

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 2, 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 the Board-to-Board School Board report with Chairman Paige was originally scheduled on the consent agenda but should be a live report. He said Mr. Paige would present at 3:30 p.m. and that this needed to be made an official part of the final agenda.

Motion was offered by Ms. McKeel to adopt the final agenda. 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. 5. Brief Announcements by Board Members

Ms. Palmer said she wanted everyone to know, in case they received emails about it, that the Blue Ridge Wireless company that was providing internet predominantly to people in the White Hall and Samuel Miller Districts, and Greenwood, was bought by Virginia Air Networks, who has decided not to continue service in Albemarle County. She said the County's IT Director, Mr. Mike Culp, was working hard to find alternatives. She said this is a problem that can happen with small internet companies.

Ms. Palmer said another bit of bad news was that the pandemic has caused the cancelation of the annual Batesville Apple Butter Festival, and that she was sure there would be more cancelations like this. She said it was a shame to hear, as this event was expected every fall.

Ms. McKeel asked Ms. Palmer what the rationale was for Virginia Air Networks choosing not to provide service to Albemarle County.

Ms. Palmer said she did not have the information to share at that time but could get back to the rest of the Board. She said her understanding was that the Virginia Air Networks would probably continue to serve a smaller geographic area in the Valley, but that she did not know all the reasons why they decided to discontinue service. She said she would try to find out.

Ms. Mallek said she had 6 inches of rain at her house in the last 36 hours. She said she believed other people probably did, too. She said even if one lives at the top of a hill, she always wants people to be cautious that water was pooling on the roadways in the 12-inch and 14-inch-deep category in many low places. She said this can pull one's car right off the road. She said at the reservoir bridge recently, the drains were blocked, and there were big puddles VDOT was working on. She urged people to take extra caution about the high water, even when the sun is out, as the water would be there for a while.

Ms. Mallek said the Census used to run to Halloween and now, it has abruptly been changed to the end of September. She said she heard of one Census visitor in a neighborhood, but that was all. She

said she did hope they were out visiting people and encouraged people to use a phone call to get themselves and family reported, or to go online if they have access to that. She said it was important they get a good count for Albemarle County and Virginia for all the services that are allocated based on population, as well as for Congressional representation.

Agenda Item No. 6. Proclamations and Recognitions.

There were 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.

As there were technical difficulties, no speakers were able to comment during this time.

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway noted that Item 8.9, Board-to-Board Report, was removed from the consent agenda.

Ms. Price **moved** to approve the consent agenda. 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

Item No. 8.1. FY 2020 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 20 budget due to the appropriations itemized in Attachment A is \$8,053.64. 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.

Appropriation #2020075		\$0.00
Source:	Federal Revenue	\$105,112.63
	EMS Cost Recovery	(\$105,112.63)

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

This request is to appropriate \$105,112.63 in Coronavirus Aid, Relief, and Economic Security (CARES) Act funding that will be applied to offset Emergency Medical Services Cost Recovery program revenue due to reduced transports during the COVID-19 pandemic.

Appropriation #2020076		\$ 8,053.64
Source:	Federal Revenue	\$8,053.64

This request is to appropriate \$8,053.64 in Federal revenue for Coronavirus Aid, Relief, and Economic Security (CARES) Act funding awarded by Housing and Urban Development (HUD) for the Housing Choice Voucher program to help lower-income families, elderly and disabled individuals afford safe housing and support the health and safety of assisted individuals and families. These funds will provide supplies and additional support as needs arise to voucher recipients, as well as related overtime and temporary wages.

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

**RESOLUTION TO APPROVE
ADDITIONAL FY 2020 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2020075 and #2020076 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, 2020.

APP#	Account String	Description	Amount
2020075	3-1100-33050-333000-330050-1003	APP2020075-CARES FR Funding	\$105,112.63
2020075	4-1100-93010-493010-930009-1003	APP2020075-CARES FR Funding transfer to Gen Fund	\$105,112.63
2020075	3-1000-51000-351000-512000-1003	APP2020075-CARES FR Funding transfer from CARES Fund	\$105,112.63
2020075	3-1000-16000-316000-161617-1003	APP2020075-CARES FR Funding	-\$105,112.63
2020076	4-1100-53020-453010-120000-1550	SA2020076: HUD CARES Funding	\$911.65
2020076	4-1100-53020-453010-210000-1550	SA2020076: HUD CARES Funding	\$69.74
2020076	4-1100-53020-453010-601380-1550	SA2020076: HUD CARES Funding	\$7,072.25
2020076	3-1100-33050-333000-330018-1550	SA2020076: HUD CARES Funding	\$8,053.64

Item No. 8.2. Civil War Monuments and Memorials.

The Executive Summary forwarded to the Board states that, on August 6, 2020, the Board of Supervisors held a public hearing and thereafter adopted a “Resolution to Remove Certain Monuments and Memorials in the County-owned Portion of Court Square Park” (“Resolution”). The Board’s action triggered the 30-day period required by Virginia Code § 15.2-1812 to offer the monuments and memorials (“Memorials”) for relocation and placement to any museum, historical society, government, or military battlefield. The Resolution identified August 7 until September 5 as the 30-day period, and provided how and when interested qualifying entities could submit statements of interest.

The Resolution anticipated that the Memorials would be promptly removed from their Court Square location and stored, and that their ultimate disposition would occur at a later Board meeting. However, it is possible that the Board may decide on the disposition of the Memorials very soon after the 30-day offer period ends, and the purpose of the proposed amendments are to facilitate that.

The August 6 Resolution required that statements of interest that were mailed had to be postmarked before September 5, but did not specify a date by which they had to be received. In addition, because September 5 is a Saturday and the County Office Building is not open for business, statements of interest that were hand-delivered or sent by private parcel service had to be received by the County on the first business day after September 5 (September 8). It is possible that the Board could choose to meet to decide the final disposition of the Memorials as early as September 8.

The amended Resolution (Attachment A) would provide needed clarity and finality, and require any statements of interest sent by mail or private parcel service, or are hand-delivered must be received by the County by September 8 and before the Board holds a meeting to decide the disposition of the Memorials. The last paragraph of the amended Resolution acknowledges that the Board may decide the final disposition of the Memorials without first having them stored

Staff recommends the Board adopt the Resolution (Attachment A)

By the above-recorded vote, the Board adopted the Resolution to Remove Certain Monuments and Memorials in the County-Owned Portion of Court Square Park (Attachment A):

**RESOLUTION TO REMOVE CERTAIN MONUMENTS AND MEMORIALS
IN THE COUNTY-OWNED PORTION OF COURT SQUARE PARK**

WHEREAS, Virginia Code § 15.2-1812 authorizes the governing bodies of Virginia counties and cities to remove, relocate, contextualize, or cover certain monuments and memorials; and

WHEREAS, on August 6, 2020, the Board held a duly noticed public hearing on its intent to remove, relocate, contextualize, or cover the monuments or memorials identified as “At Ready” (or sometimes referred to as “At the Ready”), cannons, and stacks of cannonballs in the County-owned portion of Court Square Park (collectively, the “Memorials”).

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia will remove the Memorials; and

BE IT FURTHER RESOLVED that, as required by Virginia Code § 15.2-1812, the Memorials are hereby offered to any museum, historical society, government, or military battlefield for a 30-day period beginning on August 7, 2020 and ending on September 5, 2020; and

BE IT FURTHER RESOLVED that the County Executive is directed to ensure that the Board's offer of the Memorials for the 30-day period is made to museums, historical societies, governments, and military battlefields; and

BE IT FURTHER RESOLVED that any statement of interest in the Memorials from a museum, historical society, government, or military battlefield must be: (1) received by the County by not later than September 5, 2020 if sent by email to clerk@albemarle.org; (2) postmarked by not later than September 5, 2020 if sent through the United States Postal Service to the Office of the Clerk of the Board of Supervisors, 401 McIntire Road, Charlottesville, Virginia, 22902, and received by September 8, 2020 and before the Board of Supervisors holds a meeting to decide the disposition of the Memorials; or (3) received in the Office of the Clerk of the Board of Supervisors, 401 McIntire Road, Charlottesville, Virginia by September 8, 2020 and before the Board of Supervisors holds a meeting to decide the disposition of the Memorials if hand-delivered or sent by any private parcel service; and

BE IT FURTHER RESOLVED that on September 6, 2020, or as soon thereafter as practicable, the Memorials will be removed from Court Square and either be disposed of as directed by the Board exercising its sole authority, or safely stored until the Board exercises its sole authority to determine their final disposition, or a combination of storage and disposal.

Item No. 8.3. Schedule Public Hearing to Consider Appalachian Power's Request for Easements.

The Executive Summary forwarded to the Board states that Appalachian Power has requested easements (Attachments A and B) on County-owned property, parcels 128A2-00-00-01800 and 128A2-00-00-02200, commonly referred to as the Yancey School Community Center. Appalachian Power is planning to upgrade the local power grid by rebuilding approximately six (6) miles of transmission line and upgrading one of its substations located in Albemarle County. Appalachian Power is seeking to supplement existing easements to meet updated standards for the safe construction, operation, and maintenance of the new transmission line. The supplemental easements would update the existing "blanket" easements by defining a specific right-of way width (Attachment C). Appalachian Power is offering a payment of \$1,500.00 for each of the two easements.

Virginia Code § 15.2-1800 (B) requires a public hearing for this proposed disposal of County Property.

These two parcels, totaling 11.57 acres, are the site of the Yancey School Community Center and associated waste-water treatment facility. The proposed easements follow the general course of an existing overhead transmission line and would not further impact the use of the property. The \$3,000.00 (total) payment by Appalachian Power is deemed fair and reasonable

Approving the easements would result in \$3,000.00 in total revenue.

Staff recommends that the Board schedule a public hearing to receive comments from the public regarding Appalachian Power's request for easements on County owned properties (TMPs 128A-00-00-01800 and 128A2-00-00-02200).

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to receive comments from the public regarding Appalachian Power's request for easements on County owned properties (TMPs 128A-00-00-01800 and 128A2-00-00-02200).

Item No. 8.4. Schedule Public Hearing to Consider Buck's Elbow Mountain Tower Lease.

The Executive Summary forwarded to the Board states that the County owns a 120-foot telecommunications tower and tower site located on Buck's Elbow Mountain. This tower hosts equipment used by the Charlottesville-U.Va.-Albemarle County Emergency Communications Center ("ECC") as part of the regional 800 MHz. public safety radio system. From 1996 to 2001, the County leased excess space on the tower, as well as ground space for an equipment shelter, to Charlottesville Cellular Partnership, the local licensing entity for U.S. Cellular Corporation. In July, 2001, the County renewed the lease for another five-year term that ended in July, 2006. Following the expiration of that lease, U.S. Cellular remained on-site and continued to make payments according to the lease terms.

After obtaining a fair market value study from RCC Consulting, a firm that the ECC contracted for various telecommunications matters, the parties subsequently entered a new five-year lease (for 7/1/2008-6/30/2013), with two additional five-year extensions (for 7/1/2013-6/30/2018 and 7/1/2018-6/30/2023, respectively).

USCOC of Virginia RSA #3, Inc. now wishes to enter a new lease with an initial term of 7/1/2023-6/30/2028. The resulting lease, attached to this summary, has been accepted by U.S. Cellular. Virginia Code § 15.2-1800 requires the Board to hold a public hearing prior to approving a lease of this County property.

The proposed lease is based on 3% annual rental increases from the fair market values determined by the prior RCC Consulting study. See Attachment A, Section 7 - Rent. For the first year of the new term (July 1, 2023-June 30, 2024), U.S. Cellular would pay \$37,685.76, an increase of 3% from the prior year. During the 5-year term, rent would increase by 3% each year. Following this initial term,

the parties could extend the lease for up to two renewal terms of five years each. Rental rates for these renewal terms would be negotiated based on then prevailing fair market values for the tower space.

In addition to the \$37,685.76 payment for Year 1 of the lease, the following payments would be made in subsequent years of the 5-year term:

Year 2 (7/1/24-6/30/25) -- \$38,816.33

Year 3 (7/1/25-6/30/26) -- \$39,980.82

Year 4 (7/1/26-6/30/27) -- \$41,180.25

Year 5 (7/1/27-6/30/28) -- \$42,415.65

Staff recommends that the Board set a future public hearing to consider the attached lease proposal in accordance with Virginia Code §15.2-1800.

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to consider the attached lease proposal in accordance with Virginia Code §15.2-1800.

Item No. 8.5. Reservoir Road and Wesley Chapel Road Rural Rustic Road Designation.

The Executive Summary forwarded to the Board states that a .97-mile segment of Route 702, Reservoir Road (from the end of state maintenance to .97 mile east of the end of state maintenance), and a .10-mile segment of Route 671, Wesley Chapel Road (from Route 668, Chapel Spring Road to Route 668, Fox Mountain Road), are fully funded for paving as Rural Rustic Roads in FY 2021. Before paving these roads under the Rural Rustic Road program, the Virginia Department of Transportation (VDOT) requires that the governing body adopt a resolution designating the roads as Rural Rustic Roads.

Each spring, the Board approves the Secondary Six-Year Plan (SSYP), which includes funds dedicated to paving unpaved roads in the County under the Rural Rustic Road (RRR) Program. The RRR Program is VDOT's preferred approach to paving low-volume roads. The goal of the program is to keep traditional rural lane ambience, while improving the road surface within the current right-of-way. In FY 2021, Albemarle County received approximately \$770,000 in funds toward paving unpaved state-maintained roads, including the funds to pave Route 702, Reservoir Road, and Route 671, Wesley Chapel Road.

The process for identifying and prioritizing RRR paving projects in Albemarle County begins with an evaluation of submitted paving requests to identify eligibility and need. The Board then approves the prioritized list of projects and the SSYP that reflects those priorities. Prior to a road being designated as an RRR and being paved, adjacent landowners are notified and given an opportunity to comment. Following that comment period, the Board is presented with a proposed Resolution to designate the road as RRR.

With these two roads, property owner notifications were sent out requesting any comments for Reservoir Road or Wesley Chapel Road's .10-mile segment. Three people responded in support of paving Reservoir Road, but shared concerns about potential speeding and an increase in traffic, with specific concerns about the steep turns and animal crossings with higher speeds.

The .10-mile segment of Wesley Chapel Road is in an area of the County designated by the Comprehensive Plan as Rural Area and zoned accordingly. The Rural Area designation discourages new homebuilding and subdividing, and supports low intensity uses such as agriculture, forestry, and protection and preservation of natural resources. There is no pending development and it is unlikely that any future development would be of an intensity that would increase traffic on this segment of road. The Average Annual Daily Traffic (AADT) in 2018 for this segment of road was 270 vehicles per day and is unlikely to increase significantly in the future, due to the Rural Area designation.

Reservoir Road is in an area of the County zoned both as Rural Areas (through the Heyward Community Forest) and R1 Residential (elsewhere), and also provides access to Ragged Mountain Reservoir. Reservoir Road is designated by the County within the Comprehensive Plan under the Southern & Western Urban Neighborhoods as Neighborhood Density Residential and Parks and Green System. The most recent Average Annual Daily Traffic (AADT) in 2015 for this segment of road was 255 vehicles per day.

Adoption of these Resolutions will have no impact on the County budget. These resolutions authorize VDOT to expend state funds on a project for which the Board has previously recommended state funds be allocated through the SSYP.

Staff recommends that the Board adopt the attached Resolutions to designate both Route 702, Reservoir Road (Attachment A) and a .10-mile segment of Route 671, Wesley Chapel Road (Attachment B) as Rural Rustic Roads.

By the above-recorded vote, the Board adopted the attached Resolutions to designate both Route 702, Reservoir Road (Attachment A) and a .10-mile segment of Route 671, Wesley Chapel Road (Attachment B) as Rural Rustic Roads:

**RESOLUTION TO DESIGNATE A SEGMENT OF ROUTE 702,
RESERVOIR ROAD, AS A RURAL RUSTIC ROAD**

WHEREAS, Virginia Code § 33.2-332 permits the hard-surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia desires to consider whether Route 702, Reservoir Road, from the end of state maintenance to .97-mile east of the end of state maintenance, should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of any pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates Route 702, Reservoir Road, from the end of state maintenance to .97-mile east of the end of state maintenance, as a Rural Rustic Road, and requests that the Resident Engineer for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that Route 702, Reservoir Road, from the end of state maintenance to .97-mile east of the end of state maintenance, be hard-surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

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

* * * * *

**RESOLUTION TO DESIGNATE A SEGMENT OF ROUTE 671,
WESLEY CHAPEL ROAD, AS A RURAL RUSTIC ROAD**

WHEREAS, Virginia Code § 33.2-332 permits the hard-surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia desires to consider whether Route 671, Wesley Chapel Road, from Route 668 Chapel Spring Lane to Route 668 Fox Mountain Road, should be designated as a Rural Rustic Road; and

WHEREAS, the Board is unaware of any pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates Route 671, Wesley Chapel Road, from Route 668 Chapel Spring Lane to Route 668 Fox Mountain Road, as a Rural Rustic Road, and requests that the Resident Engineer for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that Route 671, Wesley Chapel Road, from Route 668 Chapel Spring Lane to Route 668 Fox Mountain Road, be hard-surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

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

Item No. 8.6. SUB202000069 Eastern Avenue Right-of-Way Dedication.

The Executive Summary forwarded to the Board states that Eastern Avenue was identified in the

Crozet Master Plan as an essential part of the plan to achieve the goals for transportation improvements in Crozet. The County has been acquiring rights-of-way from property owners along the recommended street alignment, and portions of Eastern Avenue have already been constructed. A new segment has been constructed, but the right-of-way has not yet been dedicated.

Prior to the recent road construction, the County acquired approximately one acre of land adjacent to this segment of Eastern Avenue (Parcel 056H0-00-00-000C0). The parcel was identified as open space on the plat of record. Therefore, the County is an owner of property needed for sidewalk and street improvements that will be within right-of-way for this segment of Eastern Avenue.

Eastern Avenue is identified as a recommended public street by the Crozet Master Plan. Segments of Eastern Avenue have been constructed since the time of the Master Plan's adoption. A new segment has been constructed by a private developer that will connect the neighborhoods of Westhall and Westlake Hills to the Foothill Crossings and Glenbrook subdivisions.

Eastern Avenue will be maintained by the Virginia Department of Transportation (VDOT). VDOT acceptance of this portion of the road requires dedication of public right-of-way from County-owned Parcel 056H0-00-00-000C0. The attached plat shows the 0.057-acre portion of the County parcel proposed for dedication to public use for improvements associated with this segment of Eastern Avenue (Attachment A).

The dedication of County-owned property for the proposed Eastern Avenue does not require a public hearing, but does necessitate the Board's approval and authorization of the County Executive to sign the plat of dedication.

This project is being funded through a private development project.

Staff recommends that the Board of Supervisors authorize the County Executive to sign a plat dedicating a portion of this County-owned property for the proposed Eastern Avenue.

By the above-recorded vote, the Board authorized the County Executive to sign a plat dedicating a portion of tax parcel 056H0-00-00-000C0 to public right-of-way for the proposed Eastern Avenue:

**RESOLUTION TO APPROVE THE COUNTY'S DEDICATION OF A PORTION OF TAX PARCEL
056H0-00-00-000C0 TO PUBLIC RIGHT-OF-WAY**

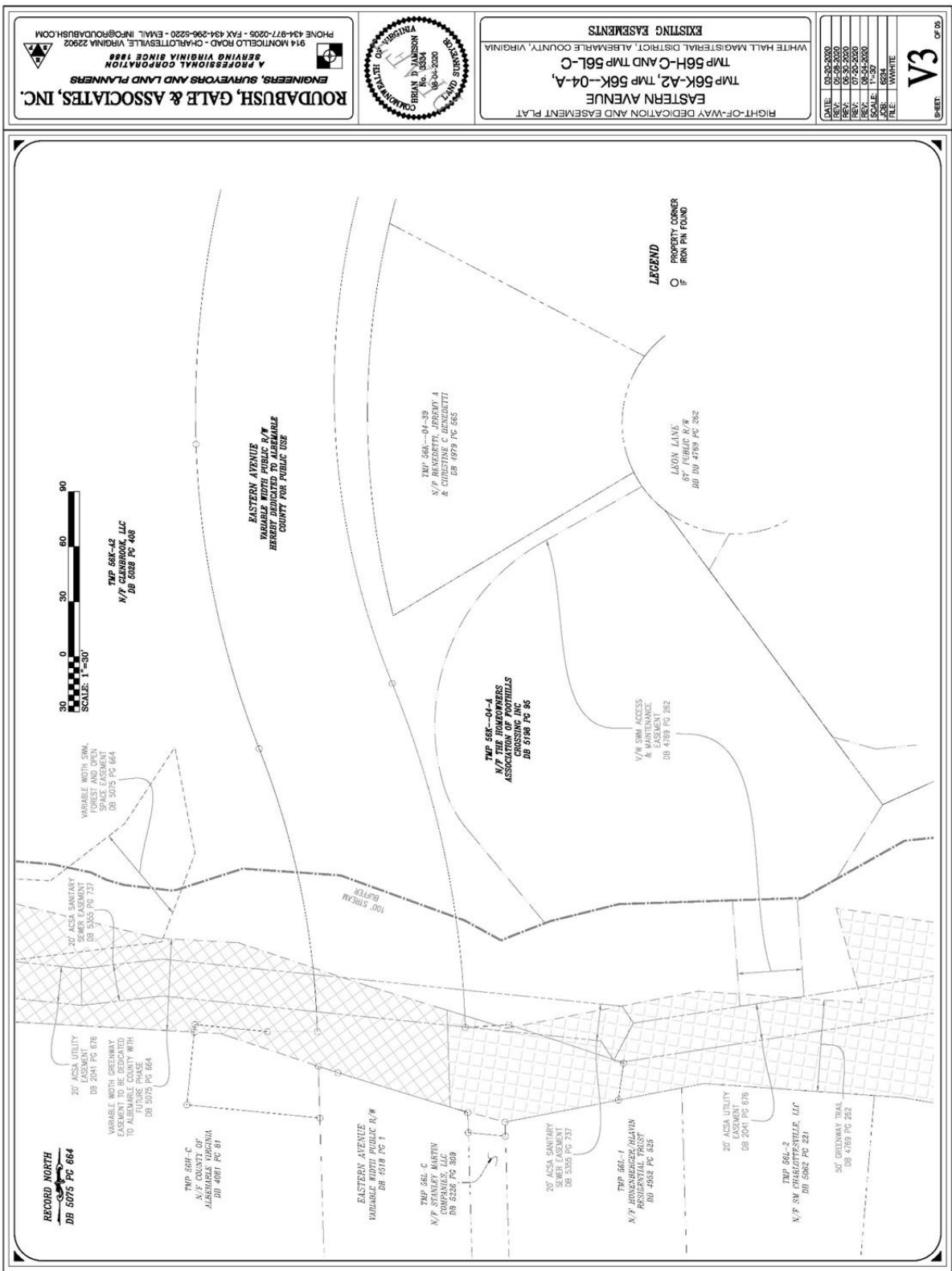
WHEREAS, the Crozet Master Plan identifies Eastern Avenue as an important part of Crozet's transportation improvements; and

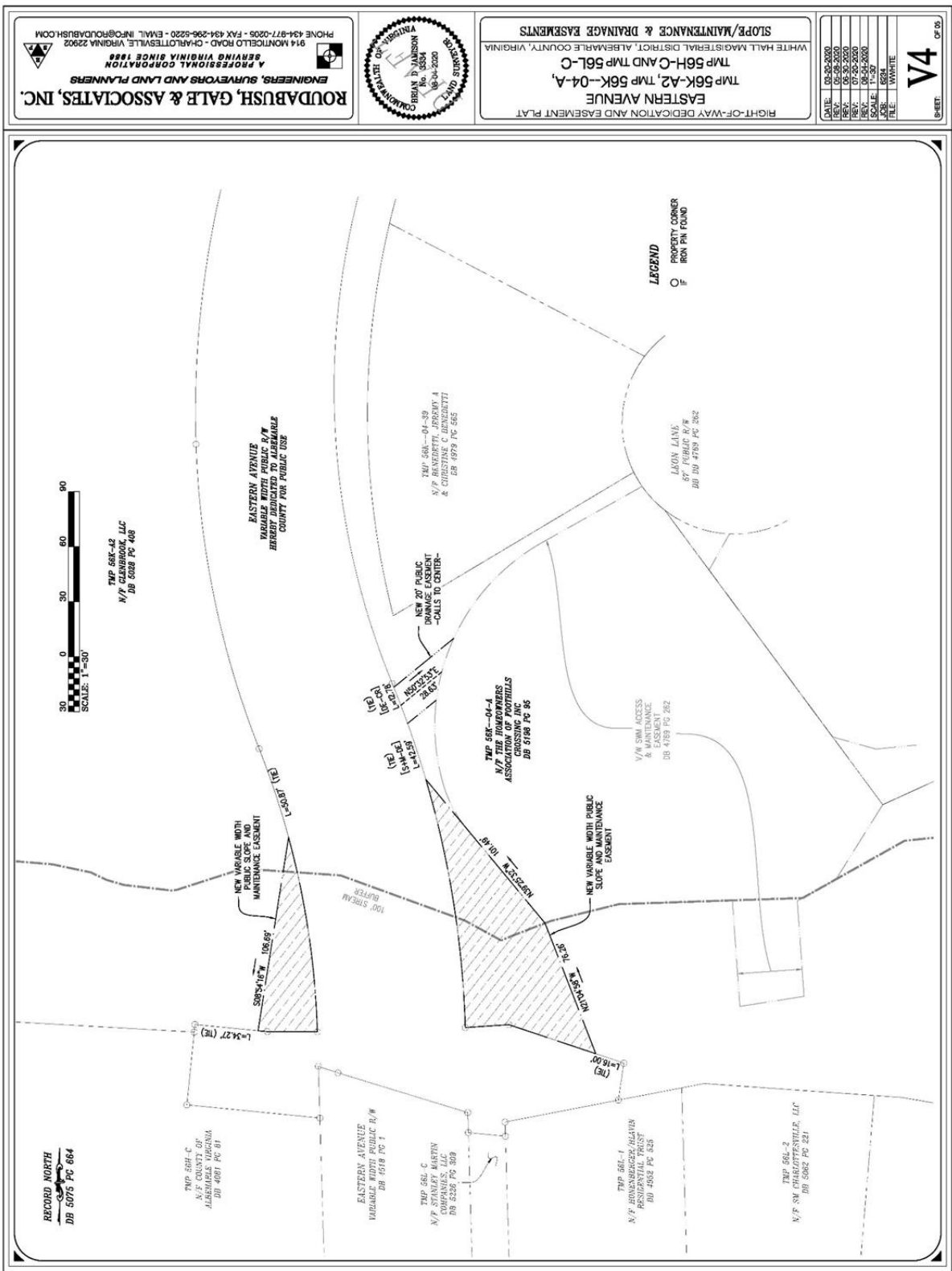
WHEREAS, the County owns approximately one acre of property adjacent to a segment of Eastern Avenue (Tax Parcel 056H0-00-00-000C0), identified as open space on the plat of record; and

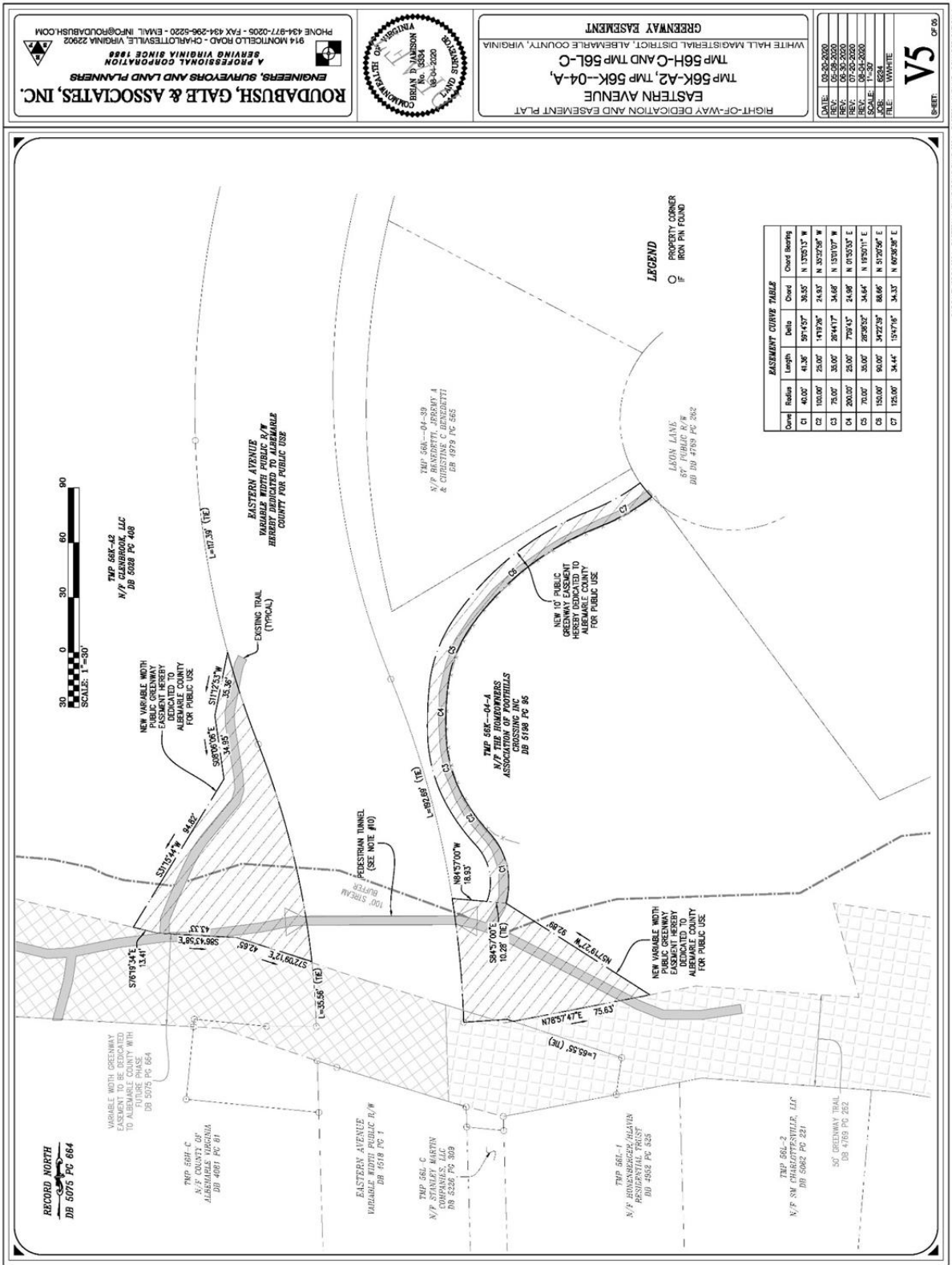
WHEREAS, the County's dedication of an approximately .057-acre portion of the property is required by VDOT for its acceptance of Eastern Avenue.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby approves the County's dedication of approximately .057 acres of Tax Parcel 056H0-00-00-000C0 to public use, and authorizes the County Executive to execute a plat and any related documents on behalf of the County after such documents are approved as to substance and form by the County Attorney.

[illegible]







Item No. 8.7. Round Two CARES Coronavirus Relief Fund (CRF) and Resolution Authorizing County Executive to Execute CARES CRF Documents on Behalf of the Board of Supervisors.

The Executive Summary forwarded to the Board states that, on June 1, 2020, the Commonwealth of Virginia provided a round one allocation of \$9,538,621 in federal CARES Coronavirus Relief Fund (CRF) monies to the County of Albemarle. The Board of Supervisors approved the County's CARES CRF Initial Implementation Plan on July 1, 2020. The funding is required to be used for qualifying expenses incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

Guidance from the U.S. Department of the Treasury states that expenditures must be used for actions taken to respond to the public health emergency that may include expenditures incurred to allow the locality to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

The County's Round One implementation plan, approved by the Board of Supervisors on July 1, supports the County's following Response Goals: 1) Reduce transmission to staff and public; 2) Protect people who are at higher risk; and 3) Maintain essential services, and that supports the County's following Reconstitution Goals: 1) Protect the health and safety of staff and residents; 2) Support all people and communities; and 3) Facilitate a safe transition to "normal" county operations and community economic

recovery.

On July 28, 2020, Aubrey L. Layne, Jr., Secretary of Finance, Commonwealth of Virginia provided a memo to Virginia localities stating that the Commonwealth would be providing a second and final round of CARES CRF funding to local governments. The second round of funding allocated to Albemarle County is also \$9,538,621, based on population. The second round of funding must be expended in accordance with the same requirements and timeline as round one CARES CRF funding.

The Federal Statute specifies that expenditures using Fund payments must be “necessary.” CARES CRF funding is to be considered “one-time” and should not be used 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 on purposes that do not qualify.

On August 10, the County submitted a certification for the release of funds to receive the second distribution of CARES CRF funds. Round two CARES CRF funding will continue to be expended to support the County’s Response Goals: 1) Reduce transmission to staff and public; 2) Protect people who are at higher risk; and 3) Maintain essential services, and that supports the County’s following Reconstitution Goals: 1) Protect the health and safety of staff and residents; 2) Support all people and communities; and 3) Facilitate a safe transition to “normal” county operations and community economic recovery.

Second Round CARES CRF funding will continue to support the categories approved by the Board’s CARES CRF Implementation Plan approved on July 1, however, to remain nimble given the required timeline, implementation of the plan may be adjusted to ensure the funding is utilized for high priority COVID-19-related expenses within the specific timeline.

The appropriation of round two CARES CRF funding is included in today’s Board of Supervisor’s FY 2020 Budget Amendment and Appropriations Agenda item.

Staff will report to the Board the uses of round one and round two of CARES CRF funding on a monthly basis.

Given that the funding must be used for qualifying expenses incurred by December 30, 2020, staff requests that the Board adopt a resolution authorizing the County Executive to execute documents on behalf of the Board related to COVID-19 matters to further expedite the process in case a situation arises that does not fall within his authority under Virginia Code § 44-146.21(C).

Round one and Round two of CARES CRF program provided the County by the Commonwealth totals \$19,077,242 to address direct impacts of the COVID-19 pandemic.

Staff recommends the Board adopt the attached resolution (Attachment B) authorizing the County Executive to execute all documents on behalf of the Board related to COVID-19 matters, including those regarding CARES CRF funding.

By the above-recorded vote, the Board adopted the attached resolution (Attachment B) authorizing the County Executive to execute all documents on behalf of the Board related to COVID-19 matters, including those regarding CARES CRF funding:

RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO EXECUTIVE COVID-19 RELATED DOCUMENTS

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 efficiency of government would be improved by authorizing the County Executive to execute all required documents related to COVID-19 matters, including those regarding CARES CRF funding.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to execute all required documents related to all matters regarding CARES CRF funding.

Item No. 8.8. Emergency Amendment to Emergency Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19.

The Executive Summary forwarded to the Board states that, on July 27, 2020, the Board of Supervisors adopted Ordinance No. 20-E(50, An Emergency Ordinance to Prevent the Spread of the

Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19 (the "Ordinance"). The Ordinance established regulations pertaining to: (1) the maximum indoor occupancy allowed at restaurants, farm wineries, limited breweries, and limited distilleries; (2) the maximum size of public and private gatherings; and (3) the requirement for persons to wear face coverings in public places. The Ordinance was narrowly focused to address areas of concern regarding the spread of COVID-19, and provided exceptions in limited circumstances. Since the Ordinance was adopted, County staff has responded to numerous inquiries from businesses and residents about its applicability and implementation.

The "Horse and Other Livestock Shows" and the "Horse Racing Racetracks" business sectors are, by their nature, generally conducted outdoors and on large properties where physical distancing can be maintained. The Phase 3 guidelines accompanying the Governor's Executive Order No. 67 include significant requirements for these two business sectors.

The County's COVID-19 Incident Management Team considered the applicability of the Ordinance to these business sectors at its August 26 meeting and recommended that the Board consider amending the Ordinance to exempt them from the 50-person limitation on gatherings, provided that any shows or events are closed to spectators and that all of the applicable State guidelines are followed by the owners, operators, and participants at the shows and events.

Staff recommends the Board adopt the proposed Ordinance (Attachment A).

By the above-recorded vote, the Board adopted the proposed Ordinance NO. 20-E(6) (Attachment A):

ORDINANCE NO. 20-E(6)

AN EMERGENCY ORDINANCE TO AMEND SECTION 5 OF ORDINANCE NO. 20-E(5), "AN EMERGENCY ORDINANCE TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS, SARS-CoV-2, AND THE DISEASE IT CAUSES, COMMONLY REFERRED TO AS COVID-19," TO REGULATE GATHERINGS AT OUTDOOR HORSE AND OTHER LIVESTOCK SHOWS AND HORSE RACING RACETRACKS

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as "COVID-19"); and

WHEREAS, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

WHEREAS, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Number Fifty-One ("EO 51") declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a "disaster" as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in response to the spread of COVID-19; and

WHEREAS, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; spread is more likely when people are in close contact with one another (within about six feet)¹; and

WHEREAS, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity²; and

WHEREAS, at this time, there is no known cure, no effective treatment, no vaccine, and because people may be infected but asymptomatic, they may unwittingly infect other³; and

WHEREAS, the World Health Organization, the United States Centers for Disease Control and Prevention ("Centers for Disease Control") and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community: frequently washing hands, sanitizing frequently touched surfaces, wearing a cloth face covering when in public, maintaining a separation of at least six feet between people ("social distancing" or "physical distancing"), limiting the size of gatherings in public places, and limiting the duration of gatherings⁴; and

WHEREAS, with respect to people wearing face coverings when in public, current evidence suggests that transmission of COVID-19 occurs primarily between people through direct, indirect, or close contact with infected people through infected secretions such as saliva and respiratory secretions, or through their respiratory droplets, which are expelled when an infected person coughs, sneezes, talks or sings; and some outbreak reports related to indoor crowded spaces have suggested the possibility of

aerosol transmission, combined with droplet transmission, for example, during choir practice, in food establishments, or in fitness classes⁵; and

WHEREAS, according to the World Health Organization, fabric face coverings, “if made and worn properly, can serve as a barrier to droplets expelled from the wearer into the air and environment,” however, these face coverings “must be used as part of a comprehensive package of preventive measures, which includes frequent hand hygiene, physical distancing when possible, respiratory etiquette, environmental cleaning and disinfection,” and recommended precautions also include “avoiding indoor crowded gatherings as much as possible, in particular when physical distancing is not feasible, and ensuring good environmental ventilation in any closed setting”⁶; and

WHEREAS, the World Health Organization advises that people take a number of precautions, including: (i) maintaining social distancing because when someone coughs, sneezes, or speaks they spray small liquid droplets from their nose or mouth which may contain virus, and if other persons are too close, they can breathe in the droplets, including the COVID-19 virus, if the person coughing, sneezing, or speaking has the disease; and (ii) avoiding crowded places because when people are in crowds, they are more likely to come into close contact with someone that has COVID-19 and it is more difficult to maintain social distancing⁷; and

WHEREAS, the Centers for Disease Control caution that: (i) the more people a person interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading; (ii) the higher level of community transmission in the area that a gathering is being held, the higher the risk of COVID-19 spreading during the gathering; and (iii) large in-person gatherings where it is difficult for persons to remain spaced at least six feet apart and attendees travel from outside the local area pose the highest risk of COVID-19 spreading⁸; and

WHEREAS, the Centers for Disease Control state that cloth face coverings are strongly encouraged in settings where persons might raise their voice (e.g., shouting, chanting, singing)⁹; and

WHEREAS, the Centers for Disease Control advise, in restaurants: (i) wearing cloth face coverings when less than six feet apart from other people or indoors; (ii) wearing face coverings as much as possible when not eating; (iii) maintaining a proper social distancing if persons are sitting with others who do not live with the person; and (iv) sitting outside when possible¹⁰; and

WHEREAS, for these and related reasons, the Virginia Department of Health has stated that those businesses that operate indoors and at higher capacity, where physical distancing “recommendations” are not observed, sharing objects is permitted, and persons are not wearing cloth face coverings, create higher risk for the transmission of COVID-19¹¹; and

WHEREAS, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; as of the date of adoption of this ordinance, “Executive Order Number Sixty-Seven (2020) and Order of Public Health Emergency Seven, Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)” (collectively referred to as “EO 67”)¹², which became effective at 12:00 a.m. on July 1, 2020, is in effect; and

WHEREAS, as of July 21, 2020, the spread of COVID-19 in the Commonwealth, in the Thomas Jefferson Health District of which the County is a member, and in the County itself, has been increasing since late June, shortly before EO 67 moved the Commonwealth into “Phase 3” of its reopening plan, the curve in the positivity rate of persons tested for COVID-19 is no longer flattened, and the community is currently experiencing more transmission of COVID-19.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that:

Sec. 1. Purpose

For the reasons stated in the recitals, the purpose of this ordinance is to prevent the spread of COVID-19.

