

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 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.

BOARD MEMBERS 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.

COUNTY 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.

Mr. Gallaway said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "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.

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 Ms. Price wished to address an item later, during Committee Reports.

Ms. LaPisto-Kirtley moved 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. Price said she wanted to thank Ms. Emily Kilroy and Ms. Sam Hart of the Community and Public Engagement Office. She said last night, she and Ms. Ellen Osborne (Scottsville School Board representative) held a townhall meeting and had great participation and involvement by the residents and constituents, who asked good and hard questions. She said they once again demonstrated the absolute best in civil engagement.

Ms. LaPisto-Kirtley said the Defence Affairs Committee (DAC) at UVA Research Park is collecting cellphones, iPads, and any kinds of electronic material, which will help veterans and their spouses and children. She said they will be receiving donations throughout the week, which she supported, adding that it was a good way to get rid of old cellphones she was not using.

Ms. Palmer said she wanted to tell both the Board and anyone listening in that at the Yancey Community Center, 200 turkeys and other Thanksgiving food was given away. She said about half of this was distributed by the Yancey Community Food Bank, and the other half was from the African American Pastors Council. She said at Simpson Park, a relatively short, but nice, trail was put in and Take a Hike Day took place there. She said there is a lot of activity happening there at the community center and that these things were just part of what is going on there.

Ms. McKeel said she wanted to once again thank the community for taking the Board's COVID-19 ordinances seriously, masking seriously, and changing the way they approached Thanksgiving that year. She said she knows many people altered their plans, hunkered down, and did things differently, and for that, the Board and the local hospitals thank the community. She said hopping forward, she hoped the community would do the same for the holidays. She said hopefully by next year, they will have a much more open and free celebration of all holidays.

Ms. Mallek echoed Ms. McKeel's statement about the holidays and behavior. She said they are fortunate they are having so much compliance in Albemarle, and they can always do better. She encouraged everyone to comply, noting that she was hearing good reports from stores and places around the district.

Ms. Mallek encouraged those who may have not had a chance to pay their property taxes or personal property bills at the County Office Building, outside. She said it is a spectacular experience,

recalling how she pulled up to the building at noon that day and was greeted at her car by a very friendly person who handed her a sheet of information, as she had changes in vehicles and trouble that she knew she was going to create for someone. She said the person helping her asked her to call the number, as they would likely be able to help her without having to go inside and fill everything out. She said they did have all the records they needed, and she was assured she would be able to pay the right amount.

Ms. Mallek said she was very pleased at how well this worked, and she hoped others would take advantage of the same type of experience without having to worry about having taxes lost in the mail. She said the more things they can keep close by, the safer it is for everyone.

Ms. Mallek said in reading the Board's packet for that week and the growth reports they get monthly, she noticed and was not surprised that Crozet Master Plan has 31% of all the growth units again, and that this has been the trend ever since 2008. She said during the last recession, they were more than 50% of all the building permits in the County month after month.

Ms. Mallek encouraged everyone to keep this in mind as they learn about the master plan redo coming forward and understand that the 7,000 new residents that are in the district now, compared to 2008, both newcomers and old-timers, are concerned about the values of life that drew them there to begin with. She said they want those values to remain for generations to come and work on it together. She said they have had a good master planning experience, and she hoped it would all turn out to everyone's satisfaction.

Agenda Item No. 6. Proclamations and Recognitions.

There was 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.

Mr. Gary Grant (Earlsville area, Rio District) thanked Mr. Gallaway for his email that day at 12:59 p.m. (one minute before the start of the meeting). He said he would read the email later that day.

Mr. Grant said he had a quick reminder that day to comment on. He said there appeared to be two public hearings on the meeting agenda for that evening, which is where the Board listens to the public before they decide how they are going to vote on something. He asked the Board to remember the comment from Ms. LaPisto-Kirtley from the September 6 retreat and not to treat the public the way she said she does. He quoted Ms. LaPisto-Kirtley from September 6: "I think most of us, by the time we get there, if we've done our homework, we already know how we're going to vote."

Mr. Grant thanked the Board for streaming the public meetings and for his fewer than 3 minutes of speaking time. He wished them best wishes for a productive meeting.

Mr. Gallaway closed Matters From the Public.

Agenda Item No. 8. Consent Agenda.

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

Item No. 8.1. FY 2021 Appropriations.

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

The total change to the FY 21 budget due to the appropriations itemized in Attachment A is \$3,066,345.61. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

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

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

Appropriation #2021040 **\$53,711.25**

Source:	Federal Revenue	\$	53,711.25
---------	-----------------	----	-----------

This request is to appropriate the following School Division appropriation request approved by the School Board on October 22, 2020:

- Albemarle County Public Schools Technology Department received a Coronavirus Aid, Relief, and Economic Security (CARES) Act/ Elementary and Secondary School Emergency Relief (ESSER)/ Governor's Emergency Education Relief (GEER) Set Aside-Funded Virginia Initiative to Support Internet Outside of school Networks (VISION) Grant in the amount of \$53,711.25. Funds were designated to support upgrades to WIFI hotspot services resulting in unlimited data plans for asynchronous and synchronous instruction, as well as for purchasing additional hotspot devices. These are federal funds. This request is to appropriate the VISION Grant funds in the amount of \$53,711.25.

Appropriation #2021041 **(\$8,053.64)**

Source:	Federal Revenue	(\$8,053.64)
---------	-----------------	--------------

This request is to reconcile the FY 21 budget for Housing and Urban Development (HUD) Coronavirus Aid, Relief, and Economic Security (CARES) funding by de-appropriating \$8,053.64 in federal revenue from FY 21 for a portion of HUD CARES funding that was expended in FY20.

Appropriation #2021042 **\$2,755,443.00**

Source:	Local Revenue	\$	265,000.00
	Federal Revenue	\$	2,490,443.00

This request is to appropriate the following School Division appropriation request approved by the School Board on November 12, 2020:

- Via Superintendent's Memo #273-20, Coronavirus Relief Funds (CRF) in the amount of \$2,490,443.00 have been awarded to Albemarle County Public Schools (ACPS). These funds will come directly to the division through direct deposit, with reporting on fund accounting and spending to occur in January, 2021. The period of spending is from March 1, 2020 – December 30, 2020. This CRF funding, through the US Treasury Department, was provided in order to mitigate costs incurred due to COVID 19 and reopening and operating schools during the first months of the 2020-21 school year. As noted, qualifying costs can extend back to the beginning of the pandemic in March. Categories for CRF spending include: testing supplies, personal protective equipment (PPE), facility cleaning and sanitization, technology, staffing, capital facilities upgrades, pupil transportation, and emphasizing special student populations such as English language (EL) learner students, Special Education (SPED) students and PK-3 students. These are federal funds. The funds will be received and disbursed as attached. This request is to appropriate the Coronavirus Relief Funds in the amount of \$2,490,443.00.
- ACPS has received an anonymous grant in the amount of \$500,000. These funds will be used to support efforts to address the mental health needs of all children in our schools. The proposed spending plan will span across two school years and will target the provision of mental health interventions as well as promoting social emotional learning. The proposed spending plan includes hiring a Mental Health Coordinator to coordinate all mental health efforts (i.e. school counselors, psychologists, community partners, student assistant professionals, therapeutic day treatment partners, etc.), a contract with a community mental health agency to provide mental health services to students and families, and "Mental Health First Aid" training for school staff to support the mental health needs of our students. This request is to appropriate year one funding in the amount of \$265,000.

Appropriation #2021043 **\$35,000.00**

Source:	Local Revenue	\$35,000.00
---------	---------------	-------------

This request is to appropriate \$35,000.00 in donations from the Charlottesville Area Community Foundation (CACF) – Early Childhood Funders Network (ECFN) to the Bright Stars program to purchase educational and recreational supplies for the students.

Appropriation #2021044 **\$230,245.00**

Source:	Federal Revenue	\$230,245.00
---------	-----------------	--------------

This request is to appropriate \$230,245.00 in federal revenue for a grant awarded by the Governor's Office for Coronavirus Aid, Relief, and Economic Security (CARES) funding for the broadband

project on Burch’s Creek Road which will offer internet service to a minimum of sixty-two locations.

* * * * *

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2021040; #2021041; #2021042; #2021043 and #2021044 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

* * * * *

APP#	Account String	Description	Amount
2021040	3-3162-63162-333000-330050-6599	SA2021040: CARES Act Stimulus Grant	\$53,711.25
2021040	4-3162-63162-461101-800700-6530	SA2021040: Technology Equipment Federal Stimulus Education Grant	\$53,711.25
2021041	4-1100-53020-453010-120000-1550	SA2021041: HUD CARES Funding - De-appropriate FY20 expensed portion	-\$911.65
2021041	4-1100-53020-453010-210000-1550	SA2021041: HUD CARES Funding - De-appropriate FY20 expensed portion	-\$69.74
2021041	4-1100-53020-453010-601380-1550	SA2021041: HUD CARES Funding - De-appropriate FY20 expensed portion	-\$7,072.25
2021041	3-1100-33050-333000-330018-1550	SA2021041: HUD CARES Funding - De-appropriate FY20 expensed portion	-\$8,053.64
2021042	3-3162-63162-333000-330051-6599	SA2021042: Coronavirus Relief Funds	\$2,490,443.00
2021042	4-3162-63162-461179-113100-6530	SA2021042: Salaries Nurse Health Serv.	\$32,076.85
2021042	4-3162-63162-461179-210000-6530	SA2021042: FICA Student Service	\$2,358.92
2021042	4-3162-63162-461179-221000-6530	SA2021042: VRS Student Service	\$5,719.30
2021042	4-3162-63162-461179-231000-6530	SA2021042: Health Insurance Student Service	\$4,515.00
2021042	4-3162-63162-461179-232000-6530	SA2021042: Dental Insurance Student Service	\$100.00
2021042	4-3162-63162-461179-241000-6530	SA2021042: VRS Group Life Insurance Student Service	\$429.85
2021042	4-3162-63162-461179-301210-6530	SA2021042: Contract Services	\$300,000.00
2021042	4-3162-63162-461179-601300-6530	SA2021042: Educ. & Recreation Supplies	\$400,000.00
2021042	4-3162-63162-461179-800100-6530	SA2021042: Machinery & Equipment	\$345,243.08
2021042	4-3162-63162-461179-800200-6530	SA2021042: Furniture & Fixtures	\$700,000.00
2021042	4-3162-63162-461179-800700-6530	SA2021042: Technology Equipment	\$700,000.00
2021042	3-3104-63104-318000-189900-6599	SA2021042: Revenue	\$265,000.00
2021042	4-3104-63104-462220-113900-6501	SA2021042: Salaries-OTH Professional	\$73,000.00
2021042	4-3104-63104-462220-210000-6501	SA2021042: FICA	\$5,500.00
2021042	4-3104-63104-462220-221000-6501	SA2021042: Virginia Retirement System	\$12,200.00
2021042	4-3104-63104-462220-231000-6501	SA2021042: Health Insurance	\$3,024.00
2021042	4-3104-63104-462220-232000-6501	SA2021042: Dental Insurance	\$240.00
2021042	4-3104-63104-462220-241000-6501	SA2021042: VRS Group Life Insurance	\$1,036.00
2021042	4-3104-63104-462220-301210-6501	SA2021042: Contract Services	\$50,000.00
2021042	4-3104-63104-462220-550100-6501	SA2021042: Travel/Training/Education	\$5,000.00
2021042	4-3104-63104-462220-580500-6501	SA2021042: Staff Development	\$109,000.00
2021042	4-3104-63104-462220-600100-6501	SA2021042: Office Supplies	\$1,000.00
2021042	4-3104-63104-462220-601300-6501	SA2021042: Ed & Rec Supplies	\$5,000.00
2021043	3-1553-18120-318000-181287-1005	SA2021043 CACF Bright Stars Donation	\$35,000.00
2021043	4-1553-51155-453010-601300-1005	SA2021043 CACF Bright Stars Donation	\$35,000.00
2021044	3-1100-33050-333000-330050-1553	SA2021044 - IT CARES Funds -Burch's Creek Broadband	\$230,245.00
2021044	4-1100-12200-412200-312380-1553	SA2021044 - IT CARES Funds -Burch's Creek Broadband	\$138,147.00
2021044	4-1100-12200-412200-601380-1553	SA2021044 - IT CARES Funds -Burch's Creek Broadband	\$92,098.00

Item No. 8.2. Schedule a Public Hearing to consider the Adoption of an Ordinance to Amend County Code Chapter 7, Health and Safety, Article 3, Smoking.

The Executive Summary forwarded to the Board states that the General Assembly considered a number of bills in the 1980s regarding smoking. By 1989, no statewide legislation on the topic had

succeeded with one limited exception. At the time, smoking could be regulated by localities. Realizing that further statewide bills would be forthcoming, in 1989 the General Assembly adopted HB 601 (Goode), which imposed a statewide moratorium on local regulation of smoking that became effective on July 1, 1989. On June 7, 1989, the Board of Supervisors adopted the smoking regulations that currently compose Article 3 of Chapter 7 of the County Code. The County was among 16 Virginia localities regulating smoking when the statewide moratorium on local regulation took effect.

The 1990 Virginia Indoor Clean Air Act, HB 1055 (Cranwell) required that government-owned buildings provide reasonable no-smoking areas, established mandatory provisions for any local ordinances, but otherwise preempted local ordinances not adopted before the statewide moratorium was imposed. The Act required that any restaurant with more than 50 seats to designate a no-smoking area sufficient for customer demand as determined by management.

In 2009, the 1990 Virginia Indoor Clean Air Act was repealed and was replaced by a new Virginia Indoor Clean Air Act. The 2009 Act continued to allow local ordinances such as Albemarle County's that were adopted prior to January 1, 1990 to continue in effect, even if they were inconsistent with the 2009 Act. The primary purpose of the 2009 Act was to improve the regulations pertaining to smoking in restaurants. The 2009 Act generally prohibits smoking in restaurants, with some exceptions: (1) if a restaurant constructed a smoking room that was structurally separated and contained a separate smoking area, that portion of the restaurant did not have to be smoke-free; (2) outdoor areas not enclosed by walls, windows, or temporary enclosures. The 2009 Act also partially restricted smoking in a number of places used by the general public, such as elevators, the common areas of public schools, and hospital emergency rooms. Local preemption was maintained.

Comparing the 2009 Virginia Indoor Clean Air Act and the County's smoking regulations in Article 3 of Chapter 7 of the County Code, it appears that, on balance, the County's smoking regulations remain more restrictive than the regulations in the 2009 Act, with the exception of those pertaining to restaurants. The County's restaurant regulations do not apply to restaurants with fewer than 75 seats, require only a minimum of 20 percent of the seats to be in the non-smoking area, and do not require a structurally separated smoking area.

The draft ordinance would delete the regulations pertaining to smoking in restaurants in order to ensure that the requirements of the Virginia Indoor Clean Air Act apply (County Code §§ 7-302, 7-304, 7-306 (renumbered)), update the name of the local health district to the Blue Ridge Health District, which will become its name in 2021 (County Code § 7-307 (renumbered)), and ensure that the \$100.00 fine is retained for violating the County's smoking regulations (County Code § 7-308 (renumbered)).

Staff recommends that the Board direct staff to schedule a public hearing to consider the adoption of the attached proposed ordinance (Attachment A).

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to consider the adoption of the attached proposed ordinance (Attachment A).

Item No. 8.3. B.F. Yancey Community Food Pantry Lease for a Portion of the Yancey School Community Center.

The Executive Summary forwarded to the Board states that, at the Board of Supervisors' March 7, 2018 meeting, the Board endorsed a use framework for the Yancey School Community Center that included the differentiation of user types, space types, and an associated fee structure. That framework provided for in-kind/no cost use by community partners such as the B. F. Yancey Community Food Pantry.

Virginia Code § 15.2-1800(B) requires that the Board hold a public hearing prior to the proposed conveyance of this interest in County-owned real property.

The B. F. Yancey Community Food Pantry, operating since January 27, 2017 and incorporated with the State Corporation Commission since April 13, 2020 (Attachment A), serves the Esmont area, providing needed food supplies to over 90 families on a monthly basis. This service to the community is provided at no charge. The B. F. Community Food Pantry is staffed by volunteers and relies on donations to sustain its operations. The proposed lease (Attachment B) allocates 376 square feet of dedicated space to be used by the pantry, 2,275 square feet of shared space that would be used when food is distributed, and the exclusive use of two walk-in freezers. The term of the lease is for one year (February 1, 2021 through January 31, 2022), and the lease would automatically renew for additional 12-month terms unless written notice is given by either the County or the B. F. Yancey Community Food Pantry no later than 60 days prior to the expiration of any term.

There is no budget impact anticipated.

Staff recommends that the Board schedule a public hearing to receive comments from the public regarding the proposed lease between the County and the B. F. Yancey Community Food Pantry.

By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to receive comments from the public regarding the proposed lease between the County and the B. F. Yancey Community Food Pantry.

Item No. 8.4. Maintenance Agreement for North Pointe Pedestrian Tunnel.

The Executive Summary forwarded to the Board states that, in August 2006, the Board approved ZMA2000-0009, a rezoning known as "North Pointe." As part of this rezoning, there is a proffer obligating the property owner to construct a pedestrian underpass that connects a public trail, also proffered, as it passes under a roadway known as North Pointe Boulevard. The Virginia Department of Transportation (VDOT) does not routinely maintain pedestrian underpasses and requires an agreement to assure the County will maintain the underpass before considering the roadway as part of the Secondary Street System. The County in turn would require the responsibility for future maintenance of this pedestrian underpass to be borne by the owner of the trail facility. This action is to authorize the County Executive to sign agreements on behalf of the County to act as a pass through between VDOT and the responsible party ultimately required to bear that responsibility.

This property is located in the northern part of the Places 29 Development Area. The proposed roadway is called for in the Places 29 Master Plan and the trail, which is proposed to connect two recreation areas, is an improvement shown in the rezoning plan and required as part of the proffer. While the property owner has proffered to construct both the roadway and pedestrian underpass, VDOT requires the County to commit to maintaining the pedestrian underpass before it will consider accepting the roadway for state maintenance. The County, VDOT, and the developer/owner have discussed an arrangement in which the County would agree to accept responsibility for inspection and maintenance of the underpass for VDOT as long as the developer/owner in turn agreed to accept that responsibility for the County. The North Pointe developer/owner has agreed in principle to enter into a maintenance agreement with the County, allowing responsibility for the routine inspection and maintenance of the pedestrian underpass to be "passed through." VDOT requires that its agreement be with the County, but has no concerns with the County entering into a separate agreement with the property developer/owner. This agreement would be similar to other recently approved agreements including the one for the pedestrian underpass beneath Eastern Avenue in Crozet, which is now open.

There would be no direct budget impact to the County from this agreement. All responsibility for costs would be borne by the North Pointe developer/owner.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving a maintenance agreement with VDOT for the pedestrian underpass and a maintenance agreement with the North/Pointe developer/owner that allows a responsible party to provide routine maintenance for this pedestrian underpass, and authorizing the County Executive to sign both agreements on behalf of the County once they have been approved as to substance and form by the County Attorney.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment A) approving a maintenance agreement with VDOT for the pedestrian underpass and a maintenance agreement with the North/Pointe developer/owner that allows a responsible party to provide routine maintenance for this pedestrian underpass, and authorized the County Executive to sign both agreements on behalf of the County once they have been approved as to substance and form by the County Attorney:

**RESOLUTION TO APPROVE AGREEMENTS WITH THE VIRGINIA DEPARTMENT OF
TRANSPORTATION AND THE NORTH POINTE DEVELOPER/OWNER
FOR THE ROUTINE MAINTENANCE OF A PEDESTRIAN UNDERPASS
UNDER NORTH POINTE BOULEVARD**

WHEREAS, the Board approved the North Pointe rezoning in 2006, which included a proffer obligating the property owner to construct a pedestrian underpass that connects a public trail as it passes under North Pointe Boulevard; and

WHEREAS, the Virginia Department of Transportation (VDOT) does not routinely maintain pedestrian underpasses and requires an agreement that the County maintain the underpass before considering the roadway as part of the Secondary Street System; and

WHEREAS, the County in turn would require the responsibility for future maintenance of this pedestrian underpass to be borne by the owner of the trail facility; and

WHEREAS, the Board believes it is in the best interest of the County to approve agreements with VDOT and with the North Pointe developer/property owner to ensure the maintenance of the pedestrian underpass.

IT IS HEREBY RESOLVED that the Albemarle County Board of Supervisors hereby approves an agreement with VDOT for the maintenance of a pedestrian underpass under North Pointe Boulevard and a maintenance agreement with the North Pointe property owner that requires a responsible party to assume all responsibility to provide routine inspection and maintenance of the pedestrian underpass; and

BE IT FURTHER RESOLVED that the Board hereby authorizes the County Executive to sign the agreements subject to their approval as to substance and form by the County Attorney.

Matters for Which a Public Hearing was Previously Held.

By the above-recorded vote, the Board adopted the adopted the Rules of Procedure of the Albemarle County Board of Supervisors for Virtual and Hybrid Meetings:

**Rules of Procedure
of the
Albemarle County Board of Supervisors
for Virtual and Hybrid Meetings**

1. Introduction

A. Purpose. The purpose of these Rules of Procedure (the “Rules”) is to facilitate the timely, efficient, and orderly conduct of public meetings and decision-making, and they are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors (the “Board”).

B. Rules Do Not Create Substantive Rights in Others. The Rules do not create substantive rights in third parties or participants in matters before the Board.

C. Compliance with These Rules. The Rules that are parliamentary in nature are procedural, and not jurisdictional, and the failure of the Board to strictly comply with them does not invalidate any action of the Board. The Rules that implement the requirements of State law are jurisdictional only to the extent that Virginia law makes them so.

D. Applicability. These Rules apply to all virtual and hybrid meetings of the Board, as those meetings are defined in these Rules, while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect. Any Board meeting at which the Supervisors and all of the participants are physically assembled is to be conducted pursuant to the Board’s Rules of Procedure adopted January 8, 2020, or as they may be amended.

E. Definitions. The following definitions apply to the administration of these Rules:

1. Hybrid Meeting. A “hybrid meeting” is a meeting where persons may either physically attend the meeting or connect to the meeting by electronic communication means.

2. Present. A person is “present” at a meeting when physically attending on the date, and at the time and place identified for the meeting, or is connected to the meeting by electronic communication means.

3. Virtual Meeting. A “virtual meeting” is a meeting where persons are connected to the meeting by electronic communication means.

2. Supervisors

A. Equal Status. Except for the additional responsibilities of the Chair provided in Rule 3(A), all Supervisors have equal rights, responsibilities, and authority.

B. Decorum. Each Supervisor will act in a collegial manner and will cooperate and assist in preserving the decorum and order of the meetings.

3. Officers and Their Terms of Office

A. Chair. When present, the Chair presides at all Board meetings during the year for which elected. The Chair has a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423) The Chair also is the head official for all of the Board’s official functions and for ceremonial purposes.

B. Vice-Chair. If the Chair is absent from a Board meeting, the Vice-Chair, if present, presides at the meeting. The Vice-Chair also discharges the duties of the Chair during the Chair’s absence or disability. (Virginia Code § 15.2-1422)

C. Acting Chair in Absence of Chair and Vice-Chair. If the Chair and Vice Chair are absent from any meeting, a present Supervisor must be chosen to act as Chair.

D. Term of Office. The Chair and Vice-Chair shall be elected for one-year terms, but either or both may be re-elected for one or more additional terms. (Virginia Code § 15.2-1422)

E. References to the Chair. All references in these Rules to the *Chair* include the Vice-Chair or any other Supervisor when the Vice-Chair or the other Supervisors is acting as the Chair.

4. Meetings

A. Annual Meeting. The *Annual Meeting* is the first meeting in January held after the newly elected Supervisors qualify for the office by taking the oath and meeting any other requirements of State law, and the first meeting held in January of each succeeding year. At the Annual Meeting, the Board:

1. Elect Officers. Elects a Chair and a Vice-Chair.

2. **Designate Clerks.** Designates a Clerk of the Board (“Clerk”) and one or more Deputy Clerks who serve at the pleasure of the Board, and who have the duties stated in Virginia Code § 15.2-1539 and any additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)

3. **Establish Schedule for Regular Meetings.** Establishes the days, times, places (if applicable), and how the public may access and participate in the meeting for regular meetings of the Board for that year. (Virginia Code § 15.2-1416) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code

§ 15.2-1413 governs how the public may access and participate in the meeting if the public is not physically attending.

4. **Adopt Rules and Policies.** Adopts Rules of Procedure and Policies that will apply in the calendar year, subject to amendment under Rule 12.

B. **Regular Meetings.** *Regular Meetings* are those meetings established at the *Annual Meeting* to occur on specified days and at specified times and places, with instructions for how the public may connect to the meeting by electronic communication means.

1. **Regular Meeting Falling on a Holiday.** If any day established as a Regular Meeting day falls on a legal holiday, the meeting scheduled for that day will be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)

2. **Adjourning a Regular Meeting.** Without further public notice, the Board may adjourn a Regular Meeting from day to day, from time to time, or from place to place, but not beyond the time fixed for the next Regular Meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

3. **Continuing a Regular Meeting When Weather or Other Conditions Create a Hazard.**

If the Chair finds and declares that weather or other conditions are hazardous for Supervisors to physically attend a Regular Meeting, prevent one or more Supervisors from being present at a meeting, or prevent a reasonably significant portion of the public from being present at a meeting considering, among other things, the items on the agenda, the meeting must be continued to the next Regular Meeting date. The Chair's finding, and the continuation of the meeting, must be communicated by the Chair or the Clerk to the other Supervisors and to the general news media as promptly as possible. All hearings and other matters previously advertised will be conducted at the continued meeting and no further advertisement is required. (Virginia Code § 15.2-1416)

4. **Establishing a Different Day, Time, Place, and Instructions.** After the Annual Meeting, the Board may establish for Regular Meetings different days, times, places, and instructions for how the public may connect to the meeting by electronic communication means by adopting a resolution to that effect. (Virginia Code § 15.2-1416)

C. **Special Meetings.** A *Special Meeting* is a meeting that is not a Regular Meeting. The Board may hold Special Meetings as it deems necessary at times and places that it deems convenient. (Virginia Code § 15.2-1417) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413 governs how the public may connect to the meeting by electronic communication means.

1. **Calling and Requesting a Special Meeting.** A Special Meeting may be called by the Chair or requested by two or more Supervisors. The call or request must be made to the Clerk and shall specify the matters to be considered at the meeting. (Virginia Code § 15.2-1418)

2. **Duty of Clerk to Provide Notice; When Notice May Be Waived.** Upon receipt of a call or request, the Clerk, after consultation with the Chair, must immediately notify each Supervisor, the County Executive, and the County Attorney about the Special Meeting. The notice must be in writing and be delivered to each Supervisor, the County Executive, and the County Attorney at their place of residence or business. Notice will be provided by email to each Supervisor's County email address. The notice may be waived if all Supervisors are present at the Special Meeting or if all Supervisors sign a waiver for the notice. (Virginia Code § 15.2-1418) An email from the Supervisor to the Clerk waiving notice satisfies this requirement. The Clerk must also notify the general news media about the Special Meeting.

3. **Contents of the Notice Provided by the Clerk.** The notice provided by the Clerk must state the date, time, place (if applicable) of the meeting, provide instructions for how the public may connect to the meeting by electronic communication means, and specify the matters to be considered.

4. **Matters That May Be Considered.** Only those matters specified in the notice may be considered at a Special Meeting unless all Supervisors are present. (Virginia Code § 15.2-1418)

5. **Adjourning a Special Meeting.** A Special Meeting may be adjourned from time to time as the Board finds necessary and convenient to complete the business of those matters identified in the notice of the Special Meeting. (Virginia Code § 15.2-1417) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

5. Order of Business for Regular Meetings

A. Establishing the Agenda. The Clerk must establish the agenda for all Regular Meetings in consultation with the County Executive and the Chair. The County Executive and the Clerk will then review the agenda with the Chair and the Vice Chair before the meeting. The Clerk sets the order of business as provided in Rule 5(B), provided that the Clerk may modify the order of business to facilitate the business of the Board. The draft agenda must be provided to the Board at least six days before the Regular Meeting date.

