

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 1, 2021 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 L. Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, and Ms. Liz Palmer

ABSENT: Ms. Donna P. Price.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; 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. Ned Gallaway.

Mr. Gallaway stated that 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." He said that the opportunities for the public to access and participate in the electronic meeting were posted on the Albemarle County website, on the Board of Supervisors' homepage, and on the Albemarle County calendar. He stated that participation included the opportunity to comment on those matters for which comments from the public would be received.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Palmer **moved** to adopt the final agenda as amended. Ms. LaPisto-Kirtley **seconded** the motion.

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

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

NAYS: None.

ABSENT: Ms. Price.

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

Ms. LaPisto-Kirtley said she had met with the Forest Lakes-Hollymead community on Monday and had listened to their concerns regarding upcoming development. She said it was a good opportunity to meet a lot of the residents, which she appreciated.

Ms. Palmer said she had also attended a community meeting with Batesville residents. She said as always it was a great meeting, and she appreciated those who had attended. She said the discussion was all about the different SUPs and commercial applications pending in the area.

Ms. McKeel said she was not able to attend but appreciated Ms. LaPisto-Kirtley and Mr. Walker being for the groundbreaking of the Boys and Girls Club on the Lambs Lane Campus. She said she understood it was well attended with a nice big tent to keep everybody cool. She said the Boys and Girls Club Board of Directors was there, and the club is going to be a jewel for the Lambs Lane campus to serve that student population. She said she appreciated everybody's work on the project and looked forward to its grand opening.

Ms. McKeel said that she and Ms. Price had met with representatives from the Farm Bureau the past week, and they had a good meeting in which they all discussed some of their concerns.

Ms. Mallek said she had had some correspondence with people thanking the Board for making sure people can participate in their meetings from home and hoping they will continue that access even if someday they were back together. She said she had told them she missed seeing people in person but was glad the work had been done to set up this technology for people.

Ms. Mallek said there would be an OLLI course about the Blue Ridge Tunnel held weekly from September 9 to October 7, on Thursdays from 10:00 to 11:30 a.m. in the historic Wayne Theater in downtown Waynesboro. She noted that information can be found under the in-person courses part of the OLLI website.

Mr. Gallaway thanked Lance Stewart for sending out the update about the median work that was done on Rio Road to attack the weed issue. He said it would take more effort to keep it permanently that way, but they at least had gotten the tall weeds down, and he knew the community appreciated having that cleaned up. He said still knowing it was a countywide issue, they would use what they have learned from that—and it was quite a process with VDOT to get the proper access to actually do the work. He said they would hopefully be able to figure out a game plan and be able to move that around to other areas around the County where there are similar concerns.

Ms. LaPisto-Kirtley said she was putting in another plug for the Boys and Girls Club groundbreaking, which was a fabulous event. She said the sixth annual Seas the Day event was held on Sunday to honor military veterans, and it was hosted by Mission BBQ. She said it was a great event; it was her first time attending, and she enjoyed it.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Proclamation in Remembrance of the 20th Anniversary of 9/11/2001.

Ms. LaPisto-Kirtley **moved** to adopt the proclamation in remembrance of the 20th anniversary of 9/11/2001. Ms. Mallek seconded the motion.

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

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

NAYS: None.

ABSENT: Ms. Price.

Chief Ron Lantz said he appreciated the opportunity to speak that day in remembrance of this 20-year anniversary. He said they needed to pause and remember those who lost their lives in the attacks but also their families that survived. He said sometimes the families that were left holding all that grief are forgotten. He said it did not end that day and carried on for weeks, months, and years to military that went on foreign soil to bring justice to those who were responsible.

Chief Lantz said he always remembers the most how America came together to provide aid. He said everyone remembers where they were when it happened, and how the nation came together to provide aid to strangers was unbelievable. He added that he hoped to get to see that again in his lifetime.

Chief Lantz stated that 20 years ago, the unthinkable happened. He said here is a generation of high schoolers right now that were not alive when it happened, so there is a duty to remind them and educate them of what truly happened that day and what America did.

Chief Lantz thanked all the first responders and military that ran towards the danger to provide lifesaving efforts and put their lives on the line to save their neighbors and complete strangers. He also thanked local first responders for their support. He said on behalf of his friends at the fire department, his colleagues, his friends with ECC, emergency management, he wanted to thank the Board for their steadfast commitment to always remembering and honoring those who lost their lives that day and honoring the military and first responders.

Deputy Fire Chief Heather Childress thanked the Board for this recognition and remembrance. She said 20 years ago, this community responded to events that it did not see coming. She said they may not have been directly impacted here, but anyone who witnessed the horror and felt its aftermath will never forget the immediate feeling of helplessness and the lasting impact to their daily lives and their way of living. She said in the words of Howard Osterkamp, a Korean War veteran, "all gave some, some gave all."

Chief Childress said in the days following 9/11, fire and EMS members across Albemarle banded together to try to do what they could—and by collecting cash and fire boots at intersections throughout Albemarle and Charlottesville, this community raised over a quarter of a million dollars to support New York City firefighters. She said over the past 20 years, ACFR has done its part in ensuring the deaths of 343 of our sisters and brothers were not in vain.

Ms. Childress stated that the County has benefited locally from funding and grant programs made available by the federal government to recruit and retain volunteers, hire career volunteers, provide training, and invest in health and wellness programs. She said these actions make the community safer and more resilient. She said all of this has been accomplished with support from the Albemarle County Board of Supervisors. She said this proclamation from the Board on a significant anniversary of the 9/11 attacks is appreciated and underscores what they have done over the past two decades and will continue to do to ensure public safety in Albemarle. She thanked them on behalf of Fire Chief Dan Eggleston, the Albemarle County Fire and Rescue, Fire and EMS system, and the community.

Ms. LaPisto-Kirtley thanked both Chief Lantz and Deputy Chief Childress for their service and what they have been doing and are continuing to do for the community to protect and keep it safe. She said it was much appreciated, especially on this very special day in remembrance of 9/11.

Ms. Palmer thanked Chief Lantz and Deputy Chief Childress for their service.

Ms. McKeel thanked all the first responders, with special appreciation for local police and fire and rescue who make the community safer every day.

Ms. Mallek said Chief Lantz nailed it when he said they all remember where they were. She said she was setting up her classroom for kindergarten computer and listening to NPR when this happened and called the librarian down to watch it on a computer screen. She said her daughter was in Arlington, and the plane to the Pentagon went over her neighborhood. She said friends worked in the Battery in

New York, and she could not find them for three days; it turned out they were in Canada and could not get home. She said it was a remembrance that brings up a visceral reaction whenever they think about it and makes it even more poignant with ACFR staff, ACPD staff, and all public safety people who basically live this kind of thing every day. She said she appreciated all their work.

Mr. Gallaway thanked Chief Lantz and Deputy Chief Childress for being at the ready to respond to anything like this. He said Albemarle County had just had tornado warnings; thinking of those who were going to run into it to help if needed was something that saying “thank you” or being grateful for was not really strong enough when put in words. He said every year when September 11th has come around, beyond the hours of that morning, he is struck by the weeks that followed with all the uncertainty that went with it; it imprinted that morning even more on everybody’s memories. He said he appreciated them being there that day to join the Board with this proclamation and for everything they do.

Proclamation in Remembrance of the 20th Anniversary of 9/11/2001

WHEREAS, on the morning of September 11, 2001, the United States endured coordinated terror attacks that lead to tragic deaths and injuries to thousands of United States and other citizens at the World Trade Center site in New York City, the Pentagon in Washington, DC, and a field near Shanksville, Pennsylvania; and

WHEREAS, hundreds of first responders, military, and recovery workers provided immediate response and worked for months at Ground Zero, the World Trade Center site, on rescue and recovery efforts to free the entrapped and bring peace to grieving families; and

WHEREAS, in the weeks, months and years following the attacks, the brave women and men of the United States armed forces answered the call to duty in Iraq and Afghanistan, in which over 7,000 US service members died and over 20,000 soldiers were wounded across 20 years to defend the security of the United States; and

WHEREAS, on September 11, 2001, the people of this country united in the face of terror – rushing to Ground Zero to perform rescue and recovery work; donating needed supplies, food, and blood; supporting the families of those who perished; and enlisting in active-duty ranks and enlisted reserves to support the United States at home and abroad.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors on this 20th year since the tragedy of September 11th, 2001 and in recognition to this National Day of Service and Remembrance, honor all those who lost their lives in the attacks of September 11, all who made the ultimate sacrifice for our country in the years that followed in service to our nation, and all those whose life has been shaped by them.

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. Chris Hawk with Piedmont Environmental Council (PEC) said the PEC is a nonprofit organization supported by members throughout each of Albemarle County’s magisterial districts. He said he would be speaking to Item No. 12 on the day’s agenda. He said PEC was saddened to learn about the community’s limited reduction in greenhouse gas emissions as of 2018.

Mr. Hawk said while there is much work that needs to be done to meet their goals as a community, PEC supports the County’s increased effort to address climate change, including planning for carbon emission reduction as well as planning for climate adaptation and other resiliency needs. He said PEC emphasizes the importance of focusing on climate change during the upcoming Comprehensive Plan and Strategic Plan updates, continued work on the climate action plan, and budgeting the infrastructure necessary for climate action implementation. He thanked the Board for their commitment to addressing climate change both locally and globally.

Mr. Gallaway closed Matters From the Public.

Agenda Item No. 8. Consent Agenda.

Ms. LaPisto-Kirtley **moved** to approve the Consent Agenda as amended. Ms. Mallek **seconded** the motion.

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

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

Item No. 8.1. Schedule a Public Hearing to Consider the Adoption of an Ordinance to Amend County Code Chapter 15, Taxation.

The Executive Summary forwarded to the Board states that pursuant to Virginia Code Section 58.1-3916, the County may establish due dates for all local taxes.

There are three tax payment schedules that require the Board's attention this fall.

The first is the due date of the first installments of real estate, personal property, machinery and tools, mobile homes, and public service corporations' taxes. On January 20, 2021, the Board adopted ordinance No. 21-A (2) to adjust the due date of the first installments from June 5 to June 25 for tax year 2021 to improve the alignment of the budget development schedule with the School Division's schedule and to ensure that there is adequate time for taxpayers to remit these taxes. Staff recommends adjusting the due date permanently by amending the County Code.

The second is the due date of the vehicle license tax for personal property. On August 4, 2021, the Board adopted Ordinance No. 21-15 (2) to move the County code sections governing the County's vehicle licenses from Chapter 9 (Motor Vehicles and Traffic) to Chapter 15 (Taxation). Staff recommends adjusting the due date of the vehicle license tax from June 5 to June 25 to match the due date of the first installment of personal property tax by amending the County Code.

The third is the payment due date of supplemental property tax assessments for real estate, personal property, machinery and tools, mobile homes, and public service corporations. These supplemental tax assessments are currently due and payable within 30 days of the billing date. To provide adequate time for taxpayers to remit their unexpected supplemental property tax bills, staff recommends that the County adjust the payment due date to within 45 day of the billing date.

The attached proposed ordinance (Attachment A) would:

Change the due date of the first installments of real estate, personal property, machinery and tools, mobile homes, and public service corporations' taxes from June 5 to June 25, effective January 1, 2022. This would be consistent with the 2021 tax due dates. Staff believes this would provide adequate time for taxpayers to remit these taxes and would align with the County's and the School Division's budget development schedule.

Change the due date of the vehicle license tax from June 5 to June 25 to match the due date of the first installment of personal property tax effective January 1, 2022. Staff believes this would provide administrative consistency.

Change the payment due date of supplemental tax assessment bills for real estate, tangible personal property, machinery and tools, mobile homes, and public service corporations' taxes from within 30 days of the billing date to within 45 days of the billing date, effective January 1, 2022. Staff believes this would ensure that there is adequate time for taxpayers to pay any unexpected supplemental property tax assessment bills.

Adoption of the proposed ordinance is not anticipated to have an impact on expected revenues.

Staff recommends that the Board schedule a public hearing and adopt the attached proposed ordinance in Attachment A.

By the above-recorded vote, the Board voted to authorize the Clerk to schedule a public hearing to consider the adoption of an ordinance to amend County code Chapter 15, Taxation:

Draft: August 19, 2021

ORDINANCE NO. 21-15()

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, ARTICLE 1, ADMINISTRATION, AND ARTICLE 14, COUNTY VEHICLE LICENSES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, Article 1, Administration, and Article 14, County Vehicle Licenses, are hereby amended as follows:

By Amending:

Sec. 15-101 When taxes are due.

Sec. 15-1404 When license tax is due.

Chapter 15. Taxation

Article 1. Administration

Sec. 15-101 When taxes are due.

Any taxes imposed pursuant to this chapter are due and owing as follows:

- A. General assessments. Taxes due and owing to the County for real estate, tangible personal property, machinery and tools, mobile homes, and public service corporations are due and payable in two installments. The first installment is due and payable on or before ~~June 5~~ June 25 of the year the taxes are assessed. The second installment is due and payable on or before December 5 of the year the taxes are assessed.
- B. Payment in whole. Any taxpayer may pay the whole of the taxes assessed in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment must be paid as part of the tax.
- C. Supplemental assessments. Supplemental tax assessments for real estate, tangible personal property, machinery and tools, mobile homes, and public service corporations are due and payable within ~~30~~ 45 days of the billing date.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; § 15-100, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-101, Ord. 19-15(1), 4-17-19)

State Law reference— Va. Code §58.1-3916 .

Article 14. County Vehicle Licenses

Sec. 15-1404 When license tax is due.

Except as provided in County Code ~~§ 8-802~~ § 15-1402, the license tax is due and payable on or before ~~June 5~~ June 25 of each year, and shall be included and separately stated on the personal property tax bill.

(Code 1967, § 12-93; 1-18-73; 6-7-89; Code 1988, § 12-25; § 9-404, Ord. 98-A(1), 8-5-98; Ord. 99-9(1), 11-10-99; Ord. 02-9(1), 11-6-02; Ord. 05-9(2), 12-7-05, effective 1-1-06; Ord. 07-9(2), 12-5-07, effective 1-1-08; Ord. 16-9(1), 7-6-16; § 15-1404, Ord. 21-15(2), 8-4-21)

State law reference – Va. Code § 46.2-752(A).

This ordinance will be effective on and after January 1, 2022.

Item No. 8.2. Resolution to accept road(s) in Cascadia Blocks 1-3 into the State Secondary System of Highways.

By the above-recorded vote, the Board adopted the resolution to accept roads Cascadia Blocks 1-3 into the State Secondary System of Highways:

RESOLUTION

WHEREAS, the street(s) in Cascadia Blocks 1-3, as described on the attached Additions Form AM-4.3 dated September 1, 2021, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in Cascadia Blocks 1-3, as described on the attached Additions Form AM-4.3 dated September 1, 2021, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

In Albemarle County

37680242

by Resolution of the governing body adopted September 01, 2021

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee

Signed (County Official):



Report of Changes in the Secondary System of State Highways

Project/Subdivision: Cascadia Blocks 1-3

Addition - New subdivision street §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
1930	Terrace Lane	Delphi Drive (PVT)	0.03 Miles West to Marietta Dr (PVT)	0.03	2	DB 4732; PG 678	54
1930	Terrace Lane	Rt 1927, Delphi Lane	0.17 Miles North to Rt 1928, Delphi Drive	0.17	2	DB 4732; PG 678	54

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Item No. 8.3. Resolution to Accept road(s) in Cascadia Blocks 4-7 into the State Secondary System of Highways.

By the above-recorded vote, the Board adopted the resolution to accept roads Cascadia Blocks 4-7 into the State Secondary System of Highways:

RESOLUTION

WHEREAS, the street(s) in Cascadia Subdivision Phases 4 - 7, as described on the attached Additions Form AM-4.3 dated September 1, 2021, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in Cascadia Subdivision Phases 4 - 7, as described on the attached Additions Form AM4.3 dated September 1, 2021, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

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In Albemarle County

37679987

by Resolution of the governing body adopted September 01, 2021

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): Claudia H. King

Report of Changes in the Secondary System of State Highways

Project/Subdivision: Cascadia Subdivision Phases 4 - 7

Addition - New subdivision street §33.2-705

Rte Numb er	Street Name	From Termini	To Termini	Length	Num ber Of Lan es	Recordation Reference	Row Widt h
1927	Delphi Lane	Backwater Ally (PVT)	0.03 Miles East to Rt 1933, Glissade Lane	0.03	2	DB 4712; PG 104-152	
1927	Delphi Lane	Knoll Lane (PVT)	0.08 Miles East to Rt 1930, Terrace Lane	0.08	2	DB 4712; PG 104-152	55
1927	Delphi Lane	Rt 1928, Delphi Drive	0.03 Miles East To Knoll Lane (PVT)	0.03	2	DB4712; PG 104-152	55
1927	Delphi Lane	Rt 1930, Terrace Lane	0.18 Miles Northwest to Rt 1931, Oval Park Lane	0.18	2	DB 4712; PG 104-152	
1927	Delphi Lane	Rt 1931 Oval Park Lane	0.06 Miles Northeast to Rt 1932, Boulder Hill Lane	0.06	2	DB 4823; PG 163-173	55
1927	Delphi Lane	Rt 1931, Oval Park Lane	0.04 Miles Southwest to Rt 1933, Glissade Lane	0.04	2	DB 4823; PG 163-173	55
1927	Delphi Lane	Rt 1932, Boulder Hill Lane	0.02 Miles East to Rt 1931, Oval Park Lane	0.02	2	DB 4823; PG 163-173	55

In Albemarle County

37679987

by Resolution of the governing body adopted September 01, 2021

1927	Delphi Lane	Rt 1933, Glissade Lane	0.03 Miles East to Stubout	0.03	2	DB 4712; PG 104-152	55
1927	Delphi Lane	Rt 1933, Glissade Lane	0.06 Miles Southeast to Rt 1934, Flat Waters Lane	0.06	2	DB 4886; PG 660-674	55
1927	Delphi Lane	Rt 1934, Flat Waters Lane	0.11 Miles South to Backwater Ally (PVT)	0.11	2	DB 4712; PG 104-152	55
1928	Delphi Drive	Rt 1765, Fontana Drive	0.08 Miles North to Rt 1927, Delphi Lane	0.08	2	DB 4712; PG 104-152	51
1931	Oval Park Lane	Rt 1927, Delphi Lane	0.07 Miles East to Rt 1927, Delphi Lane	0.07	2	DR 4823; PG 163-173	55
1932	Boulder Hill Lane	Rt 1927, Delphi Lane	0.04 Miles North to CDS	0.04	2	DB 4823; PG 163-173	
1933	Glissade Lane	Rt 1927, Delphi Lane	0.06 Miles Southwest to Rt 1934, Flat Waters Lane	0.06	2	DB 4886; PG 660-674	
1933	Glissade Lane	Rt 1934, Flat Waters Lane	0.09 Miles South to Rt 1927, Delphi Lane	0.09	2	DB 4712; PG 104-152	54
1934	Flat Waters Lane	Backwater Ally (PVT)	0.03 Miles East to Rt 1933, Glissade Lane	0.03	2	DB 4886; PG 660-674	54
1934	Flat Waters Lane	Rt 1927, Delphi Lane	0.03 Miles East to Backwater Ally (PVT)	0.03	2	DB 4886; PG 660-674	54

In Albemarle County

37679987

by Resolution of the governing body adopted September 01, 2021

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Item No. 8.4. Rivanna River Corridor Plan Update and Time Frame for Consideration of Draft Plan., **was received for information.**

Agenda Item No. 9. **Action Item:** SE202100028 Homestay Special Exceptions – Buck Mountain.

The Executive Summary forwarded to the Board states that the applicants are requesting two special exceptions for a homestay at 3 Buck Mountain Road.

Reduce Required Minimum Yards. Pursuant to County Code § 18-5.1.48(i)(1)(ii), the applicants are requesting to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125-foot setbacks to 15 feet +/- from the southeastern property line and 30 feet +/- from the northwestern property line for a homestay and its accompanying parking.

Permit Use of Accessory structure. Pursuant to County Code § 18-5.1.48(i)(1)(i), the applicants are requesting to modify County Code 18-5.1.48(j)(1)(ii) to permit the use of an accessory structure in association with a homestay on a Rural Areas district parcel of less than five acres.

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

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

Ms. Leah Brumfield said since this homestay special exception included two requests—one for the reduction of setbacks and one for an accessory structure on a smaller Rural Area (RA) lot—this special exception has been scheduled as an action item instead of a consent item.

Ms. Brumfield said homestays for parcels like this particular one (3 Buck Mountain Road, a 2.4-acre rural area parcel) are limited to two guestrooms by right and require 125-foot setbacks for all parcel boundaries, may use accessory structures only by special exception, and require the homeowner to be onsite during the rental. She said additionally as a homestay, the property must be the primary residence of the owner, parking must be onsite, and neighbor notification is required along with annual safety inspections.

Ms. Brumfield said for the smaller RA parcel, four types of special exceptions may be requested. She said this application was requesting a special exception to reduce the setbacks for both side parcel boundaries and the use of an accessory structure formerly used as an artist's studio on the rear of the property.

Ms. Brumfield said that per the homestay regulations, special exceptions may be granted for homestays—permitted there is no detriment to abutting lots and there is no harm to public health, safety, or welfare. She said this proposal is located in Earlysville in a finished artist's studio. She said following notice to the neighboring property owners, staff actually received a letter of support for the application from the parcel owner most potentially impacted by the proposed homestay special exception; they encouraged approval of the special exception.

Ms. Brumfield demonstrated an exhibit showing the proposed location of the homestay, the homestay parking location, and the existing buffers on either side. She said the existing buffers are largely evergreen and deciduous trees and a few bushes, and they do screen the homestay fairly effectively. She said during a site visit in the summer, staff did notice that some of the trees were damaged during storms over the winter and the spring, but the applicants have already expressed their desire to replant to bring the standards back to what is shown on the exhibit.

Ms. Brumfield summarized that there was expressed support of the neighbor closest to the homestay, stating that this is a single bedroom in an existing structure to the rear of the parcel, the house itself is only three or four bedrooms, and this would be a very small increase, if any, in the amount of traffic. She said with these considerations, staff recommends approval with the following conditions: parking and location areas, the existing structures as configured, and the buffering conditions as shown on the exhibit.

Ms. Mallek commented that this was a great little location. She said she lives in the neighborhood but never even knew the studio was back there, which was some indication of the screening being effective. She said she had emailed Ms. Brumfield about her only worry, and Ms. Brumfield had said they did not consider VDOT things for this size of application. Ms. Mallek said this is an absolutely blind corner exit; people come flying down from the north, which is on the right, and then the driveway is right there on the corner with people going around the triangle for the general store. She said she hoped there was a way to incorporate something in their communication to the owners about extra information provided to their guests about the care of exiting and to alert people, as they may not know about the geography, especially if they arrive or leave in the dark. She said that was her special recommendation.

Ms. Mallek said her question for later was whether the letter to neighbors conveyed to the recipient that this approval would go with the land and not with the current operator. She said she would support this special exception, but the only concern she had was for the safety of the exiting driver.

Ms. Palmer said she could support this. She said Ms. Mallek's question was a very good one, and she would like to know the answer to that also.

Ms. Brumfield said one of the things that might be useful to keep in mind was that the special exception is only for the particular circumstances of the geography. She said the letter does not note that the homestay special exception runs with the land, although it does, but every new user who would come in would be required to go through the homestay zoning clearance process over again. She said that piece did not run with the land and is a user-based approval.

Ms. Brumfield explained that if these property owners sold the property at 3 Buck Mountain, a new owner would be able to apply for another homestay in the same location. She clarified that it would be in the rear in the artist's studio that does exist, and they would not be able to build a new studio or add onto it or make more bedrooms. She said they would have to come in and apply for another homestay zoning clearance and go through the same process of talking to staff, getting a fire safety inspection, and making sure they are following all of the existing allowances for the setbacks and keeping it in the approved location. She said the short answer is no, and the long answer is that it's only part of the process.

Ms. LaPisto-Kirtley said if someone else were to purchase this, she understood they would have to go through the whole zoning process or homestay permit process. She asked if they would be allowed to keep the two exceptions the Board would be approving that day or whether they would have to reapply for those two exceptions.

Ms. Brumfield responded that yes, the special exception does run with the land. She said she explains to applicants that the special exception allows them to apply for the homestay zoning clearance; otherwise, they could apply but would automatically be denied. She said this special exception gives them the opportunity to apply for the homestay zoning clearance, and that does run with the land.

Ms. LaPisto-Kirtley asked if the neighbors would have to be notified.

Ms. Brumfield replied that the neighbors would be notified of the new contact for the homestay because that is part of the homestay zoning clearance process, but they would not be notified of a special exception because that one is already complete. She said they would be notified that the new owners were applying for a zoning clearance, and if there were any issues, they would need to contact the responsible agent listed in the new zoning clearance for the new owners.

Ms. McKeel asked what the trigger was if someone purchases a property and they know there is a homestay there. She said she guessed they look it up or look at the Airbnb ads.

Ms. Brumfield responded that they are currently still monitoring that with the third-party software; that would give a notice that there is a new listing at a location because the previous owner would probably not give the new owner their Airbnb log-in information to continue the same listing. She said they would also need to apply for a new business license. She said staff also works with the Finance Department so that every time they get a new homestay business license, that information is shared between the two departments. She said staff reaches out to them and makes sure they have a zoning clearance to go along with their business license.

Mr. Gallaway **moved** to adopt the attached Resolution (Attachment G) 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: Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Gallaway, and Ms. Palmer.

NAYS: None.

ABSENT: Ms. Price.

RESOLUTION TO APPROVE SPECIAL EXCEPTIONS FOR SE2021-00028 BUCK MOUNTAIN HOMESTAY

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2021-00028 Buck Mountain Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exceptions would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that in association with the Buck Mountain Homestay, the Albemarle County Board of Supervisors hereby approves the special exceptions (i) to modify the minimum 125 foot northwest and southeast yards required for a homestay in the Rural Areas zoning district, and (ii) to permit the use of an accessory structure in association with a homestay in the Rural Areas zoning district, both subject to the conditions attached hereto.

* * *

SE 2021-00028 Buck Mountain Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the House and Parking Location Exhibit dated August 11, 2021.
2. Homestay use is limited to the existing structures, as currently configured and depicted on the House and Parking Location Exhibit dated August 11, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated August 11, 2021, 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. Additional screening must be established directly south of the homestay and homestay parking area as shown on the House and Parking Location Exhibit dated August 11, 2021, and maintained to meet the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

Agenda Item No. 10. **Action Item:** SE202100027 Homestay Special Exception – Ownby.

The Executive Summary forwarded to the Board states that the applicant is requesting two special exceptions for a homestay at 1850 Secretary's Drive:

Reduce Required Minimum Yards. Pursuant to County Code § 18-5.1.48(i)(1)(ii), the applicant is requesting to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125-foot setbacks to 88 feet +/- on the western property boundary and 90 feet +/- on the southeastern property boundary for a homestay use in the existing primary dwelling and its accompanying parking.

Increase Number of Guest Bedrooms. Pursuant to County Code § 18-5.1.48(i)(1)(i), the applicant is requesting to modify County Code 18-5.1.48(j)(1)(iii) to increase the maximum number of guest rooms to three in a homestay on a parcel of less than five acres in the Rural Areas district.

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 exceptions with the conditions contained therein.

Ms. Brumfield said this request was for special exception 202100027 for a homestay on Secretarys Drive. She said this homestay was occurring on the action agenda because the applicant was requesting both the special exception to reduce setbacks and a special exception to increase the number of permitted guest rooms.

Ms. Brumfield said for this particular type of parcel, four types of special exceptions may be requested, and the two they are requesting are reductions of the setbacks and increasing the number of guest rooms. She said in this case, the applicant was requesting an increase from the permitted two guest rooms to three guest rooms in total.

Ms. Brumfield explained that homestay special exceptions may be granted, permitted there is no detriment to abutting lots and no harm to public health, safety, or welfare. She stated that this proposed homestay has three guest bedrooms located in the home on the property, and to the rear of the property, the buildings are sheds and farm buildings. She said that neighboring homes are 192 feet and 226 feet from the homestay on either side. She noted that staff had received no comments or concerns from any property neighbors.

Ms. Brumfield stated that parking for the homestay would be located to the rear. She said staff does recommend requiring maintenance of vegetation to the west, and additionally installing screening between the homestay and the eastern property boundary where there is currently a large grassy area. She said staff does not believe the increase in the number of guest rooms from two to three or the reduction of the setbacks would cause any deleterious impacts to neighbors.

Ms. Brumfield said staff recommends approval of this homestay special exception request with conditions including the parking and guestroom structures, maintenance of existing screening, and the addition of plantings as shown on the house and parking location exhibit. She demonstrated photos of the western side, the eastern side, and the canine welcoming committee.

Ms. Palmer asked where the primary residence was on this property.

Ms. Brumfield said the building marked with the green star was the primary residence.

Ms. Palmer asked why they were not requiring any screening on the back of the property.

Ms. Brumfield said the back of the property was over 125 feet.

Ms. Palmer confirmed they do not require any screening if it is over 125 feet.

Ms. Brumfield said that was correct.

Ms. McKeel said she thought the welcoming committee was darling.

Mr. Gallaway said that knowing she would be absent, Ms. Price had sent an email to the Board ahead of time that did voice support for the application, as this is in the Scottsville District.

Ms. Palmer **moved** to adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein. Ms. LaPisto-Kirtley **seconded** the motion.

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

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

NAYS: None.

ABSENT: Ms. Price.

RESOLUTION TO APPROVE SPECIAL EXCEPTIONS FOR SE2021-00027 OWNBY HOMESTAY

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE202100027 Ownby Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exceptions would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that in association with the Ownby Homestay, the Albemarle County Board of Supervisors hereby approves the special exceptions (i) to modify the minimum 125-foot front western and southeastern yards required for a homestay in the Rural Areas zoning district and (ii) to permit up to three guest rooms in association with a homestay in the Rural Areas zoning district, each subject to the conditions attached hereto.

* * *

SE 2021-00027 Ownby Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the House and Parking Location Exhibit dated August 11, 2021.
2. Homestay use is limited to the existing structures, as currently configured and depicted on the House and Parking Location Exhibit dated August 11, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated August 11, 2021, 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. Additional screening must be established directly east of the homestay and homestay parking area as shown on the House and Parking Location Exhibit dated August 11, 2021, and maintained to meet the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

Agenda Item No. 11. Work Session: Proposed 2022 Legislative Priorities.

The Executive Summary forwarded to the Board states that each year the Board considers and approves a set of its legislative priorities to pursue in the upcoming General Assembly session. The Board held its first work session on its 2022 Legislative Priorities on July 7, 2021. This is the second work session for the Board Staff will return to the Board for a third work session in October. This executive summary is the same as the August 18, 2021 executive summary, with minor updates.

The discussion during the July 7 work session is summarized below:

- Civil penalties in lieu of criminal penalties and zoning civil penalties: At last year's Board meeting with the local General Assembly delegation, a member of the local delegation suggested that these two priorities be combined. A sample draft bill combining these priorities is provided as Attachment A. The Board did not reach consensus on Supervisor Palmer's suggestion that the right to attorney's fees be included. Staff does not recommend including attorney's fees in this proposed bill. The Board also did not reach consensus on whether a civil summons should be allowed to issue more frequently than once every 10 days for an ongoing violation. This limitation is found in the current State law enabling civil penalties for zoning violations. A middle ground may be to allow localities to issue summons more frequently than once every 10 days for violations that create risks to public health or safety, two concepts that would require further refinement.
- Farm buildings or structures: Although farm buildings are generally exempt from the minimum requirements of the Virginia Uniform Statewide Building Code (VUSBC), this proposed priority would establish a new building class - "public use agricultural buildings" - which would be subject to minimum standards in the VUSBC because they are intended for public use. The Board agreed that this priority will require a joint effort with other localities. In addition, Mr. Blount agreed that any such legislation should apply prospectively only. Since the August 18, 2021 update was provided to the Board, Supervisor Price has recommended that the Farm Bureau be included in this effort. Expanding on that point, staff suggest that localities will need to include other agricultural organizations as well as the farm winery, limited distillery, and limited brewery industries.
- Expand use of photo-speed monitoring devices to rural roads: This proposed priority would expand existing legislation adopted in 2020, which authorizes these devices only in school crossing zones and highway work zones, to rural roads where speeding has been identified as a problem. Supervisor Mallek suggested that the proposed amendment extend to other roads as well. Supervisor LaPistoKirtley explained that her interest was to limit it to rural roads because of the difficulty in enforcing speeding on rural roads. In a follow-up staff meeting with David Blount on July 20, Mr. Blount noted that the current legislation was a compromise. He said that an earlier version of legislation would have authorized these devices in residential areas. Mr. Blount also suggested that any proposed legislation be limited in scope and require an ordinance that identifies the specific road segments on which the devices may be located. Those identified roads should be supported by speeding and crash data. Since the August 18, 2021 update was provided to the Board, Supervisor Mallek has reiterated her suggestion that the proposed amendment enable photo-speed monitoring devices to be used more broadly on County roads.
- Upgrade State technology: The need for the State to upgrade its technology was most recently highlighted by the Virginia Employment Commission's technological difficulties with unemployment claims during the pandemic. The consensus of the Board was for the Board to address this proposed priority by considering adopting resolutions that would support the ongoing State studies and encourage the General Assembly to provide funding for the needed technology modernization. These resolutions would be shared with the local General Assembly delegation, the Governor, and the Virginia Information Technologies Agency (VITA).

- Recordation fee or tax dedicated to funding affordable housing: Supervisor Price explained that such a fee or tax would provide a reliable source of funding. Supervisor Palmer asked whether the Board could earmark the current recordation tax for this purpose. In a follow-up staff meeting with David Blount on July 20, Mr. Blount suggested that it will be important to explain to the local General Assembly delegation why this legislation is needed as opposed to raising existing local taxes to generate an equivalent amount of revenue and earmarking it for this purpose. One approach that could be applied to the existing recordation tax would be to model it after the enabling authority for the transient occupancy tax, which required that a portion of the amount over the original two-percent maximum amount had to be applied to tourism-related purposes.

- Minimum erosion and sediment control standard for agriculture and forestry operations: This proposed priority would establish a minimum erosion and sediment control standard for these activities. A draft standard has not yet been developed. The consensus of the Board recognized that the agriculture and forestry communities must be engaged with such a proposal, that this priority will require a joint effort with other localities, and that the Virginia Association of Counties (VACO) may need to be involved.

- Require utilities to be responsible for their infrastructure failures that affect customers: This issue will be brought to the local General Assembly delegation's attention, but the Board will not make it one of its legislative priorities.

The Board's 2021 Legislative Positions and Policy Statements is provided as Attachment B to allow the Board to consider its 2022 version.

Staff requests the Board review the above proposed 2022 Legislative Priorities and provide direction to staff. Staff also requests the Board review its 2021 Legislative Positions and Policy Statements and provide direction for its 2022 Legislative Positions and Policy Statements.

Mr. Kamptner said they would begin with looking at the process undertaken so far and where they would go after this meeting. He said at this point, they would continue discussion of the possible legislative priorities and the Board's legislative positions and policy statements. He said the objective was to wrap up the Board's work in October, with the target of meeting with the local General Assembly delegation in November.

Mr. Kamptner reported that staff would be reviewing the items that had previously been discussed with the Board, getting some direction from the Board on next steps, and trying to nail down all of the priorities. He said the first would be the priority to enable civil penalties in lieu of criminal punishment, with the purpose being to decriminalize a lot of the actions that are prohibited under the County code. He said in Attachment A of the Board's materials, they had a draft of a possible bill to show the Board what that kind of legislation would look like.

Mr. Kamptner said the first element is that it would be optional to localities to take this approach by adopting an ordinance; it would allow the localities to establish a schedule of civil penalties with maximum amounts geared to be more than what the current zoning civil penalty thresholds are under 15.2-2209. He said under that particular enabling authority, the limits are \$200 for the initial summons and \$500 for each subsequent. He said the civil summons could be issued by designated County officers, not just limited to police officers, and the alleged violators would have the option to prepay the penalties in lieu of going to trial. He said the final element of this proposed legislation would allow the County to collect unpaid fines and penalties the same way that unpaid taxes are collected but also impose a lien on property in those situations where the violators are also property owners.

Mr. Kamptner reported that at their July 7 work session, there were several issues that arose for which the Board did not appear to reach consensus. He said one was a suggestion that the County pursue the ability to obtain attorney's fees in these types of enforcement actions, as well as the ability to issue a summons more frequently than once every 10 days for the same violation. He stated that in the executive summary, the Board had seen that staff does not recommend pursuing attorney's fees at this point. He said he would expect there would be strong opposition from the General Assembly and even elected officials from courts to impose attorney's fees, particularly in the first rounds of summons and penalties.

Mr. Kamptner said that as far as seeking the ability to have a summons issued more frequently than once every 10 days, the executive summary identified one situation where it may be appropriate: when there is a violation that is posing a risk to health or safety. He said the more appropriate response where there is a more imminent threat to public health or safety would be for seeking a different kind of remedy, injunctive relief, where the County could ask the court to require the violator to correct the violation immediately. Mr. Kamptner said there were four topics for the Board to discuss on this particular priority.

Ms. LaPisto-Kirtley said the general approach in Attachment A was acceptable to her. She said she had a question regarding number two, whether the civil penalties were appropriate. She said she understood that would be \$500 for the initial summons up to \$1,000 for the second summons, not more than \$1,500, but the total would be \$5,000 no matter what.

Mr. Kamptner said that was correct. He said it would be modeled probably after the existing enabling authority for zoning violations, where once that \$5,000 threshold is reached, it transitions over to

criminal punishment.

Ms. LaPisto-Kirtley asked if they would be saying after \$5,000, they could transfer to criminal.

Mr. Kamptner confirmed this.

Ms. LaPisto-Kirtley said she did not see any problem with the appropriateness of the penalties. She said she would like to have attorney's fees but thought that would add too much into the mix. She said if they could only go up to \$5,000, and the first one is \$500, then \$1,000, then \$1,500, they would be getting to \$5,000 in maybe a few months. She said she was wavering on number four; she did not know if they needed it more than once every 10 days unless it was a public health and safety issue, at which point she would want to be able to go in more often.

Ms. Palmer said several years ago, a neighbor had five \$5,000 zoning violations, and it was her understanding that the neighbor just corrected them all and did not have to pay. Ms. Palmer asked if that was the case and how they would work that for this kind of violation of ordinances if they correct whatever problem they have made. She said she was trying to understand if they were always paying the \$5,000.

Mr. Kamptner explained that the objective for paid compliance is to get compliance. He said the practice has been that if the violator can correct the violation before trial, most often if not always, the County would dismiss the cases. He asked Mr. Svoboda to elaborate on the current practice.

Zoning Administrator Bart Svoboda said that was true generally for first-time offenders. He said if they have a "repeat customer," that is not as likely to happen. He said although they want to achieve compliance first, when the County starts to invest resources in clean-up to get a property into compliance, they will proceed in requesting the fines. He said that does not mean the judge will always assign those fines to that case; there may be circumstances in which the judge feels that compliance without the fine is appropriate, and he will suspend it if they come into compliance within a certain number of days when they return to court.

Mr. Svoboda said otherwise, they have had a combination of compliance with the fine suspended or compliance where they also had to pay the fine. He said a lot of it is also that they will have to pay the fine a few times before they get motivated to actually comply. He said it could be a number of situations, but usually only if it is a first-time offender would they recommend that most of the time.

Ms. Palmer explained that these were five zoning violations that went on for years. She said she was livid at the staff time it took and the people coming out to the house—then for the neighbor not to have to pay anything for all that staff time. She said she was okay with number two. She asked for examples of the ordinances they were talking about here, as some of these would be zoning issues.

Mr. Kamptner responded that they could be violations of the subdivision ordinance, the water protection ordinance that is not otherwise dictated by state law, or the noise ordinance in Chapter 7, for which the Board has an amendment on its agenda that evening. He commented that those are probably the ones that are most frequently enforced.

Ms. Palmer stated that she was okay with two and was fine with dropping three and four out of the mix. She said regarding whether the general approach to Attachment A was acceptable, she assumed yes; however, she was not a lawyer and did not know if there were some things that would arise as they moved forward with related problems. She said moving forward was the only way they would find that out, so she would agree with one and two but not three and four.

Ms. McKeel stated that she was in general agreement with what the other Supervisors had said, noting that she understood these would be violations for local ordinances. She said she was assuming that enabling civil penalties was a first step, and she understood that. She said her concern was with the "frequent flyers." She said they have been dealing with a particular junkyard for 12 to 15 years in her district and very close by. She said that person would come under the criminal parameters because it persisted and has never been completely cleaned up. She said 10-15 years is really stretching the patience of many of the neighbors.

Mr. Svoboda said he knew Ms. McKeel had experienced the frequent flyers in her district where they have compliance for some time—sometimes years, sometimes less.

Ms. McKeel said the frequent flyer she was thinking about was only in compliance for a matter of weeks.

Mr. Svoboda explained that if they were able to leave the violation open, they would continue under the same notice. He said if the notice becomes stale, then they would have to start anew under the code sections. He said when they have a frequent flyer, they try to get an order from the judge for compliance—so they start to deal with contempt and actually have a case that is currently in that process. He said they involve the court more because contempt is a criminal violation as opposed to civil, and that was how they proceed.

Mr. Svoboda said their notices are done under 2209 in the Code of Virginia, which has similar language as what they are looking at in 1429 that allows them to progress through the different levels up to \$5,000. He said they can ask for the order of abatement from the court and can assign it, and that is how they proceed to the next level. He said they did end up last year with one conviction of contempt,

which is on the individual's record for compliance.

Ms. McKeel said she wanted to make sure they were not doing anything that would make it more difficult to deal with the so-called frequent flyers. She said she recognized there were not very many of them, but the existing ones have consumed an enormous amount of staff time and frustration by neighbors. She asked Mr. Svoboda if he thought this would in any way dilute their ability to deal with the frequent flyers.

Mr. Svoboda responded that it would not, and it actually ratchets it up a little bit as they move the amounts higher or request that the amounts get moved higher. He said there may be some additional tools as they apply this to other sections of the County code through this section, Chapter 7, and some other places. He said Zoning was supportive of that and does not see any detriment to what they are doing with enforcement.

