion of the connector road and asked if it would be paved. Mr. McDermott responded that it was previously on the paving list and with this new connection project, VDOT has proposed that Rio Mills would go down, turn entirely and connect with the new Berkmar. He said the segment that goes from the quarry all the way south would remain unpaved, which was the piece they talked about reevaluating after this project has been completed. He explained that other changes being made at the Route 29 intersection by the Brookhill development would result in less traffic, which may present the opportunity to put it back as a private road and take it out of state maintenance.

Mr. Dill asked if trucks from the quarry would be able to use the unpaved road. Mr. McDermott responded that the quarry would still have a right-in/right-out connection to Route 29 from Rio Mills. He explained that trucks heading north on Route 29 would not be able to turn left to Rio Mills but would have to go up to Hollymead and come back around, and they would only be able to head south coming out of Rio Mills.

Ms. Mallek pointed out that Luck Stone purchased the quarry from Rockydale but was not operating it now, and she hopes it stays quiet. She pointed out that any truck that needs to go north could go to the roundabout at the Airport to access Route 29, which was the point of closing Earlysville Road to trucks. She noted that when Rio Mills was listed as a paving project, it was \$8 million due to the precipice on one side and terrible drainage, and it would be great to be able to take this out of the main service and put that money to something else.

Ms. Mallek referred to recommendations on Page 3 and noted that there was a section of 50-100 feet beyond state maintenance at the railroad tracks at the north end of Blair Park Road where residents could not get title insurance because there was no state-maintained road to which they have access. She said they have asked if the designation of state maintenance could be extended across the railroad track, while keeping the road unpaved. Mr. McDermott responded that they would have to discuss this with VDOT, though they are not thrilled with the idea of taking over maintenance of railroad crossings that are not up to standard.

Mr. Gallaway asked Mr. McDermott if he has sufficient Board direction. Mr. McDermott indicated that he thinks so and expressed appreciation for the discussion about TeleFee money and places this could be moved to, for which he would come back to the Board this summer as he brings back the full list of priorities.

Ms. Palmer referenced an email she received from Mr. Butch about a road in her district that VDOT would not pave because it did not go to another paved road and in which he asked her if this road should be taken off. She asked if they need to have a discussion about this. Mr. Butch responded that the road was Burton Lane, a dirt road which led to a dirt road, which was funded in the FY23-24 drafts.

Mr. McDermott added that VDOT would pave it, but they would have to pave both Burton Road and Burton Lane, and they do not know that there was a desire to continue with this. He asked the Board if they would like this removed or discuss it with landowners.

Ms. Palmer said she has not received any complaints about Burton Road and it seems reasonable to take it off. Mr. Butch noted that it was requested in 2007. Ms. Mallek remarked that during that era one person could request a road be added to the list of road projects. Ms. Palmer reiterated her concurrence with removing it from the list.

Ms. Mallek **moved** that the Board schedule a public hearing on the Secondary Six-Year Plan for June 19, 2019. The motion was **seconded** by Mr. Dill.

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

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

NAYS: None.

Mr. Gallaway stated that there was some confusion among several residents in the Reas Ford Road area of Earlysville as to whether the Board would discuss the possibility of an intersection. He asked Mr. DeNunzio if he could have a discussion with him about an email response that has been sent to these residents.

Mr. DeNunzio responded that patching of Earlysville Road has been done in advance of next year's paving and should do well until it was paved. He noted the short-term improvements that have been made at the Reas Ford Road intersection, such as rumble strips on the approach were refreshed this morning, and the stop bar was moved up by eight feet, though any other improvements would be costly.

Mr. Gallaway asked to have a discussion with Mr. DeNunzio about some ideas he read in the email. Mr. DeNunzio agreed.

REGULAR PAVING PROJECTS IN PRIORITY ORDER (HIGH TO LOW)									
Current Priority	Route Number, Road Name	Location From - To	Length (mi.)	Funding Status	Most Current Traffic Count	Year of Count	Crash Data	Year Project Placed on Priority List	Description/Comments
24	643 Rio Mills Road	Rt. 29 - Rt. 743		in VDOT SSYP	700	2012	4	2003	Staff request. Saves Devel. Area, provides access to quarry, provides thru road connection to primary road (Rt. 29). Recommended in Comp. Plan and LRTP. Will need reevaluation upon completion of Connector Road.
25	829 Horseshoe Bend Road	Rt. 601 - Dead End	1.22	not yet funded	240	2012	1	2004	Public request. At current ranking due to traffic count.
26	761 Briery Creek Road	Rt. 622 - County Line	1.35	not yet funded	230	2012	2	2005	Public request. At current ranking due to traffic count.
27	640 Gilbert Station Road	Ashleigh Way Rd 1094 - paved section		not yet funded	120	2012	0		Public request. At current ranking due to traffic count.
28	698 Hungrytown Road	Rt. 633 - Dead End	1.81	not yet funded	110	2015	1	2006	School transportation request.
29	683 Shelton Mill Road	Rt. 751 - Dead End	1.48	not yet funded	110	2015	2	2007	Public request. At current ranking due to traffic count.
30	682 Broad Ave Road	Rt. 637 - current paved sections	1	not yet funded	90	2015	2		Public request. At current ranking due to traffic count.
31	600 Stony Point Pass	2.5 miles west - Rt. 20 near stone mount Farm- Rt. 231	2.36	not yet funded	70	2015	8		Public request. At current ranking due to traffic count.
32	634 Spring Valley Road	Rt. 633 - Nelson County Line	3.02	not yet funded	85 avg	2015	3	2007	Public request. At current ranking due to traffic count.
33	689 Burch's Creek Road	Rt. 250 - Rt. 635	2.35	not yet funded	60 avg	2015	0		Public request. At current ranking due to traffic count.
34	737 Mountain Vista Rd	Totter Creek bridge - 20 Valley St (Scottsville)	0.93	not yet funded	42.5	2014	1	2018	Public request - town of Scottsville
35	629/624 Browns Gap TP/Headquarters Lane	Rt. 810 - end of Rt 624	1.5	not yet funded	30	2015	1		Public request. May not be eligible for traditional paving funds due to traffic counts below 50
36	668 Fox Mountain Rd	810 Browns Gap Turnpike - 671 Westley Chapel Rd	4.93	not yet funded	30	2015	0	2018	BOS request. Waiting for resident petition.

UNPAVED ROADS SECTIONS REMOVED BY BOARD OF SUPERVISORS					
Road Name/No.	Location from - to	Length	year removed	Most Current Traffic Count	Year Placed on Priority List
667 Catterton Road	Rt. 601 to east of Rt. 676	1.83		77	
662 Bleak House Road	Rt. 665 to paved portion	1.03	2010	160	
637 Dick Woods Road	Rt. 691 to Rt. 758	2.17	2014	150	
795 Blenheim Road	north and south of Rt. 713		2012		

Agenda Item No. 10. **Work Session:** Yard/Property Maintenance Open-Air Burning.

The Executive Summary forwarded to the Board states that citizen complaints and Board of Supervisors’ concerns regarding the County’s open-air burning processes and laws have generated discussion and recent changes. In framing the discussion, staff has referred to three types of open-air burning: commercial open-air burning (large scale, land clearing for development), Certified Burn Program (predominantly maintenance of land involved in agricultural or farming operations), and yard maintenance open-air burning (yard maintenance materials 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 A - 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 enacted changes to the County Code regarding commercial open-air burning on October 3, 2018. Throughout the conversation about commercial open-air burning, concerns and issues were raised relevant to the Certified Burn Program and yard maintenance open-air burning. A Board work session was held on January 16, 2019 (Attachment B) to discuss these two programs specifically and four items were identified for further analysis and consideration: Increase distance requirements from buildings for burn piles; eliminate the ability to obtain neighbor permission to burn less than 300 feet from a building; impose burning time constraints and/or time limits for burning; require a permit for any/all burning.

The purpose of today’s work session is to review the information developed and decide whether to enact any or all of the options for changes to the Certified Burn Program and yard-maintenance open-air burning. Attachments C and D provide background on the Open-Air Burning Code and Open-Air Code

respectively.

Each option is presented below along with any discussion, further analysis, and/or projected staff impact to implement (if any).

Option One: Increase the minimum distance required between open-air burn piles and structures. This option will impact more densely populated or urban areas more significantly than rural areas, as buildings and property lines tend to be closer together in urban areas. This appears to be consistent with the Board's desire, as a whole, to limit open burning in more urban areas of the County while allowing for it in areas of less density and on larger parcels or areas of agricultural operations.

Using GIS mapping, staff created an illustrative reference by shading the effective prohibited area on an Albemarle County map. No burning would be allowed within the shaded area as the area represents the minimum distance a burn pile must be from any structure, regardless of which parcel the building may be on. Distances of 300 feet (length of a football field - Attachment E) and 500 feet (100 feet shy of two football fields- Attachment F) were created.

The maps show that a 300 foot minimum distance from structures covers most of the land within the urbanized development areas of the County. A minimum of 500 feet does not appear to provide significantly more overall coverage of the urban area (the majority of which is already covered by a 300 foot minimum). Continued development and construction on open land within the urban area will increase the size of the restricted area over time as structures are added and these areas become subject to the 300 foot minimum. In the less dense rural areas of the County, increasing the minimum distance from 300 to 500 feet prohibits burning in a significantly larger area of the County. In the most rural of areas of the County where structures may be 1000 or more feet apart, an increased minimum distance of 500 feet may have the unintended consequence of pushing a legal burn closer to a neighboring property or structure.

Option Two: Eliminate the provision that allows property owners to burn closer to a structure on their property or others' property than what is otherwise allowed in County Code § 6-406.A.2, which is currently 300 feet. Current standards allow for neighbors to grant permission for someone to burn closer than the required separation distance from a structure (but no closer than 50 feet) and also allows for a property owner to burn within 50 feet of her own structure "by-right". This nullifies any positive results obtained through required separation distances in Option One. The GIS map from Option One informs this option but no further analysis was necessary. Implementation of Option Two is required to ensure Option One is successful.

Option Three: Enacting time restrictions for all open-air burning. Time restrictions provide some level of predictability and a reprieve for residents who wish to avoid exposure to smoke and the by-products of open burning. It also provides staff the ability to appropriately plan work force options, such as staffing levels on any given day. Restricting yard maintenance open-air burning to Monday through Friday, 8 am to 8 pm and prohibiting any burning during the forestry ban, February 15 through April 30, provides consistency across all types of open air burning (including commercial open air burning). Consistency makes educating the public, first responders, and staff much easier. However, prohibiting yard maintenance and Certified open air burning on weekends may be too restrictive. If the Board desires to provide for weekend open air burning, adding Saturday and/or Sunday from 8am to 8pm is recommended.

Options 1-3 cause minimal staff workload impacts in the long term. In the short term, workload is anticipated to increase relative to staff and public information and education about the County Code changes and requirements. Additionally, complaints handled and responses to "illegal burns" or "burn investigations" are anticipated to increase initially until the public information and education program has reached most residents. This impact is predicted for the first 18 months to 2 years after the changes and is anticipated to be handled by existing staff.

Option Four: Require a permit for all open air burning. Previous discussions with the Board identified mixed opinions for requiring a permit for all open-air burning. Currently, yard maintenance open-air burning is the only type that does not require a permit. Staff has taken a closer look at how a permitting process may function for this type of burning.

At a high level, the process (which may begin online, on the phone, or in-person) would require applicants to receive an education on proper/safe burn techniques and rules while obtaining the necessary identifying/location information of the burn for staff use and for inclusion in the public facing online burn permit locator map.

Creating and administering a permit system for yard maintenance open air burning would have staff impact as outlined below:

- Creating the system: 20 Information Technology (IT) staff hours to create an on-line permit application program which will automatically feed the public facing online burn permit locator map. This system is used for self-service online or for in-person or phone in customers.
- Public education: 8 hours initial material/program development; and 8-10 hours annually for public service announcement and similar on-going public education.
- Fire Rescue system training: Estimated 50-75 staff hours initially to provide collaborative input, training materials, program checklists, etc. to Fire Rescue System staff (volunteer

and career). All personnel will have exposure to the permit system, how to determine whether or not someone has a permit, how to assist a resident in obtaining a permit, and the rules and regulations for open burning. Ongoing annual continuing education will utilize a webinar/PSA format with significantly less staff impact after the first year - estimated at 8-10 hours annually to maintain con-ed for the system.

- Processing permits: 250 permit applications are expected each year, of which half are expected to be issued through self-serve online with no staff time impact. For in-person or telephone permit requests 30 minutes per application is projected - totaling about 60 hours annually.
- Complaints/Responses: Again, complaints handled and responses to “illegal burns” or “burn investigations” are anticipated to increase initially until the public information and education program has reached most residents. This impact is predicted for the first 18 months to 2 years after the changes and is anticipated to be handled by existing staff.

Total staff impact: 173 hours first year and 80 hours annually thereafter (excluding complaint responses - no estimated workload impact provided)

Board considerations for Option 4:

- How long is a permit active? 30 days is recommended.
- Is there a fee for the permit? Staff analyzed this process from the perspective that no fee would be assessed. Collecting a fee would involve online processing and tracking of payment, finance processes, etc. If a fee is desired, more analysis is necessary.

Again, Option Four stands to impact staff resources most significantly. To ensure efficient and effective community safety, current community risk reduction programs and new initiatives currently under review inform the staff recommendation of this Executive Summary. An example of a new initiative under review is the “home stay” program, which may include a substantial staff resources impact for required annual fire safety inspections. Should the Board wish to implement Option Four, future direction from the Board on other Fire Rescue program priorities may be necessary.

As noted above, staff anticipates that the implementation of Options 1-3 would result in a short-term workload increase for staff for 18 to 24 months, with minimal staff workload impacts thereafter, all of which staff believes could be handled by existing staff. Option 4 would result in a more significant workload impact that may require the reprioritization of other Fire Rescue programs. No additional budget impact is anticipated.

The options for Board consideration are presented in order of staff support, with little support for Option 4 in light of attempting to achieve a balance of predicted impact/success with best use of staff resources. If the Board desires to implement Option One, staff recommends establishing a 300 foot minimum distance; if the Board desires to implement Option Three, staff recommends excluding weekends.