1. Resolutions Proposed by Supervisors. Resolutions may be proposed by a Supervisor requesting the Board to take a position on an issue of importance to the Board.

a. Initial Notice by Supervisor. A Supervisor requesting the Board to adopt a resolution should give notice of the intent to request action on the resolution on a specified meeting date and submit a draft of the proposed resolution.

b. When Request Must be Made. The request must be made at least seven days before the meeting at which the resolution may be considered.

c. Distributing the Draft Resolution to Supervisors for Comments. The Clerk will distribute the draft resolution with background information, if available, to all Supervisors. Any Supervisor may submit proposed changes to the proposed resolution to the Clerk in a redline format. The Clerk must forward all comments received from any Supervisor to the Board.

d. Preparing the Resolution. The Supervisor requesting the resolution will then coordinate with the Clerk to prepare a resolution for consideration by the Board.

e. Adding the Resolution to the Agenda. The Clerk then polls the Supervisors to determine if a majority of the Supervisors supports adding the resolution to the agenda for consideration. If a majority of the Supervisors indicates support for considering the resolution, the resolution will be added to the proposed final agenda. If all Supervisors indicate support for the resolution, the resolution may be placed on the proposed consent agenda unless any Supervisor requests otherwise.

2. Other Items Proposed To Be Added to the Clerk's Draft Agenda.

a. By Supervisors. Any Supervisor may propose to add items, other than resolutions subject to Rule 5(A)(1), to the Clerk's draft agenda for action if notice of that item has been given in writing or by email to all Supervisors, the Clerk, and the County Executive by 5:00 p.m. two days before the date of the meeting or upon the unanimous consent of all Supervisors present at the meeting. Any item that has been timely proposed and properly noticed will be added to the end of the agenda for discussion or action unless a majority of the Supervisors present agrees to consider the item earlier on the agenda.

b. By the County Executive. The County Executive may add items to the Clerk's draft agenda for action by 5:00 p.m. two days before the date of the meeting if the item requires consideration and action by the Board at its next meeting. In an emergency, the County Executive may add an item at any time with the consent of the Chair and the Vice Chair. When the County Executive adds an item to the agenda, he must provide information about the item to all Supervisors as soon as practicable and prior to the meeting.

3. Proclamations and Recognitions Proposed by Residents. A request by a resident to place a proclamation or recognition on the agenda must be made as follows:

a. When Request Must be Made. The request must be made at least four weeks in advance of the Board meeting date.

b. Request Made to the Clerk. The resident must submit the request to advance a proclamation or recognition to the Clerk. If the request is made to a Supervisor, the person making the request will be directed to make the request to the Clerk. The Clerk will advise the person making the request of the process and submittal requirements.

c. Review of the Request for Completeness and Distribution. Upon submittal of the request, the Clerk will review the submittal for completeness and forward it to the Supervisors for review.

d. Adding the Proclamation or Recognition to the Agenda; Informing the Requester. The Clerk shall poll Supervisors to determine whether a majority of the Supervisors supports adding the proclamation or recognition to the agenda. The Clerk will advise the person requesting the proclamation or recognition whether the proclamation or recognition will be considered by the Board.

4. Public Hearings for Zoning Map Amendments; Prerequisites. Public hearings for zoning map amendments are subject to the following rules in order for the item to be placed on the agenda and heard by the Board:

a. Public Hearing Should Not Be Advertised Until Final Documents Are Received. The Board's preference is that a public hearing for a zoning map amendment should not be advertised until all of the final documents for a zoning application have been received by the County and are available for public

review. To satisfy this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County so that they are received no later than two business days before the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks' advance notice of the deadline.

b. Effect of Failure to Timely Receive Final Documents. If the County does not timely receive the required final documents, the public hearing must not be advertised and the matter shall not be placed on the agenda. If the matter is not advertised, a new public hearing date will be scheduled.

c. Receipt of Final Signed Proffers. Final signed proffers must be received by the County no later than nine calendar days before the date of the advertised public hearing. This Rule is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Supervisors at the public hearing.

5. Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request. Zoning map amendments advertised for public hearing must be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as provided in County Code § 18-33.52 *et seq.*

B. Order of Business at Regular Meetings. At Regular Meetings of the Board, the order of business will be generally as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of the Final Agenda.
5. Brief Announcements by Supervisors.
6. Proclamations and Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
8. Consent Agenda.
9. General Business.
10. Closed Meeting.
11. Certify Closed Meeting.
12. Actions Resulting from Closed Meeting.
13. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
14. General Business, Including Public Hearings.
15. From the Board: Committee Reports and Matters Not Listed on the Agenda.
16. From the County Executive: Report on Matters Not Listed on the Agenda.
17. Adjourn.

C. Closed Meetings. A *Closed Meeting* is a meeting of the Supervisors that is not open to the public when authorized by the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). A Closed Meeting may be held at any point on the agenda, as necessary. Generally, a Closed Meeting will be scheduled either at the midpoint of the agenda or at the end of the agenda prior to adjournment. The Clerk must promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting.

6. Rules Applicable to the Items of Business on the Agenda

A. Adoption of the Final Agenda. *Adoption of the Final Agenda* is the first order of business for a Regular Meeting of the Board. The Board may modify the order of business as part of its adoption of the Final Agenda. Any changes to the Consent Agenda, including removing an item from the Consent Agenda for discussion and separate action, should be made when the Final Agenda is adopted. The Final Agenda must be adopted by a majority vote of the Supervisors present and voting. No item for action not included on the Final Agenda may be considered at that meeting.

B. Brief Announcements by Supervisors. *Brief Announcements by Supervisors* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.

C. Proclamations and Recognitions. *Proclamations* are ceremonial documents or recognitions adopted by the Board to draw public awareness to a day, week, or month to recognize events, arts and cultural celebrations, or special occasions. *Recognitions* are ceremonial acknowledgements by the Board of a person for service or achievement.

D. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board. *From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board* ("Matters from the Public") allows any member of the public to speak on any topic of public interest that is not on the Final Agenda for a public hearing at that meeting, any matter that was previously considered by the Board, and any matter pending before the Board that is not on that days' Board agenda. The following rules apply:

1. **Number of Speakers.** Up to 10 persons may speak during each Matters from the Public session. The 10 speakers are determined on a first-come, first-served basis, with those persons signing up to speak before the meeting having priority.
2. **Time.** Each speaker may speak for up to three minutes.
3. **Place.** Each speaker may speak using electronic communication means or, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
4. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker may speak at only one Matters from the Public session at each meeting, must address only the Board, and must not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the Matters from the Public session at which the speaker plans to speak.

E. Consent Agenda. The *Consent Agenda* is for items for action that do not require discussion or comment and are anticipated to have the unanimous approval of the Board, and for items provided for the Board's information.

1. **Questions to Staff.** Supervisors should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item before the Board meeting.
2. **Discussion and Comment.** There should be either no discussion or comment or only a brief discussion or comment on Consent Agenda items at the meeting except as provided in Rule 6(E)(3).
3. **Removing an Item from the Consent Agenda.** Any Supervisor may remove an item from the Consent Agenda at the time the Final Agenda is being considered for adoption. Any item removed from the Consent Agenda should be moved to a specific time or to the end of the meeting agenda for further discussion or action. However, an item removed from the Consent Agenda requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
4. **Effect of Approval of the Consent Agenda.** A successful motion to approve the Consent Agenda approves those Consent Agenda items identified for action and accepts Consent Agenda items identified for information.

F. General Business. *General Business* includes public hearings, work sessions, appointments, and other actions, discussions, and presentations.

1. **Public Hearings.** The Board may not decide any item before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the public hearing or consideration of the item. The procedures for receiving a presentation from the applicant and comments from members of the public are at the discretion of the Board provided that they satisfy all minimum legal requirements. However, unless otherwise decided by a majority of the Supervisors present during a particular public hearing, the following rules apply:

- a. **Time.** The applicant is permitted up to 10 minutes to present its application. Following the applicant's presentation, any member of the public is permitted to speak once for up to three minutes on the item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.
- b. **Place.** The applicant and each member of the public presenting and speaking may speak using electronic communication means and, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
- c. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker must address only the Board, speak to issues that are relevant to the item for which the public hearing is being held, and not engage in speech or other behavior that actually disrupts the meeting. The applicant and its representatives may include a visual or audio presentation. Any other speaker may also include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the time scheduled for the public hearing.

2. **Public Hearings; Zoning Map Amendments; Applicant's Documents Not Available During Advertisement Period.** If the public hearing is held without the applicant's final documents being available for review throughout the advertisement period due to the late submittal of documents, or because substantial revisions or amendments are made to the submitted documents after the public hearing has been advertised, it is the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application. In deciding whether to defer action or to deny the application, the Board must consider whether deferral or denial would be in the

public interest or would forward the purposes of this policy.

3. Action Items on Deferred Matters Not Listed on the Agenda for Public Hearing When Public Hearing Previously Held. On any matter before the Board for action that is not listed on the agenda for public hearing and was previously deferred after the close of a public hearing, the following rules apply:

a. Time. The applicant is permitted up to seven minutes to present its application and any member of the public is permitted to speak once for up to two minutes on the item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.

b. Place and Manner. The place and manner rules in Rule 6(F)(1)(b) and (c) apply.

G. From the Board: Committee Reports and Matters Not Listed on the Agenda. *From the Board: Committee Reports and Matters Not Listed on the Agenda* is limited to matters that are not substantial enough to be considered as agenda items to be added to the Final Agenda. Reports include routine committee reports and information updates by Supervisors. Any matters discussed during this part of the agenda may not be acted upon by the Board at that meeting.

H. Report from the County Executive. The *Report from the County Executive* is a report on matters that the County Executive deems should be brought to the Board's attention and provide updates, if necessary, to the monthly County Executive's Report.

7. Quorum

A. Establishing a Quorum. A quorum for any meeting of the Board is a majority of the members of the Board present, except as provided in Rule 7(B)(2). (Virginia Code § 15.2-1415; Continuity of Government Ordinance)

B. Quorum Required to Act; Exceptions. The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415; Continuity of Government Ordinance) There are two exceptions:

1. Quorum Not Established; Adjournment. If a quorum is not established, the only action the Supervisors present may take is to adjourn the meeting.

2. Quorum Not Established or Lost Because of a Conflict of Interests; Special Rule. If a quorum cannot be established or is lost because one or more Supervisors are disqualified from participating in an item because of a conflict of interests under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*), the remaining Supervisors are a quorum and they may conduct the business of the Board.

C. Loss of Quorum During Meeting. If a quorum was established but during a meeting the quorum is lost, the only action the Supervisors present may take is to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415; Continuity of Government Ordinance)

D. Quorum Required to Adjourn Meeting to Future Day and Time. A majority of the Supervisors present at the time and place established for any regular or special meeting is a quorum for the purpose of adjourning the meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

8. Remote Electronic Participation

A Supervisor may participate in a meeting through electronic communication means while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect and the ordinance, or State law, or a combination thereof, allow Supervisors to participate in a meeting through electronic communication means.

9. Conducting the Business of the Board

A. Enable Efficient and Effective Conduct of Business. Meetings will be conducted in a manner that allows the Board to efficiently and effectively conduct its business, without actual disruptions.

B. Minimizing Disruptions. To minimize actual disruptions at meetings:

1. Speakers. Members of the public who are speaking to the Board must comply with Rules 6(D) and 6(F)(1), as applicable. Members of the public invited to speak to the Board during any agenda item other than Matters from the Public or during a public hearing must comply with Rule 6(D).

2. Persons Physically Attending the Meeting. Any person physically attending a meeting must comply with the following:

a. Sounds. Persons may not clap or make sounds in support of or in opposition to any matter during the meeting, except to applaud during the Proclamations and Recognitions portion of the meeting. Instead of making sounds, persons who are not speaking at the podium or other location provided for the

meeting are encouraged to raise their hands to indicate their support or opposition to any item during the meeting. Cell phones and other electronic devices shall be muted.

- b. **Other Behavior.** Persons may not act, make sounds, or both, that actually disrupt the Board meeting.
 - c. **Signs.** Signs are permitted in the meeting room so long as they are not attached to any stick or pole and do not obstruct the view of persons physically attending the meeting.
 - C. **Guidelines Stated on the Final Agenda.** The Guidelines stated on the Final Agenda apply during each Board meeting. The Board may amend the Guidelines from time to time without amending these Rules provided that the Guidelines are consistent with these Rules.
 - D. **Chair May Maintain Order.** The Chair is to maintain order of the meeting, including the following:
 - 1. **Controlling Disruptive Behavior of Persons Physically Attending the Meeting.** The Chair may ask any person physically attending a meeting whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may order the removal of that person from the meeting.
 - 2. **Controlling Disruptive Behavior of Persons Participating Through Electronic Communication Means.** The Chair may ask any person participating in a meeting through electronic communication means whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may ask the Clerk to silence the audio and video of that person.
- 10. Motion and Voting Procedures**
- A. **Action by Motion Followed by a Vote.** Except as provided in Rules 10(B)(2) and 11(D), any action by the Board must be initiated by a motion properly made by a Supervisor and followed by a vote, as provided below:
 - 1. **Motion Must Be Seconded; Exception.** Each action by the Board must be initiated by a motion that is seconded; provided that a second is not required if debate immediately follows the motion. Any motion that is neither seconded nor immediately followed by debate may not be further considered.
 - 2. **Voting and Recording the Vote.** The vote on any motion must be by a voice vote. The Clerk must record the name of each Supervisor voting and how each Supervisor voted on the motion.
 - 3. **Required Vote, Generally Required Vote for Specific Items.** Each action by the Board must be made by the affirmative vote of *a majority of the Supervisors present and voting* on the motion; provided that an affirmative vote of *a majority of all elected Supervisors* of the Board shall be required to approve an ordinance or resolution:
 - a. **Appropriations.** Appropriating money exceeding the sum of \$500.
 - b. **Taxes.** Imposing taxes.
 - c. **Borrowing.** Authorizing money to be borrowed. (Article VII, § 7, Virginia Constitution; Virginia Code §§ 15.2-1420, 15.2-1427, 15.2-1428)
 - 4. **Tie Vote.** A tie vote defeats the motion voted upon. A tie vote on a motion to approve is deemed a denial of the item being proposed for approval. A tie vote on a motion to deny is not deemed an approval of the item being proposed for denial, and another motion may be made.
 - 5. **Abstention.** Any Supervisor who will abstain from voting on any motion must declare the abstention before the vote is taken and state the grounds for abstaining. The abstention must be recorded by the Clerk.
 - B. **Motion and Vote Required to Act; Exception.** The Board acts on matters as follows:
 - 1. **Motion and Vote Required.** Any action by the Board to adopt an ordinance or a resolution, and any other action when a motion is required by law or by these Rules, must be made by a motion followed by a vote.
 - 2. **Motion and Vote Not Required; Unanimous Consent.** On any item in which the Board is not adopting an ordinance or a resolution, or for which a motion and a recorded vote is not otherwise required by law, the Board may make a decision by unanimous consent. This procedure is appropriate, for example, to provide direction to County staff on an item.
 - C. **Other Motions.**
 - 1. **Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Supervisor. Upon a proper second, the motion to amend must be discussed and voted on by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both Supervisors making and seconding the original motion. If the motion to amend is approved, the amended

motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.

2. **Motion to Call the Question.** The discussion of any motion may be terminated by any Supervisor making a *motion to call the question*. Upon a proper second, the Chair must call for a vote on the motion to call the question without debate on the motion itself, and the motion takes precedence over any other item. If the motion is approved, the Chair must immediately call for a vote on the original motion under consideration.

3. **Motion to Reconsider.** Any decision made by the Board may be reconsidered if a *motion to reconsider* is made at the same meeting or an adjourned meeting held on the same day at which the item was decided. The motion to reconsider may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, is to place the item for discussion in the exact position it occupied before it was voted upon.

4. **Motion to Rescind.** Any decision made by the Board, except for decisions on zoning map amendments, special use permits, special exceptions, and ordinances, may be rescinded by a majority vote of all elected Supervisors. The *motion to rescind* may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Decisions on zoning map amendments, special use permits, special exceptions, and ordinances may be rescinded or repealed only upon meeting all of the legal requirements necessary for taking action on the items as if it was a new item before the Board for consideration; otherwise, decisions on zoning map amendments, special use permits, special exceptions, and ordinances are eligible for reconsideration as provided in Rule 10(C)(3).

11. **Other Rules: Robert's Rules of Order Procedure in Small Boards**

Procedural rules that are not addressed by these Rules are governed by *Robert's Rules of Order Procedure in Small Boards*, which provide:

A. **Not Required to Obtain the Floor.** Supervisors are not required to obtain the floor before making motions or speaking, which they can do while seated.

B. **No Limitation on the Number of Times a Supervisor May Speak.** There is no limitation on the number of times a Supervisor may speak to a question, and motions to call the question or to limit debate generally should not be entertained.

C. **Informal Discussion.** Informal discussion of a subject is permitted while no motion is pending.

D. **Chair: Putting the Question to a Vote.** The Chair need not rise while putting questions to vote.

E. **Chair: Speaking During Discussion.** The Chair may speak in discussion without rising or leaving the chair, and, subject to rule or custom of the Board (which should be uniformly followed regardless of how many Supervisors are present), the Chair usually may make motions and usually votes on all questions.

12. **Amending the Rules of Procedure**

These Rules may be amended only as follows:

A. **Rules Eligible for Amendment.** Any Rule may be amended.

B. **Procedure to Amend.** The Board may amend any Rule by any of the following procedures:

1. **Notice Followed by Action at Next Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting, followed by a majority vote of the Supervisors present and voting to amend the Rules at the next Regular Meeting

2. **Notice Followed by Action at Later Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting and requests that the proposed amendment be considered at a meeting other than the next Regular Meeting; at the same meeting, a majority of the Supervisors present and voting establish the later Regular Meeting date at which the proposed amendment will be considered; followed by a majority vote of the Supervisors present and voting to amend the Rules at the Regular Meeting.

3. **By Supermajority Vote.** A proposed motion to amend is added to the Final Agenda at any Regular Meeting; at the same meeting, five or more Supervisors vote to amend the Rules. This procedure should be used only to make minor technical amendments deemed to be necessary to allow the Board to efficiently and effectively conduct its business.

C. **Motion.** The motion to amend a Rule may be made by any Supervisor. Upon a proper second, the motion must be discussed and voted on. In deciding whether and how to amend a Rule, the Board shall consider that Rules 3, 4, 6(D), 6(F)(1)(a) through (c), 7, 8, 9(B), 10(A)(3), and 10(B)(1) address statutory or constitutional requirements.

D. **Limitation on the Effect of an Amendment.** The Board's approval of a motion to amend one or

more Rules does not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

13. Suspending the Rules of Procedure

These Rules may be suspended only as follows:

A. Rules Eligible to be Suspended. Rules 1, 2, 5, 6, 9(A), 10 (except for Rules 10(A)(3) and 10(B)(1)), 11, and 12 may be suspended.

B. Procedure to Suspend, Generally. Any Rule eligible for suspension may be suspended by a majority plus one vote of the Supervisors present and voting. The motion to suspend a Rule may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to suspend a Rule, if approved, is to make that Rule inapplicable to the item before the Board.

C. Suspending Rules Pertaining to Motions When There is Uncertainty as to Status or Effect. If one or more motions have been made on an item, and there is uncertainty as to the status or effect of any pending motions or how the Board is to proceed at that point, the Board may, by a majority vote of the Supervisors present and voting, suspend the Rules in Rule 10 for the sole purpose of canceling any pending motions and to permit a new motion to be made. The motion to suspend a Rule pertaining to any pending motions may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on.

D. Limitation on Effect of Suspended Rules. The Board's approval of a motion to suspend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

* * * * *

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014; 1-7-2015; 1-6-2016; 1-4-2017; 2-8-2017; 1-3-2018; 3-20-2019; 01-08-2020; 9-2-2020; 12-2-2020).

Item No. 8.6. Albemarle County 2020 3rd Quarter Certificate of Occupancy Report, **was received for information.**

Item No. 8.7. Albemarle County 2020 3rd Quarter Building Permit Report, **was received for information.**

Item No. 8.8. Land Use and Environmental Planning Committee 2020 Report, **was received for information.**

Agenda Item No. 9. **Action Item:** SE202000012 Homestay Special Exception Awen Retreat (Geiger).

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception pursuant to County Code § 18-5.1.48(i)(1)(ii) for a proposed homestay at 669 Gillums Ridge Road to modify County Code 18-5.1.48(j)(1)(v) to reduce the 125' setback from the front and southern side property lines required for a homestay use.

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

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

Ms. Rebecca Ragsdale said this is a homestay special exception for a property that is less than five acres. She said staff usually goes over the applicable homestay regulations before jumping into the particulars on the property, and so she would do so.

Ms. Ragsdale said as this property is less than five acres, it is limited by the ordinance to two guestrooms; no use of an accessory structure; only one homestay on the property; and no whole-house owner (rental when the owner is not present). She said the main reason the item was before the Board was because of the 125-foot setback requirement from all property lines which, as discussed previously, is an item that can be modified through the special exception process. She said the request before the Board is to reduce the setbacks from a side property line as well as from a front property line.

Ms. Ragsdale reminded the Board that before presenting the special exceptions, staff lets the Board know the criteria that are in the homestays section of the Zoning Ordinance, which is an analysis that includes the finding that there is no detriment to any abutting lot when granting a special exception and no harm to public health, safety, or welfare.

Ms. Ragsdale said regarding the particulars of this homestay special exception request, the vicinity map was shown on the screen, with the parcel being the triangular or pie-shaped parcel. She said this is located just off of Three Notched Road and Route 250, and is near the intersection of Three Notched and Rockfish Gap (Routes 240/250). She said Gillums Ridge runs through the parcel, as shown on the map.

Ms. Ragsdale presented an aerial view of the neighborhood that showed the railroad behind the property. She said there are some residential properties beside the parcel and across the road from it.

Ms. Ragsdale said when staff visited the property, and as the applicant indicated in their request, they found there is a berm with the closest adjoining property, which was shown on the lower portion of the screen, and a good amount of vegetation. She said in this particular case, the guestrooms are located on the side of the house opposite from the property lines that do not meet the 125-foot request.

Ms. Ragsdale said staff did hear from the nearest property owner (shown on the screen) that they were in support of and had no objections to the request. She said she also received some questions from other neighbors who simply wanted clarification, but staff has not received any objections to the request.

Ms. Ragsdale said for those reasons, staff has recommended approval of the request. She said the suggested motion, after the Board's questions and discussion, is that they would move to adopt the resolution to approve it, with the conditions the Board is used to seeing by now, with the parking areas and guestroom locations depicted on the exhibit as well as a condition that is a commitment or requirement to maintain either the existing vegetation that staff did find adequate or an alternative if the applicant ever wanted to change anything on the property.

Ms. Price thanked Ms. Ragsdale, expressing that she appreciated the manner in which all the exceptions are presented to the Board. She said these may, in some way, become "old hat" with the 125-foot exception, but she believes it is important that each of these applications, on their record, stand independently. She said she appreciated the way Ms. Ragsdale does these reports. She said she did not have questions, but may have a comment later.

Ms. Palmer said she did not have any questions. She said she is familiar with the property, and it seems straightforward.

Ms. Mallek asked if the tree buffer on the short-distance side is on the applicant's property or the neighbor's.

Ms. Ragsdale replied that it is on the applicant's property.

Ms. Price asked Ms. Ragsdale if she could go back to the view that showed the triangular shape of the property. She said she believed this particular application shows exactly why they have to be able to provide some degree of exceptions to the 125-foot rule. She said when looking at the property, it is extremely long and narrow, and there is simply no way she believes one could ever have a house on that piece of property and fully comply with 125 feet. She said it is good the Board has these general rules, but she thinks this is a perfect example of why it is appropriate that they have the exceptions. She said she did support this request.

Ms. Palmer pointed out that the railroad is right behind this house, which is interesting.

Ms. Palmer **moved** that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein. Ms. Mallek **seconded** the motion.

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

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

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR SE2020-00012 AWEN RETREAT HOMESTAY**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot front and southern side yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

SE 2020-12 Awen Retreat Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit dated November 5, 2020.
2. The existing vegetative buffer/berm located along the southern property line, as depicted on the Parking and House Location Exhibit dated November 5, 2020, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

Agenda Item No. 10. **Action Item:** SE202000013 Homestay Special Exception – Place of Grace (Mariah C. Dean).

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception pursuant to County Code § 18-5.1.48(i)(1)(ii) for a proposed homestay at 669 Gillums Ridge Road to modify County Code 18-5.1.48(j)(1)(v) to reduce the 125' setback from the front and southern side property lines required for a homestay use.

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

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

Ms. Rebecca Ragsdale said this would be a similar presentation to the one before it. She presented a photo of the property on the screen, which was a view from one of the property liens where the special exception was being requested.

Ms. Ragsdale said this is another parcel that is less than five acres and listed on the screen the limitations that apply to homestays on parcels less than five acres. She said this particular request is for a reduction in setbacks to the front and side property lines. She said staff's analysis would include looking at the particulars of the property and recommending and making the findings that there is no detriment to abutting lots, nor harm to public safety, health, or welfare.

Ms. Ragsdale said this particular property is located down the Route 29 corridor off Monacan Trail, on Taylor's Gap Road, in an area that is farther off the beaten path than the previous one. She presented an aerial view of the neighborhood, pointing out the residence across the street and the residence shown on the lower part of the screen. She said the latter is the closest house, and the request is for a reduction to the front, where the property has 100 feet but not the required 125. She said it is then 60 feet to the side property line.

Ms. Ragsdale said in this case, the neighboring property's driveway is closest to the house, and the house is set back on the lot, resulting in it being located well away from the homestay.

Ms. Ragsdale said this is a lot that does not have any more development rights, and so staff would not expect there to be another home built on the property.

Ms. Ragsdale said there is some screening between the home and the house in the form of some landscaping. She said there are landscape features, fencing, and an outdoor area that acts to screen the guestrooms. She said the parking is on the other side of the house, away from the neighbors.

Ms. Ragsdale said in this case, staff has recommended approval of the special exception. She said they did not receive any questions, concerns, or response to the abutting neighbor notice that was sent for this request.

Ms. Ragsdale said staff recommended approval, with conditions similar to the last request. She said the suggested motion would be to adopt the resolution in Attachment F to approve the special exception.

Ms. Price asked Ms. Ragsdale if she could put up the satellite view again. She said if the people who built the house in 2008 had contemplated that they might have a homestay, then they may have moved the house further into the center of the property. She said this is again a good example that shows the reality of what the Board is dealing with and a reason why she finds these exceptions to be acceptable under the appropriate circumstances.

Mr. Gallaway noted that in the driveways where there is parking labeled on the map, the driveway leads up to the word "parking." He asked if this is where the driveway ends.

Ms. Ragsdale replied yes.

Mr. Gallaway asked if the screening was just one big tree, or if there is more landscaping where screening was marked.

Ms. Ragsdale replied that she had some photos that may be helpful. She said there is vegetation,

shrubs, and the fencing near the gazebo and outdoor seating area. She presented some pictures staff took from the site.

Ms. Palmer asked if these things are on the applicant's property.

Ms. Ragsdale replied yes. She said whenever staff looks at the features that mitigate or provide screening, or at the combination of things providing buffer and screening, they always look at the applicant's property because they cannot condition or require things that would limit the adjoining property owner's use of their property.

Ms. Mallek said the matter of where the activities will happen will provide whether or not the fencing is protective or if people are using the huge play area behind the fence where there is no screening. She said this was uncertain.

Ms. Ragsdale said there are also other trees between this and the large tree.

Ms. Price told Ms. Mallek that it appeared that the first picture showed the screening with the house and that the second picture to the right showed it between the house and the screening. She said the small opening is where the tree is.

Ms. Palmer **moved** that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein. Ms. Price **seconded** the motion.

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

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

RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR SE2020-00013 PLACE OF GRACE HOMESTAY

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot front and southern side yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

* * *

SE 2020-13 Place of Grace Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit dated November 5, 2020.
2. The existing screening, as depicted on the Parking and House Location Exhibit dated November 5, 2020, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

Agenda Item No. 11. **Action Item:** Revocable License Agreement for Construction of Drainage Improvements on County Property Along Eastern Avenue.

The Executive Summary forwarded to the Board states that, following the construction of Eastern Avenue, there has been minor flooding on County-owned Parcel 056H0-00-00-000A0 and three adjacent private properties (TMPs 056H0-01-00-11200, 056H0-01-00-11300, and 056H0-01-00-11400). The flooding is a public nuisance and safety hazard during and after storm events and freezing weather. Though Stanley Martin Companies, LLC, the developer of Westlake Hills, is willing to correct the drainage problem, the drainage improvements would be located on County property. As a result, County approval is needed for the developer to enter County property for this purpose. This proposal is to authorize the County Executive to sign a revocable license with the developer on behalf of the County.