Ms. McKeel said she understood that the fines added up, and what happens at this point is that people are put on a payment plan and could just continue to pay on their fine. She said she was assuming some people have been paying on those plans now for 10, 12, and 15 years. She asked if the lien on the property was an attempt to address that.

Mr. Kamptner said it is a tool to ensure that at some point, the fine is paid in full. He noted that if the County desired, they could put the property up for sale if the fine goes unpaid after a certain period of time.

Ms. McKeel asked if they had that period of time on the books and if 10-20 years was acceptable.

Mr. Kamptner said it was significantly less than that; for unpaid taxes, it is three years.

Ms. McKeel asked if those fines would be considered tax.

Mr. Kamptner said they were collected the same way.

Mr. Svoboda said it also does not prohibit them from continuing enforcement action, meaning if someone were on a payment plan and ended up having a violation again, or a new one on that property, it would be a new case. He said that does not prohibit them enforcement-wise from continuing the process.

Ms. McKeel said in general, she did not disagree with what she heard the other Supervisors say. She said the general approach is acceptable, she agrees with number two, and she is in agreement about attorney's fees and with number four.

Ms. Mallek stated that while she feels the general approach is fine, there are many Supervisors who have been dealing with certain places for years—and 10 days is an eternity for a neighbor who is trying to get something fixed. She said she had seen on numerous occasions in the White Hall district a person who was given their notice of violation who waits the 10 days and does not do anything, and then at the last second comes out and does a minute amount of repair, which means that Zoning does not have the authority to do anything for another 10 days. She said it ends up being a year before one can even blink.

Ms. Mallek stated that she would very much support leaving the suggestion in for number four, if they could get it, to be able to give local staff more authority to deal with these things on a shorter timeframe. She said no one would say a big problem had to be fixed overnight, and a person would have to show an interest and willingness and start investing in getting it fixed, to avoid what would turn out to be extremely large fines. She said she would differ in the fact that she would like to keep number four, if she has persuaded enough other Supervisors to do that. She said it would help them to make a substantial change; without that, they are not really making much of a change except increasing the fines, which the judge may not give anyway. She said if they are able to get after people more frequently, it would cut down on the staff time required to go back for 15 years to Boonesville, for example, into a hazardous situation.

Mr. Gallaway said he was not disagreeing with one or two. He said it sounded like the attorney's fees were a hornet's nest, so he was agreeing with others on that. He said for number four, he was inclined with not pursuing it and staying with the general assessment. He said he understood the concerns that had just been expressed, but he was satisfied with what Mr. Svoboda was speaking to.

Mr. Gallaway asked if Mr. Kamptner had gotten consensus.

Mr. Kamptner said for number four, which was the only one that was not unanimous, it looked like three supported not pursuing more frequently than once every 10 days, and two did want to.

Mr. Gallaway said he was seeing a lot of hands go up. He asked when a new summons was being issued what it meant in terms of manpower.

Mr. Svoboda said that Ms. Green was present and could speak to that. He said it is an increase in staff time, and they have to balance the hundreds of violations they are working on throughout the year and make sure they treat the individual violators equally under the law. He said they try to have a routine or a rhythm with the ones that are more severe around health and safety more frequently than some other

ones.

Ms. Lisa Green, Manager of Code Compliance, said Mr. Svoboda had said everything she would have said. She stated that they only have one court date, which is every 30 days, and this would increase the amount of time staff would have to go back—and they would still only get the one court date.

Ms. LaPisto-Kirtley said she understood what Ms. Mallek had said, but if they do it more frequently and there is a miniscule amount of improvement, that is going to generate more staff time. She asked if there was a way to say that if they come out by the 10 days and visit the property, there has to be a substantial improvement; if there is not a substantial improvement, then there is a new violation.

Mr. Svoboda said that was their current practice, and it was just a question of frequency based on the number of inspectors and available time in relation to the number of inspections they were doing for commercial or building permits. He said staff can come back to the Board about an enforcement update. He said most of the Board was in tune to what staff was doing, and it sounded like they were just kind of verifying what the Board thinks is already happening.

Ms. Palmer noted that Mr. Kamptner had said that staff reviewed situations where #4 might be applicable, and health/safety was the only situation they had determined to be appropriate for this—and in those cases, an injunction might be better. She asked Mr. Kamptner to say a few words about that evaluation and why those were the only situations where this was appropriate.

Mr. Kamptner said they were talking in degrees of severity of a violation. He said there are some violations that could go on for years that nobody knows about; there are others that have immediate impact. He said in a situation of a spilled barrel of oil on somebody's property encroaching towards a waterway, where there is some immediacy and urgency to making sure that gets corrected, injunctive relief might be the fastest way to do it. He said they have to make the case and be able to get in front of a judge. He said that is the kind of circumstance that he was thinking about, where there is direct and immediate harm that might be happening where waiting 10 days and using civil penalties as a tool to encourage compliance really does not work.

Ms. Palmer clarified that it was more appropriate for those situations, and the other situations were dependent upon staff time and the only-every-30-day court date.

Mr. Kamptner confirmed that he was thinking of situations where it was almost an all-hands-on-deck kind of approach to get a correction.

Ms. McKeel said she was trying to figure out public health and safety. She said they do not have many frequent flyers, as most people can be educated and clean up and do what they are supposed to do. She mentioned one instance where it seemed to her that the individual was playing Ms. Green and her staff off against the police; for example, 15-20 bags of trash and garbage collects on a yard, along with the junkyard. She said she considers that a health or safety issue for the neighbors on a quarter-acre lot in a neighborhood. She said to take care of the problem, they move it onto a trailer into the road so then it becomes a police issue, and when the police start dealing with it, they move it back onto their private property. She said there has to be a way that the neighbors do not have refuse garbage smelling when they take their walk, especially in the heat. She asked if they needed a team to work this out, as there had to be a way that this situation could be addressed. She said that can go on for a month.

Mr. Svoboda stated that enforcement would be a discussion as part of a work program. He said they do not need enabling legislation to go ahead and do that; it did not need to be a part of this discussion. He said they could look at that and analyze it from a staff level and see how to accomplish that goal. He said that Zoning also does not appreciate the cat and mouse game; normally, they would still follow through with that original violation even though it was moved to the road. He said they were trying to be conscious of those games; there are certain individuals who play them regularly, so they are more wary of those people. He added that this particular suggestion is a good one, but enabling legislation is not needed to do that; it is something they can work on in house.

Ms. McKeel commented that the cat and mouse game has been ongoing for quite a while.

Ms. Mallek said the point of the new summons is a new fine, which gets them to \$5,000 in less than a month as opposed to four or five months. She observed that was a good reason why they would want number four. She asked what the benefits were of having number four.

Mr. Svoboda agreed that if they were able to get to the violations more quickly than every 10 days, and it was something they could accomplish, then they would reach the \$5,000 cap sooner.

Ms. Mallek said a question about the injunction was whether they had to have a chain of summonses to get an injunction for something horrific or whether one summons was enough.

Mr. Kamptner said injunctive relief is a completely separate remedy. He said there does not need to be a chain of summonses already in the pipeline.

Mr. Kamptner said the next priority, which had also been around the past year, was creating a new class of building type—public use agricultural buildings. He said the purpose was to protect public health and safety, and these structures are associated with farm wineries, breweries, distilleries, and other ag operations where the buildings under current law do not have to meet the minimum requirements

of the building code.

Mr. Kamptner said at their July 7 work session, the Board agreed that this was going to take a joint effort with other localities; in a follow-up conversation with Ms. Price, it was recognized that the agricultural community, including the Farm Bureau, would also need to be included in this effort for the legislation to succeed. He said at this point, particularly in light of the fact that the state did this study a couple of years ago that really went nowhere, this was probably going to be a multiyear project. He said for the Board's discussion was whether or not this remains a priority or whether it gets added to the Board's Legislative Positions and Policy Statements document.

Ms. LaPisto-Kirtley said she thought Ms. Price's concern had been regarding the minimum erosion and sediment control for ag and forestry operations, and she thought Ms. Price was in favor of this. She said this issue she understood to be minimum standards for any farm buildings or structures on an agricultural entity that could be used for weddings and wineries and things like that, but it would be subject to certain regulations to make sure that it was safe.

Mr. Kamptner said Ms. Price had suggested in a conversation or email after the July 7 work session that she thought for this kind of bill to have a chance of being successful, it needed to get some support or at least have some participation from the agricultural community up front. He said she supported this legislation.

Ms. LaPisto-Kirtley said she had spoken with the Farm Bureau, and her understanding was that they were supportive of standards that would ensure safety of structures such as a barn that are used for the public.

Ms. Palmer said this has been a long, ongoing situation. She said she and Ms. Mallek had met with a representative from the General Assembly, Chris Runion, a couple of years ago. She said he determined he was not going to bring this forward and questioned whether it could pass because there was a lot of opposition from the agricultural community and from the people who operate wineries, breweries, and cideries, to one more regulation. Ms. Palmer said staff had done a lot of work on this when that report was done in 2016. She said she had heard that the Farm Bureau was interested in some basic safety issues, but she had not heard whether they were interested in actual legislation and whether they would support that; it is more regulation, and that is something that is frequently frowned upon. She said Ms. Mallek might be more up to date on where the Farm Bureau is on that. She said she thought it was particularly important to have those very minimum standards.

Ms. McKeel said she thought that the Farm Bureau was in agreement about very basic minimum standards, and she concurred that those were needed. She said she thought when it came forward, there was a lot of confusion around the bill itself and what the impacts would be, perhaps because of the way the bill itself was written. She noted that their report reads that it would only pertain going forward, and all current buildings would be grandfathered. She asked Mr. Kamptner if that was correct.

Mr. Kamptner said that was the idea they were currently proposing, and what had delayed the committee work several years ago was the difficulty and the cost of retrofitting existing buildings. He said they were trying to craft something that had a chance to move forward, recognizing that it was an uphill battle.

Ms. McKeel said this really points out the power that wineries, distilleries, and breweries have in Virginia, and she was not sure this was as much of an issue with the Farm Bureau. She said their ability to address their and their residents' concerns has been taken away based on the influence that this group has in Richmond. She asked if she was correct on that statement.

Mr. Kamptner agreed.

Ms. McKeel said her opinion was that the Farm Bureau would support a basic level, but what they were talking about were the wineries, distilleries, and breweries.

Ms. Mallek commented that for the two years plus that Mr. Kamptner, Ms. McCulley, Mr. Dellinger, and Mr. David King (representing the winery industry) had worked on the draft, they could not get any further for various reasons. She said it was for minimal safety to get people out of a building, and the way it was described in the draft, it would have been affordable for even people with existing buildings. She said it was not for sprinklers that cost a fortune; this was exit signs and doors that opened out with a panic bar that anybody with a shop should be required to do to get people out the door.

Ms. Mallek said when she had spoken with the Farm Bureau people about this particular issue at the end of the picnic on the mountain recently, Mr. Paul Haney asked why nobody had gotten in touch with them about this. Ms. Mallek said they never got that far, first of all. She said Mr. Haney had said this was a perfectly good safety issue where the Farm Bureau should be able to help the County get minimum standards for safety for these buildings. She said if people wanted to put a tractor or their livestock in some building, that was different than having 300 people in there.

Ms. Mallek said some states have actually required a sign at the door of all these farm buildings that says this building was not constructed to safety standards and enter at their own risk. She said many farms have "riding is a dangerous activity; participate at your own risk" signs that are actually circulated and shared by the state VDACS (Virginia Department of Agriculture and Consumer Services) people in order to have a clarification of risk and who is responsible. She said this is such a bare minimum, she

hoped they would not wait until 10 people or more burn up to get somewhere. She said Mr. Dellinger's former county was one where they did have a middle-of-the-night fire that just about caused disaster—a child averted it, and the people were rescued.

Ms. Mallek said it was important to go forward if they could. She said just because somebody does not like it does not mean that they should not have better reasons to go forward with something. She said she had conversations during the summit the past week with the agricultural and environment committee at VACo (Virginia Association of Counties), and there would be more discussions in November to see about getting this forward. She said the state committee was a disaster, probably intentionally so that the administration did not have to deal with this issue; they just punted it to a study. She said instead of the study having the original 25 people representing 25 different organizations who were directly involved, they had hundreds of people and gave all of those even very tangential complaints equal standing to people who were actually involved in it and going to be affected one way or the other. She said that Martha Walker, who ran the committee, did very clearly say that counties are the ones who should be making these decisions.

Ms. Mallek said they should be asking the legislature for the authority to make these decisions about having a minimum structure. She said her plea was to keep going with this, and while nobody knows what the legislature is going to do, it was worth their effort to try to make it happen.

Mr. Gallaway said this Board had certainly put things out on the table and consistently backed them up, even in the face of things they thought were not going to be approved and no motion or movement on. He said the consistency of it being in front of people to validate its importance has been a tactic the Board has used in the past with their legislative packet. He said it sounded like this was falling into that category in some ways. He said nobody was opposed or objecting to it being there.

Ms. Mallek said if the Board chooses to have this as a legislative priority, it is a much stronger argument for her at the committee at VACo.

Mr. Kamptner said he was hearing to keep it as a priority and seek the basic minimum standards at the least.

Mr. Kamptner said the Board was well familiar with impact fees; this is a multiyear project, and a number of localities including Albemarle County are already engaged. He said he assumed this would continue its current status as they hopefully move to it becoming a reality at some point soon.

Mr. Kamptner said there were a couple of ideas about photo speed monitoring devices. He said this was a law that had been in effect for a little over a year; it was currently limited to school crossing zones and highway work zones. He said the idea has been to expand the enabling authority to allow localities to decide whether they can place these devices on rural roads or other roads where speeding is identified as a problem.

Mr. Kamptner presented a summary of the discussion of the July 7 work session. He said Ms. LaPisto-Kirtley has been focused on rural roads because of the difficulty in enforcement on those roads where it is unsafe to pull violators over. He said other Supervisors have advocated expanding the enabling authority to include any roads. He said there was also a comment from Mr. David Blount about having localities designate the roads by ordinance. He said he assumed this would continue as a priority, and other topics for discussion were listed as two and three.

Ms. LaPisto-Kirtley said she was still in favor of the rural roads. She said in order to do this, signs must be up that designate photo monitoring is in place; people may not see a sign in an area where cars are parked on the side. She said it is virtually impossible for the police to ticket someone on long stretches of the rural roads because it would cause a milelong backup if they do stop someone on a two-lane road. She said trucks are even more difficult, and truckers are very aware of a speeding apparatus; they will slow down, which is beneficial for the community.

Ms. LaPisto-Kirtley said she had spoken with Chief Lantz, and there are not enough officers to be able to monitor all of the roads to check for speeders. She said officers should be used in areas where someone can be pulled over. She said people tend to go very fast on a long stretch of a rural road, and they are even crossing the double yellow line. She said someone was killed on Route 20 a couple of months ago.

Ms. LaPisto-Kirtley said while she was in favor of photo speed monitoring for all roads, she was trying to think of what would get through the legislature. She said they were able to get the photo speed monitoring devices for the schools, which is very much needed at Albemarle High School; she sees this as the next step, and then if this is successful, they could go a little further. She said if they could get everything through, that was fine with her too, but she was taking the slow approach. She said having the ability to put the photo cameras and the signs out there would do a lot to make the rural roads safer and cause people to heed the speed limit once they realize there is a photo monitoring device.

Ms. Palmer said she did not really know what the best strategy was with respect to getting it through the General Assembly. She said she was basically after rural roads because it is hard to monitor that, and she also did not understand the costs and how it would be done, whether they would be moved around, staff and costs associated with doing all roads. She said she wished they could get them on all the roads but was particularly interested in rural. She said she would certainly want to know how they would begin that; clearly, they cannot afford to put them on all the roads, check them all, and follow up on

it all.

Ms. McKeel said she did not disagree with Ms. Palmer. She said she did not think, practically speaking, it would go through the General Assembly for all roads. She said while she did not disagree that they are probably needed, given the high fatality rate in the state because of the rural roads, she would think the way to tackle this might be to start with designating specific roads by ordinance. She said if they could get an ordinance where they could designate specifically roads they thought needed to be addressed, that seemed to her the most logical.

Ms. McKeel said she did not think all roads would fly with the General Assembly. She said while it was great the General Assembly gave them the ability to have the school zones currently, the police department was still looking at that and would have to come back to the Board to let them know if they think they can even do that. She said if they were trying to do this on all roads, she did not see how that would work.

Ms. LaPisto-Kirtley said in Maryland, a third party actually installs the photo monitoring devices and collects the money, where a portion goes to them and a portion to the county. She said they are not using additional police force or staff.

Ms. Mallek said she was strongly in support of this; she would rather go for having the police department designating or using crash statistics rather than saddling themselves with designating roads by ordinance ahead of time; that would bury them in their own bureaucracy. She said other states and Washington D.C. have found this to be fantastically successful. She said once people have gotten a fine, they do not know where the cameras are going to be, and therefore it makes them more likely to behave everywhere. She said if the Board had to pick near Broadus Wood Elementary school on Buck Mountain Road as one, by Albemarle High School as one, and by Mountain View Elementary School as one, they would make themselves insane trying to do that. She said they need to just go for as much authority as they can get on this and see what they can do.

Ms. Mallek said she has found over the last 20 years of working with the legislature that they do not like the piecemeal approach; the people who have been there for a while note they had just given authority the past year and ask why they do not do that. She said she is reluctant to ask for half the pie right now, and then they might not get the other half. She said they should figure out a way to keep it as simple as possible; it is another thing working with other communities to get something going. She said this would benefit many, many jurisdictions and not just Albemarle County.

Ms. Mallek said earlier this year, Albemarle County had the highest accident death rate; in 2017, it had the highest death rate in the state, not per capita but in the state, for the rural roads and the way people drive. She said that was an embarrassing statistic that she hoped the County would never see again. She said getting people in the pocketbook seemed to be the only way to get compliance; they do not do it for safety for individuals or people at their mailbox that get run over as happened on Earlysville Road a number of years ago. She said to go for it as strong as they could.

Mr. Gallaway said Ms. McKeel had brought up the likelihood of an ordinance versus certain or specific roads. He asked Mr. Kamptner what the strategy was in terms of likelihood on some of those things.

Mr. Kamptner said he was hearing a willingness to go beyond just rural roads. He said Mr. Blount had shared in a meeting with him that the enabling authority they do have right now was a compromise bill that originally was going to include residential areas. He said the concerns in Albemarle County are the crashes and the number of deaths, which would indicate high speeds. He said if they were to pursue these devices in locations at above 35 miles per hour, then that would take them out of the more traditional residential areas, and so they avoid that issue and have it on secondary roads.

Mr. Kamptner said he would expect that the General Assembly will want signage in areas where it is going to apply. He said he was basing that on the fact that the enabling authority that exists now is in school zones and in construction zones where there are signs posted that one is in a particular type of zone. He said they should be ready to accept that; it does not need to be their first pitch. He said he thought they had direction and noted that Mr. Blount had joined in.

Mr. Blount said he agreed with Mr. Kamptner. He said the fact that this is a new law is one of the challenges they have. He said with the exception of only a few localities in Virginia that have been able to implement the existing authority for school zones, he did not think that widespread use was in place. He said he knew of a number of other localities that have been looking at it, some of the larger ones; some of them are testing the technology, and some are looking at what their ordinances might look like. He said there has not been widespread use of the law yet as it was passed on very, very close votes two years ago.

Mr. Blount said when taking something to the General Assembly to expand an existing law that is new and has not been utilized, that needs to be taken into consideration. He noted Ms. McKeel had put out there limiting of it through a local ordinance, and Mr. Kamptner had expanded upon that. He said looking at stretches of road with certain speeds, where there is crash data, where there is fatal crash data, some kind of a limited ordinance authority may stand a better chance for an expansion if they were to move forward with that in 2022.

Mr. Gallaway said he liked the idea of the speed threshold. He said having the ordinance

proposing the signs was part of the deterrent. He said the ordinance process even helps too, to say that it is specific to that. He said he would agree with that.

Ms. McKeel said she was agreeing with Mr. Blount. She said their best chance was to use the data they have on fatalities, crashes, and wrecks. She said if they use it in certain areas—and obviously the signage has to go with it—their chance is better if they are declaring certain roads unsafe and by ordinance designating those that way.

Mr. Gallaway said this goes beyond just a general complaint situation like a speeding problem.

Ms. McKeel said they have the data for crashes and fatalities, and certainly they could identify probably at least the secondary roads to start with.

Mr. Kamptner said they had spent a little bit of time at the July 7 work session related to state technology. He said the consensus of the Board was to adopt resolutions supporting the studies and encouraging the General Assembly to provide funding for the anticipated needed technology modernization. He said he wanted to get some direction on when the Board would like those resolutions to come to it for action.

Mr. Gallaway said he would think having the resolutions passed and voted on before they meet with the legislators would seem to make sense. He asked if there was any objection to that.

Ms. McKeel said she agreed with Mr. Kamptner's comment about the Virginia Employment Commission—that is a given. She said when she had first called Mr. Kamptner about this idea, she was reacting to the inability of the health departments through their technology services to be able to deal with the COVID emergency; that was the real crisis they had. She said she would think they would want to pass those resolutions and then be able to present them as part of their case.

Mr. Kamptner said they would bring them in October.

Mr. Kamptner said the recordation tax issue was an item where there was a lack of consensus, and the discussion on July 7 focused on pursuing a dedicated revenue source for affordable housing through a recordation tax or merely earmarking existing revenues or raising existing taxes to fund an equivalent amount. He said there were three topics for discussion by the Board.

Ms. LaPisto-Kirtley said she was not opposed to having a part of that; for every house that is sold or purchased, a part of that would go toward an affordable housing fund.

Ms. Palmer said she did not think this was a priority and would rather skip this one. She said they have other options for affordable housing programs.

Ms. McKeel said certainly affordable housing is something they are working hard on and struggling to address. She said she liked the idea that Ms. Price had brought forward because this is something they could establish that is ongoing. She said it creates a funding stream that is not at the whim so much of local discussions; it just creates a fund. She said she would probably be in favor of keeping this for right now; since they have been talking and dealing so much with affordable housing, this would be a way to get at it in a consistent, fair way that creates a funding stream. She said while it might not be stable in that it certainly follows the market to some degree, she would be in favor of this.

Ms. Mallek said there is an appropriateness to the source being in the housing realm that may be appealing to some legislators. She said none of them had really known the dollar amount they were talking about. She said even in a huge year like 2020 where there were lots of housing sales and very high prices, she did not know if they were generating enough by this proposal to make it worthy of the effort that would be involved to get it passed. She said she did not know if it was \$5,000 or \$50M. She said she was certainly happy to continue to consider it, but she did not have enough information to know that she was all in.

Mr. Kamptner said working from memory, the County share local recordation tax for 2021 was \$2.5M generated, so if there was a percentage increase on top of that, it would be relative to that. He said it could generate another several hundred thousand dollars per year.

Mr. Gallaway asked if this was the one where they had the conversation that they could do this; it was just trying to put an additional layer or stamp on it.

Mr. Kamptner said they already had the authority to impose a recordation tax, which is a percentage of the state recordation tax. He said the revenue that is generated goes to the general fund; it is not earmarked. He said Ms. Price was seeking to have an earmarked portion. He said a parallel approach would be the enabling authority they have for the transient occupancy tax, which they obtained legislation for, which allowed them to go above what was then allowed for counties by requiring them to earmark what was over the 2 cents for tourism.

Mr. Gallaway asked if they needed enabling authority to do that earmark.

Mr. Kamptner said no.

Mr. Gallaway said his point the last time was that if they go to the state and ask for things they

can already do, he starts getting looked at across the table. He said the question is why when they are normally asking for more authority, they are here trying to limit future authority; it becomes a reverse between local control and state control. He said if they can earmark it and have the authority to do this already, then they should do that and make it a part of the budget conversation. He said he did not want to ask for enabling authority if they are already enabled to do it.

Ms. McKeel said she agreed. She said she did not realize they had the ability to do it.

Ms. LaPisto-Kirtley said ditto.

Mr. Gallaway said he understood that Ms. Price was trying to give it an official kind of stamp that says it must go to this.

Mr. Kamptner said it was also Ms. Price's concern that in a down year, it would not be earmarked.

Mr. Gallaway said for a Board that has consistently asked for more local control to basically say they want the state to limit their local control makes him squeamish. He said he would like this done in-house because they have that ability and to not muddy the waters with other priorities on this one.

Mr. Richardson said while the Board has this topic fresh on their mind, and they do have local control, he wanted to ask whether it was something the Board would like for staff to examine more closely in the context of the budget and a set-aside, so to speak, and run some numbers and be prepared to talk about this in the budget process.

Mr. Gallaway said he would think so and would think this would be part and parcel of the Housing Albemarle work as that policy continues to be put into place.

Mr. Richardson said he would take that in the context of the Board giving general direction that at the appropriate time in the budget process, staff would be working back with the Board on this discussion with the local legislative authority to examine the pros and the cons as well as the financial impact of doing something like what had been presented that day.

Ms. McKeel said she agreed with that.

Ms. Palmer said they should be very cautious about limiting themselves given that while there is a huge, gigantic need for affordable housing, it would not be the same every year, and the pressures will change over years. She said restricting themselves can have future problems.

Mr. Kamptner said the next topic was the establishment of an erosion and sediment control standard for agriculture and forestry operations. He said at the July 7 work session, the Board agreed that this priority will require a joint effort with other localities and the agricultural and forestry communities, and VACo will need to be involved. He said the topic for discussion is whether this initiative should be added to the Board's Legislative Positions and Policy Statements so that it is documented, and the work can begin on this initiative.

Ms. LaPisto-Kirtley said she agreed with adding it to the 2022 Legislative Positions. She said she received an email from Ms. Price, and she agrees with that also because she is not ready to propose this or agree to it.

Ms. Palmer said she was very, very much in favor of this. She said this was a topic on their stream health discussions, and the Board discussed it quite a bit. She said they all know this would not go anywhere without the agricultural community getting involved in it. She said she was curious if the next stage or next discussion of the stream health initiative will help define what this statement ought to be; right now, it would be a pretty nebulous statement.

Mr. Kamptner said he would need to ask staff.

Ms. Palmer said they have to take a stand here and keep moving forward with this.

Ms. McKeel said she agreed with Ms. LaPisto-Kirtley and Ms. Palmer.

Ms. Mallek said she heartily agreed with this. She said she had been complaining for years that the BMPs that are used were written in the 1950s and are nowhere near where they need to be for current farming practices, forestry practices, or the changes in climate being seen. She said Ms. Bettina Ring, Secretary of Agriculture, had explained in response to her complaints that they supposedly have some working group behind the scenes working on this. She said they would not be making a discussion about something that no one is working on, but progress is needed on this and is needed much faster than they are getting it.

Ms. Mallek said some people in the ag community think the County already met all of its requirements for pollution for the bay. She said they are doing very well for nitrogen and phosphorus but are totally failing with sediment. She said they are way behind with those goals, and sediment is the biggest carrier of the phosphorus that causes these algal blooms. She said if they are serious about wanting to do something with erosion standards to meet the Chesapeake Bay obligations, then they need to figure out a better way to do it.

Ms. Mallek said they have stormwater issues that are complicated by erosion, and management of ag land will have a significant impact on their success for stormwater; it is not just bricks and mortar structures. She said there are management practices that agriculture can do that will help with that. She said while there may be some pushback from some individuals who do not want to do that, they need to have the County as a whole consider whether they are transferring costs from one group who does not want to do something to somebody else who has to pay for concrete structures in an urban area. She said that is not fair. She said this is one way that would help them to get some better discussion on so many different issues. She said there are many places in their ordinances where they are requiring developers to do all sorts of expensive things, but then it says agriculture and forestry are excluded without any minimum standard. She said that is not a 2021 approach they should be having.

Mr. Gallaway said it sounded like they have consensus.

Mr. Kamptner said there were updates to a couple of the existing legislative positions and policy statements from 2021. He said for net neutrality, President Biden did issue an executive order several weeks prior asking the FCC to restore net neutrality rules. He said that in doing a little bit of reading, because the internet has changed since they were first put in place in 2015, those rules may be a little bit different than what they were originally.

Mr. Kamptner said one of the Board's positions the past year was to request that the General Assembly stop continuously extending the sunset provisions that came about during the recession in 2009. He said they stopped extending that particular section and adopted a new one that now extends sunset provisions on the auspices of the COVID-19 pandemic. He said those sunset provisions have been extended to July 1, 2022. He said they will modify that particular policy statement and position when the 2022 version comes to the Board.

Ms. Palmer asked if they were going to go through their legislative priorities from before or if they had done that enough.

Mr. Kamptner said these were all the ones on the table this year.

Ms. Palmer said she had a question about their continuation of the open-space easements legislative priority that is already on the table, has been approved, and is in their ongoing legislative priorities list in their packet. She said they are going to talk about their ACE program on the 15th, so she was not expecting to get into particular detail on this. She said she had some questions and thought others may have also had some questions as a result of the recent article in Mercury. She asked Mr. Kamptner to say a couple of words about the priority of "fully allocating the Land Preservation Tax Credit transfer fee for the stewardship of protected land," and "restoring the individual cap on the use of the Land Preservation Tax Credit to \$50,000," and how that relates to the ACE program if at all.

Mr. Kamptner said it is part of the Board's approach and the County's approach to preserving open space land. He said the ACE program functions a little bit differently because unlike the program and the easements that are eligible for the Land Preservation Tax Credit, the County purchases the easements under the ACE program. He said there is that distinction. He said the other distinction is that the Land Preservation Tax Credit, as the Mercury article indicated, primarily benefits people who are eligible for the charitable donation deduction and can make use of those tax credits; those tax credits can be used over a 10-year period at \$20,000 per year, which means that those are people who have income. He said if they do not have income, they can sell their tax credits to others who have income to which those credits can be applied.

Mr. Kamptner said the ACE program was designed for those who were maybe income poor but land rich so that the way that the County values or purchases these easements depends on the amount of income that the owner of the property has. He said the greater the income that an ACE seller has, the County will pay a lower percentage of the appraised value; an owner who has gross income of below \$55,000 per year will be able to receive 100% of the appraised value. He said that diminishes as the income increases down to 4% of the appraised value for owners who have greater than \$205,000 per year. He said they are all part of the same constellation of programs to preserve land, but they operate in different ways.

Ms. Mallek said the County does receive matches from one or two of these programs; one is for support of scenic properties only, another for prime soils. She said they are matching what the County budget puts in, to supply funding for the ACE program. She said in years when the legislature has cut the land preservation tax fund, or whichever one it is, they divide the available money among the applicants who have it, which is eight or 10 counties and Virginia Beach, which is one of the bigger participants. She said sometimes the County gets a lot and sometimes a little, \$150,000 or \$500,000, depending on what the size of the pool is. She said the goal for years in the legislature and for administrations and certainly for Albemarle County for 25 years or more was to try to preserve open land, especially in the watersheds and especially for agriculture prime soils for food production, etc., so that they are planning for the future.

Ms. McKeel said she looked forward to their discussion about ACE that would be coming up in the future. She said she saw under Local Government Administration and Finance the idea of the June primaries being moved. She said that was a great idea, and she imagined the school division would love to join the County on that one. She said it does not cost any money. She asked if they could elevate that because it gets that primary in June out of the school division and out of the schools when they are closed. She said she could not imagine that the General Assembly would push back a great deal. She suggested asking the school division if they would like to join the County on that one.

Mr. Kamptner said okay.

Mr. Kamptner said he had enough information to come back in October with the next stage.

Non-Agenda Item: Recess.

The Board recessed its meeting from 3:11 p.m. to 3:30 p.m.

Agenda Item No. 12. **Presentations:** Climate Program Update.

The Executive Summary forwarded to the Board states that on October 16, 2019, the Board of Supervisors adopted targets to reduce community-wide greenhouse gas emissions by 45% from 2008 levels by 2030 and to achieve zero net emissions by 2050. These targets reflect those recommended in 2018 by the International Panel on Climate Change (IPCC) for limiting global warming to 1.5 degrees Celsius above pre-industrial levels, a threshold that will likely mean the difference between difficult but manageable climate change and much more catastrophic changes. On October 7, 2020, the Board adopted the County's first Climate Action Plan, that defines objectives and action areas to meet the aforementioned targets to reduce greenhouse gas emissions.

This presentation will provide an update for the Board of Supervisors on the work of staff to develop a robust Climate Protection Program that will support implementation of the Climate Action Plan (CAP) adopted by the Board in October 2020. No action is requested from the Board at this time, except to provide feedback and questions. Since the CAP's adoption, staff have undertaken work in three primary areas: (1) program development, (2) pilot implementation projects, and (3) monitoring and evaluation.

Program Development

Staff took the opportunity to assess lessons learned from the CAP development process and to prepare for successful implementation of the CAP. This included creating a clear, robust program structure to support effective climate action across the organization and community, with clearly defined roles and responsibilities. Climate Program staff have also been engaged in work to prioritize action areas, map stakeholders, operationalize an equity lens in climate action, and develop a climate action lens for decision-makers. Together, these tasks will support strategic implementation of the CAP and aid long-term success.

Pilot Implementation Projects

Staff have begun to implement select actions in the Climate Action Plan. Examples include, but are not limited to: **(a)** funding programs for lower-income home weatherization in the community - which reduces greenhouse gas emissions and supports social equity by reducing high home energy burdens for lower-income residents; **(b)** installing seven electric vehicle charging stations at local government office buildings to increase local charging infrastructure and facilitate local electric vehicle adoption; and

(c) initiating a review and update of local government operational policies and procedures to ensure alignment with CAP goals and other environmental sustainability priorities.

Monitoring and Evaluation

Staff conducted a greenhouse gas emission inventory for the calendar year 2018 (included as Attachment A). This is the first such inventory since 2008, which serves as the baseline year for emission reduction targets. The CAP commits the County to conducting inventories every two years, so staff have begun to collect data for 2020. To support biennial inventories and monitoring progress toward our targets, staff invested up-front time to create templates for performing calculations that follow standard emission inventory methods. The results of the 2018 inventory are presented with transparent, step-by-step calculations that disclose all sources and assumptions and are therefore replicable by others.

Inventory Results and Trends: In 2018, the Albemarle County community produced 1.4 million metric tons of greenhouse gas emissions in carbon dioxide equivalent units. This is a reduction of approximately 10% from 2008 levels. Emissions from transportation and stationary energy (buildings) continue to contribute to the vast majority of total community emissions (52% and 39%, respectively), with solid waste (4%) and agricultural livestock (5%) contributing smaller portions of the total. Community emissions decreased from 2008 to 2018, despite an increase in emission-producing activities - driven by an approximately 12% increase in population over the same period. This decrease in emissions can likely be explained by increases in energy efficiency, such as increased vehicle mileage and more efficient homes, as well as shifts in electricity generation to cleaner sources, for instance, from coal to natural gas. Nevertheless, Albemarle County needs to increase the pace of emission reductions to meet its 2030 target. Implementing the Climate Action Plan adopted in 2020 will aid this effort.

There are no budget impacts associated with this presentation, although portions of Climate Action Plan implementation require budgeted departmental funds.

Staff recommends that the Board of Supervisors receive this update and provide feedback and questions.

Mr. Greg Harper, Chief of Environmental Services, said the update on the climate program would be delivered by Mr. Gabe Dayley, Climate Protection Program Manager. He said Mr. Dayley had been in this position only since May, but for more than a year before that, he had been contributing to the County's climate work as a part-time temporary employee. Mr. Harper said Mr. Dayley would be pausing several times during his presentation to see if the Board had any questions. He noted that Lance Stewart and Andy Lowe would join him and Mr. Dayley to provide responses.

Mr. Gabe Dayley said the overall goal of the presentation was to provide an update to the Board of Supervisors on progress toward implementation of the Climate Action Plan. He said they were not requesting an action in particular from the Board but were certainly interested in comments, questions, and feedback.

Mr. Dayley said he would cover four areas of their work since the adoption of the climate action plan in October 2020: climate protection program development; implementation of actions in the climate action plan; takeaways from the recent greenhouse gas emission inventory report for the year 2018, which was the first greenhouse gas emission inventory done since 2008; and current work and next steps.

Mr. Dayley said he would invite questions after each section. He said he would first share a bit about climate program development that they have been engaged in over the last year. He said he would first provide context. He said before getting to the context within Albemarle County, it felt important to give some global context. He said many of the Supervisors had seen the news about the latest Intergovernmental Panel on Climate Change (IPCC) report releasing their sixth assessment report in the first or second week of August. He said there are three key takeaways. He said the first of those key takeaways is that this report increases certainty in what is already known that greenhouse gas emissions from human activities like burning fossil fuels, deforestation, and other sources of greenhouse gas emissions are causing climate change. He said this report increases the certainty in that knowledge.

Mr. Dayley said one element of this report that was new and helpful is that it also increases the scientists' ability to make causal attributions between local extreme weather events and global climate change. He said the research over the last number of decades demonstrated the expectation of seeing more extreme weather, and this report helps increase the ability to give causal attribution that a particular extreme weather event was bigger because of climate change.

Mr. Dayley said the report also increases certainly a sense of urgency for action and speaks to the importance of the leadership that the Board of Supervisors has taken in setting targets for reducing emissions and in adopting the climate action plan. He said that work matters, and this report would address that.

Mr. Dayley said for local context, the County created a climate action plan which staff and community members worked on for a couple of years between 2018 and 2020. He said the Board adopted that plan on October 7, 2020. He said they came together with a lot of collaborative work between different staff and departments in the County, as well as people from the community with participation by Supervisors in the development of the climate action plan.

Mr. Dayley said they did not quite have a program to house the climate action plan and to be able to house the implementation of that plan going forward. He said one of the conversations that staff was having after the adoption of the plan last fall was the importance of having a program down into the plan itself, to help organize implementation and continued planning such as a climate adaptation and resiliency plan and other elements of climate work. He said they felt it would be helpful to have a program to be able to house that, so they have been engaged in some work around program development and organizational development within the climate sphere for the last number of months.

Mr. Dayley said he was at a conference the past week for the Resilient Virginia organization; they had a couple of keynote speakers from the state government of Virginia as well as one person from the climate office in the White House. He said both of those speakers mentioned the importance of a "whole of government" approach. He said it is important in Albemarle County as well to be able to plan a whole of government approach to climate action; that certainly touches on the work of many different departments.

Mr. Dayley said in terms of program development, they had four facilitated conversations with staff from January to March 2021. He said they worked with staff from multiple different departments and had about a dozen people participating. He said they formed these conversations with people who were involved in the development of the climate action plan as well as some who had not been involved but who could provide useful perspectives on how to go forward with implementation in an organized and effective way. He said they had people from the Project Management Office, for example, also participating in those conversations.

Mr. Dayley said the purpose of this series of conversations was to identify lessons learned from the development of the climate action plan, what went well and where there was room for improvement, and then to identify needs and best practices for moving forward with implementation, what they could learn from what they had done and how they could set themselves up for success moving forward. He said the outcome of these conversations was to create a program structure to house the climate action plan and its implementation.

Mr. Dayley said the program structure is a framework to implement, monitor, and update or refine the climate action plan as needed. He said it has clearly defined roles and responsibilities of staff who would be involved from different departments, and it also makes clear accountability in terms of the organization, where to report, and who to receive input from in terms of their work. He said they tried to balance the need for this whole-government approach of interdisciplinary collaboration across departments while also respecting staff workloads, which is going to be important for the work going forward.

Mr. Dayley said he would share one element of the program structure to provide a visual for the Board. He said there are obviously other elements to the County organizational structure. He shared three to four key aspects of this program structure and how they see it functioning. He demonstrated the center labeled program team. He said there are about six staff members on the program team representing Facilities and Environmental Services, Communications and Public Engagement, the Office of Equity and Inclusion, and Community Development. He said the staff on that team are not carved in stone, but that is who they started with. He said so far, the work that has been done has been in the realm of the program team.

Mr. Dayley said they are also working to create an equity team, which would help apply an equity lens to climate action and support community engagement, and a communications and engagement team to help craft meaningful engagements with community stakeholders moving forward. He pointed out on the slide examples of task forces. He said the climate action plan has 135 actions that run across five chapters looking at transportation, buildings, renewable energy, waste management, and landscape, agriculture, and natural resources. He said there are a lot of actions and a lot of moving parts to be able to organize.

Mr. Dayley said their idea is to form task forces around particular steps of actions that are particularly related with input from several different staff on those types of actions moving forward. He said the renewable energy task force was a big one; there is some local context in that there is an interest in different companies perhaps acquiring land to start solar farms/solar utilities. He said the County has been receiving some proposals in that regard. He said they felt forming a renewable energy task force would be a good use of resources in helping staff to coordinate better about those kinds of issues.

Mr. Dayley said another one that is a little bit more in-house is sustainable operations policies and procedures. He said they are currently working on an effort to help revise and update policies between local government operations around making sure they are adopting best practices in terms of sustainability and resources.

Mr. Dayley said there has been an interest by the Board in terms of coordinating with the climate action plan. He said they take that seriously and know that each Supervisor is interested in climate action. He said they had put some thought into different ways to be sure to be involving the Board as leaders in the community with what they are doing going forward. He said they had put it into three bubbles of inform, engage, and seek direction.

Mr. Dayley said in terms of information, they want to keep the Board updated at least on an annual basis. He said they also know that some of the Supervisors had expressed interest in participating in discussions in an individual capacity in some of the key areas of implementing the climate action plan, renewable energy being one of those. He said that was the bubble for engaging individual Supervisors perhaps in key areas of task force work as there is interest. He said they would be seeking direction from the Board certainly in the annual budget process but also in decisions on particular local ordinances and Board policies in the coming months and years that relate to helping implement the CAP and achieving community-wide progress.

Ms. Mallek said she was excited that for the 11 years since LCAP, this was the most progress made and all at once. She asked if procurement questions would be something that the sustainable operations level would take on, so they avoid buying things that take them in the wrong direction.

Mr. Dayley said absolutely yes. He said they have been in communication with people from the Finance Department in the procurement office.

Ms. Palmer asked Mr. Dayley to tell the Board a little bit about how they are working with UVA and the City in this process and what structure they have set up for that.