Mr. Howard Lagomarsino, Fire Marshal, stated that this issue has been driven by constituent complaints with a concern for the environment, health, and safety, and today would be a continuation of the January 16 work session discussion. He reminded the Board that it charged his office with looking at options and their potential impacts, which would also involve working with the Office of the County Attorney to look at recodifying Chapter 6 of the County Code. He said they are seeking guidance to develop code language for the June 19 Consent Agenda, which has a May 31 deadline. He said the language must be solidified, then sent to the Air Pollution Control Board for approval, and they are looking at the July–September period as a time to work out the kinks with the Air Pollution Control Board for a November 6 public hearing. He emphasized that they need to understand the scope of the problem and base decisions on what was best and not on emotions.

Mr. Lagomarsino reported that from the period of 2011–2018, they averaged only about nine complaints per year, of which less than 5% were found to require enforcement action. He said that 63% of complaints involved commercial burning, for which some code changes seemed to be working as there has been a decrease in the number of complaints, though they would need more time to evaluate this as there was a commercial burn ban from February to April. He stated that they need to balance the rights of those affected by burning, as well as those who desire to burn, and to make sure they meet customer needs by being transparent with understandable and customer-friendly rules. He cited the County’s slogan to be professional, empathetic, and responsive.

Mr. Lagomarsino reviewed options developed at the January 16 meeting: increase burn distances from structures, eliminate the ability to grant permission to move a burn closer to a structure on neighboring property, utilize time restrictions, and establish a permit process. He remarked that the decisions made would not only impact his department but could result in illegal dumping, as those who cannot afford tipping fees may choose to dump debris in a wooded area or keep debris on a property. He said the wildfires in California were the result of a lack of land maintenance, which allows for fire spread as a factor that need to be taken into account.

Mr. Lagomarsino next addressed burn distance requirements, noting that the current minimum was 300 feet, though this could be reduced to 50 feet with neighbor permission. He said the required distance to the wood line was 50 feet and that by increasing this distance, they would reduce the area where people could burn. He said they used GIS to create a tool of maps to determine where different

distances would impact and stop burning, but he was only able to use structures and could not take into account wood lines. He said they used the tool to assess 300- and 500-foot distances and found that a 300 foot requirement would eliminate open air burning on quarter-acre lots. He presented a map showing the effects of a 300-foot restriction, with areas colored in white representing those where burning could occur, the color gold representing areas where one cannot burn, and red outlines representing development areas.

Mr. Lagomarsino reminded the Board that they had discussed how they could use the Zoning Ordinance as a way to identify areas where one could not burn, but it would be difficult to enforce as one could burn on one side of a line but not on the other side. He indicated that it was easier for an enforcer to work with distances to determine if a burn was legal, easier to understand for the public, and would not require updates as development occurs. He next presented a map showing the effects of a 500-foot requirement and remarked that as the required distance increases, the area of restriction also increases. He pointed out a potential unintended consequence whereby some landowners may have a wood line that prevents them from burning but could clear the land to increase the wood line and would then be allowed to burn. He remarked that the right thing to do could be to not change anything and they would have to take all of these factors into account.

Mr. Lagomarsino reviewed the third option they discussed, to utilize time restrictions. He said commercial burns are restricted to Monday–Friday, 8:00 a.m.–8:00 p.m. and pointed out that this has resulted in fewer complaints as people are away at work during these times. He said they may want to allow residential burns on weekends to not be too restrictive to landowners. He reviewed the fourth option, to require a burn permit for yard maintenance open air burning, which he estimates would result in 250 permits per year, and he recalled that there were mixed opinions expressed by the Board when this was discussed. He said they would have to have an education component to teach people how to burn and to offer alternatives. He said they have estimated that development of a fully automated platform would require 173 hours of staff time initially, which includes working with Information Technology, development of an educational component, and staff training, with 80 hours of staff time annually. He pointed out that, should they require an inspection of every site, this would increase the staff time required for permits by 2-3 hours.

Mr. Lagomarsino stated that they need to also consider the length of time a permit would be valid, if the permit fee should recover associated costs, if this would have an impact on illegal dumping, and if the staff time required for an inspection would impact staff time needed to inspect homestays. He recognized that some Board members have expressed a desire to make it easier for his office to enforce the Code, which was currently classified as a Class I Misdemeanor and carries up to one year in jail and a \$2,500 fine, although judges are imposing fines from \$25–\$200 and not imposing jail sentences. He added that there was no option to impose civil fees as this would require legislation at the state level. He summarized what he was seeking in terms of Board direction and invited questions.

Mr. Randolph suggested they review each option and see if they could build consensus on each one.

Mr. Gallaway agreed to this process and asked if Board members had clarifying questions before they reviewed the options.

Ms. Palmer asked about the complaints that were categorized as “other.” Mr. Lagomarsino explained that these are not classified as open air burns in the sense of something they permit or regulate, such as camp, cooking, and recreational fires, which are exempted from the open air burn code. He noted that a couple of the complaints were warming fires created by homeless people.

Ms. Palmer asked if the February 15–April 20 forestry burn ban pertained to yard maintenance. Mr. Lagomarsino confirmed that it does and prohibits the burning of commercial debris waste. He noted that the State Code allows yard maintenance debris burning from 4:00 p.m.–12:00 a.m.

Ms. Palmer asked if the reason for the temporary ban was due to it being a windy time of year. Mr. Lagomarsino explained that it was usually windier and drier at that time of year, which allows fires to spread more quickly, which was the reason for the ban.

Mr. Palmer asked for confirmation that the current Code requires a yard burn to be 300 feet from a structure. Mr. Lagomarsino responded that the requirement was 300 feet or the structure has to be on the landowner’s property, in which case it could occur within 50 feet of the structure, but a neighbor could grant permission, which the Board expressed concern over as people may feel compelled to give permission.

Ms. McKeel asked for the total number of complaints. Mr. Lagomarsino responded that there were 73 complaints over the eight-year period, including three for yard maintenance.

Ms. Mallek remarked that it was important to realize the County rules are relatively weak, which was probably why there are so many that are not enforceable, and she expects that this would change if the Board strengthened the rules. She asked if the County would need to obtain the legislature’s approval to be able to impose fines. Mr. Lagomarsino responded that with a criminal offense, they have a burden of proof that was beyond a reasonable doubt and someone charged could receive jail time. He said that as a Dillon Rule states, it would take legislative action to allow for civil penalties. He noted that they could issue a ticket for a Class I Misdemeanor, but it was a criminal offense with a different burden of proof.

Mr. Kamptner added that civil penalties have been a legislative initiative presented to the Board, which could come back as they work through the process.

Ms. Mallek remarked that all of their work has been making allowances for those who want to burn and negating the concerns of those who suffer from this, which was why she has been pushing hard for many years to get better accountability. She noted that the worst offender in the Earlysville area was a certified burner who has left smoldering fires alone day after day.

Ms. Palmer asked Ms. Mallek if the burner was commercial. Ms. Mallek responded that it was agricultural burning.

Ms. Mallek asked if there has been an analysis of 1,000 feet. Mr. Lagomarsino responded that commercial was 2,000 feet with reduction to 1,000 feet.

Mr. Gallaway asked each Supervisor to comment on the distance requirement. Mr. Randolph expressed his preference for 300 feet.

Ms. Palmer acknowledged Ms. Mallek's concerns. She added that she has asthma and cannot be around burning. She pointed out she has neighbors in the rural area who burn dead wood, which they would not be able to with a 500-foot requirement in the rural areas. She said that she wonders if they should focus on enforcement of bad actors rather than restricting everyone and pointed out that burning of dead wood could be beneficial in reducing fires.

Ms. McKeel expressed agreement with Ms. Palmer about focusing on bad actors as she was concerned about making a change as a result of the acts of a small group of people.

Ms. Mallek remarked that dead wood rots, does not create a fire hazard, and this was not like California where they have to be raking the forest.

Ms. McKeel said she would not support more than 300 feet.

Ms. Mallek expressed a preference for 500 feet though she understands she would be outvoted but stressed the importance of eliminating the ability to burn on one's own property and putting others in jeopardy, as 300 feet was nothing if it was being pushed by wind.

Mr. Dill agreed with Ms. Mallek.

Mr. Gallaway said the consensus seems to be 300 feet. He asked for guidance from Mr. Lagomarsino, recognizing that Supervisors are not experts on determining what the proper distance should be. He said he does not want to use the distance requirement to result in bans, and if they want to ban burning, they should state this. Mr. Lagomarsino responded that from a fire safety standpoint, 300 feet was a standard that he could back up with science about fire spread, noting that the Air Pollution Control Board would allow no less than 300 feet without permission from neighbors.

Mr. Gallaway said he thinks there has been a consensus on distance.

Mr. Randolph expressed a preference for no closer than 300 feet and to not allow a waiver.

Ms. Mallek asked if the wood line layer would be added to the house distance. Mr. Lagomarsino responded that his next question for the Board was going to be if they desire to include wood line in the 300-foot distance. He cautioned that some may decide to clear their land so they could burn.

Ms. Palmer said she would not support 300 feet from the wood line, as she recognizes what it would exclude.

Mr. Lagomarsino remarked that one person who complained pushed for a larger distance from the wood line to burn, though their neighbor was too close at 289 feet and would not be able to burn anyway.

Ms. Palmer pointed out that if they were to ban burning from February 15–April 30, they would eliminate a lot of the time when the wind picks up.

Mr. Randolph commented that they have had a windy spring and they cannot count on wind being seasonal any longer.

Mr. Lagomarsino added that climatologists said there was lower humidity during the February–April period, which makes the ground drier and allows for fire spread. He pointed out that fire marshals are off work during the 4:00 p.m.–12 midnight time, although they are on call.

Ms. Mallek remarked that the 4:00 p.m. start time was not an allowance for every day but for when the weather conditions are appropriate, and if it was windy then burning was not supposed to occur. Mr. Lagomarsino responded that this was the case only if it was a red flag day.

Mr. Gallaway asked Supervisors to state their position regarding the requirement to notify neighbors. Ms. Palmer said she was okay with eliminating the ability to take away the permission.

Mr. Dill, Ms. Mallek, and Ms. McKeel concurred.

Ms. McKeel said she would like to figure out how to deal with brush fires caused by cigarettes tossed out of windows. She stated that there have been very few fire-related complaints in her district, though she realizes that there has been more in other districts and she was trying to give other Supervisors latitude and credit for this.

Mr. Lagomarsino pointed out that there are two facets to eliminating permission: eliminating the neighbor being able to grant permission, and the by-right to burn within 50 feet of one's own home. He said staff is looking at guidance as to whether to eliminate one or both of these facets.

Ms. Mallek remarked that both of these need to go.

Ms. McKeel said she would like to follow the recommendations of professional firefighters and those in the field; she was not getting the sense that they feel that some of these are necessary, but that they are trying to react to the Board and make suggestions because Supervisors have expressed concerns.

Mr. Randolph asked if it would be helpful at the public hearing to have some of the individuals state their support and the reason for it. Mr. Palmer remarked that the reason she said okay to eliminate the neighbor's permission was because of what was said about the 300 feet. She asked if they want to say for an individual that if they want to burn down their own house, it was their business.

Mr. Lagomarsino said that he has only dealt with open burn fires that spread off a property on two occasions in his 15 years with the County. He said that one case was on Profitt Road where a fire got out of the fire pit and spread to the neighbor's fence, but they were too close to the fence and they charged the person who violated this. He said the second involved an illegal burn for which they charged the person but lost in court.

Mr. Dill said he has not received a single complaint about fires in his three years on the Board. He pointed out that relying on professionals was to prevent houses burning and forest fires but does not address the issue of those with health issues.

Ms. Mallek pointed out that University of Virginia was burning regularly at Birdwood until they received complaints, and it had caused a fog in the area. She stated that this was a policy decision for the Board to make about the level of concern they would want their professional staff to address, and some jurisdictions have banned burning altogether.

Mr. Gallaway stated that there was consensus for eliminating the neighbor waiver. He said that he has struggled with it like Ms. McKeel and thinks it could possibly be worked out in option #4, and so he will wait and talk about that then. He said he was with Ms. Palmer on the 50-foot requirement on one's own property if it was not within 300 feet of someone else and was happy to take the consensus to a public hearing to hear what the public has to say. He asked Supervisors for their position on time restrictions in option 3.

Mr. Randolph said they need a two-step process, with the first requiring a permit, which would involve notification from the fire marshal's office to adjoining neighbors that a burn has been applied for. He said he does not support burning on weekends, as they have limited fire personnel available. He said the second step would be authorization from the fire marshal, which would be dependent on current weather conditions, as well as health conditions identified by neighbors. He said the permit fee should be sufficient to cover the cost of mailing notification to neighbors.

Addressing Mr. Randolph's comments, Mr. Lagomarsino said they monitor forestry for weather conditions and if a red flag day was issued, they have the authority to issue a burn ban. He added that the mailing of notification to neighbors and considerations of their health conditions would have an impact on staff time, though he does not have an exact analysis of this.

Mr. Dill remarked that this was far too bureaucratic; he does not think they should require a permit, having a fire marshal monitor weather conditions takes too much time, and the general burn ban system was sufficient.

Ms. Palmer said she does not support the requirement of a permit for the burning of yard waste, as this would be cumbersome for those in the rural areas who do not have internet access. She said that if they take away the 300-foot buffer from the structure and the ability for a neighbor to give consent on the 50 feet, they are in good shape. She said they have to rely on the majority of the people being good actors.

Ms. Mallek recalled that when she lived in New England, they would call the local government to request permission to burn on a specific day, and she believes that notification to the local fire station should be required. She said that she thinks too much is being made about the difficulty of a permit, but if there is not support for it, she will move on. She reiterated that notification should be given to the local fire station; in fact, she believes the notification should be mandatory.

Ms. McKeel expressed agreement with Ms. Palmer and Mr. Dill and indicated that Mr. Randolph's suggestion to require a permit goes too far. Ms. McKeel said she does not support the permit requirement.

Mr. Gallaway stated that other places have figured out a way to handle automated, complex notification and permission-granting systems. He said permits are required for home improvements, and it seems like a permit requirement could work. He added that education could be the key.