The subject County-owned property is a pocket park that is located in the eastern part of the Crozet Development Area (refer to Attachment A for location map). The park was dedicated to the County as part of the West Hall Phase V Subdivision, which did not include design or construction of any portions of Eastern Avenue. A subsequent development, the Westlake Hills subdivision, included construction of Eastern Avenue from Westhall Drive to just north of Jonna Street. This first phase of Eastern Avenue included grading that could occur only within the public right-of-way. Now that Eastern Avenue is constructed, it has become apparent that drainage was not properly accounted for and minor flooding is occurring on County property and three adjacent, privately-owned properties. Refer to Attachment A for photos.

The developer of the Westlake Hills development has agreed to correct the flooding issue by either 1) installing a drainage inlet and pipe to collect the runoff and route it to a drainage inlet in the

public right of way (Attachment B - Sketch of Proposed Drainage Improvements), or 2) regrading the existing swale and installing a culvert under the pedestrian trail that drains to the existing biofilter within the County pocket park. Option 2 is preferred because there would be no structures to maintain and the likelihood of clogging is greatly reduced. For either option, the developer would need approval of the property owner (the County) to enter the property to install the improvements.

If Option 1 is completed, routine maintenance is expected to consist of removing trash and yard debris from the inlet grate, which could be done by the County or its maintenance contractor with minimal effort. Long term repairs to the inlet and drainage pipe are expected to be minimal, based on the relatively small size and depth of the improvements and the lifespan of similar systems of at least 50 years. If Option 2 is completed, there should be no additional impact on County staff as maintenance would consist only of mowing, which already is being performed by the County.

Staff recommends that the Board adopt the attached Resolution (Attachment C) approving a revocable license agreement with the developer to correct drainage issues on County property at the Eastern Avenue / Jonna Street intersection and authorizing the County Executive to sign the agreement and any related documents on behalf of the County once they have been approved as to substance and form by the County Attorney.

Mr. Frank Pohl, County Engineer, said he was before the Board to recommend approval of a revocable license agreement for construction of drainage improvements on County property along Eastern Avenue.

Mr. Pohl said the background on this project is that development in the Westhall area has occurred in phases. He said the homes in Westhall Phase V were completed in 2012, and Eastern Avenue was completed afterwards. He said there is an area where grading did not accommodate drainage, resulting in some minor flooding. He said the property where the flooding is occurring was dedicated to the County for a greenway and public parks space, which was why staff was before the Board that evening, as the Board represents or is the owner of this land.

Mr. Pohl presented a map showing where the minor flooding occurs. He indicated on the map to Eastern Avenue, Westhall V, Jonna Street, and the County property parcel (Tax Map Parcel 56-HA) in Crozet.

Mr. Pohl presented photos showing what happens during any kind of rain event. He said it does not have to be a flooding event, but can be a two-year or ten-year storm event that can cause flooding there depending on ground conditions and if it has drained recently. He noted that the photo of the backyard showed how the flooding is damaging the bottom of the fence there over time. He said the trees in this area have died and have been replanted once. He said those lasted for some time, then died because their feet are wet, and they are not meant to be wet.

Mr. Pohl presented a photo showing how the water flows over the sidewalk and creates a hazard for pedestrians, mostly during the wintertime when it can ice up.

Mr. Pohl said the next steps will be to survey the area, then complete designs for both options. He said there are two options staff is looking at and that there may now be a third that has come up. He said they will work with FES to decide the best option to move forward with, and they will develop a replanting plan as tree removal will be required for either option. He said the developer has committed to replanting as many trees as he takes out, and if staff asks him to plant more, he is sure the developer will, though he cannot commit him to that.

Mr. Pohl said they will complete repairs in Spring 2021 or as soon as possible. He said they are trying to get the road dedicated, and they think everything else should be ready to go, considering confirmation of site distance out there and a few other minor issues. He said other than that, he thinks they are getting close to acceptance.

Mr. Pohl said the staff recommendation is for the Board to adopt the resolution attached to the staff report. He concluded his presentation.

Ms. Price said she did not have any questions, but her comment would be that she sees this resolution as a developer being a good neighbor and accepting responsibility to correct the problem. She thanked Mr. Pohl and County staff who worked to bring this to resolution.

Ms. Palmer asked if the developer is paying for everything.

Mr. Pohl replied yes.

Ms. Palmer asked so that she could better understand how this happened in the first place if this is the same developer who built the houses and road.

Mr. Pohl replied no. He said there were two different developers, and he believed the original developer was Bob Houser, although he was not sure. He said it is a different developer who is building the road.

Ms. Palmer asked who looks at the site plans, as she was trying to understand how the stormwater plan did not get done properly. She said she was not trying to blame anyone, but was trying to understand the process that led to a problem like this one.

Mr. Pohl replied that a road plan was reviewed for this, and in his opinion after having gone back and looked at it, there was not sufficient surveying of the area. He said they tied into the existing side streets, and so he thinks it was a miss. He said things do happen, and this is a circumstance where they are willing to fix it, so he did not dig too much into that side of it. He said if the grades had been more closely identified during the design, it probably could have been addressed during the design.

Ms. Palmer asked if this would have been done by the engineer who worked for the developer that put in the road, then reviewed by County staff.

Mr. Pohl said this was correct.

Ms. Mallek said there was a change in ownership. She asked if it was true that the buyer takes on all the responsibility of the previous owner when this kind of transfer happens, so there was no question about being responsible to fix this.

Mr. Pohl replied that in his opinion, there was no question about that.

Ms. Mallek said this was good to know. She said this was the subject of a very big field trip the week prior, and both VDOT and County staff realized that the sight distance issues are huge, and so there will be much more work done out there. She said they had a good up-close and personal view of the standing water behind the people's houses, which they have been complaining about for a long time (more than two years). She said she is very glad to have this done, and if there is a way to drain some of this out sooner rather than waiting until next year, this would be great. She stressed that it needed to be done before warm weather comes again as it is a source of mosquitos.

Ms. Mallek asked if the project includes replacing the fence where the standing water has damaged the fence that was put in by the landowners.

Mr. Pohl replied that there has not been a request to replace that fence. He said he should not have said that there is damage, and although he sees there is water under the boards, he has not inspected the boards and therefore does not know the actual damage.

Ms. Mallek asked as far as the replanting if there is now an updated tree list with native trees.

Mr. Pohl replied that this was correct.

Ms. Mallek said these were all excellent things. She said she believed she correctly understood that the drainage is considered part of the bonded road project, and so they do not need to have a separate bond for this, but the County would be protected and have the ability to keep demanding it be fixed until it is done correctly. She asked if this was correct.

Mr. Pohl said this has been his determination.

Ms. McKeel said she appreciated the developer stepping up to the plate on this. She said when she looks at this picture and reads about it, however, it is exactly a problem that the older Urban Ring neighborhoods frequently see, except they do not have the sidewalks. She said there are no developers around, and no one is stepping up to the plate. She said this is not an uncommon problem there in the older urban neighborhoods and that she and Mr. Gallaway have them, as she is sure everyone does.

Ms. Mallek said they are in every neighborhood, everywhere, old or new.

Ms. McKeel agreed they all have them, and there needs to be talk about how to fix them as they are more of a problem in some areas than they are in others. She said she could show the Board pictures where yards look totally flooded. She said it is great that this developer is stepping up to fix the problem.

Mr. Gallaway said there were two options, and it was clear that Option 2 is preferred. He asked if anyone was in objection to Option 2 versus Option 1.

Ms. Mallek said she thought there was going to be engineering that would impact that decision, and she was not prepared to make that choice. She said she certainly did not want to have the "cheap and dirty" way done, and it needs to be done correctly, whatever that is.

Mr. Gallaway asked Mr. Pohl if he misunderstood.

Mr. Pohl said he was not asking the Board to decide on an option that day because they had not fleshed out the issues with both options. He said the best option, from a maintenance perspective, is to regrade the swale so that there is not a structure there, but staff has not finished investigating that yet.

Ms. Mallek **moved** that the Board adopt the attached Resolution (Attachment C) approving a revocable license agreement with the developer to correct drainage issues on County property at the Eastern Avenue / Jonna Street intersection and authorizing the County Executive to sign the agreement

and any related documents on behalf of the County once they have been approved as to substance and form by the County Attorney. Ms. Price **seconded** the motion.

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

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

**RESOLUTION APPROVING AN AGREEMENT FOR
ACCESS TO CONSTRUCT DRAINAGE IMPROVEMENTS
ON COUNTY PROPERTY ALONG EASTERN AVENUE**

WHEREAS, with the recent construction of Eastern Avenue, minor flooding has been occurring on adjacent County-owned property (TMP 056H0-00-00-000A0) and three privately-owned properties (TMPs 056H0-01-00-11200, 056H0-01-00-11300, and 056H0-01-00-11400); and

WHEREAS, Stanley Martin Companies, LLC, the developer of the adjacent Westlake Hills development, has agreed to correct the flooding issue, but needs County approval to enter County property to complete the needed improvements; and

WHEREAS, the Board finds it is in the County's best interest to enter an agreement to allow the developer access to construct drainage improvements on Tax Parcel 056H0-00-00-000A0.

IT IS HEREBY RESOLVED that the Albemarle County Board of Supervisors approves entering an agreement to allow Stanley Martin Companies, LLC access to construct drainage improvements on County-owned property (TMP 056H0-00-00-000A0), and authorizes the County Executive to sign such agreement and any related documents once they have been approved as to substance and form by the County Attorney.

Agenda Item No. 12. **Action Item:** Consideration of New Enabling Authority to Levy Taxes on the Sale or Use of Cigarettes, and Two Finance and Budget Tax Deadline Extension Ordinances.

The Executive Summary forwarded to the Board states that there are three finance-related legislative items that requires the Board's attention this fall related to the FY 22 budget development process, and to tax payment schedules.

The first item is the County's ability to levy taxes on the sale of cigarettes. During the most recent General Assembly session, Virginia counties received additional enabling legislation, including the authorization to levy taxes upon the sale of cigarettes
<<https://law.lis.virginia.gov/vacode/title58.1/chapter38/section58.1-3830/>>, effective July 1, 2021. Prior to enacting such a tax, the Board is required to hold a public hearing and adopt an Ordinance.

The second item is staff's recommendation that the Board schedule a public hearing on an Ordinance to adjust the due date of the first installments of biannual taxes (Attachment A). The current payment due date of the first installments of 2021 taxes for Real Estate, Personal Property, Machinery and Tools, Mobile Homes and Public Service Corporations is June 5. In coordination with the FY 22 Budget development calendar and to provide adequate time for this year's tax billing process and for taxpayers to remit their first installments, staff recommends that the County extend the due dates for these property taxes to June 25, 2021 by Ordinance.

The third item is staff's recommendation that the Board schedule a public hearing on an Ordinance to amend County Code Chapter 15, Taxation, to provide an extension of time to pay certain real property taxes (Attachment B). Late charges required by County Ordinances for untimely local tax filings and payments are enabled by Virginia Code §§ 58.1-3916 and 58.1-3703.1. The Virginia Code states the County can provide up to a 90-day extension of time for the payment of real property taxes whenever a good cause exists. When an owner of real property is subject to a supplemental bill that is charged due to the correction of an assessment where the information was previously available to the County Assessor, and when that error is not due to any act or omission of the owner of such real property, the Virginia Code enables the County to cause no penalty or interest to accrue on the supplemental bill for an additional 90 days.

Cigarette tax - On December 2, staff will provide cigarette tax policy research and revenue projection information for the Board's consideration. A public hearing would be required prior to the adoption of an Ordinance to enact a cigarette tax.

Extension of June 2021 property tax deadline - On December 2, staff will request that the Board schedule a public hearing on an Ordinance to modify the scheduled June 2021 property tax due dates.

90-Day extension to pay supplemental real property tax bills - On December 2, staff will provide an overview of the County's late penalties and interest requirements, and will request that the Board schedule a public hearing on an Ordinance to amend County Code Chapter 15, Taxation, to provide a 90-day extension of time to pay supplemental real property tax bills that are issued due to the correction of an assessment where the information was previously available to the County Assessor, and when that error is not due to any act or omission of the owner of such real property.

Implementation of a cigarette tax during FY 22 would result in additional tax revenues that could be dedicated to a County priority. Providing an extension of time to extend the due date of property taxes and to pay real property taxes for supplemental real estate bills is not anticipated to have an impact on expected revenues.

Staff recommends that the Board: 1) consider levying a tax upon the sale or use of cigarettes and, if desired, schedule a public hearing on a potential Ordinance, 2) schedule a public hearing on an Ordinance to extend the due date of property taxes (Attachment A) and 3) schedule a public hearing on an Ordinance to amend County Code Chapter 15, Taxation, to provide an extension of time to pay real property taxes subject to supplemental bills when good cause exists (Attachment B).

Mr. Gallaway suggested moving onto this item before recess, as the meeting was running ahead of time. With no objections, Ms. Nelsie Birch, Chief Financial Officer, proceeded with her presentation.

Ms. Birch said she was attending with three of her team members, who would be bringing forward three items for the Board's consideration. She said Ms. Lori Allshouse, Assistant CFO for Policy & Partnership, would start off the presentation and lead a discussion as to whether or not the Board wants to consider levying a cigarette tax in the County.

Ms. Birch said next, they would be moving to Ms. Jian Lin, Division Chief over Revenue Administration, who assesses and collects all taxes in the County. She said Ms. Lin will lead a discussion about changing one of the due dates for 2021 from June 5 to June 25.

Ms. Birch said lastly, Mr. Peter Lynch, County Assessor, will discuss with the Board the possibility of extending a deadline for very specific supplemental bills up to an additional 90 days. She said this would not be for all supplemental bills for real estate, but a small segment of them. She said Mr. Lynch would go into greater detail later on, but she wanted to give the Board a moment to process that.

Ms. Allshouse, Assistant CFO for Policy & Partnership, said her role that day would be to provide the Board with an overview of some new enabling authority to levy taxes on the sale or use of cigarettes. She said as the Board would recall, the General Assembly provided counties with options to be able to levy different taxes and make changes somewhat similar to cities. She said this is something that has been a long time coming for counties.

Ms. Allshouse presented a list of legislative items that the Board had seen from Mr. Greg Kamptner a couple of times. She said these were things that the Board is now able to do that they were not able to before. She said the first thing is being authorized to impose a tax on plastic bags. She said staff was not bringing this item to the Board that day for a couple of reasons.

Ms. Allshouse said staff wanted to focus the conversation that day on the cigarette tax. She said all the other listed options that were provided by the General Assembly are very important for the Board's consideration, and staff believes that given where they are today and with the pandemic, thinking about next year's budget, they want to bring the cigarette tax forward that day without bringing forward the other items.

Ms. Allshouse said the plastic bags tax is an important item that staff believes they should explore, but that it does have impacts on businesses and especially small businesses at this time as many times, they have to program things differently within their stores to be able to impose this tax. She said this is the reason staff was pausing on bringing that forward that day.

Ms. Allshouse said there is also enabling authority to raise the levy on food and beverage tax. She said again, staff was not bringing that forward that day due to the timing with the pandemic.

Ms. Allshouse said there is also the option to remove the limit on the transient occupancy tax. She said for the same reason, staff does not feel this is the right time to bring this item forward, although all of these items should be discussed at some date.

Ms. Allshouse said the ability to impose emission tax of up to 10% is another item that staff believes would be better to be brought back at a later time for conversation. She said the focus of the discussion that day will be imposing a cigarette tax of up to 40 cents per pack. She asked if there were any questions before moving forward. Hearing none, she proceeded.

Ms. Allshouse said up until this point, only Virginia cities and towns and two counties were able to impose a cigarette tax. She said if the tax is approved, staff recommends they go at this with a regional approach. She said the Board can administer this tax as an individual county or jurisdiction, or they can do what is being done in Northern Virginia, where 19 jurisdictions have joined together to administer this tax in a regional way, with a regional board.

Ms. Allshouse said staff has been in a couple of meetings across the state. She said just the day before, the Thomas Jefferson Planning District had a meeting to discuss how this tax could be administered as a county. She said there was a lot of conversation about regional approaches. She said if the tax is approved, staff recommends taking a regional approach to this. She said they know that Charlottesville and Fluvanna and Orange Counties have all mentioned they would be interested in a regional approach to administer the tax.

Ms. Allshouse said there is a lot involved in administering a cigarette tax. She said it deals with stamps, distributors, activity, and compliance issues. She said if this tax is approved, staff thinks they should take a regional approach in order to minimize staff resources required, eliminate the need to store stamps (which have to be kept in a vault), and streamline the process. She said there is an option to do what is called "dual stamping." She said each cigarette pack has a stamp on it with the jurisdiction for the taxes, and there is a way to save on costs for that. She said costs would be allocated by the number of sales that occur in the jurisdictions.

Ms. Allshouse said there is also a compliance component to cigarette taxes and if this were done with a regional board, they could take a regional compliance approach.

Ms. Allshouse said revenues are important to have a conversation about. She said revenues are hard to project for cigarette taxes, especially in the first year. She said another thing staff has heard about revenues is that often, jurisdictions will project more revenues that actually come in. She said it is also a revenue that may decrease over time. She said there are e-cigarettes and things other than tobacco cigarettes, and so this tax is likely a declining revenue.

Ms. Allshouse presented a slide showing the City of Charlottesville's cigarette tax revenues. She said one could see over time how the revenues have performed. She said these numbers were the actuals that were received by the City of Charlottesville and that around FY 2015, the City increased its tax rate from 35 cents per pack to 55 cents per pack. She noted the initial time period when the tax rate was increased and how the revenues began to decline over time again.

Ms. Allshouse said she thinks Charlottesville is very important for Albemarle to consider when thinking about revenues. She said the City has a formula they use to project revenues, and if the Board were to move forward with the tax, they would likely use the City's formula as their starting place. She said revenues are also impacted by stores that sell cigarettes in the community (including big-box stores), and so staff would start with the City's projection process and likely modify it. She said off the top of her head, looking at their revenue projection, it looks like it could be about \$750,000 to \$1 million annually if Albemarle County would be interested in doing this. She said this is a SWAG estimate at this point that would need to be scrubbed.

Ms. Allshouse said staff had additional recommendations as well. She said if the Board is interesting in levying this tax upon the sale or use of cigarettes, they would need to schedule a public hearing on a potential ordinance to do so. She said additionally, staff thinks the Board should consider enacting the cigarette tax at 40 cents per pack. She said staff also recommends starting it mid-year (in January 2022) rather than at the beginning of FY 22, which aligns with many of the taxes that are based on a calendar year. She said this would also provide staff the time to put a regional approach in place.

Ms. Allshouse said regarding the regional approach, the County would actively want to support the development of this, and so they would take some time to work with the other jurisdictions to set up this regional approach. She said staff also thinks if the Board enacts this tax, they should think about it through an equity lens, working closely with Ms. Siri Russell and her office to consider the impacts of this cigarette tax on different populations and think of it through that lens.

Ms. Allshouse said staff would also need to finalize the revenue estimate. She said if approved, they recommend that these cigarette tax revenues, after the administrative costs, could be dedicated to a specific category. She said although this is not required, the Board could determine that the cigarette tax revenue be dedicated to a certain expenditure in their budget. She opened up the discussion to the Board.

Ms. Price asked Ms. Allshouse if she could show the staff recommendations list again. She said she totally agreed with the first and second bullets. She asked Ms. Allshouse to explain, in terms of the third bullet, exactly what the County means by considering it through an equity lens. She asked if they are talking about it through a population demographic or a business demographic. She asked what exactly the equity lens would consider.

Ms. Allshouse replied that Ms. Russell would probably have a more precise answer, but she does know that in other jurisdictions, cigarette taxes may have more of an impact on lower-income residents, and so this would be one consideration. She said to Ms. Price's point, it may affect different businesses differently. She said that for example, it may be more impactful to smaller businesses and convenience stores than it would be to a larger business or organization. She said these would be two considerations and things that staff would want to bring back to the Board in further thinking about this through an equity lens. She said staff would work with Ms. Russell and her team to do this.

Ms. Birch added that the other piece of this would be to support the last bullet in looking at how the funding could support efforts. She said there are many equity-related efforts that may play into how the County spends the money. She said it is absolutely about what Ms. Allshouse said, but it is also about looking at it in terms of whether they should be doing something more creatively through an equity lens on how to spend it.

Ms. Price said she appreciated this. She said she does believe they should go at this with a regional approach and if they do not, particularly for smaller businesses, they are basically sending customers across the County line to the adjacent store.

Ms. Price said she is basically opposed to tobacco usage because of the healthcare costs, but she recognizes that it is an addictive substance. She said she would like to know exactly what they mean by “through the equity lens,” as it deals with both the demographics of populations as well as with businesses.

Ms. Price said currently, she does not believe that Albemarle County has a mega-seller of tobacco products. She said the Sheetz stores in Zion Crossroads and up Route 29 North, for instance, are the types of stores that sell massive volumes of cigarettes and tobacco products. She said clearly, any type of this sort of tax could have an impact on the smaller mom-and-pop business stores. She said she would like to know all of those considerations, the impacts on businesses as well as demographic populations.

Ms. Price said she appreciated Ms. Allshouse’s slide that talked about the changing amount of revenue that Charlottesville is receiving through this. She said hopefully, as people decline their consumption of tobacco products, it will be a declining revenue. She said candidly, she would offer that as a suggestion, if the Board does approve it, that the funds be used toward healthcare costs and things that will bring better health to the County. She said this could be through the Health District or through other types of services provided.

Ms. Price said she had a simple question. She said she knows that in the legal area where they talk about possession, use, or sale of a drug, it is a criminal offense. She asked what, exactly, is the tax for use of cigarettes. She said she understands the tax on the sale of cigarettes, and perhaps Mr. Kamptner would have to address this. She asked if this is simple language or if there is an actual difference between the sale and use of the cigarette under the tax code.

Mr. Kamptner replied that he was not sure what “use” means other than it is intended at least make the dealer subject to the tax if they try to convey the cigarettes in a way other than a sale, perhaps in an attempt to cover other circumstances.

Ms. Price thanked Mr. Kamptner for his quick response. She said she supports continuing this process.

Ms. LaPisto-Kirtley said she definitely supports continuing the process, as she thinks it is long overdue. She said she had a couple of questions. She asked the County was currently working with Orange, Fluvanna, and Charlottesville or if they would be working with them regarding the regional approach.

Ms. Allshouse replied that those jurisdictions had simply indicated they were interested in a regional approach. She said staff would want to actively start meeting more with them as well as the Thomas Jefferson Planning District Commission and any others who may want to join in. She said they would start the process of having those conversations.

Ms. LaPisto-Kirtley said if it saves money and time, she would definitely be in favor of a regional board for the process. She said she also wants to make sure that since it would start on January 1, 2022 (noting she wished it would start sooner), she wants to make sure that Charlottesville, Orange, and Fluvanna are on board and that everything goes smoothly because if it does not, she thinks Albemarle should be prepared to go it alone if, in fact, they do not want to join. She said she would like this to be in the back of everyone’s mind that if it does not work out, they do it differently. She said this would make her very comfortable, and asked if this thinking were possible.

Ms. Allshouse replied yes.

Ms. LaPisto-Kirtley said she wanted to make sure this went through, one way or the other. She asked if they were going with the 40-cent tax.

Ms. Allshouse replied that this was the recommendation.

Ms. Palmer asked if when Ms. Allshouse mentioned a range of \$750,000 to \$1 million per year in possible revenue for a 40-cent tax, this was just for Albemarle County or if it would be for a group like the TJPDC.

Ms. Allshouse replied that this would be a very early estimate for Albemarle County based on the same formula the City uses. She said there are also counties using a similar formula, and it is basically the population of the community, the tax rate they are charging, and a formula based on what the proposed usage would be. She said this is the potential estimate based on that formula.

Ms. Palmer asked if it was correct that with the regional approach, the proportion would be based on sales based in Albemarle County.

Ms. Allshouse replied that this was correct. She said this is the way it is set up in Northern Virginia, which she thinks would be a good process to follow.

Ms. Palmer said she remembered that when she first got on the Board, the discussion was that this would probably bring \$250,000. She said she assumed that previous estimate was based on a smaller tax. She asked if this was correct.

Ms. Allshouse replied that they have discussed this in many ways. She said there was a committee that looked at different revenues many years back, and they were projecting about \$1 million. She said it of course depends on rate and usage. She said she would think that in the first year, they would have to be very careful with what they project, and they should possibly just collect and make sure they project it more accurately moving forward.

Ms. Allshouse said staff has also heard from the City of Charlottesville, who has been administering this tax for a long time, that the revenues do not come in very consistently. She said basically, they sell the stamps to a distributor, and so it is a matter of when distributors buy stamps. She said it is what Charlottesville calls a "lumpy revenue" since it comes in at different times. She said it is not one they can watch on a monthly basis and get an idea of how it will come in.

Ms. Palmer said she likes the idea of looking at this for health reasons to reduce smoking rather than as a revenue source, although it will clearly bring in some revenue. She said she would approve moving forward. She said they were talking about the surrounding counties and if Orange and Fluvanna want to do this, but Louisa doesn't, she would suspect some of those other counties will not feel comfortable going ahead with it. She said she would agree they should look at going by themselves if surrounding counties do not want to do this.

Ms. McKeel said she did not think there was anything that her fellow Supervisors said that she disagreed with. She added that Virginia, historically, has been a tobacco state, and so it has been a big lift over the years for Virginia to do anything regarding tobacco. She said she certainly opposes cigarette smoking from the medical standpoint, and she definitely agrees it should be a regional approach if at all possible but if not, the County needs to take it on.

Ms. McKeel pointed out that during the pandemic, the science has come out very clearly to say that cigarette smoke is a vector for virus. She said she would suggest that if they know it is a vector for the Coronavirus, it is probably a vector for other viruses as well. She said this is another reason to discourage it. She said she agrees with Ms. Palmer that discouraging this from a medical standpoint and not from a revenue standpoint is the way they should go with this.

Ms. McKeel said looking at this through an equity lens, the equity lens says they spend the revenues on medical support and how they can make the community healthier. She said this takes financial support, and so she definitely would be in favor of the revenues being used to improve the life expectancy and the medical wellbeing of the community.

Ms. Mallek said she wholeheartedly supported the recommendation. She said when she was asking Mr. Kamptner questions about the staff report, she was surprised to realize that the restaurant bill happened all the way back in 2008, and they have had 12 blessed years of going out in public and not having to be covered with other people's smoke.

Ms. Mallek said having made multiple trips over many years to Richmond on this issue, and also when she was on the Planning District years ago, they had absolutely no response from anyone in support of joining them in a regional effort. She said the fact that Orange, Fluvanna, and the City are now interested is a huge step forward and a change in view, which she was glad about.

Ms. Mallek said one of the biggest obstacles in Richmond was the perception that localities do not manage this very well. She said Mr. Smith, with whom the County has received correspondence over the last couple weeks, basically shot down all of their efforts at the committee meeting where Ms. Louise Lucas' bill was being considered and said what a fiasco it will be because the counties cannot do this right. She said she spoke with Mr. Smith in the hall afterwards and asked him why he was taking this attitude. She said he responded by saying that if the counties organize themselves regionally, he will support them. She said she will hold him to that, if they can get this to go.

Ms. Mallek said she thinks that dedicating the revenues to health improvements for underserved populations is an absolutely spectacular approach. She said she would expect the City will have to come down in the amount of tax that they have if they are to be in the regional approach, as the City is currently at 55 cents and the County cannot go higher than 40. She said perhaps there is a legal answer for this she is unaware of.

Ms. Mallek said it is curious that North Carolina also raises a lot of tobacco, and they have had a cigarette tax for years that is many times more than Virginia. She said she is ready to move on to the next step.

Ms. LaPisto-Kirtley said Ms. Price mentioned the Sheetz at Zion Crossroads, which is a big area of cigarette purchases. She reminded everyone that the County will soon have two Wawas, along with a Sheetz.

Ms. LaPisto-Kirtley said because of the fact there will eventually be declining revenues, she likes the idea of putting the revenue into something that would be more permanent regarding the equity issues. She said she was thinking of something that would help those areas such as after-school daycare or having something that involves helping children. She said she is a big proponent of using those taxes and that it would go over well with the public to use the monies toward education or after-school programs that affect some of the poorer neighborhoods.

Mr. Gallaway said he wanted to make a couple of comments on the regional board item. He said

he agreed that they should go to the next step, but thought should be given to the regional board from the standpoint of there being the TJPDC and all the counties included in that, and thus already a mechanism or structured in place.