Mr. Dayley said he and his two counterparts in the respective offices and departments at UVA and the City, Ms. Susan Elliott (the climate program manager at the City) and Ms. Andrea Trimble (the director of the Office for Sustainability), have conversations every other week to keep each other apprised about what each is working on. He said beyond those ongoing conversations, they have not yet formed a more structured collaboration, although they have talked about the possibility of doing so, particularly as specific opportunities arise.

Mr. Dayley said the climate action plan is rightly ambitious and complex; there are 135 actions, and many of those actions overlap with existing programs while some call for new initiatives. He stressed the importance of this background work. He said sometimes program development is not the same as tangible deliverables of policy changes, things that get built in the real world, such as the new solar farm one can see across the street. He said he did think that this kind of program development work is important in terms of setting them up for success in the long term.

Mr. Dayley said he would share updates in terms of the actual implementation of actions in the climate action plan that they have gone ahead with so far, some early opportunities that had come up that they had been able to proceed with. He said one of these pertains to home energy performance. He said the County has an annual contract with Albemarle Housing Improvement Program (AHIP) and the Local Energy Alliance Program (LEAP) in the community in energy improvement investments in the homes of low-income residents.

Mr. Dayley said that the program has done well in the first six months of this year. He said 15 homes were retrofitted with better insulation and with improved appliances to help reduce homeowners' energy bills, largely through switching from fossil fuel to electric appliances, and then of course weatherization with providing more insulation to help people whose homes were losing all that heat, particularly in the winter. He said this program has also been leveraged with funding from other sources, so it has been a good example of a multiplier effect with the County providing some support and then other support coming from elsewhere. Mr. Dayley said he was in a presentation the day before with an update from C3 and LEAP and some of the other work they have been engaged in with a different set of homes. He said he had heard some great details about that project. He said he was excited about scaling this kind of work up as they go forward.

Mr. Dayley said the electric vehicle charging stations, like the one in the parking lot of the County Office Building on McIntire, are helpful in the big picture in terms of expanding local electric vehicle charging infrastructure. He said they recently installed seven charging stations on County government property, six at McIntire and one at 5th Street, for a total of a one-time capacity of 11 vehicles. He said Mr. Stewart had sent him some statistics: There were over 400 individual charging sessions in the month of August; in the lifetime of this project since these stations were installed, they have avoided about 7,700 kg of greenhouse gas emissions through providing these chargers as opposed to what might be gasoline-powered vehicles driving down the road. He said they are also seeing a growing frequency of use of the new charging stations on the County property from when they first started. He said that was good to see in terms of increased use that more people were becoming aware of the opportunity that this new charging infrastructure provides.

Mr. Dayley said they were currently engaged in a climate vulnerability assessment. He said this was ongoing, and more information would come out soon about this in detail. He said this is an important first step in resiliency and adaptation planning. He said the vulnerability assessment essentially is a technical analysis to predict heightened risks from climate change and to look at how those directly impact the infrastructure and built-in natural environment in Albemarle County.

Mr. Dayley said the vulnerability assessment is being worked on and prepared by a consulting team. He said it is at no cost to the County; Piedmont Environmental Council received a grant and had approached them about partnering to do this vulnerability assessment and essentially provided the funds to do so. He said they have received some updates midway throughout, and staff was quite excited to see the kinds of information that this is going to provide. He said they are expecting a final report in mid-November, at which point they would like to share this report in more detail with the Board.

Mr. Dayley discussed the value of the climate vulnerability assessment. He demonstrated stock photos of three of the biggest extreme weather events that they are expecting to see more of locally and regionally based on bigger data sets and climate modeling that has been done: flooding; water stress, which is also possible to have intermittently with severe rainfall; and extreme heat. He said that is information they already know is in store for the Virginia Piedmont, those three being the top three of the range of possible intensifying extreme weather events.

Mr. Dayley said the vulnerability assessment would take that broad information and then put it together with specific on-the-ground information known about the County including natural infrastructure, built infrastructure, other aspects of the built environment with buildings, and the natural environment with waterways. He said weather events that are going to be more likely and more intense are put together with what is seen on the ground in Albemarle County to assess what that would mean in terms of potential adverse impacts that the County wants to be able to prepare for. He said this vulnerability assessment would be a first step in engaging in planning with more of a focus on adaptation and resiliency, which will complement the engagement plan they already have.

Ms. Palmer asked what percentage of the charging events were public and which were the County employees.

Mr. Stewart said he did not have that at his fingertips, but by far, the great margin of charging sessions is by the general public. He said there are two County employees with electric vehicles including Superintendent Haas and some other individuals like Mr. Dayley who may have a hybrid electric vehicle and charge. He said they are seeing an enormous increase in visitors both from within town and outside of town. He said he knew that part not statistically but because they see them so often these days; they will often stop, and he will ask them questions as he is coming into or leaving the building. He said they are thrilled with the success.

Ms. Mallek said she was particularly interested so far in the vulnerability assessment. She asked if part of it would also talk about policy considerations or changes that should be made or are needed for flood and runoff prevention and the protection of downstream people and property everywhere.

Mr. Dayley said he sensed that the vulnerability assessment was going to provide raw information about risks that can be anticipated, and then it would be for them to work to make sense of that and come

up with policy recommendations.

Mr. Dayley said it is known that greenhouse gas emissions drive climate change; to mitigate climate change, emissions need to be reduced. He said Albemarle County has targets that the Board set in the fall of 2019 to reduce emissions by 45% from 2008 levels by 2030 and to achieve zero net emissions by 2050. He said a greenhouse gas emission inventory is their main tool to be able to monitor progress for meeting these targets moving ahead.

Mr. Dayley said the Board might remember the graphic in the climate action plan document where there is a rather large gray area that conspicuously says, “no data.” He said the 2018 report fills in this chunk of “no data,” so they have more of a chart that comes up to almost the present day. He said because of when data becomes available from the state government as well as the EPA in terms of how to make the calculations, these reports pretty much always run two years behind schedule so the calculations can be done properly. He said this brings them much closer to date from where they were.

Mr. Dayley demonstrated a graph with an idealized projection moving toward the targets, but of course they did not know what that would look like. He said they calculated that in 2018, the community-wide emissions for the County were 1,419,367 metric tons of carbon dioxide equivalent. He said carbon dioxide equivalent is a fancy term that takes the major greenhouse gases—methane, nitrous oxide, and carbon dioxide—and basically equalizes the effect that they have in terms of climate change and puts them together. He said a 10% decrease was seen in community-wide emissions between the last inventory in 2008, which is the baseline for the County’s targets, so a 10% drop from that 2008 total to the total in 2018. He said going forward, that means there needs to be another almost 40% reduction in community-wide greenhouse gas emissions to meet the 2030 target.

Mr. Dayley said he had talked with staff who had noted emissions had dropped from 2008 to 2018, and they were expecting an increase. He said the County’s population has increased during that same decade; population increases generally mean that emissions and activities increase because there are more homes being built, more buildings, more vehicle traffic on the roads. He said that perhaps counterintuitive trend they believe can mostly be explained by a couple of factors: seeing greater energy efficiency in terms of motor vehicles and building appliances—increases in miles per gallon for cars, focusing more on energy-efficient appliances in homes—and also changes in the sources of electricity generation in the electric grid. He said this is a big one in terms of emissions from building electricity use.

Mr. Dayley said between 2008 and 2018, natural gas in terms of a fuel source for generating electricity in this region of the country basically took over and replaced the lion’s share of what had been coal in 2008. He said natural gas is certainly still a fossil fuel, but it does burn more cleanly and produces fewer carbon dioxide emissions per energy amount to generate the same amount of electricity. He said they are guessing that some of the explanation for the decrease in emissions despite the growing population and growing activity has to do with changes in the electric grid as well as the changes in energy efficiency.

Mr. Dayley presented a graph highlighting the four years that the County has conducted greenhouse gas emission inventories. He said they were broken up into the four main sectors of emissions seen in the County. He said the acronym AFOLU stands for agriculture, forestry, and other land use. He said transportation has actually increased slightly in terms of its percentage proportion of the four emission source areas in the County, but in absolute terms, transportation went down slightly. He said stationary energy, which includes buildings and streetlights that the County operates, also went down slightly, both of those for the reasons of energy efficiency, MPG for cars, and the electric grid.

Mr. Dayley said evident from the chart, slight increases are seen in the size of the chunks for waste—waste emissions are basically methane emissions from landfills and organic waste that decomposes in landfills—and then from agriculture, forestry, and other land use. He said the increases in those two areas are likely due more to better and more accurate accounting methods used for 2018 than for previous years; because of the accounting, they feel good about the calculations, but it makes for less of an apples-to-apples comparison for those two sectors.

Mr. Dayley said there are a few things to note about local government. He said in this inventory, they report local government as a subset of the community-wide inventory, and this is a change from past years. He said in the climate action plan document, one will see that local government is a little slice of the pie in the climate action plan. He said in terms of their research for how best to do these inventories, that represents a bit of double-counting for local government because they are taking the information about fuel use from receipts, but also local government vehicles show up in terms of the vehicle miles traveled within the County territory overall. He said the best practice that is recommended by various guidance documents is to report local government as a subset, but it is not actually a slice of the pie in terms of the overall community-wide emissions. He said that is an important point to make.

Mr. Dayley said in terms of absolute numbers, the goal for local government is 26,625 tons of carbon monoxide equivalent, and the local government represents about 2% of the community total. He said an important takeaway here is the work being done with sustainable operations, policies, and procedures, and it is important for the County to lead by example, but that is only 2% of community-wide emissions. He said thinking about climate actions and climate action plan that they are going to be looking at, this is a small slice, and there is a lot of other work to be done more broadly.

Mr. Dayley said they introduced a new element to the inventory that is in the appendix this year, and they may look at how they can incorporate it in certain ways going forward. He said this is something

that the whole team is very excited about. He said they essentially looked at emissions and have a technical term, sequestration, which is forests, trees, and other plant life drawing carbon dioxide out of the atmosphere and storing it, so it is the opposite in some ways of emissions. He said they were able to look at that across the County by looking at forests and trees in the rural area as well as in development areas.

Mr. Dayley said utilizing this new tool by ICLEI, which is an organization across the United States that helps local governments do emission inventories, they have been able to estimate emissions and sequestration from forests and trees as well as from land-use changes in the County from 2008 to 2018. He said they were able to calculate from this that forests are kindly serving the County to a pretty incredible degree. He said net sequestration is nearly a million tons of carbon dioxide equivalent per year.

Mr. Dayley said one important takeaway is that they are not crediting that sequestration towards their reduction targets. He said there are a couple of reasons they are not doing that. He said in the climate action plan, they will only credit reductions from sequestration based on new policies and programs developed or choices specifically to preserve land going forward. He said the way to think about the more natural reason about this is these forests and trees would be doing this anyway.

Mr. Dayley said it is important to take climate action, making mitigation programs to help reduce emissions and sequester carbon through increasing local environmental health. He said this is important in that it speaks to the value of the forests, and it speaks to the value of past policy concerning the rural area and the importance of maintaining the health of the forests; certainly, large-scale deforestation would count against them. He said they were not going to take credit for what nature is doing but going forward certainly would try to include in accounting both emissions and sequestration from community activities and programs and policies they work with.

Mr. Dayley said zooming back out to the emission inventory, broad takeaways included: emissions decreased from 2008 to 2018; there is a need to see greater reductions in emissions in the coming years; the climate action plan is going to help with increased reductions; conducting biennial inventories will support monitoring and evaluation. He said they worked hard to use transparent calculation methods with this greenhouse gas inventory; they have an Excel file so people can look at every step they took and the assumptions they made to be transparent to the community about how they wound up making these calculations.

Mr. Dayley presented a chart with the two vertical lines (blue and green) showing when the Board set the emissions reduction targets and when the climate action plan was adopted. He said despite it being counterintuitive that emissions dropped from 2008 to 2018, some have said it looked like there was an elbow between 2008 and 2030; it looked like they were not on track and had not reduced emissions enough. He said to clarify that, the Board did not set reduction targets until 2019 and did not adopt the climate action plan until 2020. He said the reductions seen from 2008 to 2018 are largely due to more regional and national changes that have taken place in terms of the electric grid and car manufacturing. He said now they are poised to be able to monitor and evaluate actions taken locally over the next number of years.

Ms. LaPisto-Kirtley said she thought they were moving in the right direction.

Ms. Palmer said Mr. Dayley had clearly put a lot of effort into this; they all appreciate that. She said in trying to clean up these numbers, it makes one think about the old saying that "all models are wrong, but some are useful." She said she appreciated the concrete information on transportation and buildings to go off of.

Ms. Palmer asked if they need legislative authority at all to require more stringent energy efficiency requirements on new buildings. She said concerning larger old buildings, there has been a lot in the news lately about retrofitting with new facades for buildings. She said she had read that New York City is going to try to do this. She said she wondered also if they would need some legislative authority to get a program like that going and whether the state was looking at that at all.

Mr. Stewart said he would hesitate to say definitively whether there is legislation that allows that. He said that was something they would have to research and respond to separately.

Ms. Palmer said in the future, the Board may want to consider putting that in their legislative priorities; that probably would be very good information for them to know if they were going to really tackle the building issue.

Ms. Palmer said most of the solar farms were going to be in the rural areas unless they were going to be rooftop. She asked about better criteria to avoid having a lot of complaints about solar farms and the soils they are using and taking up. She said it is all private land, and there are all kinds of issues here. Ms. Palmer asked about better criteria for approving these things for the Board in the future and more criteria to give individuals that want to do that on land information about what they need to stay away from and land and areas that are more suitable for that. She said they have certainly gotten requests from the public to develop some kind of criteria.

Ms. Palmer said she wanted to say a couple of things about the landfill issue and the trash issue. She said while she appreciated trying to get better numbers on that, recognizing the numbers are still not good and it was probably going to be very difficult to do, it is still a relatively small portion of the whole.

She said the solid waste committee spent a tremendous amount of time back a couple of years ago working with TJPDC trying to get better numbers on the amount of trash that is collected. She said the solid waste committee has been very, very interested in getting an ordinance through that would require trash haulers to say how much they are picking up in Albemarle County to do reports.

Ms. Palmer said she had never really championed that when it first came up and was brought to the Board because they were so involved in just getting the new transfer station open; they wanted to try to get more people in that business, more carriers to deal with rural areas. She said she thought they were to that point. She noted Mr. Stewart is very familiar with this subject; the solid waste committee has asked him many, many times about it, to have just a consideration of whether that would improve the numbers. She said she was sure it would. She said COVID and home deliveries have changed trash quite a bit; that is a lot of fiber going into landfills with all the boxes and whatnot that do not get recycled, so those numbers have changed.

Ms. Palmer said the report had noted it did not have the information on methane collection and use at landfills. She said most of their stuff at this point still goes to Shoosmith; she did not believe Shoosmith does any collection. She said she knew Amelia does its own by waste management. She said she was not sure if it was up and running and how good it is, but she knew they have certainly had methane collection for electricity use, just knowing that it is a larger company; now that Shoosmith has changed hands too, that is another issue. She suggested for the next report trying to get some more information on that. She said she was pretty sure there was not much collection of methane. She said she thought for the most part, it was just being flared like it is at Ivy, for good reason at Ivy.

Ms. Palmer said she appreciated the difficulties of measuring AFOLU. She said she suspected as that is refined over the next several years, they are going to see that being quite a bit higher, and certainly land use is very important in resiliency. She said she was very excited about the forestry; she thanked Mr. Dayley for including that in the report.

Ms. McKeel thanked Mr. Dayley for the great information. She said she appreciated all the hard work. She said they were talking a lot about climate change and storms and all of the heavy rainfalls and rain bombs. She said she was looking out her window; they had 2-1/2 inches of rain the night before, and it was currently raining. She said they talk about having had four or five 100-year floods in the last five years or two 1,000-year floods in the last decade. She asked if there was any discussion at any level about changing those criteria.

Mr. Dayley said the National Oceanic and Atmospheric Administration (NOAA) federal agency actually maintains 30-year averages for those types of rain events. He said they calculate how much rain occurs in a 50-year storm, a 100-year storm, or a 500-year storm. He said every 10 years, they update the 30-year averages. He said they came out earlier in the year in May or June with an update. He said with that update, what used to be maybe a 100-year storm would be more like a 67-year storm. He said they do not say it in terms of 67 years, but in terms of the amount of rainfall, maybe rainfall that used to be 150 years now is what they are calling a 100-year storm. He said those are example numbers, but NOAA is the agency that does that, and they have recently updated. He said he could find that updated report and share that.

Ms. McKeel asked how that informs Albemarle County ordinances and what they are requiring and doing. She said she knows that with the rain bombs, they talk about how more area is needed for the waters with inland flooding, and certainly the streams and rivers need more area. She asked how that gets rolled into the work being done with stormwater and what they are requiring along rivers and creeks from neighborhoods and farmers. She asked how they get all of that wrapped into what their ordinances look like and what is being required.

Mr. Harper said he would imagine that there will be several state agencies taking what NOAA is finding and incorporating any changes they need to into their rules. He said for instance, VDOT might be changing their criteria, their design storms, for the systems that they build, and Virginia Department of Environmental Quality, who administers on a statewide level the Virginia Stormwater Management Program, would ultimately adopt new design standards based on the data that is coming out of NOAA. He said he thinks as a regulating body, which the Community Development Department does and not FES, CDD is administering state rules, so he thinks it is going to be upon the state to update their numbers based on the federal work.

Ms. McKeel said that leads her to want to ask when this is going to be part of their legislative packet. She asked how they as Supervisors would know what they need the state to do. She said they do not have another decade to talk about this; there is an urgency to all this work.

Mr. Harper said he was probably not informed enough to recommend anything specifically. He said he could work with Mr. Pohl and Mr. Kamptner to look at what is happening at the state level to see if they need to be pushed a little bit to move more quickly.

Ms. McKeel said her sense was they were wasting General Assembly time after General Assembly time, and they are not getting to the enabling authorities that the County needs to address some of this. She said they do not have decades to wait for this. She noted they have enabling authority now from the General Assembly to deal with plastic bags, for example. She asked if their climate action plan was going to get at making recommendations like that, such as saying they do not want plastic bags in the community or do want paper bags, or if that was considered a separate level for the Board.

Mr. Dayley said certainly there is overlap with other issues and other departments doing work on these issues as well. He said the climate action plan does give purview and license for staff recommendations in that regard to the Board to consider. He said they also have a couple of actions in the climate action plan that speak to making recommendations for items for the Board to then request of the Assembly. He said that is spoken to in the climate action plan, and there is room for staff to collaborate to come up with ideas that would be of benefit.

Ms. McKeel said she would love at some point to hear recommendations from staff regarding the Board's work around climate action as to what changes are needed from the General Assembly so some of these issues can be dealt with on a local level.

Ms. McKeel said she understood that transportation is a big part of the reductions that need to be made. She said a lot of that is individuals; certainly, the County government does not in itself have that many vehicles. She said where the vehicles are in the County is with the school system—school buses, diesel buses. She said she would even go so far as to say they have stated publicly that Charlottesville and Albemarle and the university want to work together around climate action. She said she wanted to make sure they were not siloed.

Ms. McKeel said there are five transportation systems in this community of somewhere around 150,000 people using diesel buses right now. She said she understood there is a change in the Albemarle County Public Schools towards electric school buses. She asked what their outreach is to CAT and to the university all working together. She asked where that connection was happening. She said CAT is looking right now at whether or not they want to go to compressed natural gas buses versus electric buses. She asked about their interaction with their climate action plans based on memorandums of understanding and agreement that they are all going to work together on this and where that was happening.

Mr. Dayley said one of their highest priority areas to be getting into the weeds about in the next few months is transportation and land use, which is very integrally related to transportation. He said where they have been with it so far speaks to the value of the program development they had spent the earlier part of the year doing to help them be organized, as there are different agencies and also different departments within the County government, stakeholders in this, and members of the public being served who are stakeholders. He said the program development they have done helps set them up well to bring people into the room and have these conversations.

Mr. Dayley said he had heard an update from people in transportation and community development in the County about work they are actively involved in. He said one of his next steps is to reach out to them and hear in more detail about how that is going and how they in the climate program can be supportive and how they can help in that effort.

Mr. Stewart added that there are two other avenues where the City of Charlottesville and university and Albemarle County are working together. He said the Charlottesville climate team has pulled together a group that includes senior executives and two City council members as well as senior climate teams from both the university and Albemarle County. He said he has been in those meetings, and recently Mr. Harper and Mr. Dayley have joined that as well. He said they do have that standing venue to suggest ideas and compare notes, in part to help them develop Charlottesville's plan but also to learn from each other.

Mr. Stewart said the Land Use and Environmental Planning Committee (LUEPC) has touched on climate elements. He said they have more work to do as a body on that front moving forward, but they have also just established a lot of good relationships at more of a senior staff level that they can reach out to each other on big topics, pull in more resources than they might normally be able to, and set the stage for some targeted discussions. He said there is a lot of not fully tapped potential from the Land Use and Environmental Planning Committee.

Ms. McKeel said it was important they were not working in a silo because they are going to have to work together to solve the community's problem. She suggested that one of the organizations that brings the City and County and university together around transportation is the Regional Transit Partnership and not to let that partnership go untapped.

Ms. Mallek asked if there was another part of the presentation about the ag and forestry inventory.

Mr. Dayley said that was fair game.

Ms. Mallek noted the report had mentioned the LEARN tool. She said it made excellent sense that they were not crediting themselves for naturally occurring growth. She asked if they were taking an easement on a forestry property, for example, through the ACE program, if that would be a different category, in which case the preservation of that forest that was then contracted would be something they would use. She said that would be a benefit overall.

Mr. Dayley said if they are implementing programs that end up conserving land or forest that would not normally be conserved as a policy decision, he felt that was something they could "take credit for" as far as greenhouse gas sequestration in the future. He said they do not have a mechanism to measure that at this point, although the state is coming out with some things that can tell, for instance, what kind of results some of the agricultural best management practices would produce. He said they

have the forestry cohort, which they shared with the Board, and they are talking about the potential in the future to tap into some additional knowledge banks to start being able to calculate the emission sequestration that these practices that are deliberately done for protection can earn them.

Ms. Mallek said in addition to earning them something on a chart, it is also going to help in the overall scheme of things, which is the whole point.

Ms. Mallek said Mr. Dayley had addressed in the inventory the difficulty of getting granular information about agriculture and forestry. She said people who are in agriculture and forestry are required every year to do what is called the ag census put out by the USDA. She said they have to fill it out often before taxes are done, so that is always a race in February or March; every single year since 1978, she has done one of these. She said there is a lot of information that may or may not be useful, but that is one place to look. Ms. Mallek said it is all about the sizes and ages of all the different livestock down to gory detail.

Ms. Mallek said soil health is another thing that is being studied by the state and federally; very strong federal programs are actually in the ag bill this year. She said there is a lot of funding going toward it to be able to have cost-share programs for growing plants that will sequester carbon. She said soil and water conservation district Ms. Anne Coates has been working with Secretary of Agriculture Ms. Bettina Ring on this in great detail. She said that was another resource.

Ms. Mallek said for best practices in forestry management and soil health, in the policy line someday when they get enough assurance of the validity of these things, it seemed to her they would already have the authority to have different categories for qualification for other County programs like land use, for example, that would have these higher standards of management that would be required.

Ms. Mallek said somewhere in the big report was a brief allusion to open burning. She said that was something they had not gotten to yet but was something that has been a real problem from a sociological viewpoint in the County for decades. She noted somebody had said in a quip on NPR that one gas flare puts out more methane than all the cows in the country. She said they need to look at every single avenue and try to figure out how to make progress on all these things. She said it is very important to look at policy change for the open burning based upon what the impacts would be.

Ms. Mallek said diversion from solid waste seems like an incredibly important thing. She said she had mentioned originally about procurement that they should not be buying things that are going to cause more waste and things to throw away for households as well as for local government. She said that was another thing the policy would have to look at.

Ms. Mallek said she had sent an email around to the Board during the break because she forgot during the legislative session that Regional Greenhouse Gas Initiative (RGGI) funds are now to the point of soon being distributed at the state level through DHCD. She said the legislation last year was written as funding for projects which will cause "reduction in electricity consumption," and it needed to be saying "reduction in energy consumption." She said she hoped the Board would consider adding that to their legislative program because it would help with the other things they have been talking about. She told Mr. Dayley she could hardly wait for the next report and the batch of new things they are learning.

Mr. Gallaway said the inventory report was very good. He said he remembered when they were talking about the first step being to figure out what the baseline was because data has not been great moving backward. He said that had been accomplished. He said it seemed clear that they have been making strides—technology has improved; equipment has improved; things have become more efficient. He said those are the factors of the reason why usage has declined, but it is not enough to get them where they want to be. He said the things they have direct influence over, which are more behavioral, are going to have to start kicking in. He said that is his big takeaway from this.

Mr. Gallaway said in addition to that type of takeaway, it seemed like they may get this granular understanding based on what he read. He said he knew the school division going back to 2011 or 2012 started putting a lot of things in their buildings that were more efficient—plumbing, fixtures, low-flow type things, different lighting-type fixtures, solar panels on some of the roofs. He said there are things in play they knew at the time made sense to invest the money in because they should get the payback, as they were more efficient types of infrastructure. He asked if they have that data at this point on the savings or return on that dollar amount.

Mr. Dayley said the local government inventory is based on pretty specific details about local government operations. He said Mr. Stewart or Mr. Lowe would want to speak specifically to the question around to what extent they know the savings based on the changes that were put in place in years past.

Mr. Stewart said the school system has been very open with their utility data; they use a web-based system and years ago allowed him access to it. He said with their solar panels that were installed through a power purchase agreement, they track what that produces; it is taken off the meter regularly. He said it can be very difficult for an element of a single building system efficiency improvement to be identified exactly because there are only one or perhaps two meters on those buildings, but they do see the progress over time in investments, as has the County. He said the County at this time has a very robust energy management system that includes every building, every park facility, every streetlight they own.

Mr. Stewart said they have projections as they make investments about what those savings will

be and roll those up and track those on a very close basis. He said both staffs are doing what can be done to make sure the investments they make are working out. He said those successes have helped provide some confidence for both agencies to continue to make those smart investments.

Mr. Gallaway said before he was on the school board, they had addressed transportation where they eliminated miles out of how many miles school buses were driving using a new software system. He said now they are at a point probably with staffing, just knowing they have to backtrack through bus routes because they do not have enough people sometimes to man the buses, that fights against that. He said there is a lot of information out there that probably suggests saving those miles that those buses were driving cut down on emissions because they were not on the road as much.

Mr. Gallaway said this all gets to a bigger question for budget season. He said he hears Supervisors asking what steps they are going to take. He said they have talked about putting new transfer stations down in the southern part of the County and maybe putting one up in the north. He said there is an outlay of cash that they spend on that—they all think it is important and a good idea to do that. He asked how that speaks to this particular goal. He said the question is whether adding that waste disposal in there would cut down on emissions—maybe it does, maybe it does not. He said those are the kind of layers of questions or conversations they ask when they are talking about whether it makes sense to invest money in a transfer station, or to invest money into a new facility outfitting it with new lighting fixtures, or whether or not they go to electric vehicles with County vehicles.

Mr. Gallaway said he did not know how granular they are getting down into the weeds to understand that data; it sounded like they have some of that information, so they could. He said he was hoping some of the data comes back and can be thread into their budget conversation so it can inform the Board that when they make a certain investment, there are past examples of what the return was. He said it might not necessarily be a dollar-related amount, but it could mean a certain amount of emissions reduction or a certain amount of savings that were realized. He said that would be important to do during budget time and thread it to the climate action plan. He said they do that when they talk about their housing plan or other big strategic plans. He said they draw dollar threads to those, and this could do that as well if they had that information.

Mr. Gallaway said if that information is tracked and is down in the weeds, he did not know how they would get at it, but it would be interesting to see past County investments and how it all threads back up to the bigger goal here of reducing the emissions inventory down and to see what they could learn from it.

Mr. Dayley said they had spoken about developing methods to prioritize actions, and some of the prioritization may be more qualitative in terms of something that can help change enabling legislation. He said that maybe needs to come before other more specific granular action. He said there will also be more quantitative methods that can be used to prioritize certain actions, particularly around the County buildings and fleet. Mr. Dayley said that was one key thing they were currently working on.

Mr. Dayley said they were also working on creating what they have been calling a climate lens to help people across the County think about in context when working on projects and making decisions. He said it would perhaps have somewhat of a similar quality to the equity lens that OEI has developed that is being filtered out, so people are thinking with equity in mind when making decisions about programs they work on. He said similarly, they want to do something like that with climate.

Mr. Dayley said he had already spoken about sustainable operations policies in the County. He said Supervisors in comments on the greenhouse gas inventory had already spoken to the need to be engaged with people across the organization, and he had spoken about the whole of government. He said they are working to put together a plan for systematic engagement with staff and department leadership. He said this was to understand what people are already doing in service of the climate action plan goals so they can refine more acutely how the climate team can support that work, what is missing, and what has not been started yet that is a priority they want to initiate. He said forming some of those task forces and continuing to engage the community during CAP implementation, as it is such a big plan with a lot of different elements to it, would be important as well.

Mr. Dayley said they are working on creating a planning calendar both for County government building roof replacements and solar installation. He said this was getting specific in terms of planning for a building with a roof replacement coming up to be able to get ready to put a solar installation on top of that.

Mr. Dayley said these were a few of their high-level next steps they would be working on that hopefully address some of the Board's comments over the course of the day.

Mr. Gallaway said he remembered having made a comment when they put the climate action plan in place about real tangible action steps and measured things they could wrap their heads around. He said he felt like this report was starting to do that; it was giving actual baseline information and data and real actionable things that they can impact.

Agenda Item No. 13. **Presentation:** Board-to-Board, August 2021, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

Mr. Paige said he was happy to start his report by giving the Board some exciting news about 15

Albemarle County educators who were granted Shannon awards amounting to about \$18,626. He said these grants are for creative and innovative projects that would soon benefit Albemarle County students. He said the Edgar and Eleanor Shannon Foundation for Excellence in Public Education was established in 1990 to fund projects by public school teachers in the City and County that represent innovative programming. He said the foundation is named for University of Virginia President Emeritus Edgar F. Shannon, Jr., and his wife Eleanor in honor of their contributions to public education over many years.

Mr. Paige said according to the foundation, teachers who have received grants have documented increases in student test scores and greater enthusiasm for learning. He said all administrative costs for the foundation are funded through contributions from its board of directors, so 100% of money that is received from the public is used for school projects. He described a few that were received in Albemarle County.

Mr. Paige said in honor of the 20th anniversary of the 9/11 attacks on America, Ms. Kristina Passi, a sixth-grade teacher at Walton Middle School, would begin a project called "Reconnecting in a Disconnected World." He said Ms. Passi was a sixth grader in New Jersey when the attacks on the World Trade Center took place. He said her grant will allow her students to develop and identify strategies to lessen trauma and to use mindfulness to overcome stress, learning from the shared emotions of this historic event that forever changed the nation.

Mr. Paige said two other projects include the "I AM Project" submitted by Ms. Julie Stavitski and Mr. Don Barnes from the Community Lab School and "Music for All" offered by Ms. Elizabeth Vaughn from Henley Middle School. He said the "I AM Project" will use Community Lab School's art-infused curriculum for a yearlong collaborative effort, in which students will study how their identities affect their learning and how those unique identities can benefit the community. He said at Henley, "Music for All" will enable students to study music composition theory and performances from around the world as a prelude to designing their own performance for families later in the year.

Mr. Paige said Woodbrook Elementary Pre-K teacher Ms. Patrice Harris' project, "Pre-K Gives You All the Feels," will use books and activities to support four- and five-year-old students to understand their emotions and show empathy for classmates in building healthy relationships.

Mr. Paige said following recommendations from public health experts and the latest data showing increases in local transmission of the Delta variant of the COVID-19 virus, the division made no changes in its current mask policy prior to the August 23rd beginning of the school year. He said revisions made to the policy at the School Board's July 8th meeting remain in place, and those revisions include the following: Masks are required for all students, staff, and visitors in school offices and other school division facilities when students are present; masks are not required to be worn by students or staff during outdoor activities.

Mr. Paige said recently, the American Academy of Pediatrics, the nation's leading public health experts of child health, recommended masks to be worn by all students in the new school year. He said the CDC made the same recommendation, as did the Blue Ridge Health District and local pediatricians who have been advising the School Board, and they all support universal masking.

Mr. Paige said local vaccination rates for youth between the ages of 12 and 17 in the County were very good. He said as of late August in Albemarle County, nearly two out of three youths between the ages of 12 and 15, or 65.6%, have been vaccinated, as have three out of four youths, or 74.1%, of those 16 to 17 years of age. He said children who are vaccinated would not be required to quarantine at home if they are exposed to a person who tests positive for the virus or displays viral symptoms.

Mr. Paige said one change in CDC guidance also provides that in the K-12 indoor classroom setting, the close contact definition now excludes students who were within three to six feet of an infected student if both students were engaged in consistent and correct use of well-fitting masks and other K-12 school prevention strategies such as universal and correct mask use, physical distances, and increased ventilation if all of those things were in place. He said this exception does not apply to teachers, staff, or other adults in an indoor classroom setting. He said fully vaccinated asymptomatic individuals no longer need to quarantine.

Mr. Paige said in order to further protect the school community from the spread of COVID-19, recently adopted emergency order number 21-3 was issued for County government employees by Mr. Jeff Richardson. He said the School Board's action extends the emergency order's vaccination or testing requirements for local government employees to all school division employees by the same September 5th deadline.

Mr. Paige said the School Board holds that it has a substantial public interest in protecting the health and safety of its students, staff, and community and ensuring that the school division can provide staff and students with a safe and effective educational environment that supports student achievement. He said it describes employees as essential to the efficient education of all students and their social and emotional well-being, adding that the recent presence of the COVID-19 Delta variant has led to a surge in which 90% of infections are occurring in individuals who have not been vaccinated against COVID-19.

Mr. Paige said the School Board also delegated to Dr. Haas the authority to implement and modify vaccination and testing procedures based upon changing conditions and in accordance with the requirement of the CDC, the Virginia Department of Health, the Blue Ridge Health District, and other applicable health authorities.

Mr. Paige said in some non-COVID related news, the school division would soon deploy a new mass communication system called BrightArrow. He said for a number of years, they have used the Blackboard Connect mass communication system to reach stakeholders through email, phone, and text messaging. He said the contract with this company would come to an end soon, and earlier this year, the steering committee evaluated proposals from 11 different mass communication companies. He said they selected BrightArrow as the best choice to meet communication needs and believe that it would increase the division's ability to communicate to all members of the school community.

Mr. Paige said some highlights of BrightArrow's capabilities and how they will improve accessibility to the County school division's community are that messages can be composed and sent directly from PowerSchool through the BrightArrow web application or through a mobile app. He said staff with appropriate permissions can easily send messages via email, phone, or text to students, families, or both. He said families can set their communication preferences from within the PowerSchool public parent portal. He said texts and email messages can be translated automatically into more than 100 different languages based upon the language preferences selected by families in PowerSchool. He said voice messages can be translated automatically into more than 20 different languages, also based upon the language preference selected in PowerSchool.

Mr. Paige said at their August 12th meeting, the School Board approved the recommendations of Superintendent Haas and a volunteer community advisory committee that Jack Jouett Middle School be renamed Journey Middle School effective July 1, 2022. He said the action by the Board completed a process that began in April when the community advisory committee was first appointed by Dr. Haas. He said the committee conducted two online surveys and two community information meetings before recommending Journey to Dr. Haas. He said the community advisory committee included seven parents, six staff members, two residents of the community who did not have children attending the school at this time, and a Jouett graduate who is now a student at Albemarle High School. He said in her presentation to the School Board, the committee chair, Ms. Hannah Peters, who is also a teacher at the middle school, especially noted the participation of students in the naming review.

Mr. Paige said Dr. Haas also recommended that Broadus Wood Elementary School be the next school to undergo a naming review. He said the Board approved this recommendation as well. He said this will be the sixth school in the County to participate in the naming review process. He said Broadus Wood is named for a local farmer, Broadus Ira Wood, who in 1905 donated the land for the school. He said the school's naming review committee will be co-chaired by two members of the staff. He said the principal, Ms. Amy Morris, has also invited community and staff members to serve on an advisory committee, which in addition to the principal and co-chairs must include at least three parents, two community members who do not have children in the school, and three staff members.

Mr. Paige said included in the Broadus Wood committee's work will be the design of as many as two online community surveys and up to two community meetings to discuss survey results. He said if the committee decides to consider the school's current name as a finalist in its deliberations, it would conduct research on Mr. Wood's contributions to the community and on whether his personal and professional conduct exemplify the school division's values. He said eventually, the committee will make a recommendation to Dr. Haas, who will consider the recommendation and advise the School Board on the school's name. He said if there is a name change, the new name will take effect on July 1, 2022. He said the School Board has changed the name of four schools and retained the name of one under this process.

Ms. LaPisto-Kirtley told Mr. Paige she thought they were in the process of their long-range planning to see what additional or new schools should be built with the increasing enrollment.

Mr. Paige said that was true. He said they will be looking at additions probably that are needed at Mountain View. He said the long-range planning committee is going to make their report to the School Board during their September 9th meeting. He said they will be looking at what things they propose in their report.

Ms. LaPisto-Kirtley asked if that would also include the building of new schools.

Mr. Paige said yes. He said they would possibly need a new school on the north side of the County. He said their report would be coming out during their meeting on September 9th.

Ms. Palmer thanked Mr. Paige for all the work the School Board and staff are doing because it is a tough time to navigate. She said she appreciated everything they are doing.

Ms. McKeel echoed Ms. Palmer and told Mr. Paige the School Board has had a lot of tough hot-button issues in front of them lately. She said she knew he had been getting hundreds and hundreds of emails, and the Board of Supervisors appreciated all of their work.

Ms. McKeel said she wanted to compliment Mr. Paige on the update to their mass communication system. She said she has always been impressed with the school division's ability to communicate with parents in the community. She said this automatic translation portion is outstanding. She said one of the problems that the health department had dealing with COVID was that they did not even have a way to go in and pull down a Spanish translation. She said she thought they were going to change that, but this is just really wonderful.

Ms. McKeel said her understanding was that they had a proffer at Brookhill for an elementary school and a proffer at North Pointe for an elementary school. She said to just keep that in mind.

Mr. Paige said it was mindboggling to think that that program could translate 100 written languages and 20 spoken languages.

Ms. McKeel said it was wonderful what really good software and technology could do.

Ms. Mallek asked about ticketing access to sports events, which she understood this year was now only available online. She said she had talked to Mr. Jonno Alcaro, and he was digging into this a little bit. She said she had gotten a lot of phone calls the first week when games were starting, and people were crashing around trying to figure out how to go watch their grandchild play. She said they could not get in because they had not gotten a ticket ahead of time online. She said when they found out the next day that they were supposed to go online, they had to pay a 13% surcharge to do it on their smartphone if they had one.

Ms. Mallek expressed concern about people who do not have access to the internet, including people in the community who like to go and watch the sports teams play. She said paying \$6 to get in is pretty steep for siblings and cousins of children who are playing when talking about several children and grandma to watch the child play, who may not even get off the bench. She asked they think about that as a broader concept and see what they can come up with.

Mr. Paige said off-hand, he did not have an answer to it, but he would try to find out something and let Ms. Mallek know.

Ms. McKeel asked Mr. Paige if they still had the gold card in existence because that used to get seniors in for free to events like Ms. Mallek was talking about.

Mr. Paige said he knew they had it prior to COVID.

Ms. McKeel said it was something to think about. She said she had applications for Albemarle County Public Schools' gold cards on her desk. She said maybe that program would address some of Ms. Mallek's concerns.

Ms. Mallek said if there is more information such as certain people not needing a ticket, that should be on the website. She said that information did not seem to be clear, at least to people who were under stress trying to get a ticket. She said things are always more complicated than they seem like they are going to be when trying to get a broad base of people to use them.

Agenda Item No. 14. Closed Meeting.

At 5:12 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider:
 1. Appointments to eight committees, one task force, and one board; and
 2. The annual performance and salaries of the Clerk and the County Executive.

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

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

NAYS: None.

ABSENT: Ms. Price.

Agenda Item No. 15. Certify Closed Meeting.

At 6:02 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

NAYS: None.

ABSENT: Ms. Price.

Agenda Item No. 16. Boards and Commissions.

a. Vacancies and Appointments.

Ms. LaPisto-Kirtley **moved** that the following individuals be appointed to their respective

committees:

- **Reappoint** Mr. Roger W. Ray and Mr. Richard D. Keeling to the Acquisition of Conservation Easements (ACE) Committee with said terms to expire August 1, 2024.
- **Reappoint** Ms. Nancy Takahashi and Mr. Craig Jacobs to the Historic Preservation Committee with said terms to expire June 4, 2024.
- **Appoint** Mr. Michael Callahan to the Natural Heritage Committee with said term to expire September 30, 2025

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

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

NAYS: None.

ABSENT: Ms. Price.

Agenda Item No. 17. 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 (Rio District) said it was important to him to ask questions of this Board, and he was there again with more questions. He asked why it was that this all-powerful, all-controlling, all-Democrat Board never answers questions from residents, constituents, property owners, taxpayers, and voters who speak to them at their meetings. He asked if this all-Democrat Board had something against Albemarle County residents asking questions. He asked if answering Albemarle County residents' questions was considered to be that "horror" known as debating to this Board. He asked if answering Albemarle County residents' questions was considered to be that "evil" known as back-and-forth exchange by this Board. He asked if there was a secret Board ordinance, rule, or policy that precluded this Board from answering Albemarle County residents' questions.

Mr. Grant said the public does not expect this Board to answer questions immediately during meetings; that would be breaking one of their most sacrosanct meeting rules. He asked if there was some unpublicized Board requirement that Albemarle County residents' questions be submitted in writing before being considered for answering; if so, he asked that be put in writing.

Mr. Grant asked if this Board was simply unable to answer Albemarle County residents' questions by message or voice within a week or so after questions had been asked, perhaps even before their subsequent meeting. He asked if it was just that this all-powerful, all-controlling, all-Democrat Board was simply unwilling to answer Albemarle County residents. He asked the Board whether it was unable or unwilling and said he was looking forward to an answer.

Mr. Gallaway closed public comment.

Agenda Item No. 18. From the County Executive: Report on Matters Not Listed on the Agenda.