Mr. Randolph added that permit applications could be available at the local firehouse.

Ms. Mallek reiterated her support for notification of neighbors, as it was important to have neighbors talking to each other for purposes of community building.

Ms. Palmer asked Mr. Lagomarsino for the time necessary to set up a permit system. Mr. Lagomarsino responded that they have looked into the creation of an online application process, which would require an initial set up time of 173 hours, mostly consisting of Information Technology hours but also some staff training. He said he does not have an estimate of the time required for a manual application because he does not know how many people this would involve. He noted that their current system was very rudimentary and was not able to send out notifications.

Mr. Gallaway said they should not be held back by their own current capabilities, as services could be provided until those capabilities are brought up to par. Mr. Lagomarsino offered to explore this further, with the understanding that they do not currently have the infrastructure to do this at the moment. Mr. Gallaway responded that he doubts this statement and he thinks Mr. Lagomarsino was making this more complex than it needs to be. He said that he himself could build something using html where one hit "submit."

Mr. Richardson asked the Board to tell staff what they want staff to explore so he could pull a team together and answer the question using a multi-disciplinary approach. Mr. Gallaway said they seem to have enough to schedule a public hearing.

Ms. Mallek asked if to meet the minimum submission requirement of the State's Air Pollution Control Board, one could say something as general as notification was going to be required and the exact process was being written. She said they could start with a piece of paper with improvements to be made in the future. She said she really likes Mr. Gallaway's idea because it gets something going right away to improve the circumstance of what they are doing. She pointed out that other communities are doing this.

Mr. Kamptner asked if the Board has reached a consensus on time restrictions, option 3.

Ms. Mallek and Mr. Randolph advocated for allowing burns from Monday to Friday.

Ms. Mallek remarked that weekday burns would have a lesser effect on neighbors.

Ms. Palmer remarked that in that case, if one was in the rural area, they would not be able to burn on weekends.

Mr. Gallaway stated that the permit process and neighbor notification should address inconveniences, and he does not support restricting burns to certain days.

Ms. Palmer asked Mr. Gallaway if he supports notification to the fire marshal or department. Mr. Gallaway clarified that he does not want to get into the weeds of what the system should be and how it should operate. He said he would be okay with weekend burning and from 8:00 a.m. to 8:00 p.m., and that the informational system would take care of the need for time restrictions.

Mr. Lagomarsino added that there would be no burning during forestry bans. Mr. Gallaway confirmed this.

Ms. Mallek said the burden should be on the homeowner to inquire on the morning of the burn as to whether it was permissible.

Ms. Randolph remarked that Ms. Mallek has implicitly endorsed a two-step process. He suggested Mr. Lagomarsino bring back technological solutions, allow burns from 8:00 a.m. to 8:00 p.m., seven days a week, with notification to adjoining neighbors and assurance that the atmospheric conditions are appropriate. He said the application was the means by which the neighbors would find out a burn would take place. He added that he does not think this was complicated.

Ms. Palmer said she thinks they just said they were okay with permits and asked if there are four members in favor of this.

Ms. Mallek said notification.

Mr. Dill said that notification of neighbors was the most bureaucratic part.

Ms. Mallek said notification of the fire department and neighbors.

Ms. Palmer said this was not a permit.

Mr. Gallaway said that what he thinks they are doing was trying to figure out a way that they have to come back, whether it was a permit or application or act on the part of the burners, to state their

intention to burn, followed by certain steps to give approval and to have a means to allow neighbors to object. He explained that this would create an automated system while still providing those without internet access with a means to apply.

Ms. Mallek suggested that an easy way to notify neighbors would be to install a yard sign that indicates a permit was in process.

Mr. Gallaway asked Mr. Lagomarsino if the Board's position was clear or if he has questions for them. Mr. Lagomarsino indicated that he had direction for the first three items and would do research on developing the fourth.

Mr. Dill asked Mr. Richardson if his project team would get involved. Mr. Richardson confirmed that they would assist the Fire Department with the technical aspects of creating a notification process and come back to the Board.

Agenda Item No. 11. Review of Pilot Board of Supervisors Meeting Schedule.

The Executive Summary forwarded to the Board states that At the December 12, 2018 Board of Supervisors meeting, the County Executive proposed a staff-initiated change to the regular Board meeting schedule. The intent behind the proposal was to increase staff efficiency and productivity through a more balanced work calendar.

The proposal included:

- a shift of regular Board meetings from the first and second Wednesdays of every month to the first and third Wednesdays of each month
- the use of second Wednesdays for additional work sessions or closed meetings as needed
- a pilot period of six months to determine the comfort level with making the change permanent

The Board agreed to the proposal as presented, and a subsequent meeting on January 9, adopted an addition to the pilot to have the start times of both regular meetings begin at 1:00 pm to provide consistency and to recognize the importance of the evening session for public hearings and items that would require more public involvement.

As the six-month pilot period for the scheduling changes adopted by the Board in December ends, staff has worked to evaluate the effectiveness of the change.

The County Executive's Office has worked to engaged staff in multiple departments, including the Office of Management and Budget, the Economic Development Office, the Office of the Clerk, and the County Attorney's Office in developing a recommendation regarding the status of the pilot.

Based on those conversations and the desire to achieve with certainty, the increased productivity, efficiency, and quality of meetings, the County Executive is recommending the pilot be extended to December 2019. The additional time will provide ample opportunity to experience the full calendar of Board meetings and the corresponding shifts in the size of the agendas and the people/partner agencies affected.

Staff recommends that the Board meeting pilot schedule change be extended to December 2019.

Mr. Richardson presented. He recommended that they continue to pilot this for a period of time and said that staff was getting used to the changes of going from the first and second weeks to the first and third weeks, and he was not aware of any operational-level concerns from Community Development or other departments. He said staff could continue to monitor the scheduled and asked the Board if they had any problems, issues, or gaps that need to be addressed by staff. He pointed out that a longer trial period would allow the staff and Board to see more high and low work times.

Mr. Gallaway asked Ms. Borgersen for comment. Ms. Borgersen responded that the Clerk's Office was adapting and they are fine.

Ms. McKeel agreed that the Board needs to allow more time to see how it was working, at least six months.

Ms. Mallek pointed out that she serves on the State Workforce Board and has encouraged them to shift their meetings to Thursdays and Fridays so she would not miss the third Wednesday meetings, which she has missed over the last several months.

Mr. Randolph remarked that the spacing of the meetings with a two-week break has made his life easier, as it allows time for follow up and work on other things not tied specifically to the agenda. He said they have dramatically increased the quality of discussion and decision making during closed meetings with the additional time allotted.

Ms. Palmer said that she does not see that the quality of closed meetings has any bearing on waiting two weeks between meetings. She stated that her position remains as it was before, as she likes to have the second half of the month available as a block to deal with other things.

Mr. Dill expressed support for continuing with the experiment.

Mr. Gallaway agreed with Mr. Randolph's comments about the additional time allowing Board members to be more deliberative and provide more time to recover after a meeting. Ms. McKeel said she agrees with that completely.

Ms. McKeel noted that some members attended the community meeting earlier that day, at which they discussed bringing the public in. She suggested that they look at scheduling certain meetings of public interest, i.e., budget work sessions, at a time that was more convenient for members of the community to attend and/or listen. She added that many people with jobs cannot attend the Board meetings.

Mr. Dill asked Ms. McKeel if she was also saying that she would like to get people involved on a deeper level. Ms. McKeel pointed out that when the School Board meetings were moved to evenings, they were able to pull in a more diverse group of people who were not able to attend during the daytime. She advocated for holding more meetings in the evening.

Ms. Palmer pointed out that all of their other meetings are held at night, and currently she has many meetings at night.

Item No. 8.9. Environmental Services Division Quarterly Report – 3rd Quarter FY 19.

At this time, Mr. Trevor Henry asked if the Board wanted the opportunity to hear from Andy Lowe and Greg Harper relative to Item 8.9, as they were present and available.

Ms. Mallek said that as she was reading the Safe Chemical Waivers for the parks, she noticed that they are still using chemicals such as glyphosate, and that permissions were given for three to six months, with no oversight on about how successful something was. She said she would like to know the process and how these waivers were carrying out the true spirit of the Safe Chemical Policy when they are being rubber stamped and no thought given to the health of staff or the contractors. She asked if the County is just taking the word of the contractor who says this is what should be used or was somebody using some expertise on deciding what to do. She added that she was not supportive of using anything that was a chemical in the Crozet wetlands. She said this is extremely important to her because citizens expect the County to carry out the policy. She expressed appreciation for all of staff's work and looks forward to learning more.

Mr. Greg Harper, Environmental Services Chief, said staff would respond to these concerns in an email to the Board within the next day or two.

Agenda Item No. 12. Closed Meeting.

At 3:34 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 the Community Policy and Management Team and the Rivanna Solid Waste Authority for which there are pending vacancies or requests for reappointments; and
- under Subsection (6), to discuss and consider the investment of public funds in an affordable housing project in the northern portion of the Scottsville Magisterial District and infrastructure improvements in Crozet where bargaining was involved and where, if made public initially, would adversely affect the financial interest of the County; 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. the County's duty to maintain and repair real property that it owns in the Scottsville Magisterial District; and
 2. a possible boundary adjustment with an abutting locality.

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

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

Agenda Item No. 13. Certify Closed Meeting.

At 6:00 p.m., the Board reconvened in open meeting, and Mr. Dill **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of

Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. The motion was **seconded** by Ms. Palmer.

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

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

NAYS: None.

Agenda Item No. 14a. Boards and Commissions: Vacancies and Appointments.

Mr. Randolph **moved** the following appointment:

- **appoint**, Mr. Lance Stewart, Director of Facilities and Environmental Services to the Rivanna Solid Waste Authority with said term to expire April 1, 2021.

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

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

NAYS: None.

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

Mr. Roger Schickedanz, resident of Scottsville District and Co-Chair, 5th and Avon Community Advisory Committee, addressed the Board. He said the CAC has been addressing some County-owned land off Mill Creek Drive that has been addressed through various efforts by the Planning Commission and Board of Supervisors over the past few years, including a possible waste transfer station, an educational use, and County court location. He said they are concerned about the use of the land and would like it to be evaluated for its highest and best use. He said the CAC drafted a resolution asking the Board to initiate a small area plan process, as called for in the Comprehensive Plan, as a community collaborative process. He said the CAC would be happy to work with the Board and to volunteer their services to move this ahead.

Ms. Nancy Gill, resident and Mayor of the Town of Scottsville, addressed the Board. She invited the Board and staff to attend the next public session on Monday, May 20 at 7:00 p.m., to discuss short and long-term plans for the dissolved Scottsville Volunteer Fire Department.

Mr. Sean Tubbs, of the Piedmont Environmental Council, addressed the Board. He noted that he has been coming to Board meetings for 12 years. He addressed tonight's consideration of a public hearing for a steep slope change for EcoVillage, a 36-unit development along East Rio Road. He asked the Board to think about land use changes that have happened on this section of road over the last 12 years. He pointed out that East Rio Road extends for one mile until it reaches the intersection with the John Warner Parkway, which provides transportation options they did not have before, such as a trail and a different bus route that might support density for the #11 bus route. He stated that there was Treesdale Park, Laughlin Hill, Charlottesville Catholic School, and Dunlora Forest, which went in by right.

Mr. Tubbs clarified that he was not taking a position on EcoVillage, although he supports the general concept of it as they want to see density in the development area. He said this corridor fascinates him and recalled that a former Supervisor called for a small area plan for this area, and they are seeing this all across the development area. He said the County has very talented staff that was doing a good job on some of the things in house. He said the County is urbanizing with desirable levels of density, and there are many competing priorities creating work for Community Development staff. He noted that a major rezoning for the area was coming in a few months, and it would be great if staff would create a list of what the County wants in this area.

Ms. Laura Mellusi, resident and Vice-Mayor of the Town of Scottsville, addressed the Board. She said she wants to change the Board's view of Scottsville, noting that it has received some recent bad publicity, and she would share some positive aspects about their town she hopes they would consider when making future decisions. She said that Scottsville cares about residents, businesses, and neighbors. She said the community is a rural hub that expands beyond the town limits to include 15,000 residents and a tertiary population of 50,000. She said Scottsville values and strives to protect the natural environment as an asset for all to enjoy. She said Scottsville serves as caretakers for the James River and its watershed, public parks, reservoirs, a community swimming pool, historic canal and museum, 63 acres of walking trails and a fully-stocked fishing lake within one block of downtown.

Ms. Mellusi stated that businesses contribute to the vitality and economic growth of Albemarle County, and Scottsville was seeking new businesses, homeowners and was open to growth. She said Scottsville residents are vital to shared goals of tourism, economic growth, and quality of life. She said residents offer farm-to-table, international, vegan, organic, local, home-cooked, and old-fashioned diner menu options, as well as a Saturday farmers market. She continued that Scottsville first responders, paid police officers, and volunteer fire and rescue workers enhance the County's emergency services. She

said that events, schools, and churches unite the diverse population into a shared community, Dorrier Park was vibrant with hundreds of children, coaches, and families participating in sports activities, the James River Boys and Girls Club was fully enrolled, including some educational partnerships, and volunteers coordinate public festivals and events. She invited the Board to join her and promote the Town of Scottsville and the regional community as a desirable place to live, work, and visit.

There being no other comments, Mr. Gallaway closed the public comment portion of the meeting.

Agenda Item No. 16. **PUBLIC HEARING: CLE 201800250 Elizabeth Gruss Family Day Home.**
PROJECT: CLE201800250 Elizabeth Gruss Family Day Home.
PROPOSED: Special exception to allow for a family day home to care for up to 12 children in a residence.
ZONING CATEGORY/GENERAL USAGE: PUD Planned Unit Development – residential (3 – 34 units per acre), mixed with commercial, service and industrial uses.
SECTION: 20.3.1 13. Family day homes (reference 5.1.56).
COMPREHENSIVE PLAN LAND USE/DENSITY: RA Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/acre in development lots).
ENTRANCE CORRIDOR: No LOCATION: 1141 Fox Ridge Drive.
TAX MAP/PARCEL: 031B0-00-00-06800.
MAGISTERIAL DISTRICT: White Hall.
(Advertised in the Daily Progress on April 15 and April 22, 2019.)

