

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 19, 2020 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, and Ms. Donna P. Price.

ABSENT: None.

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

Agenda Item No. 1. Call to Order.

The meeting was called to order at 1:00 p.m., by the Chair, Mr. Gallaway. He said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(8), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Mr. Gallaway said the persons responsible for receiving public comment are the Board of Supervisors of Albemarle County.

Mr. Gallaway said the opportunities for the public to access and participate in the electronic meeting are posted on the Albemarle County website, on the Board of Supervisors homepage, and on the Albemarle County calendar.

Mr. Gallaway announced the supervisors and officers present at the meeting and instructed all other staff to introduce themselves later in the meeting when they spoke

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

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Gallaway said Item 8.6 needed to be pulled from the consent agenda.

Mr. Kamptner confirmed this was correct.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

Ms. LaPisto-Kirtley said regarding Items 8.3 and 8.4, there was a slight misstep in that both vehicles would have all the equipment on them. She said one of them said equipment would not be on it, but that both of them would actually have the equipment.

Mr. Gallaway asked if they would not be removed.

Ms. LaPisto-Kirtley said this was correct, and that this should be part of the motion.

Mr. Gallaway said he believed the way it was stated in the items was fine. He asked Mr. Kamptner if they needed to readjust anything.

Mr. Kamptner replied no. He said this was fine, and that they just needed a public acknowledgement that there was an error in the Executive Summary for Item 8.3.

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

Ms. Mallek said she just received an email that day about the spotted lantern fly, which is moving south in Virginia. She said on August 27, there will be a Zoom meeting at 7:00 p.m. being held by the Cooperative Extension Department for anyone with orchards or fruit. She asked that anyone interested contact the VCE or Carrie Swanson (Extension Agent) to receive the contact information.

Ms. Mallek said there was good news for the Western Albemarle Rescue Squad, which is that they have purchased two lots south of the railroad tracks in Crozet and west of Crozet Avenue and that, over the next several years, they will be designing and building a building suitable for their 80-100 workers. She said this will give them faster access to the southern part of the growth area where they will not have to deal with the four-way intersection and the trestle bridge.

Ms. Mallek said on August 3 through August 5, the Lewis and Clark Exploratory Center organized their 2020 Lewis and Clark National Trail Heritage annual meeting. She said this was a three-day

conference that was held in the area virtually. She said it was going to take place there in person, and that they were expecting 270 people to come. She said they still had a very successful conference over its entirety. She said Mr. Jeffrey Hantman from UVA, who is a premier archaeologist in the area, Ms. Elizabeth Chew of Montpelier and formerly of Monticello, and Ms. Carolyn Gilman from the Museum of the American Indian were all presenters. She said this was a big deal for the area's local museum and that they made the County proud.

Ms. LaPisto-Kirtley said she wanted to make everyone aware of the fact that there is a bipartisan bill that is going through Congress called the Restaurants Act. She said this helps independent restaurants, which are uniquely affected by the pandemic. She said she would like to send out information to the Board to perhaps take action in support of this bill.

Ms. LaPisto-Kirtley said independent restaurants employ 11 million Americans, and 90% of the money they make goes directly back into the communities. She said the Board does need to do something because they have restaurants in their own community that are closing. She said they need those independent restaurants, and she believes the Board needs to be supportive. She said she would be asking at the next meeting if the Board could support that. She said if any residents want to know more about it, they can take action at saverestaurants.com.

Ms. Palmer said she wanted to again announce that the Ivy MUC (Material Utilization Center) Recycling Center is open and now fully functioning. She said it is well set up, so people can drop off their recyclables for free. She said the 30-gallon trash bags are still \$2 to throw away. She said this is a very convenient, inexpensive way for people to get rid of both their trash and recyclables.

Agenda Item No. 6. Proclamations and Recognitions.

Mr. Gallaway said there would be an introduction made to the Board of the County's new Emergency Manager.

Chief Dan Eggleston, Chief of Fire Rescue, said he would introduce the County's new Emergency Manager, Ms. Nicole Matthews. He said Ms. Matthews is a native of Virginia who recently separated from active military after serving for six years in the Army. She said during her time in the military, she specialized in CBRNE (Chemical, Biological, Radiological, Nuclear, and high yield Explosives) and Hazmat Operations. She said prior to entering the military, she received a bachelor's degree in International Relations from Mary Baldwin College. She said having been stationed in Washington State and Texas, she decided to move back to Virginia and close to her family.

Chief Eggleston said that besides being the County's new Emergency Management Coordinator, Ms. Matthews is also in graduate school at Park University, where she is working on her master's degree in Disaster and Emergency Management.

Chief Eggleston said he was happy to have Ms. Matthews on board. He noted that she started in the middle of the pandemic and has done a wonderful job in helping the County stay focused on things that are important to manage this, both from the government side as well as in protecting citizens and residents of Albemarle.

Ms. Matthews said she wanted to let the Board know how excited she was to be there and how she believes that there is never a better time for an Emergency Manager to start than in the middle of an emergency. She said she has gotten to know everyone and get in depth on all of the projects. She said while she is getting to know everyone in the County and the processes, she was excited and ready for the challenges that are coming with the various events happening in the County.

Ms. Matthews said information was sent about her work plan and that some Supervisors had the opportunity to review that. She said she was there in case the Board had any questions they would like to ask, or to finally have a face-to-face meeting.

Ms. Mallek said she had the good fortune to listen in on the White Hall Residents' Safe and Ready Committee, to which Ms. Matthews is a tremendous asset. She said she was very encouraged with all Ms. Matthews brings to the table, and that the amount of work she has taken on was astonishing.

Ms. Palmer said it was wonderful to have Ms. Matthews and asked her to share her work plan once again with the Board, as she had missed it and wanted to read it.

Mr. Gallaway said the Board was thrilled to have Ms. Matthews as the new Emergency Manager and looked forward to working with her.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Ms. Josie Taylor (Jack Jouett District) said she was there to speak against the request for exceptions to allow for a homestay permit at 888 Woodlands Road. She said she had already sent the Board a great deal of information about issues she has experienced on her property since the homestay began to operate almost a year ago. She said these issues include dogs, overflowing garbage cans left out near the road, late night food deliveries, and a constant flow of strangers coming and going next door.

to her home. She said she would not repeat all the details there.

Ms. Taylor said instead, she wanted to address the claim that Mr. Bobbs resides on the property and is always present during rentals. She said she has seen no evidence of this and nothing to imply that there is someone living on the property full-time. She said instead, she has heard the opposite from renters. She said as a brief sample from a time when the homestay was supposed to be shut down, pending this hearing, on July 24, she spoke to a gentleman who said he was renting the upstairs portion of the house, and that he noted nothing about trash collection. She said he told her that there was no one else there on the property to ask.

Ms. Taylor said on August 3, she spoke to a family from Atlanta and New York, who told her they were renting the entire property, up and down. She said on August 6, she lost a tree that took down the powerline to her house. She said an electric wire was down on the ground, close to Mr. Crane's driveway, until the following day. She said the renters came out to look, but at no time did anyone else come to see the damage.

Ms. Taylor said Mr. Crane lives very close by, but she has seen no evidence that he has checked on the property to make sure that the homestay had, indeed, shut down, as requested.

Ms. Taylor urged the Board to vote no on Mr. Crane's and Mr. Bobbs' request. She thanked the Board for giving her the opportunity to speak and thanked them for their service to the County.

Ms. Marta Keane (Rio District) said she works with JABA (Jefferson Area Board for Aging). She said she wanted to make sure that the Board and all residents listening in know that during COVID, JABA continues to offer services and support for seniors and caregivers. She said they have been doing a lot online with information and assistance options, counseling, and insurance counseling by phone or Zoom; community centers, adult care, and preschool; and their volunteers, who have created ways to stay connected.

Ms. Keane said JABA has had weekly check-ins, activity kits, Facebook Live events (from the touring of a petting farm to chair yoga to someone telling jokes or singing songs), and great ways for people to be entertained. She said their Karaoke Kitchen has been a big hit, and that likely the most fun activity was their Conference Call Bingo that takes place weekly. She said it has been a great way to help people to feel connected as they try to weigh the negative impact of isolation against the risk of transmission of COVID.

Ms. Keane said JABA is also getting started again with FISH (Friends in Schools Helping) and are setting up virtual mentors to work with students and teachers. She said she understands that the middle school in Crozet will be their first pilot and as they work it out, they hope that many other schools will take advantage of the many volunteers who look forward to supporting students during this difficult time.

Ms. Keane said JABA has been in constant consultation with Dr. Denise Bonds (Thomas Jefferson Health District) as they try to make decisions about the best way to support parents of preschoolers, as well as caregivers of those with dementia and physical disabilities who need the benefit of JABA's adult care. She said two weeks earlier, they opened the Adult Care Center and the Shining Star Preschool, following all the CDC guidelines and making sure they have plenty of PPE. She thanked the Board for their help with supplying masks.

Ms. Keane said they are always ready to close if the situation changes. She said they recognize this is fluid and examine each day what the risks are. She said she was proud to announce that all their preschoolers and members of the adult care wear their masks without any issue, which has been a lovely finding and helps JABA feel like they are doing things as safely as they can.

Ms. Keane thanked the Board for their continuing support. She said she wanted them to know that JABA continues to be there for all the seniors.

Ms. Judy Lane said Ms. Josie Taylor gave the Board some clear information, and that she wanted to take the opportunity to add her thoughts. She said one of her biggest concerns about the homestay was the noncompliance that has gone on. She said Mr. Bobbs does not live at the house and never has. She said a notice of violation was given and yet, the rentals continued. She said the lease was supposed to end in April. She said she did not know if it had been renewed and was not sure why Mr. Crane would renew a lease on a property that was in noncompliance on a homestay issue. She said she feels that Mr. Bobbs has been thumbing his nose at the County all along.

Ms. Lane said her other concern was that in terms of some of Mr. Bobbs' correspondence with the Board, he said that the house has not been rented since June 30 and that only family and friends have been staying there. She said the truth was that there have been renters there continually for the past seven weeks, and that the Airbnb listing has been up and active for the entire time. She said one could only see the listing after 7:00 p.m. at night, so there was an issue with some of the advertising going on for the property.

Ms. Lane said she was concerned that this man states he lives there and does not. She said one cannot enforce the rules when they are not there. She said she didn't want to go back and list all the

issues the Board had already heard from her. She said she hoped the County would say no to this request to have a permit given, to have the setback requirement vacated, and to allow him to be a resident manager.

Ms. Lane thanked the Board for the opportunity to speak and for their effort in doing the analysis on this issue.

Mr. Lee Kondor said he had an alternate idea for the Rio Road improvements, which was already on the agenda, and wanted to make sure that it was considered. He said he could speak to that later.

Mr. Gallaway closed public comment.

Mr. Kamptner said Mr. Kondor had wanted to speak to Item 10, which was not scheduled for public hearing. He said unless Mr. Condor wanted to come back at 6:00 p.m., it may be more appropriate for him to speak now.

Mr. Gallaway asked Mr. Kondor if he had additional comments he wanted to make. He said he had received his email with his additional idea and had planned to address that during the item.

Mr. Kondor said he believed he already communicated most of what he wanted to say, and just wanted to be sure that the Board knew there was an alternative to some of the proposals for intersection improvements to the John Warner Parkway and Belvedere Boulevard. He said his idea provides better traffic flow that actually addresses the problems and does not cost any more than what VDOT has proposed.

Mr. Kondor said if the Board had any further questions, they could email him at a later time. He said he was trying to help as a public service and thanked the Board for their consideration.

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway reminded the Board that Item 8.6 had been removed from the consent agenda.

Ms. McKeel **moved** to approve the consent agenda. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Item No. 8.1. FY 21 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 21 budget due to the appropriations itemized in Attachment A is \$4,483,221.00. 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 projects and programs as described in Attachment A.

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Appropriation #2021019 **\$2,000.00**

Source: Special Revenue Fund fund balance \$ 2,000.00

This request is to appropriate \$2,000.00 in Special Revenue Fund fund balance for a grant received in FY 20 from the Virginia Department of Housing and Community Development. This funding will be used to purchase technology equipment to support the Community Development Department - Building Division's virtual online training, continuing education, and certification tests.

Appropriation #2021020 **\$0.00**

Source: Reserve for Contingencies* \$ 31,364.61

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

This request is to appropriate \$31,364.61 from the Reserve for Contingencies to Seminole Trail Volunteer Fire Department to provide funding to the station for work completed to replace a water line.

Appropriation #2021021 **\$4,393,621.00**

Source: Special Revenue Fund Balance \$ 4,393,621.00

This request is to appropriate the remaining \$4,393,621.00 from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) that will be provided for necessary CARES CRF eligible expense categories related to human and community services, economic development, technology, and general County services as approved by the Board of Supervisors on July 1, 2020. Prior to execution, all programs will be reviewed by the County's CARES CRF Compliance and Documentation Team.

Appropriation #2021022 **\$40,000.00**

Source: Local Revenue \$ 40,000.00

This request is to appropriate \$40,000.00 in Local Revenue for a grant received in FY 21 from Virginia Housing (formerly Virginia Housing Development Authority). This funding will be used for eligible purchases such as, but not limited to, supplies and technology equipment to support the efforts of the Housing staff to continue providing housing services during COVID-19.

Appropriation #2021023 **\$47,600.00**

Source: State Revenue \$ 23,800.00
General Fund Fund Balance \$ 23,800.00

This request is to appropriate \$23,800.00 in State Revenue for a grant received in FY 21 from the Virginia Office of Emergency Services and to re-appropriate \$23,800.00 in General Fund fund balance as the local match, which was identified in the FY 20 Fire Rescue Department budget during the grant application process. This funding will be used to purchase compression devices for the Fire Rescue Department.

Appropriation #2021024 **\$0.00**

Source: Reserve for Contingencies* \$ 130,000.00

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

This request is to appropriate \$130,000.00 from the Reserve for Contingencies pursuant to the Board of Supervisors' action at its August 6, 2020 meeting to remove the At Ready statue, cannons, and stack of cannonballs located in front of the historic courthouse at Court Square.

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

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2021019; #2021020; #2021021; #2021022; #2021023 and #2021024 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, 2021.

APP#	Account String	Description	Amount
2021019	3-1230-51000-351000-510100-9999	APP2021019: CDD VHCD Grant	\$2,000.00
2021019	4-1230-34050-434050-800700-1003	APP2021019: CDD VHCD Grant	\$2,000.00
2021020	4-1000-32020-432020-561300-1003	APP2021020-Reserve for Contingencies to STVFD	\$31,364.61
2021020	4-1000-99900-499000-999990-9999	APP2021020-Reserve for Contingencies to STVFD	-\$31,364.61
2021021	3-1100-51000-351000-510100-9999	APP2021021-CARES CRF Funding	\$4,393,621.00
2021021	4-1100-99900-499000-999999-9999	APP2021021-CARES CRF Funding	\$4,393,621.00
2021022	3-1212-18120-318120-181279-1005	SA2021022 VHDA Housing Grant	\$40,000.00
2021022	4-1212-53020-453010-600100-1005	SA2021022 VHDA Housing Grant	\$10,000.00

2021022	4-1212-53020-453010-800700-1005	SA2021022 VHDA Housing Grant	\$30,000.00
2021023	3-1606-24000-324000-240500-1003	SA2021023 Office of EMS Grant - Lucas Devices - State Funds	\$23,800.00
2021023	3-1606-51000-351000-512004-9999	SA2021023 Office of EMS Grant - Lucas Devices - Match Transfer from GF	\$23,800.00
2021023	4-1606-32015-432010-800100-1003	SA2021023 Office of EMS Grant plus Match - Lucas Devices	\$47,600.00
2021023	4-1000-32015-432010-930200-1003	SA2021023 Office of EMS Grant - Lucas Devices - Match Transfer to grant fund	\$23,800.00
2021023	3-1000-51000-351000-510100-9999	SA2021023 Office of EMS Grant - Lucas Devices - Match from GF Fund Balance	\$23,800.00
APP#	Account String	Description	Amount
2021024	4-1000-99900-499000-999990-9999	APP2021024: Monument Removal at Court Square - One-time Reserve for Contingencies	-\$130,000.00
2021024	4-1000-43201-443200-301200-2181	APP2021024: Monument Removal at Court Square - Construction	\$63,700.00
2021024	4-1000-12019-412010-301210-2181	APP2021024: Monument Removal at Court Square - CAPE	\$1,000.00
2021024	4-1000-43201-443200-320100-2181	APP2021024: Monument Removal at Court Square - contract services / security	\$13,144.00
2021024	4-1000-43201-443200-540100-2181	APP2021024: Monument Removal at Court Square - rental	\$4,425.00
2021024	4-1000-43201-443200-312350-2181	APP2021024: Monument Removal at Court Square - engineering	\$1,200.00
2021024	4-1000-43201-443200-999999-2181	APP2021024: Monument Removal at Court Square - Contingency	\$46,531.00

Item No. 8.2. CARES Coronavirus Relief Fund (CRF) Agreement between the County of Albemarle and the Town of Scottsville.

The Executive Summary forwarded to the Board states that The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 provides funding for a number of different programs to address the COVID-19 pandemic. One of the CARES Act programs is the Coronavirus Relief Fund (CRF), which directly provides assistance to state, local, territorial, and tribal governments for impacts of the COVID-19 pandemic.

On May 12, 2020, Aubrey Layne, Jr., the Commonwealth of Virginia's Secretary of Finance, notified the County of Albemarle that the Commonwealth of Virginia has provided an allocation of \$9,538,621 in CRF funding to Albemarle County, which is based on the proportion that the County's population represents of the statewide total population. (Attachment A). A further \$9,538,621 allocation is expected in late August, 2020. The Board approved the County's implementation plan for the first allocation of CARES CRF funding on June 1.

Funding has been provided to counties based on population. This includes the populations of the towns within their borders. Consequently, Albemarle County will provide a proportional share of its CRF funds to the Town of Scottsville. This funding must be expended in accordance with the same Federal compliance requirements as the County.

The CARES Act specifies that expenditures using Fund payments must be "necessary." CARES CRF funding is "one-time" and will not be available for ongoing services. The County is required to maintain all necessary documentation to ensure compliance with the Federal requirements and would be responsible to return funds to the Federal government if it were determined that the funds were spent for purposes that do not qualify.

The attached Agreement states that the Town of Scottsville will comply with all provisions of the Agreement, will only use these funds in a manner that complies with the CARES Act and guidance on use of CRF funds issued by the U.S. Department of the Treasury, and will expend the funds on or before December 20, 2020. Any unspent funds will be returned to the County.

Scottsville will be responsible for complying with the CARES Act and guidance on the use of CRF funds issued by the U.S. Department of the Treasury Scottsville, and shall retain documentation relating to every use of funds, and will provide any documentation that the County deems fit to confirm that a use is eligible under the CARES Act. Scottsville shall notify the County's Chief Financial Officer/Director of Finance notice of any funds it moves out of the CRF Account within one week of moving those funds, as well as the amount moved and a brief description of the use. If the County's Chief Financial Officer/Director of Finance determines that Scottsville removed funds from the CRF Account for an ineligible use, Scottsville shall replenish the funds within 30 days. Failure to do so will create a debt from Scottsville to the County, and the County may withhold any funds, from any source, otherwise due from the County to Scottsville to recuperate those funds.

This Agreement will be effective from August 19, 2020 until December 30, 2025 to align with the U.S. Department of the Treasury Office of the Inspector General's authority to audit CRF records for 5 years.

Additional funding may be granted to Scottsville, on the same terms, if additional CRF funds are provided to the County in the future.

The agreement includes \$50,000 in CARES CRF funding for the Town of Scottsville from the June 1, 2020 allocation. It is expected that an additional \$50,000, from a future allocation, will also be granted to the Town.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving the Agreement with the Town of Scottsville, authorizing the County Executive to execute the agreement once it has been approved as to substance and form by the County Attorney, and authorizing the Chief Financial Officer/ Director of Finance to execute an additional, future, Agreement with Scottsville, on the same terms.

By the above-recorded vote, the Board adopted the Resolution (Attachment A) approving the Agreement with the Town of Scottsville, authorizing the County Executive to execute the agreement once it has been approved as to substance and form by the County Attorney, and authorizing the Chief Financial Officer/ Director of Finance to execute an additional, future, Agreement with Scottsville, on the same terms:

**RESOLUTION TO APPROVE AN AGREEMENT BETWEEN
THE COUNTY AND THE TOWN OF SCOTSVILLE**

WHEREAS, the County received \$9,538.621 on June 1, 2020, and will receive an additional \$9,538.621 in late August, 2020, from the Commonwealth in Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 Coronavirus Relief Fund (CRF) funding, which provides assistance to state, local, territorial, and tribal governments to address impacts of the COVID-19 pandemic; and

WHEREAS, the funds must be expended in accordance with Federal compliance requirements; and

WHEREAS, the funding was based on the County's population, including the population of the Town of Scottsville; and

WHEREAS, the County is permitted to provide a share of the CRF funds it receives to the Town of Scottsville; and

WHEREAS, the Board finds it is in the best interest of the County to enter an Agreement with the Town of Scottsville to assure that the Town of Scottsville expends the CRF funds in accordance with the Federal compliance requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to enter the Agreement with the Town of Scottsville, substantially similar to the attached draft Agreement, once it has been approved as to substance and form by the County Attorney, and authorizes the County's Chief Financial Officer/Director of Finance to execute an additional, future Agreement with Scottsville, on the same terms.

* * * * *

THIS AGREEMENT is entered into on 25th, September 2020, between the County of Albemarle, Virginia, a political subdivision of the Commonwealth of Virginia, and the Town of Scottsville, a political subdivision of the Commonwealth of Virginia.

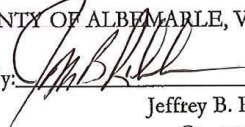
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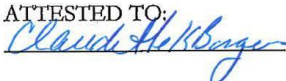
1. The County is responsible for the disbursement of funds from the Coronavirus Relief Fund ("CRF") pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L.No. 116-236, div. A, Title V ("CARES Act").
2. Scottsville hereby represents to the County that it will comply with all provisions of this Agreement. Scottsville understands that this representation is material to the County agreeing to disburse CRF funds directly to Scottsville.
3. The County will disburse an additional \$50,000 for a total of \$100,000 to Scottsville for Scottsville's use, out of the CRF funds that the Commonwealth disbursed to the County. This amount reflects Scottsville's population, relative to the County's total population.
4. Scottsville will only use these funds in a manner that complies with the CARES Act and guidance on use of CRF funds issued by the U.S. Department of the Treasury.
5. Any funds that are not expended on or before December 20, 2020, must be returned to the County no later than December 20, 2020. This is 10 days earlier than the deadline under the CARES Act, to allow the County time to return unused funds to the Commonwealth by December 30, 2020.
6. Funds will be disbursed under this Agreement once. This is not a commitment of any further funding.
7. Scottsville will keep CRF funds in a separate account ("CRF Account") from all other funds until it has identified an eligible use. It may then move the funds for the identified use into another account for actual expenditure.
8. Scottsville will provide the County's Chief Financial Officer/Director of Finance notice of any funds it moves out of the CRF Account within one week of moving those funds. This notice will include the amount moved and a brief description of the use.
9. Scottsville shall retain documentation relating to every use of funds removed from the CRF Account, including payroll records, invoices, and sales receipts. The County may require Scottsville to provide any documentation that it deems fit to confirm that a use is eligible under the CARES Act.
10. If the County's Director of Finance determines that Scottsville removed funds from the CRF Account for an ineligible use, Scottsville shall replenish that portion of the CRF Account within 30 days. Failure to do so will create a debt from Scottsville to the County for the amount not replenished, 30 days after the Director of Finance's determination. This debt is self-executing, requiring no further administrative or legal action to perfect. The County may enforce the provisions of this paragraph by withholding any funds, from any source, otherwise due from the County to Scottsville.
11. Notwithstanding Section 10 above, Scottsville remains responsible for complying with the CARES Act and guidance on use of CRF funds issued by the U.S. Department of the Treasury.

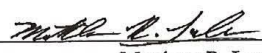
12. This Agreement is effective as of the date above, and continues for in effect until December 30, 2025, to align with the U.S. Department of the Treasury Office of the Inspector General's authority to audit CRF records for 5 years.

Signatures

On behalf of the County of Albemarle and the Town of Scottsville, we enter this Agreement.

COUNTY OF ALBEMARLE, VIRGINIA
By: 
Jeffrey B. Richardson
County Executive

ATTESTED TO:
 (Clerk)

TOWN OF SCOTTSVILLE, VIRGINIA
By: 
Matthew R. Lawless
Town Administrator

ATTESTED TO:
 (Clerk)

Item No. 8.3. Donation of Police Vehicle to the Town of Scottsville Police Department.

The Executive Summary forwarded to the Board states that Albemarle County owns a 2013 Ford Police Utility vehicle. The vehicle now has over 115,000 miles on it. This vehicle has reached its usable life for the agency and is requiring significant maintenance. As per normal fleet rotation, the Albemarle County Police Department has received new utility patrol vehicles and intends to remove this vehicle from its fleet plan due to its age, high mileage, and maintenance needs.

Scottsville PD has its own law enforcement agency that handles calls for service in the Town of Scottsville located in southern Albemarle County. Town officers routinely assist ACPD personnel when calls for service are near their jurisdiction or handle calls in the County if no county officers are readily available. Serious offenses are handled by ACPD but routine calls for service are handled by Town officers. This agency has very limited resources and requested assistance in obtaining a vehicle. This would enhance their ability to patrol the Town and provide assistance to our officers as well as Albemarle County residents.