Mr. Gallaway said if they create a new board, the question is what comes along with that from a cost perspective. He said the tax revenues collected from this could offset any costs of the bureaucracy needed to implement the tax at either the local or regional level. He said this should be considered. He said he thought of the TJPDC because it is a structure in place and that it doesn't mean there would be no cost associated with it because there certainly would be.

Mr. Gallaway said if it is just a regional discussion or conversation among counties on what they are doing, and it plays out that counties are not trying to undercut or play games with lower taxes to facilitate more revenue, he would think this is the intent of a regional conversation is to avoid that kind of gamesmanship so that everyone can be on the same page. He said it seems the County's participation in the TJPDC would help facilitate those conversations. He said when he and Ms. Price go to those meetings, they give updates on what they are considering and oftentimes, there is overlap with what the Board is talking about and information that is shared.

Mr. Gallaway said he would not be opposed to the regional conversation, but it would bear to make sure they scrutinize what putting a regional board in place would require cost-wise.

Mr. Gallaway said he certainly would not be opposed to tax revenues going to health items, but he would fully expect several options as to where those revenues could go to offset. He said when he was on the School Board years ago, he wrote a letter of endorsement for a state bill where a cigarette tax would be used specifically for school installations. He said they could probably list 20-30 things that the revenue could be used for and before jumping to any conclusions, they should have some well-thought-out conversations about the implementation of the new tax and how specifically the tax revenue should be used. He said it merits making sure they've reviewed all the options.

Mr. Gallaway said he fully expects that while understanding the equity lens piece, hearing anytime a new tax is considered, they do have to have a full understanding of how it will impact those who will pay the tax, including what it will mean to businesses. He said he agrees with other Supervisors about that and expects to have that full understanding before making a decision.

Mr. Gallaway said with that, he would agree to move on to the next step. He said he fully expects those different elements will be a part of the conversation, even if he had not said so.

Ms. Allshouse said she wanted to respond to a couple of the questions that were raised. She said her understanding is that if there is a regional board, they do not have to have all the same tax rates. She said they can set it up however they like, but she did not think it was a requirement for the Northern Virginia board. She said this is something they would design according to what the County would like to do as far as participation in those discussions.

Mr. Gallaway asked Ms. Allshouse if by "regional board," she was thinking of a new entity or "board."

Ms. Allshouse replied that it could be. She said she believed that there could be some groups such as the TJPDC that could help facilitate that. She said the only one in Virginia currently is in Northern Virginia, and she did hear a talk by the person who set that up and the details on that. She said they therefore have a model they can learn from, but she did not think there was a certain, dictated model they have to use.

Mr. Gallaway said he knows that anytime they implement a new tax, there are going to be costs associated with it. He said he hopes they will find a way that will minimize those costs so that the actual revenue, wherever they decide to point it, will go more to that than to the instrument needed to collect it.

Ms. Allshouse said this is a great point. She pointed out that the numbers she shared were the base revenues and did not include the net of the administration, and so she would definitely keep this in mind while thinking about revenue projections.

Mr. Gallaway said as they are thinking about regional boards, he would imagine TJPDC is good at theorizing figuring these things out.

Ms. Allshouse shared the motion language on the screen.

Ms. Mallek said she had a couple of questions to add to the list which did not need to be answered that day. She said the Planning District is a federally oriented organization, and so she did not know if they are authorized to do this or not. She said she knows that with other topics, counties from different planning districts have been allowed to partner with Albemarle's. She said if they get through the initial authorization hump, this may be a way that Orange or another jurisdiction could join them. She said she knows that with the Planning District being so focused on particular issues, she looks forward to having the answer about whether they are authorized to expand into this role, so perhaps they may or may not be the group.

Ms. LaPisto-Kirtley **moved** that the Board direct staff to schedule a public hearing to consider the adoption of an ordinance to levy a tax upon the sale or use of cigarettes. Ms. Price **seconded** the

motion.

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

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

Ms. Jian Lin, Chief of Revenue Administration in the Office of Finance and Budget, said she was bringing forward an ordinance change to amend the 2021 due date for first installment of property taxes.

Ms. Lin said in October 2020, the Board approved the budget development calendar to improve alignment with the Schools' budget and extend the time for the Board to approve the annual tax rate from April 15 to May 5 in FY 21. She said because of this change, staff recommends extending the deadline for the property taxes that affects real estate, tangible personal property, machinery and tools, mobile homes, and public service taxes from the current June 5, 2021 deadline to June 25, 2021. She said this ensure adequate time for staff to prepare the bills and for the taxpayers to make the payments. She said without the deadline approved on May 5, they cannot run it earlier than that.

Ms. Lin said this change would not affect any other tax due dates in 2021.

Ms. Lin said if the Board is okay with this, it would require a public hearing. She asked if there were questions.

Ms. Price said she supported this.

Ms. Palmer asked if this was something the Board was going to do each year.

Ms. Lin replied no. She said this is a temporary change for FY 21. She said the reason was that staff wants to evaluate the assessment schedules and payment structure with this new date to avoid any unintended consequences so that they will be very comfortable when they go with a permanent one in the year after.

Ms. McKeel said she had had the same question as Ms. Palmer, and in her mind, she was thinking of this as a pilot.

Ms. Lin replied yes and that it was temporary.

Ms. McKeel said "temporary" and "pilot" are two different thought processes.

Ms. Birch asked if she could interject. She said this was done this year because they were in a pandemic. She said the deadline was pushed back to June 30, and staff found this did create some challenges because it was the last day of the fiscal year. She said in closing the audit, doing the CAFR, and doing all the accruals, this was one of the unintended consequences of going to the last day.

Ms. Birch said for next year, there are two goals. She said what they learned from the pandemic is to push back when Mr. Richardson provides his recommended budget to the Board in order to take advantage of updated revenue assessment numbers. She said in order to do that, it sets in motion these dates because of the requirements set forward by the state, one of them being when the Board approves the annual tax rate.

Ms. Birch said the challenge there is that staff needed to push back from the June 5 date, and they tried to pick a date that they think will work while aligning it with some supplemental billing they have. She said after she, Ms. Lin, and Ms. Allshouse talked through this, they still do not know the unintended consequences, and so they want to play this through for one more year, pulling it up five days from where they were during the pandemic, but pushing it back 20 days from where they typically are. She said they will reevaluate this as they look at the whole cycle of tax rates, timing, and deadlines as they move forward.

Ms. Birch said it is somewhat a pilot. She said they are testing a theory that they think will work, but they want to make sure it will work before they do this in perpetuity. She asked if this was helpful.

Ms. McKeel replied yes. She said this helped greatly because what they are doing is saying that they may want to move forward with this permanently. She said they realized the problem because of the pandemic.

Ms. Birch agreed.

Ms. McKeel said as they come out of the pandemic, they may very well keep this change. She said she was all for this, but she thought it was confusing for the public when they have dates that shift all the time.

Ms. Palmer agreed. She thanked Ms. Birch for the explanation because she had not understood it from the previous explanation.

Ms. McKeel said she would not get into the terms "temporary" and "pilot," then, but they may very

well make some adjustments the next time, then come back as they hear about something they can lock in and feel more comfortable with.

Ms. Mallek said she remembered that within the last couple of years, the legislature allowed for a shorter interval in the advertisement phase for the last public hearing which, rather than being 30 days, is down to 7 or maybe 14 days. She said this allows some flexibility they may be able to use next year.

Ms. Mallek asked if someone could provide more information about the normal processing time, assuming the Board takes all the time it can, which is May 5. She said she assumed it takes staff two weeks to get the bills printed and another two to get them delivered if using the postal service. She said she wants to make sure they have enough time for the taxpayers to get home from their trip, get their money together and get it in, and that the Board is not putting people in a trap. She said she did not think they were this year, either, but it would be helpful to supply more information about those intervals to do the work staff does.

Ms. Lin said she could answer this question. She said if the bill due date is June 25, then the bill needs to be in the taxpayer's hand around the May 25 timeframe. She said it is about 20 days for staff to close the book. She said they usually cannot do this in the middle of the week but rather, they close over the weekend as it is a large process. She said May 5 is on a weekday, so this pushes them to May 8. She said this leaves approximately 2-3 weeks' time to close the book and get the bills ready for sending to the vendors and to review the bills. She said this is the whole process it takes, and staff had it at just about enough time for them to do this safely and comfortably.

Ms. Birch said staff will provide what it used to look like and what it will look like so that the Board can see the goal. She said the goal is always to give taxpayers a month, and staff will provide that timeline to the Board.

Ms. Mallek said this was excellent follow-up. She said she was more attentive to this because she received phone calls that morning from White Hall residents who have not been receiving any mail. She said it turns out the postmaster is down multiple positions and then has to have Monday/Wednesday routes for some places and Tuesday/Thursday routes for others.

Ms. Mallek reminded everyone that anytime they are relying on the postal service for anything, they must figure out how they can give the maximum amount of time to do this. She said she knows in past years, there were many advertisements to encourage people to look for their tax bills and to call the County if they did not receive them. She said she thinks they will need to do even more of these advertisements for a while.

Ms. Price **moved** that the Board direct staff to schedule a public hearing on an ordinance to change the due date for the first installment of taxes in Calendar Year 2021 from June 5 to June 25. 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. Peter Lynch, County Assessor, presented on extending payment deadlines for unexpected supplemental real estate bills when "good cause" exists. He said this is something that staff wants to get straightened out in the billing part of the process. He said the process itself is his correction of assessments, and in the over five years that he has been the County Assessor, they have been finding properties that were not being assessed or were missing additions that had been added.

Mr. Lynch said they have corrected, as required, the assessments, and that these corrections do not just happen in the future. He said they happen by law to the current and three previous years which, as one can imagine, can create a substantial tax bill. He said as soon as he presents this to the billing office and it is billed, by law, the taxpayer has 30 days to pay the bill, and this can be a substantial sum.

Mr. Lynch said as they have worked through this in the past, he has actually held off sending it to the billing office and has first given notification to the owner about what was happening. He said he would then provide to the billing office, who would then provide 30 days to pay the bill.

Mr. Lynch said the request is a better, more official way to handle that circumstance, and it allows the billing office 120 days for that bill to be paid instead of just 30. He said it changes the process while allowing the same timeframe.

Mr. Lynch said they have discussed in his presentations before that they are doing a review of the properties of Albemarle County to make sure the records are correct. He said as part of that review, there is an additional review that the GIS has helped with, which looks at pictometry and aerial photographs at the properties that the County is classifying as "vacant" and are finding there are houses on those properties. He said they have been using this to identify any information that is missing from their records. He said anytime this is an actual improvement that needs to be assessed and corrected, staff goes back and corrects those assessments over that period of time.

Mr. Lynch said when Ms. Birch first came into her position, she asked him, "What is one of the

things I am likely to hear about that you deal with?" He said this was the top item. He said he is doing these corrections, and they are sending these supplemental surprise tax bills to people. He said this can cause problems and upset taxpayers. He said this led staff to this process of extending the due date.

Mr. Lynch said the wording is legal wording that talks about waiver of penalty and interest over that 90 days, and this is referring to what is effectively an extension of the due date.

Mr. Lynch said staff has experienced about 20-30 of these properties per year. He said there are a number of properties that were not assessed properly. He said obviously, this is a small percentage of the 47,000-48,000 properties that are in the County, but it is very important to those taxpayers who receive these bills.

Mr. Lynch said as they move forward and get through fixing the problems they have had, it will be a matter of keeping the records up to date. He said in doing that, something they have always talked about is that 20% of properties per year is what they are reviewing to make sure the records are up to date. He said they may find some in those reviews, but they are not expecting it to exceed five per year, at that point.

Mr. Lynch said he wanted to explain the difference with this very specific form of supplemental, unexpected, or "surprise" bill for the taxpayer. He said anytime someone builds a house or makes an improvement to their property, the County will pick up the value of the new house, supplement the value, and send the person a supplemental tax bill. He said these are expected, and anytime someone builds a house, they should expect to get a tax bill after it is completed. He said therefore, these are not included in this ordinance. He said the ones they are included are specifically those corrections of assessments.

Mr. Lynch said the language allows the Director of Finance to determine that good cause exists, which gives them a bit of leeway in their determination of what applies. He said the error is not due to any act or omission of the real property owner, and so this does not apply to someone who builds something without a permit. He said the County would not be expecting to know they are building it if they did it without a permit and they had no notification. He said this type of situation would not apply to this ordinance.

Mr. Lynch said basically, the ordinance is referring to improvements that were added with a permit where there was notification to the County itself, but for some reason, his staff did not pick it up. He said it could be that they did identify a problem in the interface between Community Development and the Assessor's Office where some permits were lost in that interface. He said this caused what was probably the majority of these properties they have been fixing to be missed in the first place. He said they found and fixed that problem in 2018, but they are still working through finding the properties that were missed. He said this was an explanation as to why this was even happening.

Mr. Lynch said there was a motion for holding a public hearing in the future if the Board would like to move forward on this.

Ms. Price said she completely understood what Mr. Lynch was talking about. She said this is not a situation where someone has made an improvement without getting proper permits. She said everything was done right by the property owner, and there was some mistake made from the County's standpoint.

Ms. Price said she totally agreed with the first three bullets on the screen. She said her question about the fourth bullet ("when Director of Finance determining good cause") is that if the first three occur, she believes it should be, "The Director of Finance will determine that good cause exists," with the concluding statement being, "The Director of Finance shall cause no penalty or interest to accrue" rather than "may cause." She said in this situation, the taxpayer has done everything properly, and it was all based upon a mistake that was made within the County's own offices. She said therefore, not as an option, but as a right, they should give the individual up to the additional 90 days.

Ms. Price said otherwise, she concurred with everything else presented and definitely supported moving forward with a public hearing to resolve this. She expressed how much she appreciated the County seeing that this was the right thing to do. She said she appreciated the "do well, do good" aspect of County leadership here.

Ms. LaPisto-Kirtley agreed.

Ms. Palmer said she was very happy about this. She said she noticed as she listened to Mr. Lynch talk that there has been some confusion on her part in past years when he and others have said that they cannot give a break to an individual because it is against the law or they are not allowed to. She said she is a little confused about what is state law versus what is County law. She noted that she clearly had some additional homework to do in understanding what the Board is allowed to change and what they are not. She said she thinks this request is great.

Mr. Lynch said perhaps Mr. Kamptner could answer this question relating specifically to how the state law allows the County to do things.

Mr. Kamptner said part of his answer would respond to Ms. Price's comment about if Bullets 1, 2, and 3 exist, then the Director of Finance has to find good cause. He said he thinks the decision needs to be discretionary and evaluated on a case-by-case basis to be true to the law. He said he thinks the

questions that have come up in the past generally speak of circumstances when there may be a request to waive penalty and interest due to the existence of certain facts. He said one may be that the taxpayer claims that they did not receive the bill. He said the Attorney General has opined that taxpayers are on constructive notice when the tax bills are due and payable. He said just not receiving the tax bill is not a basis to waive penalty or to grant an extension.

Mr. Kamptner said what is outlined here, however, is that the County created the problem. He said in prepping for this item, one example that was given was the circumstance where somewhere between Community Development and Finance, the certificate of occupancy or the building permit gets misplaced or never makes it to the Assessor's Office until a significant time has passed.

Mr. Kamptner said he hoped he had answered the question. He added that there are some orientation materials he is working on that will hopefully, once and for all, answer that penalty and interest question and what "good cause" means.

Ms. Palmer said this would be great. She said she was remembering situations where she, at least, felt that there were things the County was actually responsible for but had no ability to give the taxpayer a break. She said what Mr. Kamptner said he was working through will probably be helpful to her, at least.

Mr. Kamptner said other local government attorneys around the state struggle with these questions as well. He said it is not simple, and a lot of it is not intuitive as to what is fair and what is not.

Ms. McKeel said she thought Ms. Price made a good point, but she was hearing Mr. Kamptner say he was looking at it from the viewpoint of looking at these individually and for Mr. Lynch to have some flexibility.

Mr. Kamptner replied that the Director of Finance must have that flexibility. He said over time, as these cases come forward and if the County is even getting just five cases per year, there will be a body of principles that emerges from that. He said hopefully, the principles that will come out of these fact patterns will be consistently applied over time.

Ms. McKeel said she was in favor of this, and she appreciated how Mr. Lynch and everyone on staff fix mistakes when they make them, say this to the public, and move forward. She said this is how they gain trust and credibility and reach the citizens and residents fairly.

Ms. Mallek said she was incredibly grateful to Mr. Lynch and his staff for the tremendous improvements they have made in the records and details they go after, which makes it more fair for everyone as they remove the scofflaw. She said one of her questions was if this also applies to changes that are corrected because of changes in land use or if this was strictly for the real estate assessment of houses and structures.

Mr. Lynch replied that this is directly related to houses and structures and does not necessarily relate to land use unless the land use change is a correction of the assessment based on something the County did not know before. He said it applies if it is based on something the County was unaware of and should have known, whereas land use changes are based on something they are unaware of and should not have necessarily been aware of. He said it would not apply to those.

Ms. Mallek said all the work Mr. Lynch is doing to improve the knowledgebase will help her with her concern that there are a lot of people who need to be doing more. She said the connection between Finance and the building permit process has concerned her for years, and during all the building..... they have had in Crozet over the past 10 years, it became very apparent that one of the methods used to avoid assessment was that builders would not call for the final CO until they had a buyer lined up, which could take up to a year. She said the house is complete, and they are getting away with it at a 40% or 60% level. She said she hopes this kind of thing is in the improvements list so that staff does not have to wait for that phone call anymore.

Ms. Mallek said she was very glad they were not including things where people did a lot of building without permits because this is just rewarding people for misbehavior.

Mr. Lynch said he could answer Ms. Mallek's question with regard to the builders not calling for a final CO. He said he found when he came to the County that the practice was to wait for that final and get the CO before the appraiser staff would go out and look at the property to make sure it was complete. He said his policy is that they check those permits they have to continue to see if they are complete and, according to the law, when it is substantially complete. He said there does not have to be an owner or new buyer in it, and it does not have to be occupied yet. He said staff does not go by that same standard anymore.

Ms. Price said she always appreciated Mr. Kamptner's ability to be able to answer her off-the-wall questions. She said she fully agrees with the explanation that if it is a semi-annual bill and is not received by a property owner, it is no excuse because they know the semi-annual bills are coming out.

Ms. Price said she wants County staff to really look at what would be a situation where a supplemental bill where a taxpayer has done everything properly and Bullets 1, 2, and 3 are met and there would not be good cause. She said she did not want to get bogged down in that discussion that day, but she was struggling to see where if Bullets 1, 2, and 3 are met, that good cause should not be

found, and she would like County staff to review that for when it comes back for public hearing.

Ms. Price said she agrees with what the other Supervisors said about acknowledging that this was something the County needs to do and is the right thing to do. She said if there were no further questions or comments, she would be happy to make the motion to schedule a hearing.

Ms. Price **moved** that the Board direct staff to schedule a public hearing on an Ordinance to enable the Director of Finance to authorize delaying the imposition of penalty and interest on supplemental bills for up to 90 days when good cause exists. 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

Recess. The Board recessed its meeting at 2:50 p.m. and reconvened at 3:06 p.m.

Agenda Item No. 13. **Presentation:** FY 20 Comprehensive Annual Financial Report (CAFR).

The Executive Summary forwarded to the Board states that each year the Board of Supervisors is presented an audited Comprehensive Financial Report (CAFR) for the Board's review and acceptance, in accordance with Virginia Code §15.2-2511.

At the December 2 meeting, the Board will be presented with the recently completed FY 20 CAFR. As in previous years, the CAFR contains a detailed accounting of the County's financial operations for the 2019-2020 fiscal year:

Highlights of the CAFR include:

1. The Transmittal Letter to the Board of Supervisors and the Citizens of Albemarle County that provides a summary of the County's geographic, demographic, economic, and financial features.
2. The Independent Auditor's Report that notes how the financial statements "present fairly, in all material respects, the respective financial position" of the County as of June 30, 2020;
3. The Management's Discussion and Analysis that provides a summary of the County's financial activity for the fiscal year, including tables and graphs that accompany the summaries;
4. A determination as to the County's FY20 financial position's compliance with the Board's fund balance and debt policies; and
5. Detailed information about the County's financial activity for the fiscal year, including statistical tables that provide historical economic and demographic information, as well as the auditor's Compliance Report.

The CAFR was presented to the Board's Audit Committee at its meeting on November 23, 2020 by Robinson, Farmer, Cox Associates, the County's external auditing firm.

There is no budget impact related to the presentation and acceptance of the FY20 CAFR.

Staff recommends that the Board accept the FY20 Comprehensive Annual Financial Report.

Ms. Nelsie Birch, Chief Financial Officer, said she was joined by a few members of her team who were instrumental in the CAFR (Comprehensive Annual Financial Report) that she wanted to recognize before starting with some prepared remarks with which to introduce the CAFR.

Ms. Birch said Ms. Kristy Shifflett has been serving as the Interim Deputy Chief Financial Officer for the County and is on loan from the County Executive's Office. She said Ms. Shifflett was brought over earlier, in the spring, to help with the audit and make sure they can address some of the challenges from last year. She said the Finance Department has definitely benefitted from Ms. Shifflett's leadership and has certainly made her own onboarding much easier than it could have been if Ms. Shifflett was not in the seat that she is in.

Ms. Birch said the second person she wanted to recognize, who may have not been in front of the entire Board yet, was Ms. Cecilia Baber, who is the County's new Controller. She said Ms. Baber has worked for the County for a while (about five years) as a Chief Accountant. She said Ms. Baber was put into the Controller role that was created and better refined from what Ms. Lisa Breeden did, who had been in charge of Financial Management. She said some things were changed to create a Controller position, which is responsible for all the County's payroll and risk management operations.

Ms. Birch said momentarily, she would turn the presentation over to Mr. David Foley, who is an auditor with Robinson, Farmer, Cox Associates. She said in preparing for this, she realized she was entering her sixth month with the County, and she thought it would be beneficial for the Board to first hear

her thoughts about the audit process, where they are to date, and where they are going.

Ms. Birch said what the Board would hear from Mr. Foley is that the County has a clean audit. She said some Supervisors had attended the Audit Committee meeting last week, and when starting to peel back the layers, they see that the County's reserves are healthy, and its financial foundation is strong. She said the County has a triple AAA rating, and this will not change based on the audit numbers the Board would see.

Ms. Birch said what she discovered is when pulling back the layers and looking at the operations, there is work that happens in the next layer down that many do not see. She said as the Board would recall when she first met them, she said, "Success, to me, is when I don't have to come in front of you and explain a problem or a challenge." She said they fix things, and residents and business owners see it.

Ms. Birch said what she found is that County employees are working tirelessly, which the Board knows and which she can confirm in Finance and Budget. She said they specifically worked tirelessly to put this audit together, and she did not want to miss an opportunity to share with the Board the challenge this created at a time when staff is also processing the \$19 million in CARES funding that the County received.

Ms. Birch added that there is an entirely new team because there was significant turnover in Finance and Budget. She said they brought Budget over to the office, and there is a new CFO. She said thus, there has been a significant level of transition in the department to pull off the audit, and they did it.

Ms. Birch said she would tell the Board about her concerns because what she found was that how they were able to pull off the audit was not sustainable. She said she takes very personally, as her charge as the leader of the group, what she will be working on for the next year, which is how to make a much more sustainable, succinct budgeting, accounting, and auditing process so that the team does not have to work so hard in order to pull it off. She said it is not necessarily yeoman's work to pull off an audit that happens every year.

Ms. Birch said she wanted to share a few accomplishments from the last six months of her time there. She said the Board already knew a few of them, as she introduced Ms. Baber, who now has a different title and position. She said they have reorganized and clarified some roles and responsibilities in several key areas of Finance. She said they created a Treasury Division that will handle debt, cash, and investment management. She said this was under Financial Management before, and it has been created as a specialty because of the growing debts and revenue that the County has as well as the obligations, challenges, and complications that come with it.

Ms. Birch said they have made some changes in budgeting and that, as mentioned, Budget was brought over under Finance. She said some roles and responsibilities have been created in Accounting.

Ms. Birch expressed that one of the best things about her role and what she prides herself on is staff development. She said Ms. Shifflett started before she did, and they both have spent a lot of time working with the team because there had been a retention problem and significant turnover. She said they had to go back and focus on the staff that was there and develop and grow them. She said the Board saw much of this that day when they listened to three people on the team who they are developing in different ways to do different things.

Ms. Birch said they are breaking down the silos and working through some training and development in a much more equitable manner that has not happened in Finance before to make sure that everyone is getting training opportunities.

Ms. Birch said they have started to shore up some administrative policies that were missing or that needed to be updated to reflect the new and changing reality they are in.

Ms. Birch said as the Board would hear from Mr. Foley in a moment, the pre-audit work that was managed by Ms. Shifflett and Ms. Baber (which is the work that happens in the spring before the audit happens) will receive accolades that she is proud of, as this was at a point of some serious challenges with staff.

Ms. Birch said with all of these accomplishments, she did want to point out a few things of concern so that the Board is aware and can see where they are headed with Finance and Budget. She said one of the issues that is probably most apparent to the Board is that they have a CAFR that is in draft form. She said while they are doing all these great things, she still knows there are challenges because staff did not pull off finalizing the CAFR for the Board that day. She said it does not mean the audit is in jeopardy, or that the CAFR will markedly change from what is in the draft versus what is completed. She said this tells her that there are some things they need to do differently next year so that they are not in this position again.

Ms. Birch said much of what the Board would hear that day would be great, but she also wanted to explain that they have had turnover, lack of policies and procedures, lack of having key positions identified, and technological challenges. She said she was not sure how much the technological challenges have come out, and she knows that when Ms. Jodie Filardo gave her presentation on the CDD work program, she talked about the need to update County View. She said they have been working together on some updates and needs that Finance has on their technological side.

Ms. Birch said where it is hitting them now with this CAFR is that they have had massive turnover, but they also have a system that is very hard to train on. She said when there is an inability to quickly bring in accountants because the systems are so challenging, this bogs them down and makes them less efficient.

Ms. Birch said over time, they will need to make some investments on the technology side so that next year and in the years to follow, they continue to make improvements, which they are doing right now. She said she is proud to say they have a plan for this, but it will take some very strategic investments in technology and potentially in staffing as well.

Ms. Birch said one of the areas staff identified that bogged down the CAFR from being completed on time was grant management and capital assets, which are two areas that need to be focused on. She said they do not have specific accountants dedicated to this, but they need to have these. She said with Mr. Richardson's support and Ms. Baber's leadership, she is putting forth a plan in order to do that without adding to the staffing complement of Finance. She said they are restructuring so that it is not costing taxpayers more, nor is she adding to the position composition in Finance to do this. She said they are simply focused on what is most important and using some of the vacant positions they have now to do that.

Ms. Birch said she did not want to cause any unnecessary concern, and she hoped that this was not how her remarks were being construed or interpreted. She said hopefully, she did not give the Board any concerns about missing the mark on this. She said she wanted to share that staff does have some challenges that they have learned from, and they are putting people into key areas to overcome those challenges. She said they will continue to make some strategic investments, whatever this may look like, related to their department and financial foundation.

Ms. Birch said next year, a goal for herself is for them to be in this spot six weeks earlier. She said they would bring the CAFR to the Board at the end of October, which is a goal for both her.... and Ms. Baber. She said they will do this with a team that has learned from 2020 and put together the pieces of the puzzle from the turnover that has happened in the past. She said all of the divisions of the Finance and Budget Department will continue to work to maintain the financial integrity of the County, and the Board will see this growth and change in their enhancements over time.

Ms. Birch turned over the presentation to Mr. Foley and offered to answer any questions. She said she did recognize this was a CAFR presentation from their auditor, but she did not want to miss an opportunity to share her thoughts.

Mr. Gallaway said they could hear from Mr. Foley and then, the Board could ask both of them questions at the conclusion.

Mr. David Foley (partner with Robinson, Farmer, Cox Associates) said his firm conducted and completed the audit for the County for FY 2020 and that he would present its results to the Board. He said before he would get into the CAFR itself, he would give a brief overview of the audit.

Mr. Foley said the audit the firm does for the County has three main pieces to it. He said one is the audit of the financial statements to make sure that they have been prepared in accordance with generally accepted accounting principles.

Mr. Foley said the other two pieces of the audit are done in accordance with government auditing standards. He said one of those is that in addition to looking at the numbers themselves, they review the County's internal controls it has over its financial reporting. He said his firm performs tests of controls over areas in which it looks like there are controls in place to make sure they are working as designed.