The Executive Summary forwarded to the Board states that A “family day home” is a “child day program offered in the dwelling unit of the provider or the dwelling unit that is the home of any of the children in care for one through twelve children under the age of thirteen when at least one child receives care for compensation.” (Virginia Code § 15.2-2292 and County Code § 18-3.1 - definition of family day home). Family day homes for four or fewer children are treated as a residential occupancy and, therefore, no zoning-related approvals are required. The provider’s own children and any children who reside in the home are not counted in these numbers.

Virginia Code § 15.2-2292 enables localities to administratively approve family day homes for five to twelve children, provided that notice is given to abutting owners and none of them object. If a timely objection is received, a public hearing is required before the governing body. On September 11, 2013, the Board adopted an ordinance to amend the County’s family day home regulations to no longer require a special use permit for family day homes for six to twelve children and to allow them to be administratively approved, and to require a special exception if an abutting owner objects (See Attachment A for the current regulations).

Blossom Play School (CLE 2018-250) has applied for a family day home for up to ten children. After notice was sent to abutting property owners, the County received one objection to the proposal within the 30-day notification period. Because of the abutting owner objection, a special exception is required.

Blossom Play School is located at 1141 Fox Ridge Drive in the Earlysville Forest neighborhood. (Location Map- Attachment B). Blossom Play School is seeking a family day home license for up to 10 children. Supplemental information provided by the applicant is included as Attachment C. The objection received from the abutting owners is provided as Attachment D and the objection is based on the Earlysville Forest Homeowners Association covenants. Detailed staff comments on the neighbor concerns are provided as Attachment E. Letters of support are provided as Attachment F. County Code § 18-5.1.56(b)(7)(b) provides that, in acting on a special exception, the Board “shall consider whether the proposed use will be a substantial detriment to abutting lots.” The objection received does not cite any concerns regarding detriment to abutting lots. Staff opinion is that authorizing the family day home to provide care for up to 10 children with the conditions below imposed would not create a substantial detriment to abutting lots.

The County Attorney advised that an application for this special exception must be evaluated on its merits under the applicable factors and criteria in the Zoning Ordinance and not on whether the proposed use may conflict with private covenants. If the proposed use violates the covenants, it may be enforced by the homeowners’ association.

Staff recommends that the Board adopt the attached Resolution (Attachment G) to approve the special exception.

Ms. Rebecca Ragsdale, Principal Planner, stated that this was a public hearing to consider a special exception for a family day home. She said the applications are initiated through their staff-level zoning clearance process, under which staff typically makes the decision; however, the Code of Virginia’s provisions for family day homes do not allow staff to administratively approve family day homes serving 5–12 children if they receive a written objection from an abutting property owner. She pointed out that is why this application is before the Board this evening. She noted that the Zoning Ordinance has a number of supplemental regulations that covers parking and traffic and provides for notice to the abutting owner. She noted that they implemented this process in 2012 by changing from a special use permit to a special exception process to create a more streamlined and expedited process.

Ms. Ragsdale reported that the property was located towards the back of the Earlysville Forest Subdivision and backs up to open space owned by the Earlysville Forest Homeowners Association, which was located on a cul-de-sac. She said that Blossom Place School was currently located in Dyke and serves four children, and the proposal was to move to Earlysville Forest and to serve 10 children between the hours of 8:30 a.m.–5:30 p.m. She presented an aerial view of the property and noted that it was about 1.5 wooded acres and meet the requirements of the supplemental regulations, including ample parking. She stated that the criteria in the ordinance and the finding the Board was asked to make was whether the proposed use would be a substantial detriment to the abutting lots. She said they were looking at the concerns of the neighbors and impacts on them and would typically recommend conditions to mitigate any concerns.

Ms. Ragsdale said the HOA submitted a rejection within the 30-day notification period that expressed concern over consistency with their covenants, and after the 30-day notification period, they received a communication from an abutting neighbor concerned that a business would be located on the street. She said that family day homes are considered to be accessory uses that do not change the character of the neighborhood or result in a business presence on the street, based on the supplemental regulations and the nature of the use. She pointed out that the report notes that the HOA covenant conflict was not a factor that would cause substantial detriment, the HOA has the opportunity to enforce its covenants through their own private actions, and staff did not find that there would be a substantial detriment to the abutting property owners. She said that staff recommends approval with conditions that limits the number of children to 10 and to have a staggered pick-up and drop-off times, which was a condition the County has imposed on other family day homes. She invited questions.

Ms. Mallek asked for an explanation of the precedence level of HOA covenants versus County regulations, for the benefit of the public. Mr. Kamptner responded that the County could only regulate through its zoning regulations. He said when considering a special exception, only factors related to zoning are considered and the County could not enforce private covenants, as these need to be enforced by the people or the organizations authorized to enforce them. He described this as a dividing line between private and public rules.

Ms. Mallek remarked that the public rules do not get in the way of enforcement of the private HOA, and if they were stronger than the County's, they have every right to go forward. Mr. Kamptner agreed.

Ms. Palmer asked for confirmation that the Board could not take the HOA into consideration. Mr. Kamptner confirmed this and said the sole criteria the Board may consider was whether the proposed use would be a substantial detriment to abutting lots, which must be tied to principles of zoning such as noise, traffic, light, and the types of factors the Board typically considers when making a zoning decision.

Ms. McKeel asked for confirmation that regardless of the Board's decision, the HOA has the ability to enforce. Mr. Kamptner confirmed this.

Mr. Gallaway invited the applicant to address the Board.

Ms. Elizabeth Gruss addressed the Board and explained that she has run a daycare out of her house for two years and became state licensed to be able to take more than four children, primarily for financial reasons. She said she has been renting from her parents, was looking to buy a house, and the house in Earlysville Forest was private and fit her needs. She said they can only see two houses, and she does not want to be in the city so as to not disturb neighbors. She said she sent letters to 12 neighbors asking if anyone had an issue and received only positive responses. She said a family friend has an in-home daycare of eight children in Earlysville Forest and went through the HOA, which wrote a letter of recommendation to the Board of Supervisors. She emphasized that she tried to conduct due diligence before buying the house and did not think there were any issues and then she got a letter from the HOA. She said several parents would carpool, her two immediate neighbors are fine with her having an in-home daycare, and two neighbors have provided letters of recommendation.

Mr. Gallaway asked Ms. Ragsdale if it would be typical to obtain zoning approval prior to notifying an HOA. Ms. Ragsdale responded that they do not typically contact or request documentation from an HOA during the zoning approval process, as it was approved on the zoning basis alone. She noted that the other family day home also abuts open space and the County did not receive written objection from the HOA, at that time.

Ms. Palmer remarked that one would typically sign the HOA agreement when buying the house and she assumes that one would read it.

Mr. Dill asked if the two homeowners on abutting properties complained. Ms. Ragsdale responded that she only received the written correspondence from the HOA and a neighbor across the street who was not an abutting property.

Mr. Gallaway opened the public hearing.

Mr. Brian Dean McKay, President of the Earlysville Forest Home Owner's Association (HOA), addressed the Board. He stated that the HOA was established in 1981 as a Virginia non-stock corporation, and they are obliged to the rights and responsibilities of the Virginia Property Owners Association Act, which gives them legal authority. He said they are not opposed to the family day home, as it was written in their covenants and they have approved her application, but the limit was five children.

He pointed out that prior to 2015, the covenant only permitted private use and not a business, until it was amended to allow Ms. Brown to have five children. He stated that the covenants are maintained to maintain property values and are important to the HOA. He pointed out that anyone who buys into the community signs and agrees to abide by the by-laws and covenants. He noted that the County Attorney has said the County could not consider private covenants, although the County's website says that you must conform to Virginia law, and the HOA and its covenants have been established under Virginia law.

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

Ms. Palmer asked Mr. Kamptner to reply to the comment on the legality of the covenant. Mr. Kamptner remarked that the HOA may have been established under Virginia law, but its covenants are private restrictions over which the County has no authority to enforce.

Mr. Gallaway remarked that they could allow the zoning to go up to 50 kids, and it does not restrict or do anything because the HOA could still take its own actions based on its covenants. Mr. Kamptner confirmed this.

Mr. Randolph referenced Compliance with HOA Covenants in Attachment E of the staff report. He said it indicates that a zoning clearance for a family day home on Rowan Court was approved for up to eight children on January 12, 2015. He referenced a letter from Carol Jewell of 835 Earlsyville Forest Drive indicating that a precedence was set in the mid-1980s when Cathy Petchell opened a home daycare on Stillwater Lane in Earlsyville Forest. He pointed out that Ms. Petchell went on to open three more daycare facilities, and he suspects that she had more than five children at this location.

Ms. Mallek expressed understanding with the concerns and responsibilities of the HOA but said the application has met the County's zoning requirements.

Mr. Gallaway pointed out that in a neighborhood with a limited supply of daycare, the presence of a facility could help property values. Ms. McKeel agreed.

Ms. Mallek **moved** that the Board adopt the proposed resolution to approve CLE201800250. The motion was **seconded** by Mr. Randolph.

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

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

NAYS: None.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR CLE 2018-250 BLOSSOM PLAY SCHOOL (ELIZABETH GRUSS)**

WHEREAS, Elizabeth E. Gruss, a property owner of Tax Map Parcel 031B0-00-00-06800, submitted a request for a special exception in conjunction with CLE 2018-250 Blossom Play School (Elizabeth Gruss) to allow Blossom Play School to care for ten children.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request, staff's supporting analysis included in the executive summary, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.56(b)(7)(b) and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to allow Blossom Play School to care for ten children in conjunction with CLE 2018-250, as described hereinabove, subject to the performance standards for this use in Albemarle County Code § 18-5.1.56(b) and the conditions attached hereto.

* * * * *

CLE 2018-250 Blossom Play School (Elizabeth Gruss) Special Exception Conditions

1. No more than ten (10) children may be in care at the family day home, exclusive of the provider's own children and any children who reside in the home.
2. Child drop-off and pick-up times shall be staggered at a minimum ten (10) - minute interval so that no more than two vehicles arrive to drop off or pick up children at the same time.

Agenda Item No. 17. **PUBLIC HEARING: SP201800022 Dogtopia.**

PROJECT: SP201800022 Dogtopia.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL(S): 04500000010900.

LOCATION: 315 Rivanna Plaza Dr, Ste 120, Charlottesville, VA 22901.

PROPOSAL: Use an existing, commercial building space as an indoor kennel.

PETITION: Indoor commercial kennels are permitted by special use permit in the Highway Commercial (HC) zone under Section 24.2.2(10) of the zoning ordinance. This development would be located in a portion of an existing strip commercial building on 3.32 acres of land. No dwelling units proposed. ZONING: HC Highway Commercial – commercial and service; residential by special use permit (15 units/ acre).

OVERLAY DISTRICTS: EC Entrance Corridor – Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist

access; AIA Airport Impact Area – Overlay to minimize adverse impacts to both the airport and the surrounding land; Managed Steep Slopes.
COMPREHENSIVE PLAN: Commercial Mixed Use which allows commercial, retail, employment uses, with supporting residential (no maximum density), office, or institutional uses in Neighborhood 1 of the Places29 Development Area.
(Advertised in the Daily Progress on April 15 and April 22, 2019.)

The Executive Summary forwarded to the Board states that at its meeting on March 5, 2019, the Planning Commission voted to recommend approval of SP201800022 with the conditions recommended by staff in the presentation. The presentation by staff reflected a revision to Condition #4, which addresses noise, that more appropriately considered the current zoning of the site. The Commission's staff report, action memo, and minutes are attached (Attachments A, B, and C).

The Planning Commission recommended approval of the special use permit with the recommended conditions.

Since the Planning Commission meeting, staff has again revised Condition #4 to add clarity to the interpretation and implementation of the condition in the future. There is no substantive change to the condition.

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

Ms. Mariah Gleason, Planner, stated that the application was for a commercial kennel use in an existing, fully developed, strip commercial shopping center located on Route 29 between Lowes and Schewel's furniture store and in front of Kegler's bowling alley. She said it would be 6,500 square feet and offer daycare, grooming, and boarding services, as well as a proposed outdoor play space located adjacent to the tenant space. She said the area was built to support commercial uses and there are no concerns regarding traffic impact or a change to the existing character and function of the district, but because this was a new use on the property, staff recommends conditions to make sure there are no negative impacts to abutting tenants and neighbors. She said the conditions address the design and use of the outdoor play area in terms of noise, parking, and the standards associated with the project's location in an Entrance Corridor. She pointed out that a slight change has been made to the phrasing of Condition 4 at the request of the applicants that has necessitated a revision to the resolution document, which she distributed to the Board (copy on file in Clerk's office). Ms. Gleason said the revised language is substantively the same in that it protects the neighboring commercial areas from noise. She said the language changes when and how the condition was evaluated. She explained the revised language has been vetted by the Zoning Administrator, County Engineer and County Attorney. She said the Planning Commission and staff recommend approval of the application. She invited questions from Board members.

Mr. Dill asked if there was a childcare facility in the shopping center. Ms. Gleason said the childcare facility is no longer located in the center, but they heard during the Planning Commission's meeting that there might be another childcare facility in the future.

Mr. Dill asked if there were any concerns with Route 29 traffic, dogs, toddlers and parking lots as a potentially dangerous mix. Ms. Gleason said staff considered that mix in how the outdoor play area was being built. She explained the play area was recommended for access through the building, not directly, and also the noise condition is in accord with the ordinances in commercial areas, which keeps the noise level at a 65 decibel as stated in condition 4.

Mr. Dill asked that the revision be restated. Ms. Gleason responded that the revision is not a substantial change; it just changes when and how the condition is evaluated. She said before the condition was written to be evaluated before occupancy and with a noise simulation test, and it is now written to be before the building permit is issued and be a sound consultant case study.

Ms. Palmer asked if this included a kennel or was it all doggie daycare. Ms. Gleason responded that there was an overnight boarding service. Ms. Palmer commented that there would then be a lot of barking. Ms. Gleason said the nearest residential area was located across Route 29 almost one-fourth of a mile away.