Virginia Code section 15.2-953 (C.) permits the Board of Supervisors or any locality to make a donation to another governmental entity in or outside of the Commonwealth within the United States. The fair market value of the vehicle is estimated to be around \$3500 if sold at auction, and would only provide minimal funds if traded in. Any usable equipment will be removed prior to transfer.

This request will have no impact on the operating budget, however, by making this donation, the County will forgo the opportunity to generate funds from the sale, auction or trade-in of the vehicle.

Staff recommends that the Board approve the County's donation of 2014 Ford Police Utility vehicle to the Town of Scottsville Police Department for its use in patrolling the town as well as serving the community of southern Albemarle County.

By the above-recorded vote, the Board approved the County's donation of 2014 Ford Police Utility vehicle to the Town of Scottsville Police Department for its use in patrolling the town as well as serving the community of southern Albemarle County.

Item No. 8.4. Donation of Police Vehicle to Piedmont Virginia Community College.

The Executive Summary forwarded to the Board states that Albemarle County owns a 2014 Ford Police Utility vehicle. The vehicle now has over 115,000 miles on it. This vehicle has reached its usable life for the agency and is requiring significant maintenance. As per normal fleet rotation, the Albemarle County Police Department has received a new utility patrol vehicle and intends to remove this vehicle from its fleet plan due to its age, high mileage, and maintenance needs.

Piedmont Virginia Community College (PVCC) has its own law enforcement agency that handles calls for service on the campus. Campus officers assist ACPD personnel when calls for service are near the campus. Serious offenses are handled by ACPD but routine calls for service are handled by campus officers. This agency has very limited resources and requested assistance in obtaining a vehicle. This would enhance their ability to patrol their campus and provide assistance to students, many of whom are Albemarle County residents.

Virginia Code section 15.2-953 permits the Board of Supervisors to make a donation to a state college or university that provides services to Albemarle County's residents. The fair market value of the vehicle is estimated to be around \$3500 if sold at auction, and would only provide minimal funds if traded in.

This request will have no impact on the operating budget, however, by making this donation, the County will forgo the opportunity to generate some minimal funds from the sale, auction or trade-in of the vehicle.

Staff recommends that the Board approve the County's donation of 2014 Ford Police Utility vehicle to PVCC for its use in patrolling their campus and assisting students.

By the above-recorded vote, the Board approved the County's donation of 2014 Ford Police Utility vehicle to PVCC for its use in patrolling their campus and assisting students.

Item No. 8.5. R. A. Yancey Lumber Corporation: Special Exception Request.

The Executive Summary forwarded to the Board states that, on July 15, 2020, the Board of Supervisors approved 14 special exceptions to allow existing buildings to remain on the subject property, subject to conditions (Attachment A), and deferred action on three requested special exceptions related to the construction of a sorter/stacker, in order to allow staff to evaluate conditions that would address the concerns of the Board, the public, and the applicant. The Board took no actions on two special exception requests that were withdrawn by the applicant.

On August 5, 2020, the Board of Supervisors discussed the three special exception requests related to the construction of a sorter/stacker. The Board directed staff to work with the applicant and abutting owners to develop conditions to address fencing along Yancey Mill Lane and adjacent to property north of Yancey Mill.

Staff has worked with the applicant and the abutting owners to develop conditions that address fencing. These conditions have been agreed to by all parties. Staff has prepared a Resolution that includes the following: 1) Restatement and reaffirmation of the 14 special exception requests originally approved on July 15, 2020; 2) Approval of the three special exception requests related to the sorter/stacker (items 4, 6, and 7) that were deferred from the July 15 meeting; 3) Withdrawal of two special exception requests (items 18 and 19) by the applicant; and 4) Conditions related to all of the approved special exception requests. Staff's newly-recommended conditions related to the sorter/stacker are to require the installation of noise attenuating materials and fencing, the submittal of studies to demonstrate that the requirements of the ordinance are being met, and the construction of a fence to minimize impact on a property to the south caused by dust and lights, as well as a provision for monitoring sound/noise, and designated timelines for compliance or limitations on future actions. Specifically:

Conditions 1 and 2 - Apply to all special exceptions (these conditions were imposed on the special exceptions approved on July 15, 2020, with a clerical amendment to condition 1 since);

Conditions 3 through 8 - Pertain to special exceptions 4, 6, and 7 related to the sorter/stacker.

The conditions run with the land.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to restate and reaffirm the 14 special exceptions approved on July 15, 2020, to approve the three special exceptions related to the sorter/stacker (items 4,6, and 7), all subject to conditions contained therein, and to take no action on the two special exception requests that were withdrawn by the applicant.

By the above-recorded vote, the Board adopted the Resolution (Attachment B) to restate and reaffirm the 14 special exceptions approved on July 15, 2020, to approve the three special exceptions related to the sorter/stacker (items 4,6, and 7), all subject to conditions contained therein, and to take no action on the two special exception requests that were withdrawn by the applicant:

RESOLUTION TO APPROVE CERTAIN SPECIAL EXCEPTIONS FOR R. A. YANCEY LUMBER CORPORATION: SPECIAL EXCEPTION REQUEST

WHEREAS, by Resolution dated July 15, 2020, the Albemarle County Board of Supervisors approved certain special exceptions requested by the R. A. Yancey Lumber Corporation (listed therein as Special Exceptions 1-3,5, and 8-17), and deferred certain other requests (listed therein as requests 4, 6, and 7) for further consideration; and

WHEREAS, the Board now wishes to restate and reaffirm the special exceptions previously approved, as well as to act on the requests previously deferred.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the special exceptions application of the R. A. Yancey Lumber Corporation and the attachments thereto, including staff's supporting analysis, the recommendations of the Planning Commission at its June 23, 2020 meeting, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-4.18, 18-4.20, 18-5.1(a), 18-5.1.15, 18-33.43, and 18-33.49, the Albemarle County Board of Supervisors hereby restates and reaffirms the following Special Exceptions 1-3, 5, and 8-17, and approves the following Special Exceptions 4,6, and 7, all subject to the conditions attached hereto, for and on County Parcel ID Numbers 05500-00-00-111B0 and 05500-00-00-11200:

1. A special exception from the provisions of County Code § 18-4.20b to reduce the 100-foot setback for the Mill Building (building 7b) and Pole Shed (building 8).

2. A special exception from the provisions of County Code § 18-4.20b to reduce the 10-foot setback for the Stem Loader.

3. A special exception from the provisions of County Code § 18-4.20b to reduce the 30-foot setback for parking adjacent to Rural Areas property.

4. A special exception from the provisions of County Code § 18-4.20b to reduce the 100-foot setback for the proposed Sorter/Stacker (building 27) to 35 feet.

5. A special exception from the provisions of County Code § 18-5.1.15a to reduce setback for the storage of lumber, logs, chips or timber to zero (0) feet.

6. A special exception from the provisions of County Code § 18-5.1.15a to reduce the 100-foot setback for the proposed Sorter/Stacker (building 27) to 35 feet.

7. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the proposed Sorter/Stacker (building 27) approximately 350 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

8. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Pole Shed (building 8) approximately 540 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

9. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Silo (building 10) approximately 570 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

10. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Boiler (building 11) approximately 570 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

11. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Kiln (building 12A) approximately 515 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

12. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Planer (buildings 18, 22 and 23) approximately 550 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

13. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Mill Building (building 7a and 7b) approximately 520 feet from the dwelling located to the south on Tax Map 55, Parcel 100.

14. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Stem Loader (adjacent to Rockfish Gap Turnpike) approximately 500 feet from the dwelling located to the west on Tax Map 55A, Parcel 28.

15. A special exception from the provisions of County Code § 18-5.1.15c to permit the warming up of equipment and preparing the equipment area to process wood between 6:00 am and 7:00 am.

16. A special exception from the provisions of County Code § 18-5.1.15c that the loading or unloading of wood products be permitted from 6:00 am to 11:00 pm.

17. A requested special exception from the provisions of County Code § 18-5.1.15c that the loading and unloading associated with the kiln be permitted 24 hours a day.

BE IT FURTHER RESOLVED that upon the applicant's withdrawal of the following special exception requests, no action was taken on them:

18. A requested special exception from the provisions of County Code § 18-4.18.04 to increase daytime noise limits.

19. A requested special exception from the provisions of County Code § 18-4.18.04 to increase nighttime noise levels limits.

* * *

R. A. Yancey Lumber Corporation: Special Exception Request Conditions

1. Structures and Machinery will be permitted as shown on a survey titled "Alta/NSPS Land Title Survey" prepared by Timmons Group and dated August 2, 2017 attached hereto as Exhibit A, and the Sorter and Stacker shall be permitted as shown on sheet 2 of the plans entitled "R.A. Yancey Lumber Corporation Sorter / Stacker Equipment," prepared by FPW Architects, dated March 12, 2020, revised March 26, 2020, attached hereto as Exhibit B.

2. The owner must obtain a Certificate of Occupancy for all existing structures by February 1, 2021. For any structure that is not issued a Certificate of Occupancy by February 1, 2021 the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

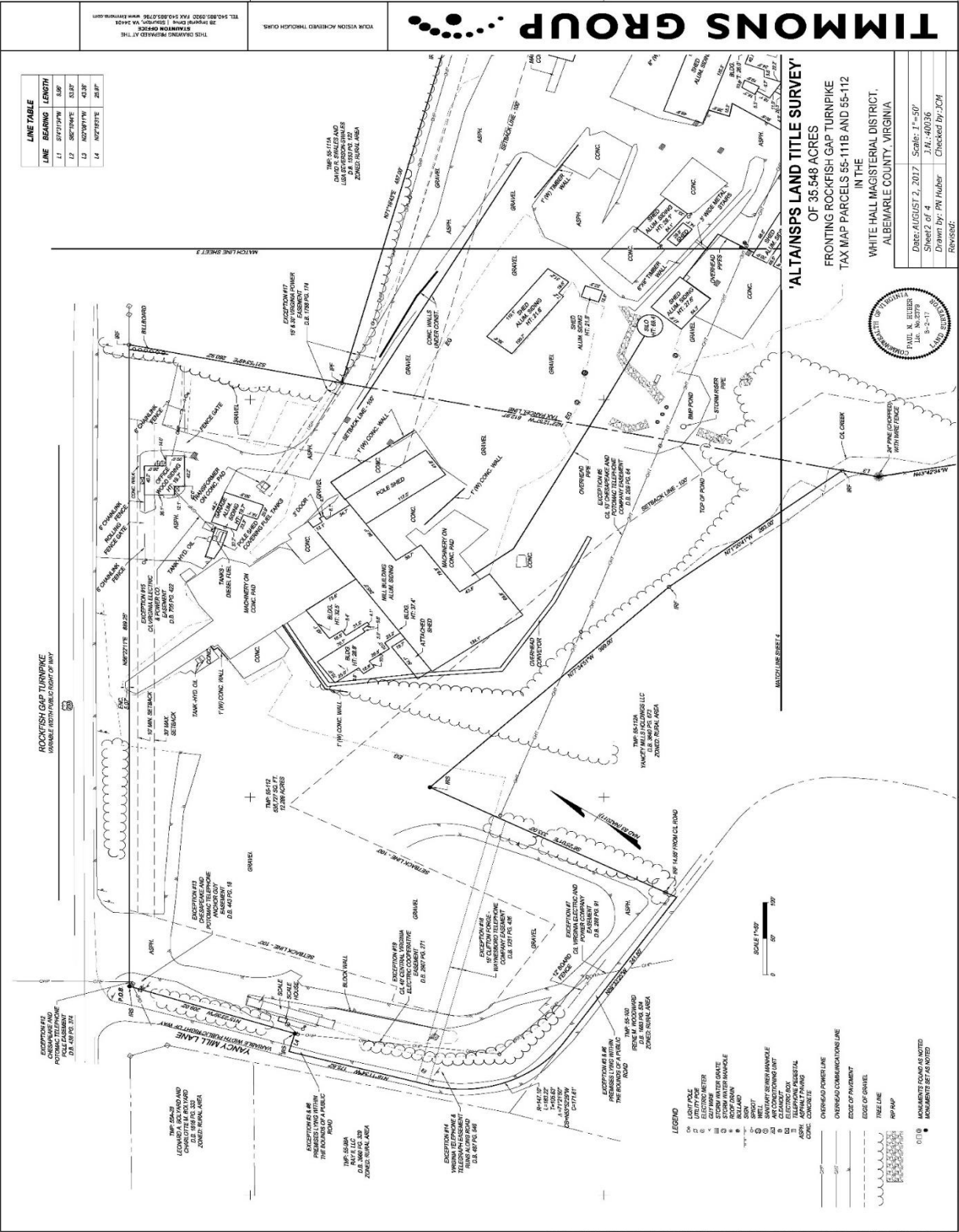
3. The owner shall construct a metal building around the Stacker equipment within 45 days following issuance of a building permit for such building, which building permit has been submitted and is under review by the Community Development Department and is identified as BP 2018-2196NC. The building shall include the installation of sound attenuation materials on the interior wall or walls as needed for the Stacker to comply with Section 4.18.04 of the County Zoning Ordinance.

4. Upon completion of the requirements in condition 3 herein, the owner shall have a sound test of the Stacker equipment conducted by a qualified professional to demonstrate that the Stacker equipment complies with Section 4.18.04 of the County Zoning Ordinance. The owner shall not resume construction of the Sorter equipment until the Agent has confirmed the results of the sound test. If the Agent has not issued a written response within seven calendar days of receipt of the sound test, it shall be deemed confirmed and approved, and the owner may resume construction of the Sorter equipment.

5. Prior to the earlier of (a) 150 days following the Board of Supervisors' approval of the special exceptions applicable to the Sorter and Stacker equipment, or (b) the issuance of a Certificate of Occupancy for the Sorter equipment building, the owner shall construct a wooden fence at least 10 feet tall and approximately 250-270 feet long along Yancey Mill Lane in the approximate area shown in red on Exhibit D, attached hereto. The fence location may be modified to minimize impact to existing vegetation or interference with utilities. The smooth or finished side of the fence shall face Yancey Mill Lane. The owner shall be responsible for maintaining the fence.

6. The owner shall construct a wooden fence at least 10 feet in height along the length of the southern property line of tax map parcel 55-111A adjacent to the Sorter and Stacker equipment, except for a 30- foot span between the southwest corner of such property line to a point 30-feet to the east of such corner, which 30-foot span may remain unfenced. The fence will be approximately 457 feet in length. The owner shall also construct a wooden fence at least 10 feet in height along the length of the western property line of tax map parcel 55-111A, beginning at the southwest corner of such property line to a point approximately 189 feet to the north. The smooth or finished side of the fences shall face the adjacent property. The owner shall be responsible for maintaining the fences. The fence along the southern property line shall be completed within 90 days following the Board of Supervisors' approval of the special exceptions applicable to the Sorter and Stacker equipment, and the fence along the western property line shall be completed within 120 days following the Board of Supervisors' approval of the special exceptions applicable to the Sorter and Stacker equipment.

7. Following satisfaction of condition 4 herein, and following construction of the Sorter equipment, the owner shall construct a metal building around the Sorter equipment. The building shall include the installation of sound attenuation materials on the interior wall or walls as needed for the Sorter to comply with Section 4.18.04 of the County Zoning Ordinance.



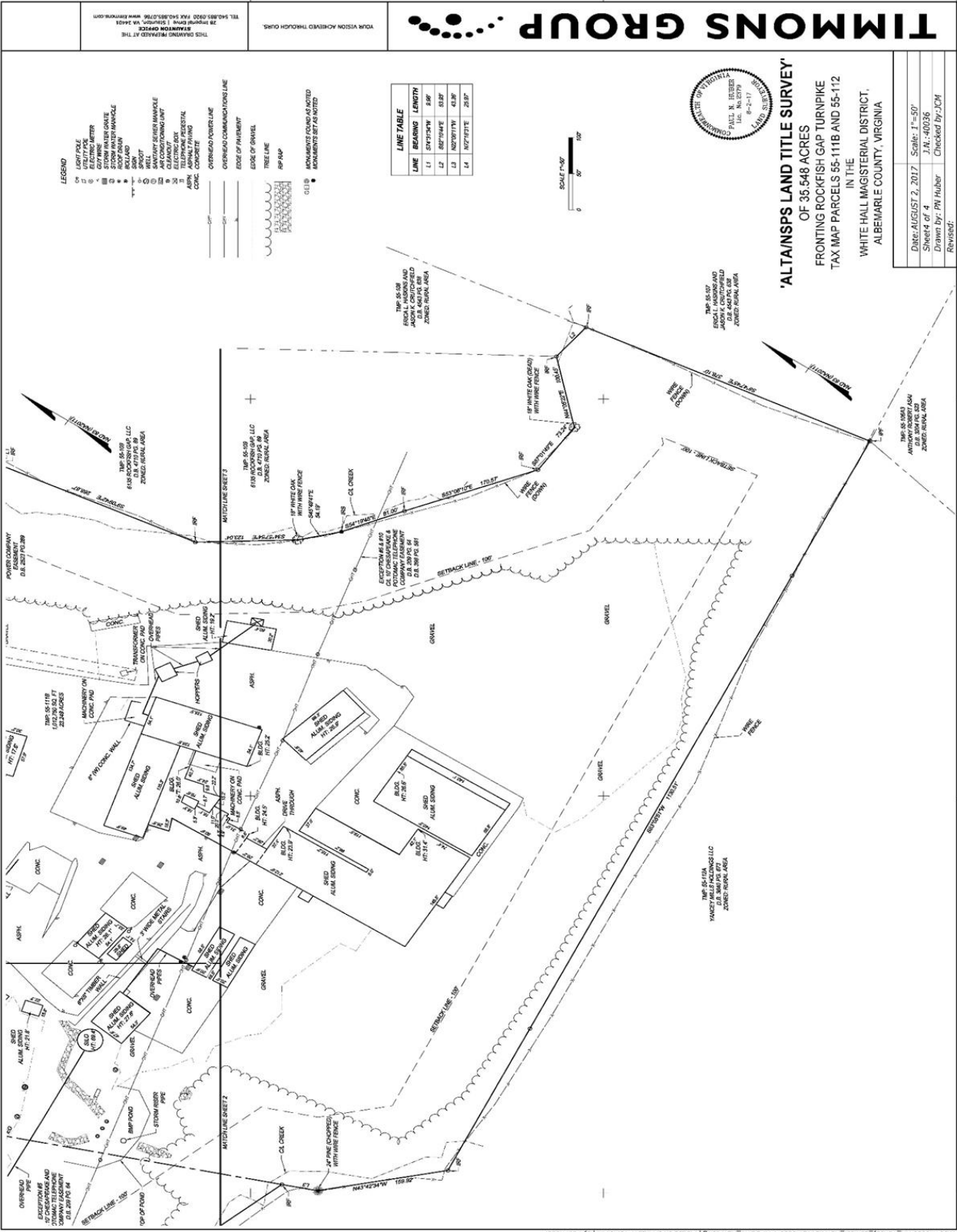


Exhibit B: FPW Architects Plans, sheet 2

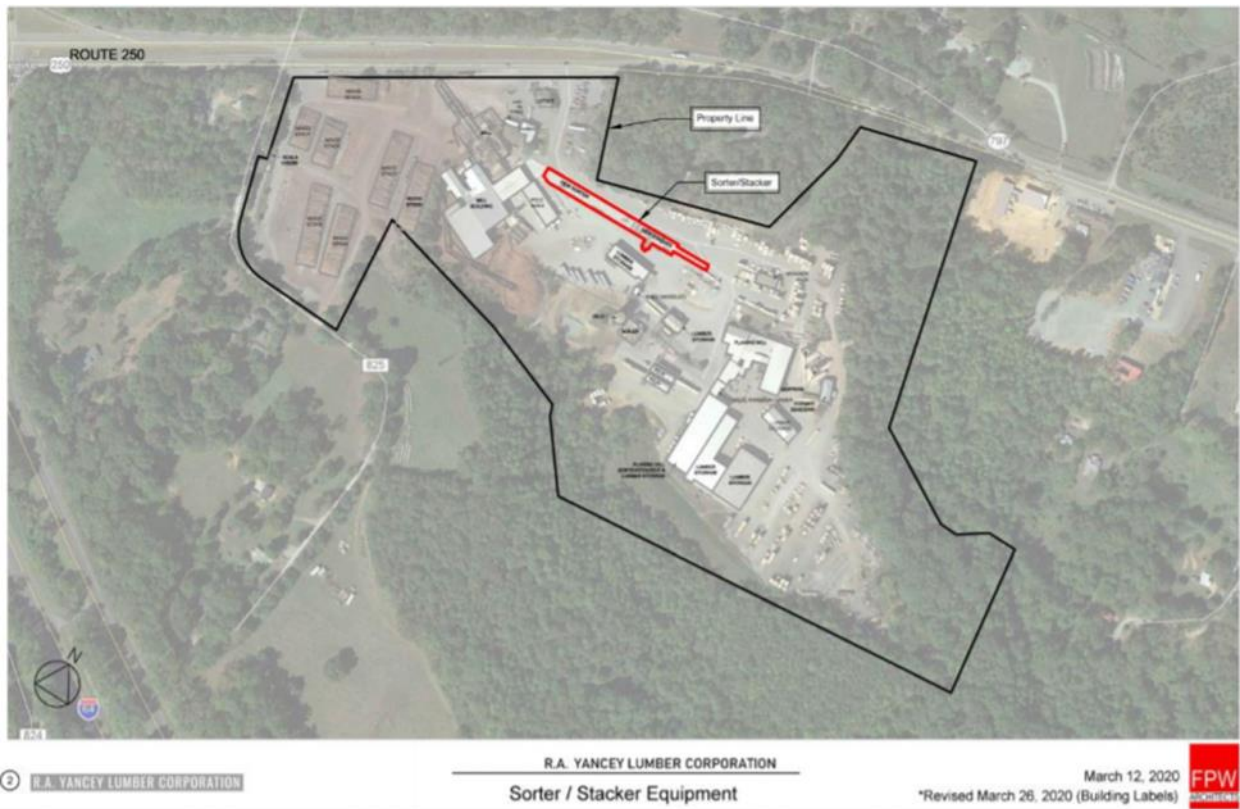
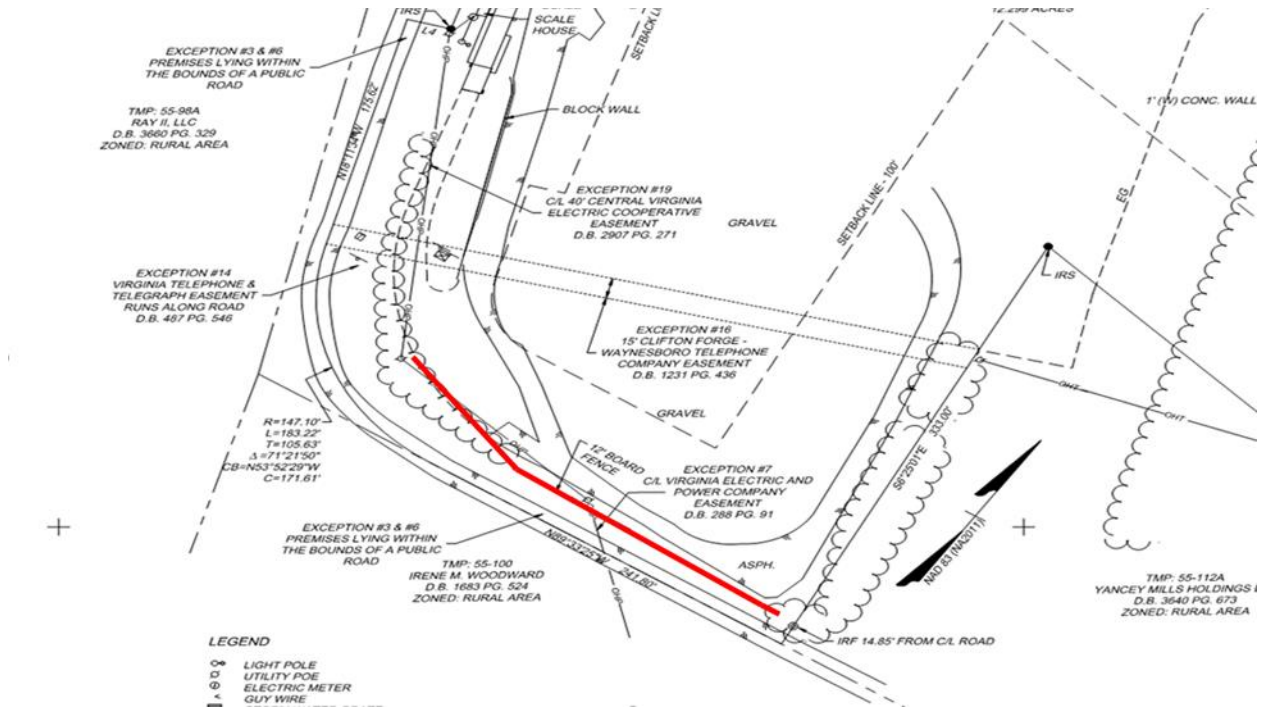


Exhibit C: Exhibit Showing Wall between Sorter and Stacker



Exhibit D: Exhibit Showing Approximate Location of Fence Yancey Mill Lane



Item No. 8.7. County Grant Application/Award Report, Including CARES Funding, **was received for information.**

Item No. 8.8. Emergency Management Work Plan, **was received for information.**

Item No. 8.9. VDOT Monthly Report (August) 2020, **was received for information.**

Item No. 8.6. Amendment to the Board's Rules of Procedure.