There was none.

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

The Executive Summary forwarded to the Board states that as required by County Code § 16-102, The Regents School has notified the Clerk of the Board of Supervisors of its intent to construct a private central sewer system to serve its proposed development (Attachment A). Under County Code §§ 16-104 and 16-105, the Board is 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 property is in the Neighborhood 6 comprehensive plan area and the jurisdictional areas of the Comprehensive Plan. The Board also approved a request in conjunction with SP 2018-11 for a special exception.

Later, on December 2, 2020, the Board approved a request 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). The current proposal is to revise the previously-approved central sewerage system request from a shared system to one that will only serve the School.

The current proposal is for a new private gravity main, new sanitary sewer pumping station, and new force main, which are needed to connect the 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 the School 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. Public sewer service is not available to the property.

This proposal includes constructing a gravity collection system on The Regents School property

that would serve 13 buildings and discharge to a private pump station located on the same property (refer to Attachment B for the preliminary plan, profiles and calculations). 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 three connections, this system is considered a “central sewerage system”, requiring Board consideration.

Though several available alternatives would avoid the need for the central system, the conceptual site plan submitted with the approved SP201800017 included both six separate structures and a central system that would have been shared with the adjacent Church property. Instead of connecting to the existing lift station on the adjacent Church property, the Regents School is now proposing to construct a new lift station on its own property because the School has determined that connecting to the Church system would be cost prohibitive.

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 alternative is considered inferior because of adjacent environmental features (Moore’s Creek, which is an impaired perennial stream) and its higher probability of failure; or
- 2) Utilizing six individual duplex pumps and wet wells to serve the 13 proposed buildings, which 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 would be designed and constructed to public utility standards and would be regulated 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 a new central system would result in fewer impacts and risks to scenic and natural resources and is a better site design with fewer site impacts. Staff’s opinion has not changed with this new proposal. 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 with the final site plan and subject to approval 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 a copy of the DEQ-issued operations permit to the Building Official or County Engineer;
4. The owner of Parcel ID number 07600-00-00-01700 assume full responsibility for the operation and maintenance of the sewerage system; and,
5. If requested by the County Engineer, the owner 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 (gravity sewer, pump station and force main) at The Regents School, subject to the conditions therein.

Mr. Pohl said this item was a request from the Regents School for a private central sewerage system. He said this project was originally approved in SP201800011 for a private school to serve 468 students; there was a central sewerage system shown in that request. He said there was then a separate request by the applicant as required by County ordinance to have a central sewerage system, and that was approved by the Board on December 20, 2020. He said this request is a slight modification to that request.

Mr. Pohl said the property is within the ACSA jurisdictional area for water and sewer; however, topography prevents the school site from connecting to the gravity Service Authority system that is located on Fontaine, so they need to use a pump station to connect to that existing gravity system.

Mr. Pohl described the location of the school in the center of the screen with Reservoir Road at the top, I-64 at the bottom of the screen, and pointed out the 29 Bypass where it intersects as well as the on and off ramps for the bypass and I-64. He said the reservoir was out to the left of the screen.

Mr. Pohl said the original proposal included a system that was combined or shared with the adjacent Trinity Presbyterian Church site, which had an existing lift station that they were going to connect to. He said because of what he had been told were costs, they had decided to build their own system onsite. He said this would include a short gravity section (yellow), the lift station (where the colors change from yellow to green), and then it will consist of a three- or four-inch force main out to the frontage

of Fontaine Avenue Extended, where it would connect to the existing Service Authority gravity system. He said it would ultimately be connecting to a public system; it is not going to be an on-site treatment facility, but it would consist of its own pump station. He said there are backup pumps that go along with these things.

Mr. Pohl said he had proposed conditions that were similar, in fact, almost exact, except for number three, as what had been approved last time. He said the only difference in number three was that instead of requiring them to certify that they meet the state requirements, they actually issue or provide to staff a DEQ-issued operations permit, so that would act as the certification. He said everything else here was pretty much the same as was previously approved with slight exceptions of removing any references to the Presbyterian Church or a combination-type sewer system.

Ms. LaPisto-Kirtley asked Mr. Pohl if he had any concerns regarding their proposal.

Mr. Pohl said it would be a DEQ regulated facility and has to get permitted by DEQ. He said if the question was in reference to the alternatives, he thought this was the best alternative for this particular site. He said the alternatives would include potentially separate grinder pumps for each building or septic fields and drain fields, which are within the proximity of the stream and critical slopes. He said part of the issue with costs was rock. He said this was probably the best solution.

Ms. LaPisto-Kirtley confirmed this would not include any of the fields.

Mr. Pohl said that was correct.

Ms. LaPisto-Kirtley confirmed it would all go vis-a-vis pipe directly into the public sewer system down at the bottom.

Mr. Pohl said that was correct.

Ms. Palmer said she was realizing that she had misread this application before, and listening to the description, she guessed she was going too quickly. She said Mr. Pohl defined a central sewer system with just the pumps; clearly, there is a central sewer system where they are doing the treatment themselves. She asked what Trinity Church was doing. She asked if the Trinity Church was eventually pumping into public sewer.

Mr. Pohl said yes, they are also pumping into the Albemarle County Service Authority gravity sewer system.

Ms. Palmer said she was glad to hear that because she was clearly confused the first time she had read this. She said maybe she just did not quite understand the differences in central sewer systems. Ms. Palmer asked Mr. Pohl if he would have preferred going into the Trinity Church system and then going into the public sewer system. She asked if that was the original preference.

Mr. Pohl said that was the original proposal, and he had no objection to it. He said it was not something that he had recommended; it was a recommendation or suggestion by the Service Authority to the applicant at the time when they were investigating whether or not they could be served by public sewer. He said he did not know why it was not presented to have their own system to begin with, and that may be something they ask them to investigate or provide justification a little bit more in advance next time as opposed to having to come back to the Board for a second request. He said he thought a standalone system does alleviate or eliminate some future maintenance obligation issues that could arise because this would be serving a single entity, so that would be clear. He said other than that, it should function similarly to the existing lift station at Trinity Church.

Ms. Palmer said she was fine with this.

Ms. McKeel said she was fine with this.

Ms. Mallek said she was overjoyed it was not one of those on-site treatment things, which is what she had read into the phrase too.

Ms. Palmer **moved** that the Board adopt the attached Resolution (Attachment D) approving the installation of a central sewerage system (gravity sewer, pump station and force main) at The Regents School, subject to the conditions therein. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

ABSENT: Ms. Price.

**RESOLUTION TO APPROVE
A CENTRAL SEWERAGE SYSTEM
ON PARCEL ID 07600-00-00-01700**

WHEREAS, on September 18, 2019, the Board of Supervisors approved The Regents School's request for a special use permit to construct and operate a private school on Tax Parcels 07500-00-

0006600 and 07600-00-00-01700 (SP 2018-11 The Regents School); and

WHEREAS, on December 2, 2020, the Board approved the construction of a new shared central sewerage system on Parcel IDs 07500-00-00-06600, 07600-00-00-01700, and 07600-00-00-017C0 to serve all three Parcels; and

WHEREAS, the applicant is now proposing to revise the previously approved shared central sewerage system to one that will be located on Parcel ID 07500-00-00-01700 and serve only the proposed School.

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's request to construct a new central sewerage system on Parcel ID 07500-00-00-01700, with up to 13 total 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 (Attachment B) and DEQ Reliability Classification Worksheet (Attachment C);
2. Final plans and specifications must be submitted with the final site plan and are subject to approval 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 a copy of the DEQ-issued operations permit to the Building Official or County Engineer;
4. The owner of Parcel ID number 07600-00-00-01700 assumes full responsibility for the operation and maintenance of the sewerage system; and
5. If requested by the County Engineer, the owner must document compliance with all State operation and maintenance requirements.

Agenda Item No. 20. **Public Hearing: FY 2022 Budget Amendment and Appropriations.**

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

The cumulative total of the Fiscal Year 2022 (FY 22) appropriations itemized below is \$5,109,581.94. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 22 Budget Amendment totals \$5,109,581.94. The estimated expenses and revenues included in the proposed amendment are shown below:

PROPOSED FY 2021-22 BUDGET AMENDMENT			
ESTIMATED REVENUES			
<hr/>			
Federal Revenues	\$	5,109,581.94	
TOTAL ESTIMATED REVENUES	\$	5,109,581.94	
<hr/>			
ESTIMATED EXPENDITURES			
School Fund	\$	(60,000.00)	
School Special Revenue Funds TOTAL ESTIMATED	\$	5,169,581.94	EXPENDITURES
	\$	5,109,581.94	
<hr/>			

The budget amendment is comprised of a total of two (2) separate appropriations as described in Attachment A.

After the public hearing, staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriation for local government and school projects and programs, as described in Attachment A.

* * * * *

FY 22 Appropriations

Appropriation #2022012

Sources:	Transfer from School Fund	\$60,000.00
	Federal Grant Revenue	\$5,109,581.94
Uses:	Technology Replacement Fund	\$60,000.00
	School CRRSA Grant Fund	\$5,109,581.94
Net Increase to Appropriated Budget:		\$5,109,581.94

Description:

This request is to appropriate the School Division’s appropriation requests approved by the School Board on August 12, 2021:

- This request is to transfer \$60,000.00 from the School Fund to the Technology Replacement Fund for the replacement of Voice over Internet Protocol (VoIP) phones in the School Division.
- This request is to appropriate \$5,109,581.94 in Federal Coronavirus Response and Relief Supplementaion Appropriation (CRRSA) funds to the School Division. As part of the FY 22 budget adopted by the General Assembly, Federal CRRSA funds are available for divisions to fund unmet needs due to the pandemic. This Federal funding has specific guidelines and a specific reimbursement process. Funds can be utilized following the expenditure of the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding provided earlier in the fiscal year. These funds will be used for payroll, benefits, Summer School, emotional learning programs, storage units, warehouse rental leases, tents for each school site, and the purchase of 8-mobile classrooms and related expenses. The purchase of these classrooms will provide additional space at some of our facilities that are challenged in providing increased space to provide more social distancing among students returning to school in the fall.

Appropriation #2022013

Sources:	Transfer from American Rescue Plan Act Fund	\$1,500,000.00
Uses:	Albemarle Broadband Authority (ABBA) ARPA fund	\$1,500,000.00
Net Increase to Appropriated Budget:		\$0.00

Description:

This request is to transfer \$1,500,000.00 from the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds (SLFRF) Fund to the Albemarle Broadband Authority (ABBA) ARPA fund. This transfer supports the budget identified through ABBA and the Broadband Accessibility & Affordability Office for projects that support ARPA objectives and meet minimum guidelines pursuant to the Board’s direction at its August 18, 2021 meeting. These projects will allow ABBA to make progress towards achieving universal broadband in the County. The County serves as the fiscal agent for ABBA.

The resolution (Attachment B) authorizes the County Executive to allocate funding to and from the ARPA SLFRF Fund to ARPA SLFRF subrecipients where the County is the fiscal agent. In accordance with current practice for other County Executive authorization, all of these transfers or distributions will be reported to the Board of Supervisors as part of the County’s quarterly financial reports.

Mr. Andy Bowman (Chief of Budget, Department of Finance and Budget) said this item was a public hearing and action item to amend the FY 22 budget. He said under the Virginia code, an amendment is required when the total change is greater than 1%. He said that was the case that evening as there is an increase to the budget of approximately \$5.1M.

Mr. Bowman said these appropriations mostly consist of first reappropriating \$5.1M in federal school funding from FY 21 to FY 22. He said also pursuant to the Board’s action on August 18th, \$1.5M is being transferred from the appropriated American Rescue Plan Act (ARPA) fund to the Albemarle Broadband Authority to continue to support broadband services under ARPA guidance. He said the Board had previously committed \$3M, and this brought the total to \$4.5M that is being provided under the American Rescue Plan Act fund.

Mr. Bowman said Attachment A includes the details of all these appropriations. He said after the public hearing, staff recommended the Board adopt the resolution, Attachment B.

Mr. Gallaway closed the public comment portion of the hearing and brought the matter back to the Board for further conversation, questions, or a motion.

Ms. LaPisto-Kirtley **moved** to approve the attached resolution (Attachment B) to approve the appropriation for local government and school projects and programs, as described in Attachment A. Ms. Palmer **seconded** the motion.

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

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

**RESOLUTION TO APPROVE
ADDITIONAL FY 2022 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 22 Budget is amended to increase it by \$5,109,581.94;
- 2) That Appropriations #2022012 and #2022013 are approved;
- 3) That the County Executive is hereby authorized to allocate funding to and from the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds (SLFRF) Fund to ARPA SLFRF subrecipients where the County is the fiscal agent; and
- 4) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2022.

APP#	Account String	Description	Amount
2022012	3-3907-63907-351000-510109-6599	SA2022012 Transfer In	\$60,000.00
2022012	4-3907-63907-468200-800700-6599	SA2022012 Technology Equipment	\$60,000.00
2022012	3-3165-63165-333000-330001-6599	SA2022012 Grant Revenue Federal CRRSA	\$5,109,581.94
2022012	4-3165-63165-461101-113100-6530	SA2022012 Salaries-Nurse	\$35,000.00
2022012	4-3165-63165-461101-114100-6530	SA2022012 Salaries-Teacher Aide	\$7,000.00
2022012	4-3165-63165-461101-132100-6530	SA2022012 PT/Wages-Teacher	\$40,000.00
2022012	4-3165-63165-461101-133100-6530	SA2022012 PT/Wages-Nurse	\$7,000.00
2022012	4-3165-63165-461101-134100-6530	SA2022012 PT/Wages-Teacher Aide	\$1,000.00
2022012	4-3165-63165-461101-152100-6530	SA2022012 Sub/Wages-Teacher	\$2,500.00
2022012	4-3165-63165-461101-153100-6530	SA2022012 Sub/Wages-Nurse	\$1,000.00
2022012	4-3165-63165-461101-154100-6530	SA2022012 Sub/Wages-Teacher Aide	\$1,000.00
2022012	4-3165-63165-461101-160150-6530	SA2022012 Stipends-Tutorial	\$615,500.00
2022012	4-3165-63165-461101-210000-6530	SA2022012 FICA	\$54,318.00
2022012	4-3165-63165-461101-221000-6530	SA2022012 Virginia Retirement System	\$5,863.00
2022012	4-3165-63165-461101-231000-6530	SA2022012 Health Insurance	\$4,772.00
2022012	4-3165-63165-461101-232000-6530	SA2022012 Dental Insurance	\$120.00
2022012	4-3165-63165-461101-240000-6530	SA2022012 Group Life Insurance	\$516.00
2022012	4-3165-63165-461101-301210-6530	SA2022012 Contract Services	\$1,564,492.00
2022012	4-3165-63165-461101-312700-6530	SA2022012 Prof Serv Consultant	\$550,000.00
2022012	4-3165-63165-461101-400000-6530	SA2022012 Internal Services	\$210,000.00
2022012	4-3165-63165-461101-601380-6530	SA2022012 Materials and Supplies - COVID 19	\$86,222.94
2022012	4-3165-63165-461101-800550-6530	SA2022012 Mobile Classrooms	\$1,923,278.00
2022013	4-5121-99000-493000-934002-9999	SA2022013 Transfer to ABBA	\$1,500,000.00
2022013	3-4301-91097-351000-512104-9999	SA2022013 Transfer from ARPA Fund	\$1,500,000.00
2022013	4-4301-91097-491097-345700-9999	SA2022013 Grant SLFRF (ARP ACT)	\$1,500,000.00
2022013	4-5121-94000-499000-999999-9999	SA2022013 Use ARPA Fund Reserve for ABBA	-\$1,500,000.00

Agenda Item No. 21. **Public Hearing: Ordinance to Form a Regional Cigarette Tax Board.**
To receive public comment on its intent to adopt an ordinance approving the formation of a joint cigarette tax board and an agreement between the County of Albemarle, Virginia and other participating local governing bodies that bestows on the tax board all powers necessary and proper for the performance of its duties as provided in the agreement and under Virginia Code § 15.2-1300.

The Executive Summary forwarded to the Board states that During the 2020 General Assembly session, Virginia counties received the authority to levy taxes on the sale of cigarettes effective July 1, 2021. State legislation encourages local cigarette stamping and tax collection through regional cigarette tax boards and establishes a state-level taskforce to develop methods to modernize stamping and tax collection.

On December 2, 2020, the Board discussed this new enabling authority and directed staff to move forward with a process to support the development of a regional board to administer cigarette taxes for this region, and to consider this tax through an equity lens, provide estimated revenue projections, and schedule a public hearing in the future on an ordinance to levy the tax.

Albemarle County participated in several informational meetings with TJPDC staff and members of other local jurisdictions about establishing a regional entity to administer this tax.

On March 22, 2021, staff provided an update on the cigarette tax equity impact assessment, and provided information regarding TJPDC's discussions with area localities about the potential development of a regional cigarette tax board.

On May 5, 2021, the Board adopted a Resolution of Interest in participating in a regional cigarette tax board with the understanding that its establishment would promote the uniform administration of local cigarette taxes throughout the region. In addition to Albemarle, the following counties have adopted a Resolution of Interest to participate in a Regional Cigarette Tax Board: Augusta, Fluvanna, Greene, Madison, Nelson, and Orange. The City of Charlottesville is also considering participation.

These jurisdictions have met to discuss the role of a regional cigarette tax board, ways to share administrative costs, and a timeline of activities required to establish a regional board in FY 22. The regional board would be modeled on the Northern Virginia Cigarette Tax Board, which serves 19 localities.

On August 4, 2021, the Board reviewed a summary of the draft ordinance and agreement establishing a regional cigarette tax board and authorized scheduling a public hearing to consider the adoption of the ordinance on September 1.

TJPDC distributed the draft ordinance and agreement to the interested jurisdictions.

The ordinance to approve the formation of the Blue Ridge Cigarette Tax Board (Attachment A) and the Agreement (Attachment B) include updates by the Thomas Jefferson Planning District Commission based on feedback from the other jurisdictions and have been reviewed by the County Attorney's Office.

On September 15, staff will request that the Board schedule a public hearing to consider the adoption of an ordinance to amend County Code 15, Taxation, to implement the cigarette tax.

The FY22 Proposed Budget includes an initial revenue assumption of \$516,000 if the County begins collection of a cigarette tax on January 1, 2022.

Staff recommends that, after the public hearing, the Board adopt the Ordinance to form the Blue Ridge Cigarette Tax Board (Attachment A), which incorporates the Agreement (Attachment B).

Ms. Lori Allshouse, Assistant CFO for Policy and Partnerships in the Department of Finance and Budget, said she was attending with Ms. Nelsie Birch (CFO), Mr. David Blount (Thomas Jefferson Planning District Commission), Mr. Anthony Bessette (County Attorney's Office), and Ms. Jian Lin (Chief of Revenue Administration).

Ms. Allshouse said she would introduce the public hearing to consider the adoption of an ordinance to form a regional cigarette tax administration board. She said she would start with some background. She said for many years, the County has requested enabling authority from the state for urbanizing counties and counties that are growing quickly to have the same types of enabling authority for taxation as cities. She said in 2020, the General Assembly did provide enabling authority in many areas, including the authority to tax the sale of cigarettes, and they also encouraged regional cigarette tax boards at that time to provide more clarity and ease of administration, for wholesalers and retailers to have an easier time with their administration so they can do dual stamps, and provide a general sense of efficiency in different areas of the state.

Ms. Allshouse said in December 2020, the Board directed staff to investigate the development of a regional board, to consider a cigarette tax through an equity lens, and to provide potential revenue estimates to them. She said in March, staff did the cigarette tax equity impact assessment with the Office of Equity and Inclusion. She said they provided an update on the regional cigarette tax board process

that the TJPDC was spearheading as well as a revenue estimate if the tax is enacted midyear (starting in January). She said in May 2021, the Board adopted a resolution of interest in participating in a regional cigarette tax board. She said in August, the Board authorized the present public hearing to consider the adoption of the regional cigarette tax board ordinance and the agreement.

Ms. Allshouse said she would share some highlights of the ordinance, which would establish the regional cigarette tax board. She said it is authorized by Virginia Code, and it would establish the Blue Ridge Cigarette Tax Board, which shall act as the agent of localities for the administration of respective cigarette tax board ordinances. She said it includes the approval of an operating agreement, which is considered as Exhibit A in the ordinance as well as Attachment B in the Executive Summary. She said this establishes the regional board's powers, duties, and other procedures of such a board. She said it will become effective only upon the approval and execution of six or more localities.

Ms. Allshouse said there was an agreement of about 15 pages that was also attached to the Executive Summary and referenced in the ordinance, which would establish the Blue Ridge Cigarette Tax Board's powers, duties, and other procedures. She said membership would include one representative from each jurisdiction. She said it would ensure that the cigarette taxes are assessed and collected according to each respective ordinance, rules, and procedures. She said it would regulate the disbursement of all the receipts and the management of the funds. She noted that prior to providing funding to the localities from their taxes, the regional board will deduct one's share of expenses based on a proportional number of cigarette packs sold. She said it would be an important process that each jurisdiction be billed on a monthly basis.

Ms. Allshouse said the County Executive would be authorized to execute this agreement, which may include additional non-material language changes that are deemed necessary by the County Executive after the agreement is approved as to form by the County Attorney. She said the agreement would not be implemented until the adoption of ordinances and the execution of the agreements by a minimum of six jurisdictions. She noted that if the number of the member jurisdictions ever becomes less than six, the board shall dissolve.

Ms. Allshouse presented on the screen a list of other jurisdictions that have indicated that they are interested in potentially joining the Blue Ridge Cigarette Tax Board. She said this includes Augusta County, Fluvanna County, Greene County, Madison County, Nelson County, Orange County, and the City of Charlottesville.

Ms. Allshouse said staff's recommendation was that after the public hearing, the Board adopt the ordinance to form the Blue Ridge Cigarette Tax Board (Attachment A), which will incorporate the agreement (Attachment B).

Ms. Allshouse said after that evening, as a next step, on September 15, staff will request the Board schedule a public hearing to be held on October 20 to consider the adoption of the ordinance to implement the cigarette tax.

Ms. LaPisto-Kirtley said she was thrilled to see this coming to fruition. She said she thinks this is something that will save lives, and it is better for the health of all Albemarle County residents.

Ms. Palmer asked if the other five counties had to approve this formation of the board first and if everyone would put the tax into consideration, or if the Board was proceeding on their own with this.

Ms. Allshouse replied that Albemarle is one of the first counties that is considering this, and each county or jurisdiction has to adopt the ordinance to set up the regional board, as a first step. She said once a board is set up, the second step is to implement the tax, so it is a two-step process.

Ms. Palmer asked if they could anticipate that by the October date, all the other counties will have done the same thing.

Ms. Allshouse asked Mr. Blount if he could share information about the timeline of the other jurisdictions.

Mr. David Blount of the Thomas Jefferson Planning District Commission said the ordinance and attached agreement that Ms. Allshouse explained was also distributed to all the other entities that have shown interest. He said he is aware that all of the other counties, during the month of September, are scheduling and will hold (or have already held) a public hearing and presumably, adopt the ordinance in upcoming local government meetings.

Ms. McKeel said it can be a challenge at times to get together with this many communities and work this out. She thanked staff and Mr. Blount for their part in this. She said she is excited about the proposal. She asked how long the board in Northern Virginia, which this is being modeled after, has been in existence.

Mr. Blount replied that the board has existed for 50 years. He said they are currently at 19 members and will be adding more, as more counties now have the authority to implement the tax. He said the ordinance and agreement are modeled after the Northern Virginia Cigarette Tax Board. He said some revisions were also reviewed that were made by the Mt. Rogers Cigarette Tax Board, which is in the Southwest Virginia area. He praised the County Attorney's Office for being instrumental in fine tuning the ordinance and agreement to fit the needs in the region.

Ms. McKeel said this was great information for her because it meant that it really worked. She said they are not modeling it off of a process or board that has been in existence for three years. She said as the daughter of a businessman, she thinks this is a win-win for the community and for the businesses because they are no longer having to struggle with competition and it levels the playing field. She said she also looks at it through the view of environmental action because it will reduce the amount of driving that people are doing from one area to another to purchase cigarettes because they can purchase them at the closest place to them. She said she appreciated everyone's effort to get this done.

Ms. Mallek asked if the membership of six was a magic number for some reason. She said she was somewhat concerned that if one of their supposed partners bails, they are done. She asked if the six members were required to go forward.

Mr. Blount replied that there were some changes made to the taxation provisions during the General Assembly in the past year where there was encouragement that the enactment of the tax be done by regional boards. He said there was also a definition of a regional board that was put into the code that defined a regional board as at least six localities. He said consulting with legal minds, they felt that they needed to have six in order to proceed.

Mr. Blount said he would anticipate seeing that they get a board up and running and if it is 6-8 members, there may be other localities that are holding back to see how it goes, including other cities and towns in the larger region that may be implementing the tax on their own already and that may have some interest in joining as well. He said he would look for the numbers to go up rather than come down.

Mr. Gallaway opened the public hearing. As there were no signups, he closed the public speaking portion and brought the matter back to the Board for additional questions, discussion, or motion.

Ms. LaPisto-Kirtley **moved** to adopt the Ordinance to form the Blue Ridge Cigarette Tax Board (Attachment A), which incorporates the Agreement (Attachment B). Ms. Mallek seconded the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

ABSENT: Ms. Price.

ORDINANCE NO. 21-A(5)

AN ORDINANCE APPROVING THE FORMATION OF A JOINT ENTITY TO BE KNOWN AS THE BLUE RIDGE CIGARETTE TAX BOARD AND BESTOWING ON SUCH ENTITY ALL POWERS NECESSARY AND PROPER FOR THE PERFORMANCE OF ITS DUTIES AS PROVIDED BY LAW

WHEREAS, pursuant to the authority granted to localities under § 15.2-1300 of the Code of Virginia, 1950, as amended, the Board of Supervisors of the County of Albemarle, Virginia has determined that it would serve the public interest to establish a joint entity to be known as the Blue Ridge Cigarette Tax Board (the "Board") in order to efficiently administer the collection, accounting, disbursement, compliance monitoring and enforcement of cigarette taxes assessed by the localities desiring to join the Board; and

WHEREAS, the Board of Supervisors has reviewed an agreement establishing the Board and defining its powers, duties, and other procedures, the text of which is attached hereto and incorporated herein as "Exhibit A," and is in agreement with the terms as set forth therein; and

WHEREAS, the aforementioned agreement provides that it shall become effective upon the approval by the governing bodies of at least six (6) localities named and the execution of said agreement by their authorized representatives; and

WHEREAS, the Board of Supervisors wishes to authorize the formation of the Board with the County of Albemarle, Virginia as a member thereof, and authorize the execution of said agreement on its behalf.

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

1. Under authority of Virginia Code § 15.2-1300, and upon the approval and execution of six (6) or more localities, there is hereby created and established the Blue Ridge Cigarette Tax Board, which shall act as the agent of the localities for the administration of their respective cigarette tax ordinances; and

2. The agreement, attached hereto as Exhibit A, is hereby approved, and the County Executive is authorized to execute the same on behalf of the governing body, which may include additional nonmaterial language changes deemed necessary by the County Executive, after it is approved as to form by the County Attorney; and

3. The powers and authority of the Board, as set forth in the agreement, are hereby approved.

This ordinance is effective immediately.

Agenda Item No. 22. **Public Hearing: Agricultural and Forestal Districts (AFDs).** Ordinance to amend County Code Chapter 3, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance, Division 2, Districts, to review certain districts, to make corrections to certain district regulations to identify all those tax map parcels within the districts, and to add lands to certain districts, as specified below:

- a) **AFD 2021-01 Sugar Hollow AFD – Addition.** The proposed ordinance would amend Section 3-231, Sugar Hollow Agricultural and Forestal District, to add TMP 40-12A to the district;
- b) **AFD 2021-02 Moorman’s River AFD – Addition.** The proposed ordinance would amend Section 3-226, Moorman’s River Agricultural and Forestal District, to add TMPs 28-31, 28-31A, and 28-33 to the district;
- c) **AFD 2021-03 Jacobs Run AFD – Addition.** The proposed ordinance would amend Section 3-222, Jacobs Run Agricultural and Forestal District, to add TMP 18-16C to the district;
- d) **AFD 2021-04 Hatton District AFD – District Review.** The proposed ordinance would amend Section 3-219, Hatton Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of September 1, 2031, and to remove TMP 136-9 from the district, as well as any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance; and
- e) **AFD 2021-05 Totier Creek AFD – District Review.** The proposed ordinance would amend Section 3-233, Totier Creek Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of September 1, 2031, to identify TMP 121-82H (part) as being in the district (land already in the district was transferred to this parcel through a boundary line adjustment), and to remove TMP 121-85 from the district, as well as any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance.

The Executive Summary forwarded to the Board states that localities are enabled to establish agricultural and forestal districts (AFDs) under the Agricultural and Forestal Districts Act (Virginia Code § 15.2-4300 et seq.). AFDs serve two primary purposes: (1) to conserve and protect agricultural and forestal lands; and (2) to develop and improve agricultural and forestal lands. Land within an AFD is prohibited from being developed to a more intensive use, other than a use resulting in more intensive agricultural or forestal production, without prior Board approval.

In addition, the County is prohibited from exercising its zoning power in a way that would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the Agricultural and Forestal Districts Act unless those restrictions or regulations bear a direct relationship to public health and safety (Virginia Code § 15.2-4312).

The consolidated public hearing and the proposed ordinance pertain to three requested additions to existing AFDs, and the periodic reviews of two AFDs.

Additions: A landowner may petition to add their land to an AFD at any time (Virginia Code § 15.2-4310). Virginia Code §§ 15.2-4307 and 15.2-4309 require that the Board conduct a public hearing on proposed additions to AFDs after they have been reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations.

District Reviews: Virginia Code § 15.2-4311 requires the periodic review of AFDs to determine whether they should continue, be modified, or be terminated, unless the Board determines that review is unnecessary. During the review process, land within an AFD may be withdrawn at the owner’s request by filing a written notice with the Board any time before the Board acts on the review. Virginia Code § 15.2-4311 requires that the Board conduct a public hearing on AFD reviews after they have been reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations.

Additions:

The Advisory Committee and the Planning Commission reviewed the following proposed district additions and recommend approval:

AFD202100001 - Henley - Sugar Hollow Addition (Attachment B):

The proposed addition (Tax Map 40 Parcel 12A; 19.1 acres) contains 18.6 acres of important agricultural soils and has 5 development rights. The Sugar Hollow AFD is located near White Hall and is scheduled to undergo its 5-year review on or before December 18, 2024.

AFD202100002 - Neff - Moormans River Addition (Attachment C):

The proposed addition (Tax Map 28 Parcels 31, 31A, 33; 119.28 acres) contains 111.22 acres of important agricultural soils, and each individual parcel has multiple development rights. The Moormans River AFD is located east of White Hall and south of Free Union and is scheduled to undergo its 10-year review on or before November 12, 2024.

AFD202100003 - Maddock - Jacobs Run Addition (Attachment D):

The proposed addition (Tax Map 18 Parcel 16C; 69.29 acres) contains 51.66 acres of important soils and

has one development right. The Jacobs Run AFD is located near Earlysville and is scheduled to undergo its 5-year review on or before December 18, 2024.

Reviews:

Pursuant to the Board's direction in November 2018, the proposed ordinance (Attachment A) includes a five year renewal period for AFDs containing parcels enrolled in open-space use valuation that have no development rights, and a 10-year review period for districts that have no such parcels. In this case, neither of the districts under review contains any parcels that are in the open-space tax category. The Advisory Committee and the Planning Commission reviewed the following districts and recommend renewal of the Hatton and Totier Creek AFDs for ten years. The August 3, 2021 staff reports to the Planning Commission are attached (Attachments E and F). See Attachments E and F for more details regarding this and other staff analysis of the following district reviews.

Hatton AFD:

The Hatton AFD is located in the Warren area, near the James River, and is undergoing its periodic 10-year review. One landowner submitted a request to withdraw one parcel (TMP 136-9) consisting of 86.04 acres from the AFD. This AFD was created in 1983 and includes 24 parcels and 860.3 acres. With the withdrawal of parcel 136-9, the AFD would include 23 parcels and 774.26 acres. The review period for this AFD is ten years, so the next review would occur prior to September 1, 2031.

Totier Creek AFD:

The Totier Creek AFD located in the vicinity of Esmont and Keene and is undergoing its periodic 10-year review. One landowner submitted a request to withdraw one parcel (TMP 121-85) consisting of 129.33 acres. The AFD was created in 1983 and currently includes 43 parcels and 6,773 acres. With the withdrawal of parcel 121-85, the AFD would include 42 parcels and 6643.67 acres. The review period of this AFD is ten years, so the next review would occur prior to September 1, 2031.

There is no budget impact.

After conducting public hearings on the proposed AFD additions and the proposed AFD reviews, which may be held together as one public hearing, staff recommends that the Board adopt the attached ordinance to approve the additions to the Sugar Hollow, Moormans River, and Jacobs Run districts, and to continue the Hatton and Totier Creek AFDs.

Mr. Scott Clark, Senior Planner, said there were five Agricultural and Forestal District items to review that evening and that, after going through the individual items, the Board could hold a single public hearing on the five items together to adopt an amendment to the AFD ordinance.

Mr. Clark said the first of the five items was the proposed addition to the Sugar Hollow District (TMP 40-12A). He said this is a 19-acre parcel that is almost entirely made up of important soils. He said it has five development rights. He said the Ag-Forestal Committee and the Planning Commission recommended approval of this addition.

Mr. Clark said the second item was the Neff-Moorman's River addition. He said these are parcels of 30, 26, and 62 acres. He said there are 111 acres of important soils, and each of the individual parcels in the addition has development rights. He said the Ag-Forestal Committee and the Planning Commission recommended approval of this addition.

Mr. Clark said the third addition is for the Jacob's Run District and is Parcel 18-16C, made up of 51 acres of important soils, with one development right. He said the Ag-Forestal Committee and the Planning Commission both recommended approval of the proposed addition.

Mr. Clark said there were two district reviews. He said the first is the Hatton District, which is located in the southern part of the County on the James River. He said it is an 860-acre district, nearly all of which has important soils, as designated in the Comprehensive Plan. He said the Board may recall that the periodic reviews are the one time where landowners can withdraw by-right from the districts. He said there was one owner withdrawing one parcel, and there will be a small subdivision that will not qualify as a permitted family division. He said they intend to add the remaining acreage of the parcel back into the district next year.

Mr. Clark said this district has no parcels in the Open Space tax category. He said therefore, it can be renewed for a 10-year period. He said the committee and the Planning Commission both recommended renewal for that 10-year period with the requested withdrawal.

Mr. Clark said the final item was the Totier Creek District review. He said this is in the vicinity of Esmont, Porters, and Keene. He said this is a 6,700-acre district that has over 5,000 acres of important soils. He said this was considered by the Ag-Forestal Committee, and after the Ag-Forestal Committee meeting, one landowner requested to remove one 129-acre parcel from the district. He said there are no parcels in this district that are in the Open Space category, so it can be renewed for 10 years. He said the Ag-Forestal Committee recommended renewal of the district, as well as the Planning Commission, with the requested withdrawal.

Mr. Clark offered to answer questions from the Board. He said that after the Board holds its public hearing, he could offer suggested motions.

Ms. Palmer asked Mr. Clark if he could go back to the Hatton Ferry item. She asked if in the hatched area on the map, part of this would be put back in after the development occurs.

Mr. Clark replied that the parcel is owned by an LLC, so they cannot do a family division. He said they wanted to divide off 2 or 3 acres for a family member, and they will put the remainder of the property back in the district.

Ms. Palmer noted that this parcel is the connection to the rest of the district and it would be a shame to take a piece out of the middle, but there was nothing the Board could do about that.

Mr. Clark said it is a by-right withdrawal. He said usually when there is a piece like this, it is lost, but in this circumstance he expects they would get nearly all of it back in.

Ms. Mallek said she was interested to see the correlation of the Coles Rolling Road withdrawal and just last year, that section of road was paved. She said it made her think of all the people who had been concerned about the gravel roads and paving them becoming a way for more development in the country. She said it was not that this affected this application, but she thought it was strikingly close in timing.

Mr. Gallaway opened the public comment portion of the public hearing. As no one was signed up to speak, he closed public comment and brought the matter back before the Board for additional questions, comments, or a motion.

Ms. Mallek **moved** that the Board adopt the attached ordinance to approve the additions to the Sugar Hollow, Moormans River, and Jacobs Run districts, and to continue the Hatton and Totier Creek AFDs. Ms. McKeel **seconded** the motion.

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

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

NAYS: None.

ABSENT: Ms. Price.

ORDINANCE NO. 21-3(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 3-219	Hatton Agricultural and Forestal District
Sec. 3-222	Jacobs Run Agricultural and Forestal District
Sec. 3-266	Moorman's River Agricultural and Forestal District
Sec. 3-231	Sugar Hollow Agricultural and Forestal District
Sec. 3-232	Totier Creek Agricultural and Forestal District

CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS ARTICLE 2. DISTRICTS OF STATEWIDE SIGNIFICANCE DIVISION 2. DISTRICTS

Sec. 3-219 Hatton Agricultural and Forestal District.

The district known as the "Hatton Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on June 29, 1983.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
 - 1. Tax map 135: parcels 13, 13A, 13B, 14B, 15, 15A, 15C, 17, 18, 19, 22, 22A, 22C, 22C1, 22C2.
 - 2. Tax map 136: parcels 2A, 6B, 8H, 9A2, 9B, 9C, 9D1, 9E.
- C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to September 1, 2031.

Code 1988, § 2.1-4(a); § 3-215, Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 07-3(1), 7-11-07; Ord. 10-3(2), 7-7-10; Ord. 11-3(1), 7-6-11; § 3-219, Ord. 18-3(1), 11-7-18)

Sec. 3-222 Jacobs Run Agricultural and Forestal District.

The district known as the "Jacobs Run Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on January 6, 1988.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
 - 1. Tax map 18, parcel 16C
 - 2. Tax map 19: parcels 25, 25A.
 - 3. Tax map 19A: parcels 9, 22, 31.
 - 4. Tax map 20: parcels 6J, 6S.
 - 5. Tax map 30: parcel 32B.
 - 6. Tax map 31: parcels 1, 1B, 4K, 8, 8E, 16, 16B, 44C, 44G2, 45, 45B.
- C. *Review.* The district is reviewed once every five years and will next be reviewed prior to December 18, 2024.

(3-2-94; Code 1988, § 2.1-4(i); § 3-218, Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 093(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 11-3(2), 7-6-11; Ord. 13-3(1), 12-4-13; Ord. 15-3(1), 12-2-15; § 3-222, Ord. 18-3(1), 11-7-18; Ord. 19-3(2), 9-18-19; Ord. 19-3(3), 12-18-19)

Sec. 3-226 Moorman's River Agricultural and Forestal District.

The district known as the "Moorman's River Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on December 17, 1986.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
 - 1. Tax map 27: parcels 32, 34, 34A, 40, 40A, 40A1, 42, 42A.
 - 2. Tax map 28: parcels 2, 2A, 3, 4, 5, 6, 6A, 6B, 7A, 7A1, 7B, 8, 12, 12A, 12B, 13, 13A, 17A, 17C, 18, 25 (part), 30, 30A, 30A1, 30B, 31, 31A, 32B, 32D, 33, 34B, 35, 35B, 37A, 37B, 37C, 38.
 - 3. Tax map 29: parcels 2C, 4E, 8, 8B, 8E, 8E1, 8J, 9, 10, 15C, 40B, 40C, 40D, 45, 45H1, 45H2, 49C, 50, 54A, 61, 62, 63, 63A, 63D, 67C, 69F, 70A, 70B, 70C, 70F, 70H1, 70K, 70L, 70M, 71, 71A, 74A, 76, 78, 78A1, 79C, 79E, 79F, 84, 85.
 - 4. Tax map 30: parcels 10, 10A, 10C, 12, 12C, 12C1, 12D, 23.
 - 5. Tax map 41: parcels 8, 8B, 8C, 8D, 9E, 15, 15A, 17C, 18, 19, 41C, 41H, 44, 50, 50C, 65A1, 67B, 70, 72, 72B, 72C, 72D, 72E, 72F, 89.
 - 6. Tax map 42: parcels 5, 6, 6B, 8, 8C, 10, 10A, 10D, 37F, 37J, 38, 40, 40C, 40D, 40D1, 40G, 40H2, 41, 41B, 42B, 42B1, 43, 43A, 44.
 - 7. Tax map 43: parcels 1, 1F, 2A1, 2B, 3A, 4D, 5, 5A, 9, 10, 16B2, 16B3, 18E4, 18G, 18J, 19I, 19N, 19P, 20A, 20B, 20C, 21, 21A, 24A, 24B, 24C, 25A, 25B, 30, 30A, 30B, 30B1, 30B2, 30B3, 30B4, 30G, 30H, 30M, 30N, 32H, 33, 33E, 34D1, 41, 42, 43, 44, 45, 45C, 45D.
 - 8. Tax map 44: parcels 1, 2, 24, 26, 26A, 26B, 26C, 27B, 27C, 28, 29, 29A, 29D, 30, 30A, 30B, 31, 31A, 31A1, 31D, 31F, 31G, 31H.
 - 9. Tax map 57: parcel 69.
 - 10. Tax map 58: parcels 65A4, 65E, 65I.
 - 11. Tax map 59: parcels 32, 32A, 34, 35, 82A.
 - 12. Tax map 60: parcels 2A1, 2A2.
 - 13. Tax map 60E3: parcel 1.
- C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to November 12, 2024.

(4-14-93; 12-21-94; 4-12-95; 8-9-95; Code 1988, § 2.1-4(g); § 3-222, Ord. 98-A(1), 8-5-98; Ord. 99-3(4), 5-12-99; Ord. 00-3(1), 4-19-00; Ord. 04-3(4), 12-1-04; Ord. 05-3(2), 7-6-05; Ord. 08-3(2), 8-6-08; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 14-3(2), 11-12-14; Ord. 15-3(1), 12-2-15; § 3-226, Ord. 18-3(1), 11-7-18; Ord. 19-3(2), 9-18-19)

Sec. 3-231 Sugar Hollow Agricultural and Forestal District.