Sec. 2. Authority

This ordinance is authorized by Virginia Code § 15.2-1200, which enables the County, through its Board of Supervisors, to adopt “necessary regulations to prevent the spread of contagious diseases among persons . . .” that “are not inconsistent with the general laws of the Commonwealth.” This ordinance is adopted as an emergency ordinance pursuant to Virginia Code § 15.2-1427(F).

Sec. 3. Definitions

The following definitions apply to this ordinance:

- A. “Expressive activity” means a non-commercial activity in which a person intends to convey a lawful message through speech or conduct that is likely to be perceived by an observer of the speech or conduct, and includes any lawful public gathering, demonstration, procession, or parade in which the primary purpose is to exercise the rights of free speech or peaceable assembly.

- B. "Face covering" means an item normally made of cloth or various other materials with elastic bands or cloth ties to secure over the wearer's nose and mouth in an effort to contain or reduce the spread of potentially infectious respiratory secretions at the source (*i.e.*, the person's nose and mouth).
- C. "Farm winery" means an establishment that is required to be licensed as a farm winery under Virginia Code § 4.1-207.
- D. "Food establishment" means a food establishment as defined in 12VAC5-421-10 and the term includes, but is not limited, any place where food is prepared for service to the public on or off the premises, or any place where food is served, including restaurants, lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs. For purposes of this ordinance, "food establishment" does not include kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under Virginia Code § 53.1-68.
- E. "Gathering" means a planned or spontaneous indoor or outdoor, or both, event with people participating or attending for a common purpose such as a community event, concert, festival, conference, parade, wedding, sporting event, party (including parties at private residences), celebration, and other social events. "Gathering" does not include a place of employment where persons are present to perform their functions of employment, events or activities on the grounds of an institution of higher education- or school-owned property that are institution or school related, or persons engaging in religious exercise at their religious institution or other place of religious significance.
- F. "Limited brewery" means an establishment that is required to be licensed as a limited brewery under Virginia Code § 4.1-208.
- G. "Limited distillery" means an establishment for which a limited distiller's license is required under Virginia Code § 4.1-206.
- H. "Public place" means: (i) any indoor place generally open to the public, including, but not limited to, retail stores, food establishments, theaters, personal care and personal grooming services, and transportation other than a personal vehicle; or (ii) any outdoor place where at least six feet of physical distancing between persons not living in the same household cannot be maintained. "Public place" does not include a person's residence or personal vehicle, institutions of higher education and other schools, fitness and other exercise facilities, religious institutions, indoor shooting ranges, and the County courthouse buildings.

Sec. 4. Limitation on the Number of Persons at Food Establishments, Farm Wineries, Limited Breweries, and Limited Distilleries

- A. *Indoor occupancy.* Indoor occupancy at food establishments, farm wineries, limited breweries, and limited distilleries must not be more than 50 percent of the lowest occupancy load on the certificate of occupancy issued by the County of Albemarle. If the building or structure does not have an occupancy load established on a certificate of occupancy issued by the County of Albemarle, indoor occupancy must not be more than 50 persons.
- B. *Persons at gathering are counted.* Persons participating in or attending a gathering who are indoors count towards the occupancy limits established by this section.
- C. *Persons working not counted.* Persons working at food establishments, farm wineries, limited breweries, or limited distilleries, either as employees or independent contractors, do not count towards the occupancy limits established by this section.
- D. *State requirements, recommendations, and guidance.* Except as provided in Sections 4(A), (B), and (C), this section does not affect any requirement, recommendation, or guidance including, but not limited to, those requiring or recommending physical distancing that apply to food establishments, farm wineries, limited breweries, and limited distilleries established in EO 67, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic.

Sec. 5. Limitation of the Number of Attendees at Gatherings

- A. *Gatherings of more than 50 persons prohibited.* All public and private in-person gatherings of more than 50 persons are prohibited except as provided in Section 5(B).
- B. *Gatherings not subject to the 50-person limit.* Section 5(A) does not apply to the following gatherings and, instead, the maximum size for gatherings established in EO 67, or as it may be further amended or superseded, or any Order of Public Health Emergency, applies:
 - 1. Outdoor gatherings at food establishments, and at farm wineries, limited breweries, and limited distilleries for activities and events permitted for those uses under County Code Chapter 18.
 - 2. Gatherings for religious exercise including, but not limited to, religious ceremonies.

3. Wedding ceremonies and wedding receptions.
 4. Expressive activity on a public street, public sidewalk, in a public park subject to park rules, and on other public property expressly designated for expressive activity by its governmental owner or occupant.
- C. *Gatherings not subject to the 50-person limit; outdoor horse and other livestock shows and horse racing racetrack events without spectators.* Section 5(A) does not apply to outdoor horse and other livestock shows and to outdoor horse racing racetrack events at which spectators are not in attendance at either such shows or events, provided that the owners, operators, and participants comply with EO 67, §§ 1, 10(a), and 10(b), all applicable “Guidelines for All Business Sectors” (pages 1-4) incorporated by reference into EO 67 and, for outdoor horse and other livestock shows, the guidelines for the “Horse and Other Livestock Shows” business sector (pages 37-39) and, for outdoor horse racing racetrack events, the guidelines for the “Horse Racing Racetracks: Multi-Day Events” business sector (pages 40-43). A horse or other livestock show is deemed to be conducted outdoors when, because of inclement weather, it is conducted in an open-air structure having a roof.
- D. *Persons working not counted.* Persons working at gatherings, either as employees or independent contractors, do not count towards the limit on the number of persons at a gathering.
- E. *State requirements, recommendations, and guidance.* Except as provided in Sections 5(A) through (D), this section does not affect any requirement, recommendation, or guidance including, but not limited to, those requiring or recommending physical distancing, that apply to gatherings established in EO 67, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic.

Sec. 6. Face Coverings

- A. *Face coverings required.* Face coverings must be worn by all persons in public places except as provided in Sections 6(B) and (C).
- B. *Persons not required to wear face coverings.* Face coverings are not required to be worn by the following persons:
1. *Children.* Children 10 years of age and under.
 2. *Wearing face covering poses certain risks.* Persons for whom wearing a face covering poses a bona fide and substantial mental or physical health risk, such as persons who have trouble breathing, or poses a safety or security risk to persons who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance. For this exception to apply to any person claiming that wearing a face covering poses a substantial mental or physical health risk: (i) the person must present a valid document from a physician or other health care practitioner licensed, accredited, or certified to perform specified health care services, including mental health services, consistent with State law, specifying the medical necessity for not wearing a face covering and the date on which the person may begin wearing a face covering again; and (ii) the public place is unable to provide goods, services, or activities outdoors to the person or to the adult accompanying a child 10 years of age or under.
 3. *Certain employees.* On-duty employees covered by workplace safety regulations promulgated by the State Safety and Health Codes Board, or by face covering rules established by an applicable Executive Order of the Governor or an Order of Public Health Emergency by the State Health Commissioner.
- C. *Circumstances when face coverings are not required to be worn by any persons.* Face coverings are not required to be worn by any persons in the following circumstances:
1. *Outdoor activities.* While persons are engaged in outdoor activities in public places such as parks and other open spaces, provided that minimum physical distancing established by any applicable Executive Order of the Governor or Order of Public Health Emergency of the State Health Commissioner is maintained.
 2. *Eating or drinking.* While a person is eating food or drinking a beverage.
 3. *End of waiver of Virginia Code § 18.2-422.* When the waiver of Virginia Code § 18.2-422, currently established in EO 67, Section (C)(3), or as it may be further amended or superseded, ends.
- D. *Responsibility of adults accompanying minors.* Adults accompanying minors should use their best judgment regarding placing face coverings on any minor between the ages of two through nine in public places. Adults accompanying minors between the ages of 10 through 17 must use reasonable efforts to prompt the minor to wear face coverings while in public places.

Sec. 7. Effect of More Restrictive Executive Order or Order of Public Health Emergency

Section 4, 5, or 6 does not apply when a more restrictive requirement in an Executive Order or an Order of Public Health Emergency is in effect.

Sec. 8. Penalties

- A. *Penalty for violation of Section 4.* A violation of Section 4 by the owner of the food establishment, farm winery, limited brewery, or limited distillery, and any manager or assistant manager, however titled, responsible for the operation and management of the food establishment, farm winery, limited brewery, or limited distillery on the date of the violation, is punishable as a Class 3 misdemeanor. Section 4(D) is not enforced pursuant to this ordinance.
- B. *Penalty for violation of Section 5.* A violation of Section 5 by the owner or tenant of the private property on which the gathering is located, is punishable as a Class 1 misdemeanor. A violation of Section 5 by any person attending the gathering, after first being warned by a law enforcement officer to disperse from the gathering because it exceeds the limitation for a gathering and having failed to disperse after a reasonable period of time not to exceed two minutes, is punishable as a Class 1 misdemeanor. Section 5(D) is not enforced pursuant to this ordinance.
- C. *Penalty for violation of Section 6.* A violation of Section 6 by any person subject to its requirements is punishable as a Class 1 misdemeanor. No person under the age of 18 is subject to a criminal penalty for failing to wear a face covering.
- D. *Injunctive relief.* The County, the Board of Supervisors, and any County officer authorized by law, may seek to enjoin the continuing violation of any provision of this ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

Sec 9. Duration

This ordinance is effective 12:00 a.m., August 1, 2020 and expires at 11:59 p.m. on September 29, 2020, or upon the adoption of an ordinance succeeding this ordinance for which notice is provided as required by Virginia Code § 15.2-1427(F), paragraph 1, whichever occurs first.

Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management

This ordinance does not affect the powers of the County Executive, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

Sec. 11. Severability

It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

State law reference – Va. Code §§ 15.2-1200, 15.2-1427(F), 15.2-1429, 15.2-1432, 18.2-11.

¹ *Xponential Fitness v. Arizona*, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at *1 (D. Ariz. July 14, 2020) and cases and authorities cited therein.

² *Xponential Fitness v. Arizona*, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at *1 (D. Ariz. July 14, 2020) and cases and authorities cited therein.

³ *South Bay United Pentecostal Church v Newsom*, 140 S. Ct. 1613 (May 29, 2020) (Roberts concurring in denial of application for injunctive relief); on the fact that there is no effective treatment as of the date of this ordinance, see also https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters?gclid=EAlaIqObChMI9lvSvJPk6glVGrbICh2TYw9QEAAAYASAAEgKjDfD_BwE#medicines; <https://www.health.harvard.edu/diseases-and-conditions/treatments-for-covid-19>; <https://www.mayoclinic.org/diseases-conditions/coronavirus/diagnosis-treatment/drc-20479976>.

⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html> and <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html> and links therein; <https://www.vdh.virginia.gov/coronavirus/#COVID-19-resources> and links therein.

⁵ World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>.

⁶ World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>; see also Statement of Dr. Michael Ryan, World Health Organization COVID-19 Virtual Press Conference, transcript page 12, https://www.who.int/docs/default-source/coronaviruse/transcripts/covid-19-virtual-press-conference---17-july.pdf?sfvrsn=dd7f91a1_0 ("So it's all about the setting, it is about the duration you spend in that setting and it's about the intensity of the activities that you participate in in that setting and when you get into a particular setting, a very overcrowded situation in an indoor environment then effectively all bets are off because so many of the modes of transmission come into play; the aerosol route, the airborne route, the fomite or contamination route. So the more close you are to other people, the more you are inside, the more the activity is intense or involves very close social contact the more that multiple modes of transmission come into play. So in that sense it is about you understanding your risk, it is about you managing that risk and being aware of the situation that you find yourself in personally and reducing that risk for you, for your family, for your children and for your community. It is important, as I've

said previously, that governments communicate those risks very, very carefully and it is also important that providers, authorities and others ensure that those environments are as safe as possible and that the risks are also managed.”)

⁷ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>.

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>; see also <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>.

⁹ <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>.

¹⁰ <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/personal-social-activities.html>.

¹¹ <https://www.vdh.virginia.gov/coronavirus/schools-workplaces-community-locations/businesses/>.

¹² [https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-67-and-Order-of-Public-Health-Emergency-Seven---Phase-Three-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-67-and-Order-of-Public-Health-Emergency-Seven---Phase-Three-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-(COVID-19).pdf).

Item No. 8.9. Board-to-Board, August 2020, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

This item was changed to be a presentation item and was presented later in the meeting.

Agenda Item No. 9. **Action Item:** Board Rules of Procedure for Virtual and Hybrid Meetings.

The Executive Summary forwarded to the Board states that the Board has now been meeting by electronic communication means (“virtual” meetings) since April. During that time, the Board has not amended its Rules of Procedure to address the unique elements of virtual meetings. Instead, the meetings have been governed by the general meeting requirements of the Board’s Continuity of Government Ordinance, and its current Rules of Procedure, which are written for meetings when the Board is physically assembled.

At its August 5, 2020 meeting, the Board discussed amending its Rules to limit the number of speakers during From the Public: Matters Not Listed for Public Hearing on the Agenda (“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.

At its August 19, 2020 meeting, the Board discussed expanding the scope of the proposed amendments to comprehensively address the procedural rules for virtual meetings. In addition, the Board directed staff to return with amendments that could also apply when the Board may hold “hybrid” meetings when assembly may be both physical and virtual. An additional amendment raised at the August 19 meeting would limit those who speak during Matters from the Public to speak either at the afternoon or evening session of that agenda item, but not both.

The attached Rules of Procedure address the issues identified above. In addition, staff recommends that the Board consider changing Rule 12, which pertains to Rule amendments. The current Rule requires 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. This process can take an excessive amount of time for simple and noncontroversial amendments, but can be difficult to timely accomplish if the proposed amendments are complex, comprehensive, or controversial. The proposed changes to Rule 12 would provide the Board with more flexibility.

If the proposed Rules in Attachment A are satisfactory to the Board, the Board may adopt the Rules.

Mr. Greg Kamptner, County Attorney, said that at the August 19 meeting, the Board had considered some rules related to “Matters from the Public,” and there was a request for staff to expand the scope of the proposed revisions to bring back rules that address virtual and hybrid meetings more broadly.

Mr. Kamptner said in the draft that was currently before the Board, Section 1 adds some definitions. He said Section 4 provides rules that guide the clerk as to how the public will access and participate in regular and special Board meetings. He said Section 5 had a stylistic change to the paragraph that dealt with Board members proposing resolutions and residents proposing proclamations, and that this paragraph was split into more digestible chunks to make it easier to identify the requirements.

Mr. Kamptner said one recommended further change that was not in the draft before the Board was about changing the references in Section 5-A(3) from “citizens” to “residents.” He said this was related to guidance from the Office of Equity and Inclusion, which he had missed.

Mr. Kamptner said Section 6 addresses what was in front of the Board on August 19 regarding limiting the speakers, allowing them to speak just once, either at the morning or evening session, and requiring that video/audio presentations be submitted 48 hours before the session at which the person will

be speaking.

Mr. Kamptner said Section 8 replaces the Freedom of Information Act (FOIA) remote electronic participation, which allowed electronic participation in only very limited circumstances to be consistent with the Continuity of Government Ordinance and the budget amendment that expanded the rights of public bodies to meet electronically.

Mr. Kamptner said Section 9 makes some adjustments to deal with persons who may be disrupting electronic meetings.

Mr. Kamptner said Section 12 was one that came out as he was nearing the end of making the revisions, when he realized that the process to amend can sometimes take a month and a half. He said although he did not have any examples, there may be circumstances where an immediate adjustment to the rule is warranted in order for the Board to complete its business. He said this will also give the Board some flexibility under the current process. He said currently, the rules allow that rules have come back at the very next meeting and sometimes, depending on the extensiveness of the changes, it does not leave much time to get everything in order.

Mr. Kamptner said these were the proposed revisions. He said throughout, he also made some stylistic changes to continue the revolution to more of a plain English document. He said he noticed that every other sentence had the word "shall." He said sometimes it works and other times it results in awkward wording, so he made those types of changes as well.

Ms. Price said she appreciated Mr. Kamptner's thoroughness as he continues to evaluate and look for other ways to do this.

Ms. LaPisto-Kirtley expressed her appreciation as well.

Ms. Palmer asked if these rules only apply while the disaster is ongoing, under the Governor's declaration of the disaster.

Mr. Kamptner replied that it does for as long as the County's Continuity of Government Ordinance is in place. He said under state law, this is allowed to continue for up to six months after the disaster, so there is some duration. He said he believed the budget amendment bill terminates in conjunction with the disaster, or shortly thereafter.

Ms. Palmer asked if Section 8 goes with the six months after the Continuity of Government Ordinance.

Mr. Kamptner replied yes.

Ms. Palmer said this meant that they could continue with electronic participation for six months after the COVID-19 disaster is declared over by the Governor.

Mr. Kamptner said this was true as long as the County was operating under its Continuity of Government Ordinance. He said at the point when the state of emergency is lifted, the Board will need to evaluate the situation and figure out whether or not they, as a County, are ready to repeal the Continuity of Government Ordinance. He said it could run up to six months after the disaster.

Ms. Palmer asked if the Board decides at a later time that electronic meetings are working well and wish to look into a hybrid model after the fact, they could still do so after Continuity of Government is complete, or if they would go back entirely to their old ways.

Mr. Kamptner replied that they would go back entirely to their old ways because at that point, the regular provisions in FOIA apply, which do require that public bodies physically assemble. He said the information was now about three months old, but that his understanding was that there may be some legislation proposed in the General Assembly in 2021 that will allow hybrid meetings. He said certainly if the Board is assembling, the Board will be able to allow the public to participate both in Lane Auditorium and virtually. He said there was nothing that prohibits the County from conducting their meetings that way.

Ms. McKeel said she appreciated Mr. Kamptner's quick work on this. She said she was trying to separate if this was only for the virtual meetings under the Governor's emergency declaration, and it sounded like the answer was yes.

Ms. Mallek reminded that there were also the six months afterwards.

Ms. McKeel said she understood that. She said because there was such an increase in public engagement during the virtual meetings, if the Board wanted to create some sort of hybrid, they would need to come back and create another document. She said the presented document would not cover the Board under such a situation.

Mr. Kamptner said it could apply where the Board is physically assembling, but the public is allowed to participate virtually.

Ms. McKeel said Section 4-B(3) refers to, "Continuing a regular meeting when weather or other

conditions create a hazard.” She said this seemed like they were talking about regular meetings where they were physically meeting and asked for clarification.

Mr. Kamptner said the regular meetings are on the first and third Wednesdays of every month, and the Board sets this calendar in January. He said for example, there could be a big, contentious land use application that was on the Board’s agenda and because of a severe thunderstorm, the neighbors who live in that particular area were unable to access the meeting, either because of a power outage or they could not get to a place where they might be able to participate. He said this provision would allow the Board to continue that meeting to another date without having to re-advertise.

Ms. McKeel asked if it would go automatically to the next regular meeting day.

Mr. Kamptner replied yes. He said this would pertain to snowstorms in the winter.

Ms. McKeel said she had a question about Section 6-D(4). She said it talked about the public being able to use visual or audio presentations. She asked if a time limit was needed there. She said she was fine with presentations from the public and was not trying to stop that but wanted to know if they were unlimited or if they were under the three-minute rule.

Mr. Kamptner answered that they would be restricted to the three-minute rule.

Ms. McKeel asked if a time limit should be added there.

Mr. Kamptner explained that it was addressed in two subsections above it.

Ms. McKeel said she may have missed it.

Mr. Kamptner said that each speaker gets up to three minutes.

Ms. McKeel said this was not clear to her when talking about the audio/visual presentations. She expressed that she wanted to be sure this was clear.

Mr. Kamptner said it may flow better once all the underlining and strikethroughs are removed.

Ms. McKeel said this was fine as long as Mr. Kamptner was comfortable with it.

Mr. Kamptner said yes.

Ms. Mallek said most of her questions had been answered by others, but she did want to bring up one thing that she believed she understood correctly, and for which Mr. Kamptner had send a thorough explanation to the Board about the different categories of people who can address the Board in this circumstance. She said the one thing that now seemed to be gone was the ability for someone to bring a great new idea to the Board because they have deemed the person has to talk about something in the three categories discussed the Board; “previously,” “about to be,” or “has been in the past”.

Ms. Mallek said she wanted to be sure she understood this correctly and that everyone was okay with that. She said she would prefer that the Board allow anyone who has an item they would like to address their government with to have three minutes. She said she knew they were concerned in the beginning with learning the technology and that they would have hundreds of people, but she believed it was all settled out well. She said if there were an occasional person who wanted to talk about a brand-new thing, she would like to be able to welcome them and not have to have it be something that is always on the agenda.

Ms. Palmer said she was okay with this and if it turned out to be a problem, they could deal with it.

Ms. Price said she believed part of the initial reason for constraining or limiting the subject areas was because in a live meeting in Lane Auditorium, people actually show up, and it is extremely unlikely that someone completely unrelated to the County would show up and participate, whereas through the virtual meetings, anyone from any place in the world would literally have access to do this. She said she believed this was the principal reason why they had looked to limit this to relevant subject matters.

Ms. LaPisto-Kirtley added that if someone does have an idea, they may want to even publish it on the website and encourage people to send all the Board of Supervisors their idea in an email, along with their district. She said then, the appropriate Supervisor could then get more information from that person and then bring it to the Board. She said she certainly does not want to stifle great ideas, but she did see what Ms. Price was saying under the circumstances. She said it doesn’t stop anyone from bringing their ideas to the Board via email, however, and that the Board receives hundreds of emails.

Ms. Mallek said it is much easier to share an idea broadly, with much less process involved.

Ms. LaPisto-Kirtley said she was heartened to hear there were six months after the emergency is declared over. She said she thought Mr. Kamptner said the legislature was looking at expanding the rules for virtual meetings. She said if someone believes they have COVID-19, they will want to self-quarantine for 15 days, which could be during a Board meeting. She said it would be nice if one could still participate virtually rather than doing so physically and risking infecting everyone else, since the person may or may

not be sick. She said six months may be enough time after the emergency is declared over, but it would be nice to have a way of being able to have the virtual meetings in case someone gets sick.

Mr. Kamptner said he did not know for certain that there will be legislation that deals specifically with virtual meetings. He said he was told by someone from VACo (Virginia Association of Counties) that they could expect a number of bills related to FOIA. He said he would hope this was true based on the way that virtual meetings have played out, the County's own experience, and from what he has heard from the City of Charlottesville that it has greatly increased participation, which is a very positive thing. He said they will track this, and that there is also a Board priority that touches on the issue of virtual meetings as well and allowing for more flexibility in its use.

Ms. Mallek added that at all the state meetings, of which over the last month she had attended five, all the different departments are considering the electronic meeting as a tremendous time and money saver, as well as the fact that it increases access for people to listen into these meetings from all over the Commonwealth. She said she would be very surprised if there were not significant changes being offered by state government, both on the executive side and by the legislature.

Ms. Palmer **moved** that the Board adopt the rules in Attachment A. 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

Mr. Kamptner noted that there would be a couple clerical and formatting fixes to the document before the final version is distributed.

Agenda Item No. 10. **Discussion:** Proposed 2021 Legislative Priorities.

The Executive Summary forwarded to the Board states that each year the Board considers and approves its legislative priorities. The Board then meets with the County's local delegation from the General Assembly to discuss these priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties (VACo), and the Virginia Municipal League (VML). Other initiatives are sometimes added prior to the General Assembly session. This is the second of at least three anticipated Board discussions to develop its priorities for the 2021 General Assembly session.

At the first Board discussion on July 15, 2020, staff reviewed the six legislative initiatives under consideration by the Board: (1) authorize impact fees in lieu of cash proffers; (2) expand the authority to use photo speed monitoring devices; (3) enable civil penalties instead of criminal punishment for local violations; (4) enable appropriations to carry over for one year for multi-year capital projects; (5) enable notices of public hearings to be published on locality websites instead of in newspapers; and (6) increase funding for community services.

Other possible legislative initiatives raised at the July 15 meeting and thereafter were: (1) increase the civil penalties for zoning violations; (2) increase funding for broadband; (3) amend the Virginia Uniform Statewide Building Code to increase minimum standards for farm buildings and structures; and (4) enable public bodies to meet by electronic communication means when a State or local emergency is declared.

Following are summaries of the pending initiatives:

Authorize impact fees in lieu of cash proffers: This will be a multi-year statewide initiative that the County will pursue with other localities. For this year, staff recommends that this initiative be included as part of the Board's 2021 Legislative Positions and Policy Statements document.

Expand the authority to use photo speed monitoring devices: Because photo speed monitoring devices became enabled for school crossing zones and highway crossing zones on July 1, 2020, the expectation is that the General Assembly will want to see how the new law functions before it will consider expanding authority for its use. For this year, staff recommends that this initiative be included as part of the Board's 2021 Legislative Positions and Policy Statements document.

Enable civil penalties instead of criminal punishment for local violations: Pursue legislation to expand the authority to use civil penalties instead of criminal punishment for local violations. Related to this topic, Supervisor LaPisto-Kirtley suggested during and after the Board's July 15 meeting that the current limitations for civil penalties for zoning violations (\$500 per violation/\$5,000 in the aggregate) be increased. See Attachment A.

Enable localities to carry over appropriated funds for multi-year capital projects: Pursue legislation to allow appropriated funds for multi-year projects to be carried over for one year without being re-appropriated. See Attachment A.

Enable notices of public hearings to be published on a locality's website: There has been an initiative by many localities for many years to obtain authority to publish notices of public hearings on locality websites instead of publishing them in a newspaper of general circulation. For this year, staff recommends that this initiative be included as part of the Board's 2021 Legislative Positions and Policy

Statements document.

Increase funding for community services: This initiative would seek more State financial support for community services. Further clarification of the scope of this initiative is required. Staff also is monitoring the General Assembly's special session and will update the Board on September 2.

Increase funding for broadband: Any change in funding would be during the second year of the State's two-year budget cycle. For this year, staff recommends that this initiative be included as part of the Board's 2021 Legislative Positions and Policy Statements document, and that the Board consider adopting a resolution supporting the increase in funding. Staff also is monitoring the General Assembly's special session (SB 5115 <<http://leg1.state.va.us/cgi-bin/legp504.exe?202+sum+SB5115>>) and will update the Board on September 2.

Amend State law to establish minimum standards for certain "farm buildings or structures" or redefine the term: Pursue legislation to amend State law to establish minimum standards for farm buildings and structures or redefine "farm buildings or structures," with the focus of this legislation applying to those buildings and structures used for large gatherings. The purpose of the legislation would be for these buildings and structures to be constructed subject to the minimum standards of the Virginia Uniform Statewide Building Code. See Attachment A.

Enable public bodies to meet by electronic communication means when a State or local emergency is declared: Pursue legislation to enable public bodies to meet by electronic communication means when a State or local emergency has been declared. At the beginning of the COVID-19 pandemic, the Governor had declared in Executive Order 51 that COVID-19 posed a public health threat, yet the Board was required to physically assemble in order to adopt an emergency ordinance to continue its government. See Attachment A.

There are no specific, identifiable budget impacts.

Staff seeks direction from the Board on its legislative priorities.

Mr. Kamptner said the idea was to come back to the Board on October 7 and hopefully be ready for the Board to take action. He said two years ago, late November and December was too late for the local delegation, and there was some frustration. He said last year, they met with the delegation in September, which was a little too early. He said they are now targeting a time in October and hoping they can wrap up the work on October 7 so they will be ready to go with the local delegation after that date.

Mr. Kamptner said one thing the Board had not seen yet were the Board's positions and policy statements. He said he would be getting those to the Board, perhaps on the September 16 agenda as a consent item so that it is just in front of the Board and so they are ready for the Board to act on it on October 7.

Mr. Kamptner said in terms of background issues, it was quite evident that the current special session as active. He said it was not dealing with nearly the number of bills that they do during the regular sessions of the General Assembly, but that there have been a number of issues that have been generating comments. He said they are monitoring those, and there are at least one or two bills they are aware of that touch on some of the Board's initiatives, and so he would briefly touch on those in the discussion.

Mr. Kamptner said his presentation broke out the different ideas that staff came to the Board with back in July from the different legislative ideas received from members of the Board over the last couple weeks. He presented on the screen the five ideas that had the best potential to become Board priorities.

Mr. Kamptner said in terms of civil penalties in lieu of criminal punishment, as seen in Attachment A, the survey of what is going on in other states is that states are all over the board with how they enforce ordinances. He said some are all enforced in a criminal way, while others are enforced almost exclusively through either injunctive or civil penalties.

Mr. Kamptner said there was an article in the media the day before about a bill in the General Assembly that is limiting the punishments in the Governor's executive orders related to the pandemic and converting them from Class I misdemeanors to civil penalties with a \$500 maximum.

Mr. Kamptner said Community Development does support increased civil penalties. He said as the materials note, the current amounts that are established by statute were set in 2006, so by 2021, it will have been 15 years since those penalties were created. He said staff has not finished their work on recommending the specific dollar amounts for these increased penalties. He said these would become part of the schedule of civil penalties.

Mr. Kamptner said the carryover of appropriated funds for one year on multiyear capital projects was a priority that was in front of the Board the year prior, or perhaps two years ago. He said this was a request in the current year from the Department of Finance and Budget. He said both the Chief Financial Officer and those in budgeting say this is a best practice.

Mr. Kamptner said as the materials that were provided to the Board indicate, there are a number of Virginia localities already doing this. He said the uncertainty as to whether Albemarle does it is

because they are a County Executive form of government locality, and there is a provision in their enabling authority that allows them to do this with grants. He said the fact that it is silent about general multiyear capital projects does not necessarily mean that they are not enabled. He said it is a practice that is out there, and one that Finance would like to have.

Mr. Kamptner said one matter that came up on July 15, or perhaps at one of the subsequent Board meetings, was establishing minimum standards for certain farm buildings or structures, or to redefine the term. He said those certain farm buildings or structures are the ones that are used for agritourism events, such as farm wineries and breweries. He said currently, buildings or structures that qualify as farm buildings or structures, even though they may be used for events like wedding receptions, are not required to be constructed under the uniform statewide building code.

Mr. Kamptner said this priority does have some history because in 2018, as the Board has heard, there was a study that was done, and a report produced. He said the conclusion on this topic was that it would be premature to legislate the application of existing building codes or to develop legislation for any specialized building codes. He said this would be an uphill fight for Albemarle County to tackle alone. He said it may be one that would be recommended to be part of a group of other localities, or at least to be included as one of the Board's policy statements.

Mr. Kamptner said the last matter was about virtual public meetings when a state of local emergency is declared or when certain conditions exist. He said he would use the example of the Board having to physically assemble to adopt its Continuity of Government Ordinance under circumstances where County employees had already been sent home to begin working remotely. He said this would allow for meeting virtually when it is unsafe for a public body to physically assemble to adopt such an ordinance and seemed like an appropriate initiative.

Mr. Kamptner suggested the Board discuss the slide on the screen before moving on.

Ms. Price said she was definitely in favor of the first bullet, as she had spoken about this many times and was in favor of reducing the overcriminalization of conduct, recognizing that even if local ordinances are turned to civil penalties, there are still state laws that would permit criminal prosecution where appropriate.

Ms. Price said with regard to the second bullet, she was generally in favor of this, although she would say that a \$5,000 aggregate is large. She said they were really talking about violations before reaching that level. She said she would be much more comfortable with somewhere around the \$2,000 to \$2,500 level. She said, as Mr. Kamptner addressed in his comments, some individuals may simply see that as part of the cost of doing business. She said for someone to face a criminal prosecution for a first or possibly second violation of a local ordinance, ten times was much more than a reasonable second chance.

Ms. Price said she had no comments on the third bullet, as she supported it and agreed with the need to establish minimum standards for the farm buildings and structures. She said this is a safety issue. She said she also agreed with virtual public meetings.

Ms. LaPisto-Kirtley said she agreed with all the bullet points, especially the farm buildings and structures. She said there needs to be minimum standards for safety if they are going to hold events like weddings.

Ms. LaPisto-Kirtley said regarding the second bullet, she was definitely in favor of it. She said she noticed the first violation was \$200 and wondered if she would be correct in saying that they would first let a person know that they are in violation and if they do not correct it, they would receive the \$200 fine. She said her understanding was that it was \$500 for each violation thereafter, so it goes gradually up to \$5,000 before going to court.

Ms. LaPisto-Kirtley said she was in favor of that because there are people who do consider it the cost of doing business. She said they do not do what they are supposed to do, and it becomes very frustrating. She said it costs a lot of staff time and effort to get people to do what they are supposed to do. She said she was actually in favor of having an increase in civil penalties for zoning violations in order to get people's attention. She said she knew of some zoning violations in her area that have been going on for years, so she was definitely in favor of the second bullet, as she was of the others as well.

Ms. Palmer said she was fine with the first bullet. She said she was fine with the second as well but had a question about it. She said one of her frustrations is that there are repeated zoning violations where they finally end up in court and, at the last minute, they correct everything, and the County gets the expense of the court cost. She asked if there was any way to have those who are repeatedly in violation pay for court costs.

Mr. Kamptner replied that the court costs are nominal if anything. He said these are the nature of court costs and that they are not able to collect attorney's fees or staff time. He said staff time was where the real cost was. He said part of that was that it was done on a case-by-case basis. He said part of it is about working with the neighbors, and that some of them have a hard time paying while others don't. He said this factors into the position that Zoning will take, as some people are trying, and they may just not be able to meet the deadline. He said he could talk to the Zoning Administrator about forming up their policies and practices, and about how they deal with cases in those kinds of situations.

Ms. Palmer said she recalled Mr. Kamptner saying they could not charge for his time, even though they charge the taxpayers for his time. She said she has seen situations where they correct the problem at the last minute and are not paying the fines after the County has gone through a lot of the trouble. She said she did have that concern and wanted to know if there was a way they could deal with that.

Ms. Palmer said her second question about carrying over appropriated funds for one year on multiyear capital projects. She asked what the reason would be as to why communities do not do that. She said Mr. Kamptner said that several communities already do. She asked if there are communities that do not do this, and why.

Mr. Kamptner replied that he would need to bring in the Finance Department next time. He said there is a one-year budget, and the idea is that even though a project may be fully funded, the practice has been that they re-appropriate everything when entering the next fiscal year.

Mr. Kamptner said he had a budgeting book from ICMA, which recommends this kind of practice to carry over. He said it is a more efficient way to conduct business. He said the reality is that, from his perspective, it is not a significant burden to come back to the Board with a resolution and action, but it is an extra step and does take additional time.

Ms. Palmer said she did not have a problem with it, and only wondered if there was a reason why some communities do not do it. She said if there was a reason, she would like to hear it, but she had no problem with it.

Ms. Palmer said Mr. Kamptner had talked about there being a real uphill battle about the farm buildings, and that there needed to be other communities involved. She said she knew Ms. Mallek would have a lot to say about that. She said understanding the uphill battle would be interesting.

Ms. McKeel said with regard to the virtual public meeting under the state of local emergency, the Governor declares an emergency, and then, in this case a pandemic, they all have to meet in a pandemic to move to the virtual meetings. She asked if whatever they were going to do here would help the Board with that, going forward, in the legislative packet.

Mr. Kamptner replied yes.

Ms. McKeel said this seemed bizarre, and certainly came up with the CACVB and with the Board. She said there are multiple boards and authorities this deals with, and not just the Board of Supervisors.

Mr. Kamptner said with this particular priority, the idea that was originally suggested was limited to allowing virtual meetings for the local governing bodies that adopt Continuity of Government ordinances. He said other public bodies, as they are seeing, need to and should be able to continue to meet virtually. He said the Board adopted their ordinance at the end of March, and there is now state legislation in the state budget that gives that same authority to all public bodies in order for them to continue their business.

Ms. McKeel said she understood this, but that her question was why the Board had to meet together during a pandemic to declare there is a state of emergency and that it is not safe to meet together. She said she wanted to make sure they do something to cover them in this situation. She said the same thing happened with the CACVB in that they had to meet together to say they were going to meet virtually, which seemed convoluted to her.

Ms. McKeel said relating to the farm bill, she had no problem with it and agreed with it completely. She said she understood the challenges.

Ms. McKeel said with regard to carrying over appropriated funds for one year for multiyear capital projects, she wanted clarification as to if this was for Albemarle County. She said the school system has lots of multiyear capital projects and asked if they would be included in whatever the Board did.

Mr. Kamptner replied they would. He said in fact, the idea came up from schools 2-3 years earlier and were the original group who suggested it.

Ms. McKeel said this was great. She said she supported civil penalties in lieu of criminal punishments. She said other Supervisors have pointed, however, that there are "frequent flyers" in the community, and one in the Jouett District they have been working with for 15 years. She said every time he goes to court or something happens, he improves for a little while, then goes back to where he was before.

Ms. McKeel said she wanted to make sure they have a way of handling what she is referring to as "frequent flyers." She said although there are very few, they are bad actors, and that most people understand and try to work with the County. She said she was worried because she believed there were a couple people on an installment plan where they pay off their penalties every month, like a mortgage. She said she appreciated that in some cases, but worried that this was contributing to the "frequent flyers." She said she was trying to sort out the bad actors and what Ms. LaPisto-Kirtley referred to as well from people who are trying their best to do what needs to be done.

Mr. Kamptner said in terms of the violators who pay their civil penalties, clean up, and have a new

violation a year later, it is an endless cycle.

Ms. McKeel said from what she was seeing, it does not even take a year for the person to have another violation. She said it was more like four months.

Mr. Kamptner said what happens is that the violation is abated and then the whole process starts over again if they fall out of compliance. He said the long-term solution for those kinds of properties is getting injunctive relief so that that piece of property is subject to a court order, which requires them to remain in compliance at all times.

Mr. Kamptner said it has been a long time since the County has needed to do this. He said when he stopped doing zoning enforcement in 2008, they maybe had one or two of these cases during his tenure. He said they were enforcing some injunctions that had been in place since the early 1980s. He said they are an effective tool. He said even when one has an injunction in place, it still has to be enforced. He said even showing that the violators are in contempt can take time as well, but that this tool was available.

Ms. McKeel said there were very few "frequent flyers" who challenge the County and are hard to work with. She said they are constantly in court. She said she wanted to make sure they had a way to manage this somehow, as obviously just paying a fine was not working.

Mr. Kamptner said for some people, the fine would hardly phase them, and it is the cost of doing business.

Ms. Mallek said her contribution to the discussion on the civil penalties was that the reason they had criminal penalties at all was because of the things everyone was describing. She said if they only had three or four bad players in ten years, two of them were in the White Hall District, and it took Ms. Lisa Green 12 years to get one of the places to comply. She said they would try to serve them with a notice of violation, and they were not there, so this wasted staff and the Sheriff's time multiple times when they had to go out to the countryside to do this.

Ms. Mallek asked if the County had the ability to get a lien on a property after staff has gone through multiple attempts in the civil stage to say, "Enough is enough." She said neighbors have been made miserable for years, and the staff is at a terrible disadvantage to be able to even catch people on the site. She said she was worried about losing that opportunity to get someone's attention.

Ms. Mallek said for one matter, it took 10 years to resolve and when it finally accrued to the \$10,000 level, there was then compliance, suddenly, as the person did not want to go to jail. She said she believed that to forgo that option at the end was a big mistake based on what she has seen happen over many years. She said they want to try to avoid a situation where instead of getting permission, people are routinely doing what they want, then asking for forgiveness and perhaps not even caring.

Ms. Mallek said she didn't know what the proper answer was, but that she hoped they would make the less-than-1% of the people comply. She said it was sad to have all of the rules for 1% of the people that then put the other 99% of people through the hoops the County has created to try to get some stability and effectiveness over these people who really do not believe they are part of a community.

Ms. Mallek said in terms of the carryover appropriations, she had no problem with this.

Ms. Mallek said the issue with the farm buildings was that having been through this multiple times, she believed there were now enough bad experiences throughout the state. She said she would be appreciative of a draft from Mr. Kamptner and Mr. Michael Dellinger that she could carry to the Ag Committee in a couple weeks to see where they can go with VACo.

Ms. Mallek said the possible dangers to visitors to properties is huge, and people assume that everything has been inspected and that places are safe when they go to a place of business. She said it is a dangerous assumption in this category, and the fact that the County has not been able to live up to the responsibility that its citizens think they are doing is a danger.

Ms. Mallek said everyone has been told by the building official that legislation is currently the only option to change anything because it will be another three years before the state building code people get together again. She said there will likely be another "kick the can down the road" to another study that will then put them back into a state of confusion as they were at the end of the study from Virginia Tech last year.

Ms. Mallek said she was very happy to do extra work on the matter, but that she hoped they could keep it live and see if they could make some progress on it.