Mr. Gallaway invited the applicant to address the Board.

Ms. Valerie Long, of the Williams Mullen law firm, representing the applicant, addressed the Board. She said that John Houston was the company's principal, his wife Nikki was his business partner, and he was not able to attend this meeting as he was home recovering from a knee injury. She thanked County staff for trying to resolve this in a way that makes sense. She explained that the reason for the change in the condition was that originally as proposed, they would have had to install and test sound proofing material before the certificate of occupancy would be issued. She said they have asked that this be mirrored to the way it was phrased with a previous special use permit for the Willow River veterinary service two years ago.

Ms. Long said they must demonstrate to the County Engineer and Zoning Administrator that the plans when constructed would result in noise levels in the adjacent tenant space that are under the maximum sound levels of 65 decibels. She said their consultant indicated that the typical noise level

heard in the adjacent tenant space was 35 decibels. She explained that the consultant has recordings of the sounds made by different breeds of dogs and plays this in the facility. She said she learned from the real estate development manager of Dogtopia that he personally inspects every site in the region and would inspect this during the construction process to ensure that the proper amount of insulation and drywall was installed, as well as an acoustical sealant. She said they are confident that the facility would fall well within the County's decibel standard.

Addressing Mr. Dill's comment about potential conflicts with a childcare center, Ms. Long said the site was not currently occupied by the childcare center but the landlord and owner of the property was actively marketing it for childcare. She pointed out that the entrances are on opposite sides of the parking lot, dogs must be brought in on a leash, childcare facilities typically require parents to accompany their children into the facility, and both her client and the landlord are comfortable with this. She said the pet play area would be accessed internally and was surrounded by an 8-foot tall fence. She said the owner owns Dogtopias in Midlothian and Chesterfield and says he has never received a complaint, even though one was within a couple hundred feet of a residential neighborhood. She said it is a full-service daycare, grooming and boarding facility.

Ms. Palmer asked for the number of animals the facility could board overnight. Ms. Long offered to review notes she had taken at the CAC meeting, at which this information was provided.

Mr. Dill asked for the square footage of the facility. Ms. Gleason responded that the indoor area was about 6,500 square feet and the outdoor play area was about 1,000 square feet.

Mr. Gallaway opened the public hearing.

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

Ms. Long informed the Board that the overnight boarding average was 15–20, the daytime capacity was 50–60 dogs, and 10–15 dogs would be outside in the play area. She added that dogs must be vaccinated and male dogs must be neutered.

Mr. Gallaway **moved** that the Board adopt the revised resolution to approve SP201800022 Dogtopia, subject to conditions contained therein. The motion was **seconded** by Ms. McKeel.

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

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

NAYS: None.

RESOLUTION TO APPROVE SP 2018-22 DOGTOPIA

WHEREAS, the Applicant submitted an application for a special use permit to allow an indoor kennel use in an existing strip commercial building on Tax Map Parcel 04500-00-00-10900, as well as an outdoor play space in an existing lawn area directly beside the tenant space the kennel will occupy, and the application is identified as SP201800022 Dogtopia ("SP 2018-22"); and

WHEREAS, on March 5, 2019, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2018-22 with staff-recommended conditions at the Planning Commission meeting;

WHEREAS, on May 1, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2018-22.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-22 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 §§ 18-24.2.2(10) and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-22, subject to the applicable performance standards for kennels in Albemarle County Code § 18-5.1.11, and the conditions attached hereto.

* * * * *

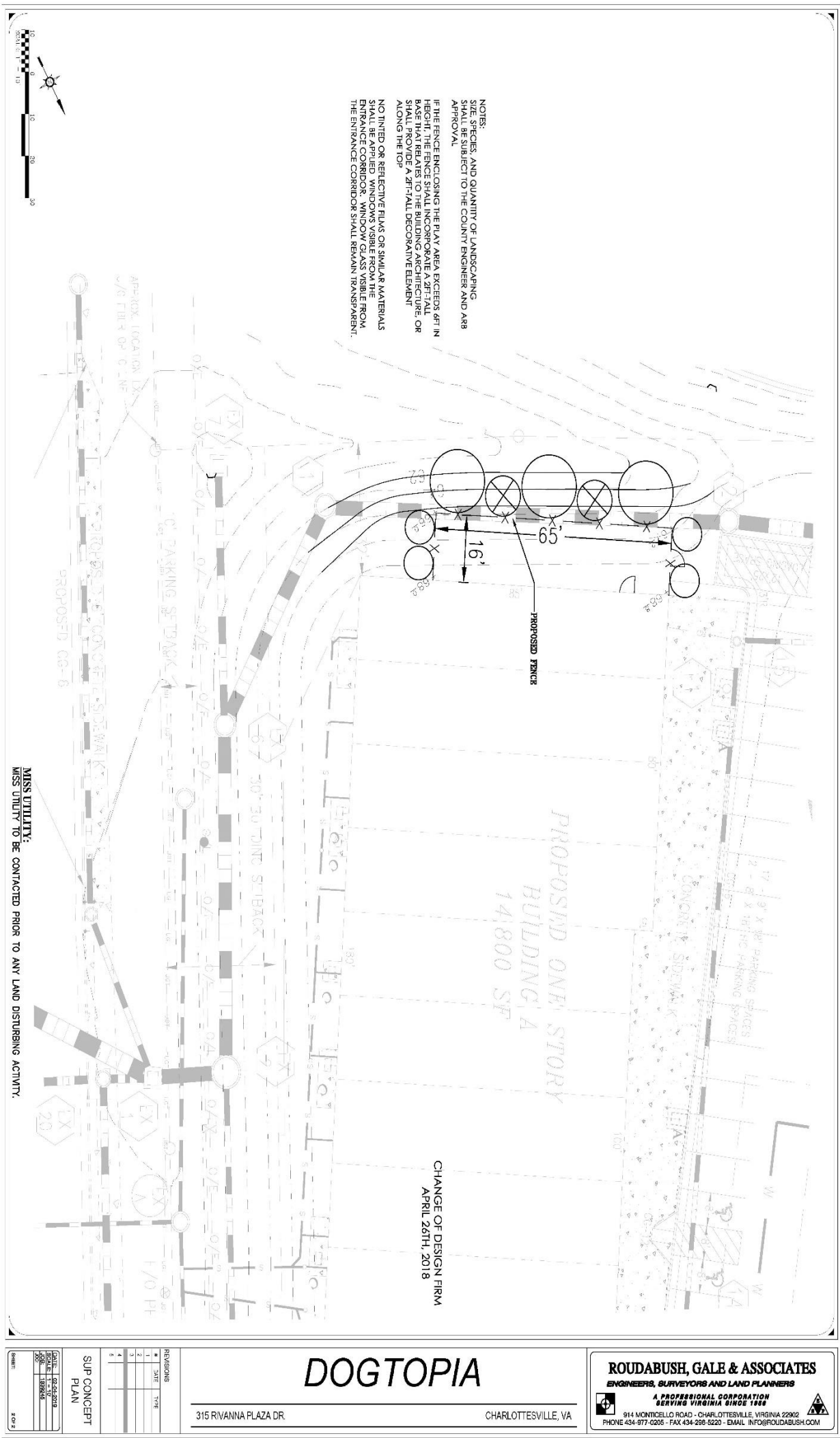
SP-2018-22 Dogtopia Special Use Permit Conditions

1. Development of the use shall be in general accord with the conceptual plan titled "Dogtopia" prepared by RJA Architect and Roudabush, Gale & Associates, with the latest revision date of 2/4/2019, 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 outdoor play area and fence as shown on the plan.

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

2. Outdoor play hours shall be restricted to no earlier than 8am and no later than 7pm.
3. The proposed landscaping within the stormwater drainage easement will be limited to shrubs and small trees (as listed in the County approved plant list). No medium or large tree(s) shall be planted within the easement.
4. Prior to the issuance of a building permit, the applicant must submit information to the satisfaction of the County Engineer and the Zoning Administrator (of their designees) that demonstrates the proposed use will not exceed a 65-decibel maximum as measured in any adjacent commercial space in accord with County Code 18-4.18-04.
5. A parking study shall be provided by the applicant, subject to approval by the Zoning Administrator, to confirm that there are a sufficient number of spaces on site and to ensure there are no parking conflicts with other shopping center tenants when more than the seven allotted parking spaces are needed, prior to the approval of the site plan amendment.
6. The fence shall not conceal any part of the triple window on the southeast corner of the building or either of the 2 easterly brick piers.
7. The fence material and detailing are subject to Architectural Review Board (ARB) review. An 8-foot-tall fence shall have only bottom and top rails (no intermediate rails). The fence color shall be coordinated with the existing building colors and is subject to ARB approval.
8. Landscaping shall be provided on the east and south sides of the fence to the satisfaction of the ARB.
9. No tinted or reflective films or similar materials shall be applied to windows visible from the Entrance Corridor. Window glass visible from the Entrance Corridor shall remain transparent.



Agenda Item No. 18. **PUBLIC HEARING: SP201800016 EcoVillage Charlottesville Preserved Steep Slopes.**

PROJECT: SP201800016 EcoVillage Charlottesville – Preserved Steep Slopes.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL(S): 06100000021000.

LOCATION: Rio Road E, between Alwood Lane and Rockbrook Drive; existing addressed structures on the subject property(s) include 480 Rio Road E.

PROPOSAL: Disturbance in the Preserved Steep Slopes Overlay District to accommodate the development of "private facilities" (new commercial entrance and parking area) for the proposed "EcoVillage Charlottesville" development.

PETITION: "Private facilities on preserved slopes" pursuant to Zoning Ordinance Section 30.7.4.b.2.

ZONING: R4 Residential, which allows residential uses by right (4 units per acre).

OVERLAY DISTRICT(S): Airport Impact Area; Steep Slopes – (Managed) and (Preserved).

COMPREHENSIVE PLAN: "Neighborhood Density Residential" which calls for residential use (3–6 units/acre) and supporting uses such as religious institutions, schools, and other small-scale non-residential uses; in the Development Area in Neighborhood 2 (Places29).

(Advertised in the Daily Progress on April 15 and April 22, 2019.)

The Executive Summary forwarded to the Board states that at its meeting on January 15, 2019, the Planning Commission (PC) conducted a public hearing on special use permit application SP201800016. At the applicant's request, the PC deferred action until March 19, 2019, when the PC conducted a second public hearing and recommended approval (with conditions) of SP201800016.

The staff report, action memo, and minutes from the January 15 public hearing are provided as Attachments A through C, and the staff report, action memo, and minutes from the March 19 PC public hearing are provided as Attachments D through F.

Approval of this special use permit, if granted, would only permit the proposed disturbance of preserved steep slopes (as shown on the SP application materials, and subject to any conditions of approval that may be imposed, including those recommended by the PC). The EcoVillage Charlottesville development would still need to obtain site plan, subdivision plat, and water protection ordinance plan approvals. To date, the only County approval for EcoVillage Charlottesville has been Initial Site Plan SDP201800056, which was approved with conditions on October 11, 2018.

As noted above, the PC conducted a second public hearing on March 19, 2019 and voted (by a vote of 6:0) to recommend approval to the Board of Supervisors of SP201800016 with conditions. Staff recommends that the Board follow the PC's recommendation and adopt the Resolution to approve SP201800016 with conditions (Attachment G).

Mr. Tim Padalino, Senior Planner, stated that the applicants are EcoVillage, Inc. represented by Tom Hickman, Dave Redding, and Shimp Engineering. He said he would describe the proposal, review the location and characteristics, and present the Planning Commission's recommendations. He explained that the request was to disturb preserved steep slopes, which he pointed out as areas shaded in yellow on the exhibit. He explained that the request was to construct a new commercial entrance and new parking areas in EcoVillage, which are considered to be private facilities under the ordinance and are circled in orange. He said that the total amount of proposed disturbance within the Steep Slopes Overlay District would be approximately 11,700 square feet, representing 20% of the total preserved steep slopes areas.

Mr. Padalino explained that the project was an infill development of three dozen proposed dwelling units and was consistent with the future land use plan, designed in ways that would strongly support and advance numerous Comprehensive Plan goals, objectives, and recommendations. He explained that the petition before the Board was pursuant to Zoning Ordinance Section 30.7.4.b.2, which was for private facilities on preserved slopes. He said this was the only use permitted by special use permit in the Preserved Steep Slopes Overlay District, and this type of application has not been processed by Community Development and the County since the Steep Slopes Overlay District was established by ordinance.

Mr. Padalino said the item before the Board and the subject of the public hearing was the special use permit for the private facilities – while the dwelling units, open space, and all the other elements of the project are otherwise permitted by-right, inclusive of proposed bonus density factors and some pending special exception requests. He noted that the initial site plan was approved last October, with conditions. In addition, he noted that VDOT would have to review and approve the location and design of the proposed commercial entrance as part of any subsequent site plan review process as well as any easements necessary to implement the overall project, which would be a required part of the final site plan and final plat review processes.

Mr. Padalino continued that the site plan was 6.3 acres of partially forested and hilly land on TMP 61-210, located within the development area, within the Rio Magisterial District, and within the Places 29/Rio Master Plan area. He said the total north to south sloping grade change exceeds 70 feet, was characterized by extensive frontage along a steep, curvy section of Rio Road East, lay within the vicinity of Meadow Creek, and was physically separated by the road and waterfront properties. He noted that other existing conditions, including the shoulders of Rio Road East and some of the frontage of the subject property, include problematic issues with stormwater and storm drainage, which were documented by the applicant and the focus of discussion at last September's community meeting.

Mr. Padalino presented a Critical Resources map to demonstrate the extent of the preserved and managed steep slopes of the Steep Slopes Overlay District within which the property lies. He presented a zoning map and noted that the property was zoned R4 as the base zoning district. He presented the Future Land Use Plan and noted that it designates the property for neighborhood density residential uses at a gross density of 3-6 units/acre. He presented an image of the existing private driveway entrance and nearby steep slopes and forest with a view of the property's road frontage as seen from the intersection with Agnes Street. He said that some preserved steep slopes have characteristics of both preserved and managed slopes as some of the preserved slopes were established during road construction activity and were essentially steep road embankments characterized as manufactured and not natural, as they were established prior to June 1, 2012.