The Executive Summary forwarded to the Board states that, at its regular meetings, the Board has two items on its agenda entitled From the Public: Matters Not Listed for Public Hearing on the Agenda ("Matters from the Public") - the first session is held in the afternoon and the second is held in the evening. The Board's Rules of Procedure allow any member of the public to speak on any topic of public interest that is not on the final agenda for a public hearing for up to three minutes. The Chair has discretion to reduce that to two minutes if there will be more than 10 speakers. During the COVID-19 disaster, the scope of Matters from the Public is narrowed to those matters previously considered by the Board or matters that are pending before the Board.

The Board's current Rules impose no limit on the number of speakers during Matters from the Public.

At its August 5, 2020 meeting, the Board discussed amending its Rules to limit the number of speakers during Matters from the Public to 10, and requiring any speakers planning to use a visual or audio presentation to submit the presentation to the Clerk at least 48 hours before the Matters from the Public session. These proposed amendments are on pages 5 and 6 of the attached Rules of Procedure (Attachment A). A limitation on the number of speakers will provide some certainty to the maximum duration of each Matters from the Public session and allow the Board to better adhere to its agenda schedule and timely complete its business.

The Rules require that any changes to the Rules be made only after a Supervisor provides "notice" of a proposed motion to amend the Rules, and that the actual motion to amend be made at the next regular meeting of the Board, which will be on September 2, 2020.

If the Board desires to amend its Rules, the Board's approval of this consent agenda item may be deemed to satisfy the Rules' notice requirement, with the expectation that a motion to amend the Rules will be made at the Board's September 2, 2020 meeting.

* * * * *

Mr. Kamptner said with Ms. Price's question and clarification to him that came in that Monday or Tuesday, it struck him that the amendments to be made need to be expanded. He said one idea would be to have a set of rules that apply to virtual meetings. He said most of the text will be similar, but it may be easier to manage to have special rules for the virtual meetings. He said it seemed like the County may be holding virtual meetings for quite a while, and he took the Board's direction too literally and created an incongruity in the Board's previously adopted rules.

Mr. Kamptner said his idea would be to have a separate set of rules that is comprehensively

studied to present to the Board for consideration.

Mr. Gallaway asked if there were any objections to this approach.

Ms. Price thanked Mr. Kamptner, noting that he had once again exceeded expectations. She said she had raised some questions, and that he looked even deeper into the matter than she had initially understood. She said she appreciated Mr. Kamptner taking the initiative to look at this from a broader perspective.

Ms. Price said the Board has an opportunity, and that Mr. Kamptner's suggestion is an excellent one to recognize that the virtual meetings will continue longer than had originally been anticipated or, even until a few weeks earlier, may have fully contemplated. She said with a little more work, the Board will have an excellent policy they can set up for both virtual meetings and for those in Lane Auditorium.

Ms. Mallek said at an earlier meeting, the Board had briefly discussed having someone who is speaking under "Matters from the Public" choose either the 1:00 p.m. time or 7:00 p.m. time, but not both on the same day. She reminded the Board to consider whether or not they want Mr. Kamptner to include this kind of rule when it comes back to the Board in September.

Ms. McKeel concurred, adding that Mr. Kamptner made a great suggestion. She said the only thing she would consider is that rather than looking at the virtual meetings, coming out of the pandemic, they may very well end up with a hybrid of meetings of some sort, as they are seeing a great increase in public engagement through the Zoom meetings.

Ms. McKeel said when Mr. Kamptner is writing this, she would suggest not only writing it through the lens of having a virtual meeting in an emergency. She said she would write it in such a way that it is an option the Board utilizes, adding that she wouldn't necessarily include the criteria. She said she just wouldn't want it to say that they would only use Zoom in an emergency, as they will not want to have to revisit the rules later if they end up with some sort of hybrid.

Mr. Kamptner agreed that this was a good idea.

No action was taken.

Agenda Item No. 9. **Action Item:** SE202000001 Homestay Special Exceptions for 888 Woodlands Road (Owner/Applicant: Crane/Bobbs).

The Executive Summary forwarded to the Board states that the applicant requests the following two special exceptions pursuant to County Code § 18-5.1.48(i) for a proposed homestay at 888 Woodlands Road:

1. To modify the required 125-foot setback of County Code 18-5.1.48(j)(1)(v) to reduce (a) the required setback from the homestay structure to the western property line to 15 feet +/- and (b) the required setback for parking (i) to 50 feet +/- along the western property line and (ii) to 90 feet +/- along the southern front property line.
2. To waive the owner occupancy requirement of County Code § 18-5.1.48(a), to allow occupancy by a resident manager who is not the owner, as authorized by County Code § 18-5.1.48(i)(1)(iv).

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment G) to deny the two special exception requests. If the Board chooses to approve the requested special exceptions, staff recommends that certain conditions be imposed.

Ms. Mallek said her official declaration was that she was electing to disqualify herself from participating in this special exception. She said she was previously a party to a contract with a business owned by the owner of the property at 888 Woodlands Road. She said she has completed and signed a disqualification form and requested that this fact be recorded in the appropriate public records for a period of five years.

Mr. Gallaway noted that Ms. Mallek had disconnected and would be rejoining the meeting when the Board was finished with the item.

Ms. Rebecca Ragsdale, Principal Planner in the Zoning Division of Community Development, said she has reviewed the special exception request before the Board for the property, along with the County's co-compliance staff.

Ms. Ragsdale said she would remind the Board which of the homestay regulations apply to the specific request before them. She said they do have a separate set of regulations, depending on the zoning and acreage of parcels.

Ms. Ragsdale said this is a parcel less than 5 acres and therefore, it would be limited to no more than two guestrooms, no use of an accessory structure, no more than one homestay use on the property, and no whole-house rental (meaning rental when the owner or resident is not there). She said there are also the requirements that there be 125-foot setbacks from all property lines for parking and the building use of the homestay and that it must be owner-occupied.

Ms. Ragsdale said all homestays must obtain a zoning clearance before beginning operation, which includes the safety inspections, final check of parking, and that neighbor notice has been provided so that neighbors have an emergency contact in case issues arise.

Ms. Ragsdale said there are a number of special exceptions that may be applied for. She said in this case, the two before the Board were to reduce the setbacks to the western property line and front property line, and to waive the owner occupancy requirement. She said the property is owned by the Cranes, with Phillip Bobbs being the applicant and proposed tenant for the homestay.

Ms. Ragsdale said the factors staff considers is that there is no detriment to any abutting lot and that there is no harm to public health, safety, or welfare. She said this is contained in the Homestay Analysis section of the ordinance.

Ms. Ragsdale said in general, special exceptions may be approved, denied, or approved with conditions. She said the Board is not required to make specific findings in support of its action.

Ms. Ragsdale said having given a regulatory background, she would switch to an overview of the property and neighborhood, then get into the details of this specific request. She said the property is located on 888 Woodlands Road and is about halfway in between Earlysville Road and Free Union Rd., along that stretch of Woodlands Road. She explained it was located in the middle of the presented map, represented by a blue asterisk. She said it was situated closely to Mount Aire Rock Lane to the east, as well as to Cola Woods Lane to the west. She indicated to two abutting property owners on the map, explaining that they were notified of the special exception request and that staff has primarily heard from Mr. and Ms. Taylor and Ms. Judy Lane.

Ms. Ragsdale presented a map that again showed the proximity of the homes to the site. She said there are a number of residential properties around the site. She said the special exception request is to the property line shared with 2814 Cola Woods Lane to the west, and to the front property line.

Ms. Ragsdale presented an exhibit that was provided in the Board's packet that provides a sense of the distances and some of the characteristics of the property. She said she did have some site photos because although staff looks at aerials (which are helpful), it is hard to see the relationship to other properties until one is on the ground.

Ms. Ragsdale presented a photo, explaining that the Taylors' property comes up along the western property line with the proposed homestay. She said there are some wooded areas that are not entirely located on the homestay property. She said parking is proposed to be located in front. She said there is a parking area that is lower than the upper level of parking. She said the guestrooms would be located on the lower level. She said there is an existing fence that screens between the upper and lower levels.

Ms. Ragsdale said she would be showing the photos so that the Board could follow along with her descriptions. She presented a photo demonstrating that the carport is to the left, and that the upper parking is to the left along the western property line. She said this is as close at 16 feet. She said the carport is an older structure that predates the current zoning regulations. She said the minimum side setback for a structure now is 25 feet, so it is much closer than what the Board may have seen before. She said there was information in the Board's packet about how the guestrooms will be located on the other side of the house at the lower level.

Ms. Ragsdale presented a photo showing the lower level and where the guestrooms are located from the eastern side of the property. She presented a view from the western corner of the property, the rest of the carport structure and its location, and the outdoor areas where the firepit is and amenities guests may be using.

Ms. Ragsdale said the Board had heard from two speakers. She said she and the code compliance staff spoke with the neighbors, and the Board received a number of emails. She said the Board heard how, in staff's opinion, because of the way the property is situated and how close it is to the neighbor's yard, and with the interactions the neighbors have had with guests and the things they have been experiencing, there are ongoing compliance issues with this being a zoning violation and rented without a permit, as noted in the staff report. She said there is a history of the listing coming online, then coming offline.

Ms. Ragsdale said this is a property that staff has been investigating since the end of November, and there was a notice of violation issued that was related to the zoning violation.

Ms. Ragsdale said staff did have some concerns about the proximity of this parcel and what the neighbors have been experiencing. She said staff has concerns about what happens, given the nature and layout of the parcels, with the homestay guests coming over to the neighbor's yard, or in their driveway walking the dogs, etc. She said the Board heard about noise as well.

Ms. Ragsdale presented photos, noting they were provided from the neighbor's property that were emailed to the Board earlier in the week.

Ms. Ragsdale said in summary, staff recommended denial of both of the requests (for the reduction in setback and for the waiver of the home occupancy requirement). She said staff feels this was too close to the neighbors, and that there have been too many issues and impacts to neighbors. She said there are ongoing compliance issues, and that staff feels this situation is not consistent with the purpose and intent of allowing those special exceptions for owner occupancy to begin with.

Ms. Ragsdale said the recommendation before the Board was for denial and the motion shown on the slide was to deny both homestay special exception requests.

Ms. McKeel said she believed Ms. Ragsdale described this succinctly and appreciated her good work. She said she did have a question. She said it was referenced earlier in the public comments that this Airbnb listing is actually only active in the evening hours, after 7:00 p.m., and one cannot find it listed during the daytime hours. She questioned how this was possible, and if staff had had any experience with that. She said she never stays in Airbnb and she was curious if one can actually do that.

Ms. Ragsdale replied that there is still an ongoing investigation related to the compliance issues, and she did recently discover that the listing was up in the evening, as one of the neighbors stated. She said she hadn't thought to check in the evenings and that this is something staff is learning as they work through these homestay compliance issues. She said she did have access to the listing. She said she checked it on Monday or Tuesday evening, and it was up again. She said she was not sure what one does behind the scenes with Airbnb to do that with a listing, but staff would continue to work on the compliance issues with this site, regardless.

Ms. McKeel said it was good for everyone to know. She said she also had a comment to make.

Ms. McKeel said she noticed in the documents that it was suggested by the applicant or the people renting the Airbnb that if there is a large amount of traffic, one should park in the parking lot at the Methodist church down the road.

Ms. McKeel said she was curious, as there was only one Methodist church that was close by (Ivy Creek Methodist). She said she called them and asked if anyone from that residence had called and asked their permission for this Airbnb to use their parking lot for parking, and they said, "Absolutely not." She said the church told her that had someone called, they would have not approved that parking. She said she found this to be interesting that the applicant was sending people to the church to drop off their cars when they hadn't checked with the church first.

Mr. Gallaway said he understood that the owners were making the application, and the proposal from the gentleman to be the resident manager. He asked if the owner was profiting from the Airbnb, or the proposed tenant. He asked if tenants who are renting places allowed to start their own Airbnbs on people's property and getting owners to go along. He said this was a nuance that he didn't know they ever discussed.

Ms. Ragsdale replied that she did not know the financial or lease arrangements between the Cranes and Mr. Bobbs. She said when she earlier alluded to what staff thought the purpose and intent of what a special exception to owner occupancy would be, staff had in their mind larger Rural Area farms that would need a farm manager to live on the property, or a larger Rural Area property that has multiple homes that may be held in a family estate and the family cannot live there. She said staff was thinking more along those lines rather than this situation. She said this was the first one that staff reviewed, but from what she recalled from the Zoning Text Amendment process, that was more of the purpose and intent than this scenario.

Mr. Gallaway said it was being called into question whether or not this is the actual residence for the tenant. He said he would think this is something they should be able to confirm.

Ms. Ragsdale said that when staff met with Mr. Bobbs on the property, it sounded as if they were deciding whether they were going to establish full-time residency there. She said Mr. Bobbs sent her a copy of a driver's license change to 888 Woodlands Road that was issued on 7/22. She said Mr. Bobbs sent this copy of the driver's license to her that Tuesday. She said this was something that has been an ongoing issue with this property being rented with no one there, and the applicant did want to see if the special exception was going to be approved before they followed through with the rest of the process in terms of the homestay clearance and formally moving there.

Mr. Gallaway said he understood. He said in the packet, and regarding Ms. McKeel's question about the listing being up after 7:00 p.m., it seemed like they were operating and were not compliant. He said there was the notice of violation, then the applicant removed the listing, but the listing became reactivated. He said staff contacted them, and the listing was removed again. He said this was the end of it in the packet but that it now seemed like after the listing was removed, it has been popping back up again. He said noncompliance has continued up until as recently as the past week. He asked if he had this clear.

Ms. Ragsdale replied that staff was still investigating that, and that it seemed like this may be the case, based on looking at the listings, recent visits to the property, and what staff has observed. She said staff has been working closely with their code compliance officer on this site, and will be discussing with

the enforcement team that involves the County Attorney's Office how they can move forward with what should be done with the enforcement side of this.

Mr. Gallaway said he understood.

Ms. Price told Ms. McKeel that she couldn't speak specifically with regard to Airbnb, but she did know from her law practice advertising that when an entity advertises on the internet, they have something that is generally referred to as "campaigns." She said one can set the dates and times for those advertisements to appear. She said this clearly appears to be what has happened here; that based on the evidence, the applicant has deliberately set in such a fashion as to minimize the ability of the County to know when the advertisement is appearing outside of regular work hours.

Ms. McKeel thanked Ms. Price for her comments.

Ms. LaPisto-Kirtley asked if the applicant had ever received a certificate to have a homestay.

Ms. Ragsdale indicated no.

Ms. LaPisto-Kirtley asked how long the applicant had been operating this illegal homestay.

Ms. Ragsdale replied that it was brought to staff's attention at the end of November. She said her records indicate that the complaint was received November 26.

Ms. LaPisto-Kirtley asked if they were operating prior to that.

Ms. Ragsdale replied that she was not certain.

Ms. LaPisto-Kirtley said that since the complaint, they have been operating for over half a year without any kind of permits or certificates. She asked if this was correct.

Ms. Ragsdale replied that it has been an ongoing investigation with the history of the listing coming up and down, then the history of the applicant telling staff that it was family and friends staying there and not always homestay rentals. She said she could not say conclusively how many days it has been rented or how continuously.

Ms. LaPisto-Kirtley asked if the applicant ever received permission to rent it out as an Airbnb.

Ms. Ragsdale replied no. She said staff has been continuously reminding the applicant of that.

Ms. Palmer commented that she hoped staff, going forward, will adapt to this when they run the software to check homestays that are active without a license or approval. She said she assumed this would happen. She said this application has been interesting to hear.

Ms. McKeel said she had some comments, and that she wanted to make it clear for everyone that this was not a public hearing. She said there may have been some confusion about that early on.

Ms. McKeel said as the Supervisor of record for this area, she was very familiar with this particular small residential area. She said she has knocked on doors there many times and visited it again just recently to refresh her memory. She said these homes are much too close to give any waiver of the location. She said the impact to the neighbors would be much too great.

Ms. McKeel said she visited on a Friday afternoon, and trash cans were out. She said she assumed they had been out for at least a few hours. She said the trash in the area is picked up on Thursdays, meaning that the trash was going to sit there for almost another week. She said she understood the neighbor's concern about the trash. She noted this was only a minor concern.

Ms. McKeel said her main concern was that the minimum distance was not acceptable. She said the owner occupancy was not being adhered to. She said this particular Airbnb has compliance issues and has had them ongoing, with staff having difficulty in working with the owners. She said for her, she would not be supporting either one of the requests. She said she was happy to make a motion at the appropriate time.

Ms. McKeel said with dogs roaming, sounds, impacts for the neighbors, this was simply the wrong place for an Airbnb. She said the property is not large enough. She said it was certainly not an Airbnb that the County can be assured there is a resident or owner living in it.

Ms. Price said she had two general comments, then several specific ones. She said first, she believed this once again raised the concern with permitting a resident manager rather than an owner when one comes to these homestays. She said there may be situations where that is understandable, but that this case exemplified the worst of that situation.

Ms. Price said the second comment was a general comment, and it was her understanding that the Board is limited to granting special exceptions that run with the land rather than with the applicant. She said she recognized that this may need to be a legislative item, but she would ask that the Board and County staff consider making a request to the State Legislature that the Board may be allowed to make these run with the applicant rather than the land.

Ms. Price said in speaking specifically to this application, Ms. Lane took the language she was going to use. She said it appears to her, from the evidence, that this particular application involves individuals who are literally thumbing their nose at the County with impunity.

Ms. Price said she commended County staff for their active monitoring and enforcement. She said she believed it was too little, too late with regard to what the applicant was saying they were willing to do, based upon the facts as they exist.

Ms. Price said she, too, would vote against it. She said the evidence appears to demonstrate false statements, and that the applicant and owner must be held accountable beyond mere denial. She said she appreciated County staff looking at the code enforcement with the County Attorney.

Ms. Price said she would offer that if Ms. McKeel were to make the motion, on the second line after the words, "analysis, any written," that they should add the words, "and verbal" before "comments" in order to make it clear that the decision that the Board may be making is based not only upon their written record, but on the information that was provided to the Board by some of the speakers as well.

Ms. McKeel thanked Ms. Price, noting that she saw that Mr. Kamptner made that suggestion for the motion.

Mr. Gallaway said the compliance piece here was concerning. He said there are people who try to run homestays diligently and, when the new ordinance was put in play, have gone to the extent of doing everything right to get their Airbnb operation up and running. He said this speaks volumes to him regarding future decisions when the Board works on these special exceptions, but that it also speaks to the neighbors that they are willing to do the right things.

Mr. Gallaway said when there is then a compliance issue going on, to him, this can be problematic. He said when there is the proximity that Ms. McKeel spoke about as far as the setbacks, one lacks faith in knowing that issues will be handled appropriately when they come up, as nothing had been handled appropriately thus far.

Ms. McKeel asked if going forward (assuming that the vote would be denial), staff has any tools to ensure compliance and make sure that this particular piece of property does not continue to break the ordinances and thumb their nose at the County.

Ms. Ragsdale replied that staff has enforcement steps they can take with court, fines, and filings. She reminded the Board that staff does not have the short-term rental helper software currently. She said they have the funding to renew it, but they have been discussing when they need to renew it for another year. She said they when they do renew the service, it will be able to find the listings, even if they go up and down. She said they still do have the links to this particular listing.

Ms. Ragsdale said as far as staff's tools, they have issued the notice of violation, so they can move forward with the next steps in the enforcement process if needed in order to get the property into compliance.

Ms. McKeel asked Mr. Kamptner if she could move to deny both requests in one motion.

Mr. Kamptner replied yes. He said in the Board's packet, there was a resolution (Attachment G) where he recommended a tweak to the second line to recognize the verbal comments that the Board received as well.

Ms. McKeel **moved** to adopt the resolution (Attachment G) with the amendment to acknowledge the verbal comments that were received. Ms. LaPisto-Kirtley **seconded** the motion,

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. McKeel, Ms. Palmer, and Ms. Price

NAYS: None

ABSTAIN: Ms. Mallek

Ms. Mallek rejoined the meeting following the vote.

**RESOLUTION TO DENY REQUESTED SPECIAL EXCEPTIONS
FOR SE2020-00001 888 WOODLANDS ROAD**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written and verbal comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby denies the requested special exceptions (a) to modify the minimum 125 foot western side yard and southern front yard required for a homestay in the Rural Areas zoning district, and (b) to waive the owner occupancy requirement to allow occupancy by a resident manager for SE2020-00001 888 Woodlands Road.

Agenda Item No. 10. **Action Item:** Albemarle County 2020 Smart Scale Application: Rio Road Corridor.

The Executive Summary forwarded to the Board states that the Smart Scale grant program is the primary method for funding large-scale transportation projects in the State. The Program provides State and Federal funds for the design/engineering, right-of-way, and construction of transportation projects and runs on a biennial cycle. The application due date for the FY21 cycle was recently extended to August 17. A requirement of the Smart Scale application is a Resolution of Support for each application from the local governing body. Resolutions are now due on October 30, 2020. At its June 17, 2020 meeting, the Board reviewed the proposed applications and adopted a Resolution for the projects that the County wished to pursue, including the following:

Submitted by Albemarle County:

1. Old Lynchburg Road/5th Street Extended/County Office Building Intersection Improvements
2. US 250 Pantops Corridor Improvements - Route 20 to Hansen Road
3. Route 20/Route 53 Intersection Improvements

Submitted by the Thomas Jefferson Planning District Commission:

4. Route 29 Shared Use Path - Carrsbrook Drive to Riverside Center
5. 5th Street Bicycle and Pedestrian Hub and Trails
6. I-64 Exit 107 Park and Ride Lot
7. Frays Mill Road/US 29 Intersection Improvement

Submitted by the Charlottesville-Albemarle Metropolitan Planning District Commission:

8. US 29/Hydraulic Road Intersection Improvement Package
9. Fontaine Avenue/US 29 Bypass Interchange Improvement

Additionally, at its meeting in June, the Board of Supervisors expressed its desire to contribute local funds through the Transportation Leveraging Program CIP Line Item in order to buy down the project cost and improve the scoring of the following projects:

Suggested Local Fund Contributions:

- Old Lynchburg Road/5th Street Extended/County Office Building Intersection Improvements - \$2 million
- US 250 Pantops Corridor Improvements - Route 20 to Hansen Road - \$2 million
- Route 20/Route 53 Intersection Improvements - \$1 million

This local funding was based on project priority, project cost estimate, and assumptions of potential scores through the Smart Scale program. Smart Scale applications will include a notation that the County's CIP is not finalized at this time and will be considered in the fall due to the COVID-19 pandemic.

The Board also expressed interest in moving forward with the improvements at certain intersections in the Rio Road Corridor, but requested additional information on the project. The following discussion focuses on that project.

The Rio Road options presented on June 17 were:

1. Apply for a Roundabout at the Rio Road/John Warner Parkway (JWP) intersection - ~\$8.1MM
2. Apply for an R-cut at Rio Road/Belvedere intersection - ~\$2.4MM
3. Combine both projects into one application- ~\$10.5MM

Now that the County is moving forward with the Rio Corridor Study and based on continued conversations on this project, staff's recommendation for this application is to apply only for the roundabout at the Rio Road/John Warner Parkway intersection, with a contribution of \$2MM in local funding to improve the scoring for that project. This recommendation is based on the following factors:

- Currently, the JWP intersection is more problematic from both operational and safety perspectives than the Belvedere intersection. This conclusion is based on longer average queue and delay, overall intersection level of service; and crash data over the past 7 years (43 crashes at JWP vs 18 crashes at the Belvedere intersection).
- Staff is more confident in the roundabout as the right solution for the JWP intersection than in the R-cut as the solution for the Belvedere intersection. This opinion has been supported by both the VDOT study and other separate studies. No such studies support the R-cut at Belvedere.
- The Corridor study will identify the correct solution for the Belvedere intersection. Discussions with the consultant scoping that study have led to the conclusion that the roundabout would likely be the likely best option for the JWP intersection. No such conclusion has yet been reached about the best option for the Belvedere intersection.
- The VDOT study showed that the R-cut would work best if done in coordination with the roundabout, while the roundabout works perfectly well as a standalone project.
- The cost of improvements at the JWP is more prohibitive for the County to undertake through any other funding scenario except Smart Scale, but many potential improvements to the Belvedere intersection could be done with local funding or through Revenue Sharing, both with a shorter time to completion. If the R-cut were done as a local project, the County could reduce the cost significantly from the current estimate.
- The proposed Parkway Place development, which is likely to return, may present

opportunities if there is confidence that it is the right solution moving forward.

The one drawback to this approach is that the public has been more vocal in its concern regarding the Belvedere intersection than the JWP intersection.

This application is for State funding to implement a project. No County match is required with the application. However, staff is recommending the addition of local funds from the Transportation Leveraging Program CIP Line Item. If the project were selected for funding, the County would be responsible for providing those local funds in order to receive the State funds. Funding schedules would be developed following project selection. Local funds would not be necessary until FY23 or beyond. VDOT has expressed willingness to work with the County to develop a mutually agreeable funding schedule within the Six-Year Plan timeframe. If approved, VDOT would administer these projects and maintain these facilities. Therefore, no County funds would be necessary to support future maintenance or operations of the projects.

Staff recommends that the Board of Supervisors adopt the attached Resolution in support of the Rio Rd/John Warner Parkway improvements Smart Scale application in Albemarle County (Attachment A).

Staff further recommends that the Board of Supervisors approve the inclusion of the \$2MM recommended local funding contribution as outlined above in the Smart Scale application.

Mr. Kevin McDermott, Transportation Planner, reminded the Board that he was coming back to the Board at their request from their meeting in June where they discussed the Smart Scale applications. He said at that meeting, regarding the Rio Road Corridor projects, he was asked to evaluate more information and come back at another time before the Board being ready to approve the resolution of support.