Ms. Mallek said she believed she had already circulated the horrific video of the fire in Rockbridge, where people were sleeping in the middle of the night in an old ramshackle barn that had been renovated without proper wiring. She said a neighbor's child came over and saved them from all dying because it caught fire in the middle of the night. She said this is a constant source of worry for staff that something like this will happen in Albemarle.

Ms. Mallek said there were lots of different ways to go about it, and that there were local efforts years ago that have four or five reasonable and affordable intermediate steps that people would be

required to take. She said it seemed like it would change the whole discussion and make people aware of the risks they are in if they go to one of these places, and to have better standards, such as panic bars on the exits and emergency lighting. She said she did not mean sprinklers but the rudimentary things to get people out the door, not to save the building.

Ms. Mallek said she was grateful that some were still interested in this. She said although it would not resolve everything, she would hope they would not discount it as a possibility to make some progress.

Ms. Mallek said she was fine with the virtual meetings, especially if they are able to get on with things once the declaration by the Governor is made. She said Ms. McKeel was right about this and that it was ridiculous.

Mr. Gallaway said he had some questions about the third bullet. He said Mr. Trevor Henry may have a pertinent point about the appropriation carryover.

Mr. Trevor Henry, Assistant Deputy County Attorney, said there were a few questions that came up earlier from Ms. Palmer and Ms. McKeel, and that he sent a note to the County Attorney about it. He said this was a request they had been hoping to get for years. He said they worked with the former County Attorney, and it was their understanding that their form of government limited their ability to do this.

Mr. Henry said being able to carry over appropriation funds year to year for the large capital projects would significantly reduce the administrative burden. He said it was more than just an appropriation language that goes to the board. He said there is a lot of work that is done with the calculation, closeout, carryforward, and the closing and reopening of purchase orders. He said it is an extraordinarily inefficient process, from his perspective.

Mr. Henry said this was an action that would create some capacity for schools and local government for those entities that are involved with project management of the capital. He said he wanted to expand on that and be a source for Mr. Kamptner if there were other questions.

Mr. Kamptner thanked Mr. Henry for answering this.

Mr. Gallaway said in Mr. Kamptner's writeup, it talked about how Arlington, Chesterfield, and Hanover were already doing this as a resolution. He asked why the Board needed this priority if they could simply do this as a resolution.

Mr. Kamptner explained that the uncertainty is that Albemarle County, as a County Executive form of government, has expressed enabling authority to carry over multiyear grants. He said in the rules of statutory interpretation, there is a rule that says when given a particular power, they defer that but for that legislation, they have no authority to carry over from one year to the next. He said this was why they were looking at this as a piece of legislation.

Ms. Mallek said there would have to be a Finance category created to somehow track this money so that they know a certain amount is not going to go through the closeout and therefore, will not go through the end of the year and other things that are used as benchmarks. She said there will need to be extra efforts to keep track of where all those things are. She said there was uncertainty in that things would not be as transparent or obvious. She said she would leave her request that there is a separate category that everyone can look at that shows how much money was spent on a large project.

Mr. Gallaway asked Mr. Kamptner if there were next steps.

Mr. Kamptner said Ms. Mallek had suggested taking some possible draft language to the VACo Ag Committee in a couple weeks, and so he would like to do that. He asked if there was direction from the Board on that.

Mr. Gallaway asked if there were any objections.

Ms. Palmer said no, adding that she would like to see that happen.

Mr. Kamptner said the 4-5 priorities would come back to the Board on October 7, and staff will have more concrete ideas, such as the scope of what they will see as the increase in civil penalties for zoning violations.

Mr. Kamptner said the next slide showed two of the initiatives that were discussed on July 15. He said these were multiyear, multilocality initiatives, and that staff's recommendation was for them to continue that way. He said they would be part of the Board's position and policy statements. He said they would continue to work with the High Growth Coalition on them and certainly support any legislation that would allow localities to publish their notices of public hearings on their websites.

Mr. Gallaway suggested going through all the slides and track any questions, noting that the meeting was running over on time.

Mr. Kamptner said the remaining slides would go quickly.

Mr. Gallaway asked the Board if they had questions.

Ms. Price said regarding the second initiative listed, she had some concerns about going exclusively from newspapers to websites, given the difficulty many people have accessing the internet.

Ms. Mallek agreed.

Ms. Price said new circulations are reducing as well, so she would think that perhaps doing both would be better than an either-or situation.

Ms. LaPisto-Kirtley said she had a question from the prior slide that addressed Ms. Mallek's concern regarding the first priority, which was about civil penalties of local ordinances. She said she was definitely in favor of the penalties for zoning but wanted to know what sorts of things there were problems with, in terms of local ordinances.

Ms. Mallek said for her, it was definitely about zoning the entire time.

Ms. LaPisto-Kirtley said she had no questions, then.

Ms. Palmer said she agreed that the initiative should include both websites and publishing. She said this could be changed later but for now, it should be both.

Ms. LaPisto-Kirtley suggested there would be a transition.

Ms. Mallek said for public notice, she believed that having everything would work better. She said perhaps there didn't have to be as many ads in the newspaper, but radio, newspaper, and websites together may reach more people.

Mr. Kamptner said there were a couple initiatives that came where there was support for increased funding for broadband and community services. He said there was a bill in the General Session that would provide for increased funding for broadband. He said there are a number of mental health related services that were being provided, and that most of them were related to law enforcement situations. He said these could be addressed when they get to the 2021 General Assembly with the Board, adopting resolutions supporting increased funding.

Mr. Gallaway asked if there were any objections.

Ms. Palmer said she was slightly confused. She said she had asked that the Board send a letter that week supporting the Governor's funding for broadband. She said this was not in the presentation, but that she could bring that up at the end of the meeting.

Mr. Gallaway said they could discuss it later.

Mr. Kamptner said Ms. LaPisto-Kirtley had a couple ideas. He said he would suggest that there are already alternative solutions in place and that they not pursue the ideas right now. He said one idea was to limit special exceptions for homestays to only the owners to whom they are originally issued, rather than having them run with the land. He said the concept that these types of permits and zoning actions run with the land is somewhat ingrained in zoning history.

Mr. Kamptner said they do have a powerful tool and because the homestay regulations were new, this tool was not yet up and running. He said this was the registry, and although the Board had adopted the ordinance to put it in place, it was not yet active. He said this gives the Board a good tool if there is any operator who is not complying with the homestay rules.

Mr. Kamptner reminded the Board that for repeated violations, and because these are special exceptions, the Board has the ability to revoke them.

Mr. Kamptner said the other idea was an enabling authority to prohibit discharging firearms within 100 yards, noting that the Board could read the text about this on the screen. He said this was actually a provision that Hanover County has in their county code and appears to be based on the same enabling authority that Albemarle County has already implemented in County Code Section 10-107. He said they regulate the discharge of firearms near residences somewhat differently, but they can take a look at using that authority in the state law, which is actually a broad authority. He said they can deal with the issue in that matter.

Ms. LaPisto-Kirtley said she was fine with Mr. Kamptner's suggestions on the first matter, as long as the Board has some kind of ability to revoke someone's homestay if they have multiple violations. She said for example, for anyone who repeatedly advertises a homestay on Airbnb and isn't supposed to, as long as the Board had permissions to revoke it, it was fine.

Ms. LaPisto-Kirtley said the reason she brought up the second matter was because the County Police informed her that there was a problem with someone discharging firearms for target practice without a backing within 100 yards of someone's occupied dwelling. She said bullets have actually fired, ricocheted, and gone by the neighbor's head. She said the police thought there was no authority to stop the person from doing that. She said if Mr. Kamptner was saying the Board does have the authority to be able to stop someone from discharging a firearm within 100 yards of an occupied dwelling, then she was fine with that.

Mr. Kamptner said they would have to amend the ordinance. He said the way that it was currently worded was broader, and the restriction applied only to residential zoning districts, meaning that it does not apply in the Rural Areas District, which composed approximately 95% of the territory.

Ms. LaPisto-Kirtley asked if the ordinance would have to be amended to include the Rural Areas.

Mr. Kamptner replied that it could actually be crafted in a way that parallels the language that Hanover County has that prohibits discharging within a certain distance of a residence.

Ms. Price said she was very pleased to see the first matter, as she has also expressed concern about the special exceptions running with the land rather than with the applicant. She asked what, exactly, was the definition of "multiple violations" that would have to occur. She asked if two or more violations would be sufficient, if necessary, to revoke the special exception.

Mr. Kamptner replied that he believed so. He said he believed "repeated violations" was the actual term used in the ordinance, and that it would take him some time to pull it up.

Ms. Price said it was not necessary to pull it up that day. She said she wanted to make sure about this because, going back to the earlier slide about increasing the penalty schedule, she got the consensus that, in general, that provision seemed to be favored. But, as Ms. Mallek mentioned, when there are people who violate repeatedly, and with 10 violations to reach the increased level, she wanted to make sure that they were not so hogtied with what "repeated" or "multiple" means that they are not able to revoke the special exception, if necessary.

Ms. Price said she did not have much to add to the second idea. She said she did read the ordinances, as they existed, for the discharge of firearms in the Rural Areas and that generally, she believed it was adequate. She said in a residential area, however, she had safety concerns about people discharging weapons. She said they would be hard-pressed to find many places in the residential zoning districts where houses are more than 100 yards apart, though this was not to say that couldn't exist.

Ms. Palmer and Ms. McKeel said they were fine with these alternate solutions.

Ms. Mallek said she also understood the suggestions Mr. Kamptner of better ways to do this, and since they only have control on hunting currently in the Rural Areas, there are many people who are driven crazy by their neighbors going out and shooting in the middle of the night for fun. She said there was a lovely woman who was killed in her own backyard in Stony Point twelve years ago, and that projectile carried a mile or more. She said this was not fun and games, and that she was excited about the possibility of an extra effort to give everyone more peace and quiet.

Ms. Mallek said the hunters are so desperate for places to hunt that they are the easiest people to work with because they are very concerned about keeping other people off their property and so they do not lose their spot in the woods. She said the issue was more about the people who go out after dark and shoot at woodpiles. She said she looked forward to a speedy amendment to the ordinance.

Mr. Kamptner presented an idea that staff would come back with on October 7. He said in talking with the City Attorney the week prior, the City is in the process of City Council adopting their ordinance to implement the new language in Section 15.2-915, which allows localities to prohibit carrying firearms and other things in county buildings, parks, community centers, and public rights-of-way. He said the City received a call from Mr. David Plunkett, who asked if the libraries were included.

Mr. Kamptner said he and Mr. Blair looked at the new enabling authority and found that facilities such as the library or even Darden Towe Park, which are jointly owned, do not necessarily fit into the new enabling authority. He said this was one matter where the recommendation would be that the County join the City in pursuing enabling authority to clarify Section 15.2-915.

Mr. Gallaway asked if there were any objections.

Ms. Mallek said she would rather just do it. She said she is always concerned that they are looking like they are following someone else, and if it was something the Board supported doing, they should just say they are going to do it. She said there must be a way for two localities to adopt the same thing regarding their joint property, and perhaps they have to get the blessing of the General Assembly to make those words possible.

Mr. Kamptner explained that the problem was that the County's ordinance does not apply in the City. He said it is the way the ordinance operates, and it does not accomplish what the County would otherwise want it to accomplish.

Ms. Mallek said she understood.

Ms. Palmer and Ms. McKeel said they were fine with Mr. Kamptner's suggestions.

Mr. Kamptner said there were two final items he recommended including in the legislative positions and policy statements. He said these were ones that got torpedoed with a bill in the General Assembly special session that would extend the sunset clause and statute for another two years.

Mr. Kamptner said with regards to photo-speed monitoring, the Board discussed this on July 15. He said because this was such a new law, he anticipated that the General Assembly would want to see how it is functioning.

Mr. Kamptner said the recommendation was to keep these on the list of the Board's positions and policy statements and not pursue them in the current year.

Ms. Price said she would like to see the first matter followed through at some point. She said in her short time on the Board, she has observed that when the County makes a decision, the Board is stuck with it, but the people who get the applications approved have great latitude. She said with this extending of the sunset clauses, it means that 10 years later, when circumstances that initially led to the Board's decision have greatly changed, they are now stuck. She said if people want to come through with an application and it gets approved, there needs to be a reasonable time period in which they act on that, or it should expire.

Ms. LaPisto-Kirtley concurred with Ms. Price.

Ms. Palmer said she was fine with these items being added.

Ms. McKeel agreed. She expressed she was especially in favor of stopping the extension of the sunset clauses, as the County was dealing with projects relating to this, and specifically one in her district that is two decades old and the whole area has changed. She said she would at least want the first item, and she was happy to support the second as well.

Ms. Mallek concurred with the presentation on both items. She said their effort on the first item was to go for a Governor's veto, and that it was not over yet. She said she knew the Senate passed it, and perhaps the House did as well, but they should not give up because one of the houses decided to do this when no one was looking.

Ms. McKeel agreed.

Mr. Gallaway asked Mr. Kamptner if he had what he needed from the Board.

Mr. Kamptner replied yes.

As the earlier technical issues with public comment had not been resolved, Mr. Gallaway apologized and encouraged the public to submit their written comments for the record. He said they would also be able to speak that evening at the 6:00 p.m. slot.

Agenda Item No. 11. **Presentation:** The Traffic Impact Analysis Process.

The Executive Summary forwarded to the Board states that the Albemarle County Board of Supervisors and Planning Commission requested an informational presentation providing an overview of the Traffic Impact Analysis process. The delivered presentation was developed by staff in response to this request. The presentation will provide an overview of when TIA's are requested, what the purpose of those TIA's are, how they are developed and the information they provide.

A Traffic Impact Analysis (TIA) also referred to as a Traffic Impact Statement is an evaluation of a proposed development project's effect on the transportation system. Typically, a TIA recommends improvements to lessen or negate the identified impacts. Through the Planning Division of the Community Development Department, TIA's are requested for rezoning and special use permit applications where it is determined that the development would substantially affect transportation on public roadways. The term "substantially affects" is not specifically defined by the County. However, staff has been using the general number of approximately 1,000 vehicles/day or 150 new trips in a peak hour. The Virginia Department of Transportation, by regulation, similarly requires a Traffic Impact Statement for rezonings that will substantially affect transportation on state highways. VDOT defines "substantially affects" as a development that will generate more than 5,000 vehicle trips per day.

When a TIA is required, County staff holds a scoping meeting with VDOT staff, the applicant, and their selected qualified transportation professional to outline the scope of the TIA including the elements, methodology, and assumptions.

Following are the elements typically required in the TIA:

- Background Information
- Analysis of Existing Conditions
- Analysis of Future Conditions without Development
- Trip Generation of the Development
- Analysis of Future Conditions with Development
- Recommended Improvements
- Conclusions

The TIA is submitted along with the Zoning Map Amendment (ZMA) or Special Use Permit (SP) application and reviewed by County transportation planning staff and VDOT through the standard review process. VDOT review is centered on technical and operational issues while County staff focuses on the

implications of the recommended improvements on operations and the relationship to the Master and Comprehensive Plans and other land use and transportation factors.

Following the staff review of the TIA, comments are returned to the applicant which often opens up discussions with the applicant on the proposed development, recommended improvements, and potential for the applicant to address the identified impacts. This discussion may result in updates to the TIA, changes to the development, or lead the applicant to include what they determine are reasonable proffers or conditions in the proposal. Once the TIA and application is finalized, County transportation staff, the lead planner for the application review, other senior Community Development Department staff, and VDOT consider the application as it relates to transportation and develop the information necessary to report to the Planning Commission and Board of Supervisors on the proposed development's effect on transportation resources in the County.

Staff will provide additional detail on the information discussed above in the presentation to the Board of Supervisors on September 2nd.

Staff recommends the Board accept the report and presentation, ask questions, and provide feedback.

Mr. Kevin McDermott, Transportation Planner, said this overview of Traffic Impact Analysis (TIA's) and this was a Board request and was an informational only item. He said he was happy to discuss it at length was the presentation was complete.

Mr. McDermott said he would provide some background on Traffic Impact Analysis (TIA's) as well as their purpose, the process, and some of the elements that are included in TIA's.

Mr. McDermott said TIA's, also sometimes referred to as Traffic Impact Statements, evaluate the proposed project's effect on the transportation system. He said they are done for rezoning's and special use permits and are requested when a development would substantially affect transportation on public roadways. He said the definition of "substantially affect" was somewhat nebulous but that generally, the County uses a threshold of 1,000 vehicles per day, or 150 new trips in a peak hour.

Mr. McDermott said VDOT does require TIA's for projects they consider would substantially affect transportation on public roadways, and that their threshold is 5,000 vehicles per day. He said in the past, Albemarle often only relied on that VDOT threshold, but with transportation now being such a major issue, the County has lowered their threshold and has required TIA's almost any time when a project would hit the 1,000-vehicle-per-day threshold.

Mr. McDermott noted that this was general guidance. He said if they know they are in an area that has a great transportation system, such as off Route 29, where many improvements have been made, the 1,000 number may not be used, and the County may allow for going over this number. He said if they are in an area where the project would have an impact on roadways that are already stressed, they may want to lower that threshold somewhat.

Mr. McDermott said the number of 1,000 vehicles per day is generated by many factors. He said staff uses the Institute of Traffic Engineers (ITE) Trip Generation Estimates, which is a publicly published document and is updated every four years or so. He said this provides the numbers on what different land uses would provide for trip generation.

Mr. McDermott said with 1,000 vehicles per day, they generally see 150,000 square feet of Light Industrial Use, 105 units of single-family detached residential, 150 units of apartments, and 95,000 square feet of general office. He said any sized fast-food restaurant with a drive-thru, with 2,000 square feet being listed, would generate 1,000 vehicles per day. He said such was the case for 10,000 square feet of supermarket, a 125-room hotel, or a 600-student high school as well. He pointed out that some other uses, such as daycare facilities or private schools, are examples of uses that may generate peak hour thresholds over the 150-vehicle limit.

Mr. McDermott pointed out that ITE provides estimates and that circumstances are different with every development. He said it depends on the specific type of use, location, and area, and so the numbers should only be viewed as estimates. He noted that these estimates are improving all the time.

Mr. McDermott said the purpose of a TIA is to provide staff and decision-makers, such as the Board, with the information necessary to evaluate potential impacts to transportation. He said it identifies existing and emerging transportation issues and recommends potential transportation improvements to address those issues. He said recommendations are asked for from a TIA even when an applicant is not expected to proffer any improvements. He said they do this because the applicant may only be adding a small amount of the traffic, but the background growth has caused an issue, so staff would like to hear what the applicant's suggestions are for addressing those problems.

Mr. McDermott said TIA's also may be used by the applicant as a basis to propose reasonable proffers to address the transportation impacts. He said proffers have been discussed greatly by the Board and that there is a wealth of regulatory guidance on how proffers are defined and accepted. He reminded the Board that the proffers have to be specifically attributable to the development as proposed, must be reasonable, and must be offered by the applicant, meaning the Board cannot require them. He said he was sure Mr. Kamptner could provide more details on proffers.

Mr. McDermott said in terms of the TIA process, TIA's are identified during the pre-application meeting, where staff will review a proposal and assess its need for a TIA. He said if it is deemed necessary, staff will schedule a scoping meeting with the Department of Transportation, the applicant, and their representatives. He said usually, the representative is a qualified engineer that can perform that study. He said staff reviews the elements, methodology, and assumptions that are used in that analysis.

Mr. McDermott said things staff looks at in the scoping meeting include project phasing. He said if there are multiple phases, they want to look at the full development so they know whether or not it will reach the 1,000-vehicles-per-day or 5,000-vehicle-per-day numbers. He said they are assessing for the entire development because they expect it all to happen. He said staff looks at which intersections will be evaluated. He said they agree on things such as pass-through or internal capture rates. He said they talk about other approved developments they need to consider. He said they agree on the background growth rate and discuss other special considerations such as safety issues.

Mr. McDermott said after this meeting, the applicant will submit the TIA with their application. He said VDOT and the County then review this and submit comments back to the applicant. He said once this is finalized, the TIA is summarized in the staff report for the Planning Commission and Board.

Mr. McDermott said he would provide some background information on the elements. He said staff asks for a description of the proposed development and look for the applicant to identify some of the planned transportation improvements. He said these may be things that are already listed in master plans that staff wants to make sure are considered in the TIA. He said staff then looks at the geographic scope of the study area and at the affected facilities.

Mr. McDermott presented a picture from the TIA for Southwood, indicating to the Southwood site and the various intersections that staff asked the applicant to analyze so that the impacts could be included in the TIA.

Mr. McDermott said the second element was an analysis of the existing conditions. He said staff requested the applicant to take traffic counts on-site, through which they count the vehicles in an extended peak hour period, and actually all day, to determine what the peak hour is. He said staff requires these counts to be done during what would be considered to be normal operations, so they tend to do these during the school year. He said when school is in session, it often happens on a Tuesday, Wednesday, or Thursday as long as there are no other activities going on that may disturb the traffic, such as holidays. He said staff wants typical operations for when those counts are done.

Mr. McDermott said staff asks for the existing operations of the analyzed facilities. He said the applicant uses a modeling software, such as Synchro, and runs those traffic conditions through the software analysis, which provides them with metrics such as the delay at the intersection for a vehicle, the queue length behind that intersection, and level of service. He said level of service for intersections is based on delay, and so he would recommend that they do not use level of service as the end-all-be-all for assessing it because things like perception, tolerance, and other things factor into what that level of service may feel like to a person and what the analysis actually shows it as.

Mr. McDermott said staff then looks to the applicant to analyze the future conditions of the roadway or intersection because they want to know how to compare the future build alternative to the future no-build alternative.

Mr. McDermott said staff asks the applicant to justify the future traffic volume estimates, which should look at the background growth as well as significant nearby developments. He said this has been discussed greatly with Parkway Place, for example, in terms of what developments went into the background growth rate and what the rate was. He said this was a major part of the analysis of the future conditions. He pointed out that the future should be based on when they expect the buildout of the development to occur so that they can compare "apples to apples."

Mr. McDermott said the next element was the development of trip generation estimates. He said as mentioned, staff uses the ITE guide to come up with those estimates. He said the trip generation should be the maximum of the buildout of that proposed development. He said because zoning goes with the land, they cannot look at the specific development that was being proposed at that time. He said they have to consider if something different were to be constructed on that land, what it could look like, and what the trip generation of this would be. He said therefore, they look at the maximum buildout of the proposed development.

Mr. McDermott said staff justifies the modal splits, internal capture, and pass-by percentage. He said modal splits is about what percentage of people would be using transit, biking, or walking to get there.

Mr. McDermott said for internal capture, with multiuse developments, they expect people to get to the site and move around the site while they are there. He said this meant they were trip-chaining and doing more than one stop while they were there. He said alternatively, if one lives in that area, they may be going into a restaurant for dinner, for instance, and then going home, which was all internal capture.

Mr. McDermott said pass-by percentage relates to whether or not these are new trips that the use is generating. He said many uses actually do not generate many new trips but are capturing trips on the facility they are on. He said a recent example of this was a gas station, as gas stations have a high pass-

by percentage where people are not going out of their way to go to the gas station but are stopping there because they are already passing by it. He said coffee shops are another business that have high pass-by percentage rates.

Mr. McDermott said staff then has the applicant perform the site traffic distribution and assignment. He presented an image showing Parkway Place, with the site labeled in a gray box, and with numbers showing the percentage of vehicles staff expects are generated to or from that site, and where they are going to or from. He said at Parkway Place, staff expected 31% of the trips to come out of there and go down John Warner Parkway towards the City. He said they expected 32% of those trips to go down Rio Road towards Route 29. He said these percentages are developed during the scoping meeting.

Mr. McDermott said the next element was the analysis of the future conditions with that development. He said these are the future operations of the analyzed facilities, such as intersections, under the build scenario. He again presented Parkway Place as an example, indicating to the table of existing traffic conditions under both build and no-build scenarios. He indicated on the image to the lane assignments, noting that at the Rio Road/John Warner Parkway intersection, each of the turn and through lanes was listed with its level of service, delay in seconds, and expected queue. He indicated to the overall level of service for the entire intersection as well.

Mr. McDermott said staff asks the applicant to come up with some recommended improvements. He said these would assess the potential for transportation improvements that address those issues identified in the plan.

Mr. McDermott presented the Albemarle Business Campus proposal as an example, explaining that their TIA looked at the intersection of Old Lynchburg Road, 5th Street, and the County Office Building. He said the applicant found that this would be severely impacted by the proposal, adding that this was already a poorly performing intersection. He said their proposal would have impacts on this, and they evaluated different options for improvements before coming up with the roundabout option. He said they then analyzed how the roundabout would improve the situation. He said staff received an analysis of what the future would look like if the roundabout were installed.

Mr. McDermott said the applicant can also look at options such as a warranted signal and if this might improve how operations could change, as well as turn lane analysis.

Mr. McDermott said finally, in terms of conclusions, staff looks to the applicant for a summary of what they see in the report and have them list the future operations of the analyzed facilities. He noted that although these are done earlier in the report, they can be reiterated in the conclusions.

Mr. McDermott concluded his presentation and offered to answer questions.

Ms. Price expressed her appreciation for the presentation, noting that this was helpful not only to the Board, but to constituents in understanding the process.

Ms. Palmer said she assumed she would receive the PowerPoint if it was not already in the packet.

Ms. McKeel said given what the Board was seeing as the changes that were likely to happen coming out of the pandemic, such as not as many people going to the office, and changes in the way society is functioning, she was curious as to if there had been any discussions as to how those changes would impact the TIA's.

Mr. McDermott replied that this was something staff does talk about, but that he believed it was early to start thinking about how that might change. He said coming out the pandemic, they would expect people to return to some sort of normalcy related to traffic, although he did believe things would change. He said he believed they would start seeing more people at home, and that this would likely be reflected in future updates of the trip generation estimates. He said perhaps they will not see as many trips estimated for things like office uses, as people may not go into the office every day or may have flexible schedules.

Mr. McDermott said during the pandemic, staff has not been asking applicants to take traffic counts, as they do not have faith in what the results of those traffic counts would be. He said staff has been relying on older traffic counts and asking the applicants to come up with a methodology for estimating what they think the traffic counts would be based on the known volumes the County has for volumes on roads. He said as they come out of the pandemic, they will have to see what they are looking in terms of for trip generation.

Ms. Mallek said she finds these operations to be completely bewildering and, at times, counterintuitive; that one can have 100 units and only have 10 cars at peak hour. She said it throws it all into suspicion, in a way. She said in the future, better descriptions and narratives for people like herself would be helpful so that there can be more trust. She said when she sees a peak hour question taking the cars and dividing it over 24 hours, as they did at Adelaide, it is misrepresenting the facts. She said they cannot have 93 houses and only have 2 cars waiting to get out at 8:00 a.m. when a road is completely jammed with school drivers.

Ms. Mallek said this was the kind of thing that makes her worry, and that perhaps she was worried because she did not understand all the details. She said it may be because this is a process that

benefits the applicant. She asked if there were any counties that have their own analysis done. She said she would assume that this would be less like DMME (Department of Mines, Minerals and Energy) than mines, minerals, and energy entities being in charge of regulating fracking when their whole assignment is exploitation and not environmental protection. She said they are asking an applicant's engineer to somehow save everyone. She said these were concerns she has had for a long time.

Ms. Mallek said she was glad to see that the number was back to about 10 trips per day for a single-family house. She said she protested strongly in the days when those were cut greatly down, as she believed those were completely unrealistic and because 10 trips per day have been a standard for many years.

Mr. McDermott said with the analysis and the reliance on the traffic engineer, they do have a professional stake in this. He said they stamp and sign this with their engineer's license and if it were ever to get out that they had fudged the numbers, this would be a major issue for them, as they would be at risk of losing their license. He said staff sends all the background information and the analysis to VDOT's Land Use Division so that it is all reviewed in detail by the state professionals. He said they often come back to say they found a problem in the analysis, and so staff sends comments back. He said he did not believe these were ever purposeful but were small data entry mistakes.

Mr. McDermott said he did not know of anyone that does not use ITE to come up with their trip generation estimates. He said this was the industry standard for everyone. He said they could always look at matters more specifically, such as apartments, which can be one-bedroom or three-bedroom. He said the more bedrooms there are, the more trips there will likely be.

Mr. McDermott added that the estimates become less accurate as the numbers become smaller. He said their accuracy comes from looking at them in a large aggregate. He said if there is a very small development, he did not know if he would be comfortable with using these numbers, as there could be a very specific issue going on with that development that could cause it to have a higher or lower trip generation.

Ms. Mallek said she was glad to hear Mr. McDermott say this about the small projects. She said in the past, in order to qualify for a neighborhood model or mixed use, one had to have 100 acres. She said now, they are seeing things at 5 or 10 acres, and so she agreed that it could not be extrapolated down that small and be expected to have multiple uses and housing types on such a small acreage. She said she was glad Mr. McDermott was aware of that, as it was something that has troubled her for a long time.

Ms. Mallek said when the apartment building at Old Trail was dropped into the plan, which was likely part of the cleanup rezoning in 2016 that resulted in many changes that went far beyond cleanup, resulted in 196 apartments where there were going to be a few townhouses. She asked if a TIA was done for that change due to the tremendous impact on an already disastrous intersection at Old Trail Drive. She said they may have all been caught napping on that, and she hoped they would never let this happen again.

Ms. Mallek asked when a project is undergoing amendments if they were looking at it with the same kind of detail as they did when it was first in application.

Mr. McDermott replied yes. He said when those changes come, if it is a change that requires the applicant to submit a rezoning for that, staff would reanalyze their entire development and find out what the change in trip generation may be. He said he was not around when this happened in Old Trail.

Ms. Mallek said she understood.

Mr. McDermott said often, a development will say, for example, that retail is no longer doing well, and so they want to change their retail in a large mixed-use development to residential. He said this changes their zoning code, and when they do that, staff does reevaluate it. He said if staff believes it will have an impact, they will ask the applicant to create a new TIA.

Ms. Mallek asked if this would happen if it were a change from residential to residential but at a different density.

Mr. McDermott replied that the same thing would happen. He said staff would look at it. He said it would have to be a big change that would generate something that would alter the results of that, but that staff would look at it every time.

Ms. Mallek said she was glad to know that staff has the authority to lower the impact standards for the threshold. She said 1,000 and 5,000 vehicles went far beyond the point at which the neighbors are impacted.

Mr. McDermott noted that the County Code allows the Director of Planning to determine when a TIA would be required.

Ms. Mallek said this was great.

Mr. Gallaway said it almost seemed like a smaller project if there is a certain percentage versus a count. He said the percentage a smaller project could have on a smaller intersection could have a big

impact, even if it isn't 100 cars, depending on the situation. He said it sounded like this comment had been addressed.

Mr. Gallaway said Mr. McDermott mentioned maximum buildout, but that he wanted to home in on the theory involved with projecting future use. He said it was clear what residential units would do, and perhaps even general office if it was just employees coming. He said even a fast-food restaurant would apply, where they know who is coming with capacity. He said he has made several comments about trying to understand, however, the new Center specific to the Rio Road issue. He said it was not just going to lift up the impact it had in its old location and drop down in its new location. He said there will be a different level of impact because this new Center has a whole new level of service, activities, and other amenities involved.

Mr. Gallaway said he and Mr. McDermott have talked about how to get at that issue. He said the Albemarle Business Campus was another example in terms of thinking through putting in things that are currently unknown that may drive a lot of traffic in and out in addition to the employees. He asked how to get at that kind of theory to make these TIA's worthwhile as the County tries to plan and make land use decisions.

Mr. McDermott said there was no magic to this. He said it is difficult to come up with estimates. He said usually, with some of the uses that do not fit squarely into something that is in ITE, staff can break it up into different pieces. He said with the Center, for instance, they can talk to them and find out how many offices they will have, as well as how much recreational space and meeting space there will be. He said they can then piece those things together to come up with what they think would be a good estimate.

Mr. McDermott said this is what staff does with mixed use as well. He said with Albemarle Business Campus, for example, there was a long list of uses that were totaled up to come up with the total traffic volume that they would expect. He said this included residential, hotels, general office, and the storage facility. He said ITE perhaps has 500 different use categories that staff can pull from. He said staff works on this with the developer and VDOT and use many professional opinions.

Mr. Gallaway said in terms of site traffic distribution, Mr. McDermott happened to use Parkway Place as an example. He said it was not doubting or undermining what they could learn from an engineer's study but knowing what the impact would be to take in human behavior of finding shortcuts and alternative routes, the example here would be the Dunlora Drive right turn through Dunlora, through Belvedere, to get to the Center. He said backdoor traffic out of the Center would go over Free Bridge Road onto Huntington.

Mr. Gallaway said it was interesting to him in terms of how to try to get at those types of things. He said he couldn't imagine that 1% in the theory was that there wouldn't be so many people visiting people in Dunlora, which was what the 1% was trying to consider. He asked what would happen with the person who is cutting through to get to The Center, or likely coming out to turn left from The Center because they do not want to fight with Belvedere Boulevard. He said he happened to know this scenario, but that this scenario would exist in probably all the other applications.

Mr. Gallaway said there will always be behavior around trying to find quicker routes, although the routes may not actually be faster, but feel faster because the car is moving rather than waiting. He said this was a real phenomenon and asked if there was something the software could use to get at that.

Mr. McDermott replied no. He said these percentages are not calculated by software but are made by professional opinions. He said when they sit down with the developer, local VDOT staff, and County staff, they come up with these percentages themselves. He clarified that the percentages are the site traffic generated, and that this does not account for someone going from Dunlora to The Center because this would have already been captured in the existing traffic counts. He said this was only about the people going to or from that site, which is what Mr. Gallaway was seeing with the 1%.

Mr. McDermott said staff does consider people doing cut-throughs to get to different places. He said this was an example of that where staff was trying to determine if people were leaving the site and wanting to go to the City, if they would turn right and go down Rio, or if they would turn left and go down John Warner Parkway. He said it was a difficult thing to say, and that he would not say that they got the 32% versus 31% exactly right. He said it was close enough that it works for the modeling, reminding everyone that these were all estimates. He said staff does the best they can with the information that they have.

Mr. Gallaway said timing-wise, he knew that sometimes when they do traffic counts or traffic studies internally, if there is a TIA that is coming on board and there is a new route nearby that is not established, he wanted to know if there are suggestions on holding off on doing the analysis until the new route is more established so that the counts are more proper.

Mr. McDermott replied that staff could do that but asked Mr. Gallaway for further explanation.

Mr. Gallaway said he would use Greenbrier as an example, with its new cut-through from Whole Foods and where traffic calming is now being looked at. He said there was a traffic study that was done soon after that opened, and there were some questions of whether or not everyone knew that the new parallel roadway existed. He said if they do counts before seeing what the normal traffic may be, the counts will be lower than if it were a more established route.

Mr. McDermott said staff could adjust for this during the scoping if they see a situation where they do not think a roadway is seeing its full potential yet. He said they can look at that as time goes on and ask the applicant to delay counts for a little while. He said developers are typically trying to move through the process quickly, however, to get something to staff quickly. He said staff does not have a lot of leeway in what they ask the applicants to do, but they can ask them to make adjustments as well.

Mr. Gallaway said it may be that things rise to the level of a corridor study, as was the case with the Rio Road Corridor. He said as all the small 10, 20, or 30-unit projects come online, however, they equal 1,000 at some point. He said while each individual project did not require a TIA, at some point, it will have the impact where it would have required that. He asked how to get this into the mix. He said perhaps this is where it simply rises to the level of a corridor study that the County has to take on.

Mr. Gallaway said Mr. McDermott's presentation was short, concise, and easy to follow. He said he believed it would be one that the CACs may appreciate having if Mr. McDermott had not already done so.

Mr. McDermott said they would talk about this. He said he was scheduled to present this to the Planning Commission in a couple weeks as well, as they had requested it. He said they could discuss doing this for CACs as well.

Mr. Gallaway said that Ms. Palmer had a follow up for Mr. Kamptner regarding a Legislative item.

Ms. Palmer said they have always had local control for the taxing authority on the legislative agenda and, that summer, they were seeing other things that were affecting local control. She said she wondered about Mr. Kamptner's opinion in broadening the Board's request for local control. She asked if it was better to keep it at the taxing authority or if there was something else they should be doing to try to maintain local control in new situations that are being taken away.

Mr. Kamptner replied that the sunset clause provision in Section 15.2-2209.1, which was allowing site plans that were approved in 2004 or 2005 to retain their validity, was probably done as a completely innocuous kind of bill. He said it was divesting the Board of local control, however. He said using the Rio-29 Small Area Plan as an example, the County is trying to achieve something there, but there is a 2004 site plan that has never been built and that under normal vested rights analysis, nothing would happen. He said they are stuck with that, and that it could destroy all the planning work that has been done.

Mr. Kamptner said the original legislation came about during the Great Recession, which was understandable. He said they had 9-10 years of a strong economy but, even during that period, the General Assembly kept extending it. He said they have divested local control. He said this was a good example, and they could probably look and find others of seemingly innocuous pieces of legislation that take things out of local control that are traditionally within the localities' hands.

Ms. Palmer said perhaps this was something the Board could discuss when Mr. Kamptner comes back in October to consider some broadening of the local control issue.

Agenda Item No. 8.9. Board-to-Board, August 2020, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors (moved from Consent Agenda to a Presentation)

Mr. Gallaway congratulated Mr. Graham Paige for being elected as the new Chair of the School Board.

Mr. Paige said there were several major things happening in the schools that he wanted to share. He said the 5th Annual Equity Conference was held the previous Friday. He said Albemarle County Public Schools believe that achievement and opportunity gaps must be addressed. He said for this reason, the Office of Community Engagement has implemented a Culturally Responsive Teaching (CRT) program, which aims to train teachers on how to investigate what it means to embrace diverse student experiences, tailor instruction to reflect cultural landscapes, incorporate families and communities, and involve as a culturally responsive educational community.

Mr. Paige said since its inception in 2015, the CRT program, the first of its kind in Virginia, has transformed how teachers hold themselves accountable for examining how culture can be the next asset in creating stronger students and family partnerships and developing independent learners.

Mr. Paige said the prior week's conference served as an opportunity to celebrate those teachers and administrators who completed this training. He said a total of 63 educators, including three school principals, one assistant principal, and Superintendent Dr. Matt Haas, received either their certification or initial credentials as culturally responsive educators.

Mr. Paige said the conference consisted of several different panels describing what it means to be a culturally responsive teacher. He said among the topics explored at the conference were being comfortable and uncomfortable, creating an environment of academic risk takers, the importance of student partnerships to hold difficult conversations in a middle school classroom, and "Speak Up and Speak Often," an instructional course journey toward anti-racism.

Mr. Paige said the impact of the CRT program was shown in the County's pass rates in the state's 5th grade reading test. He said white students experienced an 86% growth rate in the CRT classroom, compared to 76% in the non-CRT classroom. He said for Hispanic students, the growth rate was 42% in the CRT classrooms and only 14% in the non-CRT classroom. He said among Black students, growth rates doubled in the CRT classroom from 50% to 100%. He said among Special Education students, the pass rate increased from 0% to 50%.

Mr. Paige said overall, the pass rates for students in all demographic groups were 67% in the CRT classroom, and only 62% in the non-CRT classroom.

Mr. Paige said similarly, growth in the student academic achievement on the state's reading test were 79% in the CRT classroom, compared to 68% in the non-CRT classroom.

Mr. Paige said there were over 400 participants in the conference that year, the highest participation the conference has had so far.

Mr. Paige said a second big event to share with the Board was that most students would begin the new school year on September 8 through a virtual learning model. He said for now, in-person access to school buildings would be offered only to students without home internet access for adequate virtual learning, as well as some students with special needs and some who are English learners. He said the School Board voted for this model at their July 30 special meeting, endorsing the recommendation of Superintendent Haas.

Mr. Paige said the School Board also agrees with Dr. Haas that his recommendation would apply for the first 9 weeks of the school year, from September 8 to November 6. He said halfway through this period, Superintendent Haas will make a recommendation to the School Board for the second nine-week period that begins on November 9.

Mr. Paige said students who return to schools for in-person access to school buildings would be arranged in learning groups of 10 or fewer students and have a learning coach who will support them in accessing their virtual instructions assignments.

Mr. Paige said in consistence with guidance from the State Departments of Health and Education as well as local health authorities, the School Board's decision is based upon the most current information on health conditions in the County. He said they used input from employees and parent surveys, recent townhall meetings, and emails sent to the School Board, as well as the capacity of schools to provide a safe learning environment that maintains social distancing requirements. He said prior to the vote, the School Division received more than 6,500 responses from families to an intent form, with 72% of all respondents expressing some level of concern over sending their children to school for in-person instruction in September.

Mr. Paige said that more than 1,200 employees participated in a separate survey, with 2 out of 3, or 65%, also concerned about safely returning to work in September.