Mr. Foley said the third piece of the audit for the County is a federal compliance piece. He said the County and School Board have various federal grant programs they expend during the year, and when they expend those funds, there are various compliance requirements the County has to apply with. He said those requirements are listed, and one of the pieces of the audit is for the auditor to go through the checklist for major federal grant programs to make sure the County complies with that.

Mr. Foley said these were the three main pieces of the County audit. He said looking at the CAFR, one will see three different reports from his firm that communicate the results of the audit.

Mr. Foley said another thing he wanted to point out were emulations of the audit process itself. He said typically when his firm performs the audit for the County, this is usually done in two phases: preliminary fieldwork, which is usually done in the late spring to early June timeframe; and the final fieldwork, which is usually done in mid-October and is when the final pieces of the audit are done. He said typically when they conduct the audit, they actually come onsite to the County's offices to do that fieldwork.

Mr. Foley said this year, with COVID-19, it was decided by both the firm and the County that they would conduct the audit in its entirety in a virtual fashion. He said they did the bulk of the fieldwork remotely and electronically. He said he gave credit to the County for being well set up to be able to handle an audit in this fashion. He said many of the records his firm receives from the County are electronic anyway, and the County did an excellent job of having information pulled together for the firm. He said the firm keeps their audit documentation electronically anyway, and the firm and County worked well in conjunction to get the audit completed.

Mr. Foley said that during the audit committee meeting the week before, he said in the meeting and to staff that the County did an excellent job in getting the information to the firm for the preliminary fieldwork, even though it was via an electronic means versus onsite. He said he thinks they had the most productive preliminary fieldwork they have ever had for the County. He said they did an excellent job of having everything ready and uploading all the information needed. He said while they had to conduct the actual fieldwork a little differently, with the hard work of the County staff working in conjunction with his firm to have the audit completed in this fashion, they were still able to get it done. He congratulated staff on being able to get the information needed for the audit and work around the difficult times to do so.

Mr. Foley said he would present the CAFR and showed a presentation on the screen. He said this was the Comprehensive Annual Financial Report for the County for the fiscal year ending June 30, 2020. He said there are three different reports from his firm that report the results of the audit.

Mr. Foley said the CAFR has four different sections: Introductory, Financial, Statistical, and Compliance. He said the Introductory section contains a lot of information and introduces the CAFR. He said the Financial section of the CAFR includes financial exhibits, schedules, and notice of the financial statements. He said the Statistical section has a lot of ten-year trend information so one can see how the numbers from this year compare to how they trended for the past ten years. He said the Compliance section contains compliance reports from the firm as well as information on federal grant expenditures.

Mr. Foley presented the first page of the Financial section, which was the Independent Auditors' Report. He said in this report, the firm states that they performed an audit on the County's financial statements. He said this report talks about management's responsibility for the financial statements, which management is responsible for the preparation and fair presentation of the financial statements. He said the report talks about the firm's responsibilities as auditors, which they are to express an opinion on the County's financial statements.

Mr. Foley said at the top of page 2 is the opinion they issued on the County's financial statements, and they have issued an unmodified opinion on the County's financial statements, which is the cleanest opinion an auditor can give on a set of financial statements. He said basically, an unmodified opinion means that the County's financial statements have been prepared in accordance with generally accepted accounting principles.

Mr. Foley said the other two opinions from the firm are in the back of the report, in the Compliance section. He said the first report in the Compliance section is the firm's report of the County's internal control over financial reporting. He said this report was clean as well, and no significant deficiencies or material weaknesses were noted. He said the firm believes the County has strong internal controls in place over its financial reporting. He said for example, there were no audit adjustments as part of the audit, which speaks to the strength of the County's Finance team to go through an audit without a lot of proposed audit adjustments by the auditors.

Mr. Foley said the third and final report from his firm was on page 191. He said this was their report over the County's compliance with its major federal grant programs. He said this report was clean as well, and there were no significant deficiencies or material weaknesses in the County's compliance with its major federal grant programs. He said no other items of noncompliance were noted as part of the audit.

Mr. Foley said all three reports and opinions from the firm are clean, and so again, it was another clean audit for the County.

Mr. Foley said he would highlight a couple of financial statement exhibits quickly. He said the Financial section on PDF page 41 contains the balance sheet of the County's governmental funds. He said this statement reports the assets, liabilities, and fund balance for the County's various governmental funds. He noted there are columns for each governmental fund, such as the General Fund (the main operating fund for the County) and others. He said the report shows the totals for all the County's governmental funds. He said this reports total assets, liabilities (deferred and closed), and the fund balances for the various governmental funds for the County.

Mr. Foley said he wanted to point out one more financial statement, which was on PDF page 43. He said this is a statement of revenues, expenditures, and changes in fund balance for the County's funds.

Mr. Foley again noted that this was a clean audit for the County. He thanked staff for their hard work and support. He said as Ms. Birch had said, a lot of hard work goes into preparing these CAFRs. He said it seems like the CAFRs get longer each year and require more information being put into them. He said it is a tremendous task to complete the CAFR.

Ms. Price thanked Ms. Birch for her introduction and explanation of some things that need to be improved on going forward. She said it is very helpful to know upfront that there are some areas in which they will have to focus their attention and resources. She said she appreciated all the work Ms. Birch and her staff did.

Ms. Price told Mr. Foley she had the opportunity to watch most of the meeting from the week before, and she did not know if she had any specific questions with the CAFR. She said it appears the County is again in compliance with all major requirements. She asked Mr. Foley if there were areas or

items that he identified which, while in compliance, may benefit from some additional attention or financial resources.

Mr. Foley replied that there were no significant issues noted. He said it takes a lot of work to put together all the information required to complete the audit, and this is only going to grow as the years go on. He said as they talked last week with the audit committee, there are some future things coming up that will require even more work on both the firm's side and the County's side to implement those standards. He said the CAFR process will not get any easier and if anything, it will take even more work.

Mr. Foley said in addition to so much information having to go into the CAFR, there is more and more pressure and oversight from outside sources, so it is important that the County makes sure that the audit and CAFR are done on time. He said the County will have the report finalized and submitted to the state on time to meet the deadlines. He said the County submits to GFLA, and it will meet that deadline as well.

Mr. Foley said that as Ms. Birch stated, however, it is hard to get there, and some of the pieces that she spoke about such as grant management and capital assets are a big part of the CAFR, and it is important to incorporate that information into the report. He said they have to make sure the information is correct as well, and so he wants to make sure they focus their resources and continue to meet the high demands of what it takes to complete the CAFR.

Ms. Price said what Mr. Foley basically said was that from his position, the County is in compliance with all major expectations, and there were no significant errors that were noted.

Ms. Price offered some background, explaining that in the Navy, she was responsible for teams that would do administrative or what is referred to as "inspector general inspections of Navy commands." She said what she was hearing from Ms. Birch and what the Board expects to hear from her is exactly what she led into which is that as the Board of Supervisors and County Executive leadership, they need to provide Ms. Birch with some additional resources. She said these may be technology resources because, as she heard, Ms. Birch indicated she could do it without increasing the composition of the number of positions. She said she heard Ms. Birch very clearly that the Board needs to provide her with some additional resources.

Ms. LaPisto-Kirtley said she was also hearing that Ms. Birch needed additional resources, which will make staff's job more efficient and economical in the long run. She said she supports this.

Ms. Palmer said she knows this is a huge job that has to be done every year. She said they will make it better with new eyes and by tweaking the approach.

Ms. McKeel agreed with Mr. Foley that over the past many years, the CAFR has become much thicker.

Mr. Foley agreed.

Ms. McKeel said the document didn't used to be so thick. She said in all fairness to make this somewhat flip statement, the CAFR was not just full of filler, but contains very good information. She said she enjoyed going through most of it, and she did tune into a portion of the recent Zoom meeting where the CAFR was discussed.

Ms. McKeel said she agreed with a couple of the things she heard. She said the technology piece was nothing the Board should be surprised about, and they do have to get this fixed not only for Ms. Birch, but for other departments as well. She said she assumed she would hear more about this during the budget cycle.

Ms. Birch said yes.

Ms. McKeel said she looked forward to that. She thanked Mr. Foley for his work.

Ms. Mallek said she had no questions, but lots of admiration for the staff who put this together and the people who understand the facts and figures better than she does. She said she is glad to have the narrative, as it helps her understand it, and it is important to the citizenry as well.

Mr. Gallaway said in sitting on the audit committee last year, staffing was a point of discussion. He said this year, he noted that some process changes and the need for the technological changes that probably support those process changes was the answer or the outcome of the comments around staffing last year. He said he appreciated that this concern did not seem to be there but now, it seems to be getting to actually putting things in place procedurally or process-wise to make this cleaner or less burdensome for the team to have everything in order for the audit.

Mr. Gallaway said as the CAFR is filled with the County's numbers, he knows they are going to be going through a tight budget cycle. He said it is easy enough for the Board to say that they are going to support resources for things as they come in front of them individually, but they also have to make sure they are getting a good job in getting the most out of the process changes with what currently exists so that those resources give them the most bang for the buck, as all of these other things will have been put into place.

Mr. Gallaway said another thing he thought was interesting in the conversation the week before at the audit committee was that this has been a year of a “new normal,” with nothing being the same. He said actually, in the auditor’s world with the influx of the CARES money, this falls under federal programs. He said in many ways, the audit helps the Board. He said it is not that it’s not important to show that federal dollars are being expended according to the rules, and the stakes were higher for the Board from the standpoint of making sure they comply with the CARES Act rules and regulations, but Mr. Foley’s process as an auditor coming in did not really change with that. He said the outcome of Mr. Foley’s audit helps the Board verify that the CARES Act money has been properly expended. He asked Mr. Foley if he had any comments.

Mr. Foley replied that as he stated the week before and as Mr. Gallaway just stated, the fact was that the CARES money was a big issue that year with receiving all the funding and then trying to figure out how to spend it all in a short timeframe. He said there is also the aspect of making sure they comply because when they receive money like this, sometimes the guidance is not as clear and changes. He said this can be challenging.

Mr. Foley said from the auditing standpoint, the CARES money is really just another federal grant, and so the County is already undergoing that federal grant review, with this just being another program added to it. He said this is a new grant, however, so it is new to both the County and to his firm, and there are certainly challenges. He said they want to make sure they comply with everything.

Mr. Foley said this year, as part of the audit, because of the amount the County expended on the CARES fund, this was subject to the single audit. He said the firm looked at this and could see that the County is on the right path. He said as he stated in the audit committee, while the County spent a fair amount of the CARES Act funds, it was still only a small portion of it, and so there is much more that will undergo an audit next year. He said it will still be the same type of audit that the County had that year, but the volume of the CARES Act fund will be greater in the next fiscal year.

Mr. Foley said from what he has seen, the County has done an excellent job in documenting what they have spent the money on, and they are in compliance thus far. He said he feels comfortable and confident this will continue, but the County needs to be prepared. He said the fact the County has to do this to get ready for audit, it also helps to stay in compliance in general with the grant funds.

Mr. Gallaway said he appreciated this. He said he would think that, depending on what the timing will be with a second round of CARES Act funding, the compliance and ability of localities to handle the first round appropriately will hopefully play into the decision making in getting a second round out, or at least will instill confidence that it will be used appropriately.

Mr. Gallaway asked Mr. Kamptner if the Board needed to take an official vote on receiving the annual financial report or if it was a given that they were accepting it.

Mr. Kamptner said the Board could receive it.

Ms. Price said at the risk of repeating herself, there are few things that could be more damaging to public confidence in government than reports of mismanagement or noncompliance with financial reports. She said just over a year ago, the entire Board of Supervisors of Warren County as well as other current and former elected officials were all indicted for mismanagement of their Economic Development funds. She said she would repeat for Ms. Birch and Mr. Richardson that if they need resources, to make sure the Board knows. She said the Board will get those resources to them to ensure that the County maintains its sterling record of full compliance with all of their financial responsibilities.

Agenda Item No. 14. **Presentation:** Board-to-Board, November 2020, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

Mr. Graham Paige, Chair of the Albemarle County School Board, said he had four major things to report to the Supervisors that day. He said he would first share some exciting School Division news that occurred that week.

Mr. Paige said the Equity Specialist Team received the Virginia Department of Education’s Mary Peake Award for Excellence in Education Equity. He said this award honors individuals and organizations that have demonstrated a sustained commitment to eliminating inequities or remedying the effects of inequities in education. He said in describing the Excellence in Education Equity Award, Superintendent Dr. James Lane said, “This commitment includes efforts to close opportunity and achievement gaps; the elimination of disproportionality in school discipline, graduation, and dropout rates; expanding access to gifted education; and advancing programs and improving supports and outcomes for English learners.”

Mr. Paige said the School Division’s Equity Specialists include Ms. Ayanna Mitchell, Ms. Leilani Keys, and Mr. Lars Holmstrom and are led by Assistant Superintendent Dr. Bernard Hairston. He said they would be formally recognized the following afternoon in a virtual ceremony with Governor Ralph Northam, First Lady Pamela Northam, Virginia Secretary of Education Atif Qarni, and Dr. Lane. He said the ceremony would be livestreamed on December 3 beginning at 2:30 p.m. on the Virginia Department of Education’s YouTube channel.

Mr. Paige said the remaining three items he would report to the Supervisors were related to COVID-19, the first being an update on the effects of pandemic testing for semester-long courses that

have an associated SOL test. He said the state does not allow SOL tests to be taken virtually, but this year, refusing to take the test will not be recorded or entered as a zero.

Mr. Paige said students enrolled in high school courses must nevertheless earn verified credits to meet graduation standards. He said a verified credit is earned by passing both the course and the SOL test for that course. He said in order to offer added support to families as they make decisions around SOLs, the Division will provide some specifics regarding which test each student needs to take and relevant testing dates. He said additionally, transportation for testing will be provided upon request, and students will return home at the end of the school day unless they have arranged private transportation. He said lunch will also be provided, and students can bring their charged computer with them to school.

Mr. Paige said during in-person testing, ACPS will continue to strictly follow the requirements of its health plan, which includes the disinfecting of surfaces, enforcement of hand hygiene, the wearing of face masks, and maintaining physical distances between students and staff.

Mr. Paige said the second COVID-related item to report was the launching of the School Division's COVID-19 hotline. He said the hotline can be used by students, employees, and families to request help and find resources for things like mental health support, food, and other small material requests. He said the hotline is accessible via phone or email. He said ACPS aims to provide as many resources as possible to those who contact the hotline. He said School Division staff will respond to hotline messages within 24 business hours. He said the hotline is not intended for emergencies or highly time-sensitive requests.

Mr. Paige said last but not least, he wanted to let the Supervisors know that an anonymous donation of \$500,000 to Albemarle County Public Schools will allow the Division to significantly expand student mental health programs and services over the next few years. He said in a recent meeting, the School Board approved the use of the grant to fund a Division-wide program to broaden support for students in crisis. He said this support includes mental health first-aid training for employees who work directly with students.

Mr. Paige said it will also enable the Division to hire an experienced mental health professional who will coordinate the work of school counselors, school psychologists, and community partners in how best to address the mental health needs of students in all grade levels. He said they will contract with an outside mental health agency to deliver direct mental health services to students and their families within schools.

Mr. Paige said two recent events have added to the urgency of deepening support for student mental health: changes at the state level that have reduced therapeutic day treatment services for hundreds of students in the division; and the pandemic, which can raise student anxiety levels by limiting the personal interactions between teachers and students and among students.

Mr. Paige said the grant builds upon recent student mental health investments by the School Division, which began two years ago with the addition of more full-time school counselors in the Division's 25 schools. He said major components of the program, such as the hiring of the Coordinator of Mental Health Services and the engagement of an outside mental health agency to provide direct services, should be completed by Spring 2021, with the employee training program underway by the summer and full implementation of the program by the beginning of the 2021 schoolyear.

Mr. Paige concluded his report and offered to answer questions.

Ms. Price said she was touched by the donation. She said someone out there has a great heart for the students. She thanked the School Board for the work they do for the county, the community, and the children.

Mr. Paige agreed with Ms. Price on the generosity of the person or group who made the donation.

Ms. LaPisto-Kirtley said she was thrilled that someone gave that donation to the schools. She said the schools deserve it with everything they do, and this donation was wonderful. She agreed that this was money well-spent, and she has often said that in Albemarle County, there are people who are very generous and philanthropic, and it is a pleasure to be able to serve them. She thanked Mr. Paige.

Ms. Palmer said she could not add anything to what the other Supervisors said. She said she loved all the good news, as good news was needed, and the \$500,000 donation for mental health was incredibly special. She said the equity award was wonderful news as well.

Ms. McKeel agreed. She congratulated Dr. Hairston and his team for the great award. She asked if it was at 2:30 p.m. the following day that they could tune into the awards ceremony.

Mr. Paige replied that it would be at 1:30 p.m. on the Department of Education's YouTube channel.

Ms. McKeel said she was very sorry to see that Virginia changed its Therapeutic Day Treatment Program, which resulted in fewer children qualifying for services.

Mr. Paige said he was not sure exactly when this was done. He said he knows with PrEP, it involves Albemarle County and some of the surrounding counties, and some of the funding for PrEP has

been affected by the pandemic. He said the division will be providing some services that PrEP used to provide for the County because they think they can do it at a better, reduced rate than PrEP. He said it is probably related to some of those cuts.

Ms. McKeel said the report said this was announced last year, and so this is very concerning. She said the state and the General Assembly talk a lot about supporting mental health programs and issues. She said she and her fellow Supervisors would be happy to help support the schools if there is anything they can do through legislation. She asked Mr. Paige to let the Supervisors know as the session is coming up.

Mr. Paige said the Schools will meet with the legislators within the next two weeks.

Ms. McKeel said she was interested in these changes, perhaps because she is a former PrEP representative. She said certainly, they hear a lot from the General Assembly about supporting mental health, and so it would be interesting to hear what the legislators might say about that.

Mr. Paige agreed.

Ms. McKeel congratulated Mr. Paige on all the great work.

Mr. Paige thanked Ms. McKeel.

Ms. McKeel said she was thrilled the division was able to offer support without the General Assembly's ongoing help.

Ms. Mallek said this has been wonderful news, and she wanted to credit the Schools for the work they were already doing, which she believes made this donation possible. She said her guess was that it would not have happened if they had not seen this department that is really working and trying to bridge gaps. She said this perhaps drew the donor to make their generous offer.

Ms. Mallek said she was grateful to see what she perceives to be good ongoing management around COVID-19 for the young students, and she hopes this will continue and that the Schools are encouraged to be ferocious in their standards so as to keep the school buildings safe places for kids to go. She said they will sometimes have to be fierce with some of the families who may not want to follow the rules.

Mr. Gallaway said regarding the donation that was made, the pandemic multiplies the issues that people are dealing with, and so this is an incredible place to target this issue. He said he is very appreciative of this.

Mr. Gallaway said the Supervisors appreciated Mr. Paige giving the report. He said he suspected that as December had come, the Superintendent would be making his budget presentation in the coming month.

Mr. Paige replied yes.

Mr. Gallaway said the Supervisors would look forward to seeing the School Board during budget season.

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

As the meeting was running ahead of schedule, Mr. Gallaway suggested moving this item to come before Closed Meeting.

Ms. Price said as Mr. Gallaway mentioned earlier, there was an item she had planned on bringing up, but through some schedule changes in Community Development, she no longer needed to do so.

Ms. Price said separately from this, she has continued to meet with people about affordable housing. She said one area she hopes the County will look at is not just the proffers that go toward the building of either purchase or rental affordable housing, but that they also start to look more toward what they can do to help residents stay in the housing they are in, to help keep it affordable.

Ms. Price said she knows that throughout the County, and specifically in the Scottsville District, they have a number of residents who are struggling to stay in their homes. She said much like Ms. McKeel mentioned earlier, where they have new developers, they can have them come in to fix some of the problems, but in older neighborhoods, they do not have that opportunity. She said she thinks the same thing applies in terms of affordable housing as well as getting sidewalks in some of the older urban areas.

Ms. Price said she hoped this is something that County staff will be looking at. She said the following week, the Board is supposed to meet with the Planning Commission about housing, but this is a topic that has been on her mind as of late, and she hoped there was other support for that.

Ms. Palmer said she had one thing she wanted the whole Board to be aware of, which is

something she knows staff is working on, and so it is being addressed and they will hopefully have some changes. She said they had a public hearing for an event space on Monday where they had well over 100 people want to join the Zoom call. She said the account did not accommodate all of those people, so they had to cut off entrance into the Zoom at 100 people. She said staff had not anticipated such a large crowd. She said she wanted everyone to know that this happened, and they will hopefully be able to find a solution for that before it happens again.

Ms. McKeel said this was a great point from Ms. Palmer and they need to take a look at that. She said the only thing she wanted to mention, which she has mentioned to staff (Mr. Richardson, Mr. Henry, and several others), is that as they are talking about their environmental work and work around trees and forests, she would love to take advantage of having the Forestry Department in the community.

Ms. McKeel said three years ago during work on Southwood, she had the opportunity to sit beside the Director of Forestry for the state, who mentioned to her Biscuit Run and the forest and woods there. She said it seems like having the ability to have a work session or discussion with some of the experts from Forestry around the forests and their conditions, and if there is anything the Board should be doing, would be good. She said she thinks of Ms. Mallek and Ms. Palmer as experts in this work, although she herself is not, and she would love to have the ability to talk about something proactive.

Ms. McKeel said they watch the forest fires in the West, and there is undergrowth in some of their own forests as well. She said she knows they have had plenty of rain, and this is not a problem now, but it could turn on a dime. She said perhaps a discussion would be informative for the Board along those lines, with no urgency to it, but with the Climate Action Plan in mind.

Ms. Mallek said she would echo support of Ms. McKeel's suggestion. She said for years, the Board had a 10-minute presentation annually from the County Forester, who was Mr. Nelson Shaw and is now Mr. David Powell. She said they have the state agency offices right there in town, which is a wonderful resource that works with the Soil and Water Conversation District and NRCS to provide landowner assistance and hold easements on forest property.

Ms. Mallek said she is very grateful to hear them recognized for their partnership role, and the more the Board can put them front and center, it would help them with their jobs and help the Board learn what they have to offer. She said she was sure they have a lot to offer that the Board does not know anything about that might be able to help both urban homeowners who need shade trees as well as the rural ones who might be more into production, and everything in between.

Ms. Mallek said in terms of the affordable housing question Ms. Price brought up, they have been talking about this question a lot in the Crozet Master Plan meetings over the last six months, and a lot of interesting data has been brought forth, the most horrifying of which being the 21 units of the 300 actually constructed there that are occupied by the people for whom they were designed. She said this is heartbreaking, and she hopes they will find a way as a County Government to put their minds to how they can change the program to ensure that they no longer do what they used to do and fail to provide buyers for these houses which are built.

Ms. Mallek said she is grateful they are now looking more broadly, and some into rental support as well, as they have with Brookdale and other programs they are working with. She said they have a lot to help, but the other side of the question that needs to also be added is preservation of the existing affordable housing they have, of all different sizes, whether rural or urban. She said some is new while some is ancient. She said many of the residents are elderly and they need to make sure they can live out their lives securely in their houses. She said she looked forward to much more discussion and big, positive changes made over the next year.

Ms. Palmer said she did not hear the word Ms. Mallek used after the words "occupied by."

Ms. Mallek said the program they had had for years was that of the 15% of the units, they were to be offered for an unreasonably short period of time for people in the 80% AMI income bracket. She said for a number of years, they had a down payment assistance fund and partners to help the buyers get schooled up, as Habitat does for its participants. She said there are many people who are not Habitat clients, but who needed more help in how to manage buying a house. She said this all seems to have gone away, and she is concerned, as there seems to be a big gap.

Ms. Mallek said now, they can open their eyes to different ways to accomplish this, and she knows there are people with lots of good experience. She said they are being pushed in the direction of community land trusts and other alternatives, but they also want to make sure that those have the goals the County has instead of being another way for landowners and developers to make money. She said the question is if they are even suitable if they are not owned by the County, or if they are not owned by someone who is totally focused on their residents.

Ms. Mallek said she has been trying to learn about all the different agencies, who is on the boards, and who is running them. She said she hoped they would all do some serious homework, going forward.

Ms. Palmer said regarding forestry, they had Mr. David Powell from the Forestry Department do an evaluation of the woods around the old landfill and gave a very interesting report to the Solid Waste Authority Board.

Ms. Mallek said one last update she would give is that Ms. Bettina Ring, Secretary of Agriculture and Forestry, said they are in the process of evaluating the BMPs they have for forestry. She said she was corrected when she said they were the same rules since 1950 and actually, they were evaluated in the early 1990s, which is still almost 30 years ago. She said they are working on those at the state level, understanding that what they allowed for the 10-year and 50-year storms all those years ago are now completely inappropriate for when they get 500-year storms over and over again.

Ms. Mallek said at her house, they have had 12 inches of rain in the last three weeks, and all the cut timber around them for miles in all directions is all running dirt down the hill. She said unfortunately, much of it is going to Chris Greene Lake, which is a County resource. She said this is why she keeps jumping up and down about how they need to be considering the Ag and Forestry chapter of the Chesapeake Bay, as it gives them new ability to have higher standards for these things. She said the citizenry has been bringing this up for 15 years, and so she hopes this is a stream health issue that they can begin to talk about as they go forward.

Ms. McKeel said regarding what Ms. Price and Ms. Mallek were talking about, last year, several Supervisors attended a large conference at the Omni around affordable housing. She said one of the things she thought many of them took away from it and said was that they need to revisit what they are allowing in the County as far as modular homes in certain areas, which gets to affordable housing. She said there is a very outdated ordinance or policy around not allowing trailers. She said today's modular homes are very different. She said they should get back to that discussion, along with their discussion around affordable housing, as she believes this is a part of that. She said when talking about affordable housing, she keeps thinking about the modular homes and how they had somewhat dropped that.

Ms. Mallek said there had been an update to get into compliance because the legislature had changed some things, but there was certainly more to do.

Mr. Gallaway asked Ms. Mallek if she wanted to give a brief update on how the public process or at least the TJPDC or MPO (Metropolitan Planning Organization) submitted projects. He said they had made some headway on that the day before.

Ms. Mallek said there was a report that in order to make sure that the decision making of establishing projects for Smart Scale is done in a much more public way, advertised and with minutes, there will be a much more structured process going forward, at least for a couple of the most important applications. She said it would be a replication of the Hydraulic or 29 panel idea where there would be a broad base of people who would be involved and give some feedback. She said the meetings would be open by Zoom or otherwise for the public to listen in. She said many sat in the 29 Solutions meetings, which took a very controversial subject and brought it into common ground so that they could get something accomplished.

Ms. Mallek said her question she added on at the end of Mr. Chip Walker's discussion of this is that there also needs to be a parallel structure for all the projects that the MPO is supporting or proposing earlier in their development so that they do not have someone all by themselves or out of view taking six possible project options and cutting them to two without anyone else knowing. She said when those preemptive decisions happen early, sometimes, it's over at that point about whether or not something will be possible. She said this was a follow-on to the other process that she thinks will be happening.

Ms. Mallek said that of course, the County and City will have to have their own processes. She said what they are proposing at the MPO is only for the MPO proposals. She said she thinks the County is doing a decent job with their proposals to have discussions on them earlier, and the bigger concern is that once they apply and learn new things, they need to maintain the flexibility to make minor adjustments or be able to carry something forward, as they are trying to do with the Burnley Station project and the Rio intersection by CATEC.

Ms. Mallek said the other part of the meeting the day before was a painful discussion of the federally required update for VTRANS performance standards and safety metrics. She expressed that this was overwhelming, but that this is something they must do and understand. She said they will be coming back for an even more thorough explanation of that in January in order to meet the federal requirements. She said this is not her skillset, and so it was hard to do.

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

As the meeting was running ahead of schedule, the Board decided to cover this item before Closed Meeting.

Mr. Jeff Richardson, County Executive, said he would have a formal County Executive report at the second meeting of the month. He said he did have a couple of small items he would mention to the Board.

Mr. Richardson said as a community announcement, that Saturday and Sunday (December 5 and 6), the U.S. Department of Health and Human Services, in partnership with UVA and the local Health Department, is hosting a self-administered nasal swab..... COVID-19 testing event at Albemarle High School. He said it would be Saturday and Sunday from 12:00-4:00 p.m. He said this is a free event that is open to the community and places prioritization on employees of UVA, Albemarle County Schools, and Charlottesville City Schools.

Mr. Richardson said participants have to be at least 13 years of age and able to self-swab. He said a nurse will be present to help oversee and administer the process. He said those interested must pre-register and can visit the COVID-19 Thomas Jefferson Health District testing sites webpage, which provides all the necessary details. He said those who participate in this event will receive testing results within 24-48 hours via an online portal. He said he would forward this information to the Board through CAPE (Communications and Public Engagement Office) in case they receive any follow-up questions from citizens.