Mr. Padalino stated that other proposed areas of disturbance would impact preserved steep slopes that exhibit preserved characteristics, as described in the Zoning Ordinance, and all the preserved steep slopes on the property could be considered as part of a hillside system of slopes with an aggregate area exceeding 10,000 square feet and associated with nearby Meadow Creek. He presented an exhibit of the proposed private facilities, including the disturbance of proposed steep slopes which are represented in grey, in Attachment D4. He pointed out the proposed commercial entrance and parking areas and noted that the parking was separated from the residential core in order to cluster the development units closer together to create a more pedestrian-oriented community. He said the exhibit shows proposed mitigation practices for the identified stormwater and drainage issues, which staff believe was a solid starting point, though the County Engineer has identified certain modifications necessary and appropriate to improve them. He presented Attachment D3, the habitat planting plan, which shows how the applicant would mitigate impacts with grading and removal of existing vegetation, with a design of a stratified forest habitat of vegetation layers, including ground cover, shrubs, understory and canopy trees, native evergreen, native deciduous plants, and an area of tree protection. He said that staff believes this is a very strong start but that some slight modifications would still be necessary in order to demonstrate the threshold that is required by the ordinance for these mitigation practices.

Mr. Padalino said the Planning Commission held two public hearings, with the second including the applicant's revisions made in response to staff comments and voted unanimously on March 19 to recommend approval with several conditions. He reviewed the conditions, with the first being to limit the disturbance limits to what was shown in the special permit application materials; the second was that the final site and landscape plans would be in general accord with the application materials, provided that modifications were made to the satisfaction of the Director of Planning, with more landscaping materials and some specified with a larger caliper to jumpstart the mitigation. He explained that the third condition provided that stormwater, drainage, and grading improvements would be in general accord with the application materials, provided that certain requirements described in Subsections A, B, C, and D are met on the site plan and the Water Protection Ordinance (WPO) plans to the satisfaction of the County Engineer. He said the fourth condition was that stormwater facilities and practices for ensuring water quality compliance shall be provided onsite, as opposed to the purchase of nutrient credits. He concluded that staff recommends that the Board follow the Planning Commission's recommendation and adopt the resolution, Attachment G, to approve SP201800016, with conditions.

Mr. Gallaway invited the applicant to address the Board.

Mr. Tom Hickman, representing EcoVillage, addressed the Board. He said the project was similar to Emerson Commons in Crozet using that concept with clustered homes and a similar social and governing approach. He said there would be work done on the quality of the water and they are working with several Virginia Tech professors to study how the wind and shadows hit the property, how people would move through the homes, and how stormwater would move through the property. He said that the University of Virginia has conducted design studies of how they could cross Rio Road down to Meadow Creek with bridges. He said they are excited with what they could do with the disturbed slopes at the new entrance. He added that they need to get past the approval process before going into more detail.

Mr. Peter Russell, of Shimp Engineering, addressed the Board. He noted that he has worked with staff and the Planning Commission to make changes to reduce slope disturbance, and they accept all the recommended conditions.

Mr. Gallaway opened the public hearing.

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

Mr. Randolph said he was struck by the fact the proposal would eliminate 21.6% of the preserved slopes that are going to be disturbed. He described the location as beautiful with a classic curve and said he would hate to see the topography change on the curve. He expressed concern with VDOT's recommendation of the location for the entrance, as there are blind curves on either side of Rio Road, and it was assumed that vehicles would be traveling between 30–35 MPH around the curves and the site distance would rapidly shrink at higher speeds. He said a driver pulling out and seeking to go north on Rio East would have a greatly reduced site distance of an oncoming car to their left. He acknowledged that his concerns do not rise to the level to justify a vote against the proposal but was expressing concerns for the record.

Mr. Dill recalled reading in the materials that there was a business at the site, and he asked if the village itself was considered to be a business or if they would be selling any items. Mr. Hickman responded that they may have community activities in the common house.

Ms. Mallek asked if there was a way for those coming into town to go out the old driveway or if the old driveway would be obliterated. Mr. Hickman responded that the new entrance was not much further past it and pointed to the old and new entrances on the map before the Board.

Ms. Mallek asked that they tried to save the big trees on the property and not bulldoze them. Mr. Hickman responded that they have pinpointed them and would do their best.

Mr. Gallaway remarked that with the concept of EcoVillage, they need to address all the remarks on the environmental pieces as stated at the community meeting. He recognized that stormwater was the biggest issue raised at the CAC meeting, and this was the type of development that should present an example of what they would like to see. He said they have a high bar to meet and asked that they exceed it. He said that fixing the entrance could mitigate some of the problems with stormwater that were expressed by a neighbor. He acknowledged that density development in the Rio corridor generates a lot of public concern among area residents, though this project has not generated concern and has the support of neighbors.

Mr. Randolph added that this was a tribute to the developer and engineer, as a cookie cutter project without stormwater mitigation would likely have generated a public reaction.

Ms. Palmer asked Mr. Padalino if the stormwater was being adequately taken care of. Mr. Padalino responded that the mitigation practices would include a combination of grey and green infrastructure. He said they would reconstruct or repair an existing concrete ditch and introduce a curb and gutter along the inbound lane, with drop inlets on either side of the entrance, as one of the conditions of the County Engineer. He said the County Engineer also recommended that these facilities be oversized to accommodate a 25-year storm, beyond the minimum requirement of a 10-year storm, which correlates with what VDOT has the authority to do on its right-of-way. He said this would also involve reconstruction and regrading of the ditch and culvert further downstream from the proposed entrance.

Mr. Palmer asked if the grey infrastructure along Rio Road would be dedicated to the County. Mr. Padalino responded that it would remain in the public right-of-way, with all easements and agreements having to be worked out during the site plan process and final plat plan process, which would be carefully reviewed by the County Engineer and VDOT. He presented a slide with a list of the conditions suggested by the County Engineer. He said it was determined that a steeper slope might be appropriate uphill from the proposed commercial entrance and a lesser slope grade downhill.

Mr. Gallaway expressed his understanding that the County Engineer would ensure the applicant meet the requirements needed and EcoVillage residents would utilize mitigating practices for their homes, walking paths, water flow, and tanks under the parking lot, which was beyond what was required.

Ms. Mallek said she assumes the County Engineer would also look at the outfall of water, which would have tremendous velocity by the time it gets to Cochrane's Mill. She noted that there would be a greater impervious area than there was now.

Mr. Gallaway **moved** that the Board adopt the proposed resolution to approve SP201800016, with conditions as contained herein. The motion was **seconded** by Ms. Palmer.

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

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

RESOLUTION TO APPROVE SP 2018-16 ECOVILLAGE CHARLOTTESVILLE - PRESERVED STEEP SLOPES

WHEREAS, the Applicant submitted an application for a special use permit to allow the disturbance of steep slopes to accommodate the development of private facilities on Tax Map Parcel 06100-00-00-21000, and the application is identified as SP201800016 EcoVillage Charlottesville – Preserved Steep Slopes (“SP 2018-16”); and

WHEREAS, on January 15, 2019, after a duly noticed public hearing, the Albemarle County Planning Commission agreed to the Applicant’s request to defer action to allow the Applicant to address several issues of concern; and

WHEREAS, on March 19, 2019, after a second duly noticed public hearing, the Albemarle Planning Commission recommended approval of SP 2018-16 with staff-recommended conditions; and

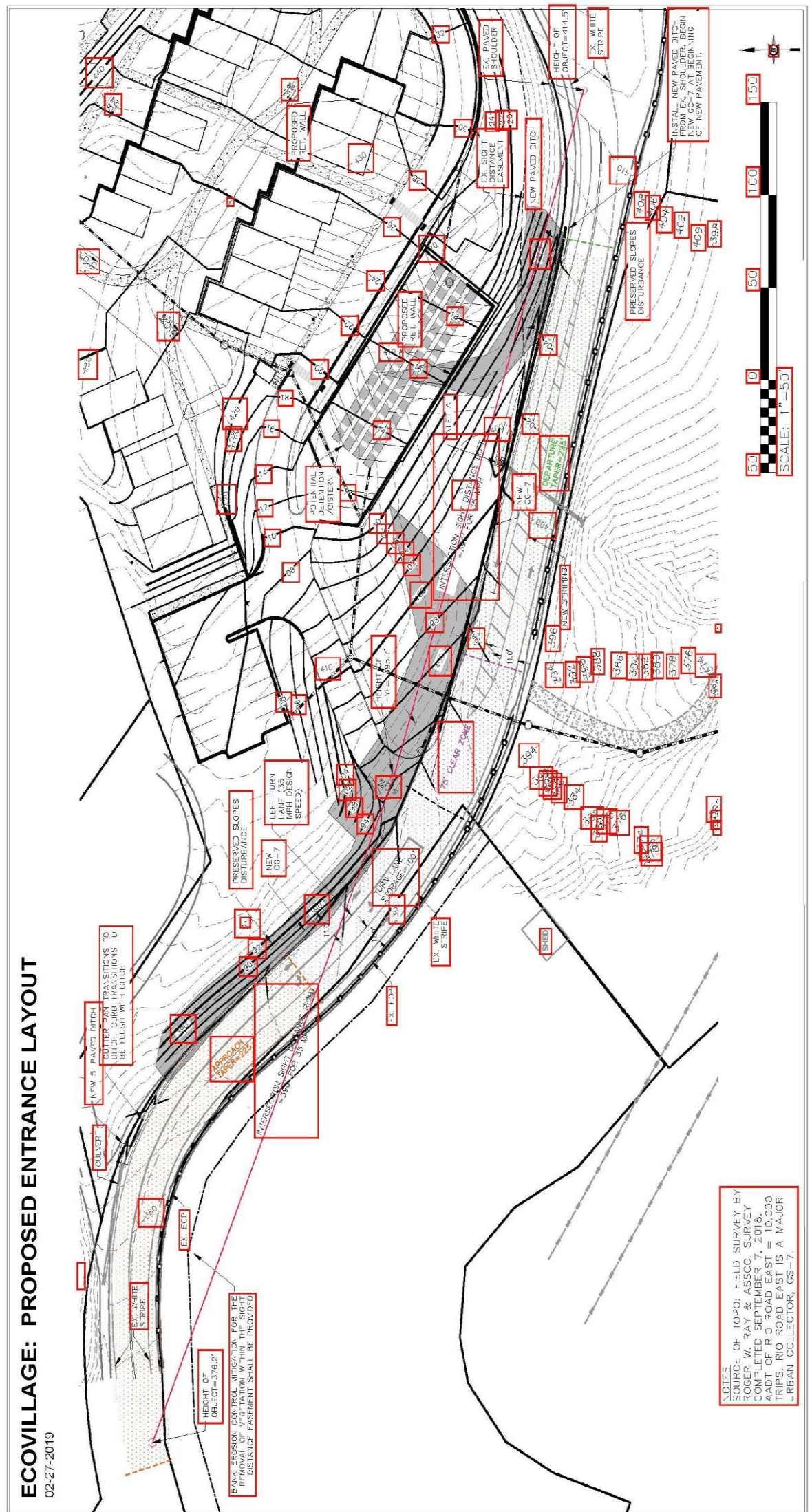
WHEREAS, on May 1, 2019, the Albemarle County Board of Supervisors held a duly-noticed public hearing on SP 2018-16.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-16 and all of its attachments, the information presented at the public hearings, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-30.7.4.b.2 and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-16, subject to the conditions attached hereto.

* * * * *

**SP-2018-16 EcoVillage Charlottesville – Preserved Steep Slopes
Special Use Permit Conditions**

1. The limits of disturbance within the Preserved Steep Slopes Overlay District shall be limited to the sizes, locations, and extents of disturbance as proposed in the “EcoVillage: Special Use Permit Supplementary Exhibits” packet prepared by Shimp Engineering, P.C. and dated 2/4/2019.
2. The final site plan and landscaping plan for EcoVillage Charlottesville shall be in general accord with the “Habitat Planting Plan” and “Landscape Schedule” exhibits prepared by Shimp Engineering, P.C. and dated 2/4/2019 and subsequently revised 2/26/2019, inclusive of additional modifications, as noted in a. and b. below, and to the satisfaction of the Director of Planning.
 - a. The “Landscape Schedule” for the “Habitat Planting Plan” must be revised so that a certain portion (25% - 33%) of the tree plant materials and shrub plant materials are specified at a minimum caliper or minimum height that, at the time of planting, meets the minimum size requirements for landscaping materials as would be required within the Entrance Corridor.
 - b. The “Habitat Planting Plan” must be revised to be supplemented with additional numbers of evergreen shrubs and evergreen trees at strategic locations in the vicinity of the proposed parking area private facility in order to sufficiently provide screening for this proposed private facility within the preserved steep slopes overlay district. A certain portion (33% - 66%) of these vegetative screening materials in this vicinity shall be specified at a minimum caliper or minimum height that, at the time of planting, meets the minimum size requirements for landscaping materials as would be required within the Entrance Corridor.
3. Improvements related to stormwater, drainage, and grading shown on the final site plan and water protection ordinance plan for EcoVillage Charlottesville shall be in general accord with the same improvements and grading shown on the “Stormwater Improvements” exhibit and “Proposed Entrance Layout” exhibit for SP201800016, prepared by Shimp Engineering, P.C. and dated 2/4/2019 and subsequently revised 2/27/2019, inclusive of additional modifications as noted in a. – c. below, and to the satisfaction of the County Engineer.
 - a. All modified or newly constructed slopes to the east of the commercial entrance shall have a grade that does not exceed a 3:1 slope. Grading up to a 2:1 slope may be permitted for modified or newly constructed slopes to the west of the commercial entrance, if such grading is for the purpose of minimizing the limits of disturbance in order to prevent impacts to preserved steep slopes and to preserve existing vegetation, and provided that such grading complies with the applicable Design Standards specified in Zoning Ordinance Section 30.7.5.
 - b. Drainage improvements along Rio Road East shall be designed to manage the 25-year storm event without flooding.
 - c. Curb inlets shall be provided on both sides of the new entrance to collect site runoff before it enters the Rio Road East right-of-way.
 - d. The specific materials and practices for the proposed “off-site bank erosion control” are subject to approval by the County Engineer.
4. All stormwater treatment facilities and practices for ensuring water quality compliance shall be provided on-site through the use of DEQ-approved BMPs found on the Virginia Stormwater BMP Clearinghouse Website, or through the preservation of onsite forest/open space, to the satisfaction of the County Engineer.