Mr. Paige said in their presentation to the School Board at the July 30 meeting, Deputy Superintendent Deborah Collins and Chief Operating Officer Rosalyn Schmidt outlined five stages of returning in the 2021 school year. He said those stages determine how instruction will be delivered, ranging from fully virtual instruction in Stage 1 to every student returning to in-person instruction in Stage 5. He said each intervening stage gradually increases the number of students who attend school in person.

Mr. Paige said the recommendation approved by the School Board has students returning to school on September 8 in Stage 2. He said the stages represent a measured approach to transitioning to full in-person instruction, allowing the division to be flexible and respond quickly and effectively to promote community health and the academic growth of students. He said movement from one stage to another would occur at a nine-week interval unless it were necessary to move to a more restrictive stage, which could be done immediately.

Mr. Paige said upon the Stage 2 opening approved by the School Board, most teachers would deliver instructions virtually, with a limited number providing in-person instruction by their choice. He said support staff will need to contact their supervisor of their work schedules.

Mr. Paige said student without home internet access, or those with limited access that cannot be improved by the means, have the option of coming into the school to complete online assignments. He said these families can also choose to have assignments delivered to them at home in a paper format or recorded video. He said the division can also provide hotspot devices to homes, which will enable them to connect to local Wi-Fi providers.

Mr. Paige said talks continue with Comcast about making it possible for families that cannot afford broadband service to benefit from data plans that would provide such services, where available. He said this service would be provided as part of Comcast's Internet Essentials Program, with the School Division underwriting the reduced cost of this service.

Mr. Paige said more information about these things was available on the Return to School website. He said this site also includes updated information on community and employee resources around COVID-19, the School Division's health and safety practices, and information on instructional

plans, school bus transportation, and more. He said the website was also home to FAQs that are updated regularly.

Mr. Paige said while talking about reopening virtually, it is important to compare virtual learning that the students will experience that September to virtual learning in the spring. He said while Spring 2020 was focused on keeping students connected to school and presenting only some new information and academic subjects, the new school year will provide robust, high-quality learning experiences and teaching. He said teachers will cover all content areas. He said tasks and assignments will be required, assessments will be made, and participation will be expected.

Mr. Paige said additionally, there will be a blend of synchronous and asynchronous instruction, and that teachers will hold consistent office hours in order to help students who require extra attention. He said all students will engage in synchronous learning with Zoom, and that recordings will be available for student viewing if they cannot make it at the time that the event is scheduled.

Mr. Paige said teachers have had professional development in support of this plan, and they may teach from their classrooms, where they will have full access to school technologies and instructional materials. He said tech support will be available directly to families and students through the service desk and school-based technology staff.

Mr. Paige said because not all families have access to online instruction from home, alternatives will provide a high-quality parallel experience. He said more information was available on the Return to School website.

Mr. Paige said registration will be required for school meals beginning the first day of the new school year, September 8, 2020. He said siblings of students are no longer eligible to receive meals like they were able to do during the summer. He said meals can be purchased at full price, and students approved for reduced-priced meals can buy meals at a reduced price. He said meals will be provided free of charge to students who are approved for free meals.

Mr. Paige said for a child to receive school breakfast and/or lunch on any school day, families must be registered by August 21. He said children can receive meals, whether they are beginning the school year through virtual learning or through in-person access. He said meals will be available on scheduled school days according to the 2021 school year.

Mr. Paige said a third big event to share with the Board was the work by a design team to develop a new "Portrait of a Graduate." He said the "Portrait of a Graduate" will act as a guide in creating the division's strategic plan, which will ensure that schools will engage with and meet the needs of all students while preparing them with the knowledge and skills they need to thrive in a complex and rapidly changing world.

Mr. Paige said meetings of the design team will be recorded and posted so community members can engage in the process used to create the "Portrait of a Graduate." He said all interested community members will have the opportunity to participate in the process of creating the new strategic plan when community forums are held in November, after the design team has completed its work. He said the forums are tentatively scheduled for November 17 and 19. He said more details about how to join these conversations will be communicated as soon as details are available.

Mr. Paige said after these community-oriented sessions, the division will launch a community survey on strategic planning, followed by community feedback sessions next winter. He said a draft of the strategic plan is expected to go before the Albemarle County School Board in May of 2021, and the division hopes to implement its new strategic plan in the 2021-22 school year.

Mr. Paige said his final bit of news to share involved two recent personnel changes. He said Ms. Cassandra Blount, who brings 14 years of experience as a high school administrator and dean of students, was recently appointed as the new principal of Burley Middle School. He said Ms. Blount succeeds Mr. James Asher, who announced his retirement on June 17. He said Mr. Jason Lee, formerly an assistant principal at Albemarle High School, has begun his tenure as principal at Western Albemarle High School. He said on July 1, Mr. Lee replaced Mr. Patrick MacLoughlin, who served as Western's interim principal last year.

Ms. Price said as her grandson was starting school in the County the following weeks, she has been observing the great actions his school has started, and that she was very impressed with what he had already received. She said candidly, she believed that some institutions of higher education could benefit from following more of the work that the County schools was doing and commended Mr. Paige and Dr. Haas for their leadership.

Ms. Price said she recalled Mr. Paige mentioning that the virtual learning will be for all students other than those who do not have access to regular internet. She asked if children whose parents or guardians are required to work outside the home are also eligible for in-person instruction.

Mr. Paige replied that the only other two groups who are currently eligible are ESL (English as a Second Language) learners, and some students who have IEPs (Individualized Education Program) that have perhaps a certain statement in that IEP that would allow them to come in. He said they did not currently have any provisions for parents who would be out working or not be able to be at home at the same time.

Mr. Paige said one way to potentially get around this would be that there are recordings available, and so if the person is not home at that time, they can listen to the recording and do it on their own schedule. He said the schools can also mail materials to the families so the children can complete the materials on their own time.

Ms. Price reflected that the virtual instruction, then, would at least be in a recorded format so if one is not present at the time it is normally scheduled, the parents would be able to do that at a different time.

Ms. Price said her question was simply a question and not a criticism. She said she understood that the School Board and the entire public school system was having to work through dynamic, unique, and challenging times. She said she also appreciated Mr. Paige's comments with regard to the shift of focus from last spring, where it was about survival and getting through the year, versus now moving forward to a higher level of educational achievement now that time has been made available. She said this was in contrast to last school year when they were hit with the pandemic and had to respond.

Ms. Price reiterated that she believed some institutions of higher education could have followed the School Board's plan and if they had, everyone would be in a better place.

Ms. LaPisto-Kirtley said as a former teacher and administrator, she very much enjoyed the presentation. She asked Mr. Paige the approximate percentage of teachers who have taken the Culturally Responsive Teaching course.

Mr. Paige replied that it was around 400 teachers who have taken at least some form of it. He said there are about 2,100 teachers in the school, and so this was close to about 25%, roughly.

Ms. LaPisto-Kirtley asked if the course could be taken online or if it had to be in person.

Mr. Paige replied that the main credential would be one that requires work throughout the school year, where the teachers would be submitting things they would be working on to reach those credentials. He said other forms would be done either online or through workshops that would be provided.

Ms. LaPisto-Kirtley asked if it was part of the teacher's credential.

Mr. Paige replied that it was not the same credential as the one that allows them to be certified to teach in the state, but only a credential for CRT. He said this would be the highest form of CRT training to have the credential in that field.

Ms. LaPisto-Kirtley asked if this takes approximately one year.

Mr. Paige replied yes.

Ms. Palmer said Mr. Paige mentioned that with the CRT classrooms, the Latino students did not show improvement nearly to the extent as the other groups. She asked if this was a language issue.

Mr. Paige said this was a good question, and that he was not sure what would be the overall reason for it. He said the Latino students did make more improvement than some of the other groups, so he was not sure what would be the main cause, but this was something the schools were trying to find out more about with CRT. He said they want to close all the achievement gaps across the board.

Ms. McKeel said it was great to hear the synopsis of exactly what would be happening. She said she knew that parents were struggling to be creative in trying to figure out ways to deal with the new virtual learning. She said she applauded the parents, adding that this was easier for some parents than others, like the ones who have to leave the house physically every day and go to a job, which was concerning to her.

Ms. McKeel said she would be interested in, at some point, the two boards talking about connectivity and mapping, and where the connectivity gaps are. She said the Board of Supervisors is interested in those gaps for their employees and residents who need to work from home, and so it is an issue that both sides of the house share. She said the presentation was informative and that she knew the School Division was doing the very best it could.

Ms. Mallek said it was an emotional topic that the schools have had to manage. She applauded the teachers and family members for digging in and participating in this decision to make it possible for the School Board to make such a good choice. She said there were many other teachers in other schools who are not so brave, and she wished they were. She said she was appreciative of the fact that the School Board made their decision a long time ago, rather than having the decision changing constantly over time. She said she hoped for the best and that all the schools' plans would come to fruition.

Mr. Gallaway said as a parent whose children are preparing for their virtual experience, he believed the communication had been great over the last several weeks, and not just from each individual school but also from the School Division when necessary. He said the schools have been very responsive to questions he has had about scheduling, which he appreciated. He said the schools were likely getting inundated with questions and concerns, and so he was sure parents appreciated the level of response.

Mr. Gallaway thanked Mr. Paige for the presentation and wished him luck on the school year as it opened the following week.

Agenda Item No. 12. Closed Meeting.

At 3:35 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
 1. To discuss and consider appointments to the Economic Development Authority, the Albemarle Charlottesville Regional Jail Authority, the JAUNT Board, three County advisory committees, and one advisory committee of the Charlottesville-Albemarle Metropolitan Planning Organization; and
 2. To discuss and consider the annual performance of the Clerk and the County Attorney; and
- Under Subsection (7), to consult with legal counsel and briefings by staff members pertaining to actual litigation regarding the interpretation of a proffer that had been accepted in conjunction with a rezoning.

Ms. Palmer **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 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** to make the following appointments to County Boards and Commissions:

- **Reappoint** Mr. Robert Finley, Mr. Shawn Brydge, Mr. Thomas Thorpe, and Mr. James Cathro to the 5th & Avon Community Advisory Committee with said terms to expire September 30, 2022.
- **Reappoint** Mr. Martin Meth to the Citizens Transportation Advisory Committee with said term to expire April 3, 2023.
- **Appoint** Mr. Nicholas Garber to the Citizens Transportation Advisory Committee with said term to expire April 3, 2023.
- **Appoint** Ms. Katherine "Kat" Imhoff to the Economic Development Authority as the Samuel Miller District representative with said term to expire January 19, 2024.
- **Reappoint** Ms. Cyndra Van Clief to the Jail Authority with said term to expire August 6, 2023.
- **Reappoint** Mr. William (Bill) Wuensch to the JAUNT Board with said term to expire September 30, 2023.
- **Reappoint** Ms. Nancy Weiss to the Natural Heritage Committee with said term to expire September 30, 2024.
- **Appoint** Mr. Ron Brownfield to the Pantops Community Advisory Committee with said term to expire June 30, 2022.
- **Reappoint** Ms. Judith (Judy) Schluskel and Mr. Lee Kondor to the Places 20 (Rio) Community Advisory Committee with said terms to expire September 30, 2022.

- **Appointed** Mr. Barry Blumenthal to the Region Ten Community Services Board with said term to expire June 30, 2023.

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. 15. 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.

Mr. Dusty Rhodes said he was from Orange County's Hampstead Farms, which is a large historical dairy farm and battlefield just north of the County in Somerset, Virginia, and a few miles west of James Madison's Montpelier estate. He said Hampstead is accredited by the Commonwealth of Virginia as a historical farm and part of the 1733 Octonia Grant of King George I of England. He said Hampstead has been a fully functional dairy for approximately 100 years and is protected by Virginia Historic and Agriculture Easement.

Mr. Rhodes said the farm was now in the process of preserving agricultural history through the Virginia Department of Agriculture's Agritourism Act. He said Hampstead is constructing a 10-mile trail through its numerous historical, agricultural, and nature sites to be used by bikers, hikers, horseback, and an old train. He said sites include a prehistoric Native American campsite, Governor Spotswood's exploration team's campsite, an old 1700s church, and 1800s single-room schoolhouse, gristmill, sawmill, one of the only two ice ponds in the county, a 1700s colonial roadbed, and a nearby steam log train roadbed. He said they have an eagle's nest and wild turkey habitat.

Mr. Rhodes said last, but not least, they have three actual hand-dug Civil War cannon abutments utilized in the Battle of Liberty Mills. He said there, in 1864, cannons were positioned to fire, and at-ready soldiers stood waiting for opposing forces to cross the Rapidan River and charge up the hill.

Mr. Rhodes said this was where he would appeal to the Board to help him preserve this bit of history. He said actual cannons and soldiers were once there. He asked the Board to picture this unoffensive, secluded countryside setting where the cannons will be silent, with the soldier gazing over a field of cows grazing on green grass. He said it was the representation of a turbulent battlefield giving way to a peaceful farm field used to feed mankind instead of destroying him.

Mr. Rhodes said in exchange for these items, Hampstead Farm agrees to locate these items at Somerset completely out of sight of public view and accessible to interested persons only. He said they would not display or use these items for any political agenda, and would not sell, trade, market, or alter these items. He said they would secure the items to prevent theft, relocate them immediately and anonymously if requested by the Supervisors, pay a reasonable cost for the items, and display a plaque of recognition to Albemarle County if desired by the Supervisors. He said the farm would be able to maintain these items somewhat close to Albemarle County, yet completely secluded and visible only to those of interest.

Mr. Rhodes said their location was different, and that it was not just moving the items from one controversial spot to another. He said they are a totally different type of setting with many different types of history and agriculture. He said the actual items like these were once there. He said hopefully, this was an opportunity to replace them. He asked the Board to consider Hampstead in their decision.

Mr. Gallaway asked Mr. Rhodes to email the Board at bos@albemarle.org with his contact information for consideration.

Mr. Gallaway closed public comment.

Agenda Item No. 16. **Public Hearing: FY 2021 Budget Amendment and 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 cumulative total of the FY 2021 appropriations itemized below is \$14,202,479.00. 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 2021 Budget Amendment totals \$14,202,479.00. The estimated expenses and revenues included in the proposed amendment are shown below:

PROPOSED FY 2020-21 BUDGET AMENDMENT

<u>ESTIMATED REVENUES</u>		
Local Revenues	\$	40,000.00
State Revenues	\$	23,800.00
Federal Revenues	\$	9,619,258.00
General Fund Fund Balance	\$	23,800.00
Other Fund Balances	\$	4,495,621.00
TOTAL ESTIMATED REVENUES	\$	14,202,479.00
<u>ESTIMATED EXPENDITURES</u>		
Special Revenue Funds	\$	14,102,479.00
Capital Projects	\$	100,000.00
TOTAL ESTIMATED EXPENDITURES	\$	14,202,479.00

The budget amendment is comprised of a total of ten (10) separate appropriations. Six (6) have already been approved by the Board as indicated below:

- Six (6) appropriations approved 8/19/2020
- Four (4) appropriation requests for approval on September 2, 2020 are 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 projects and programs as described in Attachment A.

* * * * *

Appropriation #2021025 **\$100,000.00**

Source: Water Resources Capital Fund Fund Balance \$100,000.00

This request is to appropriate \$100,000.00 in Water Resources Capital Fund fund balance as follows:

- \$50,000.00 for the Drainage Infrastructure Maintenance/Repair Program to address priority critical maintenance needs at County-operated stormwater management facilities.
- \$50,000.00 for the Water Quality Mandated TMDL (Total Maximum Daily Load) Program to repair failure to past stream restoration caused by an extreme storm in 2018.

Appropriation #2021026 **\$80,637.00**

Source: Federal Revenue \$ 80,637.00

This request is to appropriate \$80,637.00 in Federal revenue for a grant awarded by the Virginia Elections Department for Coronavirus Aid, Relief, and Economic Security (CARES) funding to offset COVID-19 related expenses for the 2020 Presidential election.

Appropriation #2021027 **\$9,538,621.00**

Source: Federal Revenue \$9,538,621.00

This request is to appropriate \$9,538,621.00 from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) for necessary CARES CRF eligible expenses such as, but not limited to, human and community services, economic development, technology, and general County services. This funding is in addition to the first round of funding announced in June and reviewed with the Board of Supervisors at its July 1, 2020 meeting. Prior to execution, all programs will be reviewed by the County's CARES CRF Compliance and Documentation Team.

Appropriation #2021028 **\$0.00**

Source: Neighborhood Improvements Funding Initiative (NIFI) Contingency* \$85,000.00

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

This request is to appropriate \$85,000.00 from the Neighborhood Improvements Funding Initiative (NIFI) Contingency to provide additional funding for the NIFI-Mountain View Elementary School (formerly Cale Elementary School) Safe Routes to School Project. Bids received in late June were over the original budget, but competitive, and staff feels that the results were indicative of the market at that time. This amount will provide the additional funds needed for construction with a 10% contingency.

Mr. Andy Bowman, Budget Manager, said this was a public hearing and action item to amend the FY 21 budget. He said under Virginia Code, the County is required to hold a public hearing before the budget is amended when the total amount of appropriations exceeds 1% of the approved budget.

Mr. Bowman said this was the case that evening, as the proposed FY 21 budget amendment is an increase of \$14.2 million. He said the reason for this increase consists of six appropriations that were approved by the Board at a prior meeting. He said more notably that evening, they had a total of \$9.6 million in federal Coronavirus Aid, Relief, and Economic Security (CARES) Act that was requested for appropriation that evening, with amendments to capital projects.

Mr. Bowman said on the consent agenda, the Board received more detailed information about what is referred to as the second round of CARES Coronavirus Relief Funding (CRF). He said staff will provide additional updates to the Board on the use of all CARES funds, which they did at the August 19 meeting and which they would be doing monthly, with the next update scheduled for the September 16 meeting.

Mr. Bowman said Attachment A contained all the details on appropriations that were requested for approval that evening. He said after the public hearing, staff would recommend the Board adopt the resolution (Attachment B).

Mr. Gallaway opened the public hearing. Seeing no speakers, he closed the public hearing and brought the matter back to the Board.

Ms. Palmer **moved** the Board adopt the attached resolution (Attachment B) to approve the appropriations for local government projects and programs, as described in Attachment A. 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

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 21 Budget is amended to increase it by \$14,202,479.00;
- 2) That Appropriations #2021025; #2021026; #2021027; and #2021028 are approved; and
- 3) That the appropriations referenced in Paragraph #2, 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
2021025	3-9100-51000-351000-510100-9999	SA2021025 - WR Critical Needs SW Management Facilities	\$100,000.00
2021025	4-9100-82040-482060-800605-1308	SA2021025 - WR Critical Needs SW Management Facilities	\$50,000.00
2021025	4-9100-82040-482050-800605-1311	SA2021025 - WR Critical Needs SW Management Facilities	\$50,000.00
2021026	4-1100-13020-413020-312380-1551	SA2021026 - Registrar CARES Funding	\$40,319.00
2021026	4-1100-13020-413020-601380-1551	SA2021026 - Registrar CARES Funding	\$40,318.00
2021026	3-1100-33050-333000-330050-1551	SA2021026 - Registrar CARES Funding	\$80,637.00
2021027	3-1100-33050-333000-330050-1000	APP2021027-CARES CRF Funding	9,538,621.00
2021027	4-1100-99900-499000-999999-9999	APP2021027-CARES CRF Funding	9,538,621.00
2021028	4-9010-41020-443300-999999-9999	SA2021028-NIFI Contingency to Moutain View	-\$85,000.00
2021028	4-9010-41020-443310-950081-9999	SA2021028-NIFI Contingency to Moutain View	\$85,000.00

Agenda Item No. 17. **Public Hearing: ZMA201900010 3223 Proffit Road.**
PROJECT: ZMA201900010 3223 Proffit Road
MAGISTERIAL DISTRICT: Rivanna
TAX MAP/PARCEL: 032A0020000200
LOCATION: 3223 Proffit Road, Charlottesville, VA 22911
PROPOSAL: Amend the proffers and concept plan of a previously approved rezoning.
PETITION: Request to amend the proffers and concept plan associated with ZMA201800006 on a 7.29-acre parcel of land to revise the internal street network layout; to permit residential units in

Block B; and to reduce the overall maximum number of units permitted from 109 to 80. A maximum of 80 units is proposed for a gross and net density of 11 units/acre. The property is zoned R-15 Residential, which allows 15 units per acre. No change in zoning district proposed. ZONING: R-15 Residential – 15 units per acre.
OVERLAY DISTRICT(S): Airport Impact Area; Steep Slopes – Managed
PROFFERS: Yes
COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office, and service uses, in Hollymead – Places29 Master Plan area.

The Executive Summary forwarded to the Board states that at its meeting on June 2, 2020, the Planning Commission (PC) conducted a public hearing and voted 7:0 to recommend denial of this zoning map amendment request. The reasons stated by the PC for their recommendation of denial included the reduction of open space presented in this proposal compared to what was approved with the original rezoning ZMA2018-00006; the tradeoff of more disturbance proposed on the site for less density; and the proposed road connection to the northeast to Springfield Road was viewed as not contributing to the public good in a significant way. The Commission's staff report, action letter, and meeting minutes are attached (Attachments A, B, and C).

At the Planning Commission meeting, staff recommended approval of the proposed Zoning Map Amendment application, with some recommended revisions to the concept plan. The proposal is consistent with the future land use and development recommendations specified in the Places29 Master Plan and the Albemarle County Comprehensive Plan. Since the Planning Commission public hearing on June 2, 2020, where the PC recommended denial, the applicant has revised the Concept Plan (see Attachment E) to address the PC's concerns and to address staff's recommendations. The applicant has also revised the Project Narrative (see Attachment D) to explain this revised proposal. The following is a summary of changes made:

- The proposed interparcel connection in the northeast portion of the property, toward Springfield Road, has been removed from the street layout shown on the concept plan.
- The area proposed for the interparcel connection to Springfield Road is now being depicted as open space.
- A note has been added to sheet 2 of the concept plan that at least 25% of the site will be designated as open space.
- Crosswalks have been depicted on the concept plan, with final design and location subject to VDOT approval.
- The maximum density calculation for the whole site has been revised to 11 dwelling units per acre to correct a rounding issue.
- A trailhead is depicted on the concept plan near the programmed recreational area.

Although the note on sheet 2 indicates that at least 25% of the site is proposed to be open space, it is unclear where all of this open space would be located on the site, as it is not depicted on the concept plan and is not identified as a major element of the plan in the proffer statement. As a conventional zoning district of R-15, a cluster development is permitted with 25% of the site designated as open space, as the applicant states in the revised project narrative (Attachment D); however, neither the concept plan nor the proffers indicate that this site will be developed as a cluster development. The property is 7.29 acres, which would require approximately 1.8 acres, or 79,000 square feet, of open space, if developed as a cluster. The concept plan only labels 15,000 square feet of open space – the 5,000 square feet of programmed recreational space and the 10,000 square feet of natural recreational area. It is unclear where the other approximately 64,000 square feet of open space would be located. The large area of open space in the northeast corner of the property in the revised concept plan (Attachment E) does not identify its proposed square footage or identify a clear boundary between buildable area and the proposed open space allowing for a better understanding of the extent of that open space. Other small areas of designated open space could also be dispersed throughout the rest of the property in order to reach the required amount; however, no other areas are identified on the plan as potential open space locations.

If the Board chooses to approve the Zoning Map Amendment request, staff recommends that the Board adopt the attached Ordinance (Attachment G).

Mr. Andy Reitelbach, Senior Planner, presented the staff report for the rezoning application. He said the property in question is located on Proffit Road, to the east of Route 29 and directly east of the Southern States Cooperative retail site. He said it is south of the property that has been rezoned for the proposed North Pointe development and is west of the Full Gospel Assembly cemetery.

Mr. Reitelbach said the proposal consists of one tax map parcel that is approximately 1.29 acres. He said the property is current vacant, but that portions of it have recently been cleared.

Mr. Reitelbach said the current zoning is R15 Residential, with overlay districts of the Airport Impact Area and Managed Steep Slopes. He said in the Places29 Master Plan, it is designated as Urban Density Residential for 6-34 residential units per acre. He said at the 7.29-acre size, this would allow, by right, 109 units at 14.95 units per acre.

Mr. Reitelbach said based on the current zoning, the property is divided into two blocks: Block A, which is the southern portion of the property, at 5.2 acres, which is designated for residential uses; and

Block B, which is the northern portion, at 2.09 acres, which is designated for open and recreational space, stormwater management facilities, and utilities.

Mr. Reitelbach said the rezoning application is to amend the rezoning of ZMA2018-6, which was approved by the Board on March 20, 2019. He said there was no change to the zoning district proposed with this application, and the applicant was instead proposing to amend the proffers and the approved concept plan. He said the applicant requests permission to put residential units in Block B, which is the one that had been reserved only for open space, stormwater management, and utilities, allowing a maximum of 30 residential units in that block.

Mr. Reitelbach said the applicant was requesting a reduction in the total number units, from 109 to 80 on the entire parcel, which would make for a density of 11 units per acre. He said the applicant was also requesting revisions to the proposed street network.

Mr. Reitelbach presented a map showing the R15 zoning of the property and the surrounding zoning designations. He said North Pointe is Planned District Mixed Commercial, and that there is Highway Commercial to the west. He said there are Rural Areas to the east, pointing out that those Rural Areas zoned properties are actually in the Places29 Development Area. He said there is also R15 and R1 zoning to the south.

Mr. Reitelbach presented the Comprehensive Plan designation, noting the property was designated for Urban Density Residential, with Urban Mixed Use to the west, further Urban Density Residential to the north and south, and Neighborhood Density Residential to the east.

Mr. Reitelbach said the Full Gospel Assembly Church is to the east of the property, and that there is a cemetery, a historic and cultural resource, on that property that was found to slightly cross onto the subject property. He said the existing proposed eastern interparcel connection that is proposed with the current zoning of the property could affect that cemetery and would run into some of the graves that have been identified on that property.

Mr. Reitelbach said the applicant was proposing to remove that interparcel connection and, instead, place one new interparcel connection in the northwest, in the Block B area, which would connect with the North Pointe development. He said in doing this, the applicant was also proposing to reduce the open space area and permit residences in Block B. He said the Block B area was 2.09 acres.

Mr. Reitelbach said the applicant would maintain an area of open space and recreational activities that are required by the Zoning Ordinance, Section 4.16. He said in the revised concept plan, the applicant proposed 25% open space which, out of 7.29 acres, is approximately 1.2 acres, or 79,000 square feet. He said the location of most of the open space, however, was not identified on the concept plan, and that he would explain this later in more detail.

Mr. Reitelbach said the buffer area in the northeastern corner of the property was being maintained, which is adjacent to the existing single-family homes that are zoned RA, with a 25-foot undisturbed buffer and a 25-foot minimally disturbed buffer for a total of a 50-foot buffer. He said there is an intermittent stream channel that runs roughly between Blocks A and B of this part of the property. He said portions of the stream channel remain preserved. He noted that because this is an intermittent stream, there is no designated WPO stream buffer on it, and so disturbance is permitted, subject to engineering requirements and approval by the County Engineer.

Mr. Reitelbach presented the concept plan that showed the interparcel connections and rough outline of the blocks. He said Block A was in the south, and Block B was in the north. He said it showed the two remaining interparcel connections: one going to the west, to the Southern States property; and the one heading northwest, towards the North Pointe property.

Mr. Reitelbach presented a sheet from the concept plan that provided more detail including the proposed roads, as well as natural and programmed recreational areas in the northwest which, together are 15,000 square feet. He said in the northwest, there is a buffer and another area of open space. He noted that this area of open space was not labeled with the amount of the square footage or acreage proposed in that area.

Mr. Reitelbach said the applicant was proposing to revise the proffers. He presented the six proffers on the screen. He said they were proffering the street network grid and interparcel connections, and right-of-way reservation and associated improvements along the Proffit Road frontage, which was unchanged from the original rezoning. He said Proffer #3 was development density, proffering a minimum of 44 total units and a maximum of the revised 80, not to exceed 80 units.

Mr. Reitelbach said Proffer #4 was proffering the maintenance of the buffer in the northeast corner. He said Proffers #5 and #6 relate to garage setbacks, relegated parking, and parking standards to any residential development that occurs on the property.

Mr. Reitelbach presented the factors for consideration that were presented in the staff report and presented to the Planning Commission that staff identified. He said there were five favorable factors: consistency with the use and density recommended by the Master Plan; consistency with applicable Neighborhood Model principles; dedicated of right-of-way and upgrades to Proffit Road; the proffered concept plan, with some interparcel connections; and the tree buffer being retained in the northeastern corner.

Mr. Reitelbach said there were some factors unfavorable that were identified: the area of open space and the area along the recommended greenway was being reduced from what was originally approved with ZMA2018-6; there were some recommended revisions, as stated in the staff report; and at the Planning Commission public hearing, the Commission did recommend denial of the application.

Mr. Reitelbach said at a public hearing held on June 2, 2020, the Planning Commission voted 7-0 to recommend denial of the ZMA. He said the Commission had three reasons. He said there was concern about the reduction of open space presented in the proposal. He said there was concern about the tradeoff of more disturbance for less density, which was viewed negatively by the Commission. He said the proposed road connection to the east, towards Springfield Road, was viewed as not contributing to the public good in any significant way.

Mr. Reitelbach said that in response to both the unfavorable factors and recommended revisions that staff had outlined in the staff report, as well as those three concerns that the Planning Commission expressed in recommending denial of the application, the applicant did come back with a revised concept plan narrative and proffers statement prior to that evening.

Mr. Reitelbach presented a list of the changes that were made. He said the proffers were revised to reference the correct parcel numbers and to include the maximum cap of 80 residential units. He said crosswalks were depicted on the concept plan, with a note that final design and location will be subject to VDOT approval. He said the maximum density calculation was revised to correct a rounding error. He said a trailhead was depicted on the concept plan near the proposed programmed recreational area.

Mr. Reitelbach said the proposed interparcel connection in the northeastern portion of the property towards Springfield Road that the Planning Commission viewed negatively was removed from the street layout shown in the concept plan that was before the Board that evening. He said the proposed interparcel connection to North Pointe, however, did remain, with a note indicating that the right-of-way would extend to the property line, and that the street would be extended so that the actual construction of the street will be extended in accordance with Section 14-409 of the Subdivision Ordinance.

Mr. Reitelbach said the area proposed for the interparcel connection to Springfield Road is now being depicted as open space instead of a street stub. He said a note had been added to Sheet 2 of the concept plan that at least 25% of the site will be designated as open space.

Mr. Reitelbach said the square footage of those recreational areas has been labeled for a total of 15,000 square feet. He said it was important to note, however, that the new open space area in the northeast that took the place of the Springfield Road stub has no label identifying its size or providing a clear boundary to calculate its size.

Mr. Reitelbach said additionally, no other potential open space areas were identified on the revised concept plan. He said with the 25% the applicant was proposing, 25% of 7.29 acres is approximately 79,000 square feet, and so it is unclear where the other 64,000 square feet of proposed open space would be located and whether this would potentially be one or two larger contiguous areas or dispersed throughout the entire property in several smaller areas of open space.

Mr. Reitelbach concluded his presentation and offered to answer questions.

Ms. Price expressed her confusion. She said in looking at the map Mr. Reitelbach showed the Board, she now understood that the road stub to the east was gone. She asked if it was clearly designated that the green area to the right was part of the open space the applicant was referring to.

Mr. Reitelbach replied yes. He said according to the key on the map, this was the same color as the open space. He said it did not provide any sort of label to identify the size of that area, however. He noted how the natural and programmed recreational areas had labels with the approximate square footage, but that the area to the northeast did not have a similar label.

Ms. Price said this had previously been approved through a zoning change and now, the applicant was coming back and looking to change it again.

Mr. Reitelbach said this was correct.

Ms. LaPisto-Kirtley said the greenspace in the northeast almost looked as if the applicant was also taking into consideration the buffer zone as part of their greenspace.

Mr. Reitelbach said this was correct.

Ms. LaPisto-Kirtley asked why the applicant would go from 109 units down to 80.

Mr. Reitelbach replied that he was not 100% sure and that it may be a better question for the applicant as to why they decided to go that route. He said he supposed it was to potentially reduce other impacts on the surrounding area because if there are less units, it would provide lesser impacts on such things as the transportation system and schools.

Ms. LaPisto-Kirtley said with regard to the connection to North Pointe, she understood that staff likes having connectivity between two areas. She said for this smaller subdivision to be connected to a

larger subdivision, however, she wondered if this connectivity were a requirement or something that staff would like to have.

Mr. Reitelbach replied that it would be not a requirement. He said it is important for connectivity, which is promoted in the Places29 Master Plan as well as by the twelve Neighborhood Model Principles. He said with North Pointe being a designated neighborhood center for this area, providing that connection from this development up that neighborhood would provide an additional connection for residents to utilize any amenities or commercial space in North Pointe so that they would not have to go around and use Route 29, which would add traffic to that major highway.

Ms. LaPisto-Kirtley asked if there is supposed to be retail in North Pointe. She said in other areas such as Rivanna Village, for example, there was supposed to be retail, but none of that has materialized.

Mr. Reitelbach replied that there are some commercial areas proposed for North Pointe.

Ms. LaPisto-Kirtley asked if these proposed areas may not happen.

Mr. Reitelbach replied that they may not. He said there were no site plans that were approved for North Pointe at that time, so it would depend on how the development of that project moves along.

Ms. LaPisto-Kirtley said it is frustrating when the Board approves a large development such as North Pointe and Rivanna Village, where they are promised retail and supermarkets but then, none of that develops.

Ms. Palmer asked Mr. Reitelbach to return to the slide that outlined specifics of the proposal. She said the slide noted that the applicant would maintain an area of open space and recreational facilities required by Section 4.6 of the Zoning Ordinance. She said it then notes 25% open space but in the materials in the Executive Summary, it said that the 25% is required for cluster developments, but that there is no indication that this is a cluster development. She asked what the required open space and recreational facilities are per Section 4.6 of the Zoning Ordinance.

Mr. Reitelbach replied that Section 4.6 states that for developments such as townhouse developments or multifamily units, there will be a minimum square footage of 200 square feet per unit that is developed for open space, as well as certain recreational amenities, such as tot lots and basketball courts, that are required as part of the site plan approval process.

Ms. Palmer reflected that this would mean 200 square feet times 80 units, and that this would certainly not be the 79,000 square feet that they were stating in the plan. He said as Mr. Reitelbach pointed out in the Executive Summary, however, this was not proffered or specifically shown anywhere.

Mr. Reitelbach said this was correct.

Ms. Palmer said basically, what the applicant has done is they outlined in their report the amount of open space that would be required under Section 4.16 essentially, at that point. She asked if this was about the 15,000.

Mr. Reitelbach replied yes. He said he believed that the 15,000 of the natural and programmed recreational areas was approximately the requirement from Section 4.16 of the Zoning Ordinance.

Ms. Palmer said the applicant would tell the Board why they reduced the number of houses, but that one would assume this was because they wanted bigger houses rather than townhouses are smaller units that the area was originally zoned for.

Ms. McKeel said she was trying to think about a couple discussions the Board had already had. She said in the past and in many of their guiding documents, she recalled the Board stating that connectivity was important. She said connectivity was certainly a driver in the Brookhill development. She asked if she was correct.

Mr. Reitelbach said yes.

Ms. McKeel said up until now, they have said as a Board in their guiding documents that connectivity is very important.

Mr. Reitelbach said this was correct.

Ms. McKeel said with North Pointe, she remembered that North Pointe was proffering an elementary school.

Mr. Reitelbach said he believed this was correct.

Ms. McKeel said back when North Pointe and other developments were being developed, one of the concerns has been elementary school space. She said North Pointe had a proffer, if the School Board chose to use it, for an elementary school.

Mr. Reitelbach said yes.

Ms. McKeel said in her mind, this would make the connectivity important, as it would connect one area to another as far as school children being able to get to school.

Ms. McKeel said Ms. LaPisto-Kirtley was correct in stating in the past that with the Neighborhood Model, it is important to have commercial areas. She said in order to get the commercial areas in these developments, however, they must have the density that will support the commercial development.

Mr. Reitelbach agreed.

Ms. McKeel asked if there were any guiding principles about what density should look like in order to support commercial businesses. She said this project would not be big enough to support commercial space. She said North Pointe, on the other hand, one would think would be large enough.

Mr. Reitelbach said that staff does not do any of that sort of analysis for these rezonings. He said he was not personally aware if CDD had that information, but that he would not be surprised if the Economic Development Office did have more information on the average number of dwelling units that is required to support certain commercial uses.

Ms. McKeel said Ms. LaPisto-Kirtley mentioned that commercial space had been promised or desired, but that there was not going to be commercial space until there was the density to support it. She said with North Pointe having commercial space, and in thinking about density and connectivity, she was trying to tie all these ideas together.

Ms. Mallek said she was looking at the map in the report on 17A, showing an interconnection to the west as well, which actually runs down into a ravine, then up into an existing business. She asked if the project received credit for that highly unlikely successful connection because in the same way that the one to the east did not go because it would run into a cemetery, this one ran into a ravine, and they are not connecting anything that could not be had by walking an extra 50 yards around on a sidewalk to get there. She said she was concerned about this.

Ms. Mallek said she was also concerned and would ask everyone to think about how, in the Planning Commission notes, there was a very good summation of the Board's decision in 2019 about how important it was to leave Block B alone as open space. She said if 25% is needed, it will take that entire Block B, almost 3 acres, to do that. She said protecting the slopes and the intermittent streams was incredibly important, and it was really the only thing that overcame substantial opposition to the application because of that agreement and willingness on the part of the applicant to design his project in that way.

Ms. Mallek said now, she felt a bit as if the rug had been pulled out from under the Board and did not know what happened to that original plan.

Ms. Mallek said in terms of the connection to North Pointe, the map looked entirely as if it was covered in asphalt when looking at the road network on a very small lot. She said she would reiterate what she seems too often say, which was that a 100-acre minimum for Neighborhood Model was the standard in order to have space to do things. She said while a bike and ped trail through the open space to connect people to North Pointe and schools might be ideal, having the street go through there was a different matter altogether.

Ms. Mallek said she would like to know about what kind of credit in an application is given to an interconnection that may or may not be feasible.

Mr. Reitelbach replied that the interconnection to the west for the Southern States site was considered as a possible intersection to provide the more grid-like pattern for this development. He said this interconnection, however, was the same way that it was approved in the original rezoning (ZMA2018-6). He said this specific interconnection was not as looked at as closely during this current amendment because that portion of the property was not proposing to change in any way from what was previously approved.

Mr. Gallaway said it was important that when the Board originally approved the rezoning, it was a different applicant than the applicant that was before them presently.

Mr. Reitelbach said this was correct.

Mr. Gallaway said the ownership had changed hands, and it wasn't that one applicant had something rezoned and was now coming back and asking for something different. He said it was a second party coming in and making that request.

Mr. Gallaway said in the original approval, he did recall conversations about Block B remaining undisturbed. He asked if it were specified that Block B would remain untouched, or if there was a percentage that would remain open. He said he could not find that information.

Mr. Reitelbach replied that in the original rezoning, Block B allowed various uses, including open space and recreational areas, stormwater management, and utilities. He said it could not be disturbed for things such as putting a street through or putting dwelling units there, but it could be disturbed if a stormwater management facility were placed in that area, if there were recreational facilities, such as a basketball court or soccer field, put in that area, or if a utility line were proposed to go through that block.

Mr. Gallaway said he was looking at North Pointe and the approved plan there, and that the stub-out that the County required linked up to what the applicant was trying to connect to. He said this may be a larger question after the meeting that night. He said when they had the conversation about the original rezoning, he did not recall any conversation about that stub-out and connection into North Pointe. He said it may be fair that people felt North Pointe wasn't developing at that time, but it seemed to him that this would have been a critical piece of information when they had the original conversation around the rezoning.

Mr. Gallaway said he did ask questions about this to staff, and it sounded like the stub-out was required as part of the plan. He asked Mr. Reitelbach if anyone from staff could comment as to why that particular stub-out was not discussed with the Board when they originally considered the rezoning.

Mr. Reitelbach said he was not sure why it may not have been discussed at that time, other than the fact that there was a different property owner at that point that may have had different interests in how to develop the property and include the northern portion as open space instead of development.

Mr. Kamptner said as it had been proposed, Block B was presented as an undeveloped piece of property, and that during the public hearing on this item, Mr. Franco and the Board recognized that if Block B were to develop or include a road, it would have to come back through this process. He said he was not sure why that connection was not part of the discussion back then other than it was simply wasn't part of the application.

Mr. Gallaway said it was indicated that Block B would be untouched, and that the Board saw that as a favorable factor. He asked what happens in this situation if Block B remains and if the connection cannot happen. He asked if the stub-out would still be required on the other side.

Mr. Kamptner asked Mr. Gallaway if he was referring to the stub-out coming down from North Pointe.

Mr. Gallaway said it was unrelated to this, and perhaps it was a question they could get back to.

Mr. Kamptner said it simply ends.