The district known as the "Sugar Hollow Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on September 6, 1989.

- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
1. Tax map 25: parcels 11C, 12, 13, 14, 14A, 14B, 14C, 18, 18A, 18B, 21, 21A, 24, 25, 26, 27, 28.
 2. Tax map 26: parcels 5A, 10, 10B, 10D, 10F, 10G, 11C, 11D, 12A, 13, 14F, 19, 40B, 40C, 41A, 52, 52D.
 3. Tax map 27: parcels 8, 8E (part), 24A, 25, 26.
 4. Tax map 39: parcels 2, 2A, 3, 4, 13C3, 14, 15, 25, 25A.
 5. Tax map 40: parcels 1, 9, 9C, 9D (part), 9E, 10, 10A, 10B, 10C, 12A, 22, 22A, 27A, 46C1, 49.
- C. *Review.* The district is reviewed once every five years and will next be reviewed prior to December 18, 2024.

(11-17-93; Code 1988, § 2.1-4(q); § 3-226, Ord. 98-A(1), 8-5-98; Ord. 99-3(5), 10-6-99; Ord. 023(1), 1-9-02; Ord. 02-3(2), 4-3-02; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; Ord. 11-3(4), 12-7-11; § 3-231, Ord. 18-3(1), 11-7-18; Ord. 19-3(3), 12-18-19)

Sec. 3-232 Totier Creek Agricultural and Forestal District.

The district known as the "Totier Creek Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on June 29, 1983.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
1. Tax map 121: parcels 70A, 70D, 70E, 72C, 82H (part), 85A.
 2. Tax map 122: parcels 5, 5A.
 3. Tax map 127: parcel 39.
 4. Tax map 128: parcels 13, 14A, 14B, 14C, 14D, 27, 29, 30, 72.
 5. Tax map 129: parcels 3, 5, 6, 6A, 7A, 7D, 9.
 6. Tax map 130: parcels 1, 5A.
 7. Tax map 134: parcels 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L.
 8. Tax map 135: parcels 7, 10.
- C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to September 1, 2031.

(Code 1988, § 2.1-4(b); § 3-227, Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 11-3(1), 7-6-11; Ord. 13-3(1), 12-4-13; § 3-232, Ord. 18-3(1), 11-7-18)

Agenda Item No. 23. **Public Hearing: ZTA 201900006 Rio29 Form-Based Code and ZMA 202100002 Rio29 Form-Based Code Overlay District (Sign #29, 35, 36, and 45)**. To receive comments on a proposed ordinance to amend the Albemarle County Code to establish an optional form-based code overlay district in the Rio29 Small Area Plan Area, and a proposed amendment to the zoning map under *Albemarle County Code* § 18-1.7, Zoning Map, by adding one or more maps delineating the boundaries of the Rio29 Form-Based Code Overlay District and depicting the Core Character Area, the Flex Character Area, and the Edge Character Area therein. This overlay district is proposed for the area within a half-mile radius of the intersection of Rio Road and U.S. Route 29, except for (a) the Berkeley, Four Seasons, Woodbrook, Greenfields, Northfields, and Raintree subdivisions, (b) the Oakleigh NMD, and (c) Tax Parcels 04500000002600, 045000000026A1, 045000000026A2, 04500000002700, 045000000027A0, 045000000027B0, 045000000029A0, 045000000093A0, 045000000093D0, 04500000009500, 045000000095A0, 04500000010800, 06100000013400, 061Z0030000600, 061Z0030000700, and 061Z0030000800. Among other revisions, the proposed ordinance would: Add § 18-20C – Rio29 Form-Based Code to encourage development consistent with the Rio29 Small Area Plan vision, establishing compact development patterns of massing and density at an urban scale with a mixture of uses within close proximity to each other; permit property owners to opt into the Form-Based Code regulations or to retain their existing zoning; establish three Character Areas with different uses and forms; create street standards, building standards, parking standards, architectural design standards, and civic space standards to achieve the goals of the Rio29 Small Area Plan vision; establish affordable housing requirements for residential developments of 5 or more residential dwelling units developed under the Rio29 Form-Based Code; and permit increased building heights in exchange for additional affordable housing units. Amend § 18-30.6.4 to allow structures developed under the Rio29 Form-Based Code to qualify for a county-wide certificate of appropriateness.

The Executive Summary forwarded to the Board states that at its meeting on March 17, 2021, the Board of Supervisors held a public hearing for ZTA201900006 Rio29 Form-Based Code and ZMA202100002 Rio29 Form-Based Code Overlay District. The Board deferred the item to a later date

and directed staff to come back with revisions.

The Board of Supervisors deferred the earlier draft Form-Based Code and proposed Zoning Map Amendment to coordinate the Code's affordable housing requirement with the Housing Albemarle policy, to allow light industrial uses in the Core Character area, and to clarify the phased redevelopment process. In response, staff has drafted proposed changes to the Rio29 Form-Based Code to:

- align the affordable housing requirement (Sec. 20C.12) with the County's Housing Albemarle policy,
- update the uses table to allow industrial uses in the Core Character Area,
- clarify the conceptual plan and special exception review process (Sec. 20C.2), and · correct typographical errors and remove inconsistencies based on these updates.

Attachment A notes in red proposed changes within the August 11, 2021 draft from the earlier (March 17) draft Rio29 Form-Based Code.

No additional impact is expected at this time, through future costs for implementation projects identified in the Rio29 Small Area Plan are expected.

Staff recommends that the Board adopt:

- 1) the proposed Rio29 Form-Based Code Zoning Text Amendment (Attachment B) and
- 2) the proposed Rio29 Form-Based Code Zoning Map Amendment (Attachment C).

Ms. Rachel Falkenstein, Planning Manager, said that she and her colleagues, Ms. Michaela Accardi and Ms. Lea Brumfield, would be presenting the Rio29 Form-Based Code.

Ms. Michaela Accardi said for the public hearing, she would start by sharing an overview of the four years of staff work that includes the small area planning effort that has led to this point. She said Ms. Falkenstein would provide an overview of the code, paired with graphics and demonstrative scenarios. She said Ms. Brumfield would share recent revisions made to the draft ordinance based on feedback from the Board's public hearing in March and conclude the staff presentation with overview of next steps for implementation. She said after the public hearing, there would be discussion and prepared motions for the Board.

Ms. Accardi said moving to a brief overview of the project, realizing that many Board members were familiar with this, staff wanted to reiterate the project background and summary for members of the public and as a reminder for the public hearing. She said the small area plan was adopted by the Board in December 2018 after two years of staff and consultant technical work as well as community engagement. She said the Rio29 Small Area Plan envisions the Rio29 area as a connected network of complete streets designed for all users, as well as a network of sustainable and usable public spaces with a diverse mixture of uses.

Ms. Accardi said the small area plan specifically mentions an update to the Zoning Ordinance with a form-based code in the Character chapter as an implementation step to promote the decided forms of development. She said this section also highlights one of the project's main goals, which is to find the appropriate balance between regulation and flexibility – regulation to achieve the form envisioned in the plan, as well as flexibility to accommodate market changes and a mixture of uses.

Ms. Accardi said following the adoption of the small area plan, the Board directed staff to begin work drafting a form-based code for the area. She said throughout 2019, County staff worked with internal technical working groups, in-person and online community workshops, work sessions with the Planning Commission and the Board, and facilitated project steering committee meetings. She said this work resulted in the creation of a draft framework for the ordinance, and this framework outlined key concepts that reflected the year of research as well as rigorous community engagement. She said this framework was supported by the Board of Supervisors in December of 2019.

Ms. Accardi said throughout 2020, County staff heard that work by continuing to collaborate across departments as well as with external agencies such as Fire Rescue, Virginia Department of Transportation (VDOT), and local transit partners. She said additionally, County staff collaborated with the Form Based Code Institute and Dover Cole Partners to facilitate a peer review of the draft ordinance, provide feedback, and develop hypothetical scenarios like the one shown on the slide. She said they reconvened the Rio29 Steering Committee in 2020; held virtual work sessions with property owners and community members; and held work sessions with the Planning Commission, Architectural Review Board, and Board of Supervisors.

Ms. Accardi said ultimately, these four years of work culminated in the form-based code before the Board for consideration. She said Ms. Falkenstein would talk about the code, in summary.

Ms. Falkenstein said as a reminder, at its most basic level, a form-based code is a zoning ordinance that focuses on regulation of form, placement, and design of buildings and public elements. She said regulation of use in a form-based code is still included, but it is usually secondary to the form.

Ms. Falkenstein said the Rio29 Form-Based Code is structured as an optional overlay district, meaning that property owners in the Rio29 District have the option in the future, once adopted, to opt in and develop under the form-based code, or they can continue to operate or develop in the future under their existing zoning.

Ms. Falkenstein said there are three character areas in the Rio29 Form-Based Code District, which were shown on the map on the slide. She said this map was also provided in Attachment C of the Board's materials. She said the Core character area shown in red centers around the intersection of Rio Road and Route 29. She said this is about a quarter-mile radius from that intersection within the Core. She said outside of this is the white area known as Flex, which is about a half-mile radius from the same intersection. She said the dark blue, which is adjacent to two single-family neighbors just outside of the Rio29 area, is the Edge character area.

Ms. Falkenstein said these character areas dictate design standards within the form-based code. She said the site and building standards identified in the code come from the Rio29 Small Area Plan vision that Ms. Accardi had just discussed. She said the use within the Rio29 Form-Based Code is expanded from the existing use in the current zoning on the property today, and it includes broad categories of uses such as Retail and Office rather than a more detailed list of specific uses that are within the current zoning districts.

Ms. Falkenstein said there is an affordable housing requirement within the form-based code. She said because it is an optional district, the County is unable to require affordable housing with the code. She said the affordable housing section has been updated to reference Housing Albemarle, which was recently adopted by the Board. She said the percentages of affordable housing and the percentages of Area Median Income will come from that policy by the Board. She said should this change in the future, those percentages would apply to the form-based code.

Ms. Falkenstein said she would talk about the three character areas in the Rio29 area. She said at the Board public hearing in March, there was some discussion from the Board and community members at the public hearing about the application of the character areas. She said there was a question, for example, of why the Core character area could not be applied to the entire Fashion Square Mall property, and if it was appropriate to have that site or other planned shopping centers be split between a Core and a Flex character area.

Ms. Falkenstein said the graphic on the screen was developed to show the scale of the character areas and demonstrate an intentional transition from the Core to the Edge. She said the graphic showed a side profile of building heights, and the height and intensity of development transitions from a dense urban Core down to the lower entrance to the Edge. She said the graphic also demonstrates that the Core adjacent to the Flex does not look drastically different, and it provides a gradual transition down in intensity. She said because of this gradual transition, it will not feel disruptive to future users of a site that might have Core and Flex adjacent to each other, and it will not preclude continuity of design on a large site that might have some Core and Flex on it.

Ms. Falkenstein said one additional benefit of identifying a smaller focused Core is to also encourage a concentration of uses that will create a vibrant and walkable town center for Route 29.

Ms. Falkenstein said she had a couple more graphics to identify these differences in the character areas. She said the graphic on the slide showed the Core character area and some of the key design elements. She said the ground floors of the Core are expected to accommodate uses that will generate public activities such as retail stores, service uses, or other commercial uses that would be open to the public.

Ms. Falkenstein said in the Core character area, the form-based code requires a minimum ground floor ceiling height of 15 feet, and this is to allow those commercial uses and be consistent with building code requirements for commercial buildings. She said the Core also requires 60% transparency on the ground floor, which is typical of what one would see on a main street that has shops and restaurants on it. She said the overall height requirements in the Core are two to five stories, with up to seven stories with a bonus height for affordable housing.

Ms. Falkenstein said the slide showed a design scenario demonstrating what this could look like. She said staff developed these 3D design scenarios on a real-world site in Rio29. She said the graphic showed the southwestern corner of Rio Road and Route 29, and it demonstrates the application of the building design standards, with building placement close to the street. She said it has a street network applied to it, relegated parking as well as structured parking, and public civic space near the Northside Library.

Ms. Falkenstein said the Flex area provides a bridge between the high-intensity Core and the low-intensity Edge. She said it is also designed to be the most flexible area that can accommodate a variety of different uses and building types.

Ms. Falkenstein said regarding design standards in the Flex area, there is a two- to four-story height limit, with up to five stories with the affordable housing bonus height. She said there is no minimum ground floor ceiling height requirement in the Flex, and this is to accommodate different types of uses in buildings on the ground floor. She said there could be an all-residential building or office building, etc. She said there is a lower ground floor transparency requirement to go along with that, so the ground floor transparency would only be 40% in Flex.

Ms. Falkenstein said moving to the development scenario for the Flex area, staff applied these standards to a real-world site. She said the slide showed a shopping center along Route 29 that is in the proposed Flex zone. She said in this scenario, there is the development of new buildings alongside

existing buildings. She said these buildings are mixed use, where some have ground floor commercial while some are just office or residential buildings, and these are alongside existing shopping center buildings. She said there is the same application of a street network and greenspace on this site as well.

Ms. Falkenstein said last is the Edge character area, which is designed to be compatible in scale to the adjacent low-density residential areas. She said regarding Edge standards, building heights are two to three stories, or even bound to a single story in some cases. She said there are lower transparency requirements for buildings, and larger setbacks and narrower sidewalks are required, which are typical of a less dense area as there is not as high a concentration of pedestrian activity.

Ms. Falkenstein said there was a design scenario for Edge shown on the screen, and this depicted a property owned by the County on Berkmar Drive, adjacent to the Berkmar Rescue Squad. She said the property is currently vacant, with some existing trees. She said this scenario shows a three-story residential development on the property. She said the scale is compatible with existing development in the area, and the way that it is designed allows for the retention of existing trees to provide a civic space for this property.

Ms. Falkenstein said she would speak about the development review process. She said as mentioned previously, the form-based code is optional and so once adopted, if a property owner is interested in using the form-based code for their property, they could opt-in by filling out an application. She said the review process would follow the typical site plan review process, where it would be reviewed and approved by staff if it met all of the requirements of the form-based code. She said there is also a pre-application meeting requirement for the form-based code since it is new to staff, and they can work with applicants and be proactive with the new development coming in.

Ms. Falkenstein said she wanted to mention the opportunity for phased development. She said if a property owner develops under the Rio29 Form-Based Code, the regulations are applied to the entire parcel. She said there are several large parcels within the Rio29 area, however, so staff wants there to be an opportunity for a phased development that could include existing buildings. She said there is a process by which an applicant could submit a conceptual plan to show how that phased development would occur. She said the updated form-based code before the Board shows some changes in that process to provide more clarity around how the conceptual plan would be reviewed and approved. She said there would be a special exception process where the Board would have discretion and approval.

Ms. Falkenstein said she would turn over the presentation to Ms. Brumfield to talk about the changes made since the last public hearing.

Ms. Lea Brumfield said the slide on the screen showed a list of some of the feedback from the public hearing, which was incorporated into the additional draft presently before the Board. She said the draft ordinance before the Board was revised with some of the changes from the March 17 hearing, which she would summarize.

Ms. Brumfield said as Ms. Falkenstein mentioned, staff did clarify the conceptual plan and special exception processes and fleshed out some of the requirements in the initial application process. She said under these changes, they did realize that the Interim Uses category, which was originally envisioned for things like restaurant pop-ups or food truck courts (or things that are not necessarily a brick-and-mortar long-term use), no longer meets the required process under the new changes and clarifications. She said as a result, staff removed those from the incompatible uses and added language to the Civic Space regulations to encourage these kinds of interim uses in those more appropriate spaces where it would be natural and more appropriate to have uses like food truck courts, pop-up restaurants, and short-term vendors.

Ms. Brumfield said staff heard confusion about the differences between and the requirements for industrial, light industrial, and artisan manufacturing uses. She said following those recommendations from the Board, the currently recommended draft ordinance does permit light industry through both the Core and Flex character areas, allowing uses like R&D and other light manufacturing to develop where the space is most available. She said the uses there, however, will still be required to meet the architectural street standards of those character areas, which brings the focus of the regulation away from the use and more towards the actual goals of the form-based code district, which is to regulate the form.

Ms. Brumfield said in response to the questions asked about artisan manufacturing, staff added language about storefront retail hours in the use revisions. She said this further clarifies and explains the types of uses that fall under artisan manufacturing, where artisan manufacturing may be producing higher-value goods that are directly marketed to consumers, necessitating a storefront; whereas, an industrial use that is manufacturing things that go to a distributor may not be appropriate under the category of artisan manufacturing.

Ms. Brumfield said in addition, there were some small edits and clarifications of language. She said the bullet points were changed to be clearer, which had been pointed out to staff by the County Attorney's Office.

Ms. Brumfield said a larger change was removing a reference to the specific numbers for affordable housing requirements in the form-based code regulations. She said instead, they are referring to the Comprehensive Plan, and they are directly requiring recommendations adopted under the Housing Albemarle policy. She said the reason for this is both to avoid setting in stone something that may change and also, to create a policy that can evolve in tandem with the County as those needs and those

Housing Policy evolves. She said this creates a much more flexible policy and district that has a code that will not require a ZTA every time the County's Housing Policy is updated.

Ms. Brumfield said also, as seen on prior slides, staff showed the Board graphics demonstrating the form standards for each character area and hopefully, they provided the Board clarity on the physical characteristics and expected visual impacts and provided context for how the different Core, Flex, and Edge character areas will interact and flow with each other.

Ms. Brumfield said the changes made to the current draft were in front of the Board, but she wanted to stress that the ordinance – even after adoption – will remain a living document. She said one of the changes in the planning profession over the last couple of decades is the realization that ordinances, however well-intentioned and expertly written, must be revised as time goes on. She said this is something staff wants to keep in the forefront of their mind – that form-based codes in particular require adjustments.

Ms. Brumfield said through discussions with colleagues in other municipalities who also use form-based codes, staff has heard over and over again that every form-based code requires tweaking as time goes on. She said the market or property owners try something and may realize that it may not necessarily work for that area, and so adjustments are needed. She said staff wants the code to reflect the unique market, and they want to work with the property owners and the developers working in the area. She said she wanted to stress this expectation moving forward.

Ms. Brumfield said there were recommendations for steps for implementation and development. She said another thing staff wants to move forward with is the idea that the Rio29 Form-Based Code Ordinance is not the only tool that they need to bring the vision for the Rio29 area to life. She said a few of the tools they are looking at include the street networking plan, some design guidelines for civic spaces, building standards for environmentally friendly buildings, and a transit plan incorporating current and future land uses and the street changes that will happen there.

Ms. Brumfield said this particular work is something that the Board will see coming to them in future capital planning project requests, as Community Development will be looking for funding for consultants to scope these projects – in particular, the street network and civic spaces plans. She said staff believes this is one of the first steps in bringing the Rio29 Small Area Plan vision to life. She said these kinds of projects (in particular, the street network and civic spaces plans) are as-of-yet un-scoped, and they are not already included in any work plan programs. She said while staff is extremely capable and talented, these projects are outside of the Zoning Ordinance and will require additional resources beyond the staff currently in the building today.

Ms. Brumfield said these kinds of projects are invaluable in creating certainty and trust in the development community, and staff thinks they will provide a grounding framework to make these people feel comfortable in moving forward and knowing that this is not a flash-in-the-pan idea that the County has but rather, something they are invested in.

Ms. Brumfield said staff is also emphasizing the priority of developing these projects through other projects, like the pinnacle projects described in the Project ENABLE grant program and investments like the ones on the screen will largely be public-private partnerships. She noted that the slide on the screen showed a page from the small area plan with ideas of transformative projects. She said these were not code-related, but brainstorming ideas of things that could go into creating a walkable, vibrant, lively Rio29 area. She said there are additional pages of this in the small area plan as well. She said the kinds of projects listed on the screen will be creating that walkable, vibrant, mixed-use area and is something staff looks forward to.

Ms. Brumfield concluded the presentation, noting that staff had motions available for the Board.

Ms. LaPisto-Kirtley thanked staff for the presentation. She said she was impressed with the idea of remaining flexible, the ability to be transformative, switch when needed, and working with the community and developers to see what fits the County's unique situation.

Ms. Palmer said that on the map, there was a natural area on the Edge. She asked how large staff thinks of a natural area, approximately, as she thought this was unusual. She said typically, a natural area needs some acreage to be natural.

Ms. Falkenstein replied that there are actually standards in the code for the sizes of different civic spaces.

Ms. Brumfield said the natural area in question has a minimum of a half-acre in the code. She said when looking at a natural area, this is not going to be a Darden Towe Park, as it is a very urban area with urban parks. She said to think more of a smaller natural area.

Ms. Brumfield said the natural area is a type of civic space that is not a plaza. She said it is natural as opposed to being hardscaped and having benches and places for food trucks. She said the distinction is that a natural area would be something like a trail among trees, with perhaps some spots for frisbee golf or the like.

Ms. Palmer said it was nice to see the code moving forward and finishing up.

Ms. McKeel said she was very impressed and thrilled. She thanked staff for their hard work. She said staff listened to the community, made adjustments, and she thinks the end result is great. She said she likes the idea that they are stressing this is not written in stone, and changes can be made to it. She said it is a living document and can change, which she thinks is outstanding.

Ms. McKeel said she did not have concerns, but a couple of questions. She said she liked the light industrial piece because, for her, this gets at the ability to have some economic development, whether R&D or otherwise. She said she assumed staff worked with Mr. Roger Johnson and the Economic Development staff, to some degree, on this work.

Ms. Falkenstein replied yes. She said staff worked with Economic Development throughout the process and received their feedback along the way.

Ms. McKeel asked staff to provide clarity on parking and how it might work in the different areas. She said they wanted to stress transit, walking, and bicycling, and she asked staff to give her a quick summary of how parking would be handled.

Ms. Brumfield replied that there is an across-the-board, general standard for the different districts, which is one space per 1,000 square feet for nonresidential, and one space per dwelling unit for residential. She said this is across the board for all the districts. She said they can exceed that maximum by 150% or, if necessary, request additional spaces on that as well if a study determines that this is actually required.

Ms. Brumfield said one big thing that she thinks makes this much easier is that it allows structured parking in the form-based code, whereas structured parking is not easy to come by in other parts of the County. She said this is one way in which they are hoping to bring that about.

Ms. Brumfield said there are also particular allowances for more explicit shared parking, so retail areas do not necessarily individually need their own parking. She said if a large government building will be next to a retail area or a place with many restaurants, the two shifts between the parking times will be very obvious where people leave work at 5:00 p.m., then go out to dinner. She said this is written into the code to try to take advantage of the space as opposed to dedicating it individually. She said staff also hopes for more transit as well.

Ms. McKeel said she was thrilled to hear this, as it is obvious that they are trying to get away from 4,000 spots on a big, flat piece of property. She said she could tell from staff's designs that they are not doing that, but it was interesting to hear Ms. Brumfield talk about it.

Ms. McKeel said that when looking at transit in the community now, they are looking at multiple types of transit. She said it is not all fixed route, but there will probably be some on-demand options. She said this is something staff said they would be coming back to later, which she thought was great.

Ms. Mallek said as she studied the draft, she wrote down a few items, and they were somewhat disjointed. She said she was glad to see the changes made since March, especially regarding light industrial throughout the Core, which she thinks will make a big difference for everyone.

Ms. Mallek asked if tree canopies were mentioned in the code. She said there is a section on street trees that she would come to later. She said large parking lots will not have any existing trees, but she wanted to know if there was a statement in the code about keeping any large trees and working around them rather than turning everything flat and replacing with tiny trees.

Ms. Falkenstein replied that they did not have that language and rather, they refer to the existing landscaping section. She said she hopes to update this with the countywide ZTA, so this could evolve in the future.

Ms. Mallek said she did also add up the curb-and-gutter, and the 40-foot measure that was used in the past has now grown to 98 feet on boulevards. She said that according to the map, it looked like Rio was the only one of those, and she wanted to know if this was correct. She said at first, she was alarmed as she thought they were going to have 98-foot-wide streets through the middle of these projects, which would mean there would be no room for anything else. She asked if there is flexibility for these street widths, depending on the circumstances, so that they did not have to all look exactly the same.

Ms. Accardi replied that there is a provision in the street standards for collaboration with VDOT and County staff, as they recognize they only have so much control over those street standards. She said staff hopes that with this ordinance, the pedestrian spaces and walkability is retained, understanding that different sites have different needs, and this could provide some flexibility.

Ms. Mallek stressed that what Ms. Accardi just said was very important because if it is emphasizing the importance of pedestrians, this will hopefully forestall the battle that the County had with Streetscape I in 2008, where they had to almost go to blows with VDOT to get them to accept a wider sidewalk than they wanted to have. She said this sounds very positive.

Ms. Mallek said the code talks about maintenance of sidewalks. She asked if this includes snow removal, adding that the Board had to go to the legislature to get something about snow removal, and they have not had it acted upon yet. She asked staff if their definition includes sidewalk clearing for snow.

Ms. Falkenstein replied that the code does not reference this specifically, and they talk about maintenance more generally. She said it would be that anything the County has under the current maintenance regulations would apply, but it does not get specific, so they do not mention snow removal.

Ms. Mallek said the attorneys can advise the Board about whether they need to somehow be more specific in their definition so that one does not say they do not want to bother shoveling the snow, which would be a big problem.

Ms. Mallek said many different features say, "...or modified by staff." She asked staff if they are planning to develop some kind of guidelines list for these places where staff will be making modifications at the request of an applicant without bringing anything to the Board, so that there is more structure to those kinds of changes.

Ms. Falkenstein replied yes, noting that this is what Ms. Brumfield was referencing about some of the future work they still need to do to develop design standards. She said this may be something that is a countywide effort that is needed in the all the development areas and that can be applied to Rio29 as well.

Ms. Mallek asked if there is any support to make green infrastructure and stormwater a requirement. She said this question was because of the livability improvements gained when there are green features around. She said she was thinking about the beautiful biofilter that is down the street from the County Office Building and that as she was pulling in that evening, a big bunny popped out. She said this is one start for a habitat there. She said she did not see any mention of that in the draft. She said she hoped they could consider doing this in a more directive way rather than leaving it as an option to applicants who would most likely pass on it.

Ms. Falkenstein said this would be another matter that would be a future work item. She said the Planning Commission noted that this was especially important to them to have low-impact design standards and green building standards. She said this would be a future work item to incorporate, and the current draft does not require this.

Ms. Mallek noted as an aside that the draft is very readable. She referenced an experience in Old Trail where, when they specify a large shade tree, yet they only have a 4-foot-wide section of grass between the pavement and the sidewalk, within a very short number of years, the sidewalk will be bursting up because of the roots of these big trees. She said the trees grow very fast and give wonderful shade, but they are too big for their spaces. She said she hopes staff will consider doing more of what they did in some places, which is larger median, depending on the space available, so that these trees have an opportunity to succeed and survive longer without being topped and trimmed. She said this makes a lot of money for the arborists, but it is not good for any of the trees.

Mr. Gallaway said he would reserve many of his comments until after the public hearing portion. He said the main question was about page 25 of the redline version of the code, which mentioned the removal of the existing building. He said this is under Block Plans (2B), and also under 3A. He said it looked as if minimum height did not change, but back on page 3, there is a new section that also deals with existing buildings and reuse. He said he was trying to make all the connections, and it looked like those two sections were connected. He said he was curious as to the rationale behind making those changes.

Ms. Falkenstein said Mr. Gallaway was correct that those two changes are connected. She said the earlier draft had some language about reuse of existing buildings in the Building Standards section, but after talking through it and hearing some of the feedback, staff decided to add more clarity on how a Phase III development would occur with the use of existing buildings. She said on page 3 and 4 of the redline, one can see quite a bit of red text, and that is the change there. She said staff wanted to clarify what the process would be for someone wanting to reuse a building in a phased manner, and so there is more clarity and certainty about how that would happen. She said this hopefully clears up any confusion that might have been in the previous version. She said if there were specific questions, she could talk through it more.

Mr. Gallaway said it was about him trying to jump between pages 25 and 3. He said regarding the block length piece, for example, it is not that they are prohibiting this or taking it away, but they will take that section and deal with it in another. He said if an application came forward and an existing building needed some sort of special exception that went against the block length, that could happen.

Ms. Falkenstein said this was correct and that it is still through the special exception process, though reorganized somewhat in the draft.

Mr. Gallaway said he had another comment and a question, but he realized that someone was signed up to speak. He opened the public hearing for public comment.

Mr. Neil Williamson (Free Enterprise Forum) said the Free Enterprise Forum has been engaged with this process and the processes that preceded it for well over a decade. He said he would be remiss if he did not thank staff, including Ms. Falkenstein, Ms. Accardi, and Ms. Brumfield (Community Development), and Mr. J.T. Newberry (Economic Development). He said those staffers not only attended meetings and participated in community forums, but they listened, and the results are clear in the document.

Mr. Williamson said first, there is an optional overlay. He said they have called for that since the beginning. He said secondly, the Free Enterprise Forum is concerned that the incentives currently in place may or may not be enough. He encouraged trying it, however, as it is a living document, and they can see if they can make this happen. He said the Free Enterprise Forum continues to have concerns about phased implementation on existing parcels. He said staff has expressed some flexibility on this. He said he believes this is positive and that it will move this form-based code forward.

Mr. Williamson said that overall, the Free Enterprise Forum is supportive of this evolution of zoning code rather than a revolution of form-based code. He said they support the ZTA, and they hope that staff will continue to work hard to retain the flexibility that is currently written within the ZTA. He thanked staff for their years of hard work and the Board for the opportunity to speak.

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

Mr. Gallaway said he appreciated Mr. Williamson's comments. He said regarding the incentive piece, he did not think that anything needed to be changed, but he believed it needed to be stated or defined for developers who are interested in coming forward. He said the Board talked about incentives as part of the Housing Policy and wanting to help get affordable housing units in. He said this area is ripe for public-private partnerships and different types and forms to potentially come to be, some that they may not even know about.

Mr. Gallaway said the form-based code does require the pre-application meeting with staff, and staff lays out clearly what is to happen in that meeting. He said as he was reading this again in preparation for the meeting, it occurred to him that this is where the incentive conversation should probably take place, and he did not know if this was with CDD or if it is appropriate for the Economic Development team, or perhaps both.

Mr. Gallaway said he had made some comments during the Housing Albemarle conversation regarding that if there is an incentive in mind, one should bring it to the Board and talk about it. He said here in the form-based code, there is a place where this could occur, in the pre-application meeting. He said this meeting, which is a great idea and smart to do, could be the place for that. He said he did not know if this should be brought up with the CDD staff or if this should be discussed with the EDA. He said perhaps there is a process for how this works and plays out now when the County has incentive-based conversations for different projects.

Mr. Gallaway said he was bringing this up for enlightenment or understanding of how this actually plays out, as it is not written down anywhere. He said he wanted to make sure that the County is open to hearing people's ideas, that if there are some incentives that the County can be doing to help things along and get the vision into place, they should be open-minded to this.

Mr. Doug Walker, Deputy County Executive, said he could speak more to the experience that the County has and that they have participated in on the Economic Development side than he could speak to the structure of the form-based code and what it offers. He said he thinks all of these represent tools in the toolbox, both from a land use perspective and how they organize uses and allow organized development of property, both greenfield and brownfield. He said the question is how they focus more specifically on the nonresidential investment in properties that then benefit the overall tax base and job opportunities, and this is where Economic Development work has more of a priority.

Mr. Walker said the Board is familiar with the formal tools of Economic Development and the EDA such as the ENABLE grant, the VJIP grant, the AFID grant, and participation in the Commonwealth's Development Opportunity Fund. He said there are recent examples where there has been the development of formal public-private partnerships where the public good has been identified, characterized, quantified, and invested in over a period of time. He said he was reinforcing this not specific to the form-based code, but for the opportunity for conversations that the County would want to have with investors and developers around how their interest and the County's interest can best align for meaningful development.

Mr. Walker said he thinks the form-based code and, more broadly, the Zoning Ordinance come into play in how this fits into the organization of the land use as they are talking about the development or the investment in the property from an economic standpoint. He asked if this was helpful, confusing, or perhaps prompted some other dialogue.

Mr. Gallaway said this was very helpful. He asked if anyone else wanted to comment.

Mr. Charles Rapp, Planning Director, said what Mr. Walker said was spot-on, and he would also say that this is one of the main intentions of pre-application meetings. He said they often have VDOT and Economic Development personnel in the room, and the goal is to figure out what the potential project is and who may need to collaborate and guide them through the process.

Mr. Rapp said with the form-based code specifically, some of the other projects mentioned (e.g., street network, civic spaces, and identification of public elements) will help to guide that and identify where those potential public-private partnerships are and how they can come to the table to bring the vision to a reality. He said all of this ties together with coordination and feedback to make sure that everyone is at the table and that those opportunities are identified.

Mr. Gallaway said he was happy to see that drive-through windows were not applicable on higher stories of buildings. He said that during COVID, however, drive-through windows were a lifesaver for many places. He said he was not suggesting the County allow drive-through windows in the Core, where it will be prohibited. He said in other areas, they have a special exception. He said he hoped it was not rigid enough that if a place wanted to have a walk-up situation, that this would be allowed because it would not just help with COVID, but with the walkability. He said he was making sure that drive-through literally meant vehicles driving through, but not the actual structure of a sliding window where food can go out. He asked if his understanding was correct on this.

Ms. Brumfield said this was correct. She said staff does not have any regulations for walk-up windows.

Mr. Gallaway asked if they would then not be prohibited and have not been considered yet.

Ms. Brumfield said this was correct. She said this would be looked at through the architectural standards part of the review, and in a pedestrian-focused form-based district, she thinks this would probably be encouraged on all accounts.

Mr. Gallaway said he was thrilled to see the addition of the pop-up restaurants, vendors, and food trucks. He said he presumed that the pop-up restaurant could be connected to the building there. He said thinking through the restaurants he has been to the past couple of years, having the restaurant set up outside is important. He said he believed this was all part of it.

Mr. Gallaway said regarding transformative projects, this was a comment not to the form-based code, but to what perhaps the Board could do. He said if there are County investments, rules, or next steps to take to encourage this development, there are communities in and around the area that have been identified in the small area plan that are incapable of moving around the way that they want them to without getting in a car.

Mr. Gallaway said Woodbrook is an example. He said if people from Woodbrook could get to Kroger on foot, they would do it. He said if people from Woodbrook could get up to the new Aldi on foot, they would probably do it. He said it is very difficult under the current infrastructure, however, and a fixed-line transit route will not do it.

Mr. Gallaway said he did not know how fast an on-demand transit could get, but if there is a small area where a micro transit line could work within the small area plan, and they can start moving the people that are there now among the businesses that are there now, then other developers can start to notice how this is taking off. He said he thinks that once people in Woodbrook get into their cars, they are driving to other destinations. He explained that if they can start getting the mobility happening better, this could be a big transformative project because a developer can notice that movement is already happening in and around parcels that have yet to be developed.

Mr. Gallaway said this was just a thought and that he did not know how to get there as a County. He said he thinks the transit options, as they exist now, are limited to make something like this happen, but they have been creative with shuttles from outlying areas, and there is one coming across the mountain from Staunton. He said all of this is great but now, they need to start looking at a micro way of how they can make areas like this start to swirl. He said he thinks this can be a good investment, high-return situation for that area.

Mr. Gallaway said he was throwing this out as an idea that the County could do without necessarily having to build a building or set up a huge capital improvement project. He said they can take something that he thinks is in demand now that people would really like, and they are trying to get there with the walkways and multi-use paths up the Rio and Berkmar corridors so that perhaps now, people can stay in one spot, move around, and have a micro-transit situation that could take off. He said the possibilities, including Stonefield, could play out. He said he is excited that the form-based code is finally going to happen.

Mr. Gallaway said he is thrilled with the code and that his CAC constantly reminds him that they need to get the code passed, so he knows they are excited that this will come to be.

Mr. Gallaway said hearing about four years, he is going to finish his fourth year on the Board, which is a long time. He said staff has been working on this project for a long time, and he has never heard one complaint about how they have handled the project. He said Mr. Williamson spoke to this, as he specifically called out Ms. Falkenstein, Ms. Accardi, and Ms. Brumfield. He said he thinks many others have worked on this project and that the Steering Committee and the Rio29 CAC would be saying the same thing. He said this was tremendous work, and he thinks it will be a huge vision that the County will see come to be.

Mr. Kamptner asked that there be two motions: one for the Zoning Text Amendment and one for the Zoning Map Amendment.

Mr. Gallaway **moved** that the Board adopt the proposed Rio29 Form-Based Code Zoning Text Amendment (Attachment B). Ms. Mallek **seconded** the motion.

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

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

ORDINANCE NO. 21-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article III, District Regulations, are hereby amended and reordained as follows:

By Adding:

Sec. 20C Rio29 Form-Based Code Overlay District - Rio29FBC District

By Amending:

Sec. 30.6.4 Certificates of appropriateness

CHAPTER 18. ZONING

ARTICLE III. DISTRICT REGULATIONS

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SECTION 20C - RIO29 FORM-BASED CODE OVERLAY DISTRICT - RIO29 FBC DISTRICT

Sec. 20C.1 - Purpose and intent.

The Rio29 Form-Based Code Overlay District (Rio29 FBC District) is created to encourage a development pattern consistent with the vision described in the Rio29 Small Area Plan. The Rio29 Small Area Plan envisions an area that is:

1. A multimodal hub with a connected network of complete streets, which are designed for all users;
2. A vibrant and diverse mixed-use community with interesting character and a human-scale built environment; and
3. A place enhanced through conservation with a network of sustainable and usable public spaces that enrich community and preserve and enhance natural resources.

The Rio29 Form-Based Code (Rio29 FBC) is intended to support redevelopment of existing conventional suburban development to establish new, compact development patterns with an urban scale, mass, density, and a mixture of uses within close proximity to each other. Further, the Rio29 FBC is intended to:

1. Allow development that achieves the vision through an administrative process;
2. Establish clear expectations for residents, property owners, developers, and the County for new development;
3. Be applied upon adoption and allow the area to transition over time to meet the vision; and
4. Strike the appropriate balance between regulation to achieve the desired form, and flexibility to accommodate market changes, creativity in design, and a mix of uses.

The purpose and intent of each section outlined below are based on this vision. The provisions outlined will inform the development of property within the Rio29 FBC District and provide administrative guidance for waivers or exceptions to the Rio29 FBC.

- A. *Uses.* Regulation of uses in the Rio29 FBC District is de-emphasized in favor of regulation of street, site, and building forms. Some use regulations remain to avoid negative impacts to residents and other uses.
- B. *Streets.* Streets in the Rio29 FBC District are designed as "complete streets" to balance the safety and needs of all forms of traffic: pedestrian, bicycle, transit, and vehicular. A street's designated character area(s) and function(s) determine the applicable design standards.

Local streets within the Core prioritize walkability and pedestrian comfort, with automobile movement as a secondary focus.

C. *Building standards.* Building standards govern the physical form and mass of buildings in relation to one another by establishing basic parameters for development. These parameters include building height, ground floor ceiling height, block length, and build-to range. The purpose of the building standards section is to support development that is well-connected, walkable, human-scaled, and includes a high-quality public realm.

D. *Parking and loading standards.* Parking and loading standards promote a "park once" environment that enables convenient access to a variety of activities by walking, biking, and using transit. These standards encourage shared parking to reduce fragmented, inefficient, and single-purpose parking. Parking and loading standards provide access and walkability to activities within the Rio29 FBC District, while preventing adverse parking impacts on the pedestrian environment, public spaces, and neighborhoods adjacent to developments.

Short-term bicycle parking standards create convenient and accessible bicycle parking areas for customers and other visitors.

Long-term bicycle parking standards create secure and weather-protected bicycle parking areas for employees, residents, commuters, and other visitors who generally stay at a site for several hours.

E. *Architectural design standards.* The physical design of buildings and neighborhoods contributes significantly to the overall experience of a community. The distinctive characteristics of various buildings make streets interesting, and make neighborhoods satisfying places to live and work. Simplicity in design, honesty in expression, quality craftsmanship, human-scale proportions, and variety in compositions and details establish a comfortable, welcoming environment.

Architectural design standards set parameters for the exterior design of buildings, addressing appearance using appropriate materials, configurations of building elements, and suitable building techniques. The purpose of the architectural standards section is to reinforce a human-scaled environment with active streets and visual interest and to establish a sense of place that is unique to the Rio29 FBC District.

F. *Civic space standards.* Civic spaces are intended to be places for community members to gather and recreate, and should improve sustainability through the provision of green infrastructure services. Civic spaces include (but are not limited to): squares, plazas, greens, linear parks, pocket parks, natural areas, and indoor civic gathering spaces.

G. *Affordable housing requirement.* The provision of affordable housing is required in all residential developments containing five or more residential dwelling units to ensure a variety of housing types and levels of affordability are provided in alignment with the Albemarle County Comprehensive Plan (Chapter 9, Housing) and the Housing Albemarle policy (Albemarle County Comprehensive Plan, Appendix 9).

(§ 18-20C.1, Ord.21-18(4), 9-1-21)

Sec. 20C.2 - Administration and general provisions.

A. Title. This Code is known as the Rio29 Form-Based Code (Rio29 FBC).

B. Applicability.

1. The Rio29 FBC is an optional zoning tool. Property owners who do not opt into the Rio29 FBC retain their existing zoning. Use of the Rio29 FBC is selected through the filing of an application for development under the Rio29 FBC. Properties developed pursuant to the Rio29 FBC must comply with all provisions of the Rio29 FBC.
2. Properties located in the Rio29 FBC District (as designated on the Regulating Plan) may use or develop property pursuant to the Rio29 FBC. After such use or development, all uses permitted pursuant to section 20C.6 are permitted on the property, subject to all Rio29 FBC regulations.
3. If an owner develops a parcel pursuant to the Rio29 FBC, Rio29 FBC regulations apply to the entire parcel as it existed on September 1, 2021.
4. Parcels developed under the Rio29 FBC may not subsequently develop subject to the district regulations of the underlying district.

5. Redevelopment of existing structures or incorporation of existing structures in the development of a parcel may occur in a phased manner by submitting a conceptual plan showing the proposed redevelopment. Existing structures incorporated into a conceptual plan are required to meet all provisions of the Rio29 FBC.
 6. In the event of any variation or conflict between any provisions of the Rio29 FBC and other sections of the Albemarle County Code, the provisions of the Rio29 FBC govern. For development standards not covered by this Rio29 FBC, applicable sections of the Albemarle County Code apply. Similarly, all development must comply with all applicable Federal, State and County regulations and ordinances including (but not limited to) Albemarle County Code Chapter 17 (Water Protection) and other environmental regulations.
- C. Application requirements and review process.
1. *Preapplication meeting.* Any prospective application for development in accordance with the Rio29 FBC must request and hold a meeting with the Community Development Department before submitting an initial site plan. This meeting is referred to as the "pre-application meeting."
 - a. *Submitting information.* The applicant must complete and submit information on County -provided forms before or during the pre-application meeting.
 - b. *Purposes for a pre-application meeting.* The purposes for a pre-application meeting are to:
 - i. Provide the applicant and the County a common understanding of the proposed project;
 - ii. Inform the applicant about the proposed project's consistency with the Regulating Plan, other relevant policies, and County regulations;
 - iii. Broadly identify the planning, zoning, and other issues raised by the application that need to be addressed by the applicant;
 - iv. Inform the applicant about the applicable procedure; and
 - v. Allow the Director of Planning to identify the information the applicant must submit with the application pursuant to section 32.5.
 2. Submission requirements.
 - a. Owners opting to use or develop a parcel pursuant to the Rio29 FBC must submit a Rio29 FBC application at the time of initial site plan submittal.
 - b. Initial site plan. The applicant must complete and submit an initial site plan according to the requirements outlined in section 32.5.2.
 - c. Final site plan. The applicant must complete and submit a final site plan according to the requirements outlined in section 32.6.2.
 3. Conceptual plan.
 - a. A conceptual plan must be submitted when a new use or redevelopment is proposed that will retain and/or reuse existing buildings, either temporarily or permanently, or if a phased development is proposed that will not bring the full property in compliance during the first phase of development.
 - b. The conceptual plan must be submitted as part of the Initial Site Plan or as required in section 20C.2.D as part of a special exception. The conceptual plan must include the following:
 - i. The location of all new development on the site;
 - ii. The location, condition, and any renovation of existing buildings to be retained;
 - iii. Any existing site improvements (such as parking areas, landscaping, and open space) to be retained;
 - iv. The location of existing streets to be retained, future streets, and future connections to streets on adjoining parcels;
 - v. The location of existing and proposed civic spaces;
 - vi. The proposed uses on the site;
 - vii. A phasing plan showing phase lines and the proposed sequence of development; and

viii. A summary of any modifications requested.

D. Special exceptions.

1. In addition to special exceptions granted under section 33, special exceptions from the Rio29 FBC may be granted by the Board of Supervisors for the following:
 - a. The allowance of multi-family and single-family attached dwellings that occupy greater than 66 percent of the ground floor street-facing façade within the Core character area;
 - b. The allowance of a single-use artisan manufacturing building with a footprint larger than 20,000 square feet within the Edge character area;
 - c. Modifications to building standards or to architectural design standards related to the inclusion of existing buildings, subject to the conceptual plan requirements of section 20C.2.D.3;
 - d. Modifications to block length for reasons other than those listed in section 20C.8.C.2;
 - e. Relief from the provisions of 20C.2.B.3 to allow the Rio29 FBC to apply to a portion of a parcel existing on September 1, 2021. In addition to the submittal requirements of section 33 the applicant must submit a conceptual plan showing how the entire property could be developed in accord with the regulations of the Rio29 FBC.
2. Special exceptions from the provisions of the Rio29 FBC may be granted by the Board of Supervisors upon a finding that the special exception:
 - a. Furthers the purpose and intent of the provisions of the Rio29 FBC as described in section 20C.1 (Purpose and intent);
 - b. Is consistent with the Regulating Plan; and
 - c. Is consistent with the Comprehensive Plan.
3. Special exceptions to allow modifications to building standards or architectural design standards related to inclusion of existing buildings, or to allow relief from provisions of section 20C.2.B.3, may be granted by the Board of Supervisors following the submittal of a conceptual plan, where the following additional conditions are met:
 - a. Renovations must not cause existing building(s) to become more nonconforming as to building standards, architectural standards, or any other relevant requirements of this code.
 - b. Streets that provide site access and/or connectivity to adjacent properties must be constructed or upgraded to meet the requirements of Section 20C.7 and be completed prior to commencement of the use, issuance of a zoning clearance, or issuance of a Certificate of Occupancy for the first phase of development.
 - c. Where a new use is proposed under section 20C.6, existing buildings (constructed prior to September 1, 2021) being retained must be shown as part of the phase in which the building will be first used. The following site and building improvements must be provided prior to commencement of the use, issuance of a zoning clearance, or issuance of a Certificate of Occupancy for the phase of development of the building's first use:
 - i. Streets to serve each phase of development must be constructed or upgraded to meet the requirements of section 20C.7 with each phase of development.
 - ii. The minimum area of required civic space, calculated based on the gross acreage of each phase, must be constructed and dedicated with each phase of development.
 - iii. All existing buildings to be retained must meet architectural design standards of section 20C.10 with each phase of development.
 - d. Any other conditions as determined by the Board of Supervisors

- E. *Agent.* The Director of the Albemarle County Community Development Department is hereby designated the Agent of the Board of Supervisors for the purpose of administering the Rio29 FBC, except as otherwise expressly provided. The Agent or their designee has the power and duty to consider and act on requests to vary or except certain Rio29 FBC regulations, pursuant to the Rio29 FBC. All references to the Agent in this section may apply to the Agent or their designee.

(§ 18-20C.2, Ord.21-18(4), 9-1-21)

Sec. 20C.3 - Definitions.

The following definitions apply only for purposes of the Rio29 FBC.

Alley. "Alley" means a narrow, one-lane road with provisions to access utilities and loading areas.

Articulation of a façade. "Articulation of a façade" (or "façade articulation") means changes in the depth of the surface of a building face or façade such as attached columns, recessed windows or window bays, horizontal banding, or decorative cornices. Articulation gives texture to the building surface.

Artisan manufacturing. "Artisan manufacturing" means the production, display, and sale of individually crafted tangible goods such as artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven article, baked or prepared food and drink, watercraft, and similar items. Artisan manufacturing does not include industrial-scale mass production.

Avenue. "Avenue" means a two-lane, medium-capacity street with provisions to serve both local and through pedestrian, bicycle, and automobile traffic, as well as transit. Berkmar Drive and Hillsdale Drive are Avenues.

Block. "Block" means an increment of land circumscribed and not traversed by streets (alleys and pedestrian pathways excepted). Block length is measured along the edge of a street right-of-way. The measurement is taken along parcel frontages from one corner of a street right-of-way to the next.

Boulevard. "Boulevard" means a four-lane, high-capacity street with provisions to serve both local and through pedestrian, bicycle, and automobile traffic, as well as transit. Rio Road is a Boulevard.

Build-to range. "Build-to range" means a minimum and maximum threshold located on the front(s) of a lot where the structure must be located, measured from the rear edge of the right-of-way or external civic space. The building's street façade wall must be located within the build-to range. Façade articulation, such as window or wall recesses and covered porches, balconies, chimneys, eaves, and like architectural projections are not counted as the building façade line.

Civic space. "Civic space" means an area dedicated to public use that is designated for gathering, socializing, and recreation. Civic space is usually in the form of open outdoors space but may also be in the form of indoor civic gathering spaces.

Commercial parking. "Commercial parking" means the use of surface or structured parking for rent, lease, or sale.

Community facility. "Community facility" means a public or private recreational, safety, cultural, or religious use or facility such as a camp, volunteer fire/rescue station, religious assembly use, museum, community center, or similar facility.

Conceptual plan. "Conceptual plan" means a plan submitted pursuant to section 20C.2.C.3 that delineates the overall scheme of redevelopment where a new use or redevelopment is proposed that will retain and/or reuse existing buildings.

Cultural amenity space. "Cultural amenity space" means a museum, art gallery, or other cultural facility located within a structure. This type of facility must be open to the public on a regular basis.

Development site. "Development site" means property to be developed pursuant to the Rio29 FBC.

Façade segment length. "Façade segment length" means the length of a building façade without horizontal or vertical plane articulation.

Indoor civic space. "Indoor civic space" means an indoors gathering space that provides public access and cultural, horticultural, or other indoor amenities, designed to accommodate recreational functions including (but not limited to): public meeting spaces, sitting, relaxing, picnicking, or education.

Institutional uses. "Institutional uses" means public or private health or educational uses and facilities such as schools, training centers, universities, hospitals, assisted living facilities, skilled nursing facilities, children's residential facilities, or similar facilities.

Landscaped separation zone. "Landscaped separation zone" means the area between the sidewalk and right-of-way that is designed according to the streetscape elements standards in section 20C.7.C.

Light industrial uses. "Light industrial uses" (LI) means processing, fabricating, assembly, or disassembly of items that take place wholly within an enclosed building and that are compatible with, and do not detract from, surrounding uses. Light industrial uses may involve use of tools or machinery. Large scale storage or warehousing of materials are not light industrial uses.

Linear park. "Linear park" means a long, uninterrupted park within an urban area that features a shared use path (SUP) linking a greenway with other amenities and trails, designed to accommodate recreational functions including (but not limited to): walking, running, cycling, sitting, and relaxing.

Live-work dwelling unit. "Live-work dwelling unit" means a dwelling unit that consists of both a residence and a commercial or manufacturing space used by at least one resident of the unit.

Local street. "Local street" means a two-lane, low-speed street with provisions to serve local pedestrian, bicycle and automobile traffic.

Natural area. "Natural area" means a vegetated outdoor civic space of at least 0.5 acres with little to no impervious surfaces, designed to accommodate wildlife habitats and recreational functions including (but not limited to): walking, jogging, biking, relaxing, or picnicking.

Pedestrian passages. "Pedestrian passage" means a pedestrian-only street with provisions to serve local pedestrian traffic safely and conveniently. Pedestrian passages are open to the sky, except for canopies and trellises.

Plaza. "Plaza" means an outdoor civic space of 0.25 – 2 acres surrounded on all sides by buildings or roads, designed to accommodate recreational functions including (but not limited to): relaxing, sitting or strolling, casual gatherings, picnics, and organized events.

Pocket park. "Pocket park" means a small park embedded within an urban or suburban neighborhood of 0.2 – 0.5 acres, designed to accommodate recreational opportunities for residents and employees of nearby developments, including (but not limited to): relaxing, sitting, strolling, gardening, dog-walking, playing, or casual gatherings. The park may help the meet needs for public or private open space and stormwater management.

Public green. "Public green" means an open outdoor civic space of 0.5 – 5 acres surrounded on all sides by buildings or roads, designed to accommodate recreational functions including (but not limited to): relaxing, sitting or strolling, casual gatherings, or organized events.

Public art. "Public art" means the application of creativity by artists to the production of tangible objects, including (but not limited to): paintings, carvings, collages, sculptures, frescoes, mosaics, site-specific installations, mobiles, engravings, bas-reliefs, and murals. Architects and landscape architects are not artists for purposes of this definition.

Rideshare. "Rideshare" means a transportation service in which a passenger travels in a private vehicle driven by the vehicle's owner, especially as arranged by means of a website or a mobile phone application.

Sidewalk clear zone. "Sidewalk clear zone" means a contiguous, unobstructed portion of sidewalk that allows the safe and convenient passage of pedestrians.

Square. "Square" means a primarily hardscaped outdoor civic space ½ to 1 block in size, designed to accommodate a variety of functions, including (but not limited to): farmers' markets, outdoor games, food truck sales, concerts, social gatherings, civic gatherings, outdoor learning spaces, pop-up businesses, and passive recreation.

Street façade. "Street façade" means the building elevation facing a street or civic space. Building walls facing private interior courts, common lot lines, alleys, or pedestrian passages are not street façades.

Street furniture. "Street furniture" means benches, seating, and tables that are available for public use along the street frontage.

Through corridor. "Through corridor" means a high-capacity, high speed street with provisions to serve local and regional traffic. Route 29/Seminole Trail is the only through corridor.

Transparency. "Transparency" means the amount of glass in windows and/or doors (including any mullions, muntins and frames) as a percentage of the building façade. Glass must have low reflectivity. Semi-transparent, opaque, frosted, etched, and mirrored glass do not qualify as transparent glass.

(§ 18-20C.3, Ord.21-18(4), 9-1-21)

Sec. 20C.4 - Character areas.

Establishment of character areas. The Rio29 FBC District contains three character areas: Core, Flex and Edge. Designated character areas determine the appropriate uses and forms of development within each designated character area. The uses and forms of development are intended to implement the adopted Rio29 Small Area Plan.

- A. *Core.* The Core character area has the highest intensity and most urban form of development within the District. Development encompasses a mixture of uses and an active street life, encouraged by transparent façades, taller ceiling heights, and non-residential uses on the ground floors of buildings. Well-designed civic spaces enhance an urban and pedestrian-friendly experience. People can easily walk, bike, and use transit to reach their destinations within and outside of the Core.
- B. *Flex.* The Flex character area accommodates a range of building forms and uses to transition from higher intensity urban development in the Core to the lower intensity development along the Edge. The Flex physically connects the Core and the Edge and has a variety of building heights and block sizes. This connection is enhanced through a network of civic spaces and pedestrian, bike, and transit options.
- C. *Edge.* The Edge character area exhibits less intense development than the Core and Flex, given its location next to existing residential neighborhoods. Buildings are expected to have lower heights and smaller forms, while continuing to provide neighborhood services and a mixture of uses.

(§ 18-20C.4, Ord.21-18(4), 9-1-21)

Sec. 20C.5 - Regulating plan.

The Rio29 FBC Regulating Plan indicates the designated character area for each property within the Rio29 FBC District. It also includes the general location of required civic spaces, pursuant to section 20C.11.

The Rio29 Small Area Plan includes a [Future Connectivity Plan](#), which depicts an interconnected network of street types as depicted in section 20C.7. Site plans under the Rio29 FBC should reference the Future Connectivity Plan. While redevelopment and new development will determine the actual location of streets, site plans should provide direct multi-modal connections that will allow people to easily walk, bike, and use transit to reach their destinations within and outside of the Rio29 District.

(§ 18-20C.5, Ord.21-18(4), 9-1-21)

Sec. 20C.6 - Permitted uses.

- A. *Permitted uses.* The uses permitted in each character area are listed in Table 1. Accessory uses are permitted unless explicitly prohibited in Table 1.

Table 1: Permitted uses

USE CATEGORY	CHARACTER AREA			
	Core		Flex	Edge
	Ground floor	Upper floors		
RESIDENTIAL – DWELLING UNIT TYPES				
Multiple-family dwellings	P	P	P	P
Live-work dwelling units	P	P	P	P
Single-family attached dwellings	P	P	P	P
Single-family detached dwellings	N	N	N	SE
COMMERCIAL, INDUSTRIAL, and FLEX USES				
Retail sales and service	P	P	P	P
Restaurants, hotels, and lodging	P	P	P	P
Entertainment and recreation	P	P	P	P
Office	P	P	P	P
Artisan manufacturing	P	P	P	P
Commercial parking	P	P	P	N
Fuel pump canopies	SP	SP	SP	SP
Drive-through windows	N	n/a	SE	SE
Light industrial	P	P	P	SP
PUBLIC and INSTITUTIONAL USES				
Public and institutional uses	P	P	P	P
Community facility uses	P	P	P	P
Fire, ambulance and rescue squad stations (reference 5.1.09).	P	P	P	P
Cultural amenity space	P	P	P	P
Public art	P	P	P	P
SHORT-TERM USES				
Temporary uses	P	P	P	P
Temporary construction uses and temporary storage yards	P	P	P	P
UTILITIES				
Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. Public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference section 5.1.12).	P	P	P	P
Stormwater management facilities	P	P	P	P
Tier I and Tier II personal wireless service facilities (reference section 5.1.40).	P	P	P	P
Tier III personal wireless service facilities (reference section 5.1.40).	SP	SP	SP	SP
P= Permitted by right SE = Special exception required N = Not permitted SP = Special use permit required				

(§ 18-20C.6, Ord.21-18(4), 9-1-21)

B. Use provisions.

1. General provisions.

- a. Any materials stored outdoors, with the exception of outdoor display for advertisement, must be hidden behind an opaque fence to screen the ground-level view from any public right-of-way or any residential use, and materials may not be piled or stacked higher than the opaque fence; and
- b. Any use producing noise, vibrations, glare and heat, or electrical disturbance that is subject to the performance standards of [section 4.14](#) must be conducted within an enclosed building; and
- c. Each prospective use of an industrial or manufacturing character must submit a certified engineer's report pursuant to section 4.14.5. prior to commencement of the use, issuance of a zoning clearance, or issuance of a Certificate of Occupancy for the site.

2. Multiple-family dwellings and single-family attached dwellings.

- a. Multiple-family dwellings and single-family attached dwellings may locate on the ground floor of the Core character area, provided that:
 - i. No more than two-thirds of the ground floor street facing façade of a single building may be occupied by multiple-family or single-family attached residential uses. This standard does not apply to façades facing through corridors;
 - ii. The construction and design of the ground story must allow for future conversion to a commercial use. The ground floor must be sprinklered as required under the Virginia Construction Code for commercial uses; and
 - iii. Temporary false floors or drop ceilings are permitted to allow shorter ground floor ceiling heights, provided that a future conversion could comply with section 20C.8.

3. Live-work dwelling units.

- a. Any non-residential use of a live-work dwelling unit must be conducted by one or more residents of the unit.
- b. Any non-residential use of a live-work dwelling unit must comply with all performance standards of [section 4.14](#).
- c. Any non-residential use of a live-work dwelling unit must obtain a zoning clearance prior to commencing the use.
- d. The commercial or manufacturing space in a live-work dwelling unit must have a ceiling height of at least 12 feet.
- e. The residential and commercial or manufacturing spaces in a live-work dwelling unit may not be sold, rented, or subleased separately.
- f. Live-work dwelling units may have a maximum floor area of 3,000 square feet.

4. Artisan manufacturing.

- a. Any individual artisan manufacturing establishment may not employ more than 20 full-time employees or the equivalent part-time employees.
- b. Any individual artisan manufacturing establishment may have regular storefront hours during which a portion of the premises is open to the public for sale of finished products.
- c. An artisan manufacturing use may hold workshops, classes, or events related to the manufacturing use, provided they are accessory to the manufacturing use.
- d. Single-use buildings containing an artisan manufacturing use within the Edge character area may not exceed a building footprint of 20,000 square feet, unless granted a special exception.

5. Light industrial.

- a. A light industrial use may hold workshops, classes, or events related to the manufacturing use, provided they are accessory to the manufacturing use.

6. Public art.

- a. The following items are not considered public art, for purposes of the Rio29 FBC: reproductions or unlimited copies of original artwork; mass-produced art objects; the overall architectural design of a building; architectural rehabilitation or historic preservation; and

- logos or interpretations of logos.
 - b. Public art must be located outside of buildings and be completely visible from the public right-of-way or on a publicly viewable façade. It must be permanently fixed, outside of sight distance triangles.
 - 7. Temporary uses.
 - a. Temporary uses must obtain a zoning clearance prior to operation, for operation of up to 180 days. Temporary use zoning clearances may not be renewed.
 - b. All use permitted in a character area under the Rio29 FBC may be permitted as a temporary use per Table 1.
 - c. *Structures used for temporary uses.* Temporary uses are permitted in structures in the Rio29 District built before September 1, 2021, and in the following structures as permitted by the Building Code:
 - i. Modular buildings or shipping containers of less than 256 square feet as approved by the Virginia Construction Code;
 - ii. Trucks and trailers located in place for more than two hours; or
 - iii. In tents or outside.
 - d. Temporary uses are exempt from sections 20C.7, 20C.8, 20C.10, 20C.11, and 20C.12.
 - e. Section 20C.9 applies to temporary uses under the Rio29 FBC.
 - f. Temporary uses in the Rio29 FBC District may request a temporary sign permit pursuant to [section 4.15.6](#), for a period of up to 180 days.
 - 8. Uses not specifically listed.
 - a. The Agent may determine that a use not specifically listed is permitted, provided that such use is similar to the listed permitted uses in terms of locational requirements, operational characteristics, visual impact and traffic generation. The Agent's determinations may be appealed pursuant to [section 34](#).
- (§ 18-20C.16 Ord.21-18(4), 9-1-21)

Sec. 20C.7 - Street standards.

- A. Street locations.
 - 1. Each street must provide an interconnected network of streets consistent with the Rio29 Small Area Plan.
 - 2. New street locations will be determined in collaboration between the property owner, the Agent, and VDOT.
 - 3. Streets must provide a network of blocks with block lengths pursuant to section 20C.8.
 - 4. Streets must:
 - a. Be coordinated with existing or planned streets as to location, width, grades and drainage within the general area of the development site;
 - b. Connect to planned, existing, or platted streets in adjoining areas by dedication or reservation of right-of-way.
 - 5. All streets within a development site must be extended and constructed to the abutting property lines to provide vehicular and pedestrian interconnections to existing or future development on adjoining properties.
- B. Street sections.

Figure 1: Boulevard streets

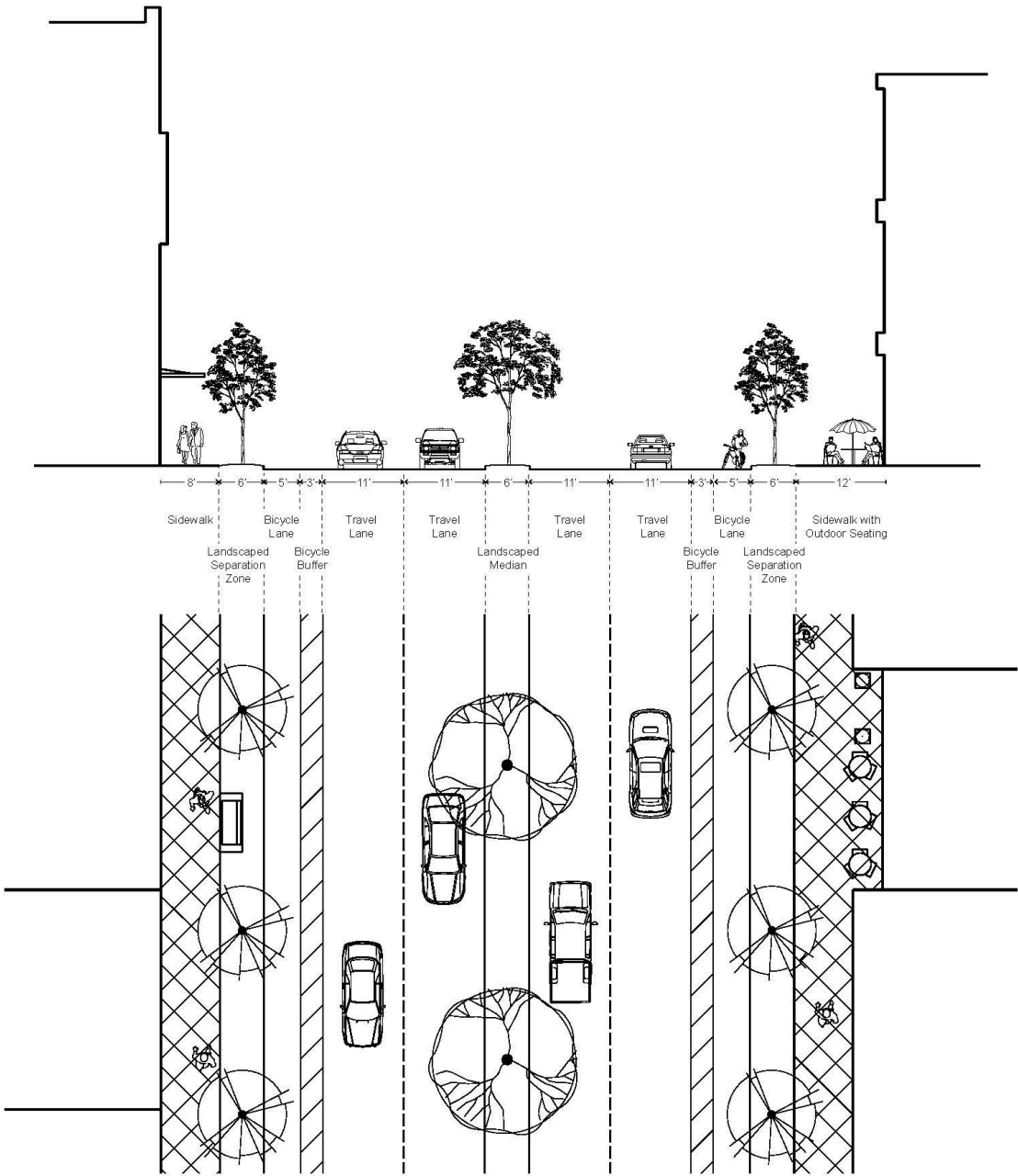


Figure 2: Avenue streets

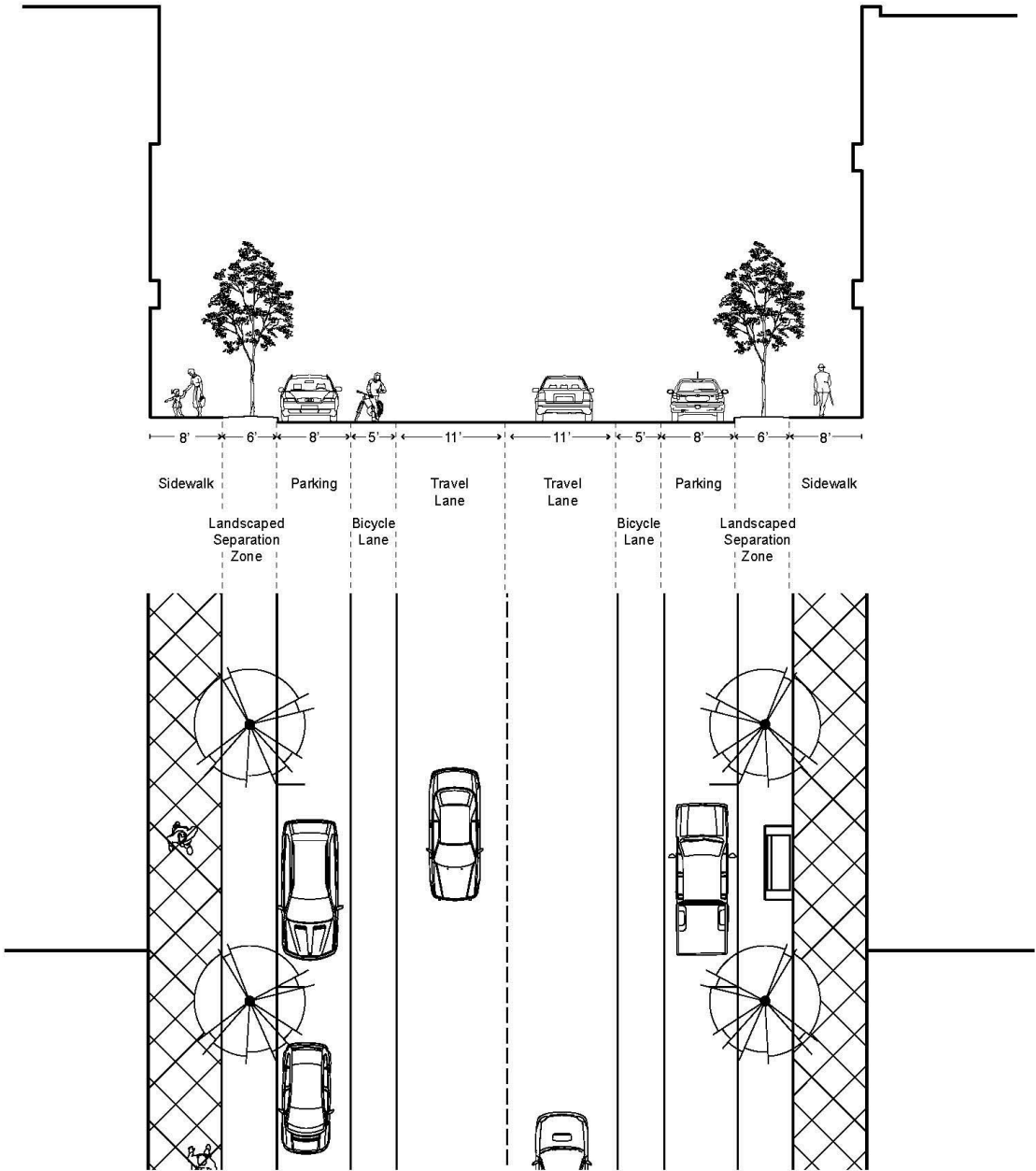


Figure 3: Local streets (core)

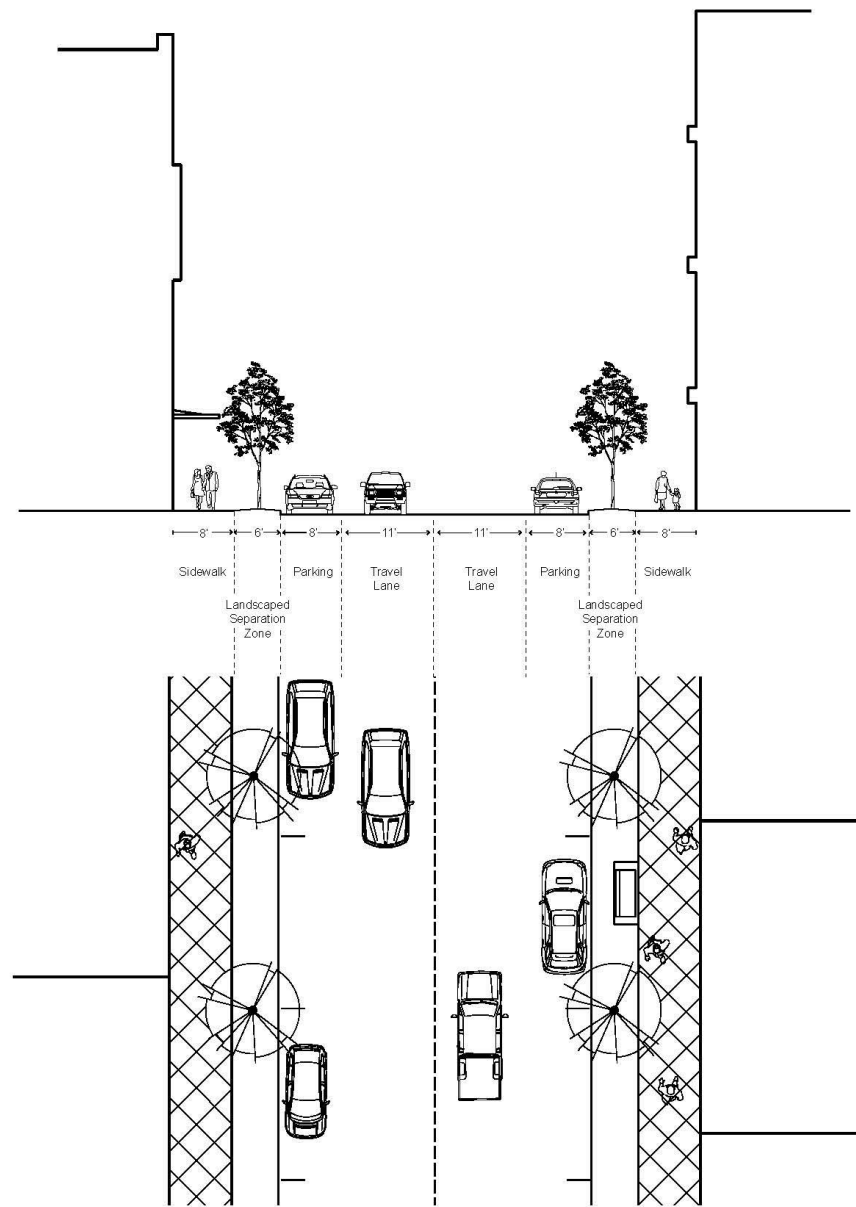


Figure 4: Local streets (flex/edge)

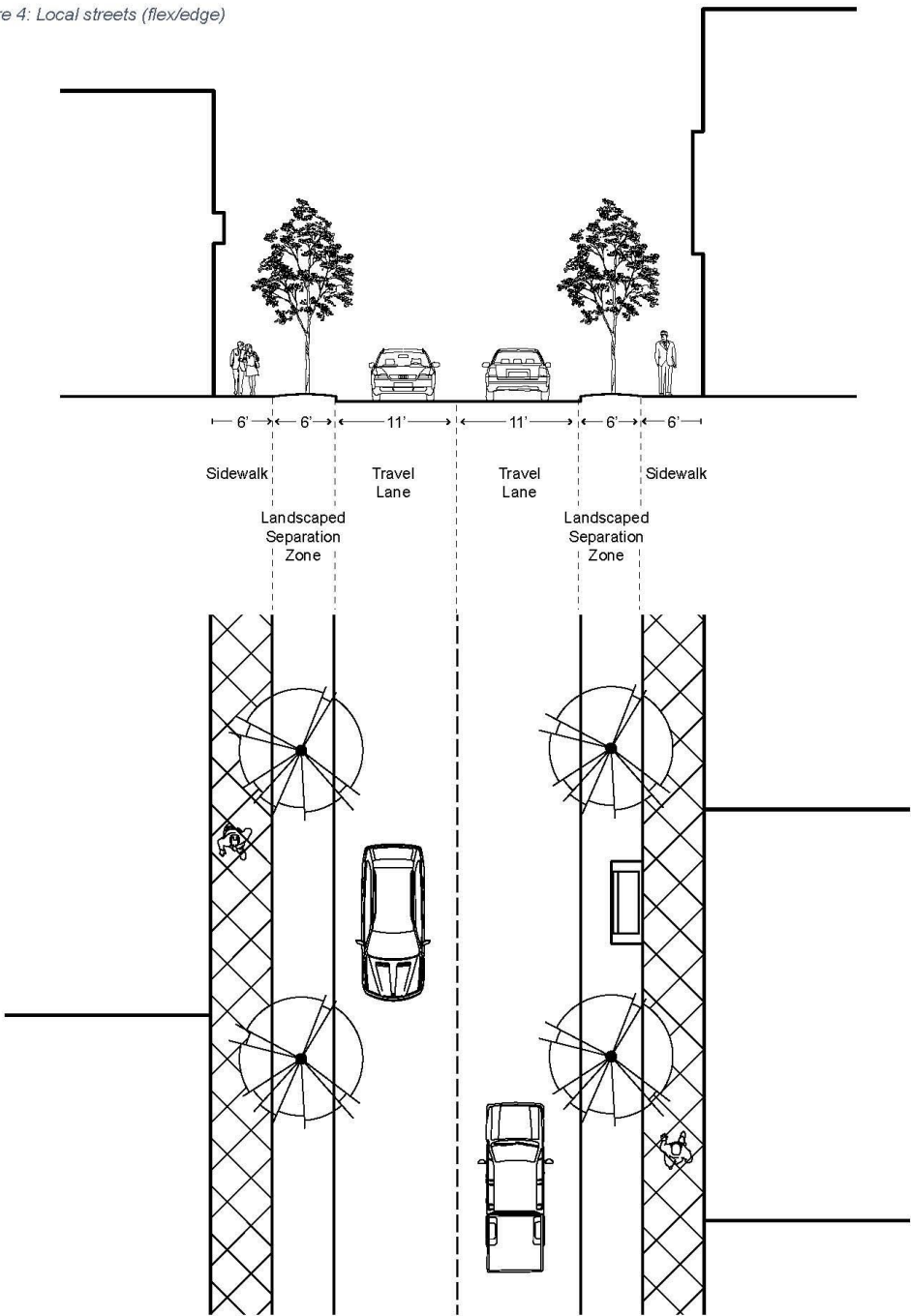


Figure 5: Through corridor

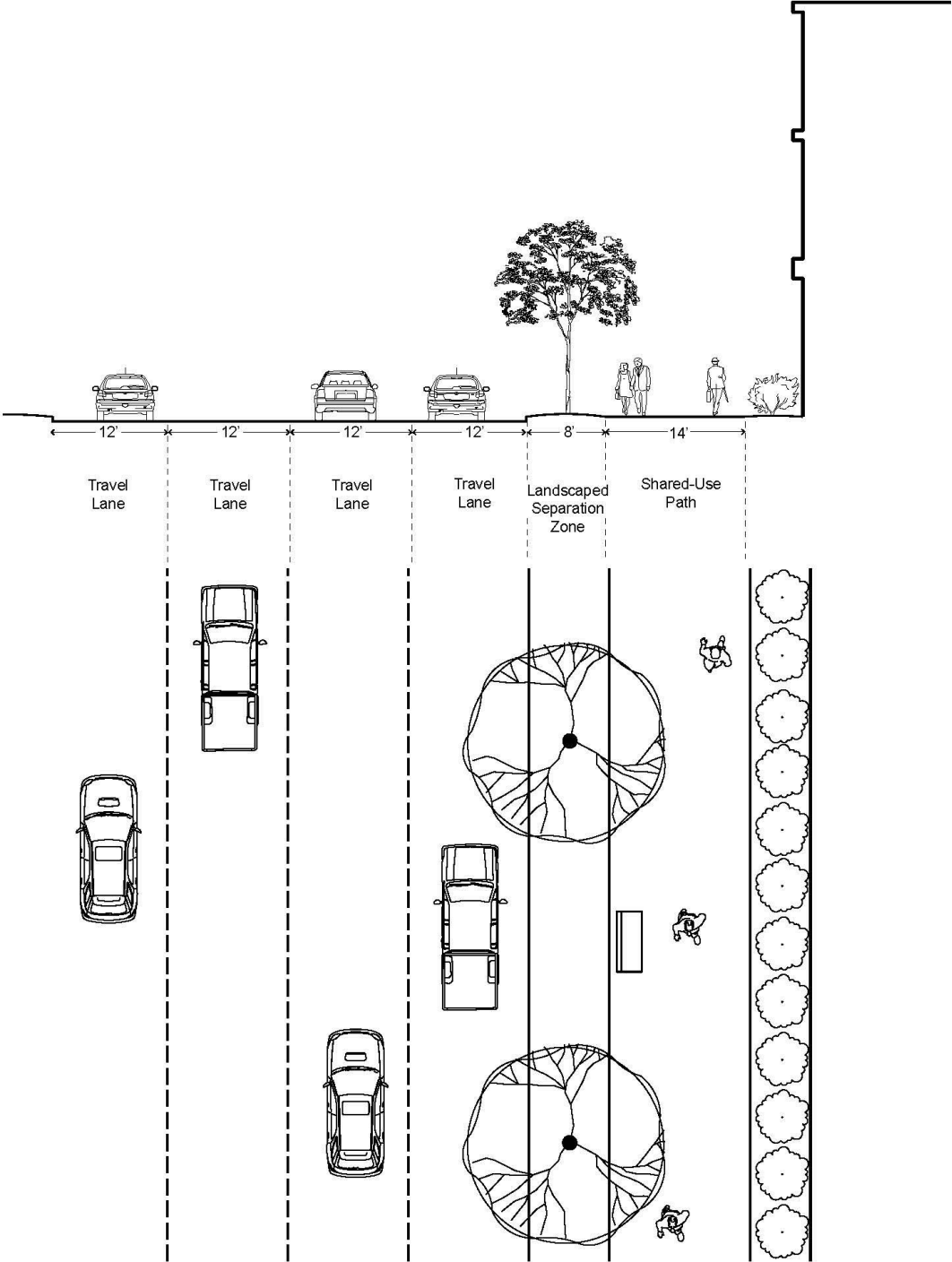
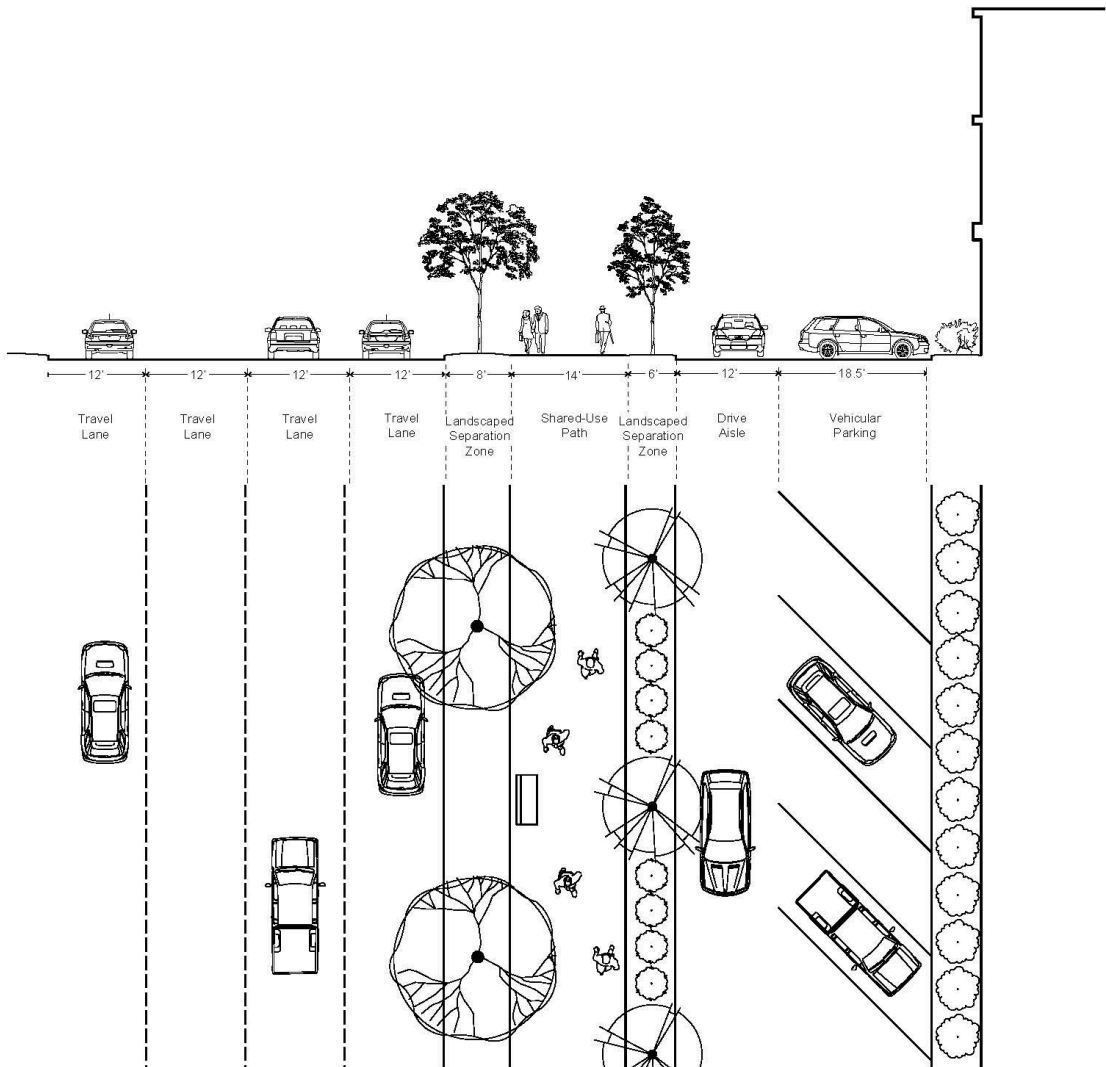


Figure 6: Through corridor (with parking and drive aisle)



- C. Street standards.
- Streets within the Rio29 FBC District platted after September 1, 2021 must comply with the following standards:
 - Rio Road must comply with Boulevard street standards;
 - Hillsdale Drive and Berkmar Drive, including extensions and future sections shown on the Rio29 Future Connectivity Plan (see Rio29 Small Area Plan), must comply with Avenue street standards.
 - All other streets must comply with local street standards.
 - Pedestrian passages and alleys may be provided at the option of the developer but, where provided, must comply with Rio29 FBC standards.
 - Streets must meet the block length standards of section 20C.8.
 - Streets must meet the standards below, in collaboration with the Virginia Department of Transportation (VDOT). Standards vary by street type and character area. Lane width and design will be determined in conjunction with VDOT and Fire Rescue staff, and must comply as closely as feasible with street sections shown in the Rio29 Small Area Plan.

Table 2: Street standards

	Boulevard	Avenue	Local streets (Core)	Local streets (Flex/Edge)	Through corridor	Pedestrian passages	Alleys
Minimum sidewalk width	8 ft	8 ft	8 ft	6 ft	14 ft (Shared use path standard)	10 ft minimum pedestrian travel way	Not required
Landscaped separation zone	6 ft	6 ft	6 ft	6 ft	8 ft	18 in minimum distance from buildings	Not required
Bicycle lane	5 ft	5 ft	Not required	Not required	Not required	Not required	Not required
Bicycle buffer	3 ft	n/a	n/a	n/a	n/a	n/a	n/a
Landscaped median	6 ft minimum	n/a	n/a	n/a	n/a	n/a	n/a
Parking	n/a	8 ft	8 ft	8 ft (optional)	n/a	n/a	n/a

3. Sidewalk standards generally.
- Sidewalk width.* Sidewalks wider than the minimum standards are permitted at the property owner's discretion. Wider sidewalks may accommodate outdoor cafés, other seating associated with ground story uses, or small displays outside of pedestrian entrances, provided that a five-foot wide sidewalk clear zone is maintained.

The five-foot sidewalk clear zone is not applicable to shared use paths (SUP). SUPs must not be obstructed within the minimum required width.
 - Maintenance of sidewalks.* Property owners must maintain any sidewalk beyond the minimum sidewalk width and any sidewalk used to accommodate outdoor cafés, other seating associated with ground story uses, or small displays outside of pedestrian entrances.

D. Modifications to street standards.

1. The Agent may approve modifications to the street standards of this section, provided that the resulting street meets the purpose and intent of this section and provides for continuity with existing or planned streets on adjacent properties.
2. A SUP or two-way cycle track may be provided in lieu of bicycle/pedestrian facilities if it is deemed appropriate by County Transportation Planning staff and VDOT, and the applicant can provide for appropriate transition to adjacent facilities. SUPs must be designed and constructed in accord with the Albemarle County Design Standards Manual.
3. The bicycle buffer may be reduced in width where a physical barrier is provided and where appropriate transitions are provided to adjacent properties, if deemed appropriate by VDOT and County Transportation Planning staff.
4. Appropriate locations for on-street parking must be determined in collaboration with County Transportation Planning and VDOT staff during project design. On-street parking is required for local streets within the Core, in locations deemed appropriate by Transportation Planning and VDOT staff.
5. The landscaped separation zone may be reduced in width on local streets where street trees are planted within grates or tree wells along sidewalks, provided that (a) the landscape design includes adequate soil volumes below the pavement and (b) a minimum five-foot wide sidewalk clear zone is maintained along the sidewalk.

E. Street ownership and maintenance.

1. *Public streets.* All boulevards, avenues, and local streets must be public streets and be dedicated to public use, and acceptable to VDOT.
2. *New Streets.* Property owners or a third party approved by the Agent must construct the new public streets and associated streetscape elements to serve their site as required in this section.
3. *Existing Streets.* Where a development site fronts existing public street(s), the property owner(s) must:
 - a. Construct street or intersection improvements required by VDOT to safely accommodate traffic to serve the site;
 - b. Construct sidewalks, landscaping, and other streetscape elements along the development site frontage required by this section; and
 - c. Reserve land for future dedication along the development site frontage for future street widening to accommodate on-street facilities such as bicycle lanes, bicycle buffers, and/or medians, as required by this section. Land reserved for on-street facilities such as bicycle lanes, bicycle buffers, and/or medians must be dedicated to the County upon demand of the County.
4. *Streetscape elements.* Owners must dedicate to the County all required streetscape elements between their lot lines and the backs of curbs upon the demand of the County. Any streetscape elements that VDOT does not agree to maintain will be owned by the County, unless otherwise specified in this section.
 - a. Privately owned and maintained streets.
 - i. *Pedestrian passages and alleys.* Pedestrian passages and alleys are optional, to be owned and maintained by the property owner, unless other parties agree to maintain them.
 - ii. *Perpetual easement.* The owner must ensure public access to the private street through a perpetual easement. The easement must include any portions of streetscape elements or pedestrian passages that are privately owned and maintained.
5. *Instrument assuring maintenance.* The owner must submit an instrument assuring the perpetual maintenance of the streetscape elements, alleys, and/or pedestrian passages. The instrument will be subject to review and approval by the County Attorney and must be suitable for recordation in the office of the Circuit Court Clerk of the County.

F. Streetscape elements.

1. The following streetscape elements must be provided:

Table 3: Streetscape elements standards by street type

	Boulevard	Avenue	Local streets (Core)	Local streets (Flex/Edge)
Street lighting	R	R	R	R
Street trees	Refer to section 20C.10.D	Refer to section 20C.10.D	Refer to section 20C.10.D	Refer to section 20C.10.D
Street furniture	At least 1 bench (or 4 seats) every 100-ft	O	At least 1 bench (or 4 seats) every 100-ft	O
Trash & recycling receptacles	1 trash and 1 recycling receptacle every 250-ft and at least 2 corners of each intersection	O	1 trash and 1 recycling receptacle every 250-ft and at least 2 corners of each intersection	O
Street signage	Refer to section 4.15	Refer to section 4.15	Refer to section 4.15	Refer to section 4.15
Pedestrian accommodations	Required at locations deemed appropriate in collaboration with VDOT and County transportation staff, according to Virginia Supplement to the 2009 MUTCD	Required at locations deemed appropriate in collaboration with VDOT and County transportation staff, according to Virginia Supplement to the 2009 MUTCD	Required at locations deemed appropriate in collaboration with VDOT and County transportation staff, according to Virginia Supplement to the 2009 MUTCD	Required at locations deemed appropriate in collaboration with VDOT and County transportation staff, according to Virginia Supplement to the 2009 MUTCD
Enhanced transit stop	R	R	R	R
Green infrastructure / stormwater control measures	O	O	R	O

R = Required; O = Optional

G. Modifications to streetscape elements.

1. The Agent may grant substitutions or modifications to streetscape standards as listed above, provided that the resulting streetscape meets the purpose and intent of this section and provides for continuity with streetscapes of existing or planned adjacent streets.
2. *Streetscape elements.* The Agent may grant a reduction or modification in the number or frequency of required streetscape elements if VDOT standards or the presence of existing overhead or underground utilities, fire hydrants, curb cuts, or other existing features prevent the compliance with the standards in this section.
3. *Landscaped separation zone.* The Agent may allow an alternative design and reduced width of landscaped separation zones, provided that the landscape design includes adequate soil volumes below the pavement.

H. Streetscape elements generally.

1. *How to measure.* Spacing of streetscape elements will be measured on an average distance along the site frontage to meet the requirements of section 20C.7.G. Clustering of streetscape elements is acceptable.
2. Streetscape elements must continue existing spacing patterns established on adjacent developments, if applicable.
3. Lighting.
 - a. Lighting within the Rio29 FBC District must meet section 4.17.4 standards.
 - b. Lighting may be used as an integral design component to enhance architecture, landscaping, and other site design elements.

4. **Street Trees.**
- a. Street trees must be planted within appropriately sized grates or tree wells at grade or in a planting strip abutting the sidewalk and spaced according to the table below.
 - b. Street trees must be selected from a current list of recommended large or medium shade trees, subject to the approval of the Agent when site conditions warrant medium shade trees per Table 4 below.

Table 4: Landscaping requirements by street type

	Through corridor	Boulevard	Avenue	Local street
Landscaping requirements	Large shade trees must be at least 3 inches caliper (measured 6 inches above the ground). The maximum average distance between trees must be 50 feet or less per block length.	Large shade trees at least 2 ½ inches caliper (measured 6 inches above the ground). The maximum average distance between trees must be 50 feet or less per block length.	Large trees at least 2 ½ inches caliper (measured 6 inches above the ground). The maximum average distance between trees must be 40 feet or less per block length.	Large or medium trees at least 2 inches caliper (measured 6 inches above the ground). The maximum average distance between trees must be 50 feet or less per block length.

5. **Street furniture.** Street furniture must comply with the following standards.
- a. **Benches and seating.**
 - i. Benches and seating must be made of durable, high-quality materials such as concrete, wood, iron, steel, and fiberglass.
 - ii. Benches and seating must be provided at the interval provided in section 20C.7.F.
 - iii. Benches and seating may be clustered if the average number of seats/benches provided is equivalent to the standard in section 20C.7.F.
 - iv. Fifty percent of clustered public seating or benches must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG), see ADAAG section 4.32.
 - v. Benches and seating must be located on or adjacent to a sidewalk. If benches are located on a sidewalk, a five-foot wide sidewalk clear zone must be maintained along the sidewalk. Benches must not be located where they may interfere with street trees, transit stops, or streetlights.
 - vi. Benches and seating may be integrated as a part of other streetscape elements if their primary function and accessibility is not compromised. This may include but is not limited to seating integrated as a seat wall around trees and landscaping, or seating incorporated as a part of public art.
 - vii. Temporary or movable seating may be used to meet the standards in section 20C.7.F, to allow seats to meet specific social and microclimate needs. Temporary or movable seating must be maintained by the property owner and remain open to the general public, not just the patrons of an establishment.
 - b. **Tables.**
 - i. Tables must be made of durable, high-quality materials such as concrete, wood, iron, steel, and fiberglass.
 - ii. Any tables and/or chairs placed on a sidewalk must maintain a five-foot sidewalk clear zone.
 - iii. Temporary or movable tables may also be used to meet the requirements in section 20C.7.F, to allow tables to meet specific social and microclimate needs. Temporary or movable tables must be maintained by the property owner and remain open to the public, not just the patrons of an establishment.
6. **Trash & recycling receptacles.**
- a. Trash and recycling receptacles must be made of durable, high quality materials, such as galvanized or stainless steel.
 - b. Trash and recycling receptacles must be located at the intervals required in section 20C.7.F.
 - c. Trash and recycling must be located as near to corner and high activity generators (such as major civic, commercial, and transit destinations) as is practical without interfering with pedestrian, cyclist, transit, and vehicular traffic.

7. Pedestrian accommodations.
 - a. Marked crosswalks.
 - i. Marked crosswalks must be provided at locations deemed appropriate, pursuant to the [Virginia Supplement to the 2009 Manual on Uniform Traffic Control Devices \(MUTCD\) Part 3. Markings.](#)
 - ii. Marked crosswalks must be provided mid-block and at unsignalized locations deemed appropriate pursuant to the [VDOT IIM-TE-384.0 Pedestrian Crossing Accommodations at Unsignalized Locations.](#)
 - b. *Signals.* Pedestrian signals must be provided at all signalized crosswalks along all boulevards, avenues, and local streets in the Core character area, pursuant to the [Virginia Supplement to the 2009 Manual on Uniform Traffic Control Devices \(MUTCD\) Part 4. Highway Traffic Signals.](#)
8. Enhanced transit stops.
 - a. Enhanced transit stops generally.
 - i. Any required enhanced transit stop must comply with the standards of the local transit authority and the Rio29 FBC.
 - ii. Each enhanced transit stops must include a shelter and seating in accord with the standards of the local transit authority.
 - iii. Each enhanced transit stop must be ADA accessible.
 - b. Enhanced transit stop locations.
 - i. Enhanced transit stops are required in locations currently served or that will be served by Charlottesville Area Transit or other transit providers following completion of project construction.
 - ii. Site plans for developments larger than two acres are subject to review by the Agent and by local transit authorities to determine transit service needs.
 - iii. Transit stops must be located along a curb extension allowing transit vehicles to stop and board passengers without leaving the travel lane. Where parking lanes are provided, the stop must be aligned with the parking lane.
 - iv. Other streetscape elements, such as trash and recycling receptacles, signage, and seating, must not obstruct sidewalks and accessible boarding areas.
 - c. Enhanced transit stop design standards.
 - i. An ADA accessible boarding area from the transit shelter and adjacent sidewalk must be provided at each transit stop.
 - ii. Where boarding platforms are not level with the sidewalk, an ADA accessible ramp must be provided from the sidewalk to the platform.
 - iii. Transit shelters must cover and protect at least one bench or four seats from weather elements.
 - iv. Shelters may not block the minimum required widths of sidewalks or shared-use paths.

(§ 18-20C.7, Ord.21-18(4), 9-1-21)

Sec. 20C.8 - Building standards.

A. Building standards by character area.

Table 5: Building standards by character area

	Core	Flex	Edge	Through corridor (all character areas)
Building height ¹	Minimum height: 2 stories Maximum height: 5 stories Bonus factors: Up to 7 stories may be permitted when Bonus Categories are provided under section 20C.12 (Affordable Housing Requirement).	Minimum height: 2 stories Maximum height: 4 stories Bonus factors: Up to 5 stories may be permitted when Bonus Categories are provided under section 20C.12 (Affordable Housing Requirement).	Minimum height: 2 stories Maximum height: 3 stories 1 story buildings permitted by special exception	Minimum height: 1 story Maximum height: varies by character area
Ground floor height (measured floor-to-floor)	All buildings must have at least a 15-foot ground floor height.	Not required	Not required	Not required
Block length	200 – 350 feet Blocks longer than 300 feet must feature at least one mid-block alley or pedestrian passage	200 – 400 feet Blocks longer than 300 feet must feature at least one mid-block alley or pedestrian passage.	200 – 500 feet Blocks longer than 300 feet must feature at least one mid-block alley or pedestrian passage.	200 – 500 feet Blocks longer than 300 feet must feature at least one mid-block alley or pedestrian passage.
Build-to range	0 – 10 feet	0 – 10 feet	0 – 25 feet	0-35 feet
Maximum average distance between ground floor pedestrian entrances	60 feet	75 feet	75 feet	n/a

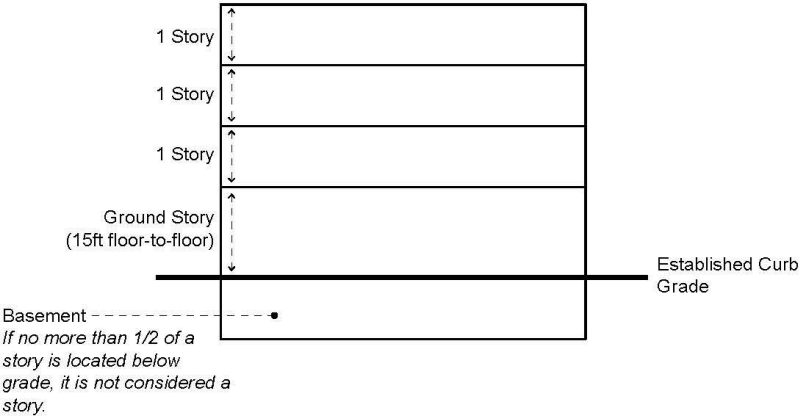
¹ Building height is measured pursuant to section 3.1.

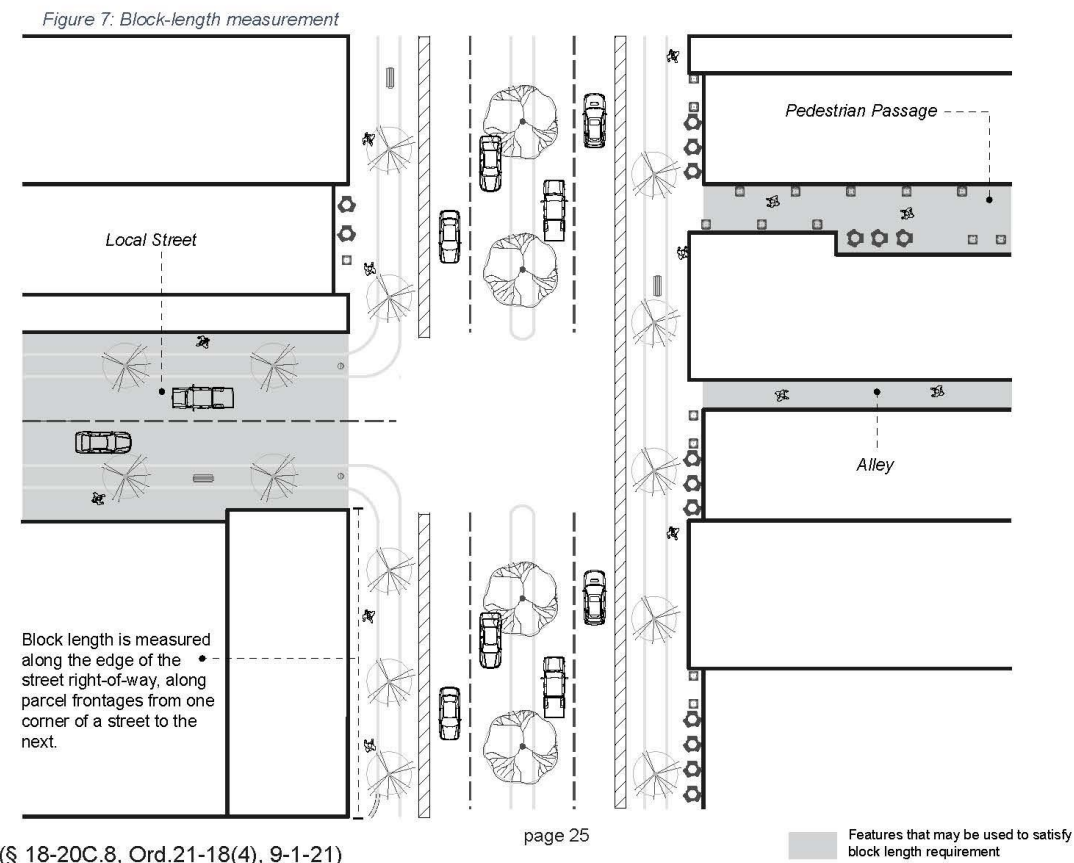
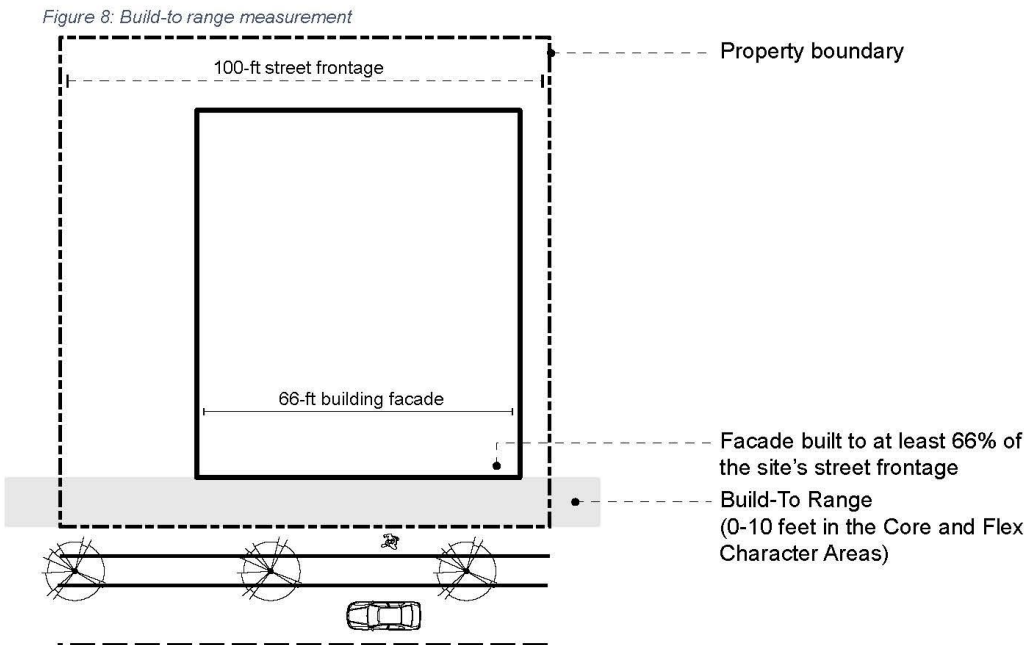
B. Building standards generally.

1. Build-to range and street façades.
 - a. At least 66 percent of a site's street frontage must be built within the build-to range, with the exception of frontage along through corridors.
 - b. Ground floor street façades within seven feet of a block corner are exempt from this requirement, to allow for special treatments.
2. Block length.
 - a. No block face may have a length greater than 300 feet without an alley or pedestrian pathway providing through-access to another street, alley, or civic space.
 - b. Development sites with less than 100 feet of street frontage are exempt from this requirement.

- C. *Modifications to building standards.* The Agent may grant modifications to building standards as listed below, provided that the resulting building and site design still meets the purpose and intent of this section.
- 1. *Reduction of ground floor height.* The Agent may approve a reduction in ground floor height where a temporary false floor or drop ceiling is constructed to allow ground floor residential uses, consistent with section 20C.6, provided that a future conversion to commercial uses could comply with this section.
 - 2. *Block length.* The Agent may approve modifications to required block lengths for the following:
 - a. To accommodate street connection(s) to existing or planned adjacent street(s);
 - b. To accommodate a requirement of VDOT or the Department of Fire Rescue;
 - c. To avoid a natural feature such as a water protection ordinance buffer or preserved slopes;
 - d. To avoid a planned or existing civic space;
 - e. To allow future streets to align with existing travel ways, private streets, or parcel lines within or adjacent to the site;
 - f. To avoid or accommodate existing utilities; or
 - g. To allow smaller block sizes for drive aisles or counterflow streets along through corridors.
 - 3. *Required build-to range.* Provided the modifications meet the purpose and intent of this section, the Agent may approve modifications to required build-to-range and the requirement to build to two-thirds of the site's street build-to range or both when natural features (such as existing mature trees), terrain, or existing utilities would otherwise interfere with required build-to range.
 - 4. *Minimum height.* The Board of Supervisors may approve modifications to the required minimum height to allow the reuse of existing one-story buildings that are incorporated within a larger conceptual plan, provided that conditions identified in section 20C.2.D are met.
 - 5. *Incorporation of green building design.* The agent may approve modifications to section 20C.10 to allow the incorporation of green building design.
- D. *Stormwater Management.* Each site plan must comply with all applicable requirements of section 32.

Figure 7: Building height measurement





Sec. 20C.9 - Parking standards.

- A. *Motor vehicle parking.* The parking, stacking and loading requirements in section 4.12 of this chapter apply to the Rio29 Form-Based Code Overlay District provided that the provisions of sections 4.12.4a, 4.12.5, 4.12.6, 4.12.7, 4.12.13a, 4.12.13c, and 4.12.13e do not apply to developments utilizing the provisions of the Rio29 Form-Based Code Overlay District.
1. Location and type of motor vehicle parking areas.

Table 6: Location and type of motor vehicle parking areas by character area

	Core	Flex	Edge
Permitted parking types	On-street surface parking (parallel or angled) ¹ Off-street surface parking (must be located to the rear of buildings) Structured parking	On-street surface parking (parallel or angled) ¹ Off-street surface parking (must be located to the rear or side of buildings) Structured parking	On-street surface parking (parallel or angled) ¹ Off-street surface parking (must be located to the rear or side of buildings) By special exception: structured parking
Location and setbacks	All off-street parking should be located to the rear or side of buildings. a. Parking minimum setback (primary use): Surface parking must be located at least 10 feet from the right-of-way to allow for adequate screening. Structured parking must be located within the build-to range of the property's designated character area. b. Parking minimum setback (accessory use): Parking must be located no closer to the right-of-way than any existing or proposed primary structure on the lot and at least 10 feet from the right-of-way to allow for adequate screening.		

¹ Parking types must be consistent with the frontage street type (see section 20C.7).

2. Required motor vehicle parking spaces.

Table 7: Required number of motor vehicle parking spaces by use

	Non-residential (excluding hotels and lodging)	Hotels and lodging	Residential (including live/work)
Minimum	1 space per 1,000 square feet of gross floor area.	0.5 spaces per guest room.	1 space per dwelling unit.
Maximum	The aggregate number of private, on-site, surface parking spaces may not exceed 150% of the aggregate parking minimum. There is no maximum for residential developments.		

3. Parking standards.

- a. *On-street parking.* On-street parking, including parallel and angled street parking, is exempt from parking setback requirements. Parking along a frontage street or drive aisle parallel to a through corridor may also be exempt from the minimum setback requirement. On-street parking is not permitted on boulevards and is required on local streets in the Core character area.
- b. *Parking structure location.* Parking structures are not required to meet the build-to range along a through corridor.

4. Required motor vehicle parking standards.

- a. The Agent may permit parking to be located off-site or shared if a shared parking agreement is provided and the applicant demonstrates that the off-site parking facility is safely accessible to a pedestrian within a walking distance of one-quarter mile from the offsite facility to the entrance to the establishment. In determining safety and accessibility, the Agent may consider the presence of pedestrian paths such as sidewalks, location of street crossings, and obstacles to a pedestrian's safe passage between the off-site parking facility and the development.
- b. On-street parking located on or adjacent to the site may be counted towards the minimum requirement.

5. Pick-up or drop-off zones.

- a. Uses requiring 20 or more parking spaces must dedicate at least one space per 20 provided spaces as a rideshare, cab, and delivery pick-up or drop-off zone.
- b. The pick-up or drop-off zone spaces must be clearly labeled, with maximum loading times of 15 minutes during peak use hours.
- c. If on-street surface parking is used to meet the minimum parking spaces requirement, the pick-up or drop-off zone must be on-street surface parking.
- d. Uses requiring fewer than 20 parking spaces are exempt from this requirement, unless a shared parking agreement is used to meet this parking requirement.

6. Modifications to parking standards.

- a. The Agent may grant the following modifications to minimum and maximum required parking spaces, provided that the resulting parking still meets the purpose and intent of this section:
 - i. An increase in the required maximum parking spaces to allow for the redevelopment of an existing surface parking area that is part of a larger conceptual plan;
 - ii. An increase in the required maximum parking spaces provided a parking and loading needs study submitted by the owner demonstrates a clear need for additional on-site parking and options for shared parking within one-quarter of mile of the site are not available; or
 - iii. Reduction(s) in minimum required parking spaces consistent with section 4.12.12.

- b. The Agent may grant the following modifications to parking area design requirements:
 - i. Reduction in parking space size to accommodate compact vehicles or autonomous vehicles; or
 - ii. Reduction in access aisle minimum design requirements to accommodate compact or autonomous vehicles.
 - 7. Minimum landscaping requirements for parking areas.
 - a. Large trees measured at 2½ inches caliper (measured six inches above the ground) must align the perimeter of parking areas, located at least every 40 feet. These trees must be evenly spaced, with species selected from the Recommended Plant List.
 - b. At least one tree must be planted in the interior of parking areas for every 10 parking spaces provided.
 - c. Trees must be evenly distributed throughout the interior of the parking area.
 - 8. Minimum design requirements for structured motor vehicle parking areas.
 - a. The ground story of structured parking must have non-parking uses located between the parking structure and any sidewalk for at least two-thirds of the street façade within the Core character area, except for frontage along through corridors.
 - b. Structured parking at the perimeter of a building must be screened so that vehicles on all parking levels are substantially screened from adjacent streets and civic spaces. Sloped ramps may not be located along the perimeter of a parking structure.
 - c. Architectural features or vegetative screens are required to hide parked vehicles and shield lighting that does not meet section 20C.10.E.
 - d. Parking structure façades are exempt from the transparency requirements in Section 20C.10.B.
 - e. Parking structure façades must meet the façade articulation requirements in section 20C.10.C.
 - f. Signage and light sources internal to parking structures must not be visible from outside the structure.
- B. Bicycle parking location and type of bicycle parking facilities.
 - 1. Short-term bicycle parking.
 - a. Required short-term bicycle parking must be visible from nearby bikeways and located:
 - i. On the public access level;
 - ii. Within fifty feet of the main building entrances; or
 - iii. Outside the building.
 - b. Required short-term bicycle parking may be located on the sidewalk or within a landscaped separation zone, in accord with this section, provided that a five-foot wide sidewalk clear zone is maintained along the sidewalk.
 - 2. Long-term bicycle parking.
 - a. Long-term bicycle parking must be covered and within:
 - i. A locked room or locker;
 - ii. An area enclosed by a fence with a locked gate;
 - iii. An area within view of an attendant or security guard or monitored by a security camera; or
 - iv. An area visible from employee work areas.
 - b. Required long-term bicycle parking for residential uses may be located within dwelling units or within deck, patio or private storage areas accessory to dwelling units, if approved by the Agent.
 - c. Long-term bicycle parking spaces for non-residential uses may be located off-site, within 300 feet of the site, upon a determination by the Agent that such an arrangement would better serve the public. The off-site parking distance is measured in walking distance from the nearest point of the remote parking area to the closest primary entrance of the use served.

3. Minimum required bicycle parking spaces.

Table 8: Minimum number of required bicycle parking spaces by use

	Non-residential uses	Residential uses
Short-term	1 space per 4,000 square feet of gross floor area	0.1 spaces per bedroom
Long-term	1 space per 10,000 square feet of gross floor area	0.5 spaces per bedroom

4. Minimum design requirements for bicycle parking facilities.

- a. Bicycle parking facilities must:
 - i. Provide for storage and locking of bicycles, either in lockers, medium-security racks, or equivalent installation in which both the bicycle frame and the wheels may be locked by the user;
 - ii. Be designed not to damage bicycles;
 - iii. Facilitate easy locking without interference from or to adjacent bicycles;
 - iv. Be anchored so that they cannot be easily removed;
 - v. Be of solid construction, resistant to rust, corrosion, hammers, and saws;
 - vi. Be consistent with their environment in color and design; and
 - vii. Be incorporated whenever possible into building or street furniture design.
 - b. Bicycle parking areas must:
 - i. Provide for adequate lighting both within the area and along the route to the building entrance;
 - ii. Include adequate clearance around racks or lockers to give cyclists room to maneuver, and to prevent conflicts with pedestrians or parked cars;
 - iii. Be clearly marked as such and separated from auto parking; and
 - iv. Be located on a paved or pervious, dust-free surface with a slope no greater than three percent. Parking surfaces may not be gravel, landscaping rock or pebbles, or wood chips.
 - c. Wall-mounted or similar bicycle racks may not exceed 25 percent of required short-term bicycle parking.
5. *Modifications to bicycle parking regulations.* The Agent may grant modifications to bicycle parking standards provided that the resulting parking still meets the purpose and intent of this section.
- C. *Loading.* No loading facilities are required. Where provided, loading facilities must be located to the rear and/or alley side of buildings, and consistent with section 20C.10.F.
- (§ 18-20C.9, Ord.21-18(4), 9-1-21)

Sec. 20C.10 - Architectural design standards.

- A. Sites within the Rio29 Form-Based Code Overlay District are eligible for staff-approved County-wide certificate of appropriateness in Sec.30.6.4(b). Developments must receive a certificate of appropriateness before a building permit is issued.
- B. *Transparency requirements.* The following table outlines the minimum transparency requirements for building façades facing boulevards, avenues, local streets, pedestrian passages, and civic spaces in each character area. Specific standards are outlined for buildings with frontage along through corridors. These requirements do not apply to alleys, rear and interior side yard elevations, structured parking, or buildings facing natural areas, unless specifically stated.
 - 1. *Minimum ground story transparency.* Ground story transparency is measured between two and twelve feet above the abutting sidewalk.
 - 2. *Minimum upper story transparency.* A general minimum transparency requirement is measured from floor to floor of each story above the ground story.

Figure 8: Minimum transparency requirements

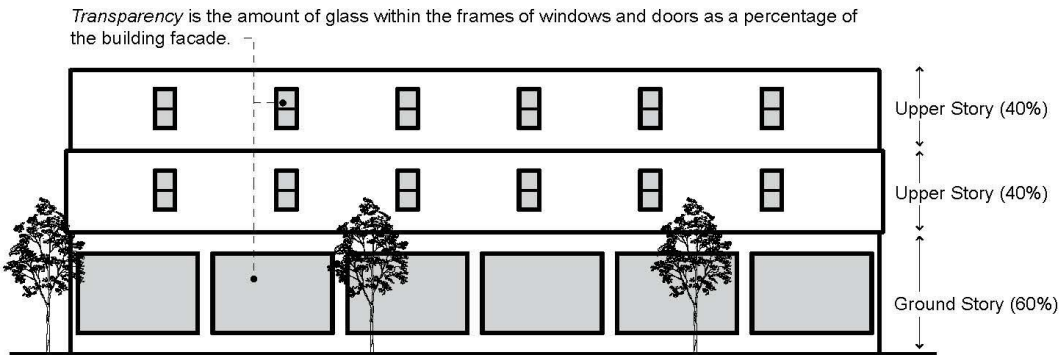
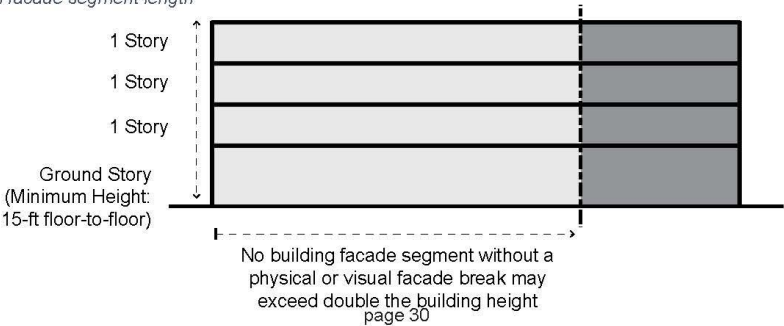


Table 9: Minimum transparency requirements

	Core	Flex	Edge	Buildings with frontage along through corridors
Minimum Ground Story Transparency	60%	45%	30%	30%
Minimum Upper Story Transparency	40%	25%	25%	25%

- C. Façade articulation requirements.
- Applicability.** The maximum façade segment length applies to building façades facing through corridors, boulevards, avenues, pedestrian passages, and civic spaces.
 - Maximum façade segment length.** No building façade segment facing a boulevard, avenue, pedestrian passage, or civic space may exceed double the building height proposed without a physical or visual break in the plane of the façade. Permitted options for articulating a façade are described in subsection 4.
 - Through corridor façade articulation requirement.** No building façade segment facing a through corridor may exceed four times the building height proposed without a physical or visual break in the plane of the façade. Permitted options for articulating a façade are described in subsection 4.
 - Permitted options for articulating a façade include:
 - Physical breaks in the plane of the façade (such as wall recesses and vertical and horizontal projections);
 - Visual breaks in the plan of the façade, including material changes, texture changes, and detailing; and
 - Roofline breaks, balconies, arcades, awnings and canopies.

Figure 9: Maximum facade segment length



D. Minimum planting requirements.

1. All trees must be planted parallel to the street in the landscaped separation zone, pursuant to section 20C.7.H.4
2. All trees and other vegetation species must be from the Recommended Plant List.
3. Each development site must use at least five different species selected from the Recommended Plant List, with no more than 20% of one species used.
4. At least one large tree (2½ inches caliper measured six inches above the ground) must be planted in the interior of parking areas for every 10 parking spaces provided. These trees must be evenly spaced.
5. No grading, trenching, or tunneling may impact more than 25 percent of the critical root zone (CRZ).
6. Landscape plans must be prepared and sealed by a licensed landscape architect (as defined under Code of Virginia § 54.1-400), a landscape designer certified by the Virginia Society of Landscape Designers, an arborist certified by the International Society of Arboriculture, or a horticulturalist certified by the Virginia Nursery and Landscape Association. This requirement may be waived the Agent.
7. The following note must be included on each project's landscape plan: "All site plantings of trees and shrubs must be allowed to reach, and be maintained at, mature height; the topping of trees is prohibited. Shrubs and trees must be pruned minimally and only to support the overall health of the plant."

E. Lighting requirements.

1. *Outdoor luminaires.* Light fixtures must comply with section 4.17.4.
 - a. Exterior, outdoor lighting must not exceed 2,000 lumens.
 - b. Light levels must not exceed 0.5-foot candles at the ground.
2. Color and appearance.
 - a. All exterior fixtures must be fitted with lamps with a white light and color temperature between 2000 and 3000 Kelvin.
3. Pole-mounted light fixtures.
 - a. Pole-mounted light fixtures (both the fixture and the pole) must be dark brown, dark bronze, or black.
 - b. Freestanding pole-mounted light fixtures (including the base) must not exceed 20 feet in height.
4. *Decorative lighting.* Lighting that is used to enhance architecture, landscaping and other site design elements must comply with the following standards.
 - a. Exterior light used for decorative effect must comply with section 4.17.4.
 - b. Outdoor light fixtures in the Edge character area must be equipped with automatic timing devices and must remain unlit between 11:00 p.m. and dawn.
 - c. Illuminations must not project beyond the architectural, landscaping, or site design elements.

F. Mechanical, service and loading requirements.

1. *Applicability.* In addition to the provisions of section 32.7.9.7 the following elements must be screened from view from through corridors, boulevards, avenues, local streets, pedestrian passages, and civic spaces:
 - a. Refuse collection, dumpsters, recycling bins, and refuse handling areas that accommodate a dumpster or five or more trash or recycling cans;
 - b. Building or ground-mounted mechanical equipment, including (but not limited to): transformers, backflow preventors, telephone risers, equipment cabinets, generators, and similar devices;
 - c. Mechanical equipment on roofs;
 - d. Air conditioning or similar HVAC equipment;
 - e. Loading docks, berths, or similar spaces, including (but not limited to): service entrances and maintenance areas; and
 - f. Outdoor storage of materials, equipment, and vehicles.

G. *Permitted and prohibited building facade materials.* Materials are permitted or prohibited for building facades according to the table below.

Table 10: Permitted and prohibited building facade materials

		Permitted Materials	Prohibited Materials	Allowed in LIMITED amounts
Stone	Natural stone/native stone	X		
	Stone veneer	X		
	Cast stone	X		
	Artificial stone (concrete base)	X		
Brick	Natural brick	X		
	Prefabricated panel brick and tilt-up brick textured paneling		X	
Stucco	Stucco - cementitious or elastomeric finish	X		
Concrete	Concrete finished to an architectural level	X		
	Precast concrete including precast concrete panels	X		
	Concrete block: Decorative concrete masonry unit	X		
	Concrete block with stucco	X		
	Split face block			Allowed only as an accent
Glass	Glass curtain wall system			X
	Glass block			X
	Tinted glass			X
Metal	Aluminum siding		X	
	Metal curtain wall systems, Metal panel systems, Metal panels, individual, including prefinished, and cut, stamped, or cast ornamental	X		Reflective materials are only allowed in small quantities
	Corrugated metal siding and metal siding with an industrial profile			X
	Metal sheets with expressed seams	X		
Wood	Wood siding	X		
	Unfinished or untreated wood siding		X	
	Plywood siding (T1-11)		X	
	Wood clapboard (including high quality manufactured wood)	X		
Tile		X		
Synthetics/Composites	Fiber cement siding – panels, boards (for example, Hardi plank)	X		
	Foam-based products: cellular PVC trim			Allowed only for architectural details above the 1st floor
	Vinyl siding		X	
	Scored stucco (imitation brick/stone)		X	
Other	Green walls			X

(§ 18-20C.10, Ord.21-18(4), 9-1-21)

Sec. 20C.11 - Civic space standards.

- A. Civic space requirements.
 - 1. Minimum area and civic space type options.
 - a. Each development under the Rio29 FBC must devote at least the following minimum percentage of gross acreage to civic space:

Table 11: Civic space requirements by character area

Character Area	Minimum Percentage of Gross Acre- age Dedicated to Civic Space	Civic Space Type Options
Core	10%	Square Plaza Public green Linear park Pocket park Pedestrian street Indoor civic gathering spaces Dedication of civic space shown on Regulating Plan
Flex	15%	Plaza Public green Linear park Pocket park Pedestrian street Natural area Dedication of civic space shown on Regulating Plan
Edge	20%	Plaza Public green Linear park Pocket park Natural area Dedication of civic space shown on Regulating Plan

2. Areas dedicated to stormwater management may contribute to the civic space requirements, provided they meet all civic space design standards and satisfy all required elements.
 3. *Ownership and access.* Required civic spaces must:
 - a. Be dedicated to the County;
 - b. Be properly maintained;
 - c. Provide public access at least 12 hours per day;
 - d. Be located at the ground level or an upper story that is open and accessible to the general public, and provide clear visual connections to pedestrians on an adjacent public sidewalk; and
 - e. Be designated and reserved on site(s) to be determined during site plan approval and approved by the Agent.
 4. *Dedication of required civic spaces as shown on Regulating Plan.* The total acreage and boundaries of civic spaces dedicated to the County as shown on the Regulating Plan may be modified in a site plan, provided the modification meets the acreage requirements shown in Table 11. The Agent may permit a modified location provided that such location is equivalent in acreage and type of civic space required.
 5. *Cash-in-lieu of civic space.* Cash-in-lieu of civic space(s) may be provided to the County to assist with off-site construction of a required civic space shown on the Regulating Plan, provided:
 - a. The required civic space shown on the Regulating Plan is located within one-quarter of a mile; and the required on-site civic space is less than 0.2 acres in size; or,
 - b. The required on-site civic space is less than 0.2 acres.
- B. Civic space diagrams.

Figure 10: Square concept diagram

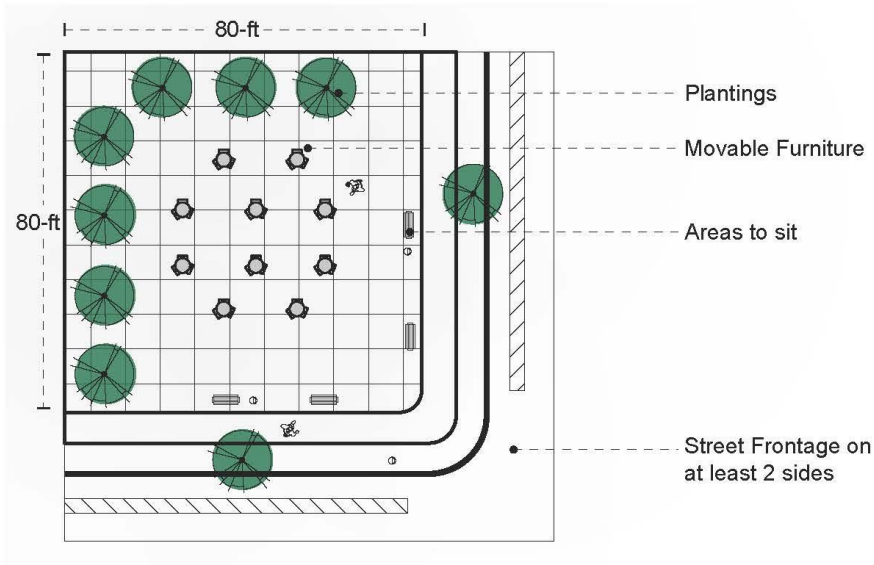


Figure 11: Plaza concept diagram

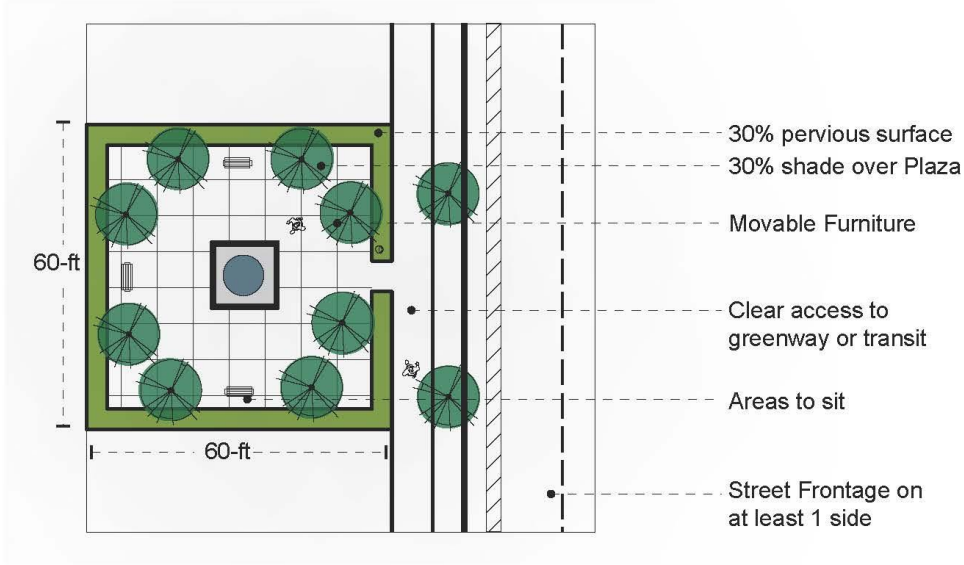


Figure 12: Public green concept diagram

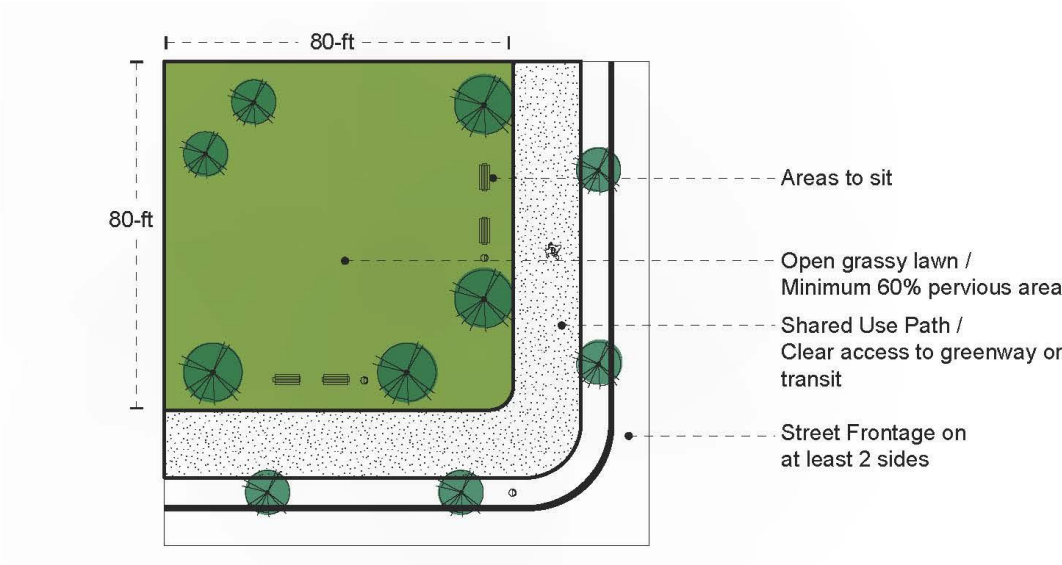


Figure 13: Linear park concept diagram

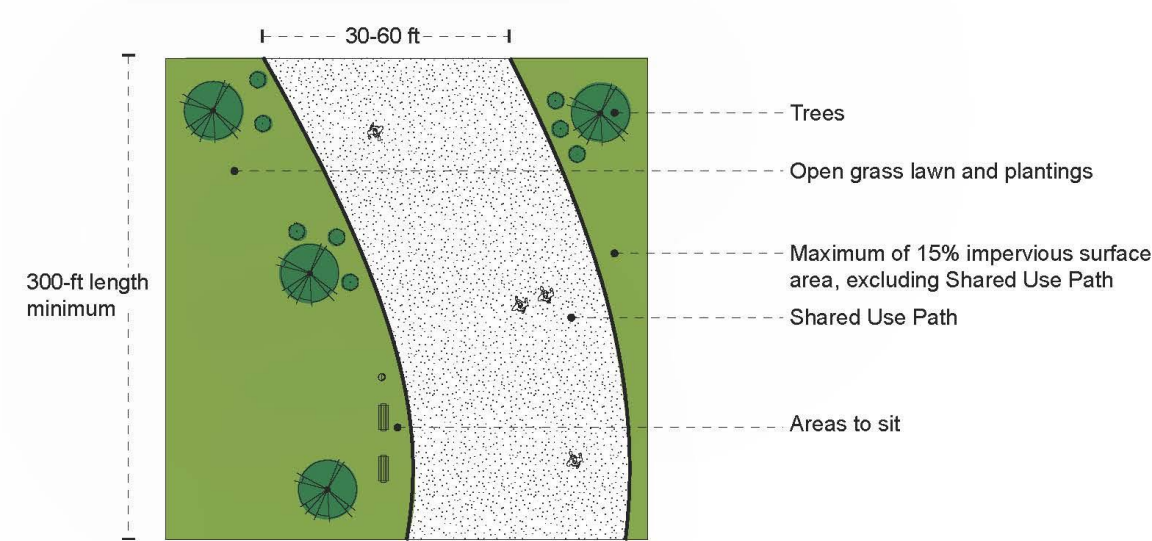


Figure 14: Pocket park concept diagram

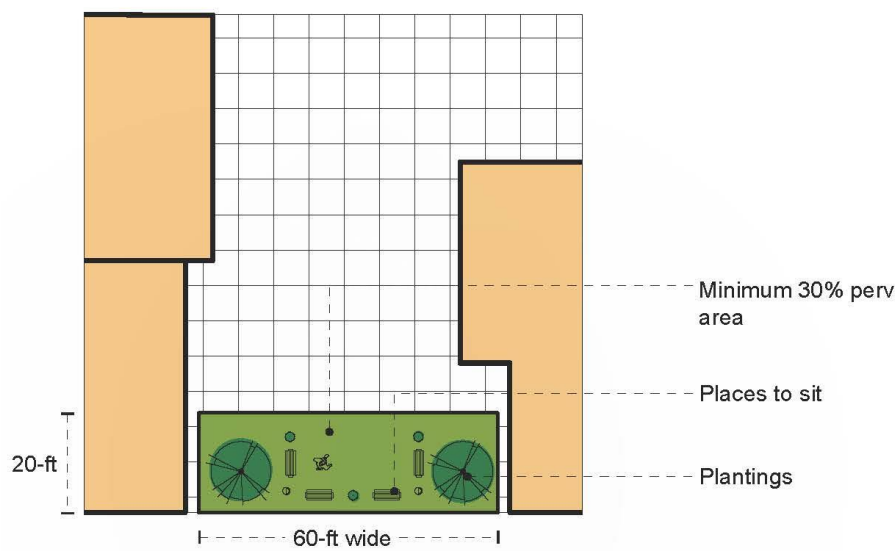


Figure 15: Pedestrian street concept diagram

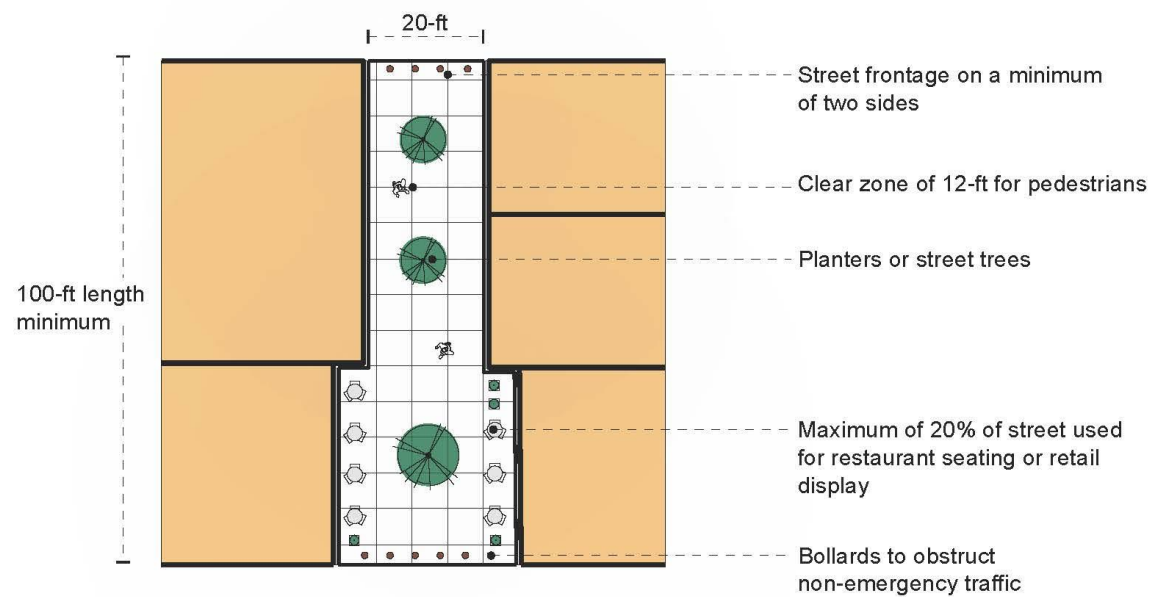


Figure 16: Natural area concept diagram

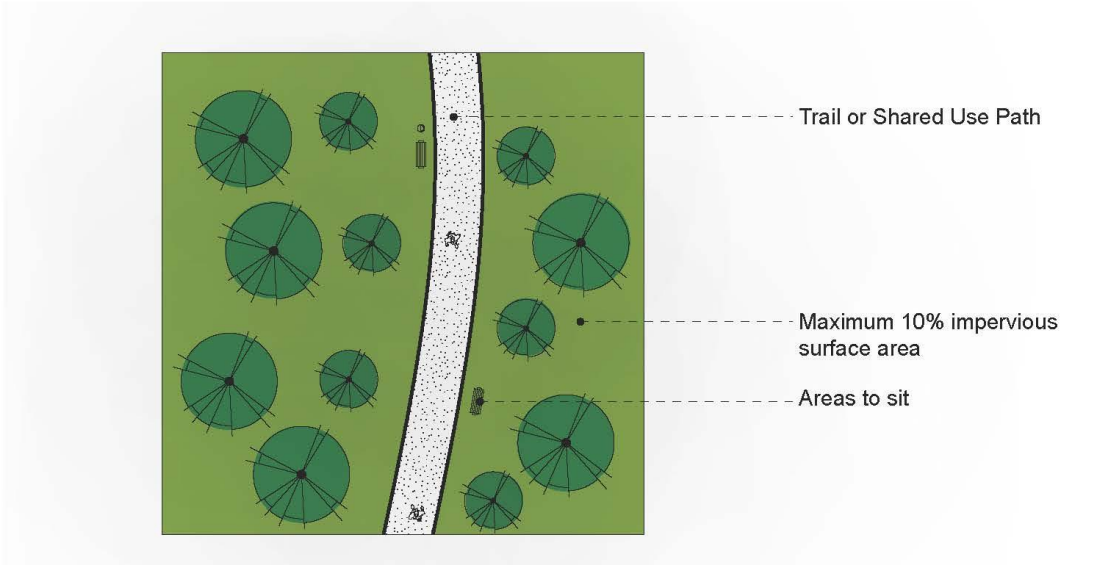
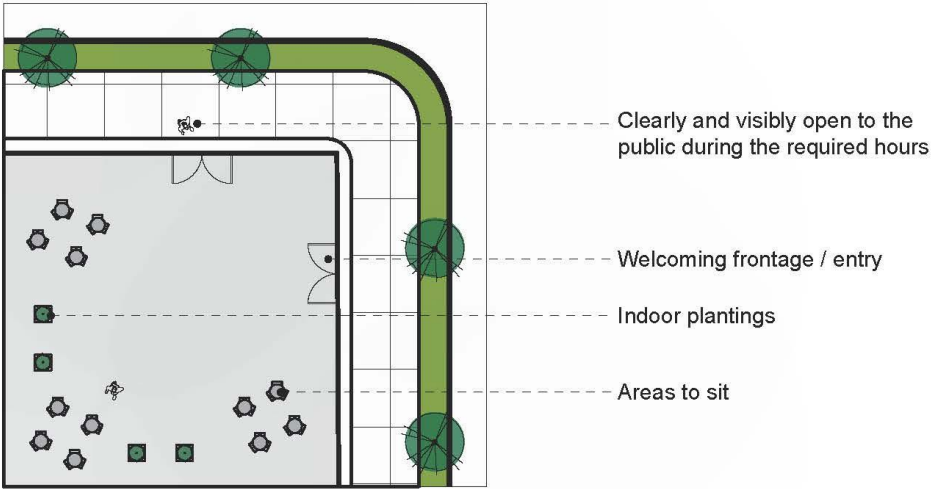


Figure 17: indoor civic gathering space concept diagram



- C. Civic space design standards.
1. Civic spaces must include:
 - a. All required elements listed in Table 12; and
 - b. At least one Additional Element listed in Table 12 (Civic Space Design Standards), or as approved by the Agent.
 2. All civic spaces developed under the Rio29 FBC must comply with the design standards as listed in Table 12.

Table 12: Civic space design standards

Civic Space Type	Required Elements	Additional Elements	Street Frontage Requirement	Size	Minimum Dimensions	Other Design Standards
Square	<ul style="list-style-type: none">- Gathering places- Plantings- Areas to sit	<ul style="list-style-type: none">- Art installation or a focal element- Movable furniture- Trees- Stalls for vendors, such as food truck parking	2 sides minimum	½ block to one block	80-feet on all sides	<ul style="list-style-type: none">- Permanent seating infrastructure required
Plaza	<ul style="list-style-type: none">- Gathering places- Art installation or a focal element	<ul style="list-style-type: none">- Areas to sit- Plantings- Trees- Stalls for vendors, such as food truck parking	1 side minimum	0.25-2 acres	60-feet on all sides	<ul style="list-style-type: none">- Minimum 30% pervious surface area, not including pervious paving- Provision of shade over 30% of the plaza, provided permanently or at minimum between June and September. Shade trees may fulfill this requirement- Provides clear access to the greenway network and transit station or future transit station location
Public Green	<ul style="list-style-type: none">- Open grass lawn for passive or active use- Areas to sit	<ul style="list-style-type: none">- Playgrounds- Plantings- Trees- Gathering places- Stalls for vendors, such as food truck parking	2 sides minimum	0.5-5 acres	80-feet on all sides	<ul style="list-style-type: none">- Minimum 60% pervious surface area, not including pervious paving- Paved pedestrian or Shared Use Paths creating walkways to access the green, which incorporate a coordinated pattern- Provide clear access to the greenway network and transit stations or future transit station locations
Linear Park	<ul style="list-style-type: none">- Trees- Shared use paths	<ul style="list-style-type: none">- Areas to sit- Plantings- Open grass lawn	None	n/a	30-60 foot width 300 foot length	<ul style="list-style-type: none">- Maximum of 15% impervious surface area, excluding shared use paths

Pocket park	<ul style="list-style-type: none">- Plantings	<ul style="list-style-type: none">- Art installation or a focal element- Areas to sit- Playgrounds- Open grass area for passive or active use- Trees- Community gardens	None	0.2-0.5 acre	20 feet width 60 feet length	<ul style="list-style-type: none">- Minimum 30% pervious surface area, not including pervious paving- Paving in excess of 30% of the site must be pervious paving
Pedestrian Street	<ul style="list-style-type: none">- Places to sit- Bollards or other obstructions to non-emergency traffic- Planters or street trees	<ul style="list-style-type: none">- Art installation or a focal element- Provision of shade over 15% of street, permanently provided or at minimum between June and September.- Shade trees may fulfill this requirement.- Green infrastructure- Stalls for vendors	2 sides minimum	n/a	20 feet width 100 feet length	<ul style="list-style-type: none">- Maximum of 20% of pedestrian street may be used for restaurant seating or retail display and sales- Clear pedestrian movement zone of 12' minimum- Passages through buildings may serve as pedestrian streets, provided they meet all requirements- Pedestrian passages may serve as pedestrian streets, provided they meet all requirements
Natural area	<ul style="list-style-type: none">- Trails or shared use paths (SUP)	<ul style="list-style-type: none">- Community gardens- Areas to sit	None	0.5 acres minimum	n/a	<ul style="list-style-type: none">- Maximum of 10% impervious surface area
Indoor civic space	<ul style="list-style-type: none">- Areas to sit- Art installation or indoor plantings	<ul style="list-style-type: none">- Playgrounds- Gathering places	n/a	n/a	1000 sf area	<ul style="list-style-type: none">- Clearly and visibly open to the public during the required hours- A welcoming frontage- Space may be used for public meetings during required public hours, and private meetings or events after the required public hours

D. Trail Standards.

1. Shared use paths (SUPs) must meet or exceed the standards of the Albemarle County Design Standards Manual for Class A Type Two (2) low-maintenance multi-use/shared use paths.
2. Trails must meet or exceed the standards of the Albemarle County Design Standards Manual for Class B Type Two (2) high-maintenance pedestrian paths.
3. Trails and SUPs should be coordinated (as to location, width, drainage, and other factors) with other existing or planned trails or SUPs within the general area and must be extended and constructed to abutting property lines. To the extent possible, trails and SUPs should provide connectivity to nearby or adjacent civic spaces.

(§ 18-20C.11, Ord.21-18(4), 9-1-21)

Sec. 20C.12 - Affordable housing requirement.

A. Affordable housing requirements generally.

1. Affordable housing in the Rio29 FBC District is governed by the Albemarle County Comprehensive Plan (Chapter 9, Housing), the Housing Albemarle policy (Albemarle County Comprehensive Plan, Appendix 9), and the standards of this section.
2. Affordable housing requirements may be met by provision of owner-occupied affordable housing, rental affordable housing, or a combination of the two, as approved by the Agent.

B. *Affordable housing requirement.* Each development containing five or more residential dwelling units must comply with the Albemarle County Comprehensive Plan (Chapter 9, Housing), the Housing Albemarle policy (Albemarle County Comprehensive Plan, Appendix 9), and the standards of this section.

C. *Anti-displacement and tenant relocation requirements.* The following activities must comply with the Albemarle County Tenant Relocation Guidelines for Non-Federally Funded Residential Developments:

1. Redevelopment or rehabilitation of existing residential units;
2. Conversion of rental housing to non-residential use(s);
3. Demolition for rebuilding a site; and
4. Sale by contract where the contract requires an empty building.

D. *Incentives.* Additional affordable housing units beyond the minimum requirements of the above subsections may qualify for incentives.

1. *Eligibility.* Developments that provide at least five percent more affordable housing units than the required number of such units may qualify for one story of building height in addition to the maximum permitted in the Core and Flex character areas. Units must remain affordable at the AMI levels in the Housing Albemarle policy (Appendix 9) for at least 30 years.

(§ 18-20C.12, Ord.21-18(4), 9-1-21)

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SECTION 30 - OVERLAY DISTRICTS

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30.6 - Entrance corridor overlay district - EC

...

30.6.4 - Certificates of appropriateness.

The architectural review board is authorized to issue certificates of appropriateness for any structure, and associated improvements, or any portion thereof, that are visible from the EC street to which the parcel is contiguous, as follows:

a. *Development requiring a certificate of appropriateness.* The following developments require a certificate of appropriateness:

1. *Building permits required.* Each structure and/or site improvement for which a building permit is required, even though it is not a development for which a site plan is required, unless the structure and/or site improvement is exempt under section 30.6.5. No building permit shall be approved until

- the certificate of appropriateness is obtained.
2. *Site plans required.* Each structure and/or site improvement for which a building permit is required in a development for which a site plan is required, unless the improvement is exempt under section 30.6.5. No site plan shall be approved until the certificate of appropriateness is obtained.
- b. *Types of certificates of appropriateness.* The architectural review board is authorized to issue the following types of certificates of appropriateness:
1. *Specific developments.* For specific developments associated with one or more building permits or a single site plan.
 2. *Signs in a new multi-business complex or shopping center.* For all of the signs in a new multi-business complex or shopping center, where the architectural review board first conducts a comprehensive sign review. Once a certificate of appropriateness for signs in a new multi-business complex or shopping center is issued, the director of planning is authorized to determine whether a particular sign satisfies the conditions of the certificate of appropriateness.
 3. *County-wide certificates of appropriateness.* County-wide certificates of appropriateness may be issued for classes of structures, sites, improvements, or architectural elements, subject to the applicable design criteria and procedures, as follows:
 - a. *Categories of structures, sites, improvements, or architectural elements eligible for county-wide certificates of appropriateness.* The following categories of structures, sites, improvements, or architectural elements shall be eligible for county-wide certificates of appropriateness:
 2. Structures located 750 feet or more from an EC street that are not more than five stories tall.
 3. Structures that are proposed to be located behind another structure that fronts an EC street as viewed from the EC street, where the rear structure is no more than twice the height of the front structure.
 4. Personal wireless service facilities.
 5. Signs, except for wall signs whose height exceeds 30 feet.
 6. Safety fencing and screening fencing.
 7. New or replacement rooftop-mounted or ground-mounted equipment.
 8. Additions to structures or improvements for which a certificate of appropriateness was issued, where the design of the addition to the structure or improvement is consistent with the architectural design approved with the certificate of appropriateness.
 9. New structure or site lighting or changes to existing structure or site lighting.
 10. Minor amendments to site plans and architectural plans.
 11. Building permits for which the proposed change occupies 50 percent or less of the altered elevation of an existing structure.
 12. Permits classified in sections 5-202, 5-203, 5-204 and 5-208(A) not otherwise exempt under section 30.6.5(k).
 13. New structures, site changes, or reuse of existing structures in accordance with section 20.C.
- (§ 30.6.4, 10-3-90; § 30.6.4.1, 10-3-90; 5-18-94; § 30.6.4.2, 10-3-90; § 30.6.5(formerly § 30.6.3.2, 7-8-92; Ord. 01-18(3) , 5-9-01); § 30.6.4, Ord. 10-18(5) , 5-12-10; Ord. 12-18(2) , 3-14-12; § 30.6.4, 9-1-21)

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Mr. Gallaway **moved** that the Board adopt the proposed Rio29 Form-Based Code Zoning Map Amendment (Attachment C). Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

ORDINANCE NO. 21-A(6)

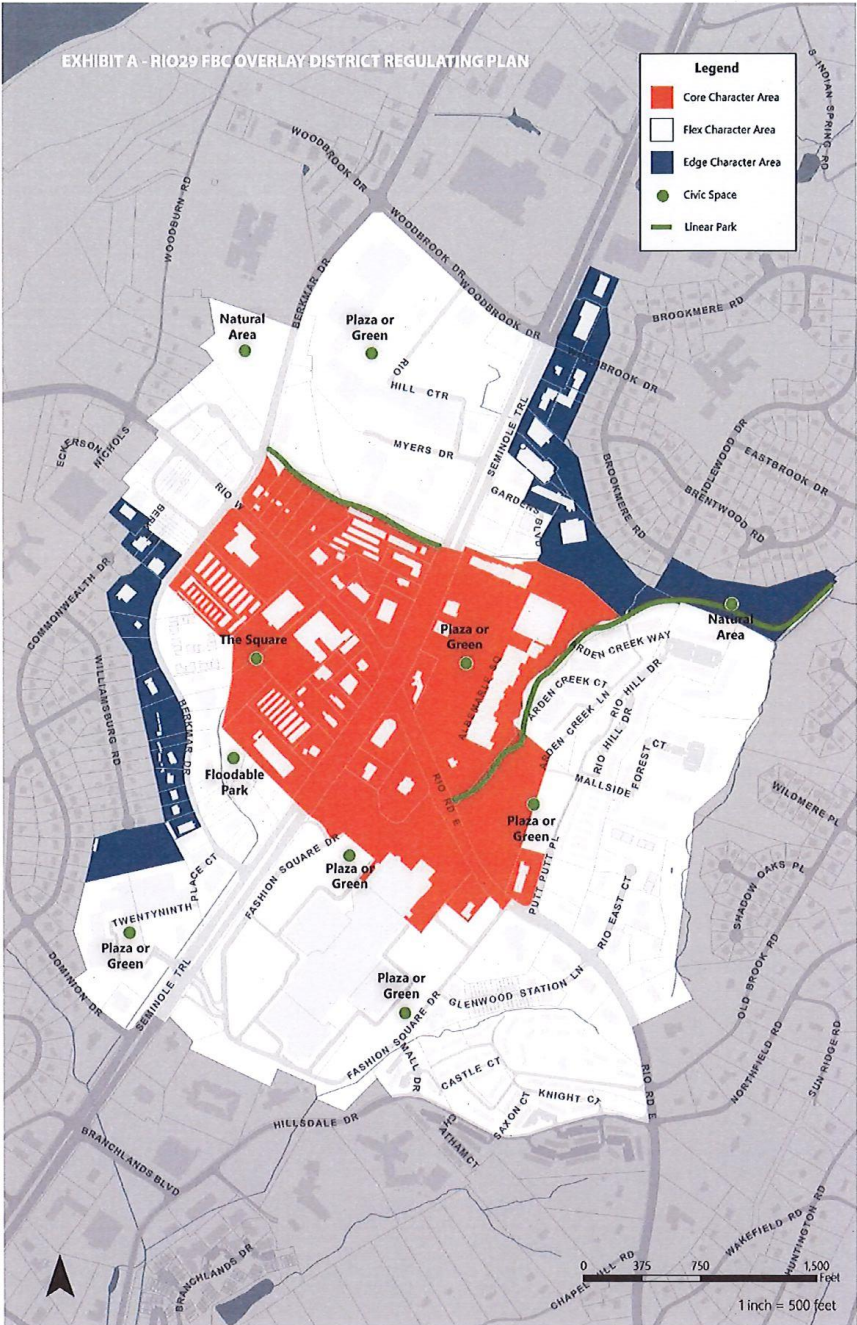
AN ORDINANCE TO AMEND CHAPTER 18, ZONING, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA, BY AMENDING THE ZONING MAP TO ESTABLISH THE BOUNDARIES OF THE RIO29 FORM-BASED CODE OVERLAY DISTRICT

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that, pursuant to the authority contained in Virginia Code § 15.2-2280, *et seq.*, including the purposes for zoning ordinances in Virginia Code § 15.2-2283 and the material and relevant factors for establishing zoning districts set out in Virginia Code § 15.2-2284, the zoning map is hereby amended to establish the Rio29 Form-Based Code Overlay District on those lands shown on the regulating plan attached hereto as Exhibit A, which Exhibit

is incorporated herein by reference.

This ordinance shall be effective immediately.

* * * * *



Agenda Item No. 24. **Public Hearing: Ordinance to Amend County Code Chapter 7, Health and Safety.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 7, Health and Safety, Article 1, Noise. The proposed ordinance would amend County Code § 7-105 to prohibit sound produced by loud explosive devices, such as air cannons and carbide cannons, that are designed to produce high intensity sound percussions for the purpose of repelling birds, if the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room. Virginia Code § 15.2-918 enables localities to prohibit these devices. The proposed ordinance also would expressly state that using these devices is not an exempt agricultural activity as otherwise provided in County Code § 7-106.

The Executive Summary forwarded to the Board states that the County regulates noise from activities and land uses under County Code Chapter 7, Health and Safety, and Chapter 18, Zoning; the

County regulates continuous sounds from animals (e.g., barking dogs), under Chapter 4, Animals. The noise regulations under Chapter 7 regulate sounds created from specific sources, such as construction and demolition activities, motor vehicles, electronic devices such as sound amplification equipment, and sounds generated near noise-sensitive institutions such as schools, courts, and hospitals.

County Code § 7-105 prohibits certain sounds, either during specified hours of the day, if the sound produced from the activity is audible from an identified location or distance from the property line, or a combination of both the time of day and audibility. The proposed ordinance would amend County Code § 7-105 to prohibit sound produced by loud explosive devices, such as air cannons and carbide cannons, that are designed to produce high intensity sound percussions for the purpose of repelling birds, if the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room. Virginia Code § 15.2-918 enables localities to prohibit these devices. The proposed ordinance also would expressly state that using these devices is not an exempt agricultural activity as otherwise provided in County Code § 7-106.

There is no expected budget impact.

Staff recommends that, after the public hearing, the Board adopt the attached proposed ordinance (Attachment A).

Mr. Greg Kamptner, County Attorney, said this particular zoning text amendment is probably the antithesis of what the Board has considered, in complexity and in time spent, but it has been on his to-do list for at least a year and a half. He said this is an ordinance to regulate air cannons and other loud, explosive devices. He said these devices are used to repel birds in agricultural operations, and the sound levels from these devices can range from 100 decibels to 150 decibels.

Mr. Kamptner said the slide on the screen showed the corresponding other types of noise levels generated by other sound sources. He said looking at the bottom arrow, one should keep in mind that 120 decibels, which is about the midrange for these types of devices, is 32 times as loud as 70 decibels, which is the maximum decibel level that is allowed in any of the zoning districts and is the standard for industrial use. He said once achieving 100 decibels and particularly once they reach 150 decibels, this means very loud noises. He said 150 decibels is capable of rupturing the ear drum.

Mr. Kamptner said the proposed ordinance is primarily preemptive, and this has not been a problem in Albemarle County, though it has been in some other localities. He said Augusta County adopted a similar ordinance in 2019. He said in Albemarle, there was one farm winery that used a cannon this summer for several days, which generated some neighbor concerns and protests.

Mr. Kamptner said the ordinance before the Board tracks the enabling authority in State Code Section 15.2-918, and it regulates the use by making it a violation if the sound is audible from a distance of 100 feet from the property line of which the device is located, or within a dwelling unit or hotel room. He said this is the same standard that is used for other noise sources in County Code Chapter 7. He said it is in lieu of an outright prohibition. He said it at least allows the possibility if there was an extremely large parcel with unique acoustic features.

Mr. Kamptner said this is an approach that is generally favored by courts in lieu of outright prohibitions, though he would remind the Board that the enabling authority does allow localities to prohibit their use. He said in speaking with the Police Department, they did not expect that adding this additional basis for enforcement of the noise regulations would create either budget or capacity issues.

Mr. Kamptner said, in working on this ordinance and talking with staff that day, they are reaching a point where there are some new noise sources. He said he has had some conversations with Ms. McKeel recently about backup generators outside that are unbaffled and are creating noise. He said he needed to do more work on that issue, but staff recognizes that it is time to revisit not only the Chapter 7 noise regulations, but also the noise standards and the decibel standards in Chapter 18 of the Zoning Ordinance.

Mr. Kamptner said staff also recognizes that with the current way that the noise ordinances are set up, enforcement can sometimes be difficult because there is the Code Compliance Team that generally works 8:00 a.m. to 5:00 p.m., then the police are primarily responsible for the Chapter 7 noise regulations. He said these are typically classified as Tier 3 types of violations. He said Tier 1 and Tier 2 calls that are responded to take precedence over Tier 3 calls.

Mr. Kamptner offered to answer questions.

Ms. LaPisto-Kirtley said she was in favor of this.

Ms. Palmer said she was also in favor of this and appreciated it coming up, including the addition of the air cannons.

Ms. McKeel said she was in favor as well, and she appreciated Mr. Kamptner recognizing the issue around generators. She said they all understand how busy staff is.

Ms. Mallek said she is very much in favor of this, and her only question was regarding where the 100 feet is. She asked if the 100 feet is within the property line of the source, or if it is 100 feet on the

neighbor's property, meaning it is taking away 100 feet of the use of their property. She said this comes up now and then in different circumstances, and she would like to know what this is because she does not think it is fair for someone to appropriate 100 feet of someone else's land at an ear busting level of noise.

Mr. Kamptner replied that it is 100 feet inside the receiving property. He reminded the Board that the standard is merely audibility. He said it is not that it is disturbing, and it just needs to be audible at that 100-foot mark.

Ms. Mallek said that changes everything because this is back to audibility versus 55 decibels.

Mr. Kamptner agreed. He said this is Chapter 7, and the Zoning Ordinance has the decibel standard.

Ms. Mallek said she was going to push for putting a period after "repelling birds" and leaving everything else out, but if it is just audibility and if one can hear it, it is out, then she supposed she could live with the ordinance the way it was proposed. She said these comparisons Mr. Kamptner gave were mind boggling, and she was glad they would be coming back to the decibel standards as 55 decibels is far too high.

Mr. Gallaway said the ordinance referred to "repelling birds," but the way Mr. Kamptner described it, it was something that would disintegrate the birds.

Mr. Gallaway opened the public comment portion of the hearing. As there were no speakers, he closed the public hearing.

Ms. Mallek **moved** that the Board adopt the proposed ordinance (Attachment A). Ms. LaPisto-Kirtley **seconded** the motion.

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

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

NAYS: None.

ABSENT: Ms. Price.

ORDINANCE NO. 21-7(2)

AN ORDINANCE TO AMEND ARTICLE 1, NOISE, OF CHAPTER 7, HEALTH AND SAFETY, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article 1, Noise, of Chapter 7, Health and Safety, is hereby amended as follows:

By Amending:

Sec. 7-105 Specific acts prohibited.

Chapter 7. Health and Safety Article 1. Noise

.....

Sec. 7-105 Specific acts prohibited.

It is unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

- A. *Motor vehicle or motorcycle operation.* The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and either:
 1. *On a street or on public property.* The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of 100 feet or more from the motor vehicle or motorcycle; or
 2. *On private property.* The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.
- B. *Sound producing or reproducing devices.* The sound is produced by any device intended primarily for the production or reproduction of sound and either:
 1. *Device within or on a motor vehicle on a street or on public property.* The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of 100 feet or more from the motor vehicle;
 2. *Device within or on a motor vehicle on private property.* The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;

3. *Device within a place of public entertainment.* The device is located within a place of public entertainment, and the sound is audible for a duration of five continuous minutes or more, without an interruption of the sound for 30 or more consecutive seconds during the five minute period, within any one hour period: (i) from a distance of 100 feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. any day and 7:00 a.m. the following day from inside a dwelling unit or hotel room;
 4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;
 5. *Device producing outdoor amplified music or serving as an outdoor public address system.* The device is located to produce outdoor amplified music, to serve as an outdoor public address system, or both, including any such device used in conjunction with an agricultural activity, and the sound is not otherwise regulated under subsections (B)(1) through (4) or exempt pursuant to County Code § 7-106, and the sound is audible from inside a dwelling unit or hotel room; or
 6. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, a dwelling unit, or is not producing a sound subject to subsection (B)(5), and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.
- C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under County Code Chapter 18, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. any day and 7:00 a.m. the following day from inside a dwelling unit or hotel room.
- D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home, or court (hereinafter, collectively referred to as "institutions"), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home, or court and either:
1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session; or
 2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.
- E. *Construction, demolition, or maintenance activities.* Either of the following:
1. Sound produced by construction, demolition, or maintenance activities between the hours of 10:00 p.m. any day and 7:00 a.m. the following day, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.
 2. Sound produced by construction, demolition, or maintenance activities related to a public facility, a public use, or a public improvement between the hours of 10:00 p.m. any day and 7:00 a.m. the following day, but which is produced by a contractor of a governmental entity, or a subcontractor of such a contractor, either off-site or outside of the project limits when the project limits are established in writing by the governmental entity, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.
- F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. any day and 6:00 a.m. the following day or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.
- G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. any day and 6:00 a.m. the following day within a residential zoning district established pursuant to County Code Chapter 18, and between the hours of 10:00 p.m. any day and 5:00 a.m. the following day within any non-residential zoning district established pursuant to County Code Chapter 18, including any mixed-use site, and the sound is audible: (i) from a distance of 100 feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.
- H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing, and snow blowing between the hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established pursuant to County Code Chapter 18, and between the hours of 10:00 p.m. any day and 6:00 a.m. the following day within any non-residential zoning district established pursuant to County Code Chapter 18, including any mixed-use site, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.
- I. *Loud explosive devices used to repel birds.* Sound produced by loud explosive devices, including air cannons and carbide cannons, that are designed to produce high intensity sound percussions for the purpose of repelling birds, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room. The use of a loud explosive device is not an agricultural activity exempt from this Article pursuant to County Code § 7-106.

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(Ord. 98-A(1), 8-5-98; Ord. 09-7(3) , 12-2-09; Ord. 13-7(2) 9-4-13; Ord. 16-7(1) , 5-4-16; Ord. 20-7(1) , 3-18-20, effective 5-1-20)

State law reference(s) - Va. Code §§ 15.2-918, 15.2-1200.

Agenda Item No. 25. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek said that the Historic Preservation Committee had a great presentation the week before by the Markers Subcommittee about working on different ways to partner with research organizations that have been working for years to gather information that they are also trying to share with the community as part of the Remembrance Project. She said this was exciting and encouraging, and the Board would be hearing more about that in the future.

Ms. Mallek said another item for staff to think about is a future presentation on hazmat protocols if a citizen calls with a question about who to call, who is trained to respond, and what the programs are in the County. She said she thinks there are many people who are not aware, and that she herself was not aware, of all the training happening, and the Board could benefit from that at some point in the future.

Ms. Mallek said she assumed that also at some point in the future, the Board would hear a preliminary presentation about the process for redistricting. She said 10 years ago, there were decisions the Board had to make about approaches and policy. She said she expected this would be coming sometime in the next many months.

Mr. Jeff Richardson, County Executive, thanked Ms. Mallek for her interest in hazmat protocols. He said anytime there is a citizen concern about a potential hazmat spill or any type of hazardous waste, the Emergency 911 system, which operates 24/7/365, has trained emergency operators who know the exact protocols and questions to ask, and they are able to bill the call if the call has elements in it that suggest that first responders from Albemarle County Fire Rescue are needed to respond to and assess the call to determine if they need further assistance from mutual aid (from other counties) or from the State Department of Environmental Quality (DEQ).

Mr. Richardson said that because of the County’s size and because there is a major interstate going through the County, there are so many things that can happen regarding tanker or oil spills, and the County are adequately prepared with first responders anytime, day or night. He said this is at the local level, with solid training with staff. He said he would be happy to work with Chief Dan Eggleston to provide more detail to the Board about that. He said it may not need to be a presentation, but it could be a memorandum sent to the Board that gives more specifics about it.

Mr. Gallaway asked Mr. Kamptner if he wanted to talk about redistricting. He said his question would have been if there is an outline or summary that said what happened the last time. He said he was not in tune with that particular item and was curious as to how this was done the last time.

Mr. Kamptner said he would be happy to provide a memo to the Board or give a presentation at an upcoming meeting. He said one thing that has dramatically changed with this census is that Section 5 of the Voting Rights Act is no longer in play, which provided a framework to how they would proceed. He said he anticipates they will proceed the same way, as there is a new state law that is the state version of what former federal Section 5 of the Voting Rights Act was. He said he would be happy to give the Board a summary of how they proceeded the last time.

Mr. Gallaway said the previous director of the Thomas Jefferson Planning District Commission, Mr. Chip Boyles, is now the City Manager. He said there has been a hiring committee put in place for the TJPDC, and applications have been received. He said he is one of the members serving on the hiring committee. He said applications and interviews will be considered in September, and hopefully sometime after that, the TJPDC will have a new executive director in place.

Agenda Item No. 26. Adjourn to September 15, 2021, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).

At 8:02 p.m., the Board adjourned its meeting to September 15, 2021, 1:00 p.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(16); An Ordinance to Ensure the Continuity of Government During the Covid-19 Disaster. Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page.

Approved by Board
Date 07/19/2023
Initials CKB

Chair