Mr. McDermott said in June, the Board adopted resolutions supporting nine projects, which were all submitted, including the Fontaine Avenue/29 Bypass Interchange Improvement, which included new designs the Board had seen through the MPO and other sources.

Mr. McDermott said the Board had expressed interest in the improvements in the Rio Road Corridor but requested some additional information. He said the options were to apply for a roundabout at the Rio Road/John Warner Parkway intersection, apply for an R-cut at the Rio Road/Belvedere intersection, or combine both projects into one application.

Mr. McDermott said as staff continued to work with VDOT on this to come up with the best options, in the end, they determined that for the Smart Scale application, the best option at that time was to apply for the roundabout at the Rio Road/John Warner Parkway intersection. He said staff also recommended that the County include \$2 million in local funding in that application.

Mr. McDermott said the reasons for this recommendation are that the John Warner Parkway intersection is more problematic from both an operational and safety perspective. He said there have been many more accidents at that location as opposed to Belvedere, and there are also many more conflicted movements at that location. He said this includes many more left turns against traffic, causing more delay for the overall intersection.

Mr. McDermott said staff is also much more confident that the roundabout is the right solution for the John Warner Parkway, as opposed to the R-cut being the right solution for Belvedere. He said the County is about to enter into the Rio Road Corridor Study, which will be evaluating these intersections, along with many others in the corridor.

Mr. McDermott said in reviewing this with the selected consultant on this project, staff looked at the John Warner Parkway roundabout as the only real option they have there to address the traffic problem, whereas at Belvedere, there may be some other options to consider. He said these could include potential signalization, a potential roundabout, or other innovative intersections. He said staff would like to do some more research before moving forward on that project, and this research will be done through the corridor study.

Mr. McDermott said the roundabout would also work well as a standalone project. He said VDOT admitted during the design stage that the R-cut would work best if there were a roundabout in place, making it sensible to move forward with a roundabout first.

Mr. McDermott said the cost of improvements at the John Warner Parkway are fairly prohibitive for the County to move forward with on their own. He said depending on what the ultimate solutions are at Belvedere, there are some options that the County may be able to do through CIP funding or possibly through a revenue sharing grant application in the next round. He said both of those would be able to be completed on a much faster timeline.

Mr. McDermott said regarding the Rio Road/John Warner Parkway intersection, the application would be submitted by the County with the proposal to convert it to a roundabout. He said it does include pedestrian and bike facilities. He said this intersection was #14 on County priority list, as opposed to Belvedere being #17, so it is ranked slightly higher.

Mr. McDermott said the final cost estimate for the project that they received from VDOT the week prior was \$7.8 million, which is scaled to a future construction date, which is why it is slightly higher than if they were to build it currently. He said they are looking out at five years for that ad date. He said staff recommended that the County add \$2 million in local funding from the CIP Transportation Leveraging Fund for that in the future.

Mr. McDermott presented a design for the project. He said it has pedestrian crossings at Rio Road on both the north and east sides. He said it continues the shared use path through there and has new turn lanes. He said there is a relocated bus stop with a bus slip lane on the northbound Rio Road movement.

Mr. McDermott said the staff recommendation was for the Board to approve the resolution of support for the Smart Scale application that has been submitted for the Rio Road/John Warner Parkway intersection.

Ms. Mallek said this was a great step forward in this analysis. She asked if this application were flexible enough so that when the Board learns what they will learn in the corridor study, they will be able to make appropriate changes, or if they would then have to start over again. She said she is concerned about the time they have lost on other projects where they had to stop, and she hoped this would not happen here.

Mr. McDermott replied that it is dependent on the level of changes. He said staff did think this was the right solution at this intersection. He said Smart Scale has a policy in place where if the County makes significant changes to the proposed design, or if there are significant cost changes in the final design, the project has to be rescored.

Mr. McDermott said even if it does happen, it may not mean that it gets removed, but it means that it gets rescored. He said this means that if it fails to qualify, or the Commonwealth Transportation Board (CTB) cannot give additional funding if that is what is required, it would be removed. He said it is also likely that the level change would not be so much that they would need to re-score it, or that the CTB has the discretion to be able to allow the project to move forward even if there are changes. He said they would have to work with their local VDOT district and the CTB on that.

Ms. Price thanked Mr. Lee Kondor for the submission he made. He said he didn't just have an objection, but he actually worked up a very professional submission, which she thinks speaks to the finest level of public participation in this. She said she knew Mr. McDermott reviewed Mr. Kondor's submission.

Ms. Price expressed that she had come to Mr. McDermott on a number of occasions over the last several months about various zoning applications and the entire corridor area. She said she occurred with Mr. McDermott's assessment and appreciated his professional analysis of all of this, that the roundabout is the one item that the County should focus on here. She said she now has great confidence with the additional knowledge Mr. McDermott has been able to share with her and is confident with the corridor study that the County is committed to addressing this.

Ms. Price said she believed that this avoided multiple complexities that otherwise could have come up with some of the alternative considerations. She said she supported the project.

Ms. LaPisto-Kirtley said roundabouts are used all over the world and she believed this to be a good solution.

Ms. Palmer said she agreed with this and that she did appreciate Mr. Kondor's contribution to the discussion. She asked if the project were to be approved when the money would have to be applied.

Mr. McDermott asked Ms. Palmer if she was talking about the local funding.

Ms. Palmer replied yes.

Mr. McDermott said if it were funded, they would have the opportunity to work with VDOT to schedule when that funding would need to be available. He said at the very latest, they would be looking at about four years out, but he believed if they were to have the money available before that, they could move forward with using that funding to begin the process and try to accelerate this. He said from his discussions with VDOT, there is some flexibility there but at the latest, he would say approximately five years would be when they would have to have that available.

Ms. Palmer said this was great, and she just wanted to make sure there was some flexibility there, not knowing what the County's budget will look like over the next year or two.

Ms. McKeel said she thought Mr. McDermott's advice was on point. She said she agreed that the roundabout was appropriate in this particular location. She said if this were to be approved, she was trying to figure out a timeline, and that she understood that it would be 4-5 years for the money.

Mr. McDermott said this was correct. He said this application cycle is for next year's six-year plan. He said the way Smart Scale works is that every project has to be fully funded in the six-year plan that it is identified in. He said sometime between July 2021 through the next six years, it would have to be fully funded. He said the County would have to put their money up at the front end of that period, and so he

would guess that about 4-5 years out from that 2021 date is when the County would have to have that money available.

Ms. McKeel asked if everything worked as it should, when they would be looking at construction beginning.

Mr. McDermott replied that it would begin in 2027. He said if the County did have the \$2 million available ahead of time, they could start working on the design phase of this. He said from his understanding, VDOT would have flexibility with them if the County started working on that, put their County funding up ahead of time, and completed the design phase. He said he believed there was a high likelihood that the County could receive some of the state funding earlier than the 5-6 years out. He said the \$2 million local funding was available next year or the year after and if this were funded, they would probably see a much shorter schedule for the full construction, perhaps having it ready in four years.

Ms. McKeel said she supported this project and appreciated all of Mr. McDermott's work. She said she agreed that looking at this intersection before they tackle Belvedere was the right approach.

Mr. Gallaway offered his appreciation of Mr. Kondor, who is a member of the Rio-29 CAC and was recently appointed to CTEC. He said when he himself pondered what the solutions could be at this intersection, the loop-around after passing through the intersection and going down is not one that he was ever able to brainstorm, and he believed it actually had some merit to it. He asked if there were no objections, that the email and drawings be included in the minutes, since it was sent to the Board as public information.

Mr. Gallaway said the roundabout at Dunlora Drive could be interesting, and that there would need to be some work done there because of how steep of a hill is there.

Mr. Gallaway said he agreed with and liked the approach. He said he believed that with the roundabout or solution of some sort there, there couldn't be but so many ideas that could come up with this intersection, and that waiting for the corridor study and the other intersection seemed to make more sense than putting everything on hold for it.

Mr. Gallaway said he would be curious to see where this project falls after they put in the Smart Scale application. He said he had some projects in his mind the last go-around that did not get funded, so he doesn't get his hopes too high when they see these projects go through, especially knowing what they are up against locally, let alone in the rest of the state. He said he was in favor of moving forward to see how this scores and what the state says about it. He said he hoped the additional funding to this will help its chances.

Mr. Gallaway said in the meantime, as they conduct the corridor study and figure out solutions for the Belvedere intersection, and as volume continues to increase there, there may need to be short-term solutions before a permanent solution. He said VDOT has said for years that at some point, conditions may warrant a traffic light. He asked if this would all continued to be monitored in the meantime.

Mr. McDermott replied this was correct. He said after recovery from the COVID shutdown and when the Senior Center starts to open up to service, the County should look into bringing in someone to do another warrant study at that intersection to see where it is, as he was sure it would be getting close. He said once they see that, they can start to talk to VDOT about the options.

Mr. Gallaway said the right-turn bypass where there is the bus stop is clever and allows people to get around when traveling west. He said this was well done.

Ms. Palmer said she had an additional comment that was not related to this, but to the Fontaine project.

Mr. Gallaway asked if they could first wrap up the Rio Road matter.

Ms. Palmer said yes.

Mr. Gallaway **moved** to adopt the attached resolution in support of the Rio Road/John Warner Parkway Improvements Smart Scale application in Albemarle County. Ms. McKeel **seconded** the motion.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Ms. Palmer said she wanted a comment she wanted the Board to be aware of. She said she recognized that Mr. McDermott explained the alternate plan for the Fontaine/29 intersection well, but she did want to say that one of her concerns is the historic crossroads community of Batesville. She said the Board talked a lot about Batesville in the past, before Ms. LaPisto-Kirtley and Ms. Price joined the Board. She said if one were to put Red Hill Elementary to Brownsville Elementary in Google Maps, it will take them directly through Batesville. She said there is constant traffic through that area.

Ms. Palmer said the intersection improvement makes it 10 miles different than the route to go through Batesville. She said with the original plan and the diamond, she was concerned about this, but

this new plan makes it even more cumbersome to get off and come around. She said while she was not trying to stop this particular application, she wanted the rest of the Board to be aware that this will have impacts to other areas outside of the 29/Fontaine travel path.

Ms. Mallek asked if this is approved, and since they are in such a state of flux with new plans coming and going on a seemingly daily basis, if this proposal was it, or if they had several years to dig out the old plan from 5-7 years ago, look at it, and determine with partners if this old plan is better. She asked what they were signing up for, and if they were saddling themselves with a cheaper, ineffective solution (or one not as good) before they have a chance to find out what their true partners can do for them.

Mr. McDermott replied that this would be in exactly the same situation as he described for the Rio Road intersection. He said if it were to be funded, it would move to design, and there will be opportunities for the County to provide input during that design process. He said they will be evaluating what will work best there and if the design changes, it would have the potential to go back and be rescored, and possibly need to go to the CTB for approval if they want to move forward with a different design. He said they will continue to look at their other options there.

Mr. McDermott said this will be a very difficult and expensive project. He said as far as competition goes, it can be one that is difficult to get funded, but they will keep looking at it either way, whether it is funded or not.

Ms. Mallek agreed. She said because they have taken a less solution-oriented thing further for the 118 intersection, it has pushed the problem down whereas seven years ago, they were talking about stoplights and extra lanes, which was going to make for a nice solution. She said it is a complicated mess that involves all of those intersections altogether.

RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT APPLICATION IN ALBEMARLE COUNTY

WHEREAS, the County of Albemarle desires to submit an application for the Rio Road/John Warner Parkway Intersection Improvements project to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the Rio Road/John Warner Parkway Intersection Improvements project on behalf of Albemarle County.

Agenda Item No. 11. **Presentation:** COVID-19 Community Response.

The Executive Summary forwarded to the Board states that, on March 12, 2020, County Executive Jeff Richardson issued a Declaration of Local Emergency in response to the COVID-19 Virus, following Governor Northam's State Declaration of Emergency that same day. The local emergency declaration enables coordinated local government action to prevent or alleviate any potential damage, hardship, suffering, or possible loss of life.

A presentation will be given to highlight how local government supported the community during the height of the COVID-19 Response phase.

Staff recommends that the Board receive the presentation for information.

Ms. Emily Kilroy, Director of Communications and Public Engagement (CAPE), said COVID-19 has been unlike any emergency that the County has worked as a local government on, to date. She said as the Board was well-aware, the Incident Management structure is the structure they use as a local government to respond to an emergency.

Ms. Kilroy said typically, Incident Management Teams (IMT) will be working on a timeline that is measured in days but with this, it looked as if they will be looking at a response on a timeline of months. She said it has been a much different experience than even their most seasoned Emergency Management and Public Safety personnel have had experience with.

Ms. Kilroy said another thing that is very different is that typically, there is a distinct response phase and then, there is a transition to a discrete recovery phase. She said with COVID-19, what they are seeing is that they are both responding and recovering all at once. She said they are still very much in the response phase, but they wanted to take a moment before time gets too far away from them to highlight some of the things that were done during what is now referred to as Phase 0 and during the height of the response phase that ran from March 15 to May 15. She asked everyone to look back at the second half of March and early April, when there was so much that felt so uncertain in the community.

Ms. Kilroy said she would turn over the presentation to Mr. Doug Walker, Incident Commander (which is a title he rotates with Mr. Trevor Henry), to share more about the work that was done by local government to support the community during this very unusual time. She said there were numbers on the slides they would be going over, noting these were a snapshot in time. She said they would not cover all

the numbers specifically in this presentation, but that they would have the information available in various forms following the presentation.

Mr. Walker, Deputy County Executive, said they were now in mid-August, and it was remarkable to see the adjustments everyone has made in their daily life, what they have come to take for granted, and how they get through each day. He said everyone deals with this differently based on their different circumstances.

Mr. Walker said he knew that for the case of those in the office, the wearing of a mask has become so natural and normal that on the rare occasion when he forgets his mask and he steps out of the office and takes a few steps down the hall, he feels panicked. He said this was a reflection of how much life has changed. He said each Board member has their own examples in their own life, both with the County and personally. He said those listening from the public could tell similar stories about how they have adjusted and where they have made certain changes in the way they engage in public life differently.

Mr. Walker said he told that story to create the perspective that, thinking back to where they were in the middle of March when all this was brand new, and when they were hearing news from around the world about what they thought they would be facing, they were not aware of what the implications were going to be. He said this presentation was intended to frame out the first two months of what they were characterizing as Phase 0.

Mr. Walker presented a slide that listed the goals from both the response phase and the recovery phase. He noted that the presentation was not intended to be a celebration of all the things they accomplished for the community, and he did not want to characterize it that way. He said they wanted to make sure they are able to use it as a way to account for the early stages of the response at the onset of the pandemic locally and how this served as a foundation for the work that would continue (which, unknown to them at the time, would be for months) into an uncertain future.

Mr. Walker said in March, one of the early tasks or challenges of the IMT was to frame what this was all about to guide their work. He emphasized how frequently the IMT relied on the goals in order to filter and guide their thinking about whether or not they are doing the right work in the right way. He said these goals were not mutually exclusive and that they do work in combination.

Mr. Walker said from the period of Phase 0, reducing transmission among staff and the public, protecting people who are at higher risk and those with adverse health complications, and maintaining essential services to the public became fundamental to how this would be approached strictly every single day.

Mr. Walker said he realized there were numbers on the slide and that the listening public may not benefit from having a visual. He said Ms. Kilroy indicated that they would get this information out in different formats.

Mr. Trevor Henry, Assistant County Executive, said he has been serving with Mr. Walker as Co-Incident Commander on the IMT for the past 163 days. He said the slide on the screen was a busy one but was a snapshot in time looking at the two-month period or Phase 0 on some of the work that was done. He said the County organization has traditionally been an in-person operation for many services and customer interactions. He said they offer electronic and remote means, but for many customers (especially when it comes to paying bills), they want to have the person-to-person connection. He said this is the County's culture.

Mr. Henry said as part of the leadership team, well before COVID, they had been working for some time on a work-from-home policy. He said one member of the leadership team used to always say, "Must be present to win," which was an old-school way of looking at serving customers.

Mr. Henry said when there is an event such as COVID, which hit in early March, the County must reinvent how they operate in order to continue service to the community. He said in just one week, they had to figure out how to completely transition their workforce and many of their services to digital phone, video conference, drop-off services, or a combination of those, which have been maintained through present day to serve the community while keeping employees and the public safe. He said they essentially reinvented local government operations, which was an amazing thing to see happen and to be a part of.

Mr. Henry said one critical piece to this was the County having the actual technology to give to some of the staff (who traditionally work onsite on a desktop) to be able to work from home. He said the County made a request early on to the Schools' Superintendent Office, and they turned it around in minutes and told the County they could use anything they had that were not in use. He said over 100 laptops were loaned to the County from Schools, which was a significant boost for many staff to be able to transition to a work-from-home environment.

Mr. Henry commended leadership and all staff in the IT department for working through all the issues that come with a virtual environment. He also commended the Facilities crew that remained and helped convert the physical spaces that the County has to today to allow those who did remain primarily onsite to do so in the safest way possible. He said though many staff supported these efforts, IT and Facilities played a major role in the first week or two of COVID response.

Mr. Henry said that while they shut the doors to the Visitors Entrance at the County Building, they made a commitment that if someone showed up and needed services, they would do their best to serve them in a safe and efficient manner. He said over that two-month period, staff kept track of this data, as it was important to them and reviewed daily at IMT meetings. He said they served 923 people with face coverings, sneeze guards installed, gloves, and all the other measures that were put in place, following CDC and state guidelines.

Mr. Henry said they quickly spun up a virtual public meetings strategy and were able to meet the time-sensitive work of the Board, Planning Commission, Economic Development Authority (EDA), and Broadband Authority. He said key public government meetings were able to be well-managed so that the County and project work didn't freeze in place. He said by keeping these processes moving, they can help lift local businesses and keep the work of the County moving forward.

Mr. Walker said the Board would recall that in the earlier stages in the May timeframe, they participated in approving a micro loan program developed by Economic Development, using County money to provide loans to local businesses. He said this was modeled after the Payroll Protection Program (PPP), which was funded by the federal government, but was to put capital in the hands of businesses that were impacted by the restrictions to reduce the transmission of COVID-19. He said it was also to help them reopen or open further after weeks of low or no business.

Mr. Walker said part of that was to help keep employees on payroll and to restock their shelves to help with service delivery. He said it was an early and aggressive effort in trying to overcome the impacts in the business community of the effect of the virus on the economy. He said recently, the CARES Act money enabled the County to translate these loans into grants, so it actually restores General Fund monies and uses CARES Act monies instead. He said it was an early effort, not knowing that there would be any CARES Act money to make that investment.

Mr. Walker said they also prioritized a rapid weekend construction project, turning the lobby of Community Development into a safe workspace by creating a full Plexiglass barrier that separates the lobby from the intake space, enabling staff to continue to receive plans and permits that were critical in keeping construction, engineering, and design moving forward during this period. He said building inspections were never stopped. He said although the intake counter was reduced to three days a week versus five days a week, it never stopped. He said they made enhancements to their digital submission capability to make it easier for people to not come to the building if they did not want to or if they needed to.

Mr. Walker said the numbers on the slide indicated the value that was added back into the local economy. He said the County continued to issue certificates of occupancy during that period. He said the numbers showed the value that is added to the local tax base. He said as much as anything, the support the County gives to the significant segment of the local economy benefits everyone who is tied to the construction industry (e.g. construction workers, associates, designers, transportation). He said the County's ability to maintain that level of service enabled them to sustain a significant portion of the local economy.

Mr. Walker said there were so many safety and human service needs that came to the forefront during the pandemic. He said their Public Safety agencies were on the front lines, with first responders continuing to enter homes and interface with patients, and always respond to the urgent needs of the community. He said they enhanced the Personal Protective Equipment (PPE) protocols, which were and still are a visceral reminder of the hazards apparent in these jobs in a time when the community most needed them.

Mr. Walker said the numbers on the slide were only for the two-month period of the response phase, but they represented how, in an uncertain time, adult and child abuse and neglect cases continue to be received and investigated. He said 911 calls, of course, were answered.

Mr. Walker said early in the pandemic, the efficacy of the N95 masks for preventing the spread of COVID-19 became known. He said the need for people to learn how to get a proper fit became crucial because if worn incorrectly, N95 masks will not be as effective. He said working through the Regional Emergency Operations Center, they worked to have 1,500 healthcare professionals fit-tested so that they could do their jobs safely.

Mr. Walker said they found new community needs, working with the community partners and agencies. He said at a pop-up community site, they distributed over 24,000 cloth face coverings during this period.

Mr. Henry said the pandemic turned everyone's world upside down. He said it created a shock to the local economy. He said many individuals and households faced uncertainty, joblessness, or wage reductions that put a great deal of stress on families in the community. He said there were concerns about being able to pay for essential items such as rent, mortgages, car payments, insurance, etc.

Mr. Henry said through a partnership with Charlottesville Area Community Foundation (CACF), the City of Charlottesville, and others, funds were made available for County residents needing support to help maintain safe and stable homes.

Mr. Henry said as mentioned previously, the County's building posture changed significantly, but that they were able to serve a record number of customers at their parks. He said they did have to shut

down some of the gathering areas early on, such as pavilions and bathrooms, and picnic tables were taken away.

Mr. Henry said they worked hard, however, to be able to keep access to the trails and hundreds of acres of greenspace. He said they keep track of vehicle counts weekly and extrapolate this to visitor counts. He said they estimated over 400,000 visitors came to the parks during that two-month period. He said comparing this to the previous year, this is almost 100% more activity at the parks, even with all the sporting events that would normally bring people to the parks not happening.

Mr. Henry said the County worked hard to do this, and there were concerns about how to do this safely. He said the Parks team created an ambassador program, which was turned around in a couple of weeks from concept to execution. He said it was and continues to be critical in keeping parks open and helping to keep the public safe. He said the County encourages safe and responsible use of parks and trails. He said this was a new concept and something they had not done before, but they were able to turn this around and enable 400,000 visitors to have an opportunity to exercise, enjoy nature, or take a break from the stress of the world. He commended the Parks & Recreation department and the Board for supporting this program to keep the parks open and usable.

Ms. Kilroy said she hoped the Board found the numbers to be compelling. She said there was so much more to what happened during that two-month period, when the pandemic was starting in the community, so a short video was put together with some of the staff who could tell, in their own words, some of the programs and initiatives that were put in place in response to the needs they were seeing. She played this video for the Board.

Mr. Henry said this was an all-hands effort by staff for them to be able to pivot and to work outside of what was normalcy for most. He said the Public Safety staff were hired into an expectation and way of life that involves 24-7 operations. He said this is what they signed up for. He said for many of the other staff, however, this was not what the traditional government operations have been. He said it is typically Monday through Friday, 8-5. He said they ramped up their effort, and their response did turn everyone into a 24-7 operation.

Mr. Henry said he could not thank staff and the leadership team enough for throwing their hearts and souls into this work while also having to deal with their own personal situations at home with the pandemic. He said there is a lot of juggling happening. He thanked Mr. Walker and Mr. Richardson for their tremendous leadership through not just Phase 0 but continuing into Day 163 of the operations.

Mr. Henry said Mr. Walker talked through the goals of the response phase, and he interprets these goals were leadership intent. He said this was something they communicated to the Board and public, and especially to staff. He said they were not just words on a PowerPoint or a whiteboard, but truly made up the decision-making framework and when an issue came up, someone on the team always directed everyone to look at it through the lens of this framework. He said he believed the team to not just make timely decisions, but the best decisions they could to continue to serve the citizens while appropriately protecting staff and the public.

Mr. Henry said on a personal note, he came from a Navy background, served on submarines, and was a watch officer on deck. He said in that role, he had the responsibility of the safety of that vessel as well as the responsibility of continuing the mission. He said his experience years ago in that role has been very similar to what he has felt the experience to be not just through the Phase 0 time, but continuing to the present time and how they have been working as a team on keeping the mission of the County moving forward.

Mr. Henry thanked the Board for their support. He said without their support, none of this would have happened. He asked for the Board's patience as they continue to work towards whatever the new normal will be. He offered to hear questions or comments from the Board.

Ms. Mallek said it has been inspiring to hear all the information put together in one place, and to hear in more detail how staff have all devoted themselves to this throughout the last many months. She said she appreciated Mr. Henry's watch officer comparison because it is so understandable and is a more official version of what everyone tries to do to keep their family intact. She said it has been something where everyone has had to pull together, and there was a long way to go.

Ms. Mallek said she would repeat what she said years ago, when there were many demands on services, and that she was as guilty of this as anyone else. She said "timely" is great, but "correct" is more important than "fast." She said she hoped everyone (herself included) would make more pacts to give a chance for responses to come. She said all she ever needs is to hear that someone is working on an issue. She said she may come back a month later to ask if there are any news, but it doesn't mean to do something immediately and drop everything else when she asks, and that this idea is a universal one.

Ms. Price thanked staff for the presentation, noting that it was helpful for constituents to see the continuation of work at the County. She said she knew a number of communities in Virginia have not been able to achieve the same successes, and that in her law practice, she is dealing with federal agencies that are so far behind Albemarle County.

Ms. LaPisto-Kirtley thanked staff for the presentation. She said as a Board of Supervisors member, this has been seamless and easy for her, but she knows staff has been working hard trying to make it look easy. She congratulated them for doing this as well as for servicing the residents.

Ms. Palmer agreed with all the good words. She asked if someone could further explain what the County is doing for restaurants as far as helping to get their tables to get outside and keeping them going.

Mr. Walker replied that the Board may recall that some recent adjustments were made to the process for using the zoning clearance process to do a virtually same-day approval of restaurants that, through the Virginia ABC (Alcohol Beverage Control) permitting process, were initially allowed to extend their ABC activity outside the doors to enable them to move into spaces that otherwise were not permitted for that activity from a land use standpoint (e.g. parking lots and sidewalks). He said it was more than a month earlier when the County worked with businesses through an application process to enable them to expand outdoor seating at the same time that indoor seating wasn't allowed.