Mr. Gallaway asked if it would be a stub-out to nowhere.

Mr. Kamptner replied yes. He said there are stub-outs all around the County. He said this project develops and when there is an idea to provide the connectivity, the people who live in this particular development object to it because of the traffic that would be coming through their neighborhood.

Mr. Gallaway said even if they did allow the connection, it would still go through. He asked in terms of connectivity if all the entrances and exits for North Pointe were on Route 29, or if there were any on the road that run behinds North Pointe, perhaps Pritchett.

Mr. Kamptner replied that he believed it was another street and that he would have to look at the map. He said there was another connection, perhaps on Leake, the street that Southern States fronts on.

Mr. Gallaway asked if this was just west of the subject property.

Mr. Kamptner replied yes.

Mr. Gallaway asked if there were none on the back part of North Pointe, and so all the other main connections were on Route 29.

Mr. Kamptner said his understanding was that this was correct, and that there would be three entrances along Route 29.

Ms. Palmer said Mr. Reitelbach mentioned this could be used for recreational space and mentioned a soccer field. She said this was a hill, and she could not imagine putting a soccer field there. She asked Mr. Reitelbach to comment on how this could possibly be done.

Mr. Reitelbach replied that he only used this as a general example that any sort of recreational facilities would be permitted in that block. He said of course, the applicant would have to grade it to allow for any potential fields or basketball courts, but if the applicant were interested in creating those, and if they met the County Engineer's requirements, those recreational facilities could be placed in Block 2.

Ms. Palmer said this would mean a lot of grading. She said after reading the Planning Commission minutes and talking to two of the Commissioners, the open space was extremely important to the rezoning in 2018. She commented that the County needs open space in the development area to the north, and her memory was that this was a valuable open space.

Ms. Palmer said that as others pointed out, this is a small development next to a large one, and what the Board has seen regularly in its work is that these small developments are very reluctant to approve connection to a larger development because of traffic.

Ms. LaPisto-Kirtley asked Mr. Reitelbach to return to the map. She asked if the applicant were to

go with the original concept plan, the stub that goes out east near the cemetery would still be in place.

Mr. Reitelbach replied yes. He said if they were to remain with the 2018 rezoning that was approved, the stub-out that goes from Road D going east to the cemetery would remain in place, for the time being.

Ms. Palmer said it did not have to stay there, however.

Mr. Reitelbach said this was correct. He said the developer would not be required to build that stub-out if he were not interested in doing so, but that in the approved rezoning, it would remain.

Ms. LaPisto-Kirtley said the developer could actually put a house there. She said the same was true for the stub going near Southern States. She asked if a connection was made to North Pointe, if this stub going to Southern States was needed.

Mr. Reitelbach replied that it may not be possible or necessary, and that he would have to do further review on that.

Ms. LaPisto-Kirtley said she was asking about this with regard to getting more greenspace. She said she did agree with Ms. Palmer, as they walked the entire area and to get any kind of a soccer field there, this would involve the destruction of many trees and a lot of grading. She said personally, she felt she would rather see more homes there, which would also provide more affordable housing while having the greenspace.

Mr. Charles Rapp, Director of Planning, said he would make some clarifications about the interconnection to adjacent properties and developments. He said Section 14-409 of the Subdivision Ordinance does require interconnections to adjacent developments. He said that prior to the connection up to North Pointe, the connection to the east and west was required to meet the local ordinance. He said this was discussed at the Planning Commission and was why the connection to the north-to-north point was now included. He said this was why it was included in the North Pointe plans as well.

Mr. Rapp said it is a requirement within the Subdivision Ordinance and not just something that CDD would like to see. He said this is why they end up with the stub-outs to future developments. He said places like North Pointe are required to do it when there is the potential for development on an adjacent parcel.

Ms. LaPisto-Kirtley asked Mr. Rapp if he was saying that if the applicant does not make the connection to North Pointe, then the stub going east and west would be required.

Mr. Rapp said this was correct. He said this was why those were in the initial plan, as there was no development in Block B, which was only open space. He said this was more valued than a potential connection to North Pointe at that time. He said they did provide those required connections on either side to the east and west. He said once they opened up development into Block B, this was when the connection to North Pointe came about.

Ms. LaPisto-Kirtley asked if they go up to North Pointe, conceivably, they have left off the eastern stub, and they could also leave off the western stub, providing more greenspace.

Mr. Rapp replied that this was a possibility.

Ms. Mallek asked Mr. Rapp how extensive of a connection was required. She said she knew that in many places, they have started with bike and ped connections with a bollard in the middle and wondered if this would meet the requirements of the code.

Mr. Rapp replied that he did not know, but that he could take a look and get back to Ms. Mallek in a few minutes.

Ms. Mallek said this was where they started in Dunlora and Shepherds Hill, which never had a vehicle connection for a dozen years or more.

Ms. Palmer said the original rezoning was still fine. She said she recognized that the placement of the one to the east goes to a graveyard now, which they do not want, and understandably so. She said as staff pointed out earlier, that whole area to the east is within the Places29 Development Area, which will be developed someday and would result in the eastern stub-out being moved and lowered down to avoid the graveyard. She asked staff if they could explain this.

Mr. Rapp replied that he believed this was the initial thinking. He said the primary goal was to have developments that are not completely isolated and contained within themselves so that there is some interconnectivity, whether this happens now or at a distant date in the future. He said staff was trying to ensure that they do have the potential to do that in the future.

Mr. Rapp said at that time in the past Ms. Palmer mentioned, there could have been the idea that there may have been a potential connection to the east when an older development may potentially be redeveloped to a higher density at some point in the future. He said the earlier slides showed that the area is Urban Density Residential, so it is likely to potentially think about future expansion in those areas.

Ms. Palmer asked if the connection into North Pointe was only required when the applicant wanted to put more houses there, and when they took out the stub-out to the east. She asked if staff did not come in and tell the applicant they had to bring it through Block B, and if the applicant simply came in and said they wanted to put houses in Block B, which happened to meet the qualifications to be able to take out the eastern connection.

Ms. Palmer said she was just trying to make sure they were not giving the impression that the County required them to go through Block B.

Mr. Rapp replied that staff did not. He said once they extended the development up there, the connection came to fruition. He said the initial plan that went to the Planning Commission also had the connection to the east, so they actually had all three connections. He said the plan before the Board that evening removed the connection to the east but kept the ones at North Pointe.

Mr. Gallaway said he understood Ms. Palmer's point, but that the North Pointe stub-out was required in Block B.

Ms. Price said she appreciated Mr. Rapp's further explanation of the interconnectivity, which made perfect sense from the long-term planning. She said what she did not understand was retaining the stub-out to the west, which runs into commercial activities which are not likely to be changed to residential, as they tend to go the other way. She said she did not understand why there was not then a stub-out to the east, since that appeared to be the direction to which more development of a residential nature may take place.

Mr. Rapp said to the east, as the project moved forward, the applicant determined there was a historic cemetery in that general area.

Ms. Price said she understood that, but that there was no other connection to the east. She said other than North Pointe to the north, it appeared that most of the rest of the development would be to the east. She said if anything, it seemed that the original stub-out to the east in the northeast corner of Block B would have made the most sense in terms of interconnectivity. She said she recognized that raised other concerns about the development of Block B.

Mr. Rapp said this was a fair point. He said there were some constraints to the east that were brought up at the Planning Commission meeting of existing residential houses and the realistic ability to connect to that adjacent property. He said therefore, it was more pursued to the north, but that Ms. Price raised a fair point.

Mr. Gallaway opened the public hearing and informed the applicant they would start, with 10 minutes to speak.

Mr. Justin Shimp, engineer for the project, said he was joined by Ms. Kelsey Schlein from his office and Mr. Greg Hall, the developer who bought the property after it was previously approved. He said in that circumstance, Mr. Hall did not necessarily have a say in the layout and knew that in order to do the kind of development he wanted, they would have to come back through this process, which was why they were back before the Board relatively quickly after the last approval was obtained.

Mr. Shimp said in terms of the connection to the east, one thing to consider was that looking at the Comprehensive Plan map, the density decreases, and the high intensity is to the north in North Pointe. He said the applicant looked at this as far as which direction it made sense to connect people to. He said there will be a lot of value getting to that direction because there is a school site and commercial development, and so the interconnectivity to that neighborhood, to the applicant, seemed critical to making this particular development what it needed to be.

Mr. Shimp said the crux of the issue was the question of how much open space and undisturbed area was planned for, how much had been required, and how was this now being changed. He said he has heard people say that it would be undisturbed open space, and that it was important to let everyone know that open space is not necessarily undisturbed. He said in fact, he listened to the Board meeting where this was approved, and Mr. Franco did talk about putting in stormwater. He said it was discussed that there would be some disturbance, and that he had a picture that would help illustrate what they would do if they could not get the revised concept approved.

Mr. Shimp presented a picture and indicated to the area of the cemetery that the applicant discovered, when they started their site planning, was in the way of this connection. He said this was one thing that they thought made sense to change.

Mr. Shimp presented an exhibit showing what would happen if the applicant scrapped what they wanted to do and went with what the current zoning would push them towards. He indicated to a stormwater pond on the map, noting that on the other side of the swale stream, they would put in their amenity space. He indicated to an area that he stated would surely remain undisturbed, as this was promised previously, and the applicant was not changing that.

Mr. Shimp said in the present scenario, there would be development in the Block B area, but it would not be residential homes. He said it was important to note that while there were no rooftops, there was no way of guaranteeing that all the trees there would be saved. He indicated to a couple spots on the map, explaining that if they could only put residential units in those spots, they would move the open

space where it has to go and put more units in those locations. He said this scenario was a plan that could be done, but the applicant did not think it was a particularly good one, which is why they wanted to change it.

Mr. Shimp presented the plan that the applicant sent to the Planning Commission. He indicated to an area where some open space remained, and to an area where the open space was minimized due to the stub-out to the east. He said the applicant kept the stub to the east because there was one originally proposed at the cemetery, and because it was important to someone in the first zoning, they would keep it in the second zoning.

Mr. Shimp said at the Planning Commission, they were essentially told that this was not important, so they should remove it. He said he could understand this, and that looking at the amount of area disturbed for those few houses and the road, it was not getting a lot. He said if it is believed there will be a lower-density development next door, this connection is not as critical. He said it was a matter of perspective, and the applicant felt that the connection to North Pointe was the important connection.

Mr. Shimp presented the revised plan that was before the Board that evening. He indicated on the plan to the scrapped connection. He said some other notes were added, as well as provisions for crosswalks. He said critically, they did not previously guarantee a 25% open space, but that this note was now added such that this area was guaranteed in the south location.

Mr. Shimp said the applicant was much more specific about how the open space was laid out in their plan, compared to the previous two plans. He said they do not put an exact dimension to the indicated boundary, as they do not know exactly where it would be, and it may move about 5-10 feet over. He said they were trying not to peg themselves into an exact boundary.

Mr. Shimp explained the legend of the plan showed the open space in the indicated areas, and that it specifically highlights one area as the programmed recreational space and another as the natural recreational area. He indicated on the plan to the best trees left on the property, noting that the applicant wanted to use one space as a sitting area in the woods and as a natural playscape for kids. He said these were things that made sense, given the quality of the trees left in that corner.

Mr. Shimp presented the original Block B plan. He said looking at the road and units that come through, the open space was 0.74 acres plus 1.09 acres, so there was about 1.75 acres. He added that the right-of-way took up about three-tenths of an acre. He said the applicant viewed this right-of-way as a public benefit, and so he did not necessarily count it the same as a developed area. He said it is a development, but it carried a strong, positive benefit. He said there were about 2.05 acres of space that were not houses, compared to 2.09 in the original plan.

Mr. Shimp said the applicant did not change the dynamic of exactly how much open space there was, but merely shifted things around. He said the stormwater was now underneath a recreational space as an underground system. He indicated to an amenity space on the plan, noting that it was critically tied together as it can be accessed off the public road. He said this way, people would not have to walk down behind someone's house to the open space. He said to the applicant, this was a much better design. He said with the change the Planning Commission recommended of removing one of the streets one way, they ended up with a net equivalent of open space and public street and were not really adding more residential development area to the plan.

Mr. Shimp said the applicant needed to do some final engineering in terms of the tie-in point was with North Pointe, adding that they had not proffered in a specific alignment. He said this connection will get people into the residential neighborhood and make the two neighborhoods like one. He said for people who will want to bike and walk back and forth, the street was a better way to go.

Mr. Shimp said with all the talk about connectivity, the Board has this in their ordinance and Comprehensive Plan for a reason. He said it is what makes for good neighborhoods when they have those connections. He said as pointed out by County staff, if they do not plan upfront, people always resist it later. He said when people resist connectivity, they end up with neighborhoods that are isolated and people who have to go out to Route 29 and drive down through a traffic light or two when they could be driving or bicycling on a neighborhood street in 3 minutes.

Mr. Shimp said these are principles that are extremely important in land planning, and the applicant believed it would make for a better development, which is why they were insistent about keeping it.

Mr. Shimp noted that one of the Planning Commissioners, Mr. Daniel Bailey, specifically pointed out that there was a lot of public benefit to that connection. He said as the vote was happening, while Mr. Bailey did not feel like it was something the Planning Commission should revisit, it was noted that the Board should consider his opinion. He said he believed Mr. Bailey's opinion was correct.

Mr. Shimp presented the full version of the applicant's concept plan. He said this showed the 2.05 acres of open space as well as a road, and that this demonstrated how the plan provides an amenity space area that saves trees as well as a connection through. He said they were not getting that many more lots out of the plan. He explained how some lots could be put in and how the road could slide back about 40 feet. He indicated to spots where more units could be placed. He said it could be done the way the plan was laid out, but that it was not a great plan.

Mr. Shimp said Grant has said all along that doing something more like this was what he wanted to do. He said he believed they struck a good compromise here with open space, connectivity, and the units, and that this makes sense for all the objectives they are trying to hit.

Mr. Shimp said he hoped this information provided some clarity to the open space considerations and recognized that the open space, as it was previously approved and currently approved, does not mean “undisturbed,” but means “not houses.” He said he believed there was a place for some compromise and that the applicant did it right. He said he looked forward to taking questions from the Board.

Ms. Price said she appreciated Mr. Shimp’s presentation. She said candidly, while she wanted to respect the decision that the Board and Planning Commission recommendations previously made, and while she understood the desire not to develop Block B, where she lived in Virginia Beach off North Great Neck Road, there was a road called Mill Dam that had a number of these isolated neighborhoods like the ones Mr. Shimp described. She said these finger streets would go off, and there would be 10-20 houses, which were completely isolated. She said in order to go anywhere, the residents had to go to the main street and then come back in.

Ms. Price said she understood and appreciated the connectivity aspect. She said the way the road continued up into North Pointe made a lot of sense.

Ms. Price said she did have some questions, however. She said she still did not understand the stub off to the west that heads towards the Southern States property. She said she questioned whether there would ever be any residential development there. She said she supposed that potentially, if the commercial changed, that may make sense.

Ms. Price asked if one takes the road coming from North Pointe straight south, down to Proffit Road, if that would also be an entrance into the property. She said on the drawing, it appeared that the entrance to the left was considered to be the main entrance and that to her, this did not appear to make much sense. She said it seemed as if more people would want to come off the other road that goes straight up into North Pointe and from North Pointe straight down to Proffit Road.

Mr. Shimp said Ms. Price was right. He said from a two-dimensional perspective, this would be the approach. He said there is a sight distance issue, however, with that particular entrance. He said it would not be safe to have a full vehicular access there. He said this was an emergency access.

Ms. Price thanked Mr. Shimp for clarifying that.

Mr. Shimp said this was why the grid made some sense to the applicant that comes in and connects. He said otherwise, Ms. Price was right about how it should come in from the other side, but that it cannot.

Ms. Price said that from a safety standpoint within the development, it would make more sense to not have it be a straight shot from North Pointe because it could increase the speed of vehicles coming through there.

Ms. Price said if this was an emergency-only exit, one of the concerns she had was that she has seen some others where frankly, they are very unattractive, aesthetically speaking. She said perhaps this would come during site review, but whatever type of barricade or barrier is there she hoped would be much more attractive than some of the others she has seen.

Ms. Price said she again wanted to express to County staff, the applicant, and constituents that she fully appreciated the interconnectivity between developments. She said the isolation they get from very small single developments without connectivity does not allow for a community feel. She said even though she recognized that this would now be developing in Block B, she did see some benefits there.

Ms. LaPisto-Kirtley said she agreed with what Ms. Price said. She said she has been out to the area and walked it and liked the idea of the open space. She said she understood the connectivity and about making both areas more neighbor-friendly, where kids can ride bikes to school and the like, and even to the store if the commercial area is developed.

Ms. LaPisto-Kirtley said she was not seeing the reason for the western stub if there was the North Pointe connection. She asked if this could be part of the greenspace if it were not needed.

Mr. Shimp replied that he believed they would still need the stub. He said this may be a question for staff. He said there was a connectivity requirement for everything near the site and that previously, because they were not near the back property line of Block B, staff did not require it. He said his feeling was that the Subdivision Ordinance, for better or worse, would require that connection to the west because the County takes a very long perspective on what might be redeveloped.

Mr. Shimp said he liked the grid network the applicant achieves with this and if they were to get rid of the stub, they would have a sweeping curve, which was fine, but that this was more of an urban grid sort of development that was somewhat like urban neighborhoods such as Belmont. He said staff could answer this question, but that his guess was that the Subdivision Ordinance would require the connection because the applicant was so close to it.

Mr. Rapp said this stub-out would eventually connect to the major connection into North Pointe's commercial area. He said it parallels Route 29, and this is where the connection was important. He said whereas, the connection shown on the screen fed more into the residential component of North Pointe, towards the back. He said there is a parallel road that this would eventually connect to, and the ordinance does talk about planning for connections to existing streets, future planned streets, and adjacent subdivisions.

Mr. Rapp said this was a major hub into the future North Pointe subdivision, and that the connection was trying to create another grid, as Mr. Shimp mentioned, to reinforce that urban fabric of what that area would be like once everything is developed.

Ms. LaPisto-Kirtley said this made sense.

Ms. Palmer said this property was a little over 7 acres and was a very odd thing. She said this was the first time she had ever heard anyone equate a road with the value of open space. She said she was still stunned about this.

Ms. Palmer said she believed a 2-acre contiguous open space area was very important. She said there were lovely trees and a steep slope there where the road would go through. She said she did understand the mention about putting in stormwater there but that after that is done, it would still equate to a contiguous open space. She said with the County talking about climate change, they have not been able to get the money to put in parks. She said she saw the value that the Planning Commission put in those 2 acres of open space in the middle of what is going to be a very dense area in the future.

Ms. Palmer said she very much liked the idea of connecting over to the commercial area in North Pointe, eventually. She said she also saw, in the future, this neighborhood not wanting to connect to North Pointe because of the traffic into a larger residential area. She said she had this all over her area in some of these denser housing developments, and knew that the other Supervisors did as well, where smaller places go in first, then the bigger place comes in and the smaller neighborhood does not desire a connection because they do not want the traffic.

Ms. Palmer said she was concerned about giving up the contiguous open space, and that she did not think that a public road equated to the value of that open space just because everyone can go on that road.

Ms. McKeel asked the applicant if they wanted to make some comments regarding what Ms. Palmer said.

Mr. Shimp said that to be clear, the right-of-way did not take away from the open space. He said they still had to have 25% open space. He said what he was looking for was within that space, how much of it was residential development versus other amenities, public street connections, and the like. He said they would still have the 25% open space and would have this around the perimeter areas where they could put stream buffers and trees behind the houses to give them some shade. He said the majority of the 25% open space would be in Block B, as it was. He said they have simply shifted things somewhat to make the connection work and strike a balance on those two items.

Ms. Palmer said the plan appeared to take about two-thirds of the open space away.

Mr. Shimp clarified that the open space, not including the road, was 1.75 acres. He said it was originally 2.09 acres. He said the applicant was still hitting about 80% of what was back there. He said perhaps it looked different on the map, but that the numbers were about 80% of the area, roughly.

Ms. Palmer asked if this included the buffer, as Ms. LaPisto-Kirtley had pointed out.

Mr. Shimp replied yes. He said this was included in the prior calculation as well, with 2.09 acres including the buffer.

Ms. McKeel said she is a very big proponent of connectivity. She said she has had several projects in the Jack Jouett District where people were not happy about connectivity and at the end of the day, it worked out very well.

Ms. McKeel said she liked the fact that the road was not just a straight loop down. She said this would serve much better and would slow down traffic.

Ms. McKeel asked Mr. Shimp to speak to his thoughts about the traffic from North Pointe and from this particular development. She asked if North Pointe had three entrances onto Route 29.

Mr. Shimp replied yes, adding that there was an entrance on Worth Crossing and indicating to this entrance on the screen. He said the commercial traffic from North Pointe would primarily come out the Worth Crossing exit. He said the applicant's connection was primarily about getting their neighbors in. He said some of those people might choose to come out that way, but it also connects those neighborhoods so that people can walk up a sidewalk to visit each other and not have to drive in their cars or walk a path in the woods where they are not comfortable. He said the commercial traffic should find its way out somewhere else, but their neighbors would find their way in primarily with the connection.

Ms. McKeel said she believed this was true, as it had been her experience in some of the places

she has lived.

Ms. Mallek asked Mr. Shimp how wide the road was that he was planning to build to North Pointe, and if it could be shrunk to 40 feet or 26 feet. She said that in Old Trail, they have all sorts of small roads that retain the residential friendliness while reducing the opportunity for speeding through. She asked for some understanding about the dimensions of the road, which looked so large on the map.

Mr. Shimp replied that the road was a 24-foot face-of-curb to face-of-curb and that this was a relatively small subdivision street.

Ms. Mallek asked if there would be no parking on that street as it was smaller than the firetrucks would require.

Mr. Shimp said this was correct.

Ms. Mallek said she was frankly shocked when she saw the size of the destruction that the applicant would propose to make a stormwater basin, as this took away the existing forest entirely. She said this would have changed the discussion even more two years earlier, had the Board had seen that. She said perhaps she had needed more imagination to be able to know that without being shown it.

Ms. Mallek asked where, underground, the stormwater would now be going.

Mr. Shimp replied that it was underneath the playground area and indicated to the place on the map.

Ms. Mallek asked Mr. Shimp if he would not be tearing out the big trees that he talked about at the park bench area, in the corner.

Mr. Shimp said this was correct. He said this area would stay as-is because it was part of the recreation requirement. He said it was a lovely corner and a nice spot to put in some benches and places for kids to play.

Ms. Mallek asked if this would be boulders and trails, and not paved asphalt playgrounds and swings in the triangular area.

Mr. Shimp replied this was correct. He said it would not be paved, but that there would be mulch and playground equipment in the indicated area.

Ms. Mallek asked if someone had a reason to drive to the playground with lots of kids, if there would be parking there.

Mr. Shimp replied that there is not supposed to be parking in the stub-out, although he didn't believe anyone would be stopped if they went there for an hour or two with their kids and needed to unload. He indicated on the map to spots where there were some street parking spaces close to the playground. He said this was also a walkable place to everyone in the neighborhood.

Ms. Mallek asked if Road A were going to be much wider if it were to have parking on it.

Mr. Shimp replied that this was true only for the section in the middle. He said it would be 29 feet and then narrowed at the intersections.

Ms. Mallek said the County has been through the pain of having "No Parking" signs appearing, and she wanted to get this identified.

Mr. Gallaway said in the first application, there wasn't much public feedback, but that there was some intrinsic value to having some shade trees, which was what the tree buffer was there to protect. He asked if this was correct.

Mr. Shimp replied yes. He said there was one very large oak tree on the property corner. He said the owner there was concerned and called the engineering office, and the team talked to him multiple times. He said the engineers assured him this was not going anywhere and that this zoning does not change any of that.

Mr. Gallaway asked if the corner, then, would stay protected.

Mr. Shimp replied yes.

Ms. LaPisto-Kirtley said there was a very large tree on Proffit Road at the very corner of the development where a sidewalk is supposed to go. She asked Mr. Shimp if the sidewalk would not take out the big, beautiful tree.

Mr. Shimp replied no, explaining that he was referring to a different one. He said the big tree the neighbor was concerned about was in the back right corner. He indicated on the plan to another tree, explaining that was on the path of the sidewalk that they have a proffered street section for which cannot be amended, and so the tree would have to go.

Ms. LaPisto-Kirtley said this was a beautiful tree and asked if there were any way to save it.

Mr. Shimp replied that he would have to discuss with VDOT if they would allow the sidewalk to go around. He said they would have to amend the right-of-way. He said while it was not impossible, it would require a great deal of flexibility from VDOT. He said because VDOT's job is about roads and not trees, it would be very difficult.

Ms. Palmer said she had a question for staff.

Mr. Gallaway said they could address Ms. Palmer's question after public comment. He asked Ms. Borgersen if there was anyone signed up for public comment.

Ms. Borgersen replied there were no signups.

Mr. Gallaway closed the public comment portion of the hearing.

Ms. Palmer said she was confused on stormwater because she has been to the site and recognized how steep the hill was that the road was going up. She said she suspected that with the houses and the road, there would be a larger requirement for stormwater. She asked staff if they could speak about this. She said she was surprised about the size of the stormwater that was drawn on the map for the development when this was open space. She said now, she was somewhat confused about where the stormwater would go up the hill, with the road and all the homes. She said perhaps this was a question for Mr. Frank Pohl.

Mr. Reitelbach replied that he was not sure where the exact stormwater management facilities and drainage would occur. He said this would be determined at the site plan stage and subject to approval by the Engineering staff. He said he knew that Mr. Pohl, County Engineer, had reviewed the rezoning application and did not express any concerns with it. He said this was the more general plan that the Board saw earlier in the staff presentation, however, and not the more detailed plan that Mr. Shimp presented showing the more exact locations on where the proposed residential units would be.

Ms. Palmer asked if it was common, in staff's experience, to put stormwater management on an incline. She said she was perplexed at the topography of what she was seeing on the plan.

Mr. Rapp replied that stormwater on this site would be collected and routed to an underground detention facility that would be underneath the playground area.

Ms. Palmer said she understood this, but wondered about the size of it, as well as to why there was a very large basin on the uphill when, on the other plan, they were told that it would not really be open area but would be a large detention pond. She said Ms. Mallek pointed out that she was surprised at that location.

Mr. Rapp said it had to do with the approach of the stormwater plan. He said there is an open stormwater management area, and that it has to do with the depth of it to determine the size as opposed to a much more compact underground facility. He said stormwater can be done in a much tighter area with an underground facility versus what the applicant may have been able to do in a large open area.

Ms. Palmer asked if the underground facility required any treatment, or if it slowly dissipates into the groundwater from there.

Mr. Rapp replied that the applicant still had to meet the water quality component of the stormwater regulations. He said they may want to ask the applicant the details of what they were proposing.

Ms. Palmer said this was not necessary at that point, but she remembered back to some of the discussions on Ivy and how little treatment was required, so she was trying to get an idea of it. She said it was not important for the vote that evening, however.

Ms. Price said she did want to hear from the other Supervisors before making a final decision for the vote, but that she came in prepared to be opposed to it because in reading through the report and the desire to maintain the integrity of Block B, she did not quite understand the initial plan prior to this application, with the two stubs going east and west, with one heading towards the cemetery, which was not going to be developed. She said she now had a much better understanding of the stub to the west and believed that eventually, it will connect with the other road.

Ms. Price said Mr. Shimp addressed the commercial traffic coming out through North Pointe and as she looked at that round, with the roundabout on Proffit, she agreed that it looked as if the road that goes up to North Pointe would provide greater connectivity for the residents of this community rather than North Pointe. She said the other exit would likely be better for them. She said she liked the curve of the road and the narrowness of it, and the fact that it does not go down directly to Proffit does improve the safety of the residents there.

Ms. Price said these were her current thoughts, but that she did want to hear from the other Supervisors.

Ms. LaPisto-Kirtley asked Mr. Shimp if Road C was also 24 feet wide.

Mr. Shimp replied that it was, except for in the middle, where it was widened for parking.

Ms. LaPisto-Kirtley said she wanted to keep the greenspace, and that she now understood more about that and understood the connectivity, which she believed would be a benefit to the residents there to be able to connect to North Pointe. She said she hated to lose greenspace, but that it looked like they were not losing too much. She said she did like the plan.

Ms. Palmer said many times, she has voted down things because there is no connectivity, and that she believed connectivity was very important. She said she thought that this plan, however, was crowding too many things into a very small lot. She said she believed the Planning Commission was correct in identifying that greenspace as important for a variety of reasons. She said she did not believe the connection to North Pointe outweighed the value of that greenspace.

Ms. Palmer said she believed that in the future, this will connect, as the area develops out, to the east and the west. She said she did not want to lose the greenspace. She said one does not always win the votes, but that she did have to say that she agreed with the Planning Commission's discussion on the value of the greenspace. She said there simply wasn't enough of it in the Development Area.

Ms. McKeel said she liked the project because it provided housing, which the County was desperate for. She said they have not had any discussions about what the cost of the housing will be.

Mr. Shimp said there was no affordable housing proffer on this project due to the timing.

Ms. McKeel said she understood.

Mr. Shimp said these units were basically starter townhomes, so they were filling an important niche. He said there were many apartments being built in the area, but that there was a strong demand from the Millennial crowd trying to get into homes. He said honestly, in the area, townhomes were what they can afford, and that this was the purpose of those homes.

Ms. McKeel said this was what she had wanted to hear Mr. Shimp say, at the County needed this type of housing. She said they needed housing in general in Albemarle County because people were driving long distances to find housing. She said she believed the project fits a need and was a great project. She said while she would love to have more open space, she did feel it was a balance.

Ms. McKeel said when she looked at the plan, what she saw was a pocket park. She said there is a pocket park on Commonwealth, in her district, and that they do not want people driving to it. She said the park is for walkers to use. She said she was not on the Board when North Pointe was approved, but that she would hope that North Pointe also will have some greenspace and areas that the people there could use in addition to this.

Ms. McKeel said connectivity was critically important. She said if connectivity is not put in from the start, all the studies indicate that it just doesn't make it, and that to go back and retrofit it doesn't work. She said she was very supportive of the project.

Ms. Mallek asked, looking at the map currently on the screen, what was planned to the east of the row of townhomes on the curvy street, between there and the 50-foot buffer.

Mr. Shimp replied that nothing was planned there.

Ms. Mallek said she did not recall what the grade was there. She asked if this were comprised of trails and unimproved trees, and if the trees would remain there or if they were being taken down to do something else first.

Mr. Shimp explained that the uphill side could not be used for stormwater. He indicated on the plan to the area where the stormwater would need to be located.

Ms. Mallek said this was a good thing.

Mr. Shimp said there was nothing to put there. He indicated on the plan to the area where the required amenity space would be. He said everything was fit down into an indicated area, and that there was no particular plan for the trees.

Ms. Mallek said Mr. Shimp mentioned that in order to line up properly with North Pointe, the applicant may need to remove some of the units to the east to shift the road slightly to the east. She said she learned a lot that she could live with on the project, but that she wished there were fewer homes up in the forested area so that more of the original trees could be retained. She said they were lovely trees that would benefit the residents tremendously if they were not all chopped down and replaced with things that are 3 inches in diameter. She said this was something she could not get over after many years, as she knew the benefit of shade for everyone.

Ms. Mallek said she did feel misled about the stormwater basin comparison. She pointed out that even in the original plan, the basin could have been placed underground and therefore not impacting Block B so much. She said the Board was almost being given a false choice about either knocking down all the trees for a stormwater basin or giving the applicant a road.

Ms. Mallek said she was still concerned, and that when she talks to residents in compact neighborhoods, they express that they feel cramped in. She said they need places to get out into the woods and not trip over each other. She said this was a lot of houses to have people try to have a little free space in a very small park area, about 1 acre on each side.

Mr. Gallaway said there was a point lost on him in the original plan about the disturbance in Block B, or the utility piece of this. He said he presumed the applicant would build the utilities with the road.

Mr. Shimp said this was correct.

Mr. Gallaway asked if the applicant would follow the same path with their utility lines.

Mr. Shimp replied that the water and gas lines would all follow the road.

Mr. Gallaway asked if the applicant did not have the road, if there were any reason why they would still run the utilities there to their project.

Mr. Shimp replied no. He said the applicant had access to utilities on the Proffit Road side, and so they would not go that way unless they developed the street. He said if they did, they would stub out the water line. He said in theory, North Pointe could connect to that water line when it was developed.

Mr. Gallaway said it seemed that many times, there are more units to try to make a project more feasible, but that he could not imagine a road addition that helps the bottom line, either. He said if they didn't have the road, it was not necessarily a bad thing, from a cost standpoint. He said they were not getting many more units for the road. He said this wasn't so much of a question, but that he was thinking out loud.

Mr. Gallaway said in reading through the Planning Commission minutes, his original thoughts were that the detail of the way that the eastern road portion in the concept plan that was in front of the Planning Commission was lost. He explained this was the steeper right turn that was further in than where the cemetery was. He said he appreciated the change to the current design.

Mr. Gallaway said if Mr. Shimp were the original applicant coming back before the Board, he would have to work hard to put all his emotions aside. He said he understood why the Planning Commission reacted the way they did and used the words, "rug pulled out from under us." He said if the same applicant came back before the Board for this request, this would have been problematic, in his view.

Mr. Gallaway said the Planning Commission did decline for disturbance for less density, and that he believed there would be some level of disturbance. He said he was not agreeing with the Commission to the level that they went on that matter.

Mr. Gallaway said in terms of the road connection not contributing to a public good in a significant way, in looking at the entire area, including North Pointe, and the way that North Pointe has their Part A as a pocket residential area in the vast commercial entity, if it stays that way, it seemed to him that this connectivity would make sense and be a benefit not just to Mr. Shimp's project, but to those people in Part A of North Pointe. He said he could imagine going for an evening walk and if there were a connection through another neighborhood, one may want to walk through a place where there are houses versus through commercial parking lots. He said he saw some benefit there.

Mr. Gallaway said the reduction of open space was the driving concern. He said he did agree with Ms. Palmer's point that there was not enough greenspace in the Development Area. He said the protection and the ability to keep some open space in the plan, to Ms. Mallek's point about giving people places to go to enjoy the outdoors, was important. He said he believed that to the best of the applicant's ability, they were able to do that, although not to the same extent than if the entire area were left undisturbed. He said he didn't know that this would be, even if the road and additional units were not in there.

Mr. Gallaway said he leaned more towards the connectivity, in that regard, and so he was looking favorably on the project.

Ms. LaPisto-Kirtley asked Mr. Shimp if they were going down from the original 109 units down to 80 units.

Mr. Shimp replied yes. He said this was somewhat unusual and the applicant recognized that in these discussions, there is a downside to fewer units, as housing was needed. He said the 109 units were based on a multifamily number and that this has never been the owner's intent. He said under a strange circumstance, the owner did not have the ability to make the prior applicant change the plan, so they had to work with what they had and move forward. He said 80 was more of an honest maximum figure that they would put there. He said in the case that there were any questions about the impacts, they felt that if they were reducing the number, this would address those impacts.

Ms. Palmer said her understanding was that the difference, originally, was that there were either going to be condos, apartments, or smaller homes there, and the decision has been made that these larger homes will sell better in this particular market and area. She said her understanding was that this

was the reason for the change in the density, and that this was actually a problem with the Planning Commission in that they wanted the density. She said they were discouraged that the houses would be more expensive, and that the density was not there. She said this was what she gathered from going over the Commission minutes.

Mr. Gallaway said he did not disagree. He said as he remembered during the community meetings with the original applicant, it was a mixture of townhomes and apartments, and that it was not all apartments. He said there could have been changes he was not remembering from the community meetings.

Mr. Gallaway asked Mr. Kamptner if he had a question.

Mr. Kamptner said he wanted to close the discussion regarding the trees that were shown on that particular concept plan. He asked if the trees depicted on the presented slide would be preserved.

Mr. Shimp replied that those trees in the buffer would be. He indicated to some other trees, explaining that the applicant had not surveyed them, exactly. He said a majority of them would be preserved, but that there may be some that will come out for various reasons.

Mr. Kamptner asked if the two large trees that were shown in the programmed recreational area would be preserved, noting that he could not find any sort of commitment or discussion about these trees being preserved. He said he could not tell from the open space regulations whether they would necessarily be preserved and whether this was part of the site plan process, as they are evaluating the qualifying open space to meet the 25% threshold.

Mr. Shimp clarified that most of the trees shown on the drawing were proposed. He indicated to an area that would be graded and disturbed because the stormwater system is dug in a large hole and buried. He indicated to another area, explaining that the only reason trees would have to be cut down there was because they were dead, or because the applicant felt that it was a threat to people playing there. He said otherwise, there would be no disturbance of that particular area.

Ms. LaPisto-Kirtley asked if the trees shown outside the buffer zone in the upper righthand corner of the plan would be removed, or if the applicant would retain as many as they could.

Mr. Shimp replied that the applicant had no reason to take those trees out. He said there is a required tree canopy area in the ordinance, and so they were not motivated to cut down trees they did not have to. He said he did not see why those trees would not stay.

Ms. Mallek said she was again feeling concerned, as she heard a very strong commitment that the large, forested trees in the triangle would remain and now, the applicant was saying "maybe." She said in order to be able to force herself to vote differently than she thought she was going to at the beginning, she needed to see a commitment written down about this. She said she has learned the hard way that saying, "We'll take care of that at site plan" is impossible if they have not written down a condition about it.

Ms. Mallek said she believed that this looked like it could be a very livable neighborhood, but if the typical approach was to knock everything down and then put in tiny trees later would happen, they will then lose a spectacular amenity that would benefit many area neighborhoods around the forest. She said she was having a hard enough time living with the road and what would be cut down for that because she was sure that the cutting down would be much further than the 24 feet, as they would have 6-8 feet on each side for the sidewalks. She said there would be a big opening through there that would be made for that road, wherever it is.

Mr. Shimp said he agreed about the trees. He said the trees will be designed with that amenity space, since shade is a good thing and since this is where they want kids to go play. He said he was hesitant to say that they would never cut down a tree there, as he felt there could be a valid reason to do so, such as a dead or dying tree that would make the area unsafe. He said he wouldn't want to promise that they would never cut a tree down there. He said as far as the amenity space, one of the drivers for putting it there was the number of trees, and so they do not have interest in cutting them down.

Ms. Mallek said that other projects have had tree conservation plans they put in with their application in situations like this, where there is a part of the plan that is especially important. She asked if this were something that could be done.

Mr. Shimp replied that it could be done. He said he would leave it up to the Board to weigh in as to whether or not this was a critical element.

Ms. LaPisto-Kirtley said it was a critical element to her to save as many trees as possible. She said of course, if the trees are dead or dying, this was a different matter. She said those trees were so magnificent, however, that she would like to see some kind of a conservation effort.

Mr. Gallaway said the same thing that was dangled before the Board under the original rezoning was what brought that rezoning about. He said this is what is wanting to be preserved, so if there was any way to find something there to help that along, he believed this would ease the anxiety of the area and what the original intent was under the first application. He said he did not know what the feelings were around that, but that he understood where other Supervisors were coming from and thought this would be

helpful.

Mr. Gallaway asked if anyone else wanted to weigh in.

Ms. Palmer said she thought it was important.

Ms. McKeel said she wanted to hear what Mr. Shimp may have to say.

Ms. Mallek said she believed Mr. Shimp was waiting to hear from the Board.

Mr. Shimp said unfortunately, the applicant would have to do a revision and resubmit to accommodate this, and he did not know how quickly this all could occur. He said with a special use permit, the Board could put a condition on it immediately, but that it was not that easy. He said he did not know that the applicant could object to it necessarily, in principle, as this is what they said they would do. He said it was more a matter of the logistics of doing it at that moment in time.

Mr. Shimp said if the applicant were to do this, perhaps Mr. Kamptner could weigh in on how this could most expeditiously be processed.

Mr. Kamptner said in looking at some old conditions, the most expeditious way would likely be to add a note to the concept plan. He said he would ask Mr. Rapp and Mr. Reitelbach to weigh in about the older conditions he was looking at. He said one condition had been, "Tree preservation measures shall be included on the erosion and sediment control plan and the grading plan." He said another example condition used in the past was, "The erosion and sediment control plan and grading plan shall include notes and details consistent with Chapter 3.38, Tree Preservation and Protection of the Virginia Erosion and Sediment Control Handbook current edition," noting he was not sure if the chapter number was still current.

Mr. Kamptner said another past condition used on a project was, "Tree preservation measures shall be coordinated throughout the site plan and the erosion and sediment control plan drawings." He said they will also need to identify the areas on the concept plan where these protections would apply, as the plan that was shown on the screen was not part of the concept plan, and so the minutes were not clear.

Mr. Shimp asked if it were possible that the applicant could consent to some sort of note being added to this plan. He said they were in a public meeting and that he could handwrite a note on the plan. He said he did not think they were disagreeing about what they were talking about doing, and that they would hate to go through a two-month-long delay for something that was straightforward.