Mr. Richardson said Ms. Mallek was there at the County Office Building earlier that day and noticed the tents in front of the building, which he appreciated her mentioning earlier. He said they are now in their third week of heated tents at the visitor's entrance of the COB McIntire site.

Mr. Richardson said through the first two weeks, they had 503 citizens who came to the building needing assistance of some sort in paying their taxes. He said over 90% of those citizens were assisted outside the building in the tent areas by customer service representatives. He said there were only 46 citizens (less than 10%) who needed to enter the building and come down to the pay windows due to special circumstances. He said this limits the amount of public contact for both the citizens and employees by being able to assist them outside the building in the open air.

Mr. Richardson said he is very proud of staff and has had several opportunities to go out front. He said with 503 citizens over two weeks, they did not have to stand out front very long until they see someone approaching and needs assistance. He said Josh, the Customer Service Ambassador inside the building, continues to do an outstanding job of moving citizens through the building in a safe and orderly way and getting them to respective departments for any assistance they may need.

Mr. Richardson said the data collection program gives an understanding of who is coming in and for what reason. He said this is benefitting staff in many ways in the services they are providing from the Finance Department outside of those doors. He said it not only helps the citizens, but also helps staff to stay safe.

Mr. Richardson said he appreciated the Board's attentiveness earlier in the meeting to Ms. Birch and her team (Ms. Shifflett, Ms. Lin, and Mr. Lynch). He said these were just the people the Board heard from that day, and there is also another level of support inside the Finance Department. He said they discussed several things that day, and he appreciated the Board's support and attention to these items, as this is the behind-the-scenes work they do.

Mr. Richardson said he hoped that if nothing else, the Board heard a tone of commitment to continuous improvement and to a design that has the customer experience in mind. He said he is proud of Ms. Birch and her team, as well as of other departments who have openly worked to help integrate and modernize systems and be able to take advantage of systems economies of scale, with an eye on cost.

Mr. Richardson said he would forward the email from the CAPE division on the upcoming free COVID-19 testing event.

Ms. Mallek said she had a question that was off topic. She said regarding paying taxes, she had thought she was going to have to go inside the building, and it all turned out to be so simple from the telephone from sitting outside. She said a young man named Matt solved all her problems and informed her she would get a supplemental bill sometime in February.

Ms. Mallek said the year before, Mr. Richardson had given the Board a long list of the things he had written down at various meetings on finding more about certain things and ideas that Board members had asked at meetings that someone on staff might someday look at. She asked Mr. Richardson if he could recall what she was talking about and if this is something that he does twice a year. She said she was trying to remember all the things she had asked for and could not, and so she was trying to go through her emails to remember that way. She said the list was like a matrix, and some of the items were down at the bottom.

Mr. Richardson said he would give this some immediate thought. He said the first thing that came to mind was his annual review, which is usually around this time of year, and there may have been a report that he provided. He said he would go back and look in his information and report back to the Board members. He said he would try to follow up in as soon as two weeks with his next formal report to the Board.

Ms. Mallek said otherwise, they will be going through all the action items, which is very time-consuming. She thanked Mr. Richardson for this.

Agenda Item No. 15. Closed Meeting.

At 4:20 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider appointments to the Architectural Review Board and multiple regional boards and commissions, authority boards, and advisory committees.

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. 16. Certify Closed Meeting.

At 6:01 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting.

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

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. 17. Boards and Commissions.

Item No. 17. a. Vacancies and Appointments.

Ms. Price **moved** the Board make the following appointments to the respective committees:

- **Reappoint**, Ms. Jennie More to the Albemarle Conservation Easement Authority with said term to expire December 13, 2023.
- **Reappoint**, Mr. Dade Van Der Werf and Mr. Fred Missel to the Architectural Review Board with said terms to expire November 14, 2024.
- **Appoint**, Mr. Christian Henningsen to the Architectural Review Board to fill an unexpired term ending November 14, 2022.
- **Appoint**, Ms. Myra Anderson to the Historic Preservation Committee with said term to expire June 4, 2023.
- **Appoint**, Ms. Kimberly Swanson to the JAUNT Board with said term to expire September 30, 2023.
- **Appoint**, Mr. Anthony Townsend to the Jefferson Madison Regional Library Board to fill an unexpired term ending June 30, 2023.
- **Reappoint**, Mr. Eric Walden and Mr. John Mattern to the Joint Airport Commission with said terms to expire December 1, 2023.
- **Appoint**, Mr. Bruce Gatling-Austin to the Natural Heritage Committee with said term to expire September 30, 2023.
- **Appoint**, Ms. Martha Davis to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2022.
- **Recommend**, Mr. Mike Gaffney to the City of Charlottesville for appointment to the Rivanna Solid Waste Authority.
- **Recommend**, Mr. Mike Gaffney to the City of Charlottesville for appointment to the Rivanna Solid Waste Authority.

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

Ms. Mallek said she was not sure exactly what the protocol is, but she believes the Board forwards their suggestion to the City on RSWA-RWSA and then, they concur if they choose. She said someone needs to take care of that.

Agenda Item No. 18. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

There were no speakers.

Agenda Item No. 19. **Action Item:** The Regents School – Private Central Sewerage System.

The Executive Summary forwarded to the Board states that, as required by County Code § 16-102, the property owner has notified the Clerk of the Board of Supervisors of the intent to construct a private central sewer system to serve its proposed development.(Attachment A) County Code §§ 16-104 and 16-105 require the Board to consider this proposal and either approve or deny this request. On September 18, 2019, the Board approved Special Use Permit (SP201800011) with conditions to allow

construction and operation of a private school (The Regents School) on Tax Parcels 07500-00-00-06600 and 07600-00-00-01700. The Board also approved a request in conjunction with SP 2018-11 for a special exception. This request is specifically for a shared Central Sewerage System to be located on the properties of The Regents School and the adjacent Trinity Presbyterian Church (Tax Parcel 07600-00-00-017C0). Both properties are in the Neighborhood 6 comprehensive plan area and the jurisdictional areas of the comprehensive plan.

This proposal is for a private gravity main, sanitary sewer pumping station, and force main, which are needed to connect the existing and proposed buildings to the public sewer located along Fontaine Avenue. Though the property is in the County's Jurisdictional Area for public water and sewer, the Albemarle County Service Authority (ACSA) has determined that there is no cost effective means of providing public sewer service to these two parcels and does not envision that a public pump station in this location could ever serve a large enough population to justify the ongoing maintenance cost. Therefore, the ACSA recommended that the owner connect to the existing lift station on the adjacent Church property to provide sewer service. Public sewer service is not available to the property.

This proposal includes constructing a gravity collection system on The Regents School property to serve 11 buildings that would discharge to a private pump station located on the adjacent Trinity Presbyterian Church property (refer to Attachment B for the preliminary plan, profiles and calculations). The existing pump station, owned by Trinity Presbyterian Church, serves two existing buildings. Adding 11 buildings from the Regents School property to this pump station would require the replacement of the existing pump station to accommodate the additional flows. Section 16 of the County Code defines a central sewerage system as a system "designed to serve three (3) or more connections". Because there would be more than 3 connections, this system is considered a "central system" requiring Board approval.

Though several available alternatives would avoid the need for the central system, the conceptual site plan submitted with the approved SP201800017 included six separate structures and included the central system as proposed in this application. Also, the ASCA suggested early in the project that the school try to utilize the Church's pump station if they were able to reach an agreement, to take advantage of the station during the week when the Church is minimally occupied.

Alternatives to a central sewerage system include:

- 1) Providing six separate, onsite septic systems, each with its own distribution box and primary and reserve drainfield. This is considered an inferior alternative because of adjacent environmental features (Moore's Creek, which is an impaired perennial stream) and its higher probability of failure; and
- 2) Utilizing six individual duplex pumps and wet wells to serve the 11 proposed buildings, which apparently could be done "by-right" but is considered to have a higher failure potential by both staff and the applicant's consultant. Failure could potentially impact the impaired perennial stream.

Staff reviews requests such as this for technical feasibility and for conformity with the Comprehensive Plan. The County Engineer has reviewed this request and has no objections, noting that the system will be designed and constructed to public utility standards and the pumping station will be permitted by DEQ. The Comprehensive Plan discourages central systems in the Rural Area, but does not contain guidance on central systems in the Development Areas.

Staff is of the opinion that allowing the central system would result in fewer impacts and risks to scenic and natural resources and in a better site design with fewer site impacts. The central system would be classified as a DEQ Class I system, which provides the highest level of safety and reliability. For these reasons, staff is supportive of the request and recommends approval of the proposed central sewerage system.

Staff recommends that, if approved, the Board impose conditions requiring that:

1. the central sewerage system be constructed in accord with the Preliminary Central Sewage System Plan (Attachment B) and DEQ Reliability Classification Worksheet (Attachment C);
2. final plans and specifications be submitted and approved with the final site plan by the County Engineer prior to commencing construction of the sewerage system;
3. prior to issuance of any certificate of occupancy for any building to be served by the sewerage system, the owner provide documentation to the satisfaction of the County Engineer that the system was constructed in accord with public utility standards;
4. the owner(s) of Parcel ID numbers 07600-00-00-01700 and 076000-00-017C0 assume full responsibility for the operation and maintenance of the sewerage system; and
5. if requested by the County Engineer, the owner annually document compliance with all State operation and maintenance requirements.

Minimal staff time would be required to review final design documents, completion reports, and to verify that ongoing maintenance is being provided.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the installation of a central sewerage system (pump station and gravity sewer), subject to the conditions therein.

Mr. Frank Pohl, County Engineer, said he would present a request for a private central sewage system for the Regents School. He said SP201800011 was approved for the Regents School by the Board, and the plan submitted with that SP did include and showed a central sewage system to serve 468 students. He said the request for the central sewage system, however, was not made at that time.

Mr. Pohl said the property is within the ACSA jurisdictional area for water and sewer, but it does not have direct access for public sewer. He said there is, however, an existing lift station on the adjacent Trinity Church property that does connect to the public sewer. He said during the SP review, the ACSA suggested the church look at using the lift station to make the connection. He said they have done this and are proposing the system.

Mr. Pohl presented the location map, indicating on the map to the Route 250 Bypass and I-64. He indicated on the map to the parcel with Trinity Church and called out the two Regents School properties. He said the main campus of the school that shows development was on one parcel. He indicated to Reservoir Road and Fontaine Avenue going up to the right.

Mr. Pohl presented a map, noting he had included it in the Board's packet and made some highlights on the map. He said what they are proposing is a gravity system, which starts in a particular mapped location. He said highlighted in yellow was the new system, which will all be gravity. He said this is similar to River's Edge, where they have served all the residences with gravity to a central pump station, which is located where the two different colored highlights meet. He said the force main brings the waste from the pump station to an Albemarle County Service Authority manhole at another indicated location. He said from there, it will be public.

Mr. Pohl said there is an existing force main that will be reused, but the existing lift station will need to be upgraded and replaced to accommodate the additional flows.

Mr. Pohl said the request is for 13 connections, 11 connections for the Regents School and two connections for the church property. He said those two connections on the church property are existing and have had a lift station. He said they did not meet the definition of a central lift station. He said it is an expansion and not a new central system.

Mr. Pohl said with the request, he has pulled together some proposed conditions for the approval, which were in the Board's packet. He offered to answer any questions.

Mr. Pohl said Section 16-105 of the County Code requires the Board to either approve or disapprove this proposal, and so he prepared a couple of motions for the Board. He said one thing he had to add to the motions which was not in the resolution was something he wanted to bring to Mr. Kamptner and the Board's attention, which is the requirement to state the number of connections in the Board action. He said he did not know whether or not this needed to be added to the resolution.

Mr. Kamptner said if it is included in the motion, it will be incorporated into a final resolution.

Mr. Pohl opened the discussion to questions or comments.

Ms. Price said this appeared to make good sense.

Ms. LaPisto-Kirtley said she felt the same way. She said it was a good idea and she was glad it was coming forth.

Ms. Palmer **moved** that the Board adopt the resolution attached to the staff report and approve the Regents School of Charlottesville's request for a central sewerage system to allow up to a maximum of 13 connections (11 from the Regents School and two from the Trinity Church). Ms. Mallek **seconded** the motion.

Mr. Kamptner said what Mr. Pohl would want is a condition that requires that the number of connections be specified. He asked if this was the 11 and the two.

Mr. Pohl replied yes. He said as written in the code, it says, "The Board shall identify the maximum number of connections."

Mr. Kamptner confirmed that this was fine.

Ms. Palmer asked if the proposed conditions were within the motion, as she had not seen that in the motion.

Mr. Pohl replied no. He explained he was advised that adopting a resolution would adopt the conditions because the resolution refers to the conditions.

Mr. Kamptner confirmed this.

Mr. Pohl said rather, the conditions were included in the resolution.

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

**A CENTRAL SEWERAGE SYSTEM
ON TAX PARCELS 07500-00-00-06600, 07600-00-00-01700
AND 07600-00-00-017C0**

WHEREAS, on September 18, 2019, the Board of Supervisors approved The Regents School request for a special use permit on Tax Parcels 07500-00-00-06600 and 07600-00-00-01700 (collectively, the "Property"), and the application is identified as Special Use Permit SP201800011 The Regents School ("SP 2018-11"); and

WHEREAS, in conjunction with SP 2018-11, The Regents School requires approval of a central sewerage system to serve the buildings on the Property as approved in SP 2018-11; and

WHEREAS, the central sewerage system will also be located on the Trinity Presbyterian Church property (Tax Parcel 07600-00-00-017C0).

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for this request and all of its attachments, the information presented to the Board of Supervisors, and the factors relevant to central water supply systems in County Code Chapter 16 and the Albemarle County Comprehensive Plan, the Albemarle County Board of Supervisors hereby approves the Regents School request to construct a new central sewerage system on Tax Parcels 07500-00-00-06600, 07600-00-00-01700, and 07600-00-00-017C0, with Tax Parcels 07500-00-00-06600 and 07600-00-00-01700 having up to 11 connections in total, and Tax Parcel 07600-00-00-017C0 having up to two connections, subject to the conditions contained herein.

* * *

The Regents School Central Sewerage System Conditions

1. The central sewerage system must be constructed in accord with the Preliminary Central Sewage System Plan and DEQ Reliability Classification Worksheet;
2. Final plans and specifications must be submitted and approved with the final site plan by the County Engineer prior to commencing construction of the sewerage system;
3. Prior to issuance of any certificate of occupancy for any building to be served by the sewerage system, the owner must provide documentation to the satisfaction of the County Engineer that the system was constructed in accord with public utility standards;
4. The owner(s) of Parcel ID numbers 07600-00-00-01700 and 076000-00-017C0 must assume full responsibility for the operation and maintenance of the sewerage system; and
5. If requested by the County Engineer, the owner must annually document compliance with all State operation and maintenance requirements.

Agenda Item No. 20. **Public Hearing: ZMA202000009 Forest Lakes PDSC Amendment.**

PROJECT: ZMA202000009 – Forest Lakes PSDC Amendment

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 046B4000000300

LOCATION: Parcel has frontage on both Route 29 (Seminole Trail) and Worth Crossing. Northeastern corner of the parcel is adjacent to the intersection of Worth Crossing and Regent Street. Parcel is approx. 670 feet south of the intersection of Route 29 and State Route 649 (Airport Road).

PROPOSAL: Request to amend existing proffers and application plan per ZMA198800016 to increase the maximum square footage allowed and revise building footprint locations.

PETITION: Amend proffers and application plan approved with ZMA198800016 for existing Planned Development Shopping Center (PDSC) – shopping centers, retail sales and service uses. Request to increase the maximum square footage on Tract III to 110,000 square feet. Currently, 71,800 square feet of uses are permitted on Tracts II and III. The total permitted square footage would be 181,800 square feet on Tracts II and III. Request to revise location of building footprints as shown on the application plan.

ZONING: PD-SC Planned Development Shopping Center – shopping centers, retail sales and service uses.

OVERLAY DISTRICTS: Entrance Corridor, Airport Impact Area, Steep Slopes – Managed

PROFFERS: Yes per ZMA198800016

COMPREHENSIVE PLAN: Urban Mixed Use (in Centers) – commercial, retail, and office uses that are accommodated in Centers and residential uses (6.01 – 34 units/acre) in the Places29 Master Plan. Located within Community Center, which calls for uses that serve the Places29 community.

The Executive Summary forwarded to the Board states that, at its meeting on October 6, 2020, the Planning Commission voted 5:2 to recommend approval of ZMA202000009.

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

B, and C).

The Planning Commission did not request any changes to the application, but did note for the record that the Commission had a discussion regarding traffic and safety concerns. The Commission discussed the 'pipe stem' access that the property (TMP 46B4-3) has from Route 29, and the concern that drivers may try to turn onto Route 29 from the pipe stem, which is not permitted.

Since the Planning Commission public hearing, the applicant has made minor changes to the application plan:

- Added a requirement that traffic signage internal to the site must be installed to indicate access from Route 29 is one-way
- Increased the amount of civic open space from 2,000 square feet to 4,000 square feet

Based on the factors identified as favorable, staff recommends approval of ZMA202000009. (Ordinance to Approve found as Attachment E)

Ms. Tori Kanellopoulos, Senior Planner, said this is a public hearing for a request to increase the maximum square footage allowed in the shopping center from 71,800 to 181,800 and to vary the location of building footprints.

Ms. Kanellopoulos said the proposed development is located on Worth Crossing and can be accessed from a right turn lane off of Route 29. She said it is approximately 1 mile east of the airport and is directly across Route 29 from the Hollymead Town Center. She said there is a variety of commercial, retail, and office uses around this site and across Route 29, and there are residential areas to the south and east of the site.

Ms. Kanellopoulos said the proposed development is located in the Forest Lakes Shopping Center, adjacent to the existing Food Lion. She said the 3.43-acre site is mostly undeveloped and has a paved access road that connects from Route 29 to the existing parking lot for the shopping center. She said there are two restaurants and a gas station off Route 29 to the north and west, and the property to the north is undeveloped.

Ms. Kanellopoulos presented photographs from the site, noting that the views from the Food Lion parking lot look east toward Worth Crossing.

Ms. Kanellopoulos presented pictures showing the pipe stem portion of the property that connects to Route 29 and the shopping center parking lot. She presented pictures showing the property looking from the east side of Worth Crossing, looking west toward Route 29.

Ms. Kanellopoulos said the property is zoned Planned Development Shopping Center (PDSC) and is one of six parcels in the existing PDSC that was established with ZMA1988-16. She said the zoning of the property does not change with this request. She said the request for additional square footage and revised building locations only applies to this parcel, Tax Map Parcel 46B4-3, and does not apply to the other parcels in the PDSC (shown in purple on the map). She said adjacent zoning districts include Commercial and Residential Districts.

Ms. Kanellopoulos said ZMA1988-16 rezoned approximately 14 acres to PDSC with proffers and an application plan. She said the application plan was shown as the image on the left side of the screen. She said the rezoning established approximately 4 acres in outparcels, one of which is the frontage area along Timberwood Boulevard. She said these outparcels do not have specified square footage requirements and are now all developed, except for the frontage area.

Ms. Kanellopoulos said the rezoning also established two tracts and specified a maximum of 71,800 square feet of development on these tracts called Tracts II and III.

Ms. Kanellopoulos said the proposal is to amend the existing Planned District to allow for additional square footage. She said while the exact uses for the site have not been included with this application, the by-right uses in the PDSC are already permitted on the site. She said the request for additional square footage does not alter the permitted uses already available to the property.

Ms. Kanellopoulos said a 4,000-square-foot civic open space is provided adjacent to the undeveloped property to the north. She said this space will have shade trees and outdoor seating. She said the asphalt path along Worth Crossing will be continued on the front of this property.

Ms. Kanellopoulos said a virtual community meeting was held on August 3, 2020 at 6:00 p.m. She said approximately seven community members were in attendance and asked about the potential traffic impacts from the development proposal, how access to the site would function, and what the potential uses of the site will be. She said traffic would be discussed on a later slide.

Ms. Kanellopoulos said ZMA1988-16 allowed for 71,800 square feet of development on Tracts II and III, as shown in red on the application plan. She said there are approximately 14,700 feet of development currently remaining between Tracts II and III, with approximately 50,000 square feet of development built on Tract II and no development built yet on Tract III.

Ms. Kanellopoulos said the current rezoning request would allow for an additional 110,000 square feet of development, which would be entirely on Tract III. She said Tract II would therefore still have 71,800 square feet of allowed development with approximately 14,500 square feet remaining. She said the resulting total would be 181,800 square feet between the two tracts.

Ms. Kanellopoulos said the property is designated Community Center and Urban Mixed Use in the Places29 Master Plan, and the intent of the designation is to create places with retail, services, commercial uses, and employment generators that are adjacent to residential uses. She said Community Centers are primarily intended to serve the Places29 community. She said the Places29 Master Plan includes specific height and building footprint guidelines for use categories and community centers. She said the application plan for this rezoning includes height and footprint requirements that are consistent with the Master Plan.

Ms. Kanellopoulos said the application plan also lists uses that are prohibited in this particular PDSC, consistent with the master plan recommendations. She said for example, wholesale distribution, manufacturing, processing, assembly, fabrication, and recycling uses are prohibited. She said the permitted uses are the remaining by-right uses in the PDSC District.

Ms. Kanellopoulos said the development would create a vehicular connection to Worth Crossing, which would then connect back to the existing shopping center and access way. She said the development would also reserve frontage along Route 29 for the future multiuse path called for in the master plan and would continue the existing multiuse path along Worth Crossing.

Ms. Kanellopoulos said the development would create a 4,000-square-foot open space adjacent to the undeveloped parcel to the north. She said the master plan calls for civic open spaces of at least a quarter acre and community centers. She said the master plan distinguishes between open spaces for primarily commercial or primarily residential areas. She said for commercial areas, it recommends hardscaping and plazas that may be preferable as opposed to an open greenspace.

Ms. Kanellopoulos said for areas that are already developed, the master plan expects larger open spaces to be considered if there are any major rezonings, or with future small area plans. She said staff found that the proposed 4,000-square-foot open space on the site would be appropriate per the master plan guidelines, as the area is already mostly developed or has had previous rezoning approvals and is mainly commercial, and because the proposed open space is mainly shown on the adjacent parcel to the north in the master plan.

Ms. Kanellopoulos said the proposal is also consistent with the relevant Comprehensive Plan policies, including the Growth Management Policy, directing new employment activities to the Development Areas and redeveloping underutilized parcels that are already zoned for commercial, retail, or office uses.

Ms. Kanellopoulos said the Development Areas chapter states that infill be compatible with existing and adjacent nearby property, which may include architectural landscape requirements. She said the application plan for this rezoning includes architectural feature requirements along Worth Crossing. She said if those are not provided, a landscape buffer must be planted instead.

Ms. Kanellopoulos said the preference is for consistency with the neighborhood model principle of buildings and spaces of human scale, especially along Worth Crossing, which faces existing residential development and the existing multiuse path. She said given that the proposal is adjacent to the existing shopping center, staff felt that a landscape buffer could be appropriate instead to be consistent with the existing buffer along Worth Crossing, behind the Food Lion.

Ms. Kanellopoulos said parking will need to be screened from residential uses, regardless of whether the architectural features are provided. She said the proposed development is within the Entrance Corridor and will require Architectural Review Board review during site planning for visibility from Route 29.

Ms. Kanellopoulos said Proffer #4 for ZMA1988-16 limits the total number of daily vehicle trips to 10,350. She said the area included the proffers outlined in blue on the map, as shown on the slide, and includes a total area of approximately 24 acres, which includes parcels outside of the PDSC.

Ms. Kanellopoulos said the applicant provided a table showing trip counts for all the parcels and applied the 36% reduction request approved by staff in 1988. She said the remaining trip count today is 3,230 trips, and the potential traffic impacts of the proposal are limited by this proffer.

Ms. Kanellopoulos said additionally, when the rezoning was originally approved in 1989, Route 29 was a narrower road with fewer traffic signals and other traffic management systems. She said there have been significant transportation improvements since that time and therefore, no major traffic impact is expected with this proposal.

Ms. Kanellopoulos said staff found factors favorable for the proposal as listed on the slide. She offered to come back to those later to answer any questions about them.

Ms. Kanellopoulos said at its meeting on October 6, the Planning Commission recommended approval of the rezoning request with a vote of 5-2. She said since the Planning Commission public hearing, the applicant has made two minor changes to the rezoning request. She said the first is to

increase the amount of open space from 2,000 square feet to 4,000 square feet. She said the second is to add a requirement for internal signage to indicate that access to Route 29 is one way. She said this may include a "Do Not Enter" sign at the pipe stem.

Ms. Kanellopoulos said based on the favorable factors and analysis as outlined in the staff report, staff recommends approval of the rezoning request. She presented the motions for the Board's consideration and offered to answer any questions.

Ms. Price said she wanted to make sure her math was correct. She said as she understood it, currently, the zoning allows for a total of 71,800 square feet on both Tracts II and III, which would be the total for the two of them. She said if this is approved, it would add 110,000 square feet. She said this is a very substantial change in the total square footage, based on what the current zoning is. She asked how County staff analyzed this, noting that this is more than double what is currently approved. She asked if there were no concerns with that.

Ms. Kanellopoulos replied that staff looked at what would be the impact from the additional square footage and focused on transportation as well as impacts to adjacent properties. She said for the transportation impacts, the proffer limits the total number of vehicle trips, and so the applicant would need to stay within the proffer for total daily trips regardless of what uses were proposed. She said whether the square footage has increased or not, the transportation proffer remains the same. She said the traffic impact would be limited by the same restrictions as originally approved.

Ms. Kanellopoulos said for impacts to adjacent properties, it would be adjacent to other commercially zoned properties and across the street from residential properties, which was the intent of the architectural requirements or the landscape buffer to mitigate potential impacts to the residential properties across the street. She said this is done either having a building that looks and feels more like the neighborhood model space of human scale, or having a landscape buffer to mitigate the development, consistent with the Food Lion that is already there.

Ms. Price asked how the daily trip total is enforced.

Ms. Kanellopoulos replied that when site plans are submitted, the applicant would need to include the estimated trip generation with their proposed uses. She said this was done with previous site plans on this property as well, and the most recent one was 2003 that included this table. She said Transportation Planning staff and VDOT would look at the estimated trip counts and make sure that they seem reasonable, which would be the method of enforcements as site plans came in.

Ms. Price said there is then really not an enforcement, but an estimation.

Ms. Kanellopoulos said this was correct.

Ms. Price asked what the dimensions were for the 4,000-square-foot park area. She said it looks rather long and quite narrow.

Ms. Kanellopoulos replied that she would have to defer to the applicant on the exact dimensions, but her understanding was that it was intended to be a pass-through type of site that functions the way the alleys do in Stonefield, which could work with future development on the adjacent site as well. She said this could be a hardscaped area where people could sit and enjoy their lunch.

Ms. Price said if she understood correctly, the width would be approximately the same as the alleyways in Stonefield.

Ms. Kanellopoulos said they may be a little narrower than that.

Ms. Price said the applicant could address that. She asked said rather than being pavement and sidewalk, it could be a greenspace.

Ms. LaPisto-Kirtley said this is in her district, and she is wondering if the people who did show up to the community meeting had a positive or a negative response.

Ms. Kanellopoulos replied that overall, she believed the response was mostly curiosity and interest in the project. She said she received a few emails from nearby businessowners that were curious as to what the project proposal was, but she did not receive comments or questions as much as interest.

Ms. LaPisto-Kirtley said the whole area is active and that frankly, she had not heard anything, which was why she asked and because normally, people contact her. She said she knows the area because she has eaten at El Jaripeo a number of times. She said depending on what they put in, it could actually be a benefit in that area, especially if there is another nice restaurant there. She said those were her questions, and she wanted to make sure that along Worth Crossing, there would be landscaping between the homes across the street on Worth Crossing and the property. She said Ms. Kanellopoulos was saying that in the Architectural Review Board, the hardscaping or landscaping would be required, as well as a buffer along Worth Crossing on the property line.

Ms. Kanellopoulos said she would clarify this. She said the ARB would only be looking at visibility of the site from Route 29, and so they would not be looking at Worth Crossing. She said on the Worth Crossing side, the application plan would require either a landscape buffer or architectural feature

requirements, including transparency requirements and having to do with building and treatment features. She said the multiuse path will be required as well, which will also include a landscaping strip.