Mr. Walker said more recently, they are seeing that opportunity continue, not necessarily associated with ABC but through more recent approvals of emergency ordinances by the Board with "Phase 2.5." He said Mr. Kamptner could speak more definitively as to how this plays out, but it does enable the County to put up temporary signage and authorizations of use of space to support those businesses being able to operate in ways that they wouldn't otherwise.

Mr. Walker said the first round of the CARES funding that will be communicated to recipients as early as that day does focus on, among other businesses, those that are impacted by the tourism economy. He said restaurants is a category of local business that is eligible for that funding. He said they would expect that this would help them mitigate the consequences of the downturn in their businesses.

Mr. Walker said these were just some examples of where the County focused specifically on the restaurant industry.

Ms. Mallek asked for restaurants with whom the County has already had discussions about moving outside, if they are automatically sent a note asking them how they are doing, or if the County waits for them to reach out.

Mr. Walker replied that there has been some outreach. He said it is always difficult to know that they are making the right connection with the right people. He said there was Ms. Kilroy's work in trying to blast this out, as well as word of mouth, and a combination of means to try to let people know the County can work with them. He said he knew Ms. Mallek had a business that contacted her to put them in touch with the County, and that they followed up on that. He said there was no one best way, and there were many ways they were trying to communicate. He added that local news media has also been effective. He said if the Board had other ideas, to let him know as they want to ensure they maximize their voice and help as much as possible.

Ms. Mallek said if the Board were given a script, they could go on the radio and blast it around.

Ms. McKeel thanked staff for the presentation. She said she always wants to thank everyone she sees on the screen and she knows works with them, but that there were so many people behind the scenes that she never sees and never had the chance to thank. She said she knows that one way or another, between Mr. Walker, Mr. Henry, and Mr. Richardson, they manage to get that message to them that the Board really appreciates their work. She said she wasn't sure how they do it, as there are many of these staff, but everyone staff person who interacts with one of the residents represents the County. She said this is important and they are doing such a good job.

Ms. McKeel said often, when the Board is in budget season, or is passing new policies or ordinances, the community says, "What are the deliverables?" She said the community wants to see the details and the outcome of what they are spending their money on. She said her question gets at that. She said this was great information for the community and asked how they get this particular document or metrics out to the community without looking like they are bragging. She said the truth of the matter, however, is that everyone has done a great job, and that they made the Supervisors look good at the expense of staff working long nights and every weekend.

Ms. McKeel said she had people calling her saying that they think she should talk to UVA and the City, but no one knew this was happening. She asked how they can inform the public about these deliverables.

Mr. Walker said he was quick to acknowledge at the start that they didn't want this to come across as a celebration of something they accomplished.

Ms. McKeel agreed, but noted that it represented a lot of hard work that helped the community get through this period of time.

Ms. Kilroy said the hope with the materials that were put together for the presentation was to start telling people about the work that has been happening. She said she believed it was evident to everyone that a lot has happened, and that people struggle with the words to put it all together to articulate what has happened. She said the video would be sent out in the County newsletter and put it on social media.

Ms. Kilroy said in terms of the graphics with the numbers and the short phrase that went along with it to describe it, these have been prepared into a single sheet of paper (printed front and back). She

said they plan to have these available when the County does more face covering giveaways to show people why face coverings are so important. She said during tax season, there is some tax information on how to make a payment, which is something they would also put in that file. She said they would be leaving a stack of these sheets for the Board.

Ms. Kilroy echoed Mr. Walker's statement that this was not intended to be a celebration. She said the County has spent funds during the pandemic and received funds from the federal government to reimburse some of those initiatives. She said for staff, it is more of a reporting out about what those funds were going to. She said for those who have not been directly reached by some of the programs the County put in place, it was important for them to see how much work went into supporting the community during an extremely unprecedented time.

Ms. Kilroy stresses that people were feeling were coming from many directions, and staff worked very hard to identify the problems and how they could be in a position to support some of the solutions that would make things easier or would solve a real problem. She said she hoped this was the message that was received. She said staff would take the pieces of paper and start sending them out in a more programmatic way to help spread the word.

Ms. McKeel said she recognized that they could not do this one person at a time, but that this could be a great presentation for the CACs. She also noted that she has the ability to send this information out to a neighborhood association, and so if she were to have something electronic, she could embed this into the monthly newsletters for two neighborhood associations. She said she knew Ms. Mallek sends out a newsletter to the Earlysville neighborhood group, and so this could be another way the Board could help Ms. Kilroy distribute the information.

Ms. Kilroy said this would be wonderful.

Ms. Mallek said she saw no shame in sharing the information. She asked staff to not feel embarrassed or feel like they were bragging. She said this was an amazing accomplishment. She said the information helps people understand what has been going on.

Ms. Mallek said achievement awards through VACo were coming, and asked staff to keep these efforts going. She said she knew they were out of cycle last time when she suggested this, but many other communities could benefit by learning from what the County is doing, and although many of them do not have the staff available to think about this from scratch, they could pick up ideas provided by someone else to improve their lives.

Mr. Gallaway echoed the remarks made by his fellow Supervisors. He said it seemed like ages ago when staff went back and turned the budget (which had involved several months of work) into a new one within a matter of a week to ten days. He said there were countless hours of work, including that from those who were not seen on the meeting screen, and that it continues not only from a budget perspective, but to keep the operations moving forward. He expressed his gratitude for this work.

Agenda Item No. 12. Closed Meeting.

At 4:14 p.m., Ms. LaPisto-Kirtley **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 two County advisory committees; and
- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice about an event to which Supervisors have been invited; and
- The following, all pertaining to the pending removal of certain memorials in the County-owned portion of Court Square Park in September:
 1. Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice regarding the removal of the memorials; and
 2. Under Subsection (19), to discuss plans related to the security of the County-owned portion of Court Square Park, and the safety of persons using that facility; and
 3. Under Subsection (29), to discuss the terms and scope of a possible public contract for services pertaining to the removal of the memorials involving the expenditure of public funds where discussion in an open meeting would adversely affect the bargaining position of the Board.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Agenda Item No. 13. Certify Closed Meeting.

At 6:01 p.m., Ms. LaPisto-Kirtley **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.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Agenda Item No. 14. Boards and Commissions.

Item No. 14. a. Vacancies and Appointments.

Ms. Price moved that the Board appoint the following individuals to the following respective committees:

- **Reappoint** Ms. Michelle Busby to the Places 29 (Hydraulic) Community Advisory Committee with said term to expire August 5, 2022.
- **Appoint** Ms. Janelle Cockrell and Mr. James Dean to the Places 29 (North) Community Advisory Committee with said terms to expire August 5, 2022.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

There were no speakers.

Agenda Item No. 16. **Public Hearing: FY 2020 Budget Amendment and Appropriations.**
(Advertised in the Daily Progress on August 9, 2020)

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 cumulative total of the FY 2020 appropriations itemized below is \$5,880,505.21. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 2020 Budget Amendment totals \$5,880,505.21. The estimated expenses and revenues included in the proposed amendment are shown below:

PROPOSED FY 2019-20 BUDGET AMENDMENT

ESTIMATED REVENUES

State Revenues	\$	161,271.41
Federal Revenues	\$	1,929,811.00
Proffer Revenues	\$	1,072,846.00
General Fund Fund Balance	\$	4,883,453.00
Other Fund Balances	\$	(2,166,876.20)
TOTAL ESTIMATED REVENUES	\$	5,880,505.21

ESTIMATED EXPENDITURES

General Fund	\$	274,784.12
Special Revenue Funds	\$	3,812,616.80
School Special Revenue Funds	\$	104,805.29
Emergency Communications Center	\$	50,000.00
Capital Projects	\$	1,638,299.00
TOTAL ESTIMATED EXPENDITURES	\$	5,880,505.21

The budget amendment is comprised of a total of twenty (20) separate appropriations. Nineteen (19) have already been approved by the Board as indicated below:

- Two (2) appropriations approved 4/1/20
- One (1) appropriation approved 4/15/20
- Six (6) appropriations approved 5/6/20
- One (1) appropriation approved 5/20/20
- Six (6) appropriations approved 6/3/20
- Three (3) appropriations approved 8/5/20
- One (1) appropriation request for approval on August 19, 2020 is the remaining as described in Attachment A.

After the public hearing, 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 #2020074 **\$1,700,000.00**

Source: Federal Revenue \$ 1,700,000.00

This request is to appropriate \$1,700,000.00 from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) for necessary CARES CRF eligible expenses related to human and community services, economic development, technology, and general County services. Programs are reviewed by the County's CARES CRF Compliance and Documentation Team.

Mr. Andy Bowman, Budget Manager for the Department of Finance and Budget, said this was a public hearing and action item on the FY 2020 Budget Amendment and Appropriations. He said the Virginia Code requires that a public hearing be held before the County amends its budget when the total amount of funds exceeds 1% of the currently adopted budget.

Mr. Bowman said this was the case that evening, where they had a FY 20 budget amendment that was an increase of approximately \$5.9 million. He said this \$5.9 million consists of 19 appropriations that were approved by the Board at prior meetings. He said there was \$1.7 million in federal funding from the Coronavirus Aid Relief and Economic Security (CARES) Act for reimbursing the County for expenses that occurred in the most recent fiscal year they were in the process of closing (FY 20).

Mr. Bowman said after the public hearing, staff would recommend that the Board adopt the resolution (Attachment B).

Mr. Gallaway opened the public hearing. Hearing that there was no one signed up to speak, he closed the public hearing and brought the matter back to the Board.

Ms. McKeel **moved** to approve the additional FY 2020 appropriations as described in Attachment B. Ms. Price **seconded** the motion.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

**RESOLUTION TO APPROVE
ADDITIONAL FY 2020 APPROPRIATION**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 20 Budget is amended to increase it by \$5,880,505.21;
- 2) That Appropriation #2020074 is approved; and
- 3) That the appropriation referenced in Paragraph #2, above, is subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2020.

APP#	Account String	Description	Amount
2020074	3-1100-33050-333000-330050-1000	APP2020074-CARES CRF Funding	\$1,700,000.00
2020074	4-1100-99900-499000-999999-9999	APP2020074-CARES CRF Funding	\$1,700,000.00

Agenda Item No. 17. **Public Hearing: SP2020000006 Scott's Ivy Exxon.**
PROJECT: SP202000006 Scott's Ivy Exxon
MAGISTERIAL DISTRICT: Samuel Miller
TAX MAP/PARCEL: 058A2000002100
LOCATION: Parcel is located at 4260 Ivy Road, Charlottesville, VA 22903. Parcel is approximately 280 feet to the southeast of the intersection of State Route 250 (Ivy Road) and State Route 786 (Ivy Depot Lane). The northern portion of the property (rear) is adjacent to the Buckingham Branch railroad tracks.
PROPOSAL: Proposed expansion of existing auto service station from three (3) auto service bays to seven (7) auto service bays. Current auto service building is approx. 1,950 sq. ft., and proposed building addition is approx. 3,200 sq. ft., for a total of 5,150 sq. ft. There are two (2) existing gas pumps, and there is no proposed change in the number of pumps.
PETITION: Automobile service station per Zoning Ordinance 18-22.2.2(16)(a) on a 1.587 acre parcel. No dwelling units are proposed.
ZONING: This parcel is zoned C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre).
OVERLAY DISTRICT(S): Entrance Corridor; Flood Hazard Overlay; Steep Slopes – Critical
COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/acre in development lots).
(Advertised in the Daily Progress on August 3 and August 10, 2020)

The Executive Summary forwarded to the Board states that, at its meeting on June 16, 2020, the Planning Commission voted 6:1 to recommend approval of SP20200006 with conditions 1-5 as stated in the staff report.

The Planning Commission's staff report, action letter, and minutes are attached (Attachments A, B, and C).

The Planning Commission did not request any changes to the application. The Commission did request that the applicant verify sprinklering requirements for the building. Staff contacted the Building Official, who responded that sprinklering may be required during site planning and building permitting. If the total building is greater than 5,000 square feet, and no fire wall separates the original building and the addition, a sprinkler system would likely be required.

Since the Planning Commission public hearing, there have been no changes to the application. There has been one change to the staff-recommended conditions. The condition on building height has been removed, as the building height is already included on the concept plan (+/- 24 feet). Given that the building height is labeled on the concept plan, it is not necessary to include height as its own condition.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202000006. As discussed in the previous section, there have been minor changes to the conditions. The revised proposed conditions are the following:

- 1. Development of the use must be in general accord, as determined by the Director of Planning and the Zoning Administrator, with the Conceptual Plan titled "Scott's Ivy Exxon – Special Use Permit – Conceptual Layout Plan", prepared by Collins Engineering, with the latest revision date of June 2, 2020. To be in general accord with the Conceptual Plan, development must reflect the following major elements within the development essential to the design of the development and as described in the narrative and concept plan:
 - a. Location and building footprint of the proposed expansion.
 - b. The number of auto service bays.
 - c. Mitigating landscaping within the stream buffer, to the satisfaction of the County

Engineer.

- d. Location and type of proposed landscaping buffer. The landscaping buffer must be a mixture of deciduous and evergreen plantings, to the satisfaction of the Planning Director.
- e. Location of the parking areas.
2. The following restrictions to any new outdoor lighting apply:
 - a. all fixtures must be full cutoff;
 - b. lighting is limited to 20 foot-candles at the ground;
 - c. new outdoor lighting must be on a timer or motion sensor between the hours of 10 PM and 6 AM.
3. All mechanical equipment must be fully screened from the view of adjacent properties and adjacent public streets.
4. Hours of operation of the service station are limited to within 7 AM - 9 PM, Monday through Saturday. Fuel sales are permitted 24 hours per day.

Ms. Tori Kanellopoulos, Planner, said Mr. Frank Pohl (County Engineer) was also present to answer any questions. She said this was a request for an expansion of an existing auto service station to add an additional four service bays for a total of seven service bays.

Ms. Kanellopoulos said the site is located at 4260 Ivy Road (Route 250 West). She said to the east of the site are residential and agricultural uses. She said to the west are commercial and institutional uses including offices, a restaurant, and a church.

Ms. Kanellopoulos said the two adjacent parcels to the west are also zoned C1 Commercial. She said the building shown directly to the west of Ivy Exxon is being used as a publishing house. She said the second site to the west is currently undeveloped; however, there is a special use permit currently under review for a new vet clinic and offices. She said the parcel directly adjacent to the east is zoned C1 Commercial and is owned by the Rivanna Water and Sewer Authority (RWSA). She said the next parcel to the east is zoned RA Rural Area, has one dwelling unit, and is also used for agriculture.

Ms. Kanellopoulos presented pictures from staff's site visit. She said the image on the left showed the existing fuel pumps and existing auto service station. She said the image on the right showed the existing parking area to the east of the service station.

Ms. Kanellopoulos presented additional pictures of the site to show more of the existing parking area. She said the image on the right also showed the existing easement on the site.

Ms. Kanellopoulos said the community meeting requirement was met in the form of mailed letters with information about the proposal, with response options including contacting staff via email or phone call or using an online input form. She said the applicant mailed letters to property owners within a quarter-mile radius of the proposal. She said the letters were mailed on May 1, and staff received approximately eight individual responses. She said the major concerns heard were stormwater management, access to the site, traffic, groundwater contamination, and scale.

Ms. Kanellopoulos said the property is zoned C1 Commercial, which allows for auto service stations not served by public water or by a central water supply system by special use permit. She noted that the existing auto service station is a by-right use in the C1 district and that regardless of approval or denial of the special use permit, the existing use may continue by right. She said therefore, staff has analyzed the potential impacts of the proposed expansion. She said nearby and adjacent parcels are zoned C1, Rural Area, and Village Residential.

Ms. Kanellopoulos said this property is a designated Rural Area in the Comprehensive Plan. She said it was rezoned to C1 Commercial in 1980 as part of the comprehensive rezoning of the County. She said this property and others in the nearby area were previously within a development area known as Ivy Village. She said Ivy Village was removed as a Development Area from the Comprehensive Plan in 1989, as the area was considered mostly built out and is within a water supply watershed. She said nearby uses include a post office, garden center, restaurant, medical offices, church, a recently closed country store with gas pumps, and residential uses.

Ms. Kanellopoulos said the auto service station is an existing use and has been in operation for more than 50 years. She said the proposed height of the building expansion is 24 feet. She said adjacent nearby structures have varying heights ranging from approximately 16 feet to more than 30 feet. She said the proposed expansion is approximately 3,200 square feet, which would bring the total square footage of the auto service station to approximately 5,150. She said nearby commercial and institutional uses have a range of building footprints as well, ranging from approximately 2,500 square feet to 10,000 square feet.

Ms. Kanellopoulos said the proposed expansion will also require Architectural Review Board (ARB) approval, which will include consideration of the surrounding context.

Ms. Kanellopoulos said the existing use is a 1,950-square-foot auto service station, with three service bays and two fuel pumps. She said as mentioned, the building addition would add four service bays to the rear of the building and result in a total of 5,150 square feet, with seven service bays. She said there is no proposed change to the number of fuel pumps. She said the number of employees is not proposed to increase.

Ms. Kanellopoulos said the applicant estimates that 8 cars per day are serviced on a typical day

with the existing service station, which would increase by about 5 vehicles per day to a total of 13. She said customer and employee parking would be within the gray parking area shown on the application plan, and parking of repaired vehicles or vehicles awaiting repair would be located at the rear of the property in the yellow area shown on the plan. She said there is also a landscaping buffer shown on the east side. She noted there had been no changes to the application plan since the Planning Commission public hearing.

Ms. Kanellopoulos said because the special use permit is for the expansion of the existing use only, staff has analyzed the potential impacts of the proposed expansion. She said the expansion would result in approximately 5 additional vehicles serviced per day, which would result in approximately 10 additional vehicle trips per day. She said staff did not find this increase in traffic to be a substantial detriment.

Ms. Kanellopoulos said the existing structure is located partially within the 100-year floodplain and therefore, the applicant must submit a Letter of Map Change to formally determine the location of the floodplain. She said the applicant expects that the existing building is not located within the floodplain. She said this letter would need to be approved prior to any site plans, stormwater management, building permit, or other site planning related approvals.

Ms. Kanellopoulos said if the floodplain is adjusted, the stream buffer would also be adjusted. She said a small portion of the eastern edge of the site would likely still be within the stream buffer. She said the applicant is proposing plantings within the revised stream buffer for mitigation, which is included as a condition. She said once the buffer is adjusted, there would be no parking permitted there.

Ms. Kanellopoulos said the proposed expansion would require a Virginia Stormwater Management Program (VSMP) application and would need to meet the minimum standards for channel and flood protection. She noted that release of petroleum is prohibited by law and considered an illicit discharge.

Ms. Kanellopoulos said given that the Letter of Map Change is required prior to any site planning improvements, and because the applicant will need an approved VSMP application, staff finds that stormwater management has been addressed.

Ms. Kanellopoulos said the proposed expansion would not generate a significant increase in water usage. She said there does not appear to be a need to improve the existing water and sewage systems based on the impact of the expansion.

Ms. Kanellopoulos said existing groundwater contamination has been brought up as a concern, and the Department of Environmental Quality (DEQ) provided information to staff, including that the existing contamination at the Toddsbury site across the street has had substantial corrective action and has had natural attenuation occurring both there and at Ivy Exxon. She said DEQ did not have any concerns with the proposed expansion and does not anticipate the expansion having any effect on the existing groundwater contamination.

Ms. Kanellopoulos said there is an existing private joint access easement that crosses the Ivy Exxon property and is also used by two adjacent parcels. She said one is used by RWSA, and the other by a residential property. She said there were concerns from the residential property owners that the use of their access easement could potentially change with the site planning changes the applicant is considering if the special use permit is approved.

Ms. Kanellopoulos said the access easement and/or access to these properties may be adjusted in order to meet current VDOT standards for access management and safety. She said since VDOT finds that the ingress and egress for this property does not meet VDOT's current design standards and that upgrading to meet current standards could potentially affect the joint access easement, there is a note on the application plan stating that access for all parcels will remain, even if the access easement or layout needs to be adjusted, and that the final location and layout of the proposed landscaping area, ingress, and egress would be determined with a site plan.

Ms. Kanellopoulos said staff met with the adjacent property owners of Parcel 58-A2-24, VDOT, Mr. Scott Collins, and Mr. Scott Ramm (owner of Ivy Exxon) onsite the week prior. She said different options for the joint access easement and for the overall ingress and egress for the property were discussed. She said regardless of the final layout, an access management exception from VDOT will be required. She said it is very likely that the landscaping area in front of the gas canopies will be used to reduce the area of open frontage. She said it will then be up to the developer and the users of the joint access easement to determine the most suitable layout for ingress and egress for the eastern portion of the site.

Ms. Kanellopoulos said there are additional regulations that apply to the auto service station use, which are found in Section 5.1.31 of the Zoning Ordinance. She said the applicant has included these requirements as notes on the application plan. She said these include screening cars awaiting repair from public streets and residential properties and performing all vehicle repair services within an enclosed building.

Ms. Kanellopoulos said staff recommended approval of the special use permit application, with conditions.

Ms. Kanellopoulos said at its meeting on June 16, 2020, the Planning Commission recommended approval of SP202000006 with a vote of 6-1, with conditions. She noted that one condition was removed since the Planning Commission public hearing. She said the building height was removed as a specific condition, as it is already included on the application plan. She said the Commission also passed along the request that staff and the applicant determine whether the building would need to have a sprinkler system installed. She said staff contacted the building official, who responded that a sprinkler system would be required if the building was greater than 5,000 square feet, and if the existing building and building addition were not supported by a firewall.

Ms. Kanellopoulos said the conditions shown on the slide were the same as those in the transmittal summary and resolution for approval. She said since the Planning Commission public hearing, there had been no changes to the application plan.

Ms. Price said she drove to the site that day to make sure she got a sense of it, and there were a couple areas where she had some questions and concerns.

Ms. Price said the first related to the creek next to the property, and in reading the report notes about flooding, it brought to her mind the discussion the Board had with the early childhood development center application a few months earlier. She said she recognized there were some differences here, as this was the expansion of an existing business that had been there many years, whereas the other application was a zoning change. She said one of the major concerns that had been raised was about vehicles being parked in an area that is potentially subject to flooding. She asked how County staff came to a favorable resolution on that concern.

Ms. Kanellopoulos said she could respond and also refer to Mr. Pohl. She said in order to get any future site plan approvals, the applicant is aware that they would need to submit the Letter of Map Revision to show the area is definitely outside of the floodplain. She said since the special use permit process can take some time, they wanted to go ahead and go through with that process first, keeping in mind that this does not guarantee site plan approval and that this determination was still necessary.

Ms. Price said this was helpful. She said even if the Board were to approve it that day, it did not mean everything was done and that there were further steps that would need to be pursued and completed.

Ms. Kanellopoulos said yes. She said if the applicant submitted the Letter of Map Revision and it turned out that this was still in a floodplain (even though that didn't seem to be the case), they would not be able to get a site plan approved.

Ms. Price said another area that she had some concerns with was that as one is heading west on Route 250 towards this property, which is on the north side of the road, one comes down a fairly significant downhill righthand curve on the road. She said one of the concerns expressed by some of the residents was the safety of vehicles coming in. She said she saw that staff recommended approval and that the Planning Commission voted for recommending approval. She asked what VDOT's analysis was on that concern.

Ms. Kanellopoulos replied that VDOT did not find there would be significant additional traffic generated by this use. She said if there is no expansion of the use, the applicant still does not need a site plan, and they can keep their current frontage and access as they have it.

Ms. Kanellopoulos said VDOT definitely does not prefer that type of layout with any new or revised developments since it is just open frontage, so if the applicant were to go forward and get a site plan, they would have to meet VDOT's current standards. She said they could apply for an access management exception to allow more room for that existing access easement and still allow ingress and egress for their business as well. She said they would have to close a significant amount of that open frontage, and there would be a taper requirement as well for people coming down the hill to turn right in.

Ms. Price said this did appear to actually appear to improve the site there, from what Ms. Kanellopoulos presented. She said another question raised in the staff report related to sales of vehicles. She said anecdotally, she did not think it was a surprise that an auto repair place may occasionally have vehicles that someone wants to sell, which does not necessarily make it a used car lot, per se. She asked if there were concerns about the increase in the number of service bays also resulting in a change in the use of the property from service repair more towards automobile sales.

Ms. Kanellopoulos replied that she was not aware of any community concerns that came up with that. She noted that the sale of motor vehicles is considered a special use permit use in this zoning district, so the applicant would have to apply separately for that. She said the Zoning Ordinance specifically refers to sale in the urban areas (or any Development Areas of the Comprehensive Plan), so she did not believe the applicant could have that use on this property.

Ms. Price said it sounded like the applicant should not be selling vehicles at this service repair place. She said the last general area of concern she had was in looking at the footprint of the existing building and the size of the proposed addition (which more than doubles the space), and the increase in the number of vehicles that would likely be there at a given time due to more service bays, she wanted to know if a study was done to determine the adequacy of available parking for the increased number of vehicles.

Ms. Kanellopoulos replied that staff did not require a parking study. She said the increased use only required an additional 8 parking spaces. She said there are 2 parking spaces required per service bay, and one for each employee. She said there was no proposed increase in employees, so it would just be the additional service bays. She said as far as vehicles that have already been repaired or are awaiting repair, they do not count towards the actual parking requirement. She said vehicles that haven't been repaired yet do have to be stored out of sight of the public street and of residential properties, but they are not actually part of that parking requirement.