Mr. Kamptner replied that it was up to the Board. He said it could also come back on the consent agenda on September 16. He said this would give staff a chance to review. He admitted that what he was reading from were some conditions that were 10-15 years old, and he would want to make sure that the language was correct.

Mr. Shimp said if the Board were willing to do this, it did not seem like a significant delay to the applicant. He said he did not think it would take more than one day to update the plan for staff to review. He said if it goes to the consent agenda, the Board could review staff's findings, which seemed simple enough.

Mr. Rapp said Proffer #4 talked about the 25-foot buffer along several property lines and minimal disturbance, only removing brush or dead vegetation. He said it seemed like if they were talking about the trees behind those existing properties, that could be expanded and perhaps be something that could be submitted for staff to review, then put back onto a consent agenda if the Board chose.

Ms. Mallek asked if this was a similar buffer statement to what was already done on the western border next to Southern States.

Mr. Shimp replied yes. He said the applicant would take the principle of what was said on the eastern buffer, which was in Proffer #4, and apply it to the natural recreation area shown on the plan.

Ms. Mallek asked if this was not describing what was already done on the western side. She said she wanted to clarify that this was not going to be repeated, where there was a mountain of dirt and where it cut everything down to the property line on the western side. She said if this were to be something different than what she saw with her own eyes, then this was great.

Ms. Mallek said perhaps it would be helpful that evening to have outlined that they were talking about the area behind both sets of townhouses. She said the east side and west side would be where these conservation plans would be identified, which should help the applicant better identify their roadway to keep some of the trees along there.

Mr. Rapp said that 3.38 was the spec for tree preservation in the Virginia Erosion and Sediment Control Handbook.

Mr. Kamptner said it still was.

Mr. Gallaway said it seemed that if the applicant were amenable to that, it would be a reasonable

way to work through the concerns and the compromise between the road and the additional units with the protection of the greenspace. He said the Board had done this in the last couple months on some projects where they put the details in writing to have them locked in, which came back to the Board on the consent agenda to give them time to review it. He said there have been things, including with the prior applicant on this zoning, where some things were said but not locked in. He said it would make the Board more comfortable and confident if they were.

Ms. McKeel asked if they were talking about expanding Proffer #4.

Mr. Gallaway said they would take extra time to figure this out, and that it could be a combination of things as far as the best way to do it. He said he believed all the Board members agreed with Mr. Shimp and were on both sides of this on the same level of intent. He said he believed giving staff and the applicant time to put this intent into something that was locked in that the Board was comfortable with could be done in short order and could easily come back to the Board on the consent agenda. He asked if there were any objections to this from Board members.

Ms. McKeel said she did not have any objections to this.

Ms. Mallek said she did not have objections, so long as the language was living up to what was being told to the Board.

Mr. Gallaway said the Board would scrutinize this in the writeup. He pointed out that a consent item can always be pulled, so if there were someone that would vote a different way, the item could always be pulled and voted on separately. He said the extra time was what would allow for everything to be put in writing so that everyone can be on the same page and scrutinize it.

Ms. Mallek commented that everyone always talks about the fact that these rezonings go with the land. She said it made no difference to her that someone just bought the property. She said the rezoning is part of what one buys, and so she wanted people to take responsibility for that.

Mr. Gallaway said he knew the Board took a lot of time that evening to work through the application, but this has also been done on bigger projects with bigger impacts. He said it affords the Board the ability to get it right.

Ms. McKeel said she did believe there was a comfort level by getting the condition in writing, and that she did not disagree with this. She said she saw the Board's point and was happy with this.

Mr. Gallaway said as he has said in the past when this has been done, he was prepared to take a vote that evening, if it were the Board's pleasure. He said based on some of the concerns he heard from other Supervisors, however, the recommended condition would afford a game plan that would allow those concerns to be alleviated.

Mr. Gallaway asked if the applicant had any objection.

Mr. Shimp replied that he had no objection. He said if they could do this in a two-week turnaround, it would be terrific, and that it would not cost them much time. He said he was comfortable putting what he said they would do on paper, and so this was not an issue.

Mr. Gallaway asked if there were any objections from the Supervisors and heard none.

Mr. Gallaway thanked the applicant.

Ms. Mallek asked if anything official was needed for the record that evening.

Mr. Kamptner replied that there could be a motion to defer action to September 16, with the understanding that the matter would come back as the Board had just discussed.

Ms. LaPisto-Kirtley **moved** to defer ZMA201900010 3223 Proffit Road until September 16, 2020. 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. 18. **Public Hearing: ZMA2019-004 Breezy Hill.**

PROJECT: ZMA201900004 Breezy Hill

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL(S): 094000000001A0; 094000000000500; 094000000000600;

094000000000800; 0940000000008A0; 0940000000008C0; 094000000004800; 0940000000048A0

LOCATION: South side of Richmond Road (US 250), east of Glenmore Subdivision between Hacktown Road and Running Deer Drive.

PROPOSAL: Rezone multiple properties for a maximum of 160 residential units.

PETITION: Rezone a total of approximately 84 acres from Rural Areas zoning district, which allows agricultural, forestal, and fishery uses as well as residential uses (0.5 unit/acre density), to

R4 Residential, which allows residential uses (4 units/acre density) with the potential for additional units if bonus factors are applied. 160 residential units (maximum) are proposed at a gross density of approximately 1.9 units/acre and a net density of approximately 2.5 units/acre. OVERLAY DISTRICT(S): ENTRANCE CORRIDOR, FLOOD HAZARD, and STEEP SLOPES – MANAGED and – PRESERVED.

ENTRANCE CORRIDOR (EC): Yes

PROFFERS: Yes

COMPREHENSIVE PLAN: Village of Rivanna Comp Plan Area. “Neighborhood Density Residential (Low)” – residential uses (2 units or less/acre) and supporting uses such as places of worship, schools, public and institutional uses; and “Parks and Green Systems” – parks, playgrounds, play fields, greenways, trails, paths, recreational facilities and equipment, plazas, outdoor sitting areas, natural areas, preservation of stream buffers, floodplains and steep slopes adjacent to rivers and streams.

The Executive Summary forwarded to the Board states that At its meeting on July 7, 2020, the Planning Commission voted 6:0 to recommend denial of ZMA2019000004. In addition, the Commission denied requests for modification to requirements for sidewalk, planting strip and curb and gutter. The Commission’s original staff report, action memo, and minutes are attached (Attachments A, B, and C).

Since the Planning Commission meeting, the applicant submitted a revised concept plan and proffers to address outstanding concerns raised in the staff report. The following changes have been made:

Proffers:

1. Proffer 1b was updated to include language that would allow a full vehicular connection at Running Deer Drive, if required by VDOT.
2. Proffer 1c was offered to prohibit construction traffic from using the Running Deer Drive entrance.
3. Proffer 1i was revised to include the maximum number of units.
4. Additional technical changes were made at the recommendation of the County Attorney’s Office.

Concept Plan:

1. Street sections were updated to include sidewalk, planting strip, and curb and gutter.
2. Notation added that the connection at Running Deer Drive would be either emergency access only or a full vehicular connection, if required by VDOT.
3. Mid-block trail standard was revised to be 10’ asphalt multi-use trail.
4. A cross section of the stormwater management pond along Route 250 was provided that shows how the enhanced extended detention pond works with the 10’ multi-use path, landscaping, and preserved steep slopes.
5. Notation added that the lots would not encroach into the stream buffer or preserved slopes.
6. Notation added that street trees would be provided.
7. Notation added that two layers of erosion and sediment control measures would be provided where development abuts stream buffers.
8. Notation added that no erosion and sediment control measure would be located within the stream buffer.
9. Notation added that grading activities would not be allowed within the stream buffer.
10. Notation added that all construction traffic would enter/exit the site through the main entrance on Route 250 and would not be permitted to use the entrance at Running Deer Drive.

Staff finds that these changes address unfavorable factors #4, #5, and #7, but that the remaining unfavorable factors have not been addressed.

Staff recommends that the Board adopt the attached Resolution to disapprove ZMA201900004 Breezy Hill (Attachment F).

Ms. Megan Nedostup, Principal Planner, said this was a hearing on a request to rezone 8 parcels that together are approximately 84 acres located along Route 250 East in the Village of Rivanna Master Plan area, near Glenmore.

Ms. Nedostup said this proposal was a request to rezone from RA Rural Area zoning to R4 Residential. She said she would present the site context, current zoning, the master plan’s featured land use designation, including recommendations on transportation improvements, and an overview of the proposed rezoning and application plan. She said she would then provide more detail on the transportation impacts, affordable housing, and schools. She said she would give a brief overview of changes that have been made since the Planning Commission meeting, the applicant’s offered proffers, the factors both favorable and unfavorable to the rezoning, and the Planning Commission recommendation.

Ms. Nedostup presented a map and indicated to Route 250. She said the site was in the middle of the map, highlighted by the gold star. She said to the west was Rivanna Village and Glenmore, and to the east was the Running Deer neighborhood.

Ms. Nedostup said there were some single-family houses on the property currently, with two that were off of Breezy Hill Lane, and one that was accessed off of Route 250. She said there was also a structure in the back of one of the properties that was a farm building accessed off of Hearn Lane, which

connects back to Running Deer Drive.

Ms. Nedostup presented the zoning map, explaining that it was the same orientation as the previous map. She indicated on the map to Route 250 and the highlighted parcels under the proposal. She said the zoning of the property was currently Rural Areas and also included a zoning overlay district of environmental features, which included the floodplain, marked in light blue stripes on the map, the stream buffer, shown in dark blue, and preserved slopes, shown in green.

Ms. Nedostup said for context, Glenmore was zoned Planned Residential Development, and Rivanna Village was zoned Neighborhood Model. She said all the other parcels on the map, shown in white, were zoned Rural Area.

Ms. Nedostup presented the Comprehensive Plan map, which had the same orientation as the previous maps, with Route 250 and the parcels shown. She said Breezy Hill was within the Village of Rivanna Master Plan area. She said the future land use plan included two designations for the subject properties: Neighborhood Density Residential (Low), shown in the light-yellow color on the map, and Parks and Green Systems along Carroll Creek and Route 250, shown in green.

Ms. Nedostup said to the west, across Carroll Creek, the land use designation was Neighborhood Density. She said this exhibited the transition that was discussed within the master plan to provide the most intensive and denser development within the village center, Rivanna Village, to then transition to the least density adjacent to the edge of the master plan area, Running Deer Drive.

Ms. Nedostup said the master plan further designated the area as Area B, with a density recommendation of 1 dwelling unit per acre. She said the graphic on the left of the screen was a snippet from the master plan, and that the map on the right was overlaid with the GIS mapped parcels.

Ms. Nedostup said the chart within the master plan described three areas where future development could be expected within the Village of Rivanna. She said it provided guidance on how this area would transition from higher density to lower density, radiating out from Glenmore and Rivanna Village.

Ms. Nedostup said the map on the right of the screen showed Breezy Hill with an outline of red. She noted that the Breezy Hill development and parcels, while in Area B, did not include all of the parcels within Area B. She said there was a darker red area of seven parcels that were not part of the Breezy Hill application, but were still within Area B. She said these parcels totaled approximately 28 acres.

Ms. Nedostup said in July of 2019, the Planning Commission held a work session where density was discussed, as well as the interpretation of the master plan regarding density in this area. She said the Planning Commission confirmed that the density should follow the chart within the master plan, and that a net density of 1 unit per acre, equating to 65-66 total units, would be appropriate relative to the recommendations of the master plan.

Ms. Nedostup presented the land use plan from the Village of Rivanna Master Plan. She said the map on the right of the screen was an enlargement of the area where the proposed Breezy Hill would be located. For orientation, she indicated on the map to Route 250.

Ms. Nedostup said the land use plan within the master plan shows a future connection to the west, which was either a vehicular connection or a trail connection; a connection from Route 250, illustrated on the map; and a connection to Running Deer Drive. She said it also recommended a multiuse path along the south side of Route 250, which was illustrated in the master plan in the presented cross section. She said the proposed plan did provide for those proposed connections as well as the multiuse trail.

Ms. Nedostup said at the Planning Commission's work session, the Commission did recommend that the connection to Running Deer be an emergency-access-only connection due to concerns raised by residents and concerns about the adequacy of the rural road handling the traffic that would be generated by this development.

Ms. Nedostup said as noted in the staff report, however, a second full vehicular connection was required to meet VDOT's secondary street acceptance requirements. She said an exception to this requirement would need to be approved by VDOT, and that one had not been submitted, to date. She said staff recommended that the note on the concept plan be revised to allow for a second full connection to Running Deer Drive if VDOT required that connection. She said the applicant has since made that revision.

Ms. Nedostup said in addition to the land use recommendations within the Village of Rivanna Master Plan, there was a number of recommended transportation improvements, which were summarized on the slide and in the staff report. She said the master plan states that approval of any development by rezoning will be predicated on the completion of a number of transportation improvement, and that it is essential that all US-250 improvements be constructed before new development occurs in the village.

Ms. Nedostup presented the chart of the transportation recommendations in the master plan and the status as provided by the County's Transportation Planner, Mr. Kevin Dermott. She said a more detailed analysis and comments were provided starting on page 7 of the staff report, and further in Attachment A5. She said later in her presentation, she would discuss the transportation impacts of the

development.

Ms. Nedostup said there were also questions raised about the capacity of water and sewer for the area. She said the staff report noted that the Albemarle County Service Authority has stated that there were no capacity issues with this request. She said after these questions were raised, however, she did reach out to the ACSA for further clarification on the capacity, since the proposal was above the recommended density within the master plan.

Ms. Nedostup said the study for the capacity of the Glenmore Treatment Plant was completed and last revised in September of 2014, which included the density information from the master plan. She said ACSA stated that this study concluded that the plant has capacity to treat approximately 447,000 gallons per day and provided this additional statement: "With the additional proposed units for Breezy Hill and the current Village of Rivanna Master Plan, projected sewer flows would be approximately 400,000 gallons per day. The treatment plant will be able to adequately serve the current master plan and additional units for Breezy Hill."

Ms. Nedostup presented Sheet 3 from the concept plan document, Attachment D of the Transmittal Summary. She oriented the Board to Route 250 and Running Deer Drive. She said the proposal was for 160 residential units, which was above the recommendations in the master plan. She pointed out Blocks 1 and 2 on the plan, noting that these were proposed to allow both attached and detached single-family units. She said all of the other blocks were proposed as detached units only.

Ms. Nedostup said the proposal included 32 acres of greenspace, marked in striped hatched areas on the plan, along the perimeter of the properties. She said these acres include the environmental features of preserved slopes, floodplain, and the stream buffer. She said the greenspace will also include a proposed pocket park and trails.

Ms. Nedostup said the main entrance off of Route 250 was also included on the plan. She said the emergency access entrance, unless required to be a full connection by VDOT, connects to Running Deer Drive.

Ms. Nedostup said the plan also included a future vehicular or pedestrian connection to the west, as recommended in the master plan, and the multiuse path along Route 250 as well.

Ms. Nedostup presented the illustrative plan, which was Sheet 4 of the concept plan document. She said since this rezoning was to a conventional development (R4) and not a Planned District, the applicant has offered the plan to be proffered with nine major elements identified, including the vehicular connection point at Route 250 and the emergency access point at Running Deer Drive, unless a full connection is required by VDOT. She said another element was that the construction traffic would be prohibited from using the Running Deer Drive entrance.

Ms. Nedostup said the proffered elements also include future vehicular and/or pedestrian connection point to the west for Carroll Creek; road sections that were shown on Sheet 1 of the full concept document; approximate delineations between blocks and housing typologies assigned to each block; approximate trail, multiuse path, and pedestrian network locations and sections; approximate locations and size of the blocks, open space, stream buffer, and conservation areas; and a density limit of 1.9 units gross density, or a maximum of 160 lots, whichever is less.

Ms. Nedostup said she would transition into more detailed information on transportation. She said as stated earlier in the presentation, the master plan recommends a number of transportation improvements needed in this area and recommends that those improvements be completed prior to any rezoning's being approved.

Ms. Nedostup said the applicant submitted a Traffic Impact Analysis (TIA) and additional supplements as requested by the County Transportation Planner and VDOT staff during the review. She said this information was provided in Attachment A4. She said a detailed analysis by the Transportation Planner, Mr. McDermott, was provided in Attachment A5.

Ms. Nedostup said she would summarize some key findings from the TIA and Mr. McDermott's analysis. She said Mr. McDermott and a representative from VDOT, Mr. Adam Moore, were in attendance to assist with any transportation-related questions the Board may have.

Ms. Nedostup said the charts on the screen were also provided in the staff report and were included in the TIA. She said the top chart on the screen showed operations for overall intersection in the peak hours and the movements identified with failing levels of service. She said the scenarios were color-coded and showed significant changes between the no-build and build scenario with improvements. She said the column on the far right represented the proffered improvements, with green denoting positive change and orange denoting negative change with those improvements.

Ms. Nedostup said the bottom chart on the screen showed the average daily trips as well as the AM and PM peak hour trips. She said with the 160 units that would generate 1,602 trips per day on US-250, this equates to a 31% increase. She said west of US-250 from the Charlottesville city line to the Village of Rivanna is characterized by poor operations in the AM and PM peak hours, as documented in the submitted TIA and other studies.

Ms. Nedostup said the TIA focused on two intersections currently experiencing poor service: The

Route 250/Route 22 and the Route 250/Milton Road intersections. She said the applicant was offering two proffers to reduce the transportation impact from the development, which include signal upgrades to improve timing and coordination of those identified intersections at Route 22 and Milton Road, as well as \$500,000 to support transportation, transit, or school capital projects in this area.

Ms. Nedostup said Transportation staff have concluded that the proposed upgrades to the signals will result in no additional negative traffic impacts at the intersections of Route 250 and Route 22 and Milton Road. She said it was noted, however, that all of the recommended transportation improvements within the master plan have not been completed to date.

Ms. Nedostup presented a slide on affordable housing and schools. She said the applicant has offered a proffer that addressed the current housing policy of providing 15% affordable housing onsite or cash to be used for offsite affordable housing initiatives. She said support for providing cash for offsite affordable housing initiatives was given by the Planning Commission at their work session on this project last July. She said the applicant was offering to provide either 15% for-sale or rental units onsite or provide cash in-lieu of up to \$507,000 if units are not provided onsite.

Ms. Nedostup said the County's Housing Planner, Dr. Stacy Pethia, reviewed the proffers and had no concerns.

Ms. Nedostup said for the school impact analysis, she coordinated with Ms. Rosalyn Schmitt, Chief Operating Officer with Albemarle County Public Schools. She said the students within the proposed development would attend Stone Robinson Elementary, Burley Middle, and Monticello High Schools.

Ms. Nedostup said Ms. Schmitt has stated that Stone Robinson was projected to be at its building capacity by the 2021-22 school year, which would make accommodating additional student difficult. She said the long-range plan for schools that was completed in July of 2019 did not identify capacity conflicts at that time for Stone Robinson Elementary, but since the report was finalized, an additional 70 students were enrolled in the past school year, which was 60 more than anticipated.

Ms. Nedostup said Burley Middle had moderate capacity conflicts, with a high population growth forecast. She said Monticello High School had high-capacity conflicts and a high population growth forecast.

Ms. Nedostup said there were no identified projects within the Capital Improvement Program that would address capacity at Stone Robinson or Burley Middle. She said the High School Center II project, however, was identified and will help with capacity issues at Monticello High.

Ms. Nedostup said the applicant did not provide a breakdown of the number of unit types, and so staff was unable to provide an enrollment projection using the school's calculation, which usually includes multifamily or townhouse calculations. She said she performed a calculation based on the scenario of the 160 single-family detached units and indicated to the yield amount on the chart. She said this resulted in 24 elementary, 13 middle school, and 19 high school students for a total of 56.

Ms. Nedostup said the applicant has offered a cash proffer of \$500,000 for either transportation or school improvements to address the impacts of the development.

Ms. Nedostup said a number of revisions and changes were made since the Planning Commission meeting, in response to the unfavorable factors provided in the staff report. She said these were listed in the Transmittal Summary and were provided on the screen. She said in an effort to save time, she would not read through them all. She noted that with these changes, however, unfavorable factors 4 through 7 were addressed.

Ms. Nedostup presented a slide with the summary of the proffers offered by the applicant for the proposal. She said for Proffer #1, an additional major element to restrict the use of Running Deer Drive to construction traffic was added since the Planning Commission meeting. She said there were previously eight major elements and now, there were nine.

Ms. Nedostup said Proffer #2 discussed the transportation and transit proffer about the timing and coordination. She said Proffer #3 was the cash proffer for transportation and/or schools; that Proffer #4 talked about affordable housing; and that Proffer #5 talked about the cost index and established a method for the cash contribution to be adjusted annually. She said Proffer #6 was a counterpart proffer for clarification.

Ms. Nedostup presented the factors that staff determined to be favorable. She said she would not read every factor verbatim. She stated that the favorable factors include elements in the plan that align with the recommendations in the master plan, as well as with the affordable housing policy.

Ms. Nedostup presented an updated slide listing the unfavorable factors, including the elements that did not align with the master plan and Comprehensive Plan. She said the revisions the applicant made between the Planning Commission meeting and the present meeting have addressed Unfavorable Factors 4 through 7 that were in the staff report.

Ms. Nedostup noted that her Transmittal Summary did not reference Unfavorable Factor #6 as being addressed, which was the application plan not meeting VDOT's requirements, which was an oversight on her part. She said this had been addressed, as the applicant did provide the notation, and

also within Proffer #1.

Ms. Nedostup said the remaining unfavorable factors, however, included those elements that did not align with the Comprehensive Plan and master plan, most notably, the density recommendations and the transportation improvements.

Ms. Nedostup said the Planning Commission did recommend denial of the application.

Ms. Price said she had some questions she would ask quickly, as she knew that some of her constituents had been waiting several hours to speak. She asked if regarding the property to the west of Carroll Creek, there was not yet any application to develop it at that point. She asked if this were to be approved, the only secondary access that could be made available would basically be through Running Deer.

Ms. Nedostup said this was correct.

Ms. Price asked if the property to the west of Carroll Creek were developed, if it were possible that this could then be the secondary exit, rather than going through Running Deer.

Ms. Nedostup replied that she would have to defer this to Mr. Adam Moore, as this was a VDOT requirement.

Mr. Adam Moore said the short answer was yes. He said it depended on when the road plans for the proposal would be approved. He said if that connection was reasonable at that time, then it could be approved. He said with no plan in the process, however, it would not be a reasonable expectation to be able to make a connection there currently.

Ms. Price asked if the secondary access would have to come off of the different road, rather than having two coming off of Route 250.

Mr. Moore replied yes. He said it must be a second connection in a different direction.

Ms. Price said the biggest issue, to her, was the density aspect of the project. She asked Ms. Nedostup if she could return to this part of the presentation. She said according to the master plan for the Breezy Hill section, it was set up to be no more than 1 dwelling unit per acre, which would be 65-66 units. She asked if this request would basically be tripling that.

Ms. Nedostup replied yes.

Ms. Price said the last slide noted three things that had not yet been mitigated, which included the density, the transportation, on which she would ask Mr. Kamptner to answer a question, and the impacts on the roads and schools.

Ms. Price addressed Mr. Kamptner, prefacing her statement that she and he had had conversations on this, but that she wanted to make sure the constituents understood the language from the master plan that references the essentiality that the improvements on Route 250 be made before any future development is approved, per page 43 of the master plan. She asked Mr. Kamptner to address the legal aspect of that language.

Mr. Kamptner replied that this language likely reflected the condition of Route 250 East. He said the Board has seen comments that have been coming in for months, and that these have certainly picked up. He asked if Ms. Price needed further elaboration.

Ms. Price asked if Mr. Kamptner could further elaborate on the legal meaning of that language.

Mr. Kamptner replied that it was a trigger. He said the concern was that the Board not hang its hat solely on that trigger. He said they anticipate there will be plenty of comments from the public who can speak about the actual condition of Route 250 as it currently exists and about the traffic congestion from those who use the road right now. He said his recommendation would be that if the Board were concerned about traffic, it was fine that the master plan identifies a list of recommended improvements, but that the Board should not base its decision on that sole statement in the master plan.

Ms. Price addressed Ms. Nedostup and referenced the comparison between the 1 dwelling unit per acre density for Breezy Hill, versus the property to the west of Carroll Creek, at 3 dwelling units per acre, and to the west, the Village of Rivanna. She asked if this showed a transitional density of development as they get further to the east from the Village of Rivanna.

Ms. Nedostup replied yes.

Ms. Price said this was what the master plan referenced. She said she would have more questions later.

Ms. LaPisto-Kirtley asked Ms. Nedostup to return to the slide regarding unfavorable factors. She said they knew that transportation and the roads were a problem, but that she did not think they could stop development based on transportation improvements.

Ms. Nedostup replied that Mr. Kamptner had just addressed that question. She said because of the master plan language, however, the Board did have the ability to make the decision on whether or not the transportation improvements needed to be made prior to the rezoning.

Mr. Kamptner clarified that the Board could certainly consider the comments from citizens about the condition of Route 250.

Ms. LaPisto-Kirtley said she understood this. She said on the other hand, if the Board were to say that all the roads in Albemarle County had to be improved, they would not be approving any developments, which was her point. She said many people believe that until they make Route 250 a four-lane road, there cannot be any development, and that she did not think this assumption was correct. She asked if she was correct.

Mr. Kamptner said Ms. LaPisto-Kirtley was correct.

Ms. LaPisto-Kirtley acknowledged the density issue was a concern. She asked if the density of Rivanna Village was 3 units per acre.

Ms. Nedostup replied that she did not have the exact acreage, but that she could do some quick math. She said it was originally approved for 521 units in 2001, which came with an amendment to now have 400 units in 2013. She said she would need to do some math on the acreage.

Ms. LaPisto-Kirtley said that Rivanna Village, then, decreased the number of units that they wanted. She said what Breezy Hill was proposing was increasing the units that they want. She asked if they took what Rivanna Village was originally approved for, then took the 64 units that Breezy Hill could have, if this would still be under what was being proposed.

Ms. Nedostup replied that this would be about 30 more units than what would have been approved.

Ms. Palmer said the attachment with staff's analysis of the application read that the application's consistency with the Neighborhood Model Principles, respecting terrain and careful grading, and regrading terrain, preserved slopes, and stream buffers were shown outside the block area; however, a commitment had not been made that states that the lots will be located outside the preserved slopes and stream buffers, and that this principle had not been met. She asked if she were to believe, with the information being presented on the screen, that the applicant has now done this.

Ms. Nedostup replied yes. She said on the concept plan, the applicant did add a notation that the lots would not encroach into the stream buffer or preserved slopes, which addressed the concern.

Ms. McKeel said that since the time that the Planning Commission denied the application, the Factors Unfavorable 4, 5, 6, and 7 had been met. She asked if this was correct.

Ms. Nedostup replied yes.

Ms. McKeel said in terms of the issue around the stream buffers, she wanted to make sure there was not a problem with the project impacting stream buffers or preserved slopes.

Ms. Nedostup said this was correct. She said the applicant did add a notation that the lots and grading would be outside of those environmental features. She said they also added that no erosion and sediment control measures would be located within the stream buffers, and that two layers of erosion and sediment control measures would be provided where development abuts the stream buffer so that it would not intrude.

Ms. Mallek said she was very concerned about the distancing of the project from protecting Running Deer from becoming a secondary access for 1,000 cars per day. She said the residents have been there for decades, and she believed it was grievously unfair that it was left up to someone else to decide whether or not their lives will be changed dramatically. She said Running Deer Drive goes back to Route 250 as well and so in a way, it was two exits onto the same Route 250, but with one taking a loop around to pretend it was different, although it was not.

Ms. Mallek said this was a real problem for her because of the people who have lived there for a long time and have suffered through a lot of construction traffic for all the work that has gone on around them for many years. She said she hoped there would be a much more affirmative decision about what would happen with that before any approval was given.

Ms. Mallek said secondly, the Carroll Creek connection was a substantial stream crossing. She asked who gets to make decisions about this, if it was FEMA, or the Army Corps of Engineers. She said there have been some prices of \$5 million for bridges in Biscuit Run, and so she wondered who would be paying for the stream crossing in the future if this were to happen.

Ms. Mallek said the overall density was not tapering down the way it was expected in all the other master plan units that reduced to be more compatible with the Rural Area. She said she was therefore very concerned about the density as well.

Ms. Mallek said if anyone had anything to offer about the two questions she asked, she would

love to hear it.

Ms. Nedostup said she would have to defer to VDOT, as it was a VDOT decision for whether or not the connection would be emergency access or a full vehicular connection.

Mr. Moore said he could speak to this. He said the requirements for connectivity lay out certain criteria for where an exception could be approved. He said stream crossings would be one, but with the proximity of Running Deer Drive and its presence as a public road, he did not see the conditions currently to recommend approval of an exception. He said if Running Deer were a private road, this would be a different situation. He said with its proximity and how it meets the standard for a secondary connection, however, this would be his recommendation.

Ms. Mallek said the Board needed to face the facts that if this were approved, Running Deer Drive would be open to traffic of all sorts, except perhaps construction dump trucks, for this high-density neighborhood. She said it was not an "if," but that it would happen because Mr. Moore said that the exception was unlikely to be approved.

Ms. McKeel asked if this was what the Board was hearing.

Ms. Mallek said she was only trying to clarify.

Ms. McKeel said #10 said something that was different.

Ms. Mallek said that after construction, and if Mr. Moore's decision did not change, then there would be no exception granted for not using Running Deer Drive as a full secondary access.

Ms. LaPisto-Kirtley said the applicant did not have a choice. She asked if it was correct that there could not be two entrances onto Route 250.

Mr. Moore said this was correct. He said a second connection onto Route 250 would not meet the standard.

Ms. Mallek pointed out that at the other end of Running Deer Drive was Route 250.

Mr. Moore said this was true, but that another road heading east could be built someday from Running Deer. He said the intent was to build out a network.

Ms. LaPisto-Kirtley asked if a stub could be built out to Carroll Creek in anticipation for this being developed so that this could then be the connector road rather than Running Deer. She said Running Deer could be used for emergency access only.

Ms. Price said the plan actually showed this, but as was discussed, the purpose of her questions as well as Ms. Mallek's, and with Mr. Moore's comments, was that it was not likely to take place. She said if this were developed, it would come out on Running Deer. She said the property to the east of Running Deer runs into a conservation easement with Limestone Farm.

Ms. LaPisto-Kirtley said her point was that even if it were done by right, they would still have to have an exit onto Running Deer. She asked Mr. Moore if this was correct.

Mr. Moore said this was correct. She said any network of streets added at this parcel would require that second connection.

Ms. LaPisto-Kirtley said it did not matter what was built there.

Mr. Gallaway said he would hold his questions until after the applicant and the public had spoken. He invited the applicant to speak, informing them they had 10 minutes to do so.

Mr. Charlie Armstrong, Southern Development, said he was joined by Mr. Don Franco and Ms. Ammy George of Roudabush Gale & Associates, as well as Mr. Bill Wuensch of EPR.

Mr. Armstrong said since the Planning Commission meeting, the applicant has resolved many of the issues they and staff had with the proposal. He said staff still listed four favorable factors and now, only three unfavorable factors.

Mr. Armstrong said there was a housing crisis in Albemarle County, where the constricted supply drives prices up and drives people out for cheaper housing elsewhere, usually farther from Charlottesville. He said he had been developing in town for 15 years and believed that if they wanted to forestall the expansion of the growth areas in Charlottesville, they need to utilize the ones that they have, such as this one.

Mr. Armstrong said in August, Albemarle County published a draft housing policy, which listed Objective 1 as, "Increase the supply of housing to meet the diverse housing needs of all current and future Albemarle County residents." He said it continued, "The County must support the development of an additional 3,616 units in addition to what is already in the pipeline to fully accommodate projected housing growth through 2040." He said this was the big picture the applicant was looking at when considering density.

Mr. Armstrong stated that the applicant was not proposing dense development, but was proposing fewer than 2 units per acre, or 2.5 units per acre in net density if not giving credit for all the environmental features they were saving.

Mr. Armstrong said for the Breezy Hill area, Ms. Nedostup reviewed what the Comprehensive Plan had said about this. He said the applicant was proposing 1-2 units per acre and asked the Board to compare this with some of the projects they have recently seen.

Mr. Armstrong presented page 26 and 27 the Village of Rivanna Master Plan. He said this talked about densities that Ms. Nedostup pointed out, of 1 dwelling unit per acre, but also highlighted that this was a possible mixture of densities for the three areas, and that different densities and mixtures could take place in the future.

Mr. Armstrong said this was exactly what has been seen and what was brought up earlier. He said the Rivanna Village development was originally zoned for 521 units, and actually ended up in the final site plans that were submitted and approved for the development at even less than the density that they proposed when they came back and downzoned it. He said it ended up at 313 units, which was 208 fewer units than were anticipated when the Village of Rivanna Master Plan was adopted.

Mr. Armstrong said this gets to the total density that was called for on page 25 of the Village of Rivanna Master Plan, and that they still needed 500-600 newly zoned units. He said this was narrowing it down from the County's bigger picture to the region's big picture, and now down to the project's smaller picture.

Mr. Armstrong said on another page of the master plan, it calls for a density of 2 units per acre in an indicated location. He said the master plan has some conflicting densities. He said on page 35, it again mentioned a density of 2 units per acre.

Mr. Armstrong said the land use plan in the Village of Rivanna Master Plan showed that all of the applicant's proposed development features, such as road and pedestrian connectivity locations, park areas, and preservation areas, match the master plan precisely. He indicated on the master plan to the connection to Running Deer, noting that the plan showed the need for this connection. He said this has been a hot topic of discussion, and that the applicant had originally desired to make this connection emergency access only because this was what they heard that the neighbors wanted. He said this was the original proposal and as the Board saw, this was an unfavorable factor in staff's review and VDOT's determination, and so the applicant had to relent on that.

Mr. Armstrong said the next page of the Village of Rivanna Master Plan illustrated what 2 units per acre should look like. He said although this was not the applicant's architecture, the Board would notice that the example land plan from the master plan was exactly what the applicant was trying to do at Breezy Hill; preserve sensitive areas, woodlands, steep slopes, and creeks while developing on the highlands at less than 2 units per acre. He said this was taken directly from the master plan.

Mr. Armstrong said there had been some talk about Breezy Hill being right at the edge of the development area. He said while he would agree that it was to the eastern portion of the development area, it was not at the edge proper. He said the edge proper was Running Deer Drive, and so the only places where the applicant's infrastructure would touch the edge were at the road connection that the master plan wants.

Mr. Armstrong said the rest of the edge has existing Running Deer residences, and so that residential fabric would remain in place along that edge as it currently existed. He said the lots there range from about 0.6 acres to 2 acres in size, which were about the size as some of the lots the applicant was proposing.

Mr. Armstrong said the applicant was proposing to preserve a 9-acre lot on the knoll next to Glenmore, on the rear of the site, which would be restricted to only one residence.

Mr. Armstrong said this was an environmentally sensitive design, which preserves all preserved slopes, floodplain, stream buffers, and wetlands in the final site.

Mr. Armstrong said the applicant also had an extensive pedestrian network in addition to the road network that the master plan desires. He indicated on the plan to this network. He added that 38% of the site was being set aside as Green Space.

Mr. Armstrong said in terms of what this would look like from Route 250, this was important as it was a transition to the rural area to the east. He presented some renderings done by Design Develop Architects showing the existing roadway (Route 250), with Breezy Hill superimposed. He said the first slide shown included the area in Breezy Hill where the entrance off of Route 250 would be.

Mr. Armstrong presented other views from Route 250. He noted that the board fence existed now and would be replicated after the multiuse was built along Route 250, which was one of the Breezy Hill proffers.

Mr. Armstrong said a guardrail or some other separation between Route 250 and the path would likely be necessary and required by VDOT. He said the applicant would be consulting with VDOT at the

site plan engineering stages to make sure that this adequate safety measure is provided.

Mr. Armstrong said traffic was the hardest issue to resolve, but that the applicant felt strongly that they have done it. He said they had a plan that worked well.

Mr. Bill Wuensch, Transportation Engineer with EPR, PC in Charlottesville, said he did the traffic study work for this project and in doing so, he looked at a few different scenarios. He said one scenario was "future no-build" if the development were not to come in and how this traffic would perform. He said the second scenario was "future build," and that the third was the "mitigated scenario."

Mr. Wuensch said the mitigation was to upgrade the technology in the area using the latest state-of-the-art equipment, similar to what VDOT was using on Route 29. He said statewide and nationally, this was the best equipment, which allows for putting together solid coordination plans to keep traffic flowing through the intersections. He said national research demonstrates that by using this type of equipment, capacity can be increased, and traffic flows can be improved by 20%.

Mr. Wuensch said what was discovered was that by using this improved signalization equipment, a savings in travel time can be realized with the equipment and with the additional development, versus if the development did not occur and the new equipment was not installed. He indicated on the screen to the values for the average travel time per vehicle savings when looking at the major movements along Route 250 eastbound and westbound.

Mr. Wuensch said he also looked at delays in the corridor. He said the table the Board saw earlier in the presentation showed yellow and green values, but what was important to note was that the green values, where there was less delay, was for the major movements, eastbound and westbound, in the peak hours.

Mr. Wuensch said in looking at the bolded numbers "Total of All Movements" and "Vehicle Hours Saved," in the morning at Routes 250 and 22, nearly 10 hours of travel time is saved, spread across all the vehicles. He equated this to one car sitting and idling for 10 hours. He said in the PM, over 30 hours is saved, which was like one car idling for 30 hours. He said this was good for the environment and meant less greenhouse gases.

Mr. Gallaway notified the applicants that their allotted 10 minutes expired. He said when the Board asks questions, they do often ask the applicant to come back and if there are additional slides, the applicant would be able to use those to answer questions.

Ms. Price thanked Mr. Armstrong for his presentation and for reaching out to her previously to meet and go over the plan. She said she believed he developed very attractive plans, though she did have concerns that she would express, principally with regards to density. She said while she understood the analysis, she did not necessarily believe it was a correct comparison because the Village of Rivanna had to decrease their numbers, which were unrelated to the Breezy Hill development, that this necessarily meant that they needed to increase the total numbers.

Ms. Price said she appreciated the information Mr. Wuensch provided. She said she did recognize that improved signalization can have a dramatic impact as she has noticed on 29 North heading the airport, where there are times when she has been able to go straight through on green lights all the way through.

Ms. Price said she did see a major difference here, however, in comparison with 29 North, which was multiple lanes. She said here, they were talking about Route 250, which is a two-lane road. She said even though she does not live anywhere near this area, she has been caught on several occasions in horrific traffic on Route 250. She said if anything happens on I-64, the only other alternative route is Route 250, which is only a two-lane road.

Ms. Price said she would hold off on her remaining comments until later.

Ms. LaPisto-Kirtley said she would also hold her comments until later.

Ms. McKeel asked if it was legal for her to ask Mr. Armstrong and Mr. Wuensch to respond to Ms. Price's concerns. She said she was curious about what they would say about this.

Mr. Armstrong asked if Ms. McKeel was referring to the density allocations.

Ms. McKeel said yes.

Mr. Armstrong said he understood that it was a judgment call as to whether one considers what happened on another project nearby that was in the same master plan area and whether or not it was relevant to this project. He said he would not disagree and that this was simply a judgment call.

Mr. Armstrong said it was relevant to consider that the master plans were developed as part of the Comprehensive Planning process for the County as a whole, and so while considering total growth for the County, one must consider whether they are achieving the growth that was envisioned in each master planned area if they are going to achieve the total vision for the County. He asked if this helped to answer the question.

Ms. McKeel responded that her concern about the density was that if they constantly cut back on the densities they are building in the development areas and in the rural areas as well, to some degree, and if these are built out to a certain density, the County will have to expand at some point, though likely not in her lifetime. She said it seemed to her that the density that is built is important for the long-term growth plan. She said the County has plans and if they are constantly not meeting those plans, they are just setting themselves up in the future for trouble.

Ms. McKeel asked Mr. Wuensch if he could address the concerns about the signals not working. She said she understood that I-64 backs up, and that there is the same problem on Route 250 West. She asked if Mr. Wuensch could talk about Ms. Price's concern around the signals not working in that area.

Mr. Wuensch replied that the signal technology is used on two-lanes roads similar to this. He said they do have a signalization comparison he was going to present that showed a side-by-side comparison with and without the technology.

Ms. McKeel said she was a big fan of simulations.

Mr. Gallaway asked how long the simulation was.

Mr. Wuensch replied that it was about 45 seconds long.

Ms. McKeel said simulations worked very well when they were doing the workaround for the Rio and Hydraulic intersections.