Ms. LaPisto-Kirtley said she was just concerned about the people living in the homes across the street and that there be something in between and enough landscaping there.

Ms. McKeel said she noticed in the Planning Commission minutes that a question was asked about Tract I and that Ms. Kanellopoulos said she did not believe there was a Tract I. She said this was confusing when talking about Tracts II and III. She asked if in between that meeting and the present one, Ms. Kanellopoulos was able to find a Tract I.

Ms. Kanellopoulos replied that she was not able to find anything. She said she was not sure if it was perhaps in reference to the outparcels, which are all Tract I together, but she did not find anything actually labeled as Tract I. She agreed it is a strange labeling.

Ms. McKeel said another question she had, perhaps for Ms. Kanellopoulos or Mr. Kamptner, was that she thought it was interesting that two Planning Commissioners said that they opposed and did not support the project because they thought the County needed to receive more in return for this much square footage. She asked Ms. Kanellopoulos if there was any discussion about that. She asked if Mr. Kamptner could perhaps talk about proffers, as she was curious about those comments.

Mr. Kamptner replied that the proper way to frame that would be getting something in return to address impacts that have been identified.

Ms. McKeel mentioned traffic.

Mr. Kamptner said Ms. Kanellopoulos has identified the impact, and it is really the traffic impact. He said there is the preexisting proffer that puts a cap on the number of vehicle trips. He said he was not sure what further was desired.

Ms. McKeel said since this was there in the Planning Commission minutes, she wanted to talk about it to clarify it. She asked if they were comfortable with the concerns as to where they are right now with the remediation that is going to be offered.

Mr. Kamptner asked if this question was for him or for Ms. Kanellopoulos.

Ms. McKeel said she supposed it was for Ms. Kanellopoulos and staff. She asked Ms. Kanellopoulos if she felt comfortable with where they were with the traffic situation and that, in other words, they had gone as far as they could go.

Ms. Kanellopoulos replied that staff feels the impacts have been addressed.

Ms. McKeel said Mr. Kamptner alluded to the fact they have done what they can do.

Mr. Kamptner said it is an interesting dynamic, as Ms. Kanellopoulos brought up, as that proffer was made in the late 1980s, around 1990 when Route 29 was a completely different road. He said it was approved for a certain amount of square footage with vehicle trips, and so he would defer to staff's analysis on the traffic impacts.

Ms. McKeel said this gets into the same problem they have with a few other projects they are currently dealing with and have talked about.

Ms. Mallek said she would start with the 3,200 trips per day. She asked if this is the total allowed or is what is left over after what is needed by Food Lion, and after that complex has been removed.

Ms. Kanellopoulos replied that it is what is leftover with all the current development that is approved and in place. She said she believed this site was the only undeveloped one left in that 24 acres.

Ms. Mallek said they are basically looking at 1,600 trips, which is not very many for 180,000 square feet. She said the Target across the street is 120,000 square feet, and this is the kind of space they are talking about here. She said it is a huge complex of buildings. She said she was uncertain, based upon all of that.

Ms. Mallek said she is always wary of falling in a trap because she votes to approve something that is based on a cap that ends up being turned around and thrown out the following year because the applicant comes back to say they cannot survive with it, and they need 10,000 or the like. She said she suspects that when the rezoning for Forest Lakes was put in, there were limitations to the size of the buildings and the impacts in order to not have the residences negatively impacted by all the commercial activity happening there. She said a lot has changed in 25 years, but it is confusing.

Ms. Mallek said because she is out there quite often, as her feed store is nearby, she sees a constant stream of people using the pipe stem, going west. She said that use as proposed is going to stop, and there will be no more connection from the Food Lion lot or the lot to this property, west of Route 29, and those people will then have to go east to Worth Crossing and go around to Proffit Road or Timberwood to get out. She asked if this was correct.

Ms. Kanellopoulos replied that this was correct. She said people today are not supposed to be exiting through that pipe stem. She said there is a way to exit through the gas station parcel, but through the pipe stem that is part of this property, people are only supposed to be turning right off of Route 29 and not getting back onto Route 29 that way.

Ms. Mallek said it is only successful if one is going to buy gas, as there are people flying off of Route 29 and coming down that 8-foot-wide road going east. She said it will be something that needs very careful signage if approved because it already gets a lot of use, almost universally for people who are actually going to the gas islands and therefore exiting out that way.

Ms. Mallek asked if this was evolving, if there was any interest on the part of the applicants about the restrictions. She said they talk about no manufacturing, and a lot has changed about light industrial since 1988 as well. She said she is always looking for places where people can work rather than having to drive 30 miles to get a job elsewhere. She asked if things like medical assembly, Afton Scientific, research places, and wet labs are all precluded from being in these buildings because of this prohibition on assembly and industrial uses.

Ms. Kanellopoulos replied that she could double-check on that question. She said there may be some of the lighter semi-industrial flex uses that are permitted, but she would need to check on that. She said she could also defer to the applicant if they have any interest in those uses.

Ms. Mallek said hopefully, the applicant would have something to say about it when they hear the question.

Mr. Gallaway said the applicant was free to speak at that time.

Mr. Justin Shimp, engineer for the project, said he was joined by Ms. Kelsey Schlein from his office, who could jump in with the specifics. He said Ms. Kanellopoulos spent a lot of time working through the details.

Mr. Shimp said he would share his screen to show a brief presentation and answer the questions he heard. He said he believed all the details were covered thoroughly by staff.

Mr. Shimp noted that that the trip count was the total trips in and out, and so it was not double, but would be 1,600 in and 1,600 out to total 3,200. He said it does count both directions.

Mr. Shimp said essentially, the whole area was restricted as to traffic, and the opinion of both staff and the applicant is that as long as this number does not increase, there would be no impacts to consider. He said it does, however, limit the uses somewhat on the site. He said a reference was made to Target, for instance, and he does not believe that could be built here because the traffic would exceed the limit. He said there is an overarching restriction on traffic that would limit some uses and the impacts of those uses, which is why the applicant has settled on this working for the site.

Mr. Shimp said their goal is to simply amend the application plan to follow the current Comprehensive Plan, which is a framework that is much more planned and desirable to build than the approved zoning.

Mr. Shimp said regarding the item about the greenspace area, that area is around 20 feet wide. He said the thought was that it can extend up so that future development can have greenspace on that side, and there is a pedestrian connection proffered along that side. He said if the adjacent parcel develops, then they can contribute to that open space some as well. He said there was a fair amount of discussion about that at the Planning Commission, which he could talk about in more detail.

Mr. Shimp presented a map, noting it was probably the most useful illustration.

Ms. McKeel asked Mr. Shimp if he could make it larger.

Mr. Shimp zoomed into the map. He said he has seen quite a few areas like this from the 1980-1990s era where there was a Planned District, and the requirements in the ordinance are to show what one wants to do as a layout. He said the zoning essentially allowed all the uses in the commercial districts (such as Highway Commercial and Commercial Office), with everything being committed, and the layout had to follow the general accord.

Mr. Shimp said the problem with this layout is that it is essentially a strip center with a huge parking lot in the front and a loading service area in the back, which thankfully these days is not the development that is in style and obviously, the County has long changed their policies to promote different forms of development in the Growth Area.

Mr. Shimp said the applicant's proposal, without putting in specific uses, is to say that if the current Comprehensive Plan lays out a solid set of guidelines for how it should be developed, they can follow those, which is what the zoning should reflect.

Mr. Shimp presented the basic layout, noting that the Board had already heard about the shared use path and greenspace. He said the applicant will have to add some signage to clarify that people cannot come out in a certain spot, as mentioned. He said they have the shared use path and the details of that on the plan. He said this would all be incorporated with any development that is to occur there.

Mr. Shimp presented a table, explaining that it is what governs the development. He said he would let Ms. Schlein chime in on the matter related to Office/R&D/Flex versus the manufacturing. He said they also had this discussion about the ABC project, and many of the tech start-ups that involve some type of light assembly are permitted under Office/R&D/Flex. He said it is the more industrial types of things that are not. He said in the applicant's case, they would certainly be open to those uses, but the issue is that the Comprehensive Plan specifically says not to have them in this zone. He said the applicant determined this to be fine with them and that they would simply remove that particular list.

Mr. Shimp said it is probably not the most likely use, though not a bad one. He said the Office/R&D/Flex does permit some uses that are reasonable to the applicant.

Mr. Shimp said they took the square footage and size and applied those to their proposal because zoning now reflects the Comprehensive Plan requirements.

Mr. Shimp said there is a plan for connectivity the Board heard about for pedestrians to get through the site and out. He said this was one of the County requirements that made sense to the applicant, as well as having the shared use path along Worth Crossing.

Mr. Shimp concluded his presentation and offered to revisit any of the questions to more thoroughly answer them, as well as any others that may arise.

Ms. Price said she believed it was fair that if the applicant contributed 4,000 square feet at the property line that the adjacent property owner can also look at contributing to that. She said 20 feet by 200 feet is rather narrow.

Ms. Price said in terms of the vehicles exiting west toward Route 29, she thinks the turn off of Route 29 North to come into the development could be done with the proper signage.

Ms. Price said she still had some concerns, but she wanted to hear from the other Supervisors as well and also about the vehicle daily load.

Ms. LaPisto-Kirtley asked Mr. Shimp if the shared use passage area along Worth Crossing was made up of bicycle-pedestrian sidewalks.

Mr. Shimp replied that it is a 10-foot shared use path, and so it would be for bicycles or pedestrians.

Ms. LaPisto-Kirtley asked if there will be crosswalks there.

Mr. Shimp replied yes. He said across the entrances, there would be the crosswalks typical of that.

Ms. LaPisto-Kirtley asked if this connects to the other residential development. She asked if it goes all the way along Worth Crossing and all the way to the intersection.

Mr. Shimp said he was trying to remember if it continues there now. He said he knows it was planned to, but he would have to defer to someone else as he could not remember exactly what is there.

Ms. Schlein said they are connecting to the existing asphalt path that is behind Food Lion, and then the applicant is proposing the multiuse path across the site to accommodate a higher volume of people and multimodal transportation. She said the one behind Food Lion is only about 5 feet, and in the master plan, it is shown to extend all the way across Worth Crossing to then wrap around Proffit. She said for this proposal, it is just to get across the site and then connect behind Food Lion.

Ms. McKeel said this is such a large area and asked if there is a place designated for on-demand transit or for some sort of transit access or stop.

Mr. Shimp replied that there was not one within the project. He said within the site plan level, there is lots of space circulation-wise for that sort of thing, but there is not necessarily an exact location planned for a bus stop. He said it could be accommodated for as this becomes more prevalent.

Ms. McKeel said she was thinking about multimodal, bicycle-pedestrian, on-demand transit, and bicycle racks. She said she did appreciate the greenspace.

Ms. Mallek said she was going to ask a similar question on transit, and she supposed if there were no locations now, then perhaps written into the agreement (if one is passed) would be the willingness to provide those things if they are anticipated at some point in the future.

Ms. McKeel apologized for jumping in and said she was not trying to spring something on Mr. Shimp, but it was interesting that at some point, they need to start thinking about electric vehicle charging stations in an area like this because this is where they are heading. She said she hoped there would at least be some location where the transportation access points could be placed for the future.

Mr. Shimp said there are, and one of the beautiful things about the microbus or on-demand transit is that one does not need massive bus stops or accommodations as one would for traditional transit.

Ms. McKeel agreed.

Mr. Shimp said the same is true for chargers. He said the market will drive this. He said if one wants to have a successful business, they will need to provide those things. He said they will need to provide a pull-off stop for a micro-transit van as this is how people want to get to work.

Mr. Shimp said in many ways, he thinks those will be addressed as the demand approaches for them. He said these are features that work within the site plan, and to be clear, the layout he presented was conceptual and was not necessarily exactly the way it would be built. He said they have not pinned that down, but he does believe the things they are discussing will fit in easily, and the market will drive most sites to include those sorts of things over time, hopefully sooner than later. He said these will not be things that the County needs to dictate, but they will be things that will occur because they will make sense to the businesses that want to operate in these locations.

Ms. McKeel said she hoped Mr. Shimp was right. She said there was no doubt that the market was moving towards electric vehicles.

Mr. Gallaway said in terms of the public hearing portion, he was told there were no signups.

Mr. Morris said this was correct.

Mr. Gallaway closed the public hearing and brought the matter back before the Board for questions, discussion, and comments.

Ms. LaPisto-Kirtley said she was ready to make a motion.

Ms. Mallek said people have mentioned in the past how this is a very large increase in space and not a lot to go with it. She said she is anticipating that there may be multiple owners over the next number of years. She asked how the Board is to know that these assurances they are getting today about how they will make space for electric vehicle chargers, bus pull-offs, and the like will actually happen. She said they have fallen in this trap before, too, and have found that the new owner says they will not go along with that. She said this is something that is a concern to her.

Mr. Gallaway said when talking about market demand, when the demand hits a certain point and a business decides not to provide it, it can become self-detrimental. He said he did not know if he was at the point where outside of public things that the County is providing (like a transit center), they will provide public charging elements to go with it. He said to start dictating where they put down charging stations in spots like that, he tends to agree that the demand will likely drive where it makes the most sense to it. He said if they do not put it in, then it becomes an inhibitor to their own business. He said he happens to agree with that argument.

Mr. Gallaway said while he understood the comments being made about the additional square footage with nothing in return, some time was given to that comment, and he believed that Mr. Shimp's response in the Planning Commission meeting was that return, in many ways, is the value of the extra square footage. He said if the impacts are not going to be there and it is capped by the proffer, and they have an additional square footage, this opens up various possibilities of a larger employer going in and potentially more jobs. He said depending on the types and what they pay, the jobs are something the Board has used many times before to rationalize support for things.

Mr. Gallaway said the main impact here seems to be traffic, and he thinks in terms of the visual impact, the applicant will make sure it is an attractive spot. He said it is a commercial area and asked what people would expect. He said while he appreciates the sense of the negotiation posture of it, there is something being gained here by the additional square footage that cannot just be passed over. He said he agrees with the applicant.

Ms. LaPisto-Kirtley **moved** to adopt the Ordinance (Attachment E) to approve the zoning map amendment ZMA202000009 Forest Lakes PDSC Amendment. Ms. McKeel **seconded** the motion.

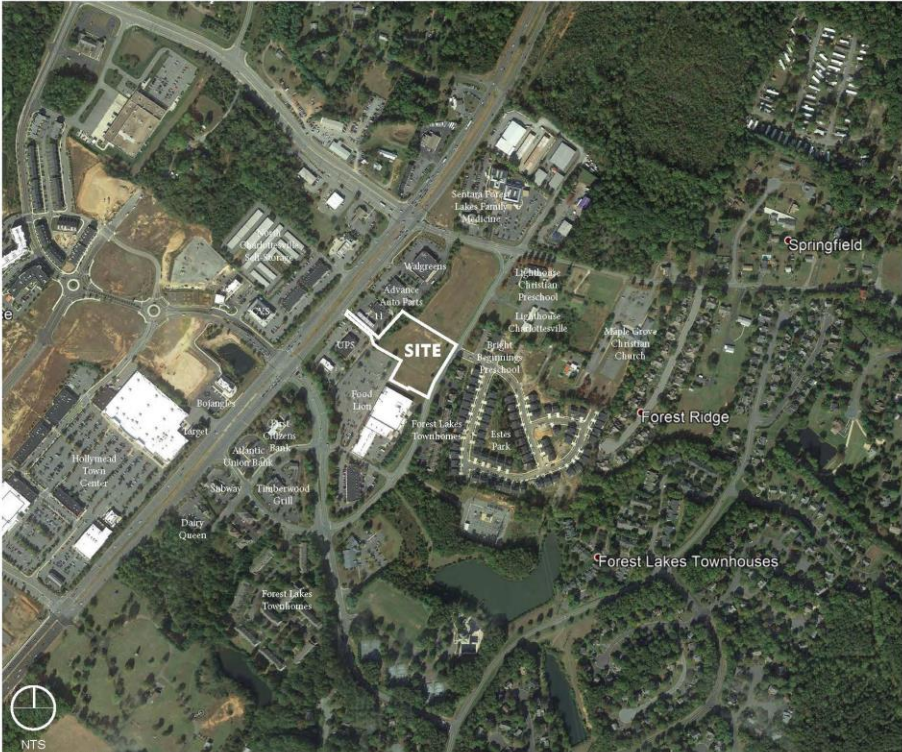
Roll was called and the motion carried by the following recorded vote:

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

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX PARCEL 046B4-00-00-00300**

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2020-00009 and their attachments, including the application plan dated October 23, 2020, the information presented at the public hearing, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-25.1 and 18-33.27, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2020-00009 with the

application plan dated October 23, 2020.



ZONING MAP AMENDMENT
APPLICATION PLAN
ZMA2020-09
AN AMENDMENT TO ZMA1988-16
**FOREST LAKES
PD-SC AMENDMENT**
TMP 46B4-3
project ID: 20.23
REVISED 23 OCTOBER 2020
Revised 23 September 2020
Revised 11 September 2020
Revised 17 August 2020
Submitted 15 June 2020

Context Map
Sheet 1 of 8

INDEX OF SHEETS

1	- Cover & Context Map
2	- Site & ZMA Details
3	- Site & ZMA Details
4	- Existing Conditions
5	- Land Use
6	- Conceptual Grading & Utilities
7	- Circulation Plan
8	- Worth Crossing Street Section

SHIMP ENGINEERING, P.C.

OWNER/DEVELOPER
Ja-Zan LLC
PO Box 9835
Charlottesville, VA 22911

TMP
46B4-3

ACREAGE
3.43

MAGISTERIAL DISTRICT
Rivanna

STEEP SLOPES & STREAM BUFFER
There are no stream buffers within the project area. Managed steep slopes exist within the project area.

SOURCE OF BOUNDARY & TOPOGRAPHY
Boundary provided by boundary line adjustment, DB 4872 PG 153, Roodbush, Cole & Associates, Inc., December 8, 2016, revised on January 6, 2017. Four (4) foot contour interval topography from Albemarle County GIS.

FLOODZONE
According to the FEMA Flood Insurance Rate Map, effective date February 4, 2015 (Community Panel 51003C0145D), this property does not lie within a Zone A 100-year flood plain.

WATER SUPPLY WATERSHED
Powell Creek Watershed

WATER AND SANITARY SERVICES
Provided by Albemarle County Service Authority (ACSA)

PARKING
Parking, stacking, and loading to comply with Section 4.12 of the Albemarle County Zoning Ordinance.

ZONING
EXISTING: Planned Development Shopping Center
OVERLAY: Airport Impact Area, Entrance Corridor, Steep Slopes - Managed
PROPOSED: Planned Development Shopping Center

COMPREHENSIVE PLAN
COMPREHENSIVE PLAN DESIGNATION: Urban Mixed Use (in Centers)

PERMITTED USES
Per Section 25.2.1 of the Albemarle County Zoning Ordinance, the following uses shall be permitted by right in the PD-SC district: (1) Uses permitted by right in the C-1, CO and HC districts, except for storage yards. Outdoor storage, sales or display shall be permitted only when enclosed by appropriate visual screenings; (2) Energy and communications transmission facilities; (3) Public uses; (4) Temporary construction headquarters and temporary construction storage yards; (5) Drive-through windows.

Per Section 25.2.2 of the Albemarle County Zoning Ordinance, the following uses shall be permitted by special use permit in the PD-SC district: (1) Commercial recreational establishment included but not limited to amusement centers, bowling alleys, pool halls and dance halls; (2) Energy and communications transmission facilities; (3) Parking structures located wholly or partly above grade; (4) (Repealed); (5) Veterinary office and hospital; (6) Tier III personal wireless service facilities; (7) Storage yards.

PROHIBITED USES
Notwithstanding anything contained herein to the contrary, the following uses shall be prohibited: (1) Machinery and equipment sales, service, and rental; (2) Manufactured home and trailer sales and service; (3) Modular building sales; (4) Sale of major recreational equipment and vehicles; (5) Wholesale distribution; (6) Manufacturing/processing/assembly/fabrication and recycling; (7) Storage/warehousing/distribution/transportation.

TRIP GENERATION: ITE TRIP GENERATION, 10TH EDITION									
TMP	Use	ITE Code	ITE Use Description	Sq. Ft. (IV)	Gross Trips	Trip Reduction		Net Trips	
						12% Internal	24% Pass-By		
46B4-1B	McDonald's	934	Fast Food Restaurant w/ Drive-Through	2,709	1,272	153	305	814	
46B4-1A	Stifel Nicolaus	712	Small Office Building	4,164	66	8	16	42	
46-B41A1	Forest Lakes Dental	720	Medical-Dental Office Building	4,065	66	8	16	42	
46-B41A2	Boor Allen Hamilton	710	General Office Building	8,032	92	11	22	59	
46B4-1D	Atlantic Union Bank	912	Drive-In Bank	2,970	290	35	70	186	
46B4-1D2	Timberwood Grill	931	Quality Restaurant	6,222	520	62	125	333	
46B4-1D1	First Citizens Bank	912	Drive-In Bank	3,204	320	38	77	205	
46B4-1D3	Tiger Wash	947	Self-Service Car Wash	1,419	216	26	52	138	
46B4-A2	Open Space								
46B4-A1	Open Space								
46B4-8	Shops @ Forest Lakes	820	Shopping Center	13,564	1,540	185	370	986	
46B4-2	Forest Lakes PDSC	820	Shopping Center	57,022	4,102	492	984	2,625	
46B4-3	Undeveloped PDSC								
46B4-9	Arby's	934	Fast Food Restaurant w/ Drive-Through	3,208	1,507	181	362	964	
46B4-10	FL Terrace Shopping Center	820	Shopping Center	8,640	1,134	136	272	726	
									TMP 46B4-3
									REVISED 23 OCTOBER 2020
									Total approved trips in PD-SC: 10,350
									Total remaining trips in PD-SC: 3,230
									Revised 17 August 2020
									Submitted 15 June 2020

SHIMP ENGINEERING, P.C.

FOREST LAKES
PD-SC AMENDMENT
SITE & ZMA DETAILS

Sheet 3 of 8

FORM REGULATIONS

Maximum Non-Residential Square Footage	110,000 SF	
Maximum Non-Residential Building Footprint	Neighborhood Retail, Community & Regional Retail, General Commercial Service	Maximum single building footprint: 50,000 SF
	Auto Commercial Sales & Service	Maximum single building footprint: 7,500 SF
Building Stories and/or Heights	Office R&D/Flex	Maximum single building footprint: 20,000 SF
	Neighborhood Retail, Community & Regional Retail, General Commercial Service	Maximum building height: 4 stories; no more than 2 for retail-only buildings
	Auto Commercial Sales & Service	Maximum 1 story
	Office R&D/Flex	Maximum building height for retail-only buildings: 2 stories
		Maximum building height if retail on ground floor only: 3 stories, with office/commercial uses above retail

SETBACKS & STEPBCKS

Setbacks	
Front - Minimum	10' from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; for off-street parking or loading spaces, 10' from any public street right-of-way
Front - Maximum	30' from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; none, on any lot, including a corner lot, abutting a principal arterial highway or interstate
Side & Rear - Minimum	If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary. If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.
Side & Rear - Maximum	None
Stepbacks	
Front	For each story that begins above 40' in height or for each story above the third story, whichever is less, the minimum stepback shall be 15'
Side & Rear	None

SUPPLEMENTAL ARCHITECTURAL
+ LANDSCAPE DETAILS

Any building facade adjacent to Worth Crossing must adhere to the following architectural design details unless a landscape buffer is provided in accordance with landscape screening requirements outlined in Sec. 32.7.9.7 of the Albemarle County Zoning Ordinance on the property along the boundary adjacent to Worth Crossing:

- Building facades adjacent to Worth Crossing must have a minimum of two material treatments; material treatments exclude windows and doors
- First floor ceiling height: 12' minimum
- Transparency minimum: 6%

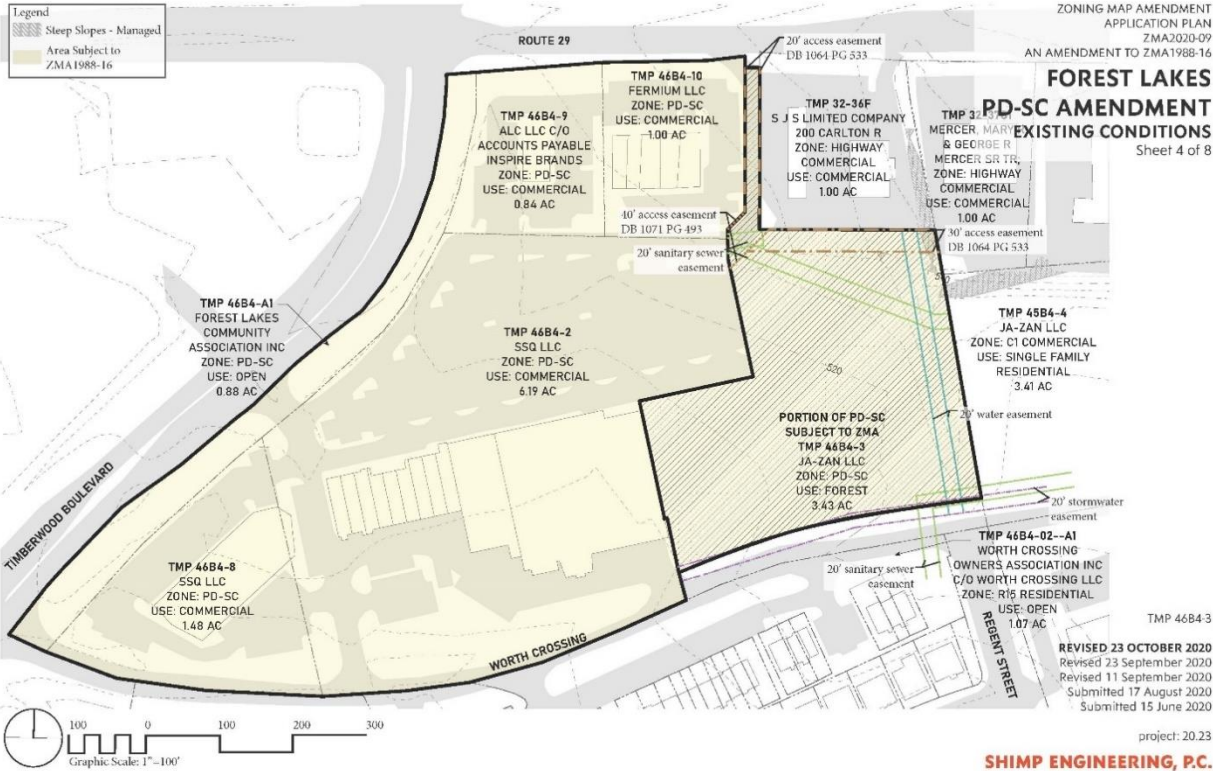
STORMWATER MANAGEMENT NARRATIVE

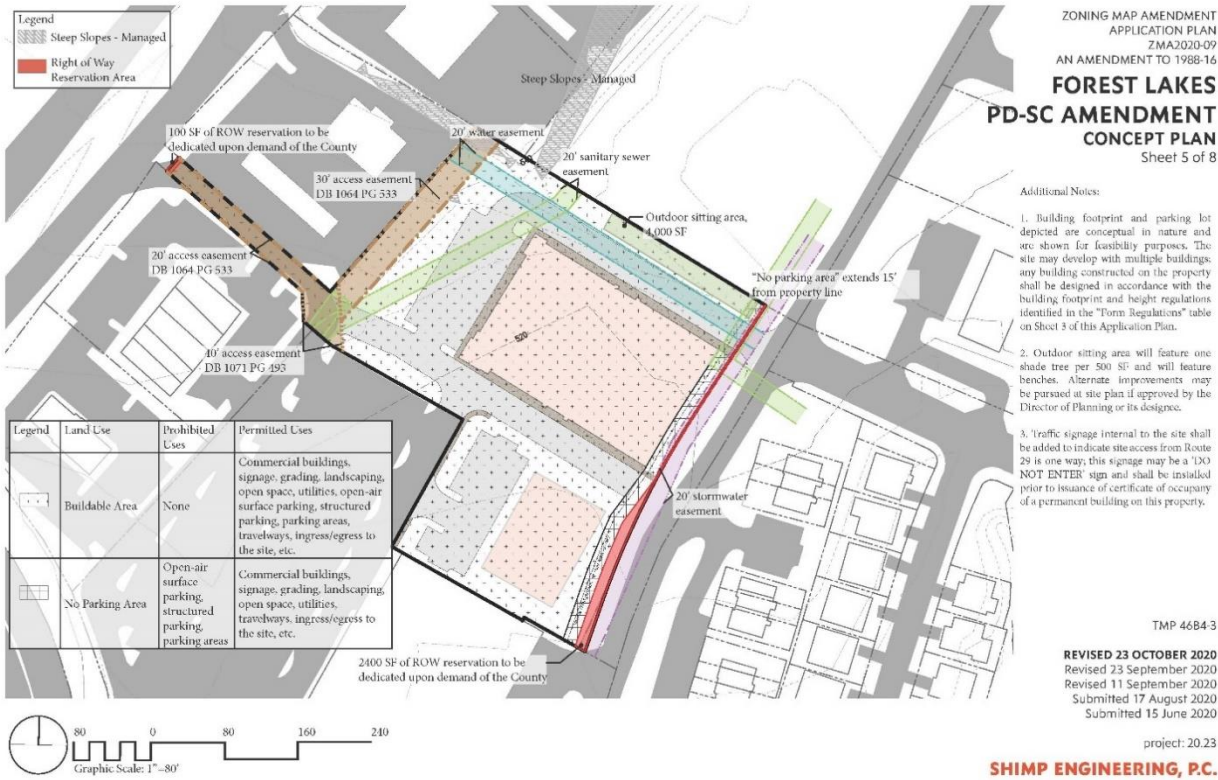
The project will connect to regional stormwater facilities constructed just southeast of the property. Any additional stormwater management design required to manage runoff will be consistent with similar urban development projects and will utilize a combination of features, such as on-site surface facilities, on-site underground stormwater management facilities, and/or off-site nutrient credits.