Ms. Kanellopoulos said according to the Zoning Ordinance, the applicant must have between 24 and 29 spaces for employees and customers, and that it is then up to the applicant to determine what kind of space they would need for vehicles that are being dropped off that will be repaired later.

Ms. Price said Ms. Kanellopoulos' recall of specificity with regards to technical data was impressive. She said the last area of concern was about the Toddsbury plume, which she read about in the staff report. She asked if this was a spill or seepage at some point in the past where there is only one well that is being currently monitored by DEQ and appears to be dissipating, generally. She said this would be a property across Route 250 and not from this applicant. She asked if this was correct.

Ms. Kanellopoulos replied yes, and that she believed that report had been closed out. She said there may have been some previous underground leakage from this site as well, but it has all been naturally attenuating over time, so DEQ did not have concerns with ongoing issues. She said the well that is still being monitored is actually on the Ivy Exxon site and as far as DEQ is aware, they have not received any additional requests from members of the public in that area with any ongoing concerns.

Ms. Price said it was her understanding that leaking underground storage tanks was a problem in the past that seemed to have been mitigated or remedied.

Ms. LaPisto-Kirtley said she had a question regarding the storage tanks. She said it seemed to have been naturally mitigated through time, as Ms. Kanellopoulos said. She said this was not reassuring, and she would like to know whether or not DEQ's standards are strict enough to know whether or not there is any leakage going into the creek.

Ms. Kanellopoulos replied she was not sure about the answer to that question, and that DEQ could not attend that evening. She said she knew that for current underground storage tanks, there has to be a monitoring system in place. She said in theory, if there were any new leakage happening on any underground storage tank, it should set off some kind of alarm to make DEQ aware. She said DEQ does not regularly drill to check on these tanks, however.

Ms. LaPisto-Kirtley asked how old the existing tanks were, and if they were 50 years old.

Ms. Kanellopoulos replied that she was not sure how new the existing storage tanks are and would have to defer to the applicant on that.

Ms. LaPisto-Kirtley asked if the applicant could address this so they would know whether or not the existing 50-year-old storage tanks have been updated or if they were being monitored.

Mr. Gallaway said the applicant would have a chance to respond later.

Ms. LaPisto-Kirtley said she knew Ms. Kanellopoulos said this could not become a used car lot but that one of the slides mentioned motorcycle sales. She asked if this were something that would be allowed.

Ms. Kanellopoulos replied that there would be no motor vehicle sales allowed of any type.

Ms. Palmer said she would wait until after the public hearing to ask most of her questions. She said she had a few quick comments to get through some of the questions that were asked. She said she had been to the DEQ meetings about the leaking underground storage tank with respect to this property before Mr. Ramm bought the property. She said this was an ongoing matter, and it has been attenuated and was being dealt with, that the bacterial degradation had been explained, and that it was not going out into the creek. She said Mr. Ramm could also speak to this, but one of the times this was reported was when the applicant's property replaced the tanks, and that this is actually noted in the staff report.

Ms. Palmer said with respect to the number of cars, the sales situation came up as a question from herself because she has routinely counted 50 or more cars at the lot, and had asked if this could possibly be something that was going on. She said she was planning on asking Mr. Ramm this question, given that this is a common occurrence that many repair places do as far as selling cars for customers.

Ms. Palmer said a next-door neighbor (a business next door to the west) has complained about noise. She said she didn't remember seeing this addressed in the staff report, so this was a question for Ms. Kanellopoulos as far as the situation in regard to noise.

Ms. Kanellopoulos replied that according to the noise ordinance, it would be a limit of 65 decibels for commercial uses. She said the requirement for this auto service station is that all motor vehicle repair has to occur within an enclosed building. She said she was not sure if, perhaps due to space constraints or other issues, there has been repair going on outside of the building. She said it is a requirement of the Zoning Ordinance that this has to all occur within the building, which should mitigate noise.

Ms. Kanellopoulos said she didn't believe staff was aware of any formal zoning complaints that have been submitted, but this is an ordinance that is monitored on a complaint basis.

Ms. Palmer asked if she gets an email from the next-door neighbor, she should ask them to make a formal complaint and then, the noise will be measured by staff.

Ms. Kanellopoulos replied yes. She said a compliance officer would follow up on that.

Ms. Palmer said with respect to the flooding, she had one question about that, and then some comments to make later. She asked if she was correct in saying that the flood map that will be revised will be for a 10-year flood event.

Mr. Frank Pohl replied that it will be for the 1% storm event. He said FEMA is getting away from the 100-year terminology.

Ms. Palmer asked if the applicant needs to correct or mitigate for a 10-year flood event when he mitigates for the additional parking space he is putting in, or the additional hard surface.

Mr. Pohl replied yes. He said they analyzed the 2-year and the 10-year for the VSMP permit.

Ms. Palmer clarified that 10 years is what the County requires when they ask a developer to mitigate for a storm event and as Mr. Pohl has explained, for erosive issues, it is a 2-year event.

Mr. Pohl replied yes. He said for flooding, it is for any proposed or existing stormwater piping, structures, or facilities. He said it is not anything related with the 100-year floodplain. He said the term "flooding" might get confusing. He said it is to make sure those facilities don't flood or if they do flood, they do not flood any worse than they do currently.

Ms. Palmer said she would have more questions and comments after the public hearing.

Ms. McKeel said she had a question about the number of employees. She said the staff report stated several times that the applicant is not planning on hiring any new employees. She said she understood what it referred to as far as rotating the bays. She asked what happens if the applicant does hire new employees.

Ms. Kanellopoulos replied that it is not a condition that they can only have 10 employees, so if they did want to hire more, they could do so. She said she would have to let the applicant speak to how many they think they might need.

Ms. McKeel said they could hire as many new employees as they have new bays, and she was curious as to how this would affect traffic.

Ms. Kanellopoulos replied that if they did end up doing that, they would have to increase the parking to allow for one space for each employee.

Ms. McKeel commented that having followed that area for 35 years, there are many flooding issues in that area. She said she believed anyone who had experience with the area knew this.

Ms. Palmer said she forgot to ask one of her questions to staff. She said the easement for the entrance to the Eaton's property is a farm entrance, and that she recognized the improvements to the entrance for safety for the gas and repair station. She asked if it will be acceptable to VDOT or to the County if those farm vehicles have to go through the actual area where the pumps are. She said she knew this was supposed to be done at the site plan level, but she was trying to understand what was acceptable to staff and to VDOT.

Ms. Kanellopoulos replied that her understanding was that VDOT was more concerned about the spacing of the ingress and egress. She said it would be more up to the business owner to be okay with farm vehicles and RWSA vehicles using the gas station to cut through. She said from VDOT's standpoint, it is a private joint access easement so if the users of that access easement do not want to change it, then they will work with them on getting a spacing exception for the entrances. She said it is up to the private access easement owners to determine if they want to adjust that or not.

Ms. Palmer said if the Eaton's easement specifies that they can keep their easement and their direct access to the road, then they would be able to do that legally and VDOT would not stop them from doing that.

Ms. Kanellopoulos said this was correct.

Ms. Palmer said she would have more questions about that later.

Mr. Ramm said Mr. Collins (the site engineer) would be able to better answer some of the questions. He said he could answer some of the earlier questions.

Mr. Gallaway said Mr. Ramm had 10 minutes he could use to make a presentation or address questions. He said after the presentation, there is an opportunity for Supervisors to ask him questions

directly.

Mr. Ramm asked if Mr. Collins' time would be part of that 10 minutes.

Mr. Gallaway replied that the total presentation time was 10 minutes for both Mr. Ramm and the engineer, but that they could answer questions afterwards.

Mr. Ramm said he would like for Mr. Collins to give most of the presentation, and that he himself would first address some of the questions. He said the existing tanks on the property are between 20-25 years old and are not 50 years old. He said when he took over at the tenant in 2012, he had a groundwater site assessment done because he was responsible for any contamination onsite, which he believed was why the DEQ was monitoring. He said they put in more wells and monitor its setup. He said there are filtering systems on property well waters. He said they do daily inventory control and leak testing, which has been done for almost 8 years now and has passed each month.

Mr. Ramm said regarding the question about the motorcycle, the motorcycle in the picture was there to receive an inspection. He said occasionally, he will have customers asking them to sell a car, so in the past, they have put cars out with "for sale" signs. He said they are not selling cars as a business.

Mr. Collins said he would touch on a couple of the questions about the project. He said he wanted Ms. Kanellopoulos to pull up the slides he sent earlier that day to talk about the site itself.

Mr. Collins noted that the presented slide depicted what the site looked like in its present state. He said with the special use permit, the site plan, ARB process, site requirements, and site access are all involved.

Mr. Collins said the next slide showed how the site starts to evolve through the site plan process. He said this was important to share in order to show different aspects of how the site looks in its current state and how it will start to look as it goes through the process.

Mr. Collins said the biggest thing seen through the site plan process is much greener, which is a direct result of the requirements of the site plan, access management, and the architectural review process. He said there is a fair amount of green along the southern property line, which is where there would be more landscaping, buffering, and stormwater management in that area to help attenuate the existing runoff from the parking lot and some from the additional pavement. He said they are reducing a lot of pavement on the front and side of the project.

Mr. Collins said there is also green up front, where the pumps are located. He said this is a requirement from VDOT with access management. He said the current situation was that the entire front of the property was open, so cars could turn in and out of the site from any direction. He said from traveling east or west on Route 250, they can enter the site as a free for all. He said with this modification, it limits the access points to the site. He said the northern access point will be an exit only.

Mr. Collins said they are working with VDOT for the southern entrance to be an entrance and exit. He said they are maintaining the current access easement to the property owners to the south, but still maintaining an entrance and exit to the Exxon property. He said it separates it, but it is still within the existing easement, provides a better entrance to the site, and allows for more stacking before getting to the pumps. He said this is something the applicant has been working on with VDOT, the County, and adjacent property owners.

Mr. Collins said in terms of flooding, they have a green area along the southern part of the property which will help provide attenuation for the 2-year and 10-year storm events. He said they are not changing any grades on the site or doing any filling or other controls. He said the creek has been studied by FEMA a fair amount, which is why they had elevations on the flooding that goes along the creek during the 1% flood. He said those elevations, when mapped on the site, are what gives them the assurance that this site and the parking (as shown on the site plan) is outside of what will ultimately be the 100-year floodplain, which is why they are undertaking a map revision.

Mr. Collins said he wanted to share these slides to show how the site starts to evolve. He said with regards to parking, in the existing condition, the entire southern portion of the site available for parking. He said when they go through the site plan process and site requirements, however, the parking becomes much more uniform with marked parking spaces, screening, and landscaping will be developed, including the interior landscaping within the building envelope that was shown on the application plan. He said all of this will provide screening and buffering, and that the wide-open parking area that everyone sees when driving down the road will become hidden by landscaping and screening provided during the site plan process.

Mr. Collins said there were a couple of comments that came up about parking and the number of vehicles, and so he thought showing these slides would be helpful in addressing those.

Mr. Collins said one other question was about fire protection. He said because there is an existing building with a new building being attached to it, there is a one-hour firewall between the two that will remain. He said this is why no sprinkler system is needed for this facility.

Mr. Collins offered to answer further questions.

Ms. Mallek asked how one exits if one is leaving the neighbors from the easement driveway. She said to assume they were going east on Route 250. She asked if they would exit through the first eastbound place where someone might be coming in and how this can be avoided.

Mr. Collins replied that they would still exit through the eastern entrance. He said it has been widened and pulled back to allow for more room to make those maneuvers, for someone to come in and for more visibility for the neighbors turning out of that entrance.

Ms. Mallek said she saw something white in the presented map and asked if this was a separator or some kind of structure. She asked if she were going west on a truck and trailer, she could come out of the gravel driveway and then have a wide area to turn west and go to the right.

Mr. Collins replied yes.

Ms. Price said she appreciated the clarifying slides from the applicant.

Ms. LaPisto-Kirtley thanked the applicant for answering her questions.

Ms. Palmer asked Mr. Collins if the coveted grandfathered sign was leaving.

Mr. Collins replied that the sign was being relocated so that they can help improve the access into the site to accommodate not only the gas station, but the adjacent neighbors. He said from their meeting last week, the current location of the sign seemed to be problematic for most all maneuvers. He said by relocating the sign, it gave much more flexibility in how the current access easement merges with the entrance and to come up with a better design.

Ms. Palmer agreed and said she had wondered how they were going to do the entrance of the Eatons without moving the sign. She asked if the sign would be kept the way it was, and if they would be able to put it up somewhere else. She said she knew the sign was grandfathered and it was an issue in the past about not wanting to move it because it would have to change the character of the sign.

Mr. Collins replied that the applicant can still use the sign when they relocate it. He said they have a letter from the County. He said the idea is to find a more suitable spot that will work with the current easements there and the access management.

Ms. Palmer said she heard from the Eatons that they were not completely satisfied with the conversation that happened the week prior. She asked if the sign was determined to be moved after that meeting, or before it.

Mr. Collins replied that the sign movement was actually determined during the meeting. He said it seemed like the meeting went well, but based on COVID-19, it was difficult to understand everyone. He said there was some confusion about what was resolved in that meeting as far as how the entrance would still be shared, so they came up with the latest plan that was before the Board that night, which maintains their access easement in the current form, but still improves the entrance for the applicant to get cars to funnel in and out as well. He said this appeared to address the biggest concerns.

Mr. Collins said the applicant received some feedback from VDOT, as they came up with a second option that gives much cleaner access to the Eatons' site and would provide more room, especially for tractor trailer access. He said that exhibit had more of a shared access from the applicant's property to the Eatons' property, and their concern was about having a separate entrance. He said it still felt somewhat separate, which is what the exhibit showed.

Ms. Palmer said she appreciated that and was thrilled with the movement of the sign. She said she was curious to know where the sign would go. She said she recognized that there will be significant improvements to the front of the property, which she knew many of the neighbors were quite happy with.

Ms. Palmer said she has had complaints about the number of cars. She said she has stopped there a few times and counted the number of cars, and that she came up with 50 cars. She said she knew that the Planning Commissioner from the White Hall District has had similar concerns and has done some impromptu counting of her own. She asked the applicant to explain why there were so many cars. She said the pictures the Board saw have just a few cars but that generally speaking, there were considerably more cars. She said she assumed that the sales, since they were not really allowed, were an occasional thing.

Mr. Ramm replied that over the last 5-6 weeks, they have averaged 70 cars per week, and that this was with working Monday through Saturday. He said there are reduced hours on Saturday. He said they work on about 12 cars per day.

Mr. Ramm said there are ten cars that are employee cars, and four cars that are station-owned (with two of them being shuttle vehicles for customers). He said any number of times, they will have cars waiting on parts to come in, which may take a day or a week, depending on where the parts are coming from. He said sometimes, people will drop off a car and then go out of town, which adds to the cars. He said sometimes cars are finished and the customers do not pick them up for a day or two. He said all of those add up to more cars than they are actually working on per day.

Mr. Ramm said over the last 6 weeks, they have had an inundation of state inspections because

there was some forgiveness where in February, March, and April, people did not have to get their cars inspected because of COVID. He said now, these cars were starting to come in, so they were getting a rush with that. He said there is less time for a car when doing inspections and they can do more per day in that situation. He said this should flow out and they would probably see the same thing next year where February through March will be light and July will be heavy again.

Ms. Palmer said she appreciated that and would save the rest of her questions for after the public hearing.

Mr. Gallaway asked if the applicant said they had two shuttle vans.

Mr. Ramm replied yes.

Mr. Gallaway said he saw this percolate in the idea that people dropping off cars meant they had a follow car to pick them up and leave, but if the applicant is operating a shuttle service, in many ways, this negates extra cars coming in and out of the site because they don't need a follow person.

Mr. Ramm said this was correct. He said before COVID, they would sometimes shuttle multiple people at the same time going in the same direction, so that would actually reduce this even more. He said the narrowing of the entrances will make the gas pumps a lot tighter, meaning they would be expecting less volume on the gas sales and so there will be fewer cars stopping to get gas because it will be harder to get in and out. He said he didn't know if this was scientifically measured, but it was a gut feeling he had.

Mr. Gallaway said when he saw more bays, it equates to better business for the applicant because they get better work for the employees and more efficient turn rates for the cars. He said the turn rate would likely go up, which was the viability piece of this for the business. He said in some ways, this should equate to less cars as well because the applicant will be turning the cars back out again faster. He asked if this was correct.

Mr. Ramm replied that he didn't know if they would be faster, but that there would be much less duplicate work. He said sometimes if they are waiting for a part that takes a couple hours, they have to get the car out and back in to take some things apart again, meaning they are doing some unnecessary duplicate work. He said if they leave the car sitting in a bay, however, and go to another bay to work, this would be helpful. He said for wheel alignments, for instance, they do not have the equipment or space to do it, so this is something he will be adding. He said currently, they are taking cars offsite, which is another trip in and out, but with the expansion, they can do the wheel alignments in house, which will also improve efficiency.

Mr. Gallaway said having been around automotive service in his own day-to-day work, this seemed to be a plus for the employees because they should see more hours. He said the efficiency of the operation will increase, which should help with the site management in terms of the vehicles. He said he thought this was a point that should be made, but that he didn't want to be presumptive about how Mr. Ramm was thinking about his business.

Mr. Gallaway opened the public hearing.

Mr. Louis Eaton said he had submitted his concerns and believed they were covered in the earlier discussion. He said first of all, he is very concerned about the commercial growth in the Ivy community and, in particular, the impact it would have on the entrance to his farm and the overall congestion increase. He said there are potential environmental issues with the creek, which he mentioned in the input he sent in.

Mr. Eaton said the primary thing in question was the entrance. He said it has been his primary entrance and exit for 37 years and is also used by the Rivanna Water and Sewer Authority. He said he wants to maintain the entrance and as indicated by the discussion with Mr. Collins and others, they will probably be able to come to an agreement on maintaining the current entrance.

Mr. Eaton said they went through this battle a couple years ago when the bridge on Route 250 was replaced, and that VDOT (with Ms. Palmer discussing this with them) would have put in a 50-foot extension of the guardrail, which would have sent them into the pump station. He said Ms. Palmer was able to get this down to a short guardrail, where it is now.

Mr. Eaton said he likes Mr. Ramm, his neighbor, and that they get along well, so the matter was not personal. He said he thought the size, growth, and capabilities for the station were big, but it was not a life or death matter. He said it is difficult with the traffic because if one wants to go left towards Charlottesville in the morning during rush hour, one often has to make a U-turn. He said the traffic is currently a problem and that hopefully, there would not be any more than what Mr. Ramm has told him as far as increased traffic coming into the station.

Mr. Eaton said he was also concerned about environmental issues, based upon the 2018 flood that devastated his farm. He said they were still suffering from this. He said essentially, it did damage the stream, Little Ivy Creek, and eradicated a lot of their good grades. He said the flood put petroleum products in, and that he was still finding bottles of petroleum and antifreeze.

Mr. Eaton urged the County to regularly monitor the mitigation processes and hopefully have it

done by DEQ. He said as a geologist, the topography and lay of the land in the Ivy area does simply not accommodate heavy rains and flooding very well.

Mr. Eaton said in terms of the FEMA flood line or delineation, he would ask the Board to never accept that as an absolute parameter in their computations. He said in all due respect, the Charlottesville West topographic map's sedimented quattrain was his work, and he could say that the contour is not 100% on the money every time. He said there were many reasons for that, and he would be willing to talk to staff or anyone else interested in that.

Mr. Eaton said he did the topographic engineering work for everything between there and Churchville. He said the update to the 1964 work was his elevation, with the upper driveway above the bridge. He said he knew a little bit about this and although he was not trying to brag, he was offering this as an opportunity to perhaps raise a level of knowledge about the floodplain.

As Mr. Eaton's time expired, Mr. Gallaway informed him that if he had additional comments, he could submit them in writing to be made part of the record.

Mr. Gallaway closed the public hearing and offered the applicant a chance to rebut or respond to any comments heard during public comment.

Mr. Ramm said he did not have any additional comments to make.

Mr. Gallaway brought the matter back before the Board.

Ms. Mallek said her questions had been answered throughout the discussion. She said her overall concerns were for the easement access and making sure that the stormwater will be planned for. She said it looked like Mr. Pohl had that well under control.

Ms. Price said she had some quick comments. She said there are many great residents and constituents in the County, and thanked Mr. Eaton for sharing his concerns in such a respectful manner. She said the same was true for the applicant. She said she had some concerns, but one of the things that struck her was that they have an ongoing business with a recurring history of being compliant and responsible. She said she also had confidence in County staff's and the Planning Commission's analysis, so she was in support of the application.

Ms. LaPisto-Kirtley said she appreciated everyone answering the Board's questions, both from staff and the applicant. She said she would also be supporting the application.

Ms. Palmer said she had comments to make and was prepared to make a motion afterwards. She said she appreciated everyone's input. She said this is her neighborhood, and she uses Mr. Ramm's station. She said Mr. Ramm has done repairs on her cars, which she appreciated, as well as the convenient shuttle service, as she lives a short distance from the business. She said she would support the application, but she wanted to say a few things about the flooding.

Ms. Palmer said Mr. Eaton's property suffered dramatically during the 2018 flood. She said this has been explained as a 1,000-year event. She said staff have been reviewing this more thoroughly and may find that the actual rainfall over that narrow area represented a 2,000-year event. She said they are not able to ask applicants to mitigate for a 1,000-year or 2,000-year event. She said they are asking them to mitigate for a 10-year flooding event.

Ms. Palmer said Little Ivy Creek and its tributaries literally wrap around this area. She mentioned there was another application coming forward to the Board soon. She said the flooding actually came from the other side of the road and was very dramatic during that period of time. She said she went through the next morning and talked to some of Mr. Ramm's employees while they were cleaning up, and it was quite traumatic.

Having said this, Ms. Palmer said the Board would be receiving a review of the Water Protection Ordinance soon, to be discussed at another time. She said Mr. Kamptner has explained that the Board does have an option to ask the DEQ for the ability to be more restrictive than the state. She said this could be discussed at a different time, but she believed this application was a good example of one of the reasons why the Board needs to look at what they are asking developers to mitigate for in flooding. She said they were getting more and more of these events, and this area was a good example.

Ms. Palmer said she did recognize that they were going to get some improvements to the property with respect to stormwater, and that she believed this to be a good thing. She said she just wanted to bring up her points at a later time for the Board to consider.

Ms. McKeel said she would support the application, but she did agree with Ms. Palmer and that they have discussed this before. She said when the Board has their upcoming climate change discussions, they must deal with the inland flooding and think about how they want to set their guidelines and requirements for the County. She said she dealt all the prior week with inland flooding issues in her Urban Ring areas. She said everyone is dealing with this and it is now happening over and over again. She said her concerns with this area as well were the stormwater, flooding issues, and repercussions.

Ms. McKeel said she appreciated the applicant's and staff's kindness and professionalism.

Mr. Gallaway said he trusted that with the work done, the vehicles would be screened and that the noise would adhere to the ordinance. He said he also trusted that the site plan process would take care of some of the other issues. He said as others have stated their concerns about the entrance for the neighbor, he hoped that this would be work through to mutual satisfaction for the three properties that are impacted and trusted this would happen in the site plan phase as well.

Ms. Palmer **moved** that the Board adopt the attached resolution (Attachment D) to approve SP202000006 with the minor changes that had already been made to the conditions. Ms. Mallek **seconded** the motion.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

**RESOLUTION TO APPROVE
SP 202000006 SCOTT'S IVY EXXON**

BE IT RESOLVED that, upon consideration of the staff reports prepared for SP 202000006 and all of their attachments, the information presented at the public hearings, any written comments received, and the factors relevant to special use permits in Albemarle County Code §§ 18-22.2.2(16)(a) and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 202000006, subject to the conditions attached hereto.

* * * * *

SP2020-06 Scott's Ivy Exxon Special Use Permit Conditions

1. Development of the use must be in general accord, as determined by the Director of Planning and the Zoning Administrator, with the Conceptual Plan titled "Scott's Ivy Exxon – Special Use Permit – Conceptual Layout Plan", prepared by Collins Engineering, with the latest revision date of June 2, 2020. To be in general accord with the Conceptual Plan, development must reflect the following major elements within the development essential to the design of the development and as described in the narrative and concept plan:
 - a. Location and building footprint of the proposed expansion.
 - b. The number of auto service bays.
 - c. Mitigating landscaping within the stream buffer, to the satisfaction of the County Engineer.
 - d. Location and type of proposed landscaping buffer. The landscaping buffer must be a mixture of deciduous and evergreen plantings, to the satisfaction of the Planning Director.
 - e. Location of the parking areas.
2. The following restrictions to any new outdoor lighting apply:
 - a. all fixtures must be full cutoff;
 - b. lighting is limited to 20 foot-candles at the ground;
 - c. new outdoor lighting must be on a timer or motion sensor between the hours of 10 PM and 6 AM.
3. All mechanical equipment must be fully screened from the view of adjacent properties and adjacent public streets.
4. Hours of operation of the service station are limited to within 7 AM - 9 PM, Monday through Saturday. Fuel sales are permitted 24 hours per day.