Mr. Wuensch said his simulation may not be quite as elaborate as those, but that it did show a good point. He said the image on the left side of the screen was without improvements, acknowledging that the video was very much sped up and may need to be shown twice. He said the vehicle on the right was with improvements. He said the drivers were heading westbound and left the Milton Road signal. He said on the right, the vehicle made it through the Route 22 signal about 16 seconds faster.

Mr. Wuensch asked Mr. Armstrong to show the video again. He noted how the vehicle on the right was moving with less interference. He said these were at the same volumes and setup, but that the one on the right was highly optimized, which was what the equipment would do. He said this was a side-by-side comparison showing that in the morning peak hour, when the volumes are the highest and when the queues are long going westbound, the version on the right was showing less queues and more smoothly moving traffic through the signals.

Ms. McKeel said this was helpful.

Ms. Mallek said someone had represented that the 9-acre lot, Block 6, was never going to have more than one house on it. She said she believed it was also only accessed through Running Deer and had no connection to the rest of the development unless she misread the maps. She asked how this would actually be carried out in the future. She asked if an easement would be put on that property so that it prevents further subdivision.

Ms. Mallek said she asked because in the 30 years she has been watching this go on, people come back in a few years and ask to put 25 houses on a property, for instance. She said she would like to know the future really holds for that property.

Ms. Mallek said her second question was regarding the traffic improvements for the lights. She said she loved the lights improvements that she has been able to benefit from on Route 29 and going all the way from the airport to Barracks Road without stopping. She asked where the impact would happen on this proposal that was being made. She asked if it would go all the way to Free Bridge, or if it was only for the Shadwell exit light.

Mr. Armstrong said the single lot Ms. Mallek asked about will be preserved as one lot because this was the zoning. He said they have proffered this plan, and so the County would then control that through zoning. He said this was the way it was typically done, although he could see Ms. Mallek's concern, having watched the hearing for the last application and knowing that applicants sometimes come back and ask for different things. He said the Board's prerogative at that time would be to say no.

Mr. Armstrong said the world changes and that he did not know what would be appropriate in 50 years, but that the zoning was the zoning just like it was today. He said the applicant was there before the Board because the zoning did not allow what they were proposing to do currently, even though it was master planned for development.

Mr. Armstrong asked Ms. Mallek to remind him of her second question.

Ms. Mallek again asked where the impact of the traffic improvements would happen.

Mr. Armstrong replied the two signals that would be totally refurbished were at the Milton Road and Louisa Road intersections. He said there were no more signals until getting to I-64. He said by the time this project would be built, the I-64 diverging diamond improvement would be complete. He said this would be more than adequate to handle anything that could be thrown at it. He said it was quite a lot more capacity in the design that VDOT was going to build than what the master plan envisioned for the I-64 interchange, which had only talked about things such as dual left turn lanes.

Mr. Armstrong said the end of the applicant's improvements was those two signals but then, there was nothing to interfere with traffic between there and I-64.

Mr. Gallaway opened the public comment portion of the hearing.

Mr. Dennis Odinov, Glenmore resident, Scottsville District, said that in a recent County survey that year, 46% of residents responded that they believe that in 5 years, the quality of life will be worse through the traffic congestion attached to increased development. He said VDOT and the Thomas Jefferson District Planning Commission, in a traffic study performed in 2005, showed that Route 250 was operating beyond capacity during peak hours. He said in fact, it was termed a "Class F" road. He said that 10 years later, a TIA study commissioned by the applicants present that evening confirmed this.

Mr. Odinov said the applicant offered a proffered for traffic light synchronization, but that it was interesting that their own impact study, as noted on page 5, assumed that optimum traffic light operation was in existence for the study purposes.

Mr. Odinov said the master plan says it is essential that new developments do not occur until all the Route 250 improvements have been made. He said this was the view of more than 100 residents -- possibly 200 residents. He said he was chairman of the Village of Rivanna Community Advisory Committee at the time. He said they all participated in the process, and they thought it was essential that this be put in because it was greatly affecting their quality of life with respect to traffic at the time.

Mr. Odinov said he was referring to one-mile queues going from Shadwell up to Glenmore and beyond. He said if there was an accident on I-64, it created another problem. He said nine of these tie-ups occurred from October to December of 2019.

Mr. Odinov said the Planning Commission and the Board of Supervisors unanimously approved the community's master plan in 2010 and that in 2015, they unanimously improved the update.

Mr. Odinov said with regard to negative factors in the staff report and how they have been discussed, he urged the Board to keep in mind that all negative factors cannot be treated equally. He said traffic was of utmost importance.

Mr. Odinov said the community understood that the master plan was not law but also, that only the most compelling reasons should result in its dismissal.

Mr. Odinov said traffic has been growing each year not only from his area, but from commuters in neighboring counties, who come from Lake Monticello, Fluvanna, Gordonsville, and Keswick. He said the morning mess keeps getting worse, particularly during the start of school. He said there are parents turning left to go to Stone Robinson and parents turning right to come back. He said there are people from Lake Monticello coming up Milton Road and turning left. He said it is a total mess.

Mr. Odinov said the community knows that the Board cannot control road improvements but believe that they can ensure that a master plan prepared by residents and unanimously approved should be honored. He said to do otherwise would do more than destroy the master plan, and that a chilling message will be sent to every other development area with a master plan.

Mr. Gallaway noted there was some internet connectivity that went out that evening, and so speakers in these circumstances were trying to be diverted to call-ins so that they could still participate.

Ms. Eleanor Shaffrey asked the Board to add her name to countless citizens who cannot believe that this development was once again on the Board's agenda for another hearing. She asked how much longer the citizens who were impacted by this overcrowding of conditions on Route 250 would have to wait for some action on the subject.

Ms. Shaffrey said they chose to live in Glenmore because it offered so much, including a master plan that was supposed to protect the community from overdevelopment and a promise that Route 250 would be improved before any new developments were considered. She said it was totally unfair that the citizens had to go through this each time a developer applies for a building permit.

Ms. Shaffrey said with regard to the continuous congestion and traffic overflow, she would ask the Board members to put themselves in the place of a citizen who has a serious illness and after 6 months of a wait, has an appointment at UVA Health on Lee Street. She said the resident leaves one hour early for the appointment because of traffic on Route 250. She said coming out of Glenmore, the resident was greeted by traffic, which was backed up to I-64. She said 45 minutes, she has not made it to Shadwell Store, has no chance of keeping her appointment, and must go on a list to hope for a cancelation. She said if not, another 3-month wait would happen at the least.

Ms. Shaffrey said this was not a rare occurrence. She said stories like this were happening more and more. She said traffic was a nightmare, and more development was once again being considered. She urged the Board that until there was a solution to the abysmal traffic problem, to consider all the residents who were experiencing these dreadful traffic problems. She asked the Board to act with compassion and deny future requests for development until there is a positive action regarding the mounting traffic situations that have, at present time, no positive solutions.

Mr. Jay Stout said he and his wife recently moved to the area and apologized for adding two more cars to the traffic problem. He said after 25 years, they fled California to come to Charlottesville, for many reasons. He said a very important reason was the horrendous traffic congestion that happened as a result of little or no planning, lack of will, or lack of ability on the part of the responsible parties to do anything about it.

Mr. Stout asked that the Planning Commission's recommendation be adhered to, as well as the master plan, so that the community would not turn into another California-like traffic nightmare.

Ms. Cornelia Granbery, Glenmore resident, Scottsville District, said when she and her husband moved to the area in 2017, they never expected that the trip into town would turn into such a nightmare once they got onto Route 250. She said they have since learned that this road has been operating beyond capacity during peak hours for a number of years. She said this was exactly why the residents of the community, along with the County staff, who spent tireless efforts preparing the Village of Rivanna Master Plan, specifically stated the essential need for no new development until the necessary improvements are made to the highway. She said there was a good reason for this.

Ms. Granbery said in the short time since she and her husband have moved there, the traffic has become almost intolerable. She said it was to the point where they do not make any kind of appointments, attend meetings, or run errands before 10:00 a.m. or after 3:30 p.m. due to the traffic issues. She said they never know if they will arrive on time or an hour late, especially if there has been any kind of wreck or incident on Route 250 or I-64. She said Pantops becomes a virtual parking lot.

Ms. Granbery said this has become very stressful, to say the least. She said it has also become dangerous, as many drivers are becoming quite creative and reckless as they try to get around the traffic.

Ms. Granbery said the master plan was approved unanimously by the Board of Supervisors twice. She said the residents feel that the Board should respect their efforts and community by honoring the master plan.

Ms. Deborah Conway, Scottsville District, said she would limit her comments to her concerns about school crowding and its effect on the quality of education in the three schools that the community sends its children to. She said as staff noted earlier, the three schools were topped out at that point in time. She said the applicant did not break down the types of units in the Breezy Hill development and therefore, the estimate of 56 students may be inaccurate.

Ms. Conway said they saw that Stone Robinson expected 10 new students last year and got 70. She said given the already full schools, additional children pose challenges.

Ms. Conway said the \$500,000 for extra school buildings, faculty, and staff will not go very far to mitigate the impact of more students. She said the developer said the money would also be used for transportation. She said that, simply put, the proffer was inadequate.

Ms. Conway asked the Board not to approve the rezoning for Breezy Hill and thanked them for their careful consideration of the community's concerns.

Mr. Bill Anda said he has been a Keswick resident in the Scottsville District for almost 25 years. He said during this time, he has relied on Route 250, and so he was profoundly familiar with the traffic congestion and the danger associated with the eastbound and westbound traffic on this road. He said too much traffic promotes road rage and encourages people to take chances.

Mr. Anda said his wife was hit at the Peter Jefferson Parkway intersection at Route 250 East by a driver that was going almost 60 mph before he skidded 50 yards and hit her. He said the driver was racing in the right lane to beat the stoplight and get back onto Route 250 East. He said that night, he and his wife were lucky.

Mr. Anda said on Thursday, August 20, at 9:20 a.m., they were almost killed at Routes 250 and 22 by an 18-wheel fuel truck that was traveling so fast, the driver did not even try to slow down before merging off Route 22. He said he slammed on the brakes, or they would have been hit and forced into the eastbound Route 250 traffic. He said he immediately documented this experience with Ms. Price and traffic enforcement.

Mr. Anda said he hoped and prayed that they would not have to have a fatality before something constructive is done to manage traffic flow on Route 250.

Mr. Anda said at present, they were again debating Breezy Hill, but the real argument remained with the master plan that passed through the Planning Commission and Board of Supervisors, unanimously, no less, 10 years earlier. He said the core of the plan says that no new development shall take place until necessary improvements have been made to Route 250.

Mr. Anda added that years before the master plan was finalized, traffic studies rated the intersections of Route 250, Milton Road, and Route 22 as "Class F." He said people knew 15 years ago that there was too much traffic on Route 250, and here they were again as the Board of Supervisors, none of whom he believed relied on this roadway, would determine whether to approve the additional development that they previously committed to postponing, pending the improvements to Route 250.

Mr. Mark Fitzpatrick said he and his wife are Scottsville District residents and moved there 2.5 years ago after 40 years of living in Fairfax County in Northern Virginia. He said during that time, there was an explosive growth in traffic volume, the number of cars, road improvements, and other challenges.

Mr. Fitzpatrick said despite all of that, his experience with the Route 250 corridor was unique and unlike anything he has personally ever experienced in his prior years. He said the traffic in this corridor has impacted he and his wife in almost every aspect of their lives including getting to and from medical appointments, giving family members emergency medical care, and other commitments such as dining reservations, social activities, volunteer duties, shopping, recreation events, and performances.

Mr. Fitzpatrick said there was almost no aspect of their lives in terms of leaving their home or neighborhood that Route 250 doesn't and hasn't impacted. He said it has impacted their lives in the morning going both east and west, and in the afternoon both inbound and outbound. He said it has been impacted by the traffic issues on both eastbound and westbound I-64 but has also been as far east or west as the Route 20 improvements over I-64, which have backed up traffic. He said there have been times when the traffic has been backed up all the way to Pantops so that no amount of synchronization or double diamond changes to Route 250 will change the issue.

Mr. Fitzpatrick said in short, this corridor is highly vulnerable and susceptible to changing road conditions, weather conditions, traffic volume, and activity on the surrounding and feeding roads. He said this is during both rush hour and non-rush hour times, on the weekends, in the evenings, and is very unpredictable.

Mr. Fitzpatrick said that at best, it was premature to consider the application without associated road improvements. He thanked the Board for their difficult job, representation, and leadership in the community and County. He urged the Board to honor the efforts of prior County leaders and more than 100 residents who contributed to, approved, and reaffirmed the Rivanna Village Master Plan. He asked the Board to at least defer the application until the much-needed road improvements were in place.

Ms. Carolyn Grow said she has lived in the Scottsville District for 26 years. She said she has seen the traffic to and from Charlottesville steadily increase with each year. She said the traffic lights at Shadwell were problematic, as discussed earlier, but the traffic around the I-64 interchange becomes gridlocked when there is an accident at rush hour. She said this happens frequently and, as other people have mentioned, appointments become very difficult to gauge, in terms of getting there on time or an hour early.

Ms. Grow said the master plan foresaw these problems, which were already building when the plan was approved by the County in 2010. She said still, nothing has been done. She said there was a situation where traffic merges onto Route 250 from Lake Monticello, Gordonsville, Keswick, Glenmore, Rivanna Village, Shadwell Estates, and beyond. She said this two-lane road has been operating beyond capacity for many years.

Ms. Grow asked the Board to vote no to Breezy Hill and to help protect the community and master plan. She said the plan spoke for all the residents.

Ms. Meg Peters, Running Deer resident, Scottsville District, said she would not talk about traffic patterns or development issues, as her neighbors had covered them well and as she was no expert on those matters. She said she was an expert, however, on this part of Albemarle County. She said they are close to nature there and have wildlife. She said that evening, she saw a hummingbird outside her window, and that a few weeks earlier, a black bear walked up her driveway. She said deer live there in the forest, and tree frogs sing when it rains. She said residents can walk freely and safely there during the pandemic.

Ms. Peters said there are not many counties like Albemarle, and not many places such as what she described in the County. She said the ruralness of the place, and all the people and creatures who live there, make this precious pocket of Albemarle County the amazing place that it is. She said if they destroy this rural character, they will destroy this place, their home, forever and would force wildlife to find a new home or die.

Ms. Peters said she hoped the Board would not make this decision by numbers or revenue alone. She urged the Board to recognize how special this part of the County is, and to help protect and preserve it.

Ms. Ann Harrod, Scottsville District said she has lived in Glenmore for 24 years. She said she would speak to the traffic situation. She said they had already discussed the details at the famous intersection, and the result was that this intersection was a disorganized nightmare going westbound. She said this problem was happening not only in this region of Albemarle County, but everywhere.

Ms. Harrod said in Virginia Organization for Transportation, the state controls all ownership and decisions for roads, deriving from history of Harry Byrd in the 1920s. She said the County hardly applies any pressure and tends to take a backseat in stirring the pot. She said even though the County has no organization role in this governmental structure with Richmond, the County should apply informal pressure on the residents' behalf toward Richmond and VDOT, who accomplish better transportation decisions.

Ms. Harrod said that in the same process, the County should pull in the state General Assembly

representatives to play their role. She asked where Mr. Rob Bell was in this process. She said people in her neighborhood vote for him, but that she has never observed that he has taken any measures for them relative to transportation.

Ms. Harrod said US-250 is a combined federal and state-financed highway. She said the issue of transportation is larger than merely the Board of Supervisors. She said at the same time, however, the Board should not give allowance to fill in the geography with more people while the Board fails to stimulate Richmond and VDOT to make better decisions.

Ms. Lynda White, Scottsville District, said she and her husband are residents of Running Deer. She said while traffic issues for Breezy Hill are significant for everyone, for some, this development poses another problem. She said they are rural and that in the summer, they can barely see their neighbors' houses through the trees. She said this was the reason why they moved to the neighborhood from Charlottesville 37 years earlier. She said it is peaceful, quiet, and sparsely populated on their country road.

Ms. White said the Running Deer community long predates the village growth area. She said rezoning would impose on them an urban way of living that they purposely chose to avoid.

Ms. White said according the carefully looked at master plan, Breezy Hill was to be a transition area between Rivanna Village and Running Deer. She said its rural character is not supposed to change. She said to have a hard edge of dense housing abutting Running Deer Passing means that they are no longer rural.

Ms. White said having an additional 160 housing units dump on to Running Deer Drive is unconscionable. She said their road is not designed to handle that kind of traffic. She said it is not fully two lanes wide, there are no sidewalks, and the residents like it that way. She said dumping the extra traffic directly onto their road will endanger the children, walkers, runners, and wheelchair and bike riders who use the roads for play, exercise, and chatting with neighbors.

Ms. White said this rezoning request would erode the rural character that the residents have come to cherish over many decades. She asked the Board to deny the rezoning request. She said the residents do not want to be like Crozet or Pantops. She said the rural areas are, after all, just across the road from the growth areas.

Mr. Phillip Welsh, Running Deer resident, Scottsville District, said he had a speech prepared before he listened to all the comments that evening and had since rewritten it. He said 160 homes in Breezy Hill would devastate the Running Deer neighborhood. He said he just learned that evening that no matter how many homes are built in Breezy Hill, access to Running Deer would still be required. He said residents walk, run, and bike on Running Deer, and that they would no longer be able to do these things safely if additional traffic comes into their neighborhood from Breezy Hill. He said this would wreak havoc on their lifestyle.

Mr. Welsh said approving such a radical change to the master plan was a signal to citizens as to how easy it is for developers to trample it. He said this would compromise the trust residents have in County officials to protect them from things such as this.

Mr. Welsh asked why they would have a master plan if this was the message. He said the developers are not concerned how their proposal will affect traffic on Route 250, which was already a nightmare, how it would transform the area to something other than rural, or the pain it will cause Running Deer residents who have lived there for decades.

Mr. Welsh expressed shock at the number of 160 homes. He said if the homes were built according to the recommendations of the master plan, or if Route 250 were improved, as recommended by the master plan, then they would at least have significantly fewer cars coming into his neighborhood from Breezy Hill.

Mr. Welsh said the Planning Commissioners understood these concerns when they unanimously denied the proposal. He asked the Board to follow their lead.

Mr. Scott Gardiner said as his neighbors in Glenmore have stated, the traffic increase on Route 250 was a tremendous problem. He said even that day, despite the pandemic, he waited more than 5 minutes to turn from Kohr Brothers coming east on Route 250. He said the traffic was a nightmare, and that he was also very concerned about the reality that many of their emergency services were now coming from Pantops and the amount of traffic they will have to deal with to come out to Running Deer, Glenmore, and other neighborhoods in that area.

Mr. Gardiner said the master plan was a commitment from the Board of Supervisors to the citizens there, and that breaking this for Breezy Hill would be disrespectful to the citizens. He asked the Board to vote no on Breezy Hill.

Mr. Kevin Fitzpatrick, Scottsville District, said he and his wife have lived in Glenmore for the past 12 years. He thanked the Board for what they do, noting that it must be very difficult to balance the growth of the County against the infrastructure requirements to support that County growth.

Mr. Fitzpatrick said he and his family lived in Northern Virginia from 1983 to 1996 and watched

three Northern Virginia counties fail miserably at the growth-versus-infrastructure balancing act, with ever-worsening traffic. He said he remembered the date it became evident to them, in Spring 1984 in Burke, Virginia, when he and his wife left their house on a Saturday morning at 7:00 a.m. and ran into traffic a quarter mile from their house. He said this was gridlock and yet, development continued in the county there.

Mr. Fitzpatrick said after a few moves, they found their way to Albemarle County in 2008. He said it was beautiful here, and that it seemed like the County had a real plan, the Village of Rivanna Master Plan. He said the plan states, "It is essential that all US-250 improvements be constructed before new development occurs in the village." He said this offered some real hope. He said it was a written master plan for balanced growth. He said it was one deliberate reason why he chose to move there.

Mr. Fitzpatrick said skipping forward to 2020, he had some observations. He said prior to the pandemic, residents would post on Nextdoor Glenmore every morning that traffic was backed up to Glenmore Way. He said this was before the Breezy Hill development and planned density increase. He said it was not just Breezy Hill that would affect the Route 250 corridor, as increased development at Lake Monticello in Orange County will also impact the road. He said they all know that the railroad bridge will be the Route 250 bottleneck for the next decade.

Mr. Fitzpatrick said a gentleman earlier talked about how the savings from the traffic signal will save 10 hours across all the 5,000 cars. He said this turned out to be 36,000 seconds, or 7 seconds per car. He said when he leaves in the morning and it takes him 7 minutes to turn left to get onto Milton Road, it will now "only" take him 6 minutes and 53 seconds.

Mr. Fitzpatrick said it seemed clear to him that the master plan had it right, and that any changes to the density at Breezy Hill will just make the traffic worse. He said he understood that the master plan was not the law but hoped that it was not a ruse. He asked the Board to abide by the spirit and intent of the master plan, and reject the density increase at Breezy Hill. He encouraged them to work on the Route 250 improvements first.

Mr. Mark Schwartz, Scottsville District, said he echoed almost all the concerns of the people the Board heard from so far, and so he only had a few minor points to make. He thanked the Board for their hard work, noting that it was almost 10:00 p.m. and they were still there. He thanked Mr. Kevin Fitzpatrick for doing the math, adding that he himself came up with a somewhat smaller number, though it was in the same spirit. He said the proposed traffic improvements were very meaningless and at best, they would keep the status quo as it is, which was horrible. He said the simulations behind the numbers assume optimal conditions, and they know that in real life, they never have these optimal conditions.

Mr. Schwartz said his second point, and the more important one, was about trying to balance the guidelines in the master plan. He said his big question for the Board was what would happen to Area A and the rest of Area B if they approve this rezoning and override the Planning Commission recommendation. He said if the Board does this, his sense was that Area A and the residual part of Area B will suddenly be open for development as well, and that they will end up with a Route 250 that is dysfunctional at all hours of the day and not simply during the two rush hours.

Mr. Neil Means, Scottsville District, said he is a resident of the Village of Rivanna and has lived there since before it was a development area. He said he has been involved in many of the planning processes over the years, including the master planning and the Community Advisory Committee. He urged the Board to deny the Breezy Hill ZMA in accordance with the staff report.

Mr. Means said he was particularly concerned with the Route 250 improvements required by the master plan. He said adequate roads are part of the County's definition of a village development area. He said back in the 2000s, the County approved Rivanna Village and the expansions to Glenmore over the residents' objections about traffic before doing a master plan. He said then, they began master planning. He said then, they gave the residents the traffic study they had done with VDOT showing that Route 250 had been over capacity in 2005, before they approved Rivanna Village, etc.

Mr. Means said the road improvements required in the master plan were recommended by the County and VDOT in their study. He said the master plan was unanimously adopted by the Planning Commission and the Board of Supervisors. He said the language in the plan was approved by the County Attorney at the time.

Mr. Means reminded the Board that they are not required to approve ZMAs. He said if the Board wanted to debate the language in the master plan, this was not the time. He said they should respect the master plan and deny the ZMA.

Mr. Means said that evening, the applicant described a map in the master plan as saying that the Breezy Hill area should have a 2-unit-per-acre density. He said this was actually not true. He said the map states that it should have a density that is less than 2 units per acre.

Mr. John Roller said he was calling in support of the Breezy Hill project. He said his family lives east of the City, and that his business is in the McIntire Park area. He said they travel I-64 and Route 250/Richmond Road. He said they had to move farther away from town and the City because of the cost of available houses within town, and so they see this type of development as a good opportunity for more affordable housing instead of being priced out and have to move out more into rural parts of the County.

Ms. Dottie Martin, Scottsville District, said the Board had heard many things throughout the night, which she would not repeat. She said has been off and on the Village of Rivanna Community Advisory Committee for as long as it has been in existence. She said she was one of the original people who helped write the master plan, which took a long time.

Ms. Martin said the master plan is about five-eighths of an inch thick, which is probably about the same as all the other growth area master plans. She said there were two main points in their master plan: (1) no more building until Route 250 issues are resolved, and (2) no rezoning until Route 250 is resolved.

Ms. Martin said everyone complains about traffic no matter where they come from, but that she would give the Board a better idea of how the traffic has grown. She said they already heard that Route 250 on that side of town was rated as a "Class F" road in 2012. She said since that time, the housing population of Glenmore has doubled and Rivanna Village was under construction, which she believed would top out somewhere around 350-400 new homes. She said those two things were grandfathered in and were perfectly fine. She said now, Breezy Hill wants to add 160 more homes.

Ms. Martin said this road was probably rated a "Class Z" now if they go that low.

Ms. Martin said other people talked about the integrity of the master plan, and that the Board needed to decide, despite the fact that growth and houses are needed, whether or not houses are needed there.

Ms. Martin pointed out that the master plan was in place in 2010 when the Breezy Hill property was purchased. She said the applicant should have been aware of this, if they cared.

Ms. Martin thanked the Board for their difficult job and the time they put in.

Mr. Gallaway closed the public hearing and offered the applicant an opportunity to rebut.

Mr. Armstrong said he appreciated hearing from concerned neighbors. He said the applicant has heard from them throughout the process and that there have been a number of changes to the plans in hearing from them. He said the issue was clearly traffic.

Mr. Armstrong said the master plan is 43 pages and has a lot of guidance in it. He said the traffic sentence was one of the things in it. He said the applicant cannot widen Route 250 from Milton Road to town, and so the question was whether or not new residential development be disallowed in the Village of Rivanna, a development area, until all of those traffic improvements that were stated, including widening Route 250 all the way to town to four lanes, are complete, even if the developer finds a way to provide concurrent infrastructure, as the applicant has done here, and even after the I-64 interchange is fixed, which will be done before houses are built in Breezy Hill.

Mr. Armstrong said hearing from the concerned neighbors prompted a question in his mind: what if a sentence like this were added to the Crozet Master Plan, which was now being revised. He said it is the committee's hands in Crozet to work on now. He asked what would happen if it required four-laning of Route 250 West from Crozet to the City before any growth in Crozet could be approved. He asked what this would do to areas like Pantops, Rio-29, and the south side of town. He asked if one development area, in their master plan, essentially decide to make itself off limits until state-funded transportation improvements that are four miles long need to be completed. He said this was a consideration for the Board.

Mr. Armstrong reiterated that the applicant hears the residents' concerns about traffic. He said they stopped working on Breezy Hill for over a year, only working on traffic solutions until they came up with what they had now, which were road improvements, signalization changes, and the rehabbing of all the technology and signals to synchronize them. He said these improvements make traffic on Route 250, between Breezy Hill and town, better after Breezy Hill than it presently was. He said the applicant stopped until they felt like they had come up with a plan that provided concurrency of infrastructure so that their project would not make traffic worse. He said they were actually making traffic a little better.

Mr. Armstrong said that unfortunately, they cannot find a way to do larger transportation improvements than this with their single project. He said they agree that they are needed and hoped the state would find money to do them.

Mr. Armstrong said he and his traffic engineer were happy to answer questions as the Board deliberates.

Ms. Price thanked the constituents for their comments. She said she was impressed with the way they have handled so many things that have come up before the County. She said she also felt fortunate that night that, by luck of the draw, she happened to be first to make comments. She said she would try to be as thorough as she could to try to avoid an additional comment cycle.

Ms. Price said she would address three concerns she had with the proposal: density, transportation, and impacts.

Ms. Price said with regard to density, she agreed with Ms. McKeel that the County must build out to density in their development areas and if they don't, they will run out of development area faster and have to move into the rural area before they want to.

Ms. Price said she believed there was a false comparison, however, to the reduction of density in the Village of Rivanna, which would then justify an increase in the density in Breezy Hill. She said she often uses the bell curve when she tries to describe things. She said in thinking about the bell curve, where the height of density is the Village of Rivanna and moving out to the property east of Village of Rivanna and west of Carroll Creek, there is lower density. She said getting to Breezy Hill, there is lower density still. She said if they take that density from the Village of Rivanna and move it out to Breezy Hill, they are unfairly and inappropriately impacting a different area, the Running Deer neighborhood.

Ms. Price said as was heard that evening, it was now apparent that unlike other developments where there is an emergency exit as a secondary exit out of the development, VDOT is apparently going to require that there must be a second exit out of whatever is developed in Breezy Hill, once additional roads are put in, and that this will be through Running Deer. She said it is not going to go over Carroll Creek, as discussed earlier in the presentation, as there are no development plans currently before the Board for that area west of Carroll Creek and because, as Ms. Palmer mentioned, the cost of building a bridge over a wetland area will be substantially more expensive than doing so at the nearest access point at Running Deer.

Ms. Price said thus, whenever Breezy Hill is developed at whatever density it will have, there will be a secondary access coming out through Running Deer. She said to go from 65 units to 190 units is a dramatic impact on the quality of life of the residents of Running Deer.

Ms. Price said in terms of density and the impact on Running Deer residents, and the total change to their quality of life, she could not support the application.

Ms. Price said the next issue was transportation, and that Mr. Armstrong cut to the chase in his comments a moment ago when he said that the applicant cannot widen Route 250. She said this was something she has been hearing from County staff for a while based on some constraints, conservation easements, and the like. She said they are severely restricted on any opportunity to widen Route 250 east of Milton, which goes past Glenmore, Village of Rivanna, and Running Deer.

Ms. Price said if they cannot expand the size of the road, then they do have constraints based solely upon it being a two-lane road without regard to the technical improvements, such as improved signalization. She said she did believe that improved signalization can help the traffic flow, but not matter how much they improve the signalization, a two-lane road simply cannot carry a capacity beyond a certain number of vehicles. She said for this development itself, it was stated that it would increase the traffic on Route 250 by 31% at that one area.

Ms. Price said if they cannot widen Route 250 from Running Deer to Milton, there is the railroad bridge, and noted that every time she drives over it, she shakes her head, thinking that this was reconstructed and limited to the size that it was, which will constrain traffic. She said what the County was potentially facing was the inability to approve additional development east of Milton Road because they cannot improve the traffic flow and meet the master plan, where it is essential that Route 250 is improved before they approve more development.

Ms. Price said she recognized, as Mr. Kamptner expressed and was asked to again state, as he has on other occasions, that this was not by itself a dealbreaker, but is one factor that she takes into consideration.

Ms. Price said she recognized that there were some apparent inconsistencies or interpretations that can be made from the master plan, but that she believed the master plan was very clear.

Ms. Price said the third area she wanted to discuss was impacts. She said what she did not believe had been adequately addressed was the impact on the schools, as well as on the transportation. She said she would not spend much more time there, but when she puts the issues of density, transportation, and the impacts together, she simply cannot support an application that would increase the dwelling units per acre from 1 per acre, as the master plan currently exists, up to basically three times that number.

Ms. Price said for her, the final analysis was that in order to maintain the constituents' confidence in government with an area where, in 2005, Route 250 was rated as substandard and where in 2010 and 2015, the master plan was approved, she could not vote to approve this particular application. She said after the discussion was complete, she would be prepared to offer a motion to disapprove the application.

Ms. LaPisto-Kirtley said she, too, was concerned about the traffic along Route 250, but that she also recognized the fact that this was not a dealbreaker because otherwise, there would be no development going through there.

Ms. LaPisto-Kirtley said she understood that the applicant could develop 64 homes by right, although the applicant was proposing 160. She asked if this was correct.

Mr. Armstrong replied that it was. He said he did not know that the by-right units were 64, but that this was what the master planned called for, in some cases.

Ms. LaPisto-Kirtley said the applicant was proposing more than what they could build by right. She said this was also in an interesting area, as it was basically the last development going east in the

Rivanna area. She said as the County looks to make sure they have enough housing and affordable housing throughout Albemarle County, she has to protect the rural areas. She said they will be going into the rural areas unless they do their development in the development areas.

Ms. LaPisto-Kirtley said the subject property was a development area, but that she did not like the 160-unit total. She said the applicant did have by-right development rights, however. She said she knew that residents in the Scottsville area and Glenmore do not want any buildings whatsoever, but that this was not realistic. She said she believed there needed to be a fair share of building.

Ms. LaPisto-Kirtley said with this, she tended to be in favor of the proposal. She said she liked the idea of the types of homes the applicant was putting in, which she believed fit very well with the character of the rural area. She said she was concerned, however, regarding the density. She said she was concerned about the traffic, but that this would need to be dealt with on a bigger scale with the state.

Ms. Palmer said she had a couple questions for Ms. Nedostup, as there was something she was still confused about on the density issue. She said she applicant talked about all the different densities that are referenced in the master plan. She asked Ms. Nedostup if she could clarify and tell the Board what density the master plan actually supports, using net density. She said she gets confused when talking about net and gross density.

Ms. Nedostup said she would start with the net density question. She said net density is the area calculated outside of environmental features, such as stream buffers, floodplain, and critical preserved slopes.

Ms. Nedostup said as far as the question about what the master plan calls for, as Mr. Armstrong mentioned, there is conflicting information in the Village of Rivanna Master Plan, which was why staff took this question to the Planning Commission to get their interpretation on what the Master Plan says and what this should be. She said the result of that work session was that the Planning Commission recommended that it be the chart that she showed earlier for Area B at 1 dwelling unit per acre.

Ms. Palmer asked what the total number of houses in the whole development would be, according to the master plan.

Ms. Nedostup replied that it would be 65 or 66 units.

Ms. Palmer said if the Board decided to more than double the density in this, typically in the past, what she has seen is that they get a lot of amenities for the people living there. She said sidewalks are expected, as well as protection of environmental features. She asked Ms. Nedostup if she could provide an example of another development where the County has increased the density of this kind of amount, 2.5 times, and what has been brought to the table in the past.

Ms. Nedostup replied that the most recent example she could think of was River's Edge proposal that just came before the Board within the last couple months, on 29 North. She said the application was double the recommended density of the master plan, and that there were similar amenities provided in that application that were being provided in the Breezy Hill application as far as having an area for a pocket park or playground area, trails, and open space along the environmental features. She said this was the most recent example she could give that doubled the density.

Ms. Palmer pointed out that this was a much smaller area.

Ms. Nedostup said she did not know the acreage off the top of her head, but that she did believe it was smaller than the acreage at Breezy Hill.

Ms. Palmer asked if the Board approved 60 houses, these would also require a connection that would most likely go through Running Deer. She asked if this would make a difference at all in the way that this gets approved.

Ms. Nedostup replied that her understanding, from the way Mr. Moore answered the question, was that the connection would still need to be made, even with the reduced number of units.

Ms. Palmer said just before the Board heard the Breezy Hill application, they actually voted to reduce the density on a very small piece of property, 80 units on 7.2 acres. She said this comparison was extraordinary for the amount of concrete that was going in on that one.

Ms. Palmer theorized that if this met the master plan, the Board would probably be approving this, even though it would be going through Running Deer, given what she had heard.

Ms. McKeel said it seemed like the Board members were making comments and asking questions, and so she would make some comments, as she did not have many questions at that point.

Ms. McKeel said in general, in the last two years on the Board of Supervisors, she felt like at times, she lived in different worlds. She said she lived in the world where she goes to the affordable housing partnership meetings where they talk about needing not only affordable housing, but housing in general because of all of the people that are being forced out of Albemarle County because they perhaps cannot find a house there.

Ms. McKeel said she then comes to meetings like this one where she has the opportunity to support what they talk about with the staff and the lack of housing and affordability, but they do not support it. She said she felt like she was in silos, at times. She said she was not sure she truly understood this disconnect or dichotomy.

Ms. McKeel said the Planning Commission certainly did not support this original application before their concerns have now been resolved. She said she would say that this was a success and that the process worked. She said it did not mean that the Board of Supervisors had to support the denial by the Planning Commission. She said the process was that the Commission gave their opinion, and the process worked so that they are now in a better situation with the unfavorable and favorable points made by staff.

Ms. McKeel said if they did not expand to the densities in the growth area, then they would challenge what she thinks of as good land use policy on not expanding the growth area. She said the County must build out the densities in the growth area.

Ms. McKeel said she looked at the environmental aspects and that the proposal checks those off. She said green space is checked off, as well as the multiuse paths that the Board is always talking about with other developments.

Ms. McKeel said she was very impressed by the traffic signal upgrades. She said they work in other areas and that she has been trying to get them in a couple of the urban ring areas. She said she believed the signal upgrade would make a huge difference.

Ms. McKeel said the truth of the matter was that Route 250, East or West, was not going to be widened. She said she would be dead before people in these areas along those roads are even going to want those roads widened. She said if the County said tomorrow they would widen Route 250 East, she did not think it would be met with anticipation and excitement.

Ms. McKeel said while she had some concerns on balance, this application checked off many of her desires. She said for her, what they do not talk about often is that affordable housing and certain types of housing are only currently approved in a specific part of the County. She said they are centralized in parts of the Rio District and the Jouett District. She said she believed they should spread out throughout the County different types of housing and offer people who need affordable housing the opportunity to live in other areas. She said the County was not doing that. She said the lack of affordable housing units in the country was a problem that was manmade that only people can solve.

Ms. Mallek said she had one question because she wanted to make sure she understood correctly. She said she believed she heard Ms. Nedostup answer Ms. Palmer's question that if the 66-67 by right lots were built, the mandatory connection to Running Deer would not be needed. She asked if this was correct.

Ms. Nedostup replied that this was incorrect. She said the connection would be needed, per Mr. Moore. She clarified that she was not sure if the 65 units would be the by right number, and that she would imagine it would be less than that.

Mr. Kamptner said he believed the 65 or 66 units was the density recommended in the master plan. He said he did not think there had been a determination, at least that he was aware of, as to the number of development rights on these 8 parcels. He said it was currently zoned RA.

Ms. Mallek said at the very least, if one were trying to understand the difference in impact, the by right at maximum would be 600 cars per day, whereas if the rezoning were passed, there could be as many as 1,000 to 1,600 cars per day going through Running Deer on an area where it is too narrow of a road to even have a stripe on it. She said this was a real concern to her.

Ms. Mallek said as far as the stories of the residents of the neighborhood where the traffic currently exists, the County has received photographs over the last several years showing the view out residents' windshields, noting that they had been sitting in the same place for 30 minutes. She said this happens all the time.

Ms. Mallek said she understood the concerns about the fact that they cannot build their way out of this by making the road wider because it would fill up just as fast. She said Northern Virginia figured this out with Route 66.

Ms. Mallek said this was a real dilemma, but the current residents have rights, too, and have already made a major investment of their lives in their homes. She said many of them have lived there for decades. She said she was not able to throw them under the bus by saying they have to put up with 1,000 cars going down your street every single day, because this would totally erase the quality of life that they went there for or had. She said there must be a more moderate way to solve these problems on a more global scale.

Ms. Mallek said there was a complete refusal to put an easement on Block 6, and that she believed there was no other way to determine that they won't have another 30-50 houses on that sometime in the future without it.

Ms. Mallek said she did understand that there was a real tension between all the different and

complex issues the County deals with, such as the sizes and prices of houses. She said there were many different avenues the County has to take, however, to work incrementally on all those different issues.

Ms. Mallek said there have been about 500 houses built of all different sizes on the east side of Crozet in the last four years. She said there are 126, plus 196, apartments under construction in Central Crozet, and a great support for a third project that was recently approved that is only a few units, but is a great example of small, affordable houses on tiny lots. She said it took them years to get to the point where they had a method to be able to get tiny lots to be able to get used.

Ms. Mallek said there was tremendous support for those things, and that people all across the County were very concerned about preserving the affordable housing they have for anyone to live in, rather than having things dramatically change. She acknowledged that this was slightly off topic.

Ms. Mallek said every budget year, there is the understanding that when there are 15,000 more people, which they had now, compared to when she began on the Board, no one provides the tax revenue to educate children by themselves. She said the overall cost is always going up the higher the population is. She said this did not mean they were going to be paving over the countryside, as she believed this was a false choice.

Ms. Mallek said they have plenty of ways to do this and looking at the number of units (700-800) that were already coming in at North Pointe, and an equal number at Brookhill, there were lots of units in the pipeline of all different sizes. She said the Board needed to make sure they were thinking about all these different aspects as they go along.

Ms. Mallek said that for her, VDOT's requirement that Running Deer must be used for this 160-unit project was more than she thought was reasonable to expect that neighborhood to suffer through and thus, she would have to vote no.

Mr. Gallaway said he had a few remaining factors. He addressed Mr. Kamptner and referenced the factors favorable, which included the affordable housing proffer that was either \$507,000, the construction of 24 affordable units, or an adjusted combination of those outcomes. He asked who determines which of those would actually happen.

Mr. Kamptner replied that it would depend on the wording of the proffer, and that he would pull it up.

Mr. Gallaway said while Mr. Kamptner was looking this up, he would presume that the 24 affordable units meant that they were on market and if they do not sell, they turn into market rate.

Mr. Kamptner said this was correct.