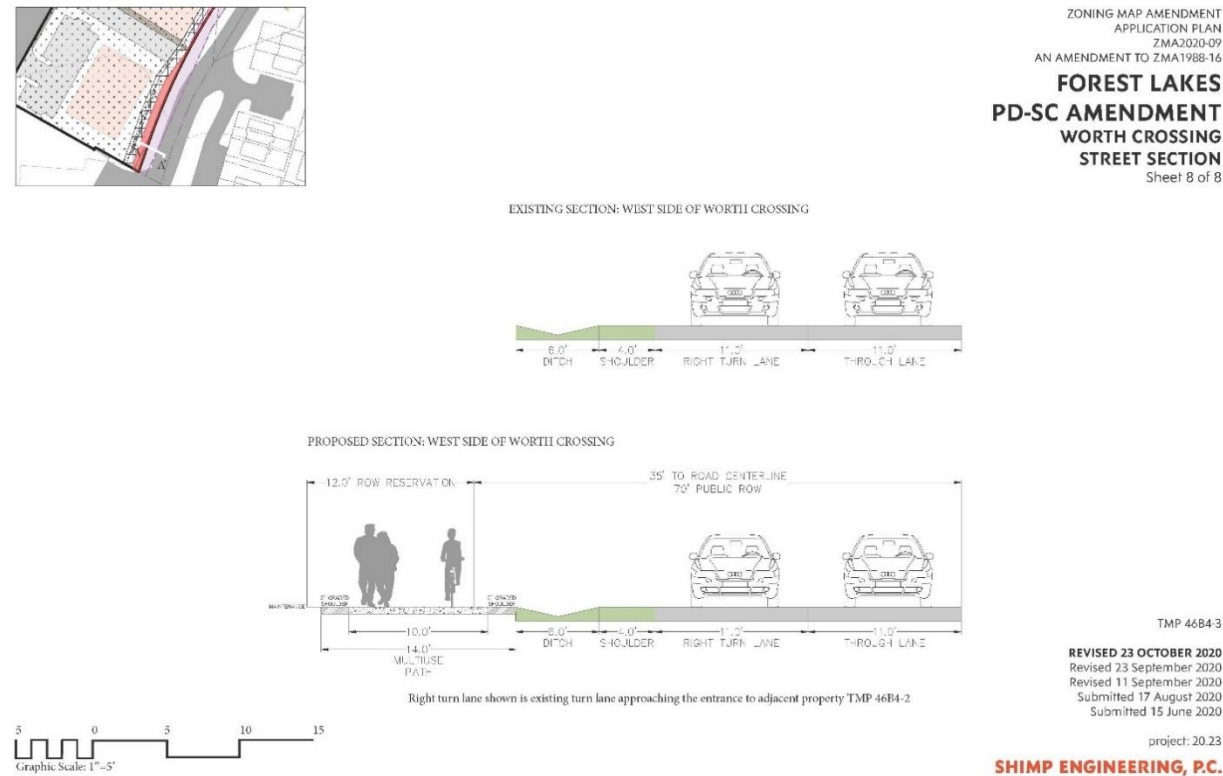
TMP 46B4-3


REVISED 23 OCTOBER 2020
Revised 23 September 2020
Revised 11 September 2020
Revised 17 August 2020
Submitted 15 June 2020

SHIMP ENGINEERING, P.C.








COUNTY OF ALBEMARLE
Dept. of Planning & Community Development
401 Madison Road
Charlottesville, Virginia 22901-4596
(804) 296 5823

January 23, 1989

Forest Lakes Associates
c/o Frank Kessler
P O Box 5207
Charlottesville, VA 22905

RE ZMA-88-16 Forest Lakes Associates
Tax Map J2, Parcels 36, 36F and 42 and
Tax Map 46, Parcel 25D; Route 29H

Dear Mr. Kessler:

The Albemarle County Board of Supervisors, at its meeting on January 18, 1989, unanimously approved the above-noted request to rezone 13.9264 acres from MC (Highway Commercial) R-1 (Residential) and R-15 (Residential) to PD-SC (Planned Development-Shopping Center) for a community shopping center of 71,800 square feet with an additional 3.96 acres in unspecified outlots. Property, located on the east side of Rt. 29 North and the north side of Timberwood Boulevard, Rivaanna Magisterial District. Please note that this approval is subject to the following modifications and agreements between the applicant and the county:

MODIFICATIONS TO APPLICATION PLAN.

1. Note on plan that outlots are not approved for uses involving drive-in window. To include revised access plans of entrance only and exit only as shown on sketch of Tiger Fuel site, initiated by Mr. John T. P. Horne and dated January 18, 1989.
2. Relocate access near Timberwood for Outlot 1 to align with main access aisle parallel to Phase 1 of the shopping center.
3. Provide joint or cross easement between Outlots 2 and 3.

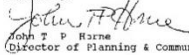
ZONING MAP AMENDMENT
APPLICATION PLAN
ZMA2020-09
AN AMENDMENT TO ZMA1988-16
**FOREST LAKES
PD-SC AMENDMENT
EXHIBIT: APPROVED
ZMA1988-16
Sheet 1 of 2**

Forest Lakes Associates
Page 2
January 23, 1989

AGREEMENTS MADE BY THE COUNTY AND THE APPLICANT.

1. Agreement to develop property in general compliance with the Application Plan. Variations may be permitted as provided in Section 8.5.6.3 of the Zoning Ordinance.
2. Staff approval of shopping center subdivision plats and Tiger Fuel subdivision plat. All plats shall reflect appropriate access easements and carry notes regarding restriction of access to U.S. Rt. 29 North to the satisfaction of the Planning Staff.
3. Staff approval of site plan for Forest Lakes shopping center and revised site plan for Tiger Fuel service station. Staff may request administrative approval of site plans for individual outlots. Staff may approve an additional exit only to Timberwood Boulevard near Outparcel 3. To include revised access plan of entrance only and exit only as shown on sketch of the Tiger Fuel site, initiated by Mr. John T. P. Horne and dated January 18, 1989.
4. Agreement by applicant that traffic generation from the 24.2 acres of commercial zoning shall not exceed 10,350 vehicle trips per day.

If you should have any questions or comments regarding the above noted action, please do not hesitate to contact me.

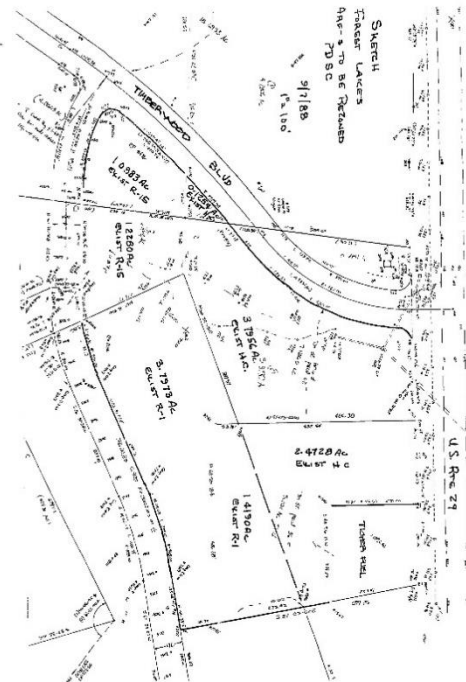
Sincerely,

John T. P. Horne
Director of Planning & Community Development
JTPH/jcw
cc Kathy Dodson

TMP 46B4-3

REVISED 23 OCTOBER 2020
Revised 23 September 2020
Revised 11 September 2020
Submitted 17 August 2020
Submitted 15 June 2020

project: 20.23

SHIMP ENGINEERING, P.C.



TMP 46B4-3

REVISED 23 OCTOBER 2020
Revised 23 September 2020
Revised 11 September 2020
Submitted 17 August 2020
Submitted 15 June 2020

project: 20.23

SHIMP ENGINEERING, P.C.

Agenda Item No. 21. **Public Hearing: Realignment of Galaxie Farm Lane.** To receive public comment on its intent to consider vacating the County-owned right-of-way across Galaxie Farm Lane (TMP 09100-00-00-01000) in exchange for acquiring a right of way across the proposed realigned Galaxie Farm Lane (TMP 09100-00-00-00900) to facilitate the development of neighboring parcels.

The Executive Summary forwarded to the Board states that, following Board approval on November 8, 2000, the County purchased three parcels along or near Galaxie Farm Lane: Parcels 91-8B, 91-10, and 91-11, referenced in the 2000 Galaxie Farm Deed (Attachment A). Following Board approval on December 18, 2019, the County conveyed Parcel 91-11 to the School Board for a future proposed high school center. Galaxie Farm Lane, over which the County also acquired access in the 2000 purchase, remains the sole access to County-owned Parcel 91-10.

On December 4, 2019, the Board approved a rezoning of two neighboring privately-owned parcels (Parcels 0910000000900 and 0910000001500) from R-1 residential to Planned Residential Development (PRD), a higher density residential development with a mixture of unit types.

As part of its proposed development, the developer is seeking to relocate Galaxie Farm Lane from its current alignment along the southern boundary of Parcel 91-9 to a location squarely within that parcel, as shown on a proposed plat (Attachment B).

The developer has approached the County with a proposed agreement (Attachment C)

guaranteeing access across the proposed new alignment in exchange for vacating the existing private access. Once completed, the proposed new alignment would be dedicated as a public right-of-way.

Even though a new and improved alignment of Galaxie Farm Lane is being offered, the proposed “disposal” of the County’s access rights to the existing alignment of Galaxie Farm Lane requires a public hearing, under Virginia Code § 15.2-1800(B). County staff has reviewed the proposed plans for Galaxie Farm Lane and has no objections.

Any improvements will be funded by the developer. No budget impact to the County is expected.

Following the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment D) approving the proposed realignment of Galaxie Farm Lane, and authorizing the County Executive to execute all documents necessary for the realignment of Galaxie Farm Lane, once those documents are approved as to form and substance by the County Attorney.

Mr. Andy Herrick, Deputy County Attorney, said he would present on the proposed realignment of a portion of Galaxie Farm Lane.

Mr. Herrick said by way of background, the County acquired three parcels (91-8B, 91-10, and 91-11) along Galaxie Farm Lane, which is off of Scottsville Road, south of Mill Creek Drive. He said the County acquired these parcels about 20 years ago, in the year 2000. He presented a map for orientation purposes and indicated to Mountain View Elementary School and the Albemarle Health and Rehab building. He said just off the map, to the north, was Monticello High School, fire station, and Tandem Friends School. He indicated on the map to the location of Scottsville Road, as it goes south of town.

Mr. Herrick indicated on the map to the three County parcels (8B, 10, and 11), which are the three parcels the County acquired in the year 2000. He said two parcels (9 and 15) are now subject to a proposed development for which the Board of Supervisors approved the rezoning about one year ago.

Mr. Herrick indicated on the map to the current Galaxie Farm Lane. He said it follows the property line of the parcel to the south. He said about a year ago, the County conveyed to the School Board that this parcel will be used a potential site for High School Center II. He said it also has access from Founders Place to Parcel 11. He said the County’s other parcel, 8B, has direct access off of Scottsville Road. He said the reason he highlighted Parcel 10 on the map is that its sole access is off of Galaxie Farm Lane. He said he would show on a future slide exactly how that works and what the proposed realignment of the lane is.

Mr. Herrick said about a year ago, in December 2019, the Board approved the proposed residential rezoning south of Galaxie Farm Lane as well as the transfer of Parcel 11 of the School Board for a potential school site, and the fact that Parcel 91-10 still relies on Galaxie Farm Lane as its sole access.

Mr. Herrick presented a map from the original deed to the County, which was 20 years old and showed the access. He said the map shows Parcel 9, which is the property currently subject to the residential rezoning and development. He said along with Parcel 15, these are the privately owned parcels. He said Parcel 11 is the future school site, and Parcels 10 and 8. He said access to the County site would follow Galaxie Farm Lane along the southern side of Parcel 9, and then there is a private drive that leads into Parcel 10.

Mr. Herrick presented the proposed alignment map. He indicated to Parcels 9 and 15 and to the future road network being proposed in the area. He said the hatch-marked road is the current driveway and if allowed to remain in its current alignment, what the current Galaxie Farm Lane would do is it would interrupt what is the proposed residential development.

Mr. Herrick said what the applicant is offering to do is in exchange for vacation of the hatch-marked area, they will allow the County to have access over what will be a future public road. He said eventually, it is anticipated that this will turn into a future public road and that during construction of it, the County would be guaranteed continue access so that Parcel 10 would not be landlocked.

Mr. Herrick said it was worth noting a couple of questions he received over the course of the day. He said the proposal would affect the alignment of Galaxie Farm Lane only as it crosses Parcel 91-9, which is the parcel closest to Scottsville Road. He said again, all that is being substituted is one segment for another. He said west of Parcel 9, Galaxie Farm Lane would be unaffected so that in the event that the County or School Board was interested in making a future connection, for example, between Founders Lane and Galaxie Farm Lane, the County could work with the School Board to discuss that. He said this was not being ruled out if, in fact, the 91-9 segment of Galaxie Farm Lane were realigned.

Mr. Herrick said the other question that arose that day was about maintenance. He said the proposed agreement that the owners of 91-9 and 91-15 have agreed to would require them to maintain the new segment of Galaxie Farm Lane during its construction and until it is accepted for VDOT maintenance. He said the County would not be taking on any new maintenance obligations over this new segment. He said the existing maintenance obligations would be unaffected west of 91-9, as would the future alignment of that road west of 91-9.

Mr. Herrick said to clarify the need for a public hearing, Virginia Code Section 15.2-1800 requires

a public hearing prior to proposed disposal of any County property, which would include the proposed disposal, as it were, of the existing alignment of Galaxie Farm Lane as it crosses Parcel 91-9.

Mr. Herrick said staff's recommendation is that following the public hearing that evening, the Board adopt the resolution attached to the staff report that would approve the proposed realignment and authorize the County Executive to execute all necessary documents once they have been approved as to form and substance. He offered to answer any questions.

Ms. Price said this was an exceptional presentation that laid out all the major issues. She thanked Mr. Herrick for responding to several, if not numerous, questions that came in that day. She said there are members of the 5th and Avon CAC who are active in making sure that all the concerns are addressed by County staff. She said to her, it looked like an excellent resolution of the issue that provides future options for the County and improves their position.

Mr. Gallaway asked if there was anyone from the public signed up to speak.

Mr. Morris said there was not.

Mr. Gallaway closed the public hearing and brought the matter back before the Board.

Ms. Price **moved** that the Board adopt the attached resolution (Attachment D) approving the proposed realignment of Galaxie Farm Lane and authorizing the County Executive to execute all necessary documents once approved to form and substance. Ms. Mallek **seconded** the motion.

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

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

RESOLUTION TO APPROVE THE REALIGNMENT OF GALAXIE FARM LANE

WHEREAS, the County owns two parcels along or near Galaxie Farm Lane, Parcels 09100-00-00-08B00 (91-8B) and 09100-00-00-01000 (91-10), which includes the sole access along Galaxie Farm Lane to Parcel 91-10; and

WHEREAS, the developer of two neighboring privately-owned parcels, Parcels 09100-00-00-00900 (91-9) and 09100-00-00-01500 (91-15), is seeking to relocate Galaxie Farm Lane from its current alignment along the southern boundary of Parcel 91-9 to a location squarely within that parcel, and has agreed to guarantee access across the proposed new alignment, which will ultimately be dedicated as a public right-of-way, in exchange for the County vacating its existing right-of-way access; and

WHEREAS, the Board of Supervisors finds that it is in the County's best interest to vacate its existing right-of-way access along Galaxie Farm Lane (Parcel 91-10) to facilitate the realignment of Galaxie Farm Lane.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the County's vacation of its right-of-way access along Galaxie Farm Lane, and authorizes the County Executive to execute all documents necessary for the realignment of Galaxie Farm Lane on behalf of the County once they have been approved as to substance and form by the County Attorney.

Prepared by:
Nicole M. Scro, Esq. (VSB #90239)
912 East High Street
Charlottesville, VA 22902

Albemarle County Parcel ID Nos.: 09100-00-00-01000, 09100-00-00-01500 and 09100-00-00-00900

This instrument is exempt from taxation under Virginia Code §§ 58.1-811(A)(3) and/or 58.1-811(C)(4) and from Clerk's fees under Virginia Code § 17.1-266.

RIGHT-OF-WAY MODIFICATION AGREEMENT

THIS RIGHT-OF-WAY MODIFICATION AGREEMENT (this "Agreement"), dated this 3rd day of December, 2020, is by and among the **COUNTY OF ALBEMARLE, VIRGINIA** (the "County"), to be indexed as the Grantor, and **DAVID S. WITMER** and **ANNA MARIE WITMER**, husband and wife (the "Witmers"), and **JASPER L. HAYNES** and **MALLIE P. HAYNES**, husband and wife (the "Hayneses" and together with the Witmers, the "Grantees").

WITNESS:

WHEREAS, the County is the owner of that certain real property (the "County Property") located in Albemarle County, Virginia shown as "T.M. 91-10, County of Albemarle, Virginia" on that certain exhibit prepared by Shimp Engineering, P.C., dated May 13, 2020, last revised September 9, 2020, entitled "Galaxie Farm Lane ROW Vacation Plat," which such exhibit is attached hereto and incorporated herein as Exhibit A (the "Exhibit"); and

WHEREAS, David S. Witmer and Anna Marie Witmer are the owners of that certain real property located in Albemarle County, Virginia shown as "T.M. 91-9, 5.09 Acres, David S. Witmer & Anna Marie Witmer" (the "Witmer Property") on the Exhibit; and

WHEREAS, Jasper L. Haynes and Mallie P. Haynes are the owners of that certain real property located in Albemarle County, Virginia shown as "T.M. 91-15, 8.27 Acres, Jasper L. Haynes & Mallie P. Haynes" (the "Haynes Property") on the Exhibit; and

WHEREAS, that certain variable width right-of-way named Galaxie Farm Lane, shown and designated as “Ex. Galaxie Farm Lane ROW Unchanged” and “ROW to be Vacated” on the Exhibit (together, the “Existing ROW”), currently provides access to the County Property, the Witmer Property, and the Haynes Property to/from State Route 20 (Scottsville Road); and

WHEREAS, the Grantees desire to redevelop the Witmer Property and Haynes Property, which necessitates the minor relocation of the Existing ROW.

NOW, THEREFORE, the parties do hereby AGREE and CONSENT as follows:

1. The Existing ROW is hereby relocated to that certain area shown and designated as “Relocation of Galaxie Farm Lane ROW Per SUB202000098” and “Ex. Galaxie Farm Lane ROW Unchanged” on the Exhibit (together, the “Revised ROW”).
2. That certain area shown and designated as “ROW To Be Vacated” is hereby vacated.
3. The Grantees, their successors and/or assigns, shall provide continuous access from the properties of the County to State Route 20 (Scottsville Road) during the construction of the Revised ROW.
4. The Grantees, their successors and/or assigns, shall maintain the improved portions of the Revised ROW at their expense until such improved portions of the Revised ROW are accepted by the Virginia Department of Transportation (VDOT) and/or Albemarle County, Virginia for public access and maintenance.

The County, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts this conveyance pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive’s signature hereto and the recordation of this instrument.

WITNESS the following duly authorized signatures and seals:

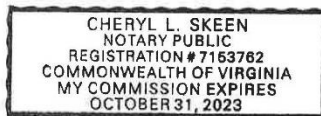
COUNTY OF ALBEMARLE, VIRGINIA, a
political subdivision of the Commonwealth of
Virginia

By: [Signature]
Jeffrey B. Richardson, County Executive

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF CHARLOTTESVILLE, to-wit:

The foregoing instrument was acknowledged before me this 3rd day of December,
2020 by Jeffrey B. Richardson, County Executive of the County of Albemarle, Virginia, a
political subdivision of the Commonwealth, on its behalf.

My commission expires: Oct. 31, 2023.



Cheryl L. Skeen
Notary Public

Notary Registration No.: 7153762

Approved as to form:

[Signature]
Albemarle County Attorney

GRANTEE



David S. Witmer

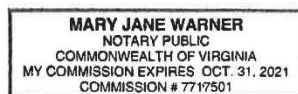
COMMONWEALTH OF VIRGINIA

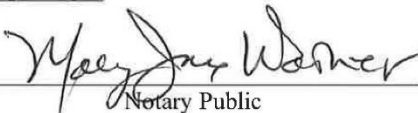
CITY/COUNTY OF Charlottesville, to-wit:

Albemarle

The foregoing instrument was acknowledged before me this 24 day of September
2020 by David S. Witmer.

My commission expires: 10/31/2021.





Notary Public

Notary Registration No.: 7717501

GRANTEE



Anna Marie Witmer

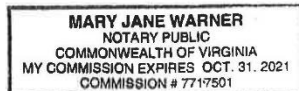
COMMONWEALTH OF VIRGINIA

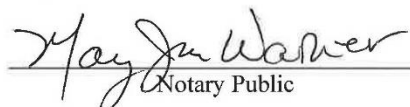
CITY/COUNTY OF Charlottesville, to-wit:

Albemarle

The foregoing instrument was acknowledged before me this 24 day of September
2020 by Anna Marie Witmer.

My commission expires: 10/31/2021

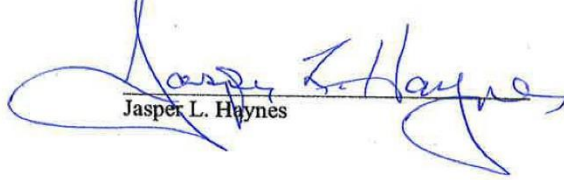




Notary Public

Notary Registration No.: 7717501

GRANTEE

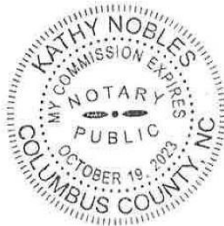

Jasper L. Haynes

STATE OF NORTH CAROLINA

CITY/COUNTY OF Columbus, to-wit:

The foregoing instrument was acknowledged before me this 23rd day of November,
2020 by Jasper L. Haynes.

My commission expires: 10-19-2023.

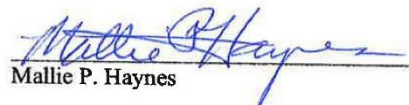



Kathy Nobles

Notary Public

Notary Registration No.: _____

GRANTEE

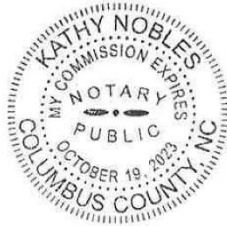

Mallie P. Haynes

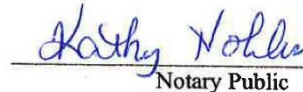
STATE OF NORTH CAROLINA

CITY/COUNTY OF Columbus, to-wit:

The foregoing instrument was acknowledged before me this 23rd day of November,
2020 by Mallie P. Haynes.

My commission expires: 10-19-2023.




Kathy Nobles

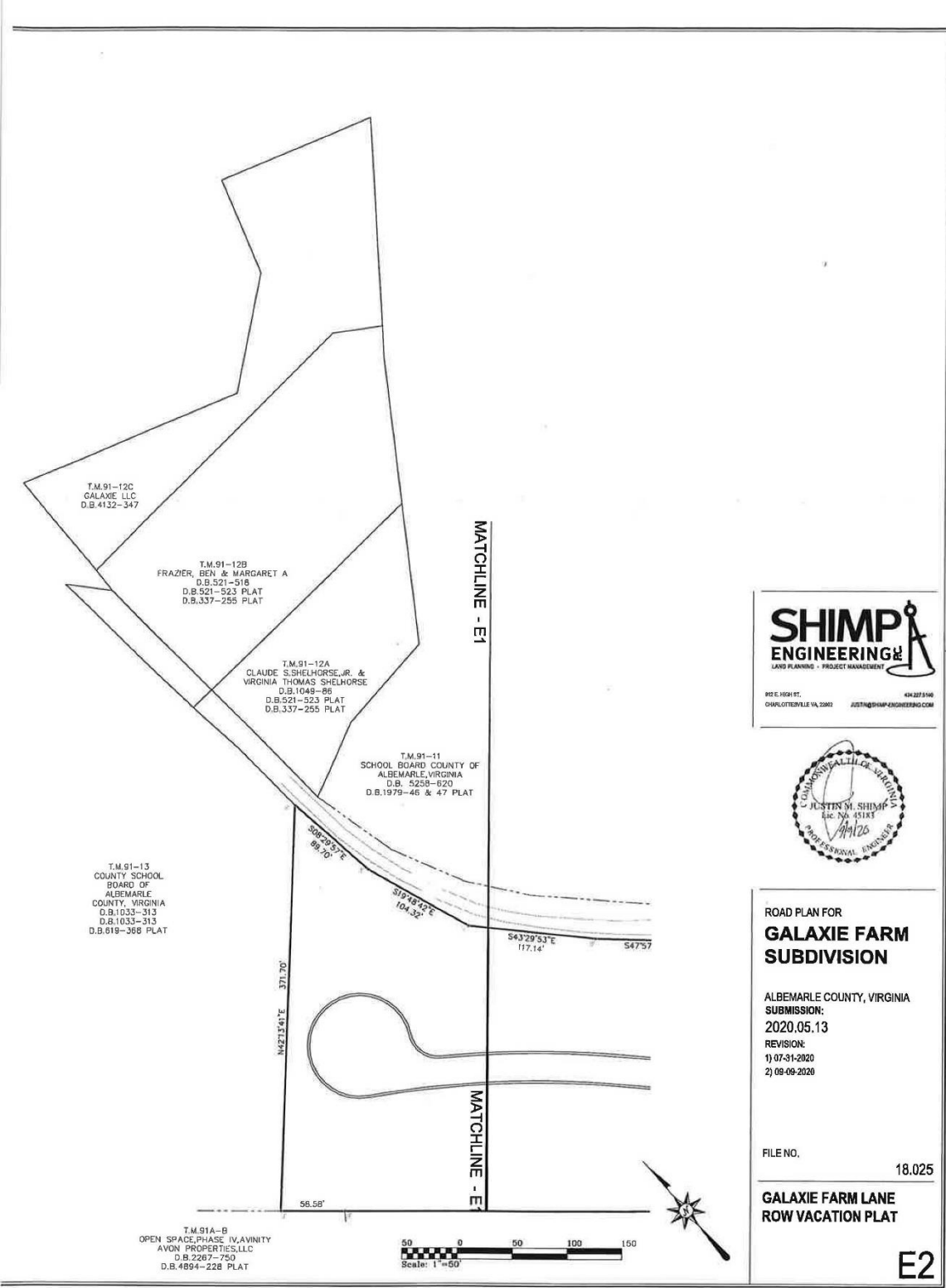
Notary Public

Notary Registration No.: _____

Exhibit A

the Exhibit

Road Plan for Galaxie Farm Subdivision



Agenda Item No. 24. Adjourn.

At 7:03 p.m., Mr. Gallaway adjourned the Board meeting to December 8, 2020, 6:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Chair

Approved by Board
Date 04/05/2023
Initials CKB