Agenda Item No. 18. **Public Hearing: ZMA201900016 Bamboo Grove.**
PROJECT: ZMA201900016 Bamboo Grove.
MAGISTERIAL DISTRICT: White Hall
TAX MAP/PARCEL(S): 05500-00-00-068C0, 05500-00-00-068D0
LOCATION: West side of Orchard Drive, approximately 250 feet north of the intersection between Orchard Drive and Jarmans Gap Road (State Route 691).
PROPOSAL: Proposal to rezone two properties to the R4 Residential Zoning District
PETITION: Rezone a total of 1.24 acres from the R2 Residential District, which allows for residential development up to 2 dwelling units/acre, to the R4 Residential District which allows residential uses up to 4 dwelling units/acre. A maximum of 6 residential units are proposed under the bonus level cluster development standards of the Zoning Ordinance at a gross density of 4.84 units/acre and a net density of 9 units/acre. Dedication of an open space area and trail to the County for public use is proposed. Private street authorization request per Sections 14-233 and 14-234 of the Subdivision Ordinance. Special exception requests to waive sidewalk, and curb and

gutter requirements along a private street per Sections 14-203.1(B) and 14-410(I) of the Subdivision Ordinance. Special exception request to allow alternative locations of parking areas per Sections 18-4.12.5 and 18-4.12.8 of the Zoning Ordinance.

ZONING: R2 Residential – 2 units/acre

OVERLAY DISTRICT(S): None

ENTRANCE CORRIDOR (EC): No.

(Advertised in the Daily Progress on August 3 and August 10, 2020)

The Executive Summary forwarded to the Board states that, at its meeting on June 2, 2020, the Planning Commission voted 7:0 to recommend approval of ZMA2019000016. The Commission's original staff report, action memo, and minutes are attached (Attachments A, B, and C).

The Planning Commission voted 7:0 to recommend approval of the requested rezoning because of the factors favorable listed in the staff report, provided that changes noted as #1A, 2, 3, 5, and 7 recommended by staff were made prior to the Board's public hearing. Because staff informed the PC during the public hearing that recommendations #4 and #6 were no longer applicable to the request, the PC voted to not recommend those changes. Please note that the Commission recommended to alter staff-recommended change #1 to allow a maximum of six (6) dwelling units, instead of the maximum four (4) recommended by staff. The PC Action Memo and minutes refer to the PC's revised condition as #1A.

Since the writing of the staff report, based on recent DEQ guidance, the County Engineer can no longer require providing 100% on site treatment, as indicated in condition #2. Stormwater treatment will be evaluated during the site plan or subdivision plat stage.

The applicant revised the Concept Plan and Proffer Statement to address staff- and Commission-recommended changes to #1A, #3, #5, and #7. (Attachments D & E). All changes recommended by staff the Commission have now been addressed.

The Commission approved the private street authorization request for ZMA-2019-16 Bamboo Grove, for the reasons listed in the staff report, by a vote of 7:0. No further action is needed by the Board on the private street authorization request.

The Commission approved the sidewalk street standard modification request for ZMA-2019-16 Bamboo Grove, for the reasons listed in the staff report, by a vote of 7:0. No further action is needed by the Board on the sidewalk modification request.

Staff recommends that the Board adopt the attached Ordinance to approve ZMA201900016 Bamboo Grove (Attachment F).

Mr. Cameron Langille, Senior Planner, presented the staff report. He said he would present the site context, current zoning, and future land use designation of the properties from the Crozet Master Plan, then transition to discussion on the project details and proffers. He said he would conclude with a summary of the factors favorable and unfavorable, as well as the Planning Commission's recommendation.

Mr. Langille presented an aerial view of the site, noting it is located on the west side of Orchard Drive. He said the properties measure 1.24 acres. He said to the north of these properties is the Orchard Acres subdivision and to the west is the Bargamin Park subdivision. He said the view was further to the east on Jarmans Gap Road, and that much further to the east was Downtown Crozet.

Mr. Langille presented an aerial view of the property with more focus. He said the properties were currently undeveloped, with no structures on them. He said there are some areas of mature trees on the northern property, and there is a 100-foot Water Protection Ordinance (WPO) stream buffer.

Mr. Langille said the properties are currently zoned R2 Residential, which allows 2 dwelling units per acre, by right. He said there are no overlay zoning districts that apply to this property. He said further to the east on the opposite side of Orchard Drive are properties that are zoned R6. He said the Bargamin Park development that is further to the west is zoned PRD (Planned Residential Development). He said everything else surrounding the properties is also zoned R2.

Mr. Langille presented the future land use map from the Crozet Master Plan, showing two colors representing two different future land use designations that apply to the properties. He said the green color, which overlaps with the location of the WPO stream buffer, is greenspace. He said the yellow color is Neighborhood Density Residential, which recommends dwelling units at densities between 3-6 units per acre. He said the greenspace designation typically overlaps with areas with sensitive environmental features, but the Crozet Master Plan also recommends future land use where there are recommended greenway trails or other recreational amenities.

Mr. Langille presented the concept plan the applicant prepared for the application. He said it showed how the site could be developed with up to 6 individual lots and 6 dwelling units. He said they are proposing to provide 15% affordable housing, which is consistent with the County's housing policy. He said with this density, they were looking at 4.84 dwelling units per acre, with the net density being 8.95 dwelling units per acre.

Mr. Langille said the concept plan also showed the protection of about 0.57 acres of open space,

which did include 0.22 acres of an area that would be dedicated to the County for a public trail. He said the trail itself was shown on the concept plan in the brown color that runs from east to west at the northern part of the site.

Mr. Langille said the concept plan also showed a new internal private street going into the parcels to provide street frontage to the new lots. He said it showed sidewalks along the southern side of that private street, noting that the applicant also included some landscaping that they would install, which is in accordance with the County's Zoning Ordinance.

Mr. Langille presented another sheet from the concept plan to give an idea of the cross section for both the development itself and the private street. He said at the top of the screen, one could see where the houses would be on the left, which is the southern side of the project, and that the open space, trails, and stream buffer were on the northern side. He said below that, one could see the cross section, which again showed 5-foot planting strips on either side of the street and a sidewalk on the south side. He said on the north side or right side of the cross section, one could see an area where the applicant was proposing to install a rain garden in order to comply with the County's stormwater management requirements.

Mr. Langille presented the Allowable Density Analysis (Attachment A6). He said the site is currently zoned R2, which allows for 2 dwelling units per acre. He said based on the acreage of this site, the applicant could do 2 dwelling units. He said the proposed or requested rezoning (R4 Zoning District) allows for up to 4 dwelling units per acre. He said currently, if it were to be developed by right, they could do 4 dwelling units, but it is up to 6 dwelling units with bonus level factors as a cluster development.

Mr. Langille said the Crozet Master Plan recommends Neighborhood Density Residential, which is between 3-6 units per acre. He said when evaluating these residential rezoning requests, staff must also calculate the net density and not just the gross density. He said the net density is the acreage that is leftover once subtracting out any area within a parcel that is designated for greenspace, or any other areas that may have a sensitive environmental feature such as a 100-year floodplain or WPO stream buffer.

Mr. Langille said in this case, with Bamboo Grove, there are 0.67 acres outside of the greenspace area. He said with the 6 dwelling units that this applicant is seeking to construct, this brings it to an 8.95-dwelling-units-per-acre net density, which does exceed the recommendations from the Crozet Master Plan.

Mr. Langille said the applicant was proposing some proffers with this project. He said the first proffer was self-explanatory and states, "Should development of these properties go beyond 2 dwelling units, it will be in general accord with the concept plan." He said this includes things such as the lot layout, open space, location and alignment of the private street, sidewalks, etc.

Mr. Langille said Proffer #2 states that 15% of the affordable units will be provided, which is consistent with the County's housing policy. He said it goes on to define what the affordable units are, which was 80% of the Area Median Income (AMI). He said the proffer lays out some provisions for tracking those units, and if they are rental or for sale.

Mr. Langille said the third proffer deals with open space and trail dedication and commits to providing 25% of open space within the development. He said it also goes on to describe the location and acreage of the trail dedication and how this would be done and given to the County. He said this would be prior to the issuance of the third certificate of occupancy for any dwelling units within Bamboo Grove.

Mr. Langille said Proffer #4 states that all dwelling units or lots will be located outside of the WPO stream buffer that exists on the site.

Mr. Langille said the applicant did make two supplemental requests with this application. He said one of those was a private street authorization request, and the other was a modification to the County's street standards. He said the private street was basically authorized by the Planning Commission, as this is a request that one has to make when providing a new street in the Development Areas that will not be a public street and which requires Planning Commission approval. He said this had been recommended by staff for approval, and the Planning Commission approved it.

Mr. Langille said the modification of street standards comes from the County's subdivision ordinance, which requires sidewalks on both sides of the street in the Development Areas. He said the applicant was asking to waive the requirement along the north side. He said the Planning Commission approved that request, and staff did recommend approval as well because installing a sidewalk on the north side would require additional disturbance to the stream buffer area, and so they felt this was a reasonable request.

Mr. Langille said the factors favorable with this rezoning include that it is consistent with the majority of the Neighborhood Model Principles, as well as with the Growth Management Policy. He said the trail and the land dedication the applicant was proposing was consistent with the Crozet Master Plan's recommendations, which do call for a greenway on the northern part of these properties. He said it provides new pedestrian facilities that will allow ingress and egress to the housing and lots. He said the proffers include affordable housing, which is consistent with the recommendations in the Comprehensive Plan and the housing policy.

Mr. Langille noted that in the staff report that went to the Planning Commission, staff was

recommending certain changes to be made to the proffer statement and concept plan. He said those were originally listed as unfavorable factors in that staff report but since the time of the Planning Commission public hearing, the applicant has revised everything, and there are no longer any outstanding issues that need to be addressed in order to comply with the staff recommendation.

Mr. Langille said at that point, the only unfavorable factor that still stood was the fact that the net density of 6 dwelling units exceeds the recommendations from the Crozet Master Plan. He said he would note, however, that the Planning Commission agreed with the applicant in support of the request to exceed the net density recommendation. He said in the Commission's motions, they stated that the applicant should revise their concept plan to show up to 6 dwelling units. He said although this was a staff recommendation unfavorable, it complies with what the Commission recommended.

Mr. Langille noted the information on his slide was incorrect, and that the Planning Commission actually voted 7-0 to recommend approval of the Zoning Map Amendment. He concluded his presentation and offered to answer questions.

Ms. Mallek said this was the third attempt in the Crozet Growth Area to have a cluster on a very small lot area of appropriately sized houses so that people can buy them. She said these are very desirable. She said all the houses of this size in Old Trail are sold before they even start digging because people want something small. She said the discussions over the last many years, both at Park Road and St. George, have all been very supportive of this concept of having houses of this size that regular people can afford, and so this was exciting.

Ms. Mallek said she understood the technical terms in the Master Plan. She said that a couple times in the past, Riverside Village was talked about in staff reports. She said that because of the walkable area and the location of the site, the Board and Planning Commission in 2017 did decide to have a slightly higher number of units. She said she believed it to be similar in the subject location but wanted to get Mr. Langille's feedback about that.

Mr. Langille replied that Ms. Mallek was correct in what she was remembering for Riverside Village. He said at the subject property, it is less than a 5-minute walk to get downtown and so from that alone, it makes sense to have that density there because it is in proximity to the activity center of Crozet. He said with what the Master Plan recommends, there will be parks and other sorts of activity centers around this area. He asked Ms. Mallek if this answered her question.

Ms. Mallek said yes. She said she just wanted to make sure she wasn't misunderstanding it. She said if they were going to use the landward part of the buffer for stormwater, she was supportive of doing it in rain gardens, which they know work. She said there is a beautiful rain garden on the County Office Building site and another at the corner of Old Trail Drive and Jarmans Gap, which was successful in replacing the old snake pit that was there before. She said merging the rain garden into the bamboo buffer will be very successful.

Ms. Price said she did not have questions and that Mr. Langille's presentation addressed some of the areas she may have had concerns with.

Ms. LaPisto-Kirtley asked if there was an actual bamboo grove on the site.

Mr. Langille replied this was correct.

Ms. LaPisto-Kirtley asked if bamboo spreads prolifically and is hard to contain.

Mr. Langille replied that bamboo is an invasive species that is not native to Virginia. He said he learned quite a bit about this when reviewing this application. He said he was consulting with some of his colleagues in the Parks and Recreation department and that with all the drawbacks that come with bamboo, it supposedly has some of the most dense root structures of any plant that they know, and the fact that it is located along the stream bank, some people were saying that it was not necessarily a negative to have it there. He said the applicant could speak more to what their intent was to deal with the bamboo. He said all the vegetation that was shown on the aerial images included some trees as well and that it was not all bamboo.

Ms. LaPisto-Kirtley said she was hoping in the future, the bamboo wouldn't overtake the homes.

Ms. Palmer said she knew from her work in solid waste that if one digs up bamboo, it needs to be landfilled because it will actually spread if it is dumped somewhere. She said she hoped that if they did remove it, it would be handled properly.

Ms. McKeel said her experience with bamboo is that it is fine for a while and then all of a sudden, it isn't. She said they have had the rhizomes jump a block in her neighborhood, so she would be interested in hearing from the applicant about their plans for the bamboo.

Mr. Gallaway asked if there was an existing trail that the new trail would connect to, or if it would only be a short trail on this parcel.

Mr. Langille replied that it will be a future trail, and that there is no trail there currently. He said the Crozet Master Plan shows on its Parks and Green Systems Plan a linear greenway that goes across these parcels and continues further to the west. He said it goes southeast and heads down towards

Crozet Avenue. He said the idea was that this trail could connect to some of the parks within Crozet. He said it will be part of a more linear trail system and will not just be on these properties.

Mr. Gallaway said it looked as if there could be an existing trail from looking at the satellite image.

Mr. Gallaway asked the applicant to present.

Mr. Chris Fuller said he owns the property and purchased it a couple years ago because it is a couple blocks from where he works, which is underneath the library at a small consulting and engineering firm called Staengl Engineering. He said the two other pocket neighborhoods that he tried to develop in Crozet failed for a multitude of reasons.

Mr. Fuller said he has been talking to Habitat about the project because he wanted to do something affordable. He said affordability was tricky with the current zoning, however, and needed rezoning. He said he talked to Habitat for a while, and they thought it was too much work. He said he then met Gallafrey, which were Ms. Nicole Scro and Mr. Justin Shimp.

Mr. Fuller said the property is close to everything and promotes walking, which means less cars. He said he plans to have the site be pedestrian-friendly, and that the Pleasant Green greenway next door would connect to the site.

Mr. Fuller said the site would have a community-focused design, so everyone is not just parking in their garages. He said residents would be parking in one spot and walking to their houses, meaning they would informally meet their neighbors. He said this happens a lot in his own neighborhood, which has been an important thing during COVID-19. He said having shared landscaping which is not for the residents to mow is a nice thing.

Mr. Fuller said because the site has an odd shape, instead of the units being all straight along the road frontage, they all pull back and create outdoor rooms instead of having a face of backyards all being in the same spot, in a line. He said they all stagger, which creates private spaces that are not usually achieved when fronting everything on the road.

Mr. Fuller said the project includes walking connections to Downtown Crozet along Jarmans Gap and, in the future, Pleasant Green, so there were many ways to walk downtown.

Mr. Fuller said social distancing was a new thing that happened, and the idea was to make a design where people could still interact and not become so lonely. He said the project is still adaptable enough so that people can have their own private spaces.

Mr. Fuller said he had a "Goldilocks" density and that there is no right answer, as it depends on design. He said it is tough to know what is too dense and what is not dense enough. He said it depends on the area, environmental features, and other factors. He said he wouldn't say that all R1 and R2 zones should be R4, but it is an interesting thought. He said perhaps "density" wasn't the right word to use.

Mr. Fuller said he was protecting the stream, and bamboo seemed to be a good way of doing this. He said the purpose of the small trail connecting to the greenway trail from the neighborhood is to serve as a bamboo buffer. He said they would have to dig deep to find the edges and put in rhizome barriers, which are typically thick plastic or metal. He said they could also dig a pit next to the trail so that they can see when the rhizomes try to cross it. He said this seemed like the best way to contain it because getting rid of it was probably not possible without poisoning the soil or trucking it to the landfill. He said he believed the best method was to contain it.

Mr. Fuller said the rain garden along the road made a lot of sense, as it was next to the stream buffer and the stormwater could be treated there before getting any closer to anything else. He said this would avoid putting in any pipes, other than the ones already there on Orchard Drive and along the stream for sewer. He said they were not adding a lot of utilities that involve future maintenance down the road. He said everything was compact and better for the environment.

Mr. Fuller said affordable housing is difficult in this area because housing is very desirable. He said by-right zoning in R1 and R2 demand large lots, which are expensive. He said those lots start at \$100,000, and the lowest price he has seen on a lot recently in Crozet was \$80,000. He said any developer will say that the price of the lot about 20-28% of the total price of the house. He said the rest of it is the building so if there is an expensive lot, it will have an expensive house because the banks will not loan money if one goes out of the 28% range. He said this makes it difficult to develop housing. He said one can build it themselves, but developing that housing becomes difficult when the lots are so expensive.

Mr. Fuller said in order to do affordability in R1 or R2, they must be rezoned. He said he didn't see any other way around it and had tried many scenarios with this project as well as with other sized parcels. He said it is almost impossible in R1 and R2.

Mr. Fuller said in Mr. Langille's report, he said that 15% of affordable housing would be proffered, which wasn't exactly true. He said they would actually end up with 33%. He said 15% was the proffer, but that everything above the Comprehensive Plan density of four would be affordable. He said there are 6 total units, and that four of those were in the Comprehensive Plan. He said they are proposing to do the extra two that are on top of the Comprehensive Plan density as affordable, so it was actually 33%. He

said because of the site design and size of the lots, one unit fits in between. He said three will be pure market rate for a 1,700-square-foot house, and the other three will be about 900 square feet. He said one will be on the open market, with being two affordable.

Mr. Fuller said affordable didn't have to mean "ugly." He said they can do better and should do better.

Mr. Fuller said another way of looking at density and at how rough of a metric density is is that single-family houses at 2,600 square feet is probably small for a single-family house in Crozet. He said four of those would equal 10,000 square feet, and that he is proposing three that are less than 1,200 and three that are less than 2,000, which is the same amount of square footage or less. He said it is gentle density and not overpowering anything but is the same density that is in the Comprehensive Plan.

Mr. Fuller said the two houses next door are larger than these houses. He said in aggregate, it all feels about the same. He said these houses are two stories, and they are not trying to do anything with three stories to try to hit the maximum heights.

Ms. Price said she would have some comments after the public hearing.

Ms. McKeel said Mr. Fuller's presentation described exactly what some of the County's challenges and problems have been.

Mr. Gallaway opened the public hearing. As no one was signed up to speak, he closed the public hearing and brought the matter back before the Board.

Ms. Mallek said she had comments for after everyone else had had a chance and would be ready to make a motion.

Ms. Price said she loved Mr. Fuller's proposal and the way he was taking care of the environment in protecting water and slopes. She said she loved the fact that he built in some beautiful affordable housing that meets the needs. She said she was very much in favor of the application.

Ms. LaPisto-Kirtley said she would support it as well.

Ms. Palmer said in the slide presentation, she saw something about an accessory structure that she missed. She said this stated, "Allow attached accessory unit without an owner-occupant requirement." She asked what this was about.

Mr. Fuller replied that accessory units are hard to finance because banks cannot be the owner occupant. He said if one tries to get a loan for an accessory unit and has an owner-occupant requirement inside the code, the banks will not use it as collateral because they cannot owner-occupy it. He said they would only be able to rent it out to one person, and it becomes a financing issue. He said it is hard to create a detached accessory unit with that language in the code. He said this actually didn't have anything to do with the proposal.

Ms. Palmer apologized for her confusion.

Ms. McKeel said she thought this was a great project. She said she would love to have a copy of Mr. Fuller's presentation, as it contained some good, succinct information that would be great to share that were not about the specific project but were on the periphery.

Ms. Mallek asked Mr. Fuller if, for the sewer connection, he was choosing the southerly connection, or the northerly one that goes down through the woods.

Mr. Fuller replied that he did not exactly know. He said it looked like they would have to put in a manhole, so they would run the sewer down the street into the one along Orchard Drive.

Ms. Mallek said she always tries to stay away from tearing up the greenway in order to put the sewer pipes in, which was why she was asking.

Mr. Fuller said this was his intent as well.

Ms. Mallek said she had seen parts of the presentation in the past when Mr. Fuller was in the CAC, and the description of the affordable housing mathematics really stuck with her. She said there was some about that in the presentation that day that made it all comprehensible and was important for the Board's housing discussions as they go forward.

Ms. Mallek said there were some questions about the greenway, and she just wanted to share with the Board that it took 18 years to get the sidewalk done on Jarmans Gap, but it is populated with hundreds of people every day. She said this is the main east-west leg in the area. She said Pleasant Green, across the creek, will have a greenway of its own, and there is a new park coming with a trailhead right at the corner of Orchard Road and Jarmans Gap, which will make it easy for people to get to the trails there. She said they can head east along Powell Creek and be right into the heart of the trails at Lickinghole. She said for people who wish to take even a long walk, they will be perfectly positioned to do that here.

Ms. Mallek said she loved the concept of front-porch social distancing, and that she was glad to see this project come to fruition. She said if there were no other questions, she was happy to make a motion for approval.

Ms. Mallek **moved** that the Board adopt the attached ordinance to approve ZMA201900016 Bamboo Grove (Attachment F). Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

ORDINANCE NO. 20-A(10)
ZMA 2019-00016

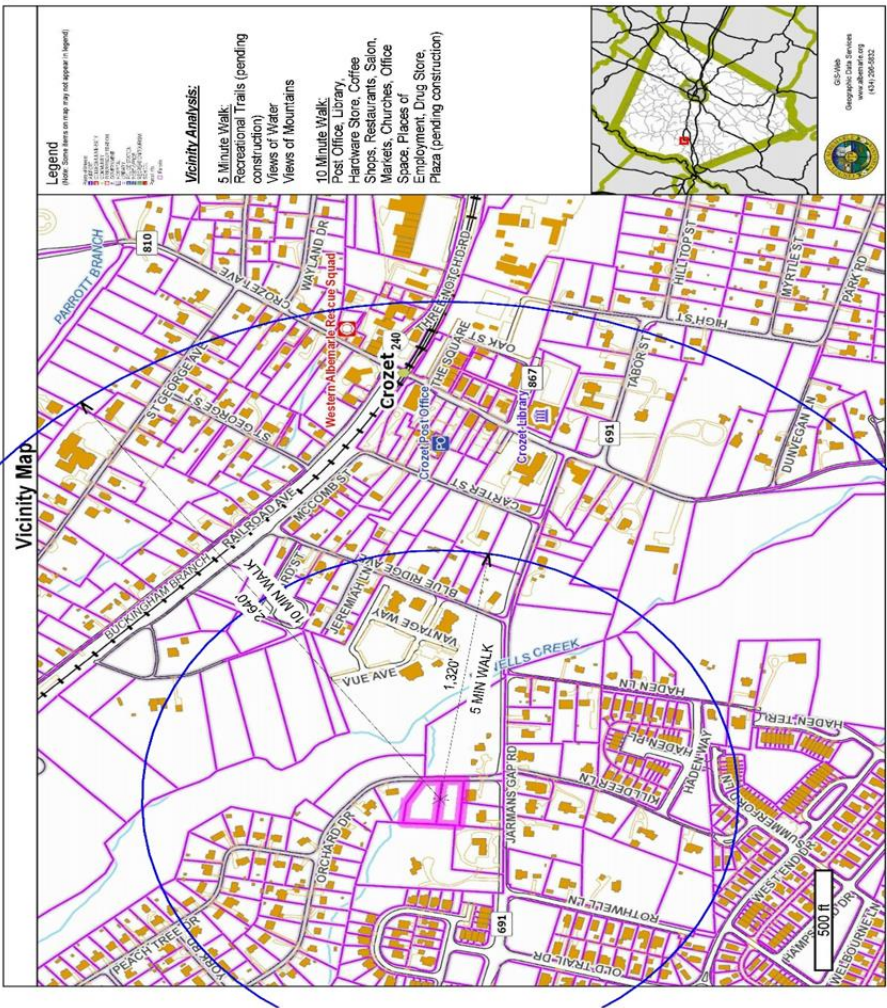
AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX PARCELS 05500-00-00-068C0 AND 05500-00-00068D0

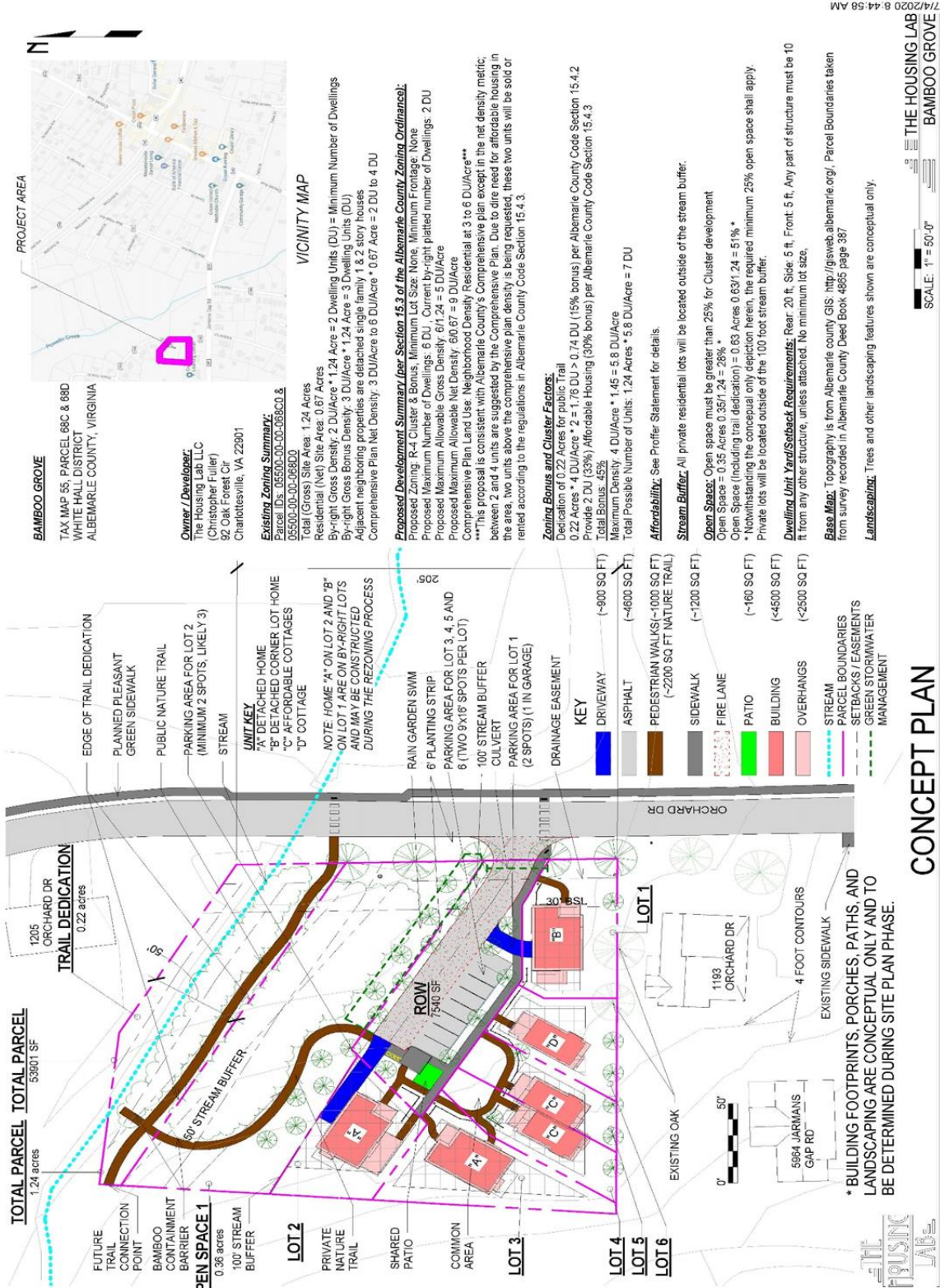
BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2019-00016 and their attachments, including the concept plan dated July 4, 2020 and the proffers dated July 28, 2020, the information presented at the public hearing, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-15.1 and 18-33.27, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2019-00016 with the concept plan dated July 4, 2020 and the proffers dated July 28, 2020.