Agenda Item No. 19. **PUBLIC HEARING: SP201800020 WVIR-TV Replacement of Existing TV Broadcasting Tower.**

PROJECT: SP201800020 – WVIR-TV Replacement of Existing Television Broadcasting Tower.

MAGISTERIAL DISTRICT: Scottsville.

TAX MAP/PARCEL: 09100000002800.

LOCATION: Off Route 53, in Carters Mountain Orchard.

PROPOSAL: Replace an existing 314.25 feet tall guy-wired television broadcasting tower with a new 314.25 feet tall self-supporting television broadcasting tower in the same location. A special exception to setbacks under Section 4.10.3.1 is needed. PETITION: Section 10.2.2(6) of the zoning ordinance which allows for communication transmission facilities in the RA, Rural Areas district. Supplemental regulation apply to this use under Section 5.1.12.

ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) OVERLAY DISTRICT: Southern Albemarle Rural Historic District, Mountain Protection Areas, and Critical Slopes.

PROFFERS: No.

COMPREHENSIVE PLAN: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/residential density 0.5 unit/acre in development lots.

Rural Areas 4 Comp Plan Area.

(Advertised in the Daily Progress on April 15 and April 22, 2019.)

The Executive Summary forwarded to the Board states that at its meeting on March 5, 2019, the Planning Commission voted 6:0 to recommend approval of SP201800020 and the associated special exception request to modify setback requirements. The Planning Commission's Staff Report, Action letter, and Minutes from the March 5 meeting are attached.

Technical, non-substantive modifications to the conditions were made after the staff report was written, but prior to the Planning Commission meeting. The revised conditions were presented at the meeting, and the Planning Commission recommended approval of those conditions.

Additionally, the Applicant modified its special exception request at the meeting to reduce the setback from 35 feet to 30 feet from the property line to allow flexibility for the developer to rotate the placement of the tower to ensure it is placed in the same location as the existing tower. The Planning Commission recommended approval of the modification of the special exception with a request that written confirmation be obtained from the Zoning Administrator that the special exception does not impact the setbacks on the adjoining property. The written confirmation has been provided to the Applicant and included in the file.

Staff recommends that the Board adopt the attached Resolutions to approve SP201800020 and the Special Exception (Attachments D and E).

Mr. Chris Perez, Senior Planner, presented. He explained that the special use permit request was for a communications transmission facility in the rural area district pursuant to 10.2.2(6) of the Zoning Ordinance. He said the tower would replace the existing tower constructed in 1973 through a building permit, without a special use permit as this was not required at the time. He said the property owner was Crown Orchard LLC, the applicant was Virginia Broadcasting LLC, and Greg Duncan was its representative. He noted that the Planning Commission unanimously recommended approval of the special use permit and special exception at its March 15 meeting. He said at the March 15 meeting, the applicant requested to reduce the special exception reduction of the setback from 35 feet to 30 feet, which was also recommended for approval by the Planning Commission.

Mr. Perez said that the site is Carter's Mountain Orchard, which is a 234-acre site zoned RA and one of the adjacent parcels is zoned Monticello Historic District. He said half of the site is available to public access; the other half of the site is off limits to the public which is the current home of an antennae farm that has been existing for some time. He noted that the surrounding properties are heavily wooded with the closest residence being 3,000 feet away.

Mr. Perez said the portion being discussed today was the blue rectangle closest to TM 091-18A, an one-acre lease area that is home to the site, was currently existing and they are replacing one of the two towers on the property that would be losing the guy wires.

Mr. Perez said the adjacent property owner, Mr. Wood, attended the Planning Commission meeting and contacted staff with the concern of whether the reduction of setback would prohibit his availability to build on his property within regulations of his setbacks. He pointed out per the Commission's request, he has put a note in the file that the reduction would not affect the adjacent property owners' property.

Mr. Perez explained that the tower would be 240 feet tall and the antennae would 74 feet. He said this is a TV antennae and not subject to the wireless policy or wireless ordinance. He noted this is a special use permit for a communications facility. He said the base of the facility would be 26 feet wide with the top being 3.5 feet wide and the applicant has requested the reduction to 30' setback to the side property line. He said the factors favorable for this facility include: no detrimental impacts to adjoining properties; it was existing with the same height and same width; reduced visibility by discontinuing the use of the existing guy wires; proposed redevelopment which does not involve tree clearing, grading, or increase in impervious surface area; and the proposed use generates economic activity and supports job opportunities. He said there were no unfavorable factors found.

Mr. Perez stated that staff has recommended conditions that prohibit collocation of wireless antennae on the facility and that prohibit an increase in the height or width of the tower. He said that staff also recommends a condition on the special exception that would limit proximity to the adjacent property to no less than 30 feet. He invited questions.

Mr. Gallaway invited the applicant's representative to address the Board.

Mr. Greg Duncan, representing Virginia Broadcasting LLC, and Mr. Harold Wright, addressed the Board. Mr. Duncan stated that the application comes to the Board with unanimous support given by the Planning Commission. He explained that the Federal Communications Commission ordered the television station to move to Channel 2, which could not be accomplished with the existing tower, as it does not meet current FCC or FAA guidelines for the weight of the new antennae. He requested that the Board approve the special use permit and special exception to the setback so the tower could be placed in the same location as the old tower. He said they have spoken to the adjoining landowner, who does not object to the replacement tower.

Ms. Palmer asked what Channel 2 was. Mr. Duncan explained that the Federal Communications Commission (FCC) regulates which channel television station broadcasts could be made on and has ordered a change from Channel 32 to Channel 2.

Mr. Gallaway opened the public hearing.

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

Mr. Randolph **moved** that the Board adopt the proposed resolution to approve SP201800020, subject to the conditions contained herein. The motion was **seconded** by Ms. Palmer.

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

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

NAYS: None.

**RESOLUTION TO APPROVE
SP 2018-20 WVIR-TV REPLACEMENT
OF EXISTING TELEVISION BROADCASTING TOWER**

WHEREAS, Virginia Broadcasting, LLC submitted an application for a special use permit to replace an existing 314.25 foot tall guy-wired television broadcasting tower with a new 314.25 foot tall self-supporting television broadcasting tower in the same location on Tax Map Parcel 09100-00-00-02800, and the application is identified as Special Use Permit 2018-20 WVIR-TV Replacement of Existing Television Broadcasting Tower ("SP 2018-20"); and

WHEREAS, on March 5, 2019, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2018-20; and

WHEREAS, on May 1, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2018-20.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-20 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code §§ 18-10.2.2(6) and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-20, subject to the applicable performance standards for personal wireless service facilities in Albemarle County Code § 18-5.1.40, and the conditions attached hereto.

* * * * *

**SP-2018-00020 WVIR-TV Replacement Of Existing Television Broadcasting Tower
Special Use Permit Conditions**

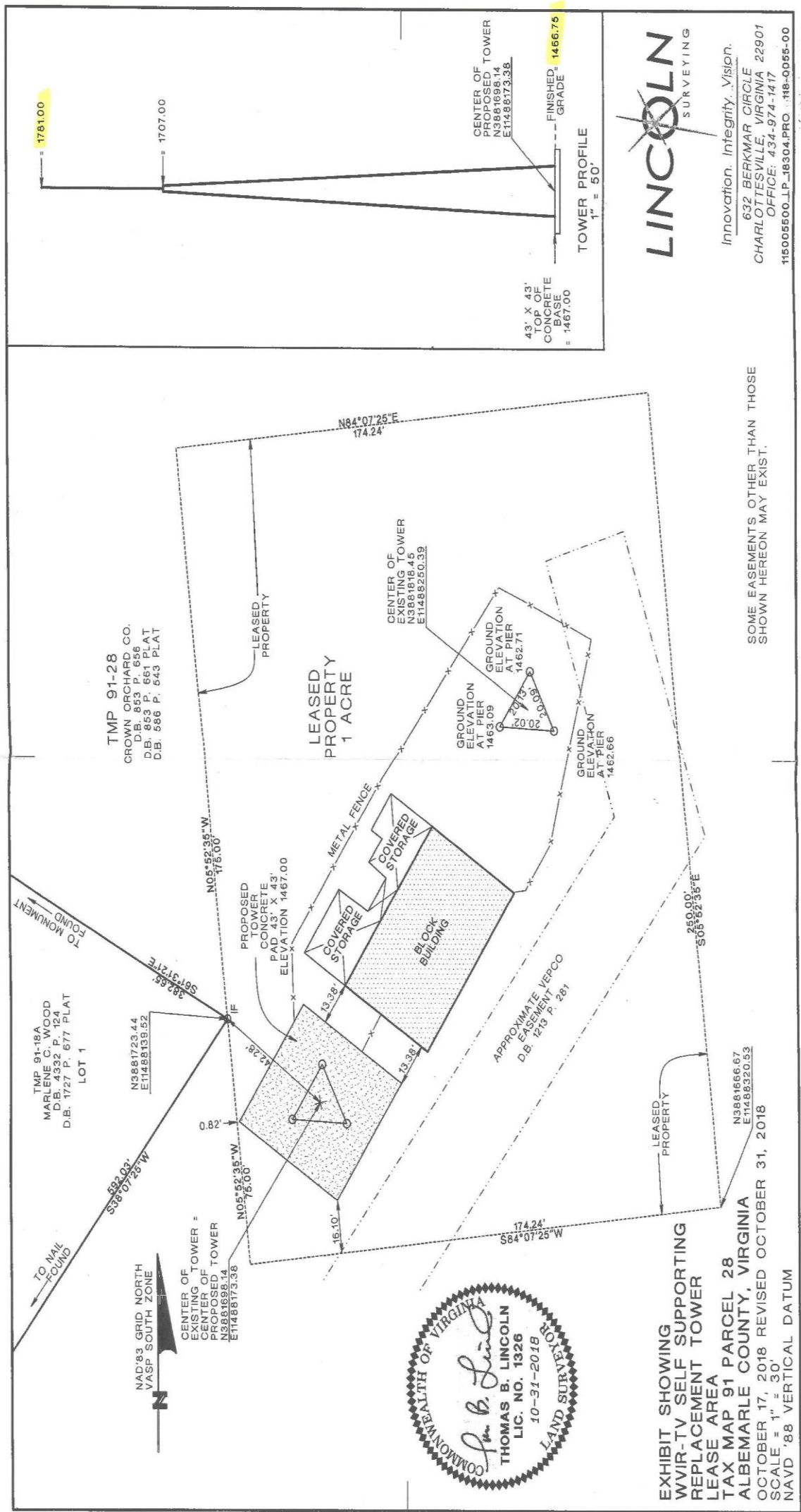
1. The development of the site, and any modifications, shall be in general accord with the conceptual plan, provided in this staff report as Attachment B, consisting of (a) a survey by Thomas B. Lincoln, dated October 17, 2018, last revised October 31, 2018, titled "*Exhibit Showing WVIR-TV Self Supporting Replacement Tower Lease Area*," (b) a preliminary antenna design by Alan Dick Jampro Antennas, Inc, and (c) an aerial locator map depicting the site location (collectively, hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, including but not limited to all concealment elements and concealment technique, as shown and described on the Conceptual Plan and mentioned below:
 - a. The height of the tower may not exceed 240.25 feet and the top of any antenna may not exceed 314.25 feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, may extend more than 50 feet above the top of any antenna.
 - b. The width of each side of the tower may not exceed 26 feet at its base, and 3.5 feet at the top.

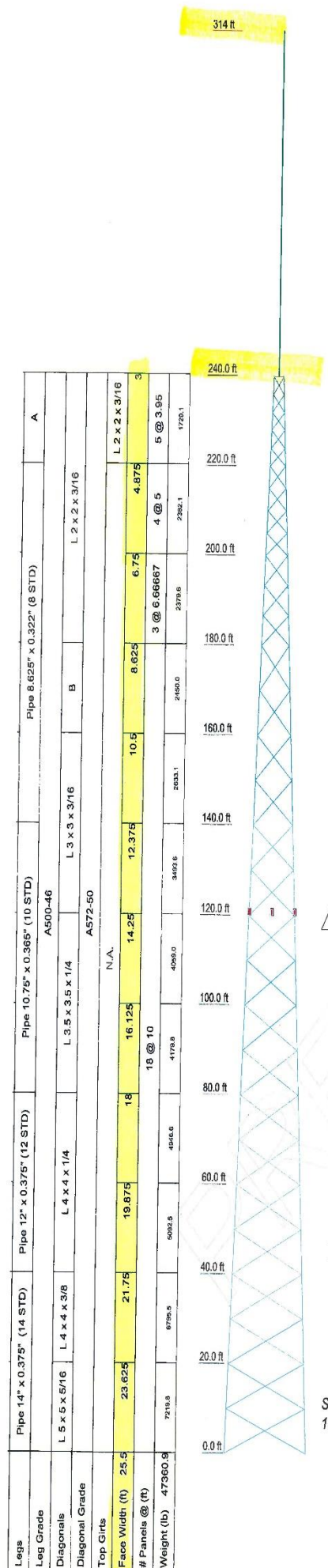
- c. The colors of the tower shall be red and white.
- d. Antennas that support services other than television broadcasting may not be attached to the facility.
- e. Only those satellite and microwave dishes that are necessary to support the transmission of television signal(s) shall be permitted on the tower or the television antenna.
- f. No guy wires shall be permitted.
- g. Notwithstanding the above conditions, additional facilities, including equipment, antennas, and microwave dishes necessary for emergency communications system(s), may be placed on this tower if the applicant and lessee of the tower enter into an agreement with the County to do so.

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

- 2. Prior to the issuance of a building permit, the applicant shall submit, and Planning staff shall review, the final set of site drawings for construction of the facility to ensure compliance with all conditions of the special use permit.
- 3. The facility shall be disassembled and removed from the site within 90 days of the date its use for television transmission is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

The use, structure or activity for which this permit is issued shall commence no later than September 6, 2020. The term "Commence" shall mean commencement of the structure that is necessary for mounting the television antenna.





DESIGNED APPURTENANCE LOADING

TYPE	ELEVATION	TYPE	ELEVATION
Sidelight (FAA L-810)	120	Sidelight (FAA L-810)	120
Sidelight (FAA L-810)	120		

SYMBOL LIST

MARK	SIZE	MARK	SIZE
A	Pipe 6.625" x 0.280" (6 STD)	B	L 2.5 x 2.5 x 3/16

MATERIAL STRENGTH

GRADE	Fy	Fu	GRADE	Fy	Fu
A500-46	46 ksi	62 ksi	A572-50	50 ksi	65 ksi

TOWER DESIGN NOTES

1. Tower is located in Albemarle County, Virginia.
2. Tower designed for Exposure C to the TIA-222-G Standard.
3. Tower designed for a 89 mph basic wind in accordance with the TIA-222-G Standard.
4. Tower is also designed for a 30 mph basic wind with 0.75 in ice. Ice is considered to increase in thickness with height.
5. Deflections are based upon a 60 mph wind.
6. Tower Structure Class II.
7. Topographic Category 4 with Crest Height of 865.00 ft
8. Jampro 6-Lambda Ch. 2 is included ~~foristed~~ ~~foristed~~ only.
9. PRELIMINARY DESIGN - NOT FOR CONSTRUCTION

ALL REACTIONS
ARE FACTORED

MAX. CORNER REACTIONS AT BASE:

DOWN: 611471 lb
SHEAR: 64004 lb

UPLIFT: -524897 lb
SHEAR: 55431 lb

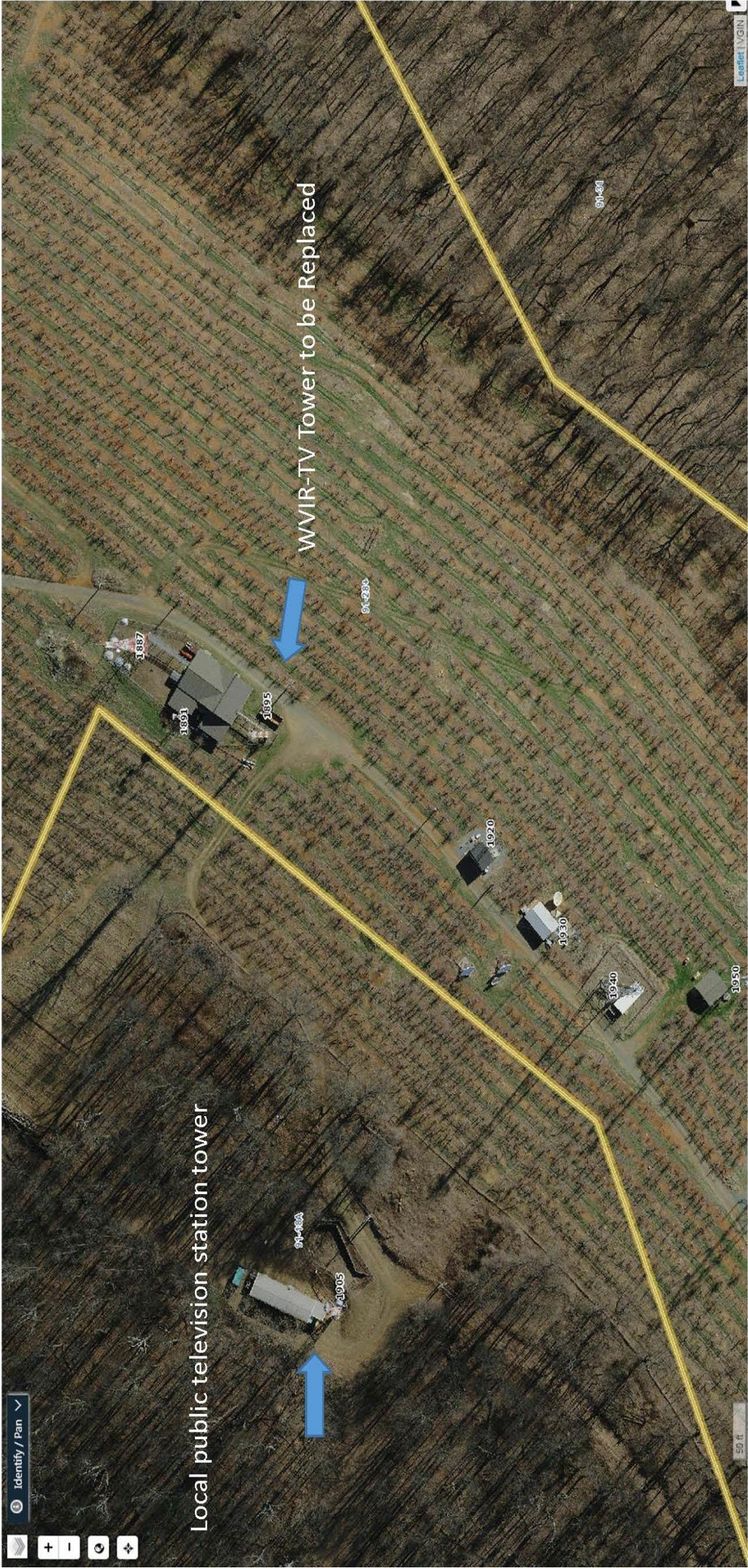
Diagram illustrating the internal forces at the crown of the arch:

- AXIAL: 183345 lb
- SHEAR: 15430 lb
- MOMENT: 2448861 lb-ft

TORQUE 3851 lb-ft
30 mph WIND - 0.750 in ICE

TORQUE 8241 lb-ft
REACTIONS - 89 mph WIND







Mr. Randolph **moved** that the Board adopt the proposed resolution to approve a special exception to modify setback requirements for SP201800020, WVIR-TV Replacement of Existing Broadcasting Tower, as conditioned. The motion was **seconded** by Ms. Palmer.

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

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

NAYS: None.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
TO MODIFY SETBACK REQUIREMENTS FOR
SP 2018-20 WVIR-TV REPLACEMENT OF EXISTING
TELEVISION BROADCASTING TOWER**

WHEREAS, Virginia Broadcasting, LLC submitted an application for a special exception in conjunction with SP201800020 to modify the minimum setback requirement for the proposed new television broadcasting tower from 314.25 feet to 35 feet, later revising the request to 30 feet, in order to locate a new tower in the same location as the existing tower on Tax Map Parcel 09100-00-00-02800, which is located approximately 35 feet from the adjacent property line of Tax Map Parcel 09100-00-00-018A; and

WHEREAS, County Code § 18-4.10.3.1(b) requires that radio or television towers shall be located no closer in distance to any lot line than the height of the structure; and County Code § 18-4.10.3.1(c) allows waivers or modifications to the setback requirements to be considered.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the special exception request and the attachments thereto, including staff's supporting analysis included in the Planning Commission staff report, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.10.3.1(b) and (c) and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the setback requirement as set forth above, subject to the condition attached hereto.

* * * * *

**SP 2018-20 WVIR-TV Replacement Of Existing Television Broadcasting Tower
Special Exception Condition**

1. The tower shall be built no closer than 30 feet to the adjacent property line (Tax Map Parcel 09100-00-00-018A).

Agenda Item No. 20. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Dill announced that the NIFI Free Bridge project was now open, and it was easy to walk down a ramp to a path along the river that has now been upgraded on both sides. He said VDOT has installed lights under the bridge that did not originally work and would be replacing them.

Ms. Mallek noted that the Rivanna River Festival would be held May 11, and she hopes the path would receive a lot of pedestrian traffic.

Ms. Palmer announced that she and Mr. Randolph learned at the last Albemarle Broadband Authority meeting that Central Virginia Electric Coop (CVEC) was moving very quickly, was already on the ground for Midway, and expect everyone to be connected by February 2020. She said the area around Zion Crossroads is to be completed by this October and the area of Cash's Corner to be completed by January.

Mr. Randolph cautioned that the completion dates are subject to weather conditions and that contracted service personnel would migrate southward if there was a hurricane.

Mr. Dill said he recently received a letter from CVEC indicating that they would send him a check for \$105 from an account he had in 1992, which was a demonstration of their integrity.

Mr. Gallaway noted that the Board passed special exceptions for the Northside Material Recovery facility on tonight's consent agenda, which were required because the Zoning Ordinance states that "all manufacturing, compounding, assembling, processing, packaging or other industrial or business activity shall be conducted within a completely enclosed building." He said the facility reprocesses used asphalt and concrete into a product that was sold in the community. He said he thinks the community would be supportive since the facility was involved in recycling of materials, yet this may not have come to fruition without the will of the applicant, because the processing of concrete would have had to happen in a completely enclosed building. He said the regulation did not foresee what they need to repurpose and reprocess and kicks into a long, drawn-out process. He asked the Board to entertain a process to amend the Code to allow for reprocessing or repurposing of these types of materials.

Ms. Palmer expressed her support and recognized the extraordinary process the applicant has had to go through over the past year, which she attributes to the ordinance not supporting this type of activity. She acknowledged the benefit of having a reprocessing facility versus having materials dumped in a pit, which could cause environmental hazards.

Mr. Randolph said it was important for the Board to examine the ordinance to determine what may be punitive or inappropriate, though he recognizes that there may be situations in which the ordinance was protective. He suggested that they work with Zoning to determine situations where the ordinance was valuable and look for ways to expedite the special exception or special use permits. He suggested that they look at all the ordinances that involve solid waste and recycling as a good exercise to determine what kinds of protections they have. He remarked that the site of the materials recovery facility was ideally located off Route 29 and not adjacent to a body of water.

Ms. Palmer remarked that a review as suggested by Mr. Randolph would be great, though she was not sure about the timing. She said that the Zoning Administrator, Amelia McCulley, was pretty clear that the ordinance Mr. Gallaway brought up could be expanded, and she noted that the Department of Environmental Quality (DEQ) does not allow open air transfer stations for organic materials.

Ms. Mallek expressed support for materials recovery activity and said she recently observed that convoys of dump trucks carrying concrete construction debris from somewhere downtown were traveling on Free Union Road to a farm. She said she received calls about the edges of the road dissolving under the heavy weight of the trucks, and she expressed support for a system of tiered fees for special permits based on project size.

Ms. Palmer said that Ivy takes clean fill such as cement for \$10/ton, whereas the facility at Zion Crossroads charges \$40/ton for clean fill.

Ms. McKeel added that when the Board was recently working on its legislative agenda, she reminded everyone that two to three years ago, it received the legislature's permission to make some changes to the ordinances but are still waiting on these, and she would like to see these before they ask for additional permissions from the legislature. She said she would like a status update on the regulation of limiting parking on secondary roads, maintenance issues, and snow removal on sidewalk.

Mr. Gallaway pointed out that an expanded ordinance that allows for an activity would free up staff time, and it was worth taking the time to amend the ordinance.

Mr. David Benish, Chief of Planning, Interim Director of Planning, commented that in January 2018, they adopted a new policy for text amendments and CPAs in which a Board member or the Planning Commission brings an item to the body for discussion and to establish consensus for further study. He said he hears that there was consensus to study a zoning text amendment related to recycling facilities and solid waste-related ordinance provisions, for which staff could present the Board with an analysis of the work involved to amend the ordinance and how the time required would affect work on other projects. He said the Board would then pass a resolution of intent to move forward.

Ms. McKeel asked if she needs to have a resolution of intent in order for staff to be able to amend the ordinances regarding the items she brought up. Mr. Kamptner responded that staff needs to follow up with subject matter experts, such as the Police Chief, Ron Lantz, and Ms. McCulley.

Ms. Mallek said she has had multiple conversations with Ms. McCulley and Zoning about allowing contractors of rural area agriculture support businesses to park in a barn or a field without impacting neighbors and thought this was in process, though apparently it did not get registered. She asked that this be put on the list. Mr. Benish remarked that he thinks it was on the list and would check to determine if a resolution of intent was needed.

Agenda Item No. 21. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said he would like to share a piece of information that Emily Kilroy and staff has been working on. He asked Ms. Kilroy to address the Board.

Ms. Emily Kilroy, Director, Communications and Public Engagement, addressed the Board on Project ENABLE, which she reminded the Board of the plan it adopted at the end of 2018. She said that Economic Development Director, Roger Johnson, has been circulating the final document through the community, with a formal launch to occur later that evening, to help the plan come alive and for people to be able to see what economic development looks like in Albemarle County based on the community effort that went into building Project ENABLE. She presented a four-minute promotional video on the County's economic development to the Board.

Mr. Richardson explained that the video was "us telling our story" and there are more of these to come in the future.

Mr. Dill asked where the video would be shown, as it was too long for television. Ms. Kilroy responded that it would be pushed out through web media.

Mr. Richardson addressed the County's Pillars of Excellence, which he characterized as a guiding document across the organization. He said the business operations principles consists of eight guiding principles that were developed over the last year by the leadership council. He said there was a sense of urgency with system optimization and integration across the organization so they could begin to extract data in a way they were not able to in the past. He said the public service covenant involves their commitment to provide every customer with a professional, empathetic, and responsive experience, for which every department was developing service standards and guidelines as determined by employee advisory teams, with the departmental guidelines to be merged into one document. As an example of the guidelines, he summarized how telephone calls would be answered and a feedback mechanism would be implemented to monitor the customer experience.

Mr. Dill asked how many staff members would be involved with the customer response system. Mr. Richardson responded that he does not have a number and offered to get back to the Board with this information.

Mr. Randolph remarked that everybody in the organization does customer service in one way or another.

Ms. Mallek remarked that the citizens of Albemarle are the best advocates for visitors. She said she has received constituent feedback that it was difficult to reach County employees in some departments, as everything goes to voicemail and they must wait days for a response. She said she was grateful for this huge improvement.

Agenda Item No. 22. Adjourn to May 9, 2019, 3:30 p.m., Lane Auditorium.

At 8:07 p.m., the Board adjourned its meeting to May 9, 2019 3:30 p.m., Lane Auditorium.

Chairman

Approved by Board
Date 11/20/2019
Initials CKB