Mr. Gallaway said this was an important point for him because when they talk about having affordable units beyond the transportation issues that have been there, there is no transit out there. He said if they are going to have a proffer for people who are trying to get into affordable units who may rely on some other mode of transit, it may not be doable. He said in that case, the cash proffer may have more of an impact in tackling the affordable housing issue. He said he believed he read somewhere how they arrived at the \$507,000, but that it was an important detail to understand who decides the "or" on that one.

Mr. Kamptner stated that in this proffer, it was at the option of the owner.

Mr. Gallaway said this was interesting to him. He said they could take their gamble to list the units and then go from a market rate because even if they do not sell, they still count towards the bonus. He said he read that if they put 24 units up and they do not sell at the affordable rate, they can then be sold at the market rate with those 24 units still counting towards the bonus.

Mr. Kamptner said this was correct.

Mr. Gallaway compared this to the \$507,000 that could be placed as part of a couple million dollars into a housing fund. He addressed the Supervisors, explaining that they all tend to think about the density bonuses they give out for affordable units as if they will be permanent, but they have to come online and if they do not, this is a problem because the Board thinks they are getting affordable units when they are not. He said if the money goes somewhere where they can use the money to attack the affordable housing issue, it is something where that "or" may need to be discussed. He asked Mr. Kamptner what kind of ability the Board had to debate or discuss this.

Mr. Kamptner said that although the Board could not require it, the applicant would have the opportunity to propose an amendment to the proffer.

Mr. Gallaway said his hope would be that the applicant would put those 24 units online and that this would work as it was supposed to. He said the Regional Housing Partnership was bringing together tools with many partners to get a website together to help fill those homes with people who are looking for those affordable units. He said at some point, however, there has to be a commitment or a developer who is ready to stand up and say that they will wait 180 days and ensure there is enough time to fill those affordable units.

Mr. Gallaway said to him, this seemed to be a bold measure like the Planning Commission called for in their statements when the affordable housing draft came in front of them. He asked Mr. Armstrong if he had a reaction to this.

Mr. Armstrong said the applicant thought a lot about this proffer because the County's preferences on the matter have changed over the last decade or so and gone back and forth. He said in the past, there had been a strong preference from the County's Housing Office that the units be proffered onsite. He said this was not as strong a preference by staff any longer because it has been difficult to make this work in some cases, adding that this could be one of those cases.

Mr. Armstrong said the applicant would be happy to do either; to build them onsite, or to only proffer the money that could be used where it would be more effective.

Mr. Armstrong said the problem with proffering the affordable housing onsite only is that there needs to be some horizon within which if no one can identify a buyer for the house at the affordable rate, something has to happen with it because it cannot sit. He said currently, the way they have it worded is "180 days from completion." He said it would have to sit and wait while the County, the applicant, and nonprofits try to identify potential buyers. He said he believed this was a reasonable amount of time but beyond this, things start to happen inside a house when no one is living in it. He noted it is also not good for the neighborhood, nor the structure itself.

Mr. Armstrong said if it were the Board's preference, the applicant would be happy to strike the onsite portion of the proffer and only proffer the cash, as he knew there were places that could be put to use by the County or nonprofits. He said the developer has done this on other projects and it worked well. He said on the other hand, they were also happy to try to build the units onsite, but that they could not have an indefinite timeline on those.

Mr. Armstrong said cash may be preferable, although he did not know if that was the Board's will, as a whole.

Mr. Gallaway said he did not know the answer to that. He said he was asking about what kinds of efforts the developer goes through to help fill those homes and make sure they are received by affordable housing buyers.

Mr. Armstrong said the biggest effort was to price them at the affordable price range, and that those are hard to find. He said he would expect that they would sell onsite at the affordable price. He said there are also nonprofit down payment assistance programs that can be leveraged. He said the applicant did not have the infrastructure to identify buyers. He said they have worked with agencies like PHA (Piedmont Housing Alliance) to do that successfully in the past. He said they did this with a community in the City of Charlottesville where PHA identified some buyers. He said the price was really the biggest thing and attracts the people who need housing in that range.

Mr. Gallaway said he believed they could all agree that the onsite units were not just about the affordability for the person buying it but were also about the mix in the neighborhood so that there are not isolated enclaves, like Ms. McKeel spoke to earlier. He said it was also a County-wide issue about whether they were getting the right bang for their buck for a proffer when this type of density is being allowed.

Mr. Gallaway said he hoped Mr. Armstrong had been paying attention to the Regional Housing Partnership and the private nonprofit and government entities all involved there. He said while he understood Mr. Armstrong's point about pricing, there may be other things private developers could be doing to help fill those units with the people they are targeted to.

Mr. Gallaway said he had questions about transportation and addressed Mr. McDermott. He said in this area, there were solutions going in at the intersection of I-64 and Route 250, and that there was a solution going in farther down, at the bottom of Pantops. He asked if those were projects that were coming to fruition.

Mr. McDermott replied yes. He said those were two funded projects, and the County also submitted one to do the access management throughout the Pantops area on Route 250.

Mr. Gallaway asked if this were akin to what the applicant was proffering for the lights they were talking about.

Mr. McDermott replied no. He said this was for access management throughout Route 250 from Stony Point Road up to the top of Pantops. He said this had been submitted for Smart Scale that year.

Mr. Gallaway said points were made about the master plan and about Route 250 not being able to be widened. He said if this were the solution everyone was talking about in the master plan but was an impossible solution, it could not be the critical point in the master plan. He said if this were the case, the master plan needed to be changed. He said they cannot put in a project that is impossible and then say the project must happen in order for other things to happen.

Mr. Gallaway said this was a difficult decision for him. He said he had his own project in the Rio District where the density was going from R4 to a higher density, with the same traffic and transportation issues the Board has heard with many other projects that have come forward. He said it was really more

about the timing, however. He said many of the people who spoke out against the project spoke about the Rio Corridor Study and getting a plan and solutions in place so that it could support that density.

Mr. Gallaway said when he looked at the Breezy Hill project, he did see solutions coming for that corridor. He said there may be people who have their thoughts about diverging diamonds, but this was a solution that he believed would offer some relief there due to the way it will not have to stop traffic to accommodate all the crosses that happen at that intersection.

Mr. Gallaway said from what he was hearing, adding that he does commute out to Pantops, gets on I-64, and heads east every day, and so he understood what was going on at Pantops in the morning and afternoon, the solutions that have been funded that the Board has been working on for years, even prior to his own coming on the Board, have identified it as a high transportation priority. He said the state has recognized it as such, and the solutions have been funded and will be put in place.

Mr. Gallaway said the only other things he supposed could happen would be the coordination and signal timing. He asked Mr. McDermott how far this would go out on Route 250 East, and if the signal timing was currently in place there.

Mr. McDermott replied that there was some signal timing, and that there was some sort of adaptive single control that was put in place at Pantops, but that he didn't think it had worked out quite like VDOT had wanted it to. He said it was not the same system that was on Route 29 North and was not really working out.

Mr. McDermott said what the developer was proposing was actually doing the only two signals that occur after one goes past the future diverging diamond.

Mr. Gallaway asked if those two signals were doing this, if there were also the solutions put in place that were major construction projects, and if they also got that same type of solution on the signals going over Pantops, he would think that this would also be part of solving the problem there. He said beyond that, he did not know what other projects would be coming forward. He said there were other major traffic areas and transportation areas that the Board would be trying to find funding for and putting forward Smart Scale applications for in other parts of the County.

Mr. Gallaway said it seemed to him that while he certainly appreciated the fact that there were poor operations in the area, adding that this was an understatement, there were at least solutions coming forward that were helping to address this and were on the horizon. He said he would imagine that the diverging diamond would have started, had it not been for COVID-19. He said he thought this was supposed to start that summer, and summer was practically over. He said he presumed it was delayed due to the pandemic. He said this project must be breaking ground at some point, and asked Mr. McDermott if he had an update.

Mr. McDermott replied that he did not have the exact time for this. He said he did not think it was delayed, but that it was perhaps supposed to start in early 2021. He said there was a package that was all approved together, and that this was one project that was midway through the package. He said they were coming up close on it, however.

Mr. Gallaway said he must have been remembering an old update for summer. He said while he recognized the traffic issues in the area, beyond the solutions that the County had in place that were scheduled and funded for it, and because he has never heard this Board not support the signalization coordination in the County, he would imagine that if there were some piece of that missing, they would be willing to put that in play to help the situation.

Mr. Gallaway said otherwise, he did not know what other solution could come, aside from a widening that seemed impossible. He said while he understood the frustration with the transportation, in order to make a land use decision and with knowing what the County had in place for solutions, he was leaning towards supporting the project.

Ms. Price said she had additional comments to make, adding that she appreciated all the comments from all the Supervisors, staff, and Mr. Armstrong. She said she had to go back to two things. She said the first thing was that the density was supposed to be in the Village of Rivanna and not in Breezy Hill. She said they were literally turning this upside down by going more than twice the density in Breezy Hill that the master plan contemplates.

Ms. Price prefaced her second point by acknowledging that hers was a very unscientific analysis, but while this meeting was going on, she pulled up her laptop and tried to do a count of the residents on Running Deer, back into that development. She said this project would basically double the capacity on the road that, as one of the constituents mentioned, is not even a full double-width road to begin with.

Ms. Price said none of the residents in Running Deer will get any of the benefits out of Breezy Hill, but every resident in Breezy Hill will get the benefit out of crowding the Running Deer development, which should not happen. She said the density is supposed to be higher at the Village of Rivanna, a little less when going west of Carroll Creek, less in Breezy Hill, and then to Running Deer, where it is supposed to stop. She said she simply could not vote to approve the application, based upon the adverse impact from the change in density there.

Ms. LaPisto-Kirtley said she understood the point regarding Running Deer (Route 808), which

was a public road. She said she was not sure of the width, and perhaps Mr. McDermott or Mr. Moore knew this.

Mr. McDermott replied that the width was approximately 18 feet. He said he had not measured it specifically, but he had looked at it before.

Ms. LaPisto-Kirtley said knowing this, she could not imagine that the people coming out of Breezy Hill would want to go this way, as they would probably want to come off Route 250, where they will have a nice entrance and exit. She said if they were to go down Running Deer, they would have to turn left or right on Route 250 anyway, which was the same thing they would be doing if they came out onto Route 250 directly.

Ms. LaPisto-Kirtley said she did not think they can punish the developer because they have to go onto Running Deer. She said they didn't want to do this and had only wanted it as an emergency access. She said it was VDOT that was stating that they had to have a regular road going out there, which was actually penalizing the developer. She said perhaps VDOT had plans to make Running Deer a better road, although she believed they probably did not. She said it was putting the applicant in a difficult situation because it was not their choice. She said it was VDOT's choice. She said perhaps they would also consider the density.

Ms. Palmer said with respect to expanding the development area if they do not get enough houses, they do not have much green space left, but there are many areas for redevelopment. She said she therefore could not agree with that notion. She said she did agree with Ms. McKeel that they would likely both be deceased before they had to expand the development area, and so she hoped that future Boards would make the redevelopment they need happen in some of the older corridors.

Ms. Palmer said with respect to affordable housing, there was a lot of affordable housing that went into her district in recent times, which was close to town and to transportation. She said she would agree with Mr. Gallaway when he spoke about the need to understand how the affordable housing was approached. She said she did agree with his comments about the fear of having the affordable housing out there and not keeping it affordable.

Ms. Palmer said she asked in the past for understanding around what other developments have given the County with respect to dealing with impacts when there is this kind of increase in density. She said with that, she had to agree with Ms. Price that, in her opinion, with the degree of density of this development, she believed there needed to be more given in order to manage the impact. She said this had not met her expectations and thus, she would be voting against the application.

Ms. Palmer said she did like some of the things about the application, and she understood the transportation issue, but that she did not believe the applicant had addressed the impacts sufficiently.

Ms. Mallek said there was one email that floated by from someone who was listening, wondering why Glenmore had only one entrance despite them having hundreds more houses. She asked why Glenmore would have to have all the traffic when Glenmore was able to take care of theirs all by themselves. She said she was merely passing along the question, as this issue had been batted around a lot and she did not know the answer.

Ms. Price said she suspected this was due to the timing of when the development was approved, and that Glenmore does have the secondary emergency exit at the back of Running Deer.

Ms. McKeel said she wanted to ask Mr. Moore to speak to the Running Deer piece if he had any thoughts, and perhaps he could address the last comment as well.

Mr. Moore said regarding Glenmore, the regulations that he referenced about the requirements for connections were made in 2009. He said as to before that time, he could not speak to the standards. He said he knew that they were based on additions of public street networks, and that most of Glenmore was private. He said he was not sure of the sequence of Glenmore Way. He said both of those factors were important. He asked if there was another question.

Ms. McKeel said the question was about Running Deer. She said that at some point, Mr. Moore looked as if he wanted to say something when people were talking about Running Deer, and so she was offering him the opportunity.

Mr. Moore said he thought he was just going to advise on an expectation for use of Running Deer through the secondary connection. He said because of the nature of the intersections on Route 250, he would expect a relatively small portion of the Breezy Hill residents to use Running Deer. He said perhaps people who live at the back, heading towards Richmond, may find it a little easier to come out Running Deer and turn right. He said he believed that most people would find it most expedient to come out the primary entrance because it was shorter and also, in some ways, because of the nature of Running Deer.

Ms. McKeel said this was her expectation; that it would not be as heavily used as perhaps people were thinking it would during this discussion.

Ms. Palmer asked Mr. Moore if it were the case that all the roads in Breezy Hill were private, it would not require the connection with Running Deer.

Mr. Moore replied that if the roads were private, then it would only be County ordinances that would have to be met.

Mr. Gallaway said the applicant had asked to be recognized. He asked Mr. Armstrong if he wished to make a comment.

Mr. Armstrong said he had heard a lot from the Board that evening and appreciated the thoughtful deliberation. He said if the Board were willing, he would like to request a deferral so that the applicant could work on some of the things they heard and consider whether to come back and see them again at a later date.

Ms. Palmer said this was a great idea.

Mr. Gallaway asked if there were any objections to this and heard none. He asked Mr. Kamptner if the Board had to state specifics in their deferral motion.

Mr. Kamptner replied that if there was a specific date in the relative near future, this was fine, as they may not have to go through another public hearing. He said it depended upon how the project may be modified, and it may not matter as it would have to be re-advertised anyway.

Mr. Gallaway said he would expect that this would have to be re-advertised. He asked Mr. Kamptner if they should take a formal vote on deferral.

Mr. Kamptner replied yes.

Ms. LaPisto-Kirtley **moved** to defer ZMA2019-004 - Breezy Hill. 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

Agenda Item No. 19. **Public Hearing: ZTA202000002 Landscape Contractors.**

To receive comments on a proposed ordinance to amend the Albemarle County Code to permit landscape contractors by special use permit in the Rural Areas (RA) zoning district. Among other revisions, the proposed ordinance would: Amend § 18-3.1 to add a definition of a landscape contractor; Amend § 18-5.2A to continue to permit certain landscape contractors to qualify as an authorized home occupation; and Amend § 18-10.2.2 to permit landscape contractors by special use permit in the Rural Areas (RA) zoning district.

The Executive Summary forwarded to the Board states that on April 15, 2020, the Board of Supervisors adopted a resolution of intent (ROI) to authorize an amendment to Albemarle County Code Chapter 18, Sections 3, 10, and any other applicable sections of the Zoning Ordinance deemed to be appropriate to allow landscape services and storage of landscape materials in the Rural Areas zoning district.

On July 21, 2020, the Planning Commission considered staff's proposed ordinance (Attachment A4), which included a definition of landscape contractors in County Code § 18-3.1, and added landscape contractors as a use permitted by special use permit in the Rural Areas zoning district in County Code § 18-10.2.2. The Planning Commission recommended approval by a vote of 7:0.

During the Planning Commission meeting, concerns were raised about the impacts the proposed ordinance would have on home occupations in the Rural Areas. Under the proposed ordinance as originally drafted, every operation that met the definition of a landscape contractor would need a special use permit in the Rural Areas, which was not staff's intent.

In addition, the Planning Commission discussed Attachment A6, which is a list of information that an applicant seeking to apply for a special use permit for a landscape contractor would be provided during a pre-application meeting, and which was intended to help staff conduct a thorough review of each special use permit application for a landscape contractor.

Staff has revised its proposed ordinance (Attachment E) to address the Planning Commission's concerns. Specifically, County Code §§ 18-5.2A and 18-10.2.2 would now allow a landscaping operation that meets the criteria for a home occupation to continue to operate as a home occupation and to be exempt from a special use permit. The current home occupation regulations limit the scale of qualifying businesses. Operators of home occupations wishing to expand their operations beyond the scale of a home occupation would be able to apply for a special use permit.

In addition, staff has revised the information list (Attachment A6) to incorporate the Planning Commission's feedback (Attachment D).

Staff recommends that the Board adopt the attached Proposed Ordinance (Attachment E).

As it was late in the evening, Mr. Gallaway asked the Supervisors if they needed a short break.

Ms. Palmer asked if the hearing could possibly take place on another day.

Mr. Gallaway pointed out that since the item was scheduled and advertised, he believed the Board would have to hear this item.

Mr. Kamptner said they would at least have to open and close the public hearing, and that it would have to be re-advertised.

Mr. Gallaway asked Ms. Borgersen if anyone had signed up ahead of time to speak on this item.

Ms. Borgersen replied no.

Mr. Gallaway asked the Supervisors if they needed a break.

The Supervisors expressed that they wanted to push through.

Mr. Kevin McCollum, Planner with the Zoning Department, presented the staff report for ZTA202000002 Landscape Contractors. He said the purpose of the amendment was to define a landscape contractor and add it as a use permitted by special use permit in the Rural Areas zoning district.

Mr. McCollum said the Comprehensive Plan describes several objectives that were intended to help the County achieve the goal for the Rural Area. He said this amended was described specifically under Objective 1 and Strategy 1J that states, "We should consider amending the Zoning Ordinance to allow landscape contractors and the storage of landscape materials in the Rural Areas."

Mr. McCollum said this amendment was identified as a "nimble" project and became part of the Community Development Department's work program for 2020, which was endorsed by the Board. He said a resolution of intent for the project was adopted on April 15. He said on July 21, staff presented the proposed ordinance changes found in the staff report to the Planning Commission. He said after some discussion, the Planning Commission recommended approval of staff's proposed changes. He said the proposed amendment defined landscape contractors and added them as a use approved by special use permit in the Rural Areas zoning district.

Mr. McCollum said "landscape contractor" means an establishment providing landscaping services. He said for the purposes of this definition, "landscaping" means the modification of the landscape for an aesthetic or functional purpose. He said staff developed this definition after researching many other Virginia codes and contemplating what the best fit for the purposes of this ZTA was.

Mr. McCollum said they are proposing "landscape contractor" as a use permitted by special use permit. He said each application will have to go through a thorough legislative review process as outlined in Section 33.30. He said the proposed language allows for a broad interpretation of what qualifies as a landscape contractor, which will allow a wide variety of businesses to potentially apply for special use permit consideration.

Mr. McCollum said the proposed changes include an amendment to Section 3.1 to add a definition of a landscape contractor; an amendment to Section 10.2.2 to permit landscape contractors by special use permit in the Rural Areas, and an amendment, which was an addition since the Planning Commission, to Section 5.2A to continue to permit certain landscape contractors to qualify as an authorized home occupation.

Mr. McCollum said the previous draft ordinance changes created a conflict with Section 5.2A, L1 which, without the changes, implied that every operation that meets the definition of a landscape contractor needs a special use permit in the Rural Areas. He said this was not staff's intent. He said the proposed changes included an amendment to this language that will allow for landscaping operations that meet the criteria for a home occupation to be exempt from needing a special use permit. He said if the operator of a home occupation desires to expand beyond what is considered a home occupation, they will now be able to apply for a special use permit.

Mr. McCollum mentioned that Attachment D included items to consider when reviewing a special use permit for a landscape contractor. He said this list, as described in further detail in the staff report and as discussed by the Planning Commission, was a list of information than an applicant looking to apply for a special use permit for a landscape contractor will be made aware of during a pre-application meeting.

Mr. McCollum said the list was intended to be a starting point to help staff conduct a thorough review of each application. He said any application for a landscape contractor special use permit will be subject to the full review process already outlined in the ordinance. He said this list could be adjusted over time, and that an updated version of the list could be found in Attachment D, which incorporated the Planning Commission's feedback.

Mr. McCollum said in summary, staff was proposing three changes: adding a definition of a landscape contractor to the Zoning Ordinance; correcting a conflict with Section 5.2A to allow home occupations that may meet the definition of a landscape contractor to continue as home occupations; and adding "landscape contractor" as a use permitted by special use permit in the Rural Areas.

Mr. McCollum concluded his presentation and offered to answer questions.

Ms. Price said her biggest concerns came down to the size of the lot upon which this business could operate, as well as the size of the business in terms of the cumulative equipment, such as trucks. She said she was concerned as to whether this proposal adequately addressed those things. She asked if there was anything staff could explain to help her feel better about this.

Mr. McCollum said one of the things staff noted in the list of things to review was the size of the proposed lot. He said the acreage of the site would be something they would hopefully review at the time of the special use permit.

Ms. Price said her thoughts were that there should be a minimum acreage rather than simply a rural designation. She asked if she was missing anything.

Mr. Frances MacCall, Deputy Zoning Administrator, said he wanted to interject. He said since staff would be talking to an applicant about their proposal, and in an effort to keep this as a “nimble” project, which has been in the Comprehensive Plan for some time, and keep it moving forward, staff believed that the particulars of this concern would be addressed at the very beginning, during the pre-application discussion, as well as at the time of the Board’s consideration during the actual review.

Mr. MacCall said if the Board were to think it did not meet the appropriate size at that time, they could include this as part of their decision. He said staff had not gone into this as far as evaluating what the appropriate size of a particular application would be.

Ms. Price said she would prefer that there be an initial analysis of what would be a reasonably sized lot, rather than just having haphazard work going through the applications.

Ms. LaPisto-Kirtley echoed Ms. Price’s comments. She said she was concerned and believed there should be a minimum, such as 2, 3, or 4 acres. She said in the Rural Areas, neighbors are concerned about their property values and do not want to see landscaping equipment anywhere, especially in a front yard.

Ms. LaPisto-Kirtley said she was actually more concerned about it also being on a large enough acreage so that the owner can put everything in a shed or building, or have the equipment screened behind buildings rather than being seen from the street or by neighbors. She said if one puts all their landscaping equipment along the perimeter of the property line they share with a neighbor, the neighbor will not like that as it would not do much for their property value. She said she wanted to make sure they protect the property values of the surrounding neighbors. She said if the contractor has 5 acres and puts their equipment out in the middle where no one sees it, this was fine with her.

Ms. LaPisto-Kirtley said she did agree that there should be a minimum acreage, and that the equipment should be either screened or in a building.

Ms. LaPisto-Kirtley asked if landscaping would also include regular gardeners that perform minor landscaping tasks such as mowing and hedge-trimming.

Mr. Kamptner replied that it could be.

Ms. LaPisto-Kirtley said this was even more reason for her point, as there are trucks and trailers involved with equipment on top of it. She said as long as no neighbors could see the equipment, this was what she was looking for.

Ms. Palmer said she remembered that in the materials, there was a size with which the landscaping company needed a special use permit, which she believed would address Ms. LaPisto-Kirtley’s concern.

Ms. Palmer then said that someone in the meeting indicated the answer was no and retracted her statement. She said regardless, she did not think that this would be incredibly common. She said she knew Ms. Mallek had been working on this for some time and so, frankly, she would like to hear her opinion. She said the idea was to get something going that the Board could take a look at to improve people’s ability to have this business in the Rural Areas. She said she would defer and wait to hear Ms. Mallek’s comments on that.

Ms. McKeel said she knew that Ms. Mallek had been working on this for a long time. She said when these ordinances are written, the Rural Area is thought of as being very rural, with large parcels. She said for her, Hydraulic Road is the Rural Area.

Ms. McKeel said in one of her older urban ring neighborhoods, she had a person who applied 12-15 years ago for a home occupation for landscaping. She said it was currently permissible in the Development Area and has been a disaster. She said she did not think the person had ever actually had the landscaping business, but he had two dump trucks, two trailers, and a large trailer that one puts their car on. She said he uses this as a way of having all of this equipment. She said most of it was parked in the road in the neighborhood, and that staff has not been able to do anything about him other than taking him to court numerous times.

Ms. McKeel said she was saying that this was a permissible occupation in the Development Area that she has been trying to get to the Board to deal with for two years now. She said now, they were going to expand this to her rural neighborhoods on Hydraulic now, and not only was she going to be fighting the landscaping contractor matters of equipment and parking in her development area in her older urban ring neighborhoods, but in her rural area neighborhoods as well. She pointed out that the gated neighborhoods with HOAs do not allow this. She said her rural area neighborhoods include 0.5-acre and 0.25-acre lots.

Ms. McKeel said if they could talk about the size of the property, she would have no problem with what Ms. Mallek had been trying to get out when they have agricultural issues and farms. She said when it comes to neighborhoods, with rural areas having a lot of neighborhoods, she was only now clearing out some landscaping contractors who were using the secondary roads in neighborhoods for parking areas when they did not even live in the County.

Ms. McKeel said she was happy to agree to have this come back to the Board because she believed she said before that they just cannot talk about rural areas and development areas as if they are in silos because not everyone has rural areas that are all rural and development areas that are purely development. She said they have neighborhoods that overlap with 0.5-acre and 0.25-acre lots.

Ms. McKeel said they would either have to pull this item and go back, or they will have to talk about size. She said she certainly could not approve the proposal the way it was currently written. She said she does not have neighborhoods with big pieces of property or HOAs, and that they are not gated communities. She said they do not have any protection, and she must figure out how to protect them.

Ms. Mallek said she agreed with everything that Ms. McKeel said. She said even throughout the far countryside mountain roads, there are clusters of people who have lived on 1-acre lots with small houses for 50 years. She said they have trouble with their neighbors parking dump trucks in their yards, too. She said what she believed they were doing was considering moving what was already permissible in the growth area to be everywhere because it was currently not allowed.

Ms. Mallek said she was very supportive of a 3-acre minimum because she believed that most of the rural, small lots are 2-acre lots. She said when zoning was brought in in 1980 and the downzoning happened, the minimum subdivision was 21 acres, but one received 5 exemptions and 2 acres each for each parcel. She said the grand majority of the lots in the countryside, therefore, were 2 acres.

Ms. Mallek said if they made the minimum 3 acres, she believed this would be a filter. She said they would then be able to have more space to then be able to decide if someone can deal with whatever their issue is. She said if they have 1 acre, then they should not even bother meeting with staff, as this was a waste of time. She said she was very happy to have that minimum and if they could write it in that day, she would be very happy to do so as well.

Ms. Mallek said she did have a question. She said she saw something in Mr. McCollum's presentation about if a person is already a home occupation for a landscaper, they can continue doing so and not required to become a permitted one. She asked what the criteria are and the enforcement tactics they were succeeding at currently with home occupations for landscapers. She asked if these people were registered or were rogue, as it sounded like it was a free-for-all, which was awful for everyone in the rural area and growth area.

Ms. Mallek said while this was not necessarily a decision for that day, she did not want that debacle to through this effort under the bus. She said the reason it was so important was that there were people in the growth area who are afraid of losing the place where they park their truck because the person they have been renting from for 30 years was doing something else, or they want to build a barn that looks like a barn so they can put their truck in it, but that this was currently not allowed until the County does something like this. She said this has been the goal for many years.

Ms. Mallek said she was thrilled to have gotten to this point and hoped that they could drop in a 3-acre minimum and move forward.

Ms. McKeel said 3 acres sounded reasonable to her. She said they need to think about setbacks as well.

Ms. Mallek said she was sure those would be built in anyway, but Mr. McCollum could clarify.

Mr. McCollum said he believed there was some confusion as to what a home occupation is. He said there are already regulations in place about one can do with a home occupation. He said this is typically that up to two people can work from a home where they use 25% or less of their home for that, and they can only store one vehicle and trailer. He said obviously, some people are not abiding by those regulations.

Mr. MacCall said there was a clear distinction in the Zoning Ordinance between the Development Area, which is called Class A Home Occupations, and the Rural Area, where they have Minor and Major Home Occupations. He said in the Development Areas, there are a number of licensed home occupations, landscapers, and contractors in the books. He said the limitation in that has been outlined for some time. He said they are limited to one truck and one trailer, which have to be on their property. He said the Rural Areas expands to two vehicles or two trailers that have to be on the property.

Mr. MacCall said Mr. McCollum had mentioned employees. He said Minor Home Occupations, the smaller ones, involve only the person living in the dwelling. He said the Major Home Occupations would be if they were to propose having employees coming onto the site.

Mr. MacCall said when it comes to the size and scale of this, the thought when staff was trying to formulate this was the fact that they know that, more than likely, it was not happening on the 2-acre lots where someone is living as a dwelling. He said it might be on a vacant piece of Rural Area land that might be 3, 4, or 5 acres where the scale has gone beyond, if they even decide to go beyond that scale, of the two vehicles or one-truck-one-trailer limit.

Mr. MacCall said this scale usually relates to equipment and the amount of storage they might have when it comes to size. He said staff would evaluate that at the time of their review of a special use permit for the Board to then make those decisions based on their concerns. He said the size of the area, for example, may not be appropriate for what someone would be proposing at that time. He said they would take care of this with the current regulations that are outlined in Section 30 that outline many of the characteristics and harmony of the neighborhood.

Mr. MacCall said staff was evaluating this all the time and would bring this information to the Board. He said at the time of the special use permit, it would be up to the Board to make that decision. He said in the meantime, staff would try to mitigate certain impacts with the suggestions that were outlined in Attachment F and get the application to agree to those kinds of changes. He said staff would have the applicant understand that what they were proposing was not a home occupation anymore, as they are moving beyond that to something much larger than a home business that is supposed to be an accessory use to the main use, which is the dwelling unit. He said this was why the scale was limited.

Ms. McKeel said she thought everyone had agreed that a home occupation was supposed to take place in the house and that neighbors were not supposed to know that it was even happening.

Mr. MacCall said this was correct.

Ms. McKeel asked Mr. MacCall if he could tell her that in the Development Area, it was legal to have a landscaping contractor home occupation with one trailer and one truck on a quarter acre with a driveway that will hold two cars, which they also have. She asked where they would put their truck and trailer for their neighbors and said that they put it in front of their house on their yard. She said there was one case where they put the truck and trailer in the neighbor's yard because the neighbor's house was not often occupied.

Ms. McKeel said she was shocked to hear about how this was playing out in the Development Area. She said she had the same kinds of neighborhoods in the Rural Area. She said she could not approve this at all unless they deal with the size seriously. She said they have been struggling with trying to help Community Development with enforcing the ordinances they have.

Mr. MacCall said he did look at some numbers, and that from about 2008 to 2019, there were about 18 landscape contractors in the Development Area. He said to that point, he also only saw about two of those that had some sorts of complaints that staff followed up on in terms of scale. He said he understood Ms. McKeel's concern, and staff could take a look at the size.

Ms. McKeel pointed out that people do not always complain. She said there was one case where people would not dare to complain because the person was scary.

Ms. LaPisto-Kirtley asked if this could be continued at a later time.

Mr. Doug Walker, Deputy County Attorney, said there was a concerted effort to try to bring this forward quickly. He said it was added to the work program with the expectation that they could get it through the Planning Commission and to the Board to get something in place.

Mr. Walker said he believed this was the type of issue that they would typically schedule for a work session before bringing it to public hearing, and he would suggest that based on what he was hearing from the Board and because of the lateness of the hour, they try to do this as quickly as they can to resolve the issues and get it back in front of the Board so that they are more comfortable with a proposal that they believe they can support.

Ms. Mallek asked if the 3-acre minimum and special permit solved the issue because if this were the case, she believed they were in a better circumstance than having another roundtable with a work session.

Ms. McKeel said a 3-acre minimum would help her, and perhaps some setbacks as well.

Ms. Mallek asked Mr. McCollum if setbacks were included. She said buildings have to have setbacks, and people were not allowed to cram things up against their neighbors.

Mr. MacCall said the location of things would be considered, and they could possibly condition that.

Ms. Mallek said when there is a special permit, then there are conditions and when people do not comply, they can be shut down. She said to her, this was a huge advantage over something like the

home occupation business, which seemed to be difficult to enforce. She said other Board members had to speak up, however, and state whether or not they were fine with the 3 acres.

Mr. Gallaway said it seemed reasonable to him. He said 3 acres would prevent lots of special use permits coming the Board's way, which they do not like having to see a lot of permits coming to them. He said he felt they should be able to work those out in another matter.

Ms. McKeel agreed.

Mr. Gallaway said the 3 acres would certainly solve many of the issues he was hearing, in his opinion. He said although Mr. Walker's idea was a good one, nothing would happen quickly if they tried to schedule a work session with all the other things he knew were coming in the fall.

Ms. Palmer said she was almost afraid to make her comment due to the hour, but that the special use permit process gives the Board a lot of protection. She said if someone comes in from the true Rural Areas with 2 acres and has a landscaping business where they want to put things on their property, it would be a shame to exclude them. She said she liked what staff did with the special use permit process, but that at that hour, she would accept anything.

Ms. McKeel said it was a good point. She said if they did not want to use a minimum lot size, they can reduce what they are seeing on their agenda as special exceptions. She said the Board sees an awful lot of special exceptions.

Ms. Palmer said the idea, however, was to help people get a place to put their landscaping equipment.

Ms. Mallek interjected that she believed starting with a minimum would help the Board to learn what would come forward. She said if lots of people with 2 acres state that they want to do it, then this will be extra information for the Board. She said it seemed to her that having that extra square footage was important because in order to solve the issues with the impacts, one needs the space, much like the homestays need space.

Ms. LaPisto-Kirtley said if someone were to come to the Board with 2 or 2.5 acres to ask for a special exception, because they would have their equipment in the center of the property, or in a building, there would be a problem with that. She said at least there were a 3-acre minimum, this would eliminate a lot of people unless they had a good location for it that was smaller than 3 acres.

Ms. Mallek said she believed the Board had the opportunity to add that waiver condition later, if needed. She said it was hard to imagine what all the exceptions would be at that time, which was why she hoped they could start with a minimum acreage and build upon what the staff had already done to set this out.

Mr. MacCall asked if he heard that staff should come back with minimum acreage and setbacks as two potential additions to this, then come back.

Ms. Mallek said Mr. Bill Fritz always said that the setbacks are built in, and so she did not know why they needed to spend any time redefining them. She said the whole point of the special permit was so one did not have to spend time creating a 15-page checklist. She said they know that the special permit will cover all the details, and that the 3-acre minimum will provide a threshold where people can get in the door to start. She said this was really all she was interested in seeing because the SP process would cost the person \$2,500, which would be a filter, and the minimum acreage would make sure they would have a better chance to succeed.

Mr. MacCall asked Mr. Kamptner if staff would need to come back if they were to add acreage, since this was not advertised.

Mr. Kamptner replied that it was less than the breadth of what had been advertised, and so he believed the Board could insert this that day. He said this was expanding the existing regulations, even if there is an acreage restriction in place. He said they were going from zero to an amount, and so they were still within the range.

Mr. Gallaway said he would open the public hearing. Hearing no speakers, he closed the public hearing and brought the matter back to the Board.

Ms. Mallek asked Mr. Kamptner if he could supply some language for an additional sentence.

Mr. Kamptner said he was looking at page 2 of Attachment D, specifically at the use classification. He said a clause could be inserted to read, "Landscape contractors on lots 3 acres or more in size that do not otherwise qualify as an authorized home occupation under Section 5.2A."

Ms. Mallek **moved** to approve ZTA202000002 Landscape Contractors as amended. Ms. Palmer **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. Price noted during the vote that she believed doing things this late in the evening was not smart.

Ms. Palmer agreed.

Mr. Gallaway said he was happy to discuss the timing of things and the lateness of the hour at the Board's retreat the following week.

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

Item Number 20.a: Virginia Telecommunication Initiative (VATI) Funding Support.

Mr. Gallaway noted there had been additional items that members wanted to speak to that evening and asked if those should be tabled to another meeting.

Ms. Palmer said she only wanted to get the letter out about broadband from the Board. She said this was simple and asked if there was any process to follow. She said there was already a template written that was put out by the Broadband Authority.

Mr. Gallaway said if there were no objections, Ms. Palmer could send this to him and to the clerk to make this happen.

Ms. McKeel and Ms. Mallek encouraged this to move forward.

Item Number 20.b: Regulation of Firearms in County Owned or Used Buildings, Parks, Community Centers, and on Certain Public Rights-of-way.

Mr. Gallaway said the other item was that someone had asked for discussion on regulation of firearms in County-owned or County-used buildings, and that this sounded like a larger conversation that could come back.

Ms. Mallek said this was a question about whether or not there was a timetable and that she believed there was one.

Mr. Kamptner said there may not be a timetable. He said staff presented this to the Board as part of the new legislation that became effective. He said the Board did talk about it 10 hours earlier, when he was presenting on the legislative priorities. He said the City would have either their first or second reading the following Tuesday. He said staff could start working on it, with the typical process being to bring it to the Board on the consent agenda to ask the Board to schedule the public hearing. He said the companion to that would be working on the legislation for the 2021 session to clarify it is jointly owned pieces of property.

Ms. Mallek said on a future date, Mr. Kamptner could inform the Board on what their authority is to regulate middle-of-the-night shooting in the Rural Area.

Mr. Kamptner agreed. He said perhaps the discharge of firearms on County property was something that would be appropriate for a work session. He said he could also talk to the Police Department about that.

Ms. Palmer said she had many questions about this for another time.

Mr. Gallaway asked if the Board members had other items.

Ms. LaPisto-Kirtley said she wanted to give an enormous thank-you to staff for staying up so late.

Ms. McKeel said this was a good point, adding that she thanked staff for hearing her frustration about the size of the lots.

Ms. Mallek agreed that solutions were needed for this.

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

Mr. Walker said he needed to give the Board a quick update on the Court Square Memorials project. He explained that they were actually working three projects in one: the offer process, the management of a construction project, and organizing and conducting a community event.

Mr. Walker said the timeframe included the July 1 authorization to move forward and setting the public hearing the Board held on August 6. He said they were now in the middle of the offer period, which would technically run until September 5, but practically until September 8 due to the weekend and the

timing of the holiday.

Mr. Walker said at the end of the present meeting, the Board would be asked to adjourn to 5:00 p.m. on September 8 for a meeting where the Board will be reviewing the offers that will have been received by then. He said staff was making sure that they were announcing to the Board and the public that they were scheduling the removal of the memorials on Saturday, September 12.

Mr. Walker said the offer process was structured by the enabling legislation adopted by the state. He said it does view the local governing body as the sole authority to determine the final disposition of the monument or memorial. He said the criteria were listed on the screen, which would be used by staff to consider the offers that come in and in making the recommendation to the Board at their meeting on September 8.

Mr. Walker said there was also a construction project, and that the timing of the project was for Saturday, September 12. He said this was done to minimize disruption to the business of the courts. He said the nature of the construction project will involve heavy equipment and the movement of objects. He said there will be road and sidewalk closures to ensure the equipment and trucks for the memorial to be loaded, and to have the space needed to ensure the safety of everyone involved.

Mr. Walker said the County Police Department and County Fire Rescue will work with their counterparts in the City to ensure this will be a safe activity. He said this event was unusual, given its location. He said there were two-thirds of Court Square being within the jurisdiction of Albemarle County, but that the roads and areas surrounding it being in the City of Charlottesville.

Mr. Walker said they expect the work to begin around sun-up on September 12. He said by the work was complete either late that day or early Sunday, they expect the statue, cannons, cannonballs, and base will all be removed to be restored and seated.

Mr. Walker said the Court Square Community Conversation has been a community-driven event since they began back in January and, in many respects, since the inception of the Remembrance Project that began in 2018. He said for that reason, among others, they wanted to hold an event around the removal of the At Ready statue and memorials, but since there were restrictions in place due to COVID-19, they knew it was not safe for them to do so. He said they will be livestreaming the removal on the County's Facebook page from sunrise on Saturday and through the duration of the removal.

Mr. Walker said during the more routine periods of the removal, they will be airing interviews, lectures, and conversations about the statue; memory and cultural landscapes; community history; and the meaning of this moment from different perspectives. He said staff believes this show will be compelling and offer the best advantage to watch the removal happen in real time. He said they appreciated the community's support in attending with the County together, but from a distance.

Mr. Gallaway said if there were questions, they could be directed to Mr. Walker.

Agenda Item No. 22. Adjourn.

At 11:38 p.m., Mr. Gallaway adjourned the meeting to September 8, 2020, 5:00 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."

Mr. Kamptner asked for a motion, stating that the Board should follow the same process that was used when adjourning from August 5, 2020 to August 6, 202.

Ms. Mallek **moved** to adjourn to September 8, 2020, 5:00 p.m. Ms. Palmer **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

Chair

Approved by Board
Date 04/20/2022
Initials CKB