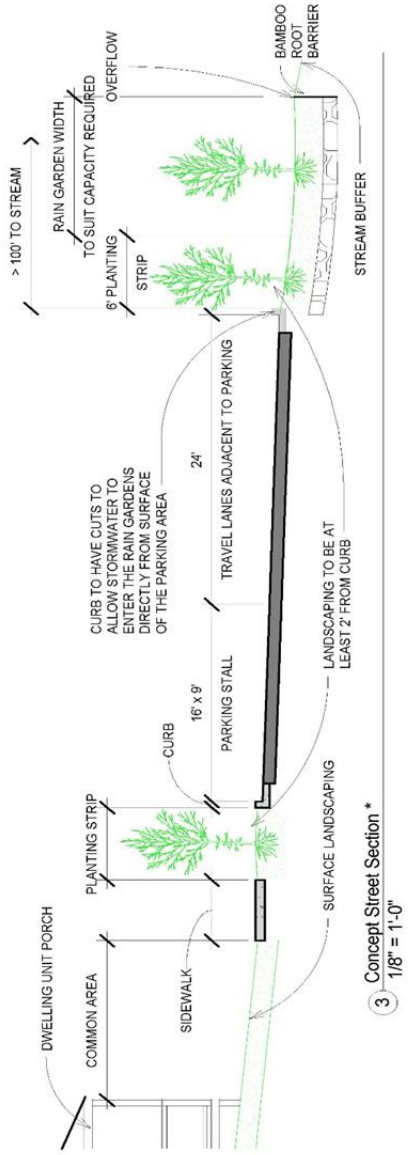
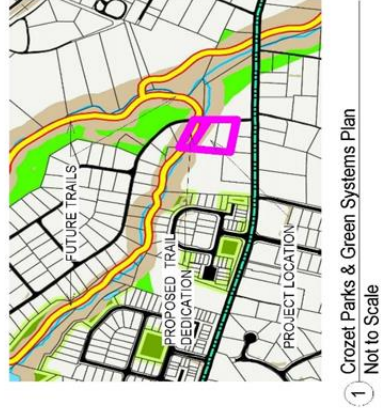
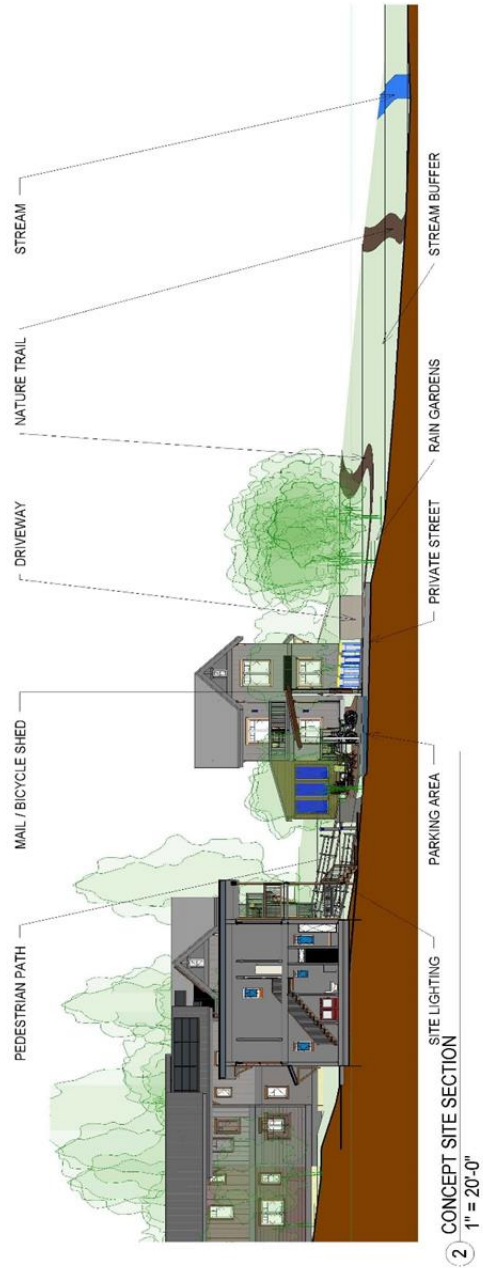
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BAMBOO GROVE

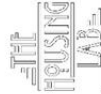
TAX MAP 55, PARCEL 68C & 68D
WHITE HALL DISTRICT
ALBEMARLE COUNTY, VIRGINIA







* STREET SECTION SHALL COMPLY WITH COUNTY STANDARDS AS APPLICABLE



CONCEPT SECTIONS AND TRAIL INFORMATION

THE HOUSING LAB
BAMBOO GROVE
SCALE - As indicated

7/4/2020 8:45:04 AM

PROFFER STATEMENT

BAMBOO GROVE

Date: July 28, 2020
ZMA#: 2019-00016 Bamboo Grove Rezoning
Tax Map Parcel #: 05500-00-00-068C0 and 05500-00-00-068D0

1.24 acres to be rezoned from Residential R-2 ("R-2") to Residential R-4 ("R-4")

The Housing Lab, LLC, a Virginia limited liability company, is the fee simple owner of tax map parcels 05500-00-00-068C0 and 05500-00-00-068D0 (together, the "Property"). The Housing Lab, LLC shall hereinafter be referred to as the "Owner." The Property is the subject of the zoning map amendment application #ZMA-2019-00016 known as "Bamboo Grove." The Applicant for Bamboo Grove is the Owner. The Bamboo Grove development is herein referred to as the "Project."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning and it is agreed that the conditions are reasonable.

1. Concept Plan.

If the Project consists of more than two (2) residential dwelling units, then such development shall be constructed in general accord with the Concept Plan dated July 4th, 2020, prepared by The House Lab LLC (the "Concept Plan"), including such major elements as maximum and minimum number of residential dwelling units permitted, lot layout, internal street layout, pedestrian improvements, and open space.

2. Affordable Housing.

The Owner shall provide Affordable Dwelling Units (as defined herein) equal to fifteen percent (15%) of the total units within the Project (the "Affordable Housing Requirement"). However, if the Project is developed at a density above the recommended Comprehensive Plan density of four (4) residential dwelling units, the Affordable Housing Requirement shall increase to thirty-three (33%) of the total units within the Project. The Owner or its successors in interest reserve the right to meet the Affordable Housing Requirement through a variety of housing types, including but not limited to, for-sale units or rental units.

A. For-Sale Affordable Dwelling Units. The Owner may meet the Affordable Housing Requirement by constructing Affordable Dwelling Units. For purposes of this Proffer 1(A), "Affordable Dwelling Unit" shall mean any unit affordable to households with incomes less than eighty percent (80%) of the area median income (as determined from time to time by the Albemarle County Office of Housing) such that housing costs

consisting of principal, interest, real estate taxes and homeowners insurance (PITT) do not exceed thirty percent (30%) of the gross household income; provided, however; that in no event shall the selling price for such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) maximum sales price/loan limit for first-time homebuyer programs at the beginning of the 180-day period referenced in Proffer 1(A)(1) hereof (the "VHDA Limit"). The Owner shall impose by contract the responsibility herein of constructing and selling the Affordable Dwelling Units to any subsequent owner or developer of the Property (or any portion thereof). Such subsequent owner(s) and/or developer(s) shall succeed to the obligations of the Owner under this Proffer 1; and the term "Owner" shall refer to such subsequent owner(s) and/or developer(s), as applicable.

- (1) Role of County Community Development Department. All purchasers of the for-sale Affordable Dwelling Units shall be approved by the Albemarle County Community Development Department or its designee (the "Community Development Department"). At the proposed time of construction of any Affordable Dwelling Unit, the Owner shall provide the Community Development Department a period of one hundred eighty (180) days to identify and approve an eligible purchaser for such affordable unit. The 180-day qualification period shall commence upon written notice from the Owner to the Community Development Department of the approximate date the Unit is expected to receive a certificate of occupancy from the County (the "Notice"). Such Notice shall be given no more than ninety (90) days prior to the expected issuance of the certificate of occupancy, and the 180-day approval period shall extend no less than ninety (90) days after the issuance of the certificate of occupancy. Nothing in this Proffer 1 shall prohibit the Community Development Department from providing the Owner with information on income eligibility sufficient for the Owner to identify eligible purchasers of Affordable Dwelling Units for approval by the Community Development Department. If, during the 180-day qualification period, (i) the Community Development Department fails to approve a qualified purchaser, or (ii) a qualified purchaser fails to execute a purchase contract for an Affordable Dwelling Unit, then, in either case, the Owner shall have the right to sell the Unit without any restriction on sales price or income of the purchaser(s), and such unit shall be counted toward the satisfaction of this Proffer 1. This Proffer 1 shall apply only to the first sale of each of the for-sale Affordable Dwelling Units. For the purposes of this Proffer 1, such Affordable Dwelling Units shall be deemed to have been provided when the subsequent Owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the unit(s) will be available for sale.
- (2) Tracking. Each subdivision plat and site plan for land within the Property shall: i) designate the lots or units, as applicable, that will constitute Affordable Dwelling Units within the Project and ii) contain a running tally of the Affordable Dwelling Units either constructed or contributed for under this Proffer 1. The designated lots or units shown on the applicable subdivision plat or site plan may not be shown as being constructed in a future phase.

B. For-Rent Affordable Dwelling Units.

- (1) Rental Rates. The initial net rent for each rental housing unit for which Owner seeks qualification for the purposes of this Proffer 1 (“For-Rent Affordable Dwelling Unit”) shall not exceed the then-current and applicable maximum net rent rate approved by the Community Development Department. In each subsequent calendar year, the monthly net rent for each For-Rent Affordable Dwelling Unit may be increased up to three percent (3%). For purposes of this Proffer 1B, the term “net rent” means that the rent does not include tenant-paid utilities. The requirement that the rents for such For-Rent Affordable Dwelling Units may not exceed the maximum rents established in this paragraph 1B shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each For-Rent Affordable Dwelling Unit, or until the units are sold as low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the “Affordable Term”).
- (2) Conveyance of Interest. All deeds conveying any interest in the For-Rent Affordable Dwelling Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of paragraph 1B. In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Dwelling Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 1B. At least thirty (30) days prior to the conveyance of any interest in any For-Rent Affordable Dwelling Unit during the Affordable Term, the then-current Owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this paragraph 1B have been satisfied.
- (3) Reporting Rental Rates. During the Affordable Term, within thirty (30) days of each rental or lease term for each For-Rent Affordable Dwelling Unit, the then-current Owner shall provide to the Community Development Department a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current Owner shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

3. Open Space and Trail Dedication.

A. Open Space. The Owner shall restrict from development all open space areas which are shown as “Open Space” on the Concept Plan; provided, however, that the Owner may modify such areas so long as a minimum of twenty-five percent (25%) of the Project is restricted. These areas shall be used for the use and enjoyment of the residents of the Property, subject to the restrictions that may be imposed by any declaration recorded as

part of a conveyance of these areas to a homeowner's association. The Open Space dedication shall occur prior to the Certificate of Occupancy of the third (3rd) residential dwelling unit.

B. Trail Dedication. The Owner shall dedicate and convey to the County, upon demand by the County, approximately 0.22 acres labeled as "Trail Dedication" on the Concept Plan (the "Trail Dedication Area"). The precise location of the Trail Dedication Area shall be mutually agreed upon by the Owner and the County, and such agreement shall not be unreasonably withheld or conditioned. The Trail Dedication Area will be conveyed in the form of a general warranty deed and the Owner shall bear the cost of a survey and preparing the deed. The trail construction and dedication shall occur prior to the Certificate of Occupancy of the third (3rd) residential dwelling unit.

4. Miscellaneous.

A. Stream Buffer. All residential dwelling units and private residential lots shall be located outside the 100' stream buffer.

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

WITNESS the following duly authorized signature:

Owner:

THE HOUSING LAB, LLC,
a Virginia limited liability company

By: 

Christopher Fuller, Manager

Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek said in the Supervisors' email, they would see three different things from VACo (Virginia Association of Counties) about bills coming before the special session, one of which would be heard the following morning and related to something Ms. McKeel had brought up that needed to be discussed about extension of the zoning approvals on ancient items. She said she hoped the Supervisors would take time to look at those emails and perhaps send a note to their delegation.

Ms. Mallek said she has been documenting the pine trees that fell down in the road and caused monstrous power outages all over Free Union and Earlysville in the last two weeks. She said she would appreciate all the Supervisors, as they drive around their districts, making note of these 14-inch diameter, 150-foot-tall pine trees stuck here and there. She said she believed every one of those trees to be a tremendous risk to the safety of neighbors and to the functioning of the electric grid.

Ms. Mallek said she has been speaking with Mr. Felix Sarfo-Kantanka from Dominion and reactivating a discussion she had with his predecessor ten years earlier about improving the way Dominion maintains their rights of way, as well as a discussion about whether they would be willing to replant, as they said they would in the forestry plan. She said they plant places like along Earlysville Road, where the road was closed for 14 hours two Fridays ago because many of these giant pine trees fell down into the wires. She said if they plant them to something that only grows to 16 feet, they will not

have this maintenance issue.

Ms. Mallek said this was a long-term issue, and that likely every Supervisor will have locations where this would be especially appropriate, so it was something to consider.

Ms. Mallek said the Board talked briefly about going back to the discussions of the MPO and asking DEQ for higher standards of regulation. She said one additional way to get at this may be the County adopting the Ag and Forestry chapters of the Chesapeake Bay Act, which numerous people from the CDD have suggested over the last 15 years as a way to get more ability to regulate the things the County cannot regulate now. She said farming and forestry are the same and need to be held to a higher standard, and this was one way to get at it. She said she believed this would help the Board with its climate change work as well.

Ms. Mallek said along with the bamboo, ailanthus was another thing that was running completely insane. She said the invasive species they are allowing to grow up in the VDOT rights of way was something she was going to talk to Ms. Carrie Shepherd about.

Ms. Price said the Democratic Convention was that week, and that the Republican Convention was the week after. She encouraged all voters to do their homework and to not stick within their safety area. She said whether a Democrat, Republican, third-party, or Independent, she wanted people to do their research and be informed. She said early voting in Virginia would start four weeks from that Friday, so she would encourage everyone to do their homework and then vote.

Ms. Price said secondly, she would go back to the steps the County has taken to try to protect its people from the pandemic. She said it seemed like not 20 minutes goes by before she sees another newsfeed come across with another school system or university that is canceling or postponing in-person classes as the reality of the fall educational system is upon everyone, with the flu season right after it. She said she was very encouraged by some of the news they were seeing in the Thomas Jefferson Health District, but that they were far from over with this pandemic. She said they cannot give up the fight and must continue protecting themselves.

Ms. LaPisto-Kirtley said she would be sending out something to the Board to try to support independent restaurants, which was something near and dear to her heart since she doesn't cook.

Ms. Palmer said to piggyback on Ms. Mallek's comments and some of her own comments regarding Scott's Ivy Exxon, Mr. Kamptner recently mentioned to her that the Water Protection Ordinance was coming back for a review sometime in the next couple months. She said she believed that in coordination with that, he could possibly give the Board more information via email, prior to the discussion, as to the options for making the ordinance stricter than the current state standards. She said Mr. Kamptner could possibly provide an outline of information so the Board can discuss it when it comes before them in the fall. She asked if this was okay with the rest of the Board.

Ms. Mallek said it sounded good to her.

Ms. McKeel agreed. She said another thing she wanted to mention was that she had requested looking at something for the legislative packet. She said there is no sunset on the life of the zoning approvals the Board gives, and she hoped they would talk about that. She asked Mr. Kamptner if he were going to bring this up that night.

Mr. Kamptner replied that he had not been planning to. He said by the time he would get in front of the Board with its legislative priorities, it would be September 2. He said it would probably be too late. He said he knew that Ms. Mallek and Mr. David Blount from the Thomas Jefferson Planning District were working with VACo and VML because there was opposition to that. He said there were some site plans that were approved so long ago.

Ms. McKeel said this was a huge problem. She said they currently have one on the corner of Georgetown and Hydraulic that was approved 20 years ago.

Mr. Kamptner said Ms. Mallek probably remembers that one from her very early days.

Ms. McKeel said there were many of these, and she was shocked to see in Mr. Kamptner's email that Senator Deeds introduced the extension bill. She asked if this were coming up the following day, what the Board should do about it.

Ms. Mallek suggested that the Supervisors send individual letters when they get home to anyone they can think of who might recognize their names. She said it would unfortunately be in the morning that they would hear the senate bills.

Ms. McKeel asked about the numbers of the senate bills.

Ms. Mallek said it was SB-5044 and that both bills were in the attachment. She said these were forwarded to the Board with VACo letter.

Ms. Palmer asked for explanation of what was happening the following session, nothing that the General Assembly was not in session.

Ms. Mallek said they were in session.

Ms. McKeel said she didn't think they were dealing with anything but the budget, which is what Ms. Palmer was referring to.

Ms. Mallek said apparently, this bill has somehow gotten the traction to get into the committee structure because it was put forward by the homebuilders. She said the Board would probably lose anyway but at least if they try, it will make them feel a little better.

Ms. McKeel said she was personally disappointed with Senator Deeds and may email him directly.

Ms. Mallek said this was essential.

Ms. McKeel added that Ms. Sally Hudson was included as well.

Ms. Mallek said everyone on the committee was also included.

Ms. Palmer asked if the Board had a list of who was on the committee.

Ms. Mallek said the letter would identify the committee.

Ms. McKeel said the shocking thing was that this came up with the middle of what one would think would not be the appropriate time.

Ms. Palmer asked if anyone already had the letter written and if they could just send it out.

Ms. Mallek said the VACo letter contained anything Ms. Palmer would want to pull from it.

Ms. McKeel asked if it was in the VACo attachment.

Ms. Mallek replied yes.

Mr. Gallaway said he had a matter to bring up and that although he did not expect an answer from staff on it that night, he would appreciate some follow-up on it. He said it was a constituent letter that was brought up over in the Pantops area, but it was also an issue on Rio Road that he has talked about before. He said there are tall weeds that are growing out of the concrete. He said these are not on mowing schedules because there is no grass there.

Mr. Gallaway said between Rio Road and the intersection with Route 29 all the way down past Putt Putt Place is all concrete median, and things are growing up out of there, which grow quite tall and are unsightly. He said in the constituent email from Pantops, it talked about the same type of thing, and he didn't know who was responsible for that. He said if it was not on a regular VDOT mowing schedule, which he couldn't imagine it would be, then there must be some maintenance requirement that would handle this.

Mr. Gallaway said the constituent brought this back into his memory because he sees this every time he drives on Rio Road. He said he was sure this happens in other places in the County. He said especially in the Entrance Corridors, where there are such strict demands for developers and property owners to adhere to the requirements, the public spaces on the road they are trying to protect the view from have 3-4 foot tall weeds growing up. He said he was trying to understand who is responsible and what the potential solution is, and that he would appreciate follow-up on it.

Ms. McKeel said she would appreciate follow-up as well, as this happens all over the Urban Ring.

Mr. Jeff Richardson (County Executive) said that the County's Facilities and Environmental Services Director was responding to that specific complaint and would respond to the entire Board. He said they would see what kind of response they will get from VDOT. He said they will also be prepared to talk to the Board if this is something that has been reduced or eliminated in terms of the attention that VDOT gives based on the economic recession.

Ms. McKeel said VDOT has never dealt with these.

Mr. Gallaway said if they get a call about somebody with a weed whacker going down the middle of Rio Road, it might be him doing it one Sunday morning.

Ms. LaPisto-Kirtley said she would be there with him. She said she knows they cannot use anything like RoundUp, but she wondered what would happen if they used salt so it wouldn't hurt the environment.

Ms. McKeel said the more salt one puts on concrete, the worse they will damage it. She told Mr. Richardson that VDOT does not deal with the weeds, but that he could find that out officially.

Ms. LaPisto-Kirtley said they would need a weed whacker and a street sweeper.

Ms. McKeel said they would need to go in and blast out the dirt, seal the cracks, and fix them

correctly or the weeds will keep coming back.

Ms. Mallek added that Ms. McKeel's predecessor for years complained about the grass coming up in the cracks on Berkmar between Hilton Heights, and they are still there. She said to add to Mr. Lance Stewart's research list, she would like to find out who is planting (if they are) invasive species such as Cytisus scoparius (Scotch broom) which are the tall plants that are all over the banks on Berkmar Extended. She said they should be mowed, that it is revolting, and that the seeds of that will spread to people's farmlands. She said the neighbors think it is gross. She said it is all along the Meadowcreek Parkway and is the 3-foot-tall plant that lies half on its side.

Ms. Mallek said she complained to VDOT for years that they allow thistles to grow up in the median strips, and that each one of those pink flowers has a thousand seeds in it. She said she spent her summer pulling and digging up ailanthus all over the farm because she didn't recognize it when it appeared.

Ms. Mallek said this was a lot of issues piled together, but taking care this was a good thing, as these trees will break the sidewalks to pieces with their roots.

Agenda Item No. 20. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said there was a ratification of legal documents that the County was asked to sign and send back to Richmond, which involves the second-round distribution of CARES CRF funding from the Commonwealth. He said it is the same amount that was received during the first round, which was \$9,538,621. He said as required by the Commonwealth, last Monday, the County was asked to sign documents and return those to Richmond. He said this required the Chair's signature, his own signature, and the Chief Finance Officer Ms. Nelsie Birch's signature.

Mr. Richardson said the ratification by the Board was a confirmation step. He said Mr. Kamptner was able to add more detail if necessary.

Mr. Richardson said staff would provide an update to the Board on the County's CARES Act funding on the September 2 agenda. He said they would come with two pieces of information regarding the second round of CARES funding and would also seek to authorize that the County Executive's Office execute all related documents that may be needed to expedite the process.

Mr. Richardson reminded the Board that with the funding they are receiving, the direction that they and other local governments are getting from the federal government is the requirement that the funds must be spent by December 30. He said he knew this probably felt rushed to the Board, and that he could not begin to fully describe how rushed it felt to staff. He said they are using the mitigation and response framework that involves Human Services and the community, as well as Economic Development, general County services and obligations, and Information Technology. He said it is a framework similar to what they used with Round One.

Mr. Kamptner said they looked at the motion that the Board adopted for the CARES Act One certification and authorization. He said the motion was broad and that the language could apply to CARES Act One funding or CARES Act Two funding. He said in order to sidestep any argument that the Chair was not authorized to sign for the CARES Act Two funding, they were bringing it back with this ratification.

Mr. Kamptner said the certification form, as best they could identify, was identical to the one the Board authorized Mr. Gallaway to sign several weeks ago.

Ms. Mallek **moved** in favor of the ratification. Ms. Price **seconded** the motion.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Mr. Richardson said he would be sending notification out to the Board the following week that he would miss the September 2 Board of Supervisors meeting and would formally communicate that he would be away from the office during that time. He said Mr. Doug Walker will be acting for him in his absence.

Mr. Richardson also noted it was Ms. Borgersen's birthday and that he wanted to publicly acknowledge and celebrate this.

The Board wished Ms. Borgersen a happy birthday.

Agenda Item No. 21. Adjourn.

At 8:08 p.m., Mr. Gallaway adjourned the meeting to September 2, 2020, 1:00 p.m., an electronic meeting pursuant to Ordinance No. 20-A(8), “An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.”

Chair

Approved by Board
Date 05/04/2022
Initials CKB