

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 15, 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 Gallaway, Chair; Ms. Donna Price, Vice-Chair; Ms. Beatrice (Bea) LaPisto-Kirtley, Ms. Ann Mallek, Ms. Diantha McKeel, and Ms. Liz Palmer (arrived at 1:38 p.m. and departed at 9:46 p.m.)

ABSENT: None.

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(8), "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.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price **moved** to adopt the final agenda.

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. Price.

NAYS: None.

ABSENT: Ms. Palmer.

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

Ms. McKeel said she had no announcements.

Ms. Mallek stated that on the previous day, September 14, the Rivanna River Basin Commission had met and received a much more detailed update on the Rivanna River Corridor Plan and is looking forward to seeing the final plan very soon. She said the Rivanna River Basin Conference will be taking place at the end of the month and emails are going out today for the September 24th event.

Ms. Mallek said she was recently appointed to the NACo (National Association of Counties) Veterans and Military Services Committee and had attended her first meeting the previous week. She said there were presentations on programs for Exploration Term of Service (ETS) for service people ending their tour and adjusting to their first year in civilian life. She said this is a very high-risk time, with suicide levels higher than people in the same age group than people who are not going through this transition. She said there is a company that has an MOU (Memorandum of Understanding) with the VA to assist counties in service provision to veterans, including mentorship, to make sure they are connected. She said in many ways, this has begun locally with the DAC committee, and she hopes to make more resources available with the connection to this company. She said that is especially important to the Rivanna Station as there is no base, and no base services for soldiers as there would be if they were at another post, with more burden on local agencies and local government to fill that need.

Ms. Mallek said the Albemarle County branch of Career Works has now almost completed its certification process as part of the DSS Department. She said the meeting room for Career Works in COB-5th is full of resources for people who may come to Social Services looking for help with a job search or career training.

Ms. Mallek said there were also new members appointed to the State Work Force Board, and she represents local governments on that Board. She said there are about 100 business and government leaders also participating. She said the new Board member for Access and Equity is Sarah Morton, who has been the Director of the Piedmont Work Force Network Agency for the last 15 months. Ms. Mallek offered her excitement and congratulations to Ms. Morton on her appointment to this board.

Ms. Mallek said Friday is the first day of early voting at COB-5th, with the deadline to register to vote being October 12, and she encouraged everyone to register.

Ms. Price reported that this past Saturday in Scottsville, the farmer's market was bustling, the

Blue Ridge Health District had their mobile van offering testing and vaccinations, it was the opening weekend of youth soccer, and it was just a great day to be in Scottsville.

Ms. Price stated that her next remarks are directed mostly to Mr. Richardson, and she's noticed over the last several months that Albemarle County has lost some incredible employees who have left for several reasons, but principally all financial. She said some have been retirements and others have been for opportunities offered by other entities who are providing a financial compensation package that Albemarle County could not match. She said these are the forward-facing people that the Board has worked with on a regular basis, and she understands that the economic situation around the country is difficult, but employees are no longer willing to accept being undercompensated and underappreciated. She said this is something that is happening throughout the country.

Ms. Price said that for Albemarle County to be able to maintain the high level of quality employees they currently have, the County will have to do a more in-depth analysis and review of the compensation package. She said every job is important, though some may have more critical skills or significance in certain respects than others, but they cannot afford to lose any of their quality workforce. Ms. Price said that she knows he has been on top of this, but the Board and the community need to be prepared for the County to do a more in-depth study of compensation, and they cannot continue the every-other-year 2% pay raise that has been done more recently. She said there were already modifications made for first responders in their pay increase earlier this year, and she thinks they all need to be prepared that personnel costs are going to go up, which they should consider in their budget sessions.

Ms. LaPisto-Kirtley said that the previous Saturday, she and Mr. Gallaway had attended a VFW event honoring those on 9/11 who made the ultimate sacrifice for our country. She said that in addition, all of those who serve, including the police, fire/rescue personnel, EMTs, and those in community service, were also honored.

Mr. Gallaway said that Ms. Mallek along with other representatives from the City of Charlottesville and state were also in attendance. He said the County and the City both received a service flag that was delivered to Mr. Richardson on Monday, and he asked Mr. Henry if there were any protocols about flying that flag.

Mr. Henry said that Mr. Richardson had made him aware of receiving the flag on Monday, and he is researching the protocols around flying it. He said he has reached out to the American Legion to get more information, but he is still looking into this to make sure it is flown in a proper and appropriate way.

Mr. Gallaway said it is a white flag with a border and a single star in the middle. He said once that is figured out, he hopes the flag will fly over the building to honor those it represents. He said the guest keynote speaker was Col. Joel Jenkins, chaplain of the 116th Regiment 29th Infantry Division. He said he was a great keynote speaker whose message was well-received and had the right tone and tenor for the event, and he appreciates all involved who represented the County and the City at that event.

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#### Agenda Item No. 6. Proclamations and Recognitions.

##### Item No. 6.a. VACo Achievement Award.

Mr. Gallaway said Mr. Gage Harter, Director of Communications with the Virginia Association of Counties, was present to provide remarks on this award.

Mr. Harter thanked the Board for the opportunity to present the Board with their 7th achievement award. He said these awards started in 2003, for which Albemarle County won two awards, and they won again in 2005, 2008, 2016, and 2018.

Mr. Harter said this is the 19th year they are holding the achievement awards, and it is a truly competitive program. He said there were 102 entries and 30 winners from 19 counties selected, which equates to a 29% winning percentage, and having 102 entries during a pandemic was excellent.

Mr. Harter said the award that was given pertained to the at-ready statue that was removed from the County square. He read: "In Albemarle County, our process of creating community partnerships and empowering community members resulted in a removal event with no incidents." Mr. Harter said he loves that because it shows that there can be a difference of opinions, but in the end, people should be civil and do things inclusively, and to ensure there is involvement from all shows that these things can happen without incident. He congratulated the County on earning this great award.

Mr. Gallaway said Ms. Emily Kilroy would be receiving this award and asked if she was prepared to make a few remarks.

Ms. Kilroy thanked the members of the Board and Mr. Harter for letting her speak to this, stating that she first wants to share that the VACo Achievement Awards are meaningful because they allow Albemarle County to share their work with other communities that are facing similar challenges. She said internally, the award recognizes each year what the County could or should be doing or that they've done something differently than in the past. She thanked VACo for the work they put into the program and for the recognition this year. She said the statue removal process started much before the actual removal and said the Board of Supervisors gave direction to staff in January 2020, which was before the General

Assembly had amended state code, to begin an intentional and inclusive community engagement process. She said there had not been a community conversation about what should be done with a confederate statue in front of the courthouse if they were given the authority to do so, and that direction established the commitment to listen to the community and to join the County in a conversation series.

Ms. Kilroy said she wanted to thank the community members who showed up in-person to talk about public spaces, this space, and shared experiences and reflections. She said when the process pivoted to a virtual process, she said there was greater participation of people willing to listen and share, and at times they were very difficult and tense. She said there were over a dozen community facilitators from area nonprofits who were there to help facilitate discussions that were challenging for many.

Ms. Kilroy said the County had an incredible array of partners that enabled them to be successful, including the Albemarle-Charlottesville Historical Society, the Jefferson-Madison Regional Library, citizen historians, access to archives through the University of Virginia that allowed them to share historical documents, and original primary sources to tell the whole story of how the statue came to be placed in the community. She said that really set the stage for the question to be raised as to whether it aligns with the values that the community holds today.

Ms. Kilroy noted the work that went into planning for the successful removal was remarkable and was the kind of work that a person goes into public service to do and that most people in the community never get to see. She said they began meeting in January also for the possibility of removal because the County knew they wanted to balance their goals of having a safe event with a moment the community could be a part of. She said they knew it would take a very high level of coordination and collaboration to do so safely. She said she's never been prouder to work alongside the members of the Police Department, Fire/Rescue, Facilities Planning and Construction, Procurement Office, Public Engagement staff, and the Equity and Inclusion teams. She said it was a monumental effort to pull the project off safely. She expressed thanks for the opportunity to be part of this, for the Board's support, for the Community's participation, and again for the recognition and the ability to share this with colleagues statewide.

Mr. Harter said that this project can be replicated, which is one of the main spirits of the VACO Achievement Award. He said hopefully, Albemarle County will receive calls from other counties with similar issues. He added that the award will be mailed to them soon.

Ms. McKeel thanked Mr. Harter for joining them and said the County is honored to have this award. She said she thinks in all the years of her service on the Board of Supervisors, this was one of the projects that she has been the proudest of for the community. She said she also wants to thank the local T.E.A.L. Construction Company, which worked very closely with the County and made all this possible. She said they took some hits from the community, but people also said this was a moment they were very proud of. She said that public spaces need to be neutral, especially courthouses and judicial spaces, which this removal helped to achieve. She stated that it was a great moment for the community.

Ms. Mallek thanked Mr. Harter for joining them. She said the process that Ms. Kilroy and colleagues laid out made those difficult conversations possible and therefore brought everybody together in communal acceptance of what needed to be done. She said the Board was direct about its plans, which helped everyone get through this, and she offered her congratulations to everyone on the success of this event.

Ms. Price thanked Mr. Gallaway and Mr. Harter and said she would echo the remarks of the other supervisors. She said there is so much to be proud of both in terms of the substantive outcome, but more significantly for these purposes was the process. She said it showed the foresight that County leadership had months prior to when this started, as they saw an opportunity on the horizon and then planned, scheduled, and worked with the community. She said that while she fully agrees with the accolades that are being given to those in the County for the work that was done, and for the diligent effort that was made to ensure community members were part of this, she also needs to give a great deal of thanks to the community members themselves for the manner in which they approached and saw this project through. She said she could not be prouder that Albemarle County is the first local jurisdiction in the Commonwealth of Virginia to follow the new legal process seamlessly and without animosity. She said it was an honor to be a part of this.

Ms. LaPisto-Kirtley said she's a bit taken aback that the County is being awarded for something that was the right thing to do. She said she's thankful for the award to show recognition of the effort by the County, the staff, and the community to make sure this was a seamless, open, and transparent process. She said everything being done was out in the open, and everyone knew what was being done, and for that she was very grateful. She said she's also proud that it was done in a good manner that honored everyone.

Mr. Gallaway said that Board Clerk, Claudette Borgersen, shared the application with him that was submitted for this project. He said there were basically three things that staff identified for focus, the community engagement process, a strong logistics plan, and a coordinated public safety framework, and he was incredibly proud of staff in reviewing those three things. He said obviously the engagement process played out for the months that led up to the removal, but it takes being there and seeing it to understand just how strong the logistics plan and public safety plan were laid out and implemented. He said he is glad that process is recognized and displayed as a blueprint for success to other communities that may choose to do something similar.

Mr. Richardson thanked Mr. Gallaway and the Board for their support, and he appreciates the kind words. He said that he appreciates everything Mr. Harter does across the Commonwealth to support local government, and it does not go unnoticed.

Mr. Gallaway thanked Mr. Harter again for presenting the County and staff with this award. He thanked Ms. Kilroy for accepting.

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Item No. 6.b. Proclamation Celebrating National Hispanic and Latino Heritage Month.

Ms. LaPisto-Kirtley **moved** to adopt the proclamation celebrating National Hispanic and Latino Heritage Month and read it aloud. 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. Price.

NAYS: None.

ABSENT: Ms. Palmer.

Mr. Gallaway said Mr. Gus Colon would read this proclamation in Spanish as well.

Ms. Irtefa Binte-Farid, Coordinator for Equity and Accountability, thanked the Board for their continued commitment to creating a more equitable and inclusive Albemarle County, and for taking the time with these proclamations to tell a more complete story of who the community is. She said there are a few guests joining them to accept the proclamation, but she would like to first introduce Gustavo Colon from the IT Department to read the Spanish version. Mr. Colon was born in Guatemala and has been part of the Albemarle County Government for 26 years and said he did not create this translation but is merely reading it.

Mr. Colon read the proclamation in Spanish.

Mr. Gallaway thanked Mr. Colon and asked Ms. Binte-Farid to introduce the others present.

Ms. Binte-Farid introduced Edgar Lara.

Mr. Lara sent a message to Mr. Gallaway that he is unable to unmute his call and is unable to share video and asked if anyone is able to assist Mr. Lara. Ms. Kilroy said she was working to help him.

Ms. Kilroy said she had attempted to help him but was not sure it was going to work.

Mr. Gallaway said that if Mr. Lara has prepared remarks, he welcomes those to be sent via email to be included as part of the official remarks of the meeting. Mr. Gallaway apologized for the technology failure and thanked everyone for their willingness to accept the proclamation.

Ms. Binte-Farid said this was one of the first times a proclamation has been read in Spanish and wanted to share how exciting that was for her to hear.

Mr. Gallaway said Mr. Lara was able to work out the connection issues to be able to provide comments in acceptance of the resolution.

Mr. Lara thanked the Board for their patience and for the proclamation, stating that he is accepting this on behalf of the local community and appreciates it and is encouraged by it. He said this proclamation celebrating Hispanic Heritage Month allows the community to express its recognition and support for the contribution the Hispanic population has made in helping our country and community grow and prosper. He said although many think of this community as a relatively new population, Latin Americans have lived in what is now the United States since the 16th century.

Mr. Lara said along with the often-overlooked presence and contribution, so too is the brutal history of anti-Latino discrimination in America. He said segregation, lynchings, and mass deportations of Spanish-speaking U.S. citizens are just some of the injustices Latinos have faced. He said he shares these sobering thoughts because they are just as important to be aware of and remembered as the contributions. He said there should be awareness of history and reflect on it when considering what is happening in the country, the world, and the community today.

Mr. Lara said that although he represents the largest ethnic minority, anti-Latino discrimination in the U.S. is far from over. He said much of today's discrimination centers on immigration with presumptions of illegality and criminalization, but the reality is the vast majority in this community are U.S. citizens or documented, and each is deserving of respect and dignity, regardless of their status.

Mr. Lara said the Latin American population in the U.S. is very diverse originating from over 30 countries and immigrating due to vastly different circumstances. He said some come to America from wealth, education, and privilege, but a large number also come from far less and have been displaced or had to flee from their home countries due to natural disaster, violence, oppression, or lacking ways to survive economically. He said the local Hispanic community is just as diverse as it is in other parts of the country, but on average, it has more recently arrived than in other parts where there are generations of established communities. He said in the Albemarle area, much of the Hispanic community continues to be largely invisible and unknown to the broader community, and the pandemic has shown how much the



Hispanic community is depended upon through essential workers and neighbors.

Mr. Lara said as the value of equity and diversity continues to grow, more and more well-intentioned organizations look to include Hispanic voices and open a seat for them at the table. He said years and decades of neglect won't be solved overnight by invitations to join the program. He said what is needed is long-term investments in the community. He said many people look for leaders and find the same names over and over. He said there are people with potential who need support to become part of the solution over time. His organization is dedicated to empowering immigrants and their families through education, advocacy, and direct support, with the focus on the Hispanic population of Central Virginia. He said this has been done for nine years in Albemarle County and started as 100% volunteer, and today there is a staff of five supported by dedicated volunteers. He said his hope is that this proclamation and celebration of Hispanic heritage will translate into an acknowledgement of the Hispanic contributions through investments in the community. He said he hopes and asks that they think of him and his organization as a partner and advisor to the important work that is needed in the months and years ahead.

Ms. McKeel thanked Mr. Lara for joining them and said she agrees with much of what was said. She said she also really appreciates the history that Mr. Lara shared.

Ms. Mallek thanked Mr. Lara for his comments. She said the more the Board can learn about its community and all its members, the better off everyone will be.

Ms. Price thanked Mr. Lara, speaking in Spanish. She said that Mr. Lara's words were eloquent, moving, and true. She said very often, it is easy for the majority to lose sight of the contributions of the minority, and that applies to every ethnic, religious, or demographic entity she may be speaking about. She said Mr. Lara's words carry meaning for all, no matter what group they participate in or are a part of, and she expressed her appreciation for having the Spanish translation of the resolution today. She said there are times when that symbolism itself can carry great weight in showing value to community partners, and she thanked Mr. Lara for his patience to work through the technical difficulties to give him an opportunity to speak.

Ms. LaPisto-Kirtley thanked Mr. Lara, noting that she spent her entire working career in the Hispanic and Latino community. She said she wishes everyone had the opportunity to know how enriching it is, how much it has enriched her life, and what a wonderful experience it was and continues to be. She said she is so proud that the Board could do this and work with the community to do more for this part of the population and the community.

Mr. Gallaway thanked Mr. Lara and said he appreciates that he was able to receive the resolution and then be able to make remarks and for joining the meeting.

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#### **Proclamation Celebrating Hispanic and Latino Heritage Month**

- WHEREAS,** Hispanic and Latino Americans make up 18.5% of the nation's population, making them the largest ethnic minority; and
- WHEREAS,** Hispanic and Latino Americans enrich every community they are a part of through their vibrant and diverse cultures; and
- WHEREAS,** Hispanic and Latino Americans have persevered and prospered through their hard work and commitment despite systemic and linguistic barriers; and
- WHEREAS,** Hispanic and Latino Americans make significant contributions through their leadership in government, protecting freedoms as part of the military, helping feed our community through agriculture, inspiring children as educators, helping fight against the COVID-19 pandemic as healthcare professionals, and advancing society through science and technology; and
- WHEREAS,** Hispanic and Latino owned businesses contribute to Albemarle County's economic growth and job creation; and
- WHEREAS,** the stories of Hispanic and Latino community members are woven into the fabric of our community and Hispanic and Latino history is our collective history; and
- NOW, THEREFORE, BE IT PROCLAIMED,** that we, the Albemarle County Board of Supervisors, do hereby recognize September 15 – October 15, 2021 as the 53<sup>rd</sup> National Hispanic and Latino Heritage Month and recommit to building a diverse and inclusive society that works for all members of our community.

Signed this 15<sup>th</sup> day of September 2021.

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**Proclamación para celebrar el Mes de la Herencia Hispana y Latina**

- CONSIDERANDO QUE,** Los hispanos y latinoamericanos constituyen el 18.5% de la población del país, lo que los convierte en la minoría étnica más grande; y
- CONSIDERANDO QUE,** Los hispanos y latinoamericanos enriquecen cada comunidad de la que forman parte a través de sus culturas vibrantes y diversas; y
- CONSIDERANDO QUE,** Los hispanos y latinoamericanos han perseverado y prosperado gracias a su ardua labor y compromiso a pesar de las barreras sistémicas y lingüísticas; y
- CONSIDERANDO QUE,** Los hispanos y latinoamericanos hacen contribuciones importantes a través de su liderazgo en el gobierno, protegen nuestras libertades como parte de las fuerzas armadas, ayudan a alimentar a la comunidad a través de la agricultura, inspiran a los niños como educadores, ayudan a luchar contra la pandemia de COVID-19 como profesionales de la salud, y mejoran la sociedad a través de la ciencia y la tecnología; y
- CONSIDERANDO QUE,** Las empresas propiedad de hispanos y latinos contribuyen al crecimiento económico y la creación de empleo en el condado de Albemarle; y
- CONSIDERANDO QUE,** Las historias de los miembros de la comunidad hispana y latina están entrelazadas en la estructura de nuestra comunidad y la historia hispana y latina es nuestra historia colectiva; y
- ASÍ, POR LO TANTO, SE PROCLAMAR,** que nosotros, la Junta de Supervisores del Condado de Albemarle, por la presente reconocemos el periodo entre el 15 de septiembre al 15 de octubre de 2021 como el 53º Mes Nacional de la Herencia Hispana y Latina y que nos comprometemos nuevamente a construir una sociedad diversa e inclusiva que funciona para todos los miembros de nuestra comunidad.

Firmado el día 15 de septiembre de 2021.

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

(Ms. Palmer joined the meeting at 1:38 p.m.)

Ms. Lori Schweller of Williams Mullen law firm said she is representing the applicant and would like to express her support for the special exception request for Ramsay Cottage, and she offered to answer any questions the Board may have during that action item on the agenda. She said Tom and Ree Sergeant purchased the estate in 2012, and it comprises two parcels on the north side of Route 250 West and an approximately 75-acre parcel containing the main house, a farmhouse, barns, and other buildings, and a 3.6-acre parcel containing the cottage and a studio where the farm manager resides.

Ms. Schweller said that Ramsay and its structures are described in the National Register of Historic Places. She said that according to the National Register, William Langhorne, whose family arrived in Virginia in 1673, commissioned the main house in 1900. She said Langhorne and his wife, Parthenia Ross Gibson, purchased the property in 1936 and built the cottage in 1950. She said they later transferred the property to Langhorne’s mother, Irene Langhorne Gibson, who was known as the prototype Gibson Girl, a social and fashion icon popular through drawing by illustrator Charles Dana Gibson.

Ms. Schweller said according to the Library of Congress website, the Gibson Girl was a vibrant new feminine ideal who was the visual embodiment of what writers of the period described as the “new woman” in the period between the 1880s and World War I. She said Irene Langhorne Gibson lived out her retirement in the cottage until her death, at which time the property was conveyed back to her son, Langhorne Gibson. She said his children sold the property to the Lincoln House following the death of their mother in 1998.

Ms. Schweller said the property is under conservation easement with the Virginia Outdoors Foundation by deed at the Lincoln House. She said the main house and cottage have spectacular views of rolling fields and forest to the north and west toward the Blue Ridge. She said historic estates such as Milburn and Mirador lie to the east, Ridgely Farm to the northwest, and Tiverton to the southwest. She said the Sergeants would like to share the beauty of Ramsay Cottage and its gorgeous setting with their homestay guests, and they would use the income to continue to maintain this beautiful and historically significant property.

Ms. Schweller said they are requesting three special exceptions, the granting of which would not change the property in any way or negatively affect neighbors. She said the request supports a number of

goals in the comprehensive plan, such as providing a way for preservation of historic structures to be financially viable for owners; promoting tourism that helps preserve scenic, historic, and natural resources; promoting reuse of historic structures; protecting the County's historic and cultural resources; and promoting rural and historic landscapes that enhance a visitor's experience. She said the owner agrees to conditions 1-3 that staff has proposed. She said since staff's report, they have had further discussions regarding 4, which has been modified, and they agree that the special exception should run with the land only so long as the two parcels are under common ownership. She said the owners have no intention of separating the parcels, which to her knowledge have always been under common ownership. She thanked the Board for consideration of the request and looks forward to the Board's discussion.

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Mr. Rex Linville of the Piedmont Environmental Council and resident of the Samuel Miller District said that later in the day, the Board would hear from County staff about the Albemarle Conservation Easement Authority and the Acquisition of Conservation Easement Program, which are the primary tools that Albemarle is using to protect the critically important conservation values and public good in the community. He said an important element of the Albemarle County Comprehensive Plan is the preservation of "natural features including the mountains, valleys, rivers, streams, forest, farms, and meadows" and the conservation of areas outside the growth area for rural uses such as agriculture, forestry, and resource protection. He said a clear and compelling expression of conservation preservation goals can be found throughout the existing comprehensive plan, and further the protection of natural resources is an important element of the strategy to fight climate change and is clearly called for in Albemarle County's Climate Action Plan, which lays out the need to "maintain and increase the county's land conservation programs and related efforts." He said these goals are found in County planning documents because the rural area is more than just a pretty place.

Mr. Linville stated that when land is conserved, it is an investment in quality of life and the future of the community. He said land conservation protects the Rivanna River, which is the source of the water they all drink, and when the land base is protected, the rivers and streams are also protected. However, he said, land conservation also protects the James River and Chesapeake Bay, which are important to all of Virginia and all mid-Atlantic states. He said land conservation protects farmland and keeps working lands and family hands going to keep delicious, local, and healthy foods on their tables. He said land conservation protects natural areas that provide wildlife habitat and ecosystems for the benefit of hunters and fishers, and simply for their own sake.

Mr. Linville stated that land conservation protects the scenic views that all enjoy from the Shenandoah National Park to the Appalachian Trail, to Downtown Crozet, to a drive through Keswick, or to a local visit to a winery. He said land conservation protects historic places such as Monticello or Ash Lawn Highlands and their scenic settings, which connects the past and provides tourism to the community. He said the Albemarle County Easement Authority and the Acquisition of Conservation Easement Program are the primary tools available to the Board to protect these resources. He said he hopes the members will listen carefully to staff and make sure that these important programs have the resources they need to be effective and help the community protect these important public goods.

Mr. Linville thanked the Board.

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Mr. Neil Williamson, President of the Free Enterprise Forum, said he is speaking as Mr. Linville did regarding the agenda items 11 and 12 about conservation easements. He said he appreciates all that Mr. Linville had to say about the benefits of conservation, but he is not certain easements are required to achieve such conservation. He said he knows several property owners not in easement that are adding to the fabric of Albemarle County's rural areas. He said recent media reports have raised several concerns with Virginia's Conservation Easement Program, including enforcement and equity. He said Albemarle County is in the top five localities in the state for the number of conservation easements. He said some of the questions raised about the state programs are beyond the County's purview, but others are not. He said he asks the Supervisors to examine the taxpayer-funded acquisition of conservation easements program utilizing the newly minted Albemarle equity lens.

Mr. Williamson said the Free Enterprise Forum has a number of questions and asked what the overall goal of the conservation easement program was. He said Mr. Linville often comes to you on an annual basis saying how many acres the County has in easement. He asked how much is enough and if the County has a goal or if the maximum number of property rights extinguished the goal. He said he is hopeful that there can be a balance and true examination what it takes to do an easement versus what it takes to promote private property conservation and respect those private property rights of property owners who choose not to go into conservation easement.

Mr. Williamson thanked the Board for the opportunity to speak.

Mr. Chip Geisler stated that he has been an Albemarle County resident for two years and lives across from CATEC, and the Board would be considering more road redesigns of Rio Road through the corridor. He said he wanted to invite the Board members to his home to see the redesign plan in person, as his backyard goes right onto the space of the proposed traffic circle. He said he thinks it is a traffic feature that would not be appropriate for a suburban residential-style neighborhood. He said he has lived in places near Dupont Circle in Washington, D.C. where there are residents right along a large traffic circle, but it is a considerably different feel than what is found at this location. He said this is an open invitation to come onto a neighbor's property to see what the impact might be.

There being no further speakers, Mr. Gallaway closed Matters from the Public.

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway said that no items were pulled from the Consent Agenda, but he would like to point out that Item 8.2 mistakenly recommends that after the public hearing, the Board adopted the proposed cigarette tax ordinance. He said the recommendation should read that the Board approve and schedule a public hearing on proposed ordinance for October 2021 as stated in the discussion section of the executive summary, and he was just cleaning up some of the language.

Ms. Price **moved** to approve the Consent Agenda. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. FY2021 Appropriations.

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

The total change to the Fiscal Year 2021 (FY 21) budget due to the appropriations itemized in Attachment A is \$442,953.78. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

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

**Appropriation #2021082**

Sources:	State Revenue	\$24,204.78
Uses:	School Special Revenue Fund	24,204.78
Net Increase to Appropriated Budget:		\$24,204.78

**Description:**

This request is to appropriate \$24,204.78 in State revenue to the Career and Technical Education (CTE) Testing and CTE Equipment grants. Albemarle County Public Schools received an enrollment based CTE Testing grant in the amount of \$13,914.50 and an enrollment based CTE Equipment grant in the amount of \$10,290.28 from the Virginia Department of Education. The CTE Testing funds will be used for industry certification exams for students enrolled in high school CTE courses. The CTE Equipment funds will be used to purchase Shapeoko CNC routers, DeWalt fixed based routers, and five-gallon shop vacuums for Monticello and Western Albemarle High Schools; and micro:bit club programmable pocket-sized computers and a virtual business (sports and entertainment) lab license for Albemarle High School.

**Appropriation #2021083**

Sources:	State Revenue	\$20,610.00
Uses:	Clerk of the Circuit Court	20,610.00
Net Increase to Appropriated Budget:		\$20,610.00

**Description:**

This request is to appropriate \$20,610.00 for funding from the Library of Virginia to the Clerk of the Circuit Court to reimburse expenses for restoration work on record books.

**Appropriation #2021084**

Sources:	State Revenue	\$302,529.00
	Local Revenue—Central Virginia Regional Jail	75,000.00
Uses:	Criminal Justice Grant Fund	377,529.00

Net Increase to Appropriated Budget: \$377,529.00

**Description:**

This request is to appropriate \$377,529.00 in funding to Offender Aid and Restoration (OAR) to continue to provide pretrial services in the rural counties serving the Central Virginia Regional Jail. This amount includes \$302,529.00 in grant funding from the Department of Criminal Justice Services with the County acting as fiscal agent and a local match of \$75,000.00 from the Central Virginia Regional Jail located in the Town of Orange.

**Appropriation #2021085**

Sources: Federal Revenue \$20,610.00

Uses: Sheriff 20,610.00

Net Increase to Appropriated Budget: \$20,610.00

**Description:**

This request is to appropriate \$20,610.00 in Federal revenue for a part-time auxiliary deputy officer to work under the direction of the Albemarle County Sheriff's Office to assist with the administration and monitoring of Offender Aid and Restoration's (OAR) Drug Court cases. These expenses are for part-time wages and related operating costs.

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

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2021 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That appropriations #2021082; #2021083; #2021084 and #2021085 are approved;
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

\* \* \*

APP#	Account String	Description	Amount
2021087	4-1000-99900-499000-999990-9999	SA2021087 Tax Relief and Extension Service	\$35,000.00
2021087	4-1000-59000-459000-579100-1005	SA2021087 FY21 Reconciliation	\$20,000.00
2021087	4-1000-83000-483000-390000-1008	SA2021087 FY21 Reconciliation	\$15,000.00
2021087	4-4200-71002-471010-331200-1007	SA2021087 Tree removal and emergency repairs	\$25,000.00
2021087	3-4200-51000-351000-510100-9999	SA2021087 Tree removal and emergency repairs	\$25,000.00
2021087	3-1000-23000-323000-230149-1002	SA2021087 Scanning historical documents	\$30,000.00
2021087	4-1000-21060-421060-332115-1002	SA2021087 Scanning historical documents	\$30,000.00

Item No. 8.2. Schedule a Public Hearing to Consider the Adoption of an Ordinance to Implement a Cigarette Tax.

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 because 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

On September 1, 2021, the Board held a public hearing and adopted an ordinance to approve the formation of the Blue Ridge Cigarette Tax Board, which incorporated an agreement establishing the Board and defining its powers, duties, and other procedures.

Staff requests that the Board schedule a public hearing on October 20, 2021, to consider the adoption of an ordinance to amend County Code 15, Taxation, to implement the cigarette tax.

The FY 22 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 amend County Code 15, Taxation, to implement the cigarette tax. (Attachment A).

**By the above-recorded vote, the Board authorized the Clerk to schedule a public hearing to consider the proposed ordinance (Attachment A) at the October 20, 2021 Board meeting.**

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**ORDINANCE NO. 21-15( )**

**AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, 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, is hereby amended as follows:

**By Adding:**

- Sec. 15-1500 Definitions.
- Sec. 15-1501 Levy and rate.
- Sec. 15-1502 Methods of collection.
- Sec. 15-1503 Registered agents.
- Sec. 15-1504 Requirements for retail dealers.
- Sec. 15-1505 Presumption of illegality; seizure of contraband goods, sealing/seizing of machines.
- Sec. 15-1506 Illegal acts.
- Sec. 15-1507 Jeopardy assessment.
- Sec. 15-1508 Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property.
- Sec. 15-1509 Disposal of seized property.
- Sec. 15-1510 Extensions.
- Sec. 15-1511 Penalty for violation of article.
- Sec. 15-1512 Each violation a separate offense.
- Sec. 15-1513 Severability.
- Sec. 15-1514 Application within towns.

**Chapter 15. Taxation**

**Article 15. Cigarette Tax**

**Sec. 15-1500 Definitions.**

For the purposes of this Article, the following words and phrases have the meanings respectively ascribed to them by this Section, except in those instances where the context clearly indicates a different meaning:

*Board or BRCTB* means the Blue Ridge Cigarette Tax Board, or its administrator, in cases where the Board has delegated its duties or authority to the administrator.

*Cigarette* has the meaning given in Virginia Code § 58.1-1000.

*Cigarette Machine Operator* means any individual, partnership or corporation engaged in the sale of packages of cigarettes from vending machines.

*Dealer* means both "retail dealer" and "wholesale dealer," as those terms are defined in Virginia Code § 58.1-1000.

*Package* means any container of cigarettes from which they are consumed by a user. Ordinarily, a package contains 20 cigarettes; however, "package" includes those containers in which fewer or more cigarettes are placed.

*Registered agent* means any person who pays the tax or makes the report imposed under this article.

*Retail dealer* has the meaning given in Virginia Code § 58.1-1000.

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Sale or sell means the transfer of cigarettes from a dealer to another person, for consideration, and includes the use of vending machines.

Stamp has the meaning given in Virginia Code § 58.1-3832(2).

Storage or store has the meaning given in Virginia Code § 58.1-1000.

Use has the meaning given in Virginia Code § 58.1-1000.

Wholesale dealer has the meaning given in Virginia Code § 58.1-1000.

Sec. 15-1501 Levy and rate.

A tax upon the sale or use of cigarettes within the County is hereby imposed, at a rate of \$0.02 for each cigarette sold, stored, or received. The tax payable for each cigarette sold or used within the County shall be paid but once.

State law reference – Va. Code § 58.1-3830.

Sec. 15-1502 Methods of collection.

A. Upon paying the tax imposed by this article, the taxpayer shall affix a stamp to the package for which the tax was paid, and shall report to the Board, in whatever form the Board provides. Stamps shall be affixed in such a manner that their removal will require continued application of water or steam. The report to the Board shall include the following:

1. The quantity of cigarettes sold or delivered to:
  - a. Each registered agent appointed by the Board for which no tax was collected;
  - b. Each manufacturer's representative;
  - c. Each person during the preceding calendar month;
2. The quantity of BRCTB-stamped cigarettes on hand on the first and the last day of the preceding month, the quantity of BRCTB stamps received during that month, and the quantity of BRCTB-stamped cigarettes received during that month;
3. The quantity of cigarettes on hand to which the BRCTB stamp had not been affixed on the first and last day of the preceding month, and the quantity of cigarettes received during that month to which the BRCTB stamp had not been affixed; and
4. Any other information that the Board deems necessary to administer or enforce this article.

B. Each registered agent shall report and pay the tax to the Board by the 10<sup>th</sup> day of the following month and shall provide to the Board copies of all cigarette tax reports submitted to the Virginia Department of Taxation.

C. If a registered agent is unable to show the Board that it has purchased sufficient stamps, relative to the cigarettes that it sold or used, there is a presumption that those cigarettes were sold or used without the proper tax having been paid. The Board shall impose a penalty of 10 percent and may impose interest of 3/4 percent of the gross tax due per month.

D. If a registered agent files a false report, fails to file a report, or acts to evade payment of the tax, the Board shall assess the tax and impose a penalty not to exceed 50 percent of the tax due and interest of 3/4 percent of the gross tax due per month. These taxes, penalties, and interest are due within 10 days after the Board issues notice of the deficiency.



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- E. A registered agent that receives cigarettes not bearing the BRCTB stamp shall, within one hour of receipt, commence, and diligently complete, affixing the BRCTB stamp to each package.
- F. A registered agent that has notified the Board that it holds cigarettes for sale outside the jurisdiction of the Board, may hold such cigarettes without affixing the stamps required by this article. Any such cigarettes shall be kept separate from the BRCTB cigarettes, in such a manner as to prevent their commingling.
- G. A registered agent that loses untaxed cigarettes, whether by negligence, theft, or any other means, shall pay the tax imposed by this article.
- H. Registered agents shall keep all records of cigarettes sold or used, whether stamped or unstamped, for three years, and shall make all such records available for examination by the Board.

State law reference – Va. Code §§ 58.1-3830, 3832.

Sec. 15-1503 Registered agents.

- A. Any person required to pay or report the tax under this article shall first file an application with the Board to qualify as a registered agent, in the manner specified by the Board, and provide a surety bond equal to 150 percent of its anticipated average monthly tax liability, made out by a surety company authorized to do business in Virginia. By filing an application, a person appoints the Board as its agent for service of process.  
Upon receipt and review of an application and surety bond, the Board shall issue a registered agent permit to sell and use within the County.
- B. When any registered agent's monthly report and payment of the tax is not received when due, a late reporting penalty of 10 percent of the tax due shall be assessed. The penalty shall be imposed on the day after the report and tax are due and, once it is imposed, it becomes a part of the tax. The Board may revoke or suspend any registered agent's permit for failure to timely report or pay the tax, or if the registered agent's surety bond becomes impaired for any reason.
- C. All money collected as taxes under this article are held in trust by the dealer until remitted to the Board.
- D. The Board may conduct audits to determine any variance between the number of stamps purchased and the number of stamps reported to have been purchased. An assessment shall be made for all unaccounted-for stamps. Assessment of registered agents located outside the jurisdiction of the Board shall be based upon the average sale by locality during the audit period. Assessments of registered agents located within the jurisdiction of the Board shall be based upon the tax rate of the jurisdiction in which they are located. A penalty for not reporting shall be assessed, in the same manner and amount as in subsection (b).

State law reference – Va. Code § 58.1-3832.

Sec. 15-1504 Requirements for retail dealers.

- A. Retail dealers shall purchase cigarettes only from a registered agent and give the registered agent the business trade name and address of the location where the cigarettes will be offered for sale to the public. Retail dealers cannot sell cigarettes that were previously purchased for personal use. Only licensed retail stores may sell cigarettes to the public. To be licensed, a retail store must have a valid Virginia state sales and use tax certificate and valid retail business license. Cigarettes must be purchased and stored separately for each

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business location. Retail dealers shall retain copies of cigarette purchase invoices and receipts for three years and provide them to the Board upon request. The Board may seize a retail dealer's cigarettes for failure to provide cigarette invoices or receipts, until it is able to verify that the tax has been paid. The Board shall seize cigarettes found without the appropriate stamp.

- B. The Board may make a search of any location at which it reasonably suspects that cigarettes are kept, to ensure that all cigarettes are properly stamped.

State law reference – Va. Code § 58.1-3832.

Sec. 15-1505 Presumption of illegality; seizure of contraband goods, sealing/seizing of machines.

- A. If any person is found to possess cigarettes without the proper tax stamp affixed, there is a rebuttable presumption that such cigarettes are untaxed in violation of this article.
- B. There is rebuttable presumption that cigarettes in a vending machine were placed there as an offer to sell. If a vending machine contains packages upon which the BRCTB stamp has not been affixed, or contains packages placed in a manner that does not allow inspection of the BRCTB stamp without opening the vending machine, there is a rebuttable presumption that the machine contains untaxed cigarettes in violation of this article.
- C. Cigarettes, vending machines, stamps, and other goods violating this article are contraband goods and may be seized by the Board.
- D. Additionally, the Board may seal a vending machine to prevent continued illegal sale or removal of cigarettes. The removal of a seal from a vending machine is a violation of this article.
- E. The owner of a vending machine shall plainly mark it with the owner's name, address, and telephone number.

State law reference – Va. Code § 58.1-3832.

Sec. 5-1506 Illegal acts.

It is a violation of this article for any person:

- A. To make any act or omission for the purpose of evading the full or partial payment of the tax imposed by this article, or to fail to obey a lawful order issued under this article;
- B. To falsely make, or cause to be made, an invoice or report; or to alter or counterfeit, or cause to be altered or counterfeited, any stamp; or to knowingly and willfully offer any false invoice or report, or altered or counterfeited stamp;
- C. To sell or offer for sale cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid;
- D. To use cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid; or
- E. To transport or authorize the transportation of 1,200 cigarettes or more in the county upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid, if they are:
1. Not accompanied by a receipt or other document indicating the true name and address of the seller and purchaser and the brands and quantity of cigarettes;

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- 2. Accompanied by a receipt or other document that is false;
- 3. Accompanied by a receipt or other document that fails to indicate that:
  - a. The non-Virginia purchaser is authorized by the law of that other jurisdiction to possess the cigarettes, and on which the taxes imposed by that other jurisdiction have been paid; or
  - b. The Virginia purchaser possesses a Virginia Sales and Use Tax Certificate and any license required by the locality of destination;
- F. To refill with cigarettes a stamped package from which cigarettes have been removed;
- G. To reuse or remove a stamp from a package with the intent to use it or cause it to be used again, after it has already been used to evidence the payment of the tax imposed by this article; or
- H. To sell, offer for sale or distribute any loose or single cigarettes.

State law reference – Va. Code § 58.1-3832.

Sec. 15-1507 Jeopardy assessment.

If the Board determines that the collection of a tax under this article would be jeopardized by delay, it shall assess the tax, along with penalties and interest, and mail or otherwise issue a notice of the assessment to the taxpayer, together with a demand for immediate payment. In such cases, immediate payment is required, regardless of the due date for paying and reporting the tax under this article.

State law reference – Va. Code §§ 58.1-3832, 58.1-3832.1.

Sec. 15-1508 Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property.

- A. Any person aggrieved by a tax, penalty, or interest assessment or by a seal or seizure under this article may request a hearing before the Board, in the manner provided by the Board.
- B. The Board shall send notice within 24 hours of a seizure or sealing to each known holder of an interest in the property seized or sealed. Where the identity of a property interest holder is unknown at time of seizure or sealing, the Board shall post notice to a door or wall of the building that contained the seized or sealed property. The notice shall state the manner of requesting a hearing before the Board, as well as the affirmative defenses available under this section.
- C. A hearing must be requested within 15 days of the date that notice was postmarked. The request must be on the form provided by the Board and set forth the reasons why the Board's action should be reversed. Within five days after receiving a request, the Board shall notify the requester, by the method selected on the request form, of the hearing date and time, where the Board will accept an informal presentation of evidence. The hearing shall be within 15 days of the date of that notification. A request for hearing shall be denied if the assessed tax, penalties, or interest has not been paid, or if the request is untimely. Within five days after the hearing, the Board shall notify the requester of its decision, by the method selected on the request form.
- D. The Board shall grant appropriate relief if it determines that seized or sealed cigarettes were in the possession of a person other than the requester without the requester's consent. If the Board determines that a tax, penalty, or interest was erroneously assessed, it shall refund

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the amount erroneously assessed and shall return any property seized or sealed to the requester.

State law reference – Va. Code §§ 58.1-3832, 58.1-3832.1.

**Sec. 15-1509 Disposal of seized property.**

Any seized property used to evade a tax imposed by this article may be disposed of by sale or other method the Board deems appropriate, after the owner has exhausted its appeals. The credit from any such sale shall not be credited to the owner.

State law reference – Va. Code § 58.1-3832.

**Sec. 15-1510 Extensions.**

If the Board determines that good cause exists, it may grant an extension of up to 30 days to report or pay a tax. No interest or penalty shall accrue during such an extension.

State law reference – Va. Code § 58.1-3832.

**Sec. 15-1511 Penalty for violation of article.**

A person convicted of violating a provision of this article shall be guilty of a misdemeanor, punished by a fine of not more than \$2,500.00 or imprisonment for not more than 12 months, or both. Such person shall remain liable for any underlying tax, penalty, or interest.

State law reference – Va. Code § 58.1-3832.

**Sec. 15-1512 Each violation a separate offense.**

Each violation of this article constitutes a separate offense. Each day that a violation continues constitutes a separate offense.

State law reference – Va. Code § 58.1-3832.

**Sec. 15-1513 Severability.**

If any portion of this article is invalidated by a Court of competent jurisdiction, that decision shall not affect the remainder of the article; and the remainder of the article shall continue in full force and effect.

State law reference – Va. Code § 58.1-3832.

**Sec. 15-1514 Application within towns.**

The tax imposed by this article shall not apply within the limits of towns. However, if the governing body of a town provides that the county cigarette tax, as well as the town cigarette tax, applies within that town, then the tax imposed by this article shall be imposed within that town.

State law reference – Va. Code § 58.1-3830(B).

This ordinance shall be effective on an after January 1, 2022.

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I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_ to \_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____

Item No. 8.3. Maintenance Agreement for Brookhill Pedestrian Tunnel.

The Executive Summary forwarded to the Board states that in November 2016, the Board approved ZMA201500007, a Zoning Map Amendment known as “Brookhill”. As part of this rezoning, the Application Plan obligates the property owner to construct a pedestrian underpass that connects a public trail within the development as it passes under Polo Grounds Road. The Virginia Department of Transportation (VDOT) does not routinely maintain pedestrian underpasses and requires the County to enter into an agreement to assure the County will maintain the underpass before VDOT will consider the roadway as part of the Secondary Street System. In order to assure that any significant maintenance costs related to this pedestrian tunnel are not borne by the County, the developer has agreed to accept responsibility for the costs of major repairs or replacement of the tunnel in the event they become necessary. This action is to authorize the County Executive to sign agreements on behalf of the County that would pass through the maintenance responsibility to the party ultimately responsible.

This property is located in the central part of the Places 29 Development Area, just north of the South Fork of the Rivanna River. Polo Grounds Road runs adjacent to the development, with the river located on the south side. The trail system within Brookhill runs to Polo Grounds Road and the proposed pedestrian tunnel would provide access from the trail system to the property adjacent to the river. Because this pedestrian tunnel is shown in the Application Plan for the rezoning, it is required as part of the development. The County, VDOT, and the developer/owner have discussed an arrangement in which the County would agree to accept responsibility for inspection and maintenance of the underpass for

VDOT as long as the developer/owner in turn agreed to accept that responsibility for the County. The Brookhill developer/owner has agreed in principle to enter into a maintenance agreement with the County, allowing responsibility for the routine inspection and maintenance of the pedestrian underpass to be “passed through.” VDOT requires that its agreement be with the County, but has no concerns with the County entering into a separate agreement with the property developer/owner. These agreements would be similar to the recently-approved agreements for the pedestrian underpass beneath Eastern Avenue in Crozet, which is now open.

These agreements are designed to result in no direct budget impact to the County. All responsibility for costs would be borne by the Brookhill developer/owner.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving both a maintenance agreement with VDOT and a separate “pass through” agreement for the Brookhill developer/owner to provide routine maintenance for this pedestrian underpass, and authorizing the County Executive to sign both agreements (Attachments B and C) on behalf of the County once they have been approved as to substance and form by the County Attorney.

**By the above-recorded vote, the Board adopted the resolution in Attachment A approving both a maintenance agreement with VDOT and a separate “pass through” agreement for the Brookhill developer/owner to provide routine maintenance for this pedestrian underpass, and authorizing the County Executive to sign both agreements (Attachments B and C) on behalf of the County once they have been approved as to substance and form by the County Attorney:**

**RESOLUTION TO APPROVE AGREEMENTS WITH THE VIRGINIA DEPARTMENT  
OF TRANSPORTATION AND THE BROOKHILL DEVELOPER/OWNER  
FOR THE ROUTINE MAINTENANCE OF A PEDESTRIAN UNDERPASS  
UNDER POLO GROUNDS ROAD**

- WHEREAS,** the Board approved the Brookhill rezoning in 2016, which included an application plan obligating the property owner to construct a pedestrian underpass that connects a public trail as it passes under Polo Grounds Road; and
- WHEREAS,** the Virginia Department of Transportation (VDOT) does not routinely maintain pedestrian underpasses and requires an agreement that the County maintain the underpass before considering the roadway as part of the Secondary Street System; and
- WHEREAS,** the County in turn would require the responsibility for future maintenance of this pedestrian underpass to be borne by the owner of the trail facility; and
- WHEREAS,** the Board believes it is in the best interest of the County to approve agreements with VDOT and with the Brookhill developer/property owner to ensure the maintenance of the pedestrian underpass.

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

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

\* \* \* \* \*

**VIRGINIA LAND RECORD COVER SHEET**

Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

**FORM A – COVER SHEET CONTENT**

Instrument Date: 5/5/2021

Instrument Type: AG

Number of Parcels: 2 Number of Pages: 11

[ ] City [X] County ALBEMARLE  
CIRCUIT COURT

Tax Exempt? VIRGINIA/FEDERAL CODE SECTION

[ ] Grantor:

[X] Grantee: 17.1-266

Business/Name

(Area Above Reserved For Deed Stamp Only)

1 X Grantor: CROCKETT CORPORATION

2 X Grantor: BROOKHILL MASTER ASSOCIATION, INC.

1 X Grantee: COUNTY OF ALBEMARLE, VIRGINIA

Grantee:

Grantee Address

Name: COUNTY OF ALBEMARLE, VIRGINIA

Address: 401 MCINTIRE ROAD, RM. 325

City: CHARLOTTESVILLE State: VA Zip Code: 22902

Consideration: \$0.00 Existing Debt: \$0.00 Actual Value/Assumed: \$0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: \$0.00 Fair Market Value Increase: \$0.00

Original Book No.: 5346 Original Page No.: 256 Original Instrument No.: 202000008481

Prior Recording At: [ ] City [X] County ALBEMARLE Percentage In This Jurisdiction: 100%

Book Number: 5346 Page Number: 256 Instrument Number: 202000008481

Parcel Identification Number/Tax Map Number: 046-00-00-019B8

Short Property Description: PEDESTRIAN TUNNEL MAINTENANCE AGREEMENT

TMP 46-19B8

Current Property Address:

City: CHARLOTTESVILLE State: VA Zip Code: 22911

Instrument Prepared By: ALBEMARLE COUNTY ATTORNEY Recording Paid By: ALBEMARLE COUNTY ATTORNEY

Recording Returned To: ALBEMARLE COUNTY ATTORNEY

Address: 401 MCINTIRE ROAD, RM. 325

City: CHARLOTTESVILLE State: VA Zip Code: 22902



**VIRGINIA LAND RECORD COVER SHEET**

Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

**FORM C – ADDITIONAL PARCELS**

Instrument Date: 5/5/2021

Instrument Type: AG

Number of Parcels: 2 Number of Pages: 11

[ ] City [X] County ALBEMARLE  
CIRCUIT COURT

Parcels Identification/Tax Map

Prior Recording At:

[ ] City [X] County ALBEMARLE

Percentage In This Jurisdiction: 100%

Book Number: 5346 Page Number: 256

Instrument Number: 202000008481

Parcel Identification Number (PIN)/Tax Map Number: 046-00-00-019B9

Short Property Description: PEDESTRIAN TUNNEL MAINTENANCE AGREEMENT  
TMP 46-19B9

Current Property Address:

City: CHARLOTTESVILLE State: VA Zip Code: 22911

Prior Recording At:

[ ] City [ ] County Percentage In This Jurisdiction:

Book Number: Page Number: Instrument Number:

Parcel Identification Number/Tax Map Number:

Short Property Description:

Current Property Address:

City: State: Zip Code:





This document was prepared by:  
Mary Katherine McGetrick, Esq.  
Williams Mullen  
200 S. 10<sup>th</sup> Street, 16<sup>th</sup> floor  
Richmond, Virginia 23219

Tax Map Parcels 04600-00-00-019B8 and 04600-00-00-019B9

This instrument is exempt from Clerk's fees under Virginia Code § 17.1-266.

#### AGREEMENT TO MAINTAIN PEDESTRIAN TUNNEL

**THIS AGREEMENT**, dated this 5<sup>th</sup> day of May, 2021, is entered into by and between **CROCKETT CORPORATION**, a Virginia corporation ("Crockett") and **BROOKHILL MASTER ASSOCIATION, INC.**, a Virginia non-stock corporation ("Brookhill"), collectively hereinafter called the "Owner," and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter called the "County."

#### RECITALS

**R-1.** Owner is the owner of certain real property described as Albemarle County Tax Map Parcels 46-19B8 and 46-19B9 (together, the "Property"); and

**R-2.** Owner is proceeding to build on and develop the Property into a residential subdivision known as "Brookhill"; and

**R-3.** As part of the development of the Property, the Owner has agreed to install a 10' x 8' high box culvert to serve as a pedestrian tunnel, or grade separation structure (the "Tunnel"), which will ultimately be maintained by the Owner, under portions of Polo Grounds Road, identified on the Plan (as defined below) as "Polo Grounds Road", which is maintained by the Commonwealth of Virginia, Department of Transportation ("VDOT"); and

**R-4.** The Tunnel is required as part of the extension of the existing greenway and trail system which runs through the Property (the "Trail System"), and pursuant to the proffer statement for ZMA 201800011, dated April 18, 2019, as the same may be amended, hereinafter called the "Plan," which is expressly made a part hereof, as approved or to be approved by the County, and which provides for certain improvements to the Trail System through the Property; and

**R-5.** As a condition of permitting the Tunnel under Polo Grounds Road, VDOT is requiring the County to enter a certain "Agreement for the Inspection and Maintenance of the Grade Separated Structure of Brookhill Trail/Greenway, Albemarle County" (the "VDOT Agreement", a true copy of which is attached hereto and incorporated herein as Exhibit A), in which the County is agreeing to assume responsibility for the Tunnel; and

**R-6.** As a condition of entering the required VDOT Agreement, the County requires that the Owner assume a portion of the County's obligations, responsibilities, and liabilities under the VDOT Agreement; and

**R-7.** As part of the ongoing approval of the Brookhill development on the Property, including the Plan and any additional plans or phases of the Plan which may be approved by the County in the future, the County further requires that the Tunnel, including the concrete culvert and all supporting infrastructure necessary to allow safe and convenient passage of pedestrians under Polo Grounds Road, all structures, berms, drainage structures, and any other improvement that may affect the proper functioning of the Tunnel (collectively, the "Facilities") be constructed by the Owner and adequately maintained by the Owner in perpetuity.

In consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

**1. Obligation of the Owner to construct the Facilities.** The Owner shall construct and protect any required Facilities in accordance with the plans and specifications identified in the Plan and as shown on that certain plan entitled "WPO 201800013 Brookhill VSMP Plan" prepared by Bohler Engineering and last revised 9/27/18.

**2. Obligation of the Owner to maintain the Facilities.** The Owner shall maintain the Facilities in good working condition for so long as the Facilities exist, in a manner that meets or exceeds the maintenance standards provided herein, subject to the following:

**A. "Good working condition" defined.** For the purposes of this Agreement, a Facility is in "good working condition" when it performs its design function in accordance with the plans and specifications identified in the Plan, including all conditions imposed in conjunction with approval of the Plan.

**B. "Maintain and maintenance" defined.** For the purposes of this Agreement, "maintain" and "maintenance" include (but are not limited to): maintaining, repairing, replacing, reconstructing, preserving, and restoring the Facilities or any part thereof necessary to comply with the plans and specifications identified in the Plan.

**3. Inspections and the Inspection Report by the Owner.** At least once per year following completion of the construction of the Facilities, the Owner must have the Facilities inspected to ensure that the Facilities are in good working condition. The Owner's inspection report to the County must include, at a minimum: the date of the inspection, the name of the inspector, a description of the condition of the concrete culvert and all structures, berms, inlet and outlet structures, and any other improvement that may affect the proper functioning of the Facilities, a list of all deficiencies causing the Facilities not to be in good working condition, if any, a list of required maintenance work to be performed so that the Facilities are restored to good working condition, and the date by which the maintenance work will be performed (the "Inspection Report"). Upon written request from the County, the Owner must submit the Inspection Report and any other requested documentation to

the Director, Albemarle County Department of Facilities and Environmental Services, 401 McIntire Road, Charlottesville, Virginia 22902 or a successor department, office and address as specified by the County to the Owner. The Owner must provide the Inspection Report to the Department within thirty (30) days of such request.

**4. Permission to the County or VDOT to inspect the Facilities.** The Owner hereby grants permission to the County and to VDOT, including its authorized agents and employees, to enter upon the Property and to inspect the Facilities whenever the County or VDOT deems an inspection to be necessary, subject to the following terms:

**A. Purposes for County/VDOT inspection.** The County and VDOT may inspect the Facilities for the purpose of determining the condition of the Facilities including (but not limited to) determining whether the Facilities are in good working condition, investigating any deficiencies reported in the Inspection Report, responding to citizen complaints about the Facilities, and inspecting or observing any maintenance of the Facilities.

**B. Prior notice to the Owner not required.** Neither the County nor VDOT is required to provide prior notice to the Owner to enter the Property to conduct the inspection.

**C. Inspection findings and demand for maintenance.** The County and/or VDOT will provide the Owner with a copy of the findings of its/their inspection of the Facilities. If the inspection concludes that maintenance of any of the Facilities is required, the County and/or VDOT also will notify the Owner of the required maintenance and the date by which the maintenance work must be completed.

**5. The Owner's response to the Inspection, the Inspection Report or the County's or VDOT's demand for maintenance.** If the Inspection Report under Section 3 or the inspection conducted by the County and/or VDOT under Section 4 identifies Facility deficiencies, the Owner must promptly complete the maintenance work by the date specified in the Inspection Report or as demanded by the County or VDOT. When the maintenance work is completed, a qualified inspector retained by Owner must certify to the County and VDOT that the Facilities are in good working condition.

**6. Permission to the County to access the Facilities to conduct routine maintenance.** The Owner hereby grants permission to the County, including its authorized agents and employees, to enter the Property and to perform routine non-structural maintenance (such as landscaping and cleaning) when the County deems necessary. The County has the right, but not the responsibility, to perform any such maintenance.

**7. Obligation of the Owner to indemnify and hold harmless the County.** The following terms apply to this Agreement:

**A. Owner Performance under the VDOT Agreement.** The Owner hereby assumes all obligations, responsibilities, and liabilities of the County under the VDOT Agreement.

**B. No County liability.** This Agreement imposes no liability of any kind whatsoever on the County, including its agents, officers and employees.

**C. Obligation of the Owner to indemnify and hold harmless.** The Owner hereby indemnifies and holds harmless the County (including its agents, officers and employees) for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the County (including its agents, officers and employees) resulting from (a) the VDOT Agreement or (b) the failure of the Facilities to perform their design function or to otherwise operate properly; any repairs, maintenance, construction, or any other acts performed by the County or the Owner, including their respective agents, officers and employees, related to the Facilities, regardless of how those acts were performed, except if the County's acts are the product of willful misconduct.

**D. Notice of and defense of actions.** If a claim is asserted against the County, including its agents, officers and employees, based upon any of the indemnities in subsection (C), the County will promptly notify the Owner of the claim. The Owner shall defend, at its expense, any lawsuit or other action arising therefrom. If, as a result of a claim, any judgment is allowed against the County, its agents, officers and employees, or any of them, the Owner shall pay all damages, costs, expenses and fees associated with the judgment.

**8. References to County departments and officers; successors.** Any reference in this Agreement to a County department or office includes its successor department or office as determined by the County.

**9. Covenant running with the land.** This Agreement will be recorded by the County in the Clerk's Office of the Circuit Court of Albemarle County, Virginia. It constitutes a covenant running with the land, and is binding on the Owner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners' association.

**10. Date of this Agreement.** This Agreement will be deemed to have been entered into by the parties and will be effective on and after the date it is signed by the Albemarle County Executive.

WITNESS the following signatures:

OWNER:

CROCKETT CORPORATION

By: Ann O. Haugh

Name: ANN O. HAUGH

Title: President

COMMONWEALTH OF VIRGINIA

~~CITY~~COUNTY OF Albemarle:

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of MAY, 2021 by  
Ann O. Haugh as President of Crockett Corporation, a Virginia corporation.

[Signature]

Notary Public

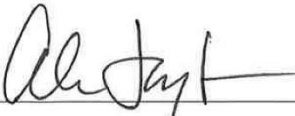
My Commission Expires: 8-31-2024

Registration Number: 101961

SIGNATURES CONTINUE ON THE FOLLOWING PAGE



**BROOKHILL MASTER ASSOCIATION, INC.**

By:   
Alan R. Taylor, Jr., President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Charlottesville :

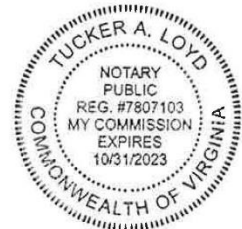
The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2021  
by Alan R. Taylor, Jr. as President of Brookhill Master Association, Inc., a Virginia non-stock  
corporation.



Notary Public

My Commission Expires: Oct. 31<sup>st</sup> 2023


Registration Number: 7807103



**SIGNATURES CONTINUE ON THE FOLLOWING PAGE**

COUNTY OF ALBEMARLE, VIRGINIA

BY:

  
Douglas C. Walker  
Deputy County Executive

COMMONWEALTH OF VIRGINIA

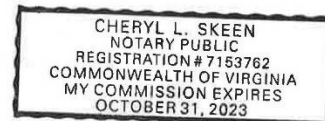
CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of October, 2021, by Douglas C. Walker, Deputy County Executive.


  
Cheryl L. Skeen  
Notary Public

My commission expires: Oct. 31, 2023

Notary Registration Number: 7153762



Approved as to Form:

  
County Attorney

6 October 2021  
Date

**\* EXHIBIT A \***

**AGREEMENT FOR THE INSPECTION AND MAINTENANCE  
OF THE GRADE SEPARATED STRUCTURE OF POLO GROUNDS ROAD  
AND THE BROOKHILL TRAIL/GREENWAY, ALBEMARLE COUNTY**

**THIS AGREEMENT FOR INSPECTION AND MAINTENANCE** ("Agreement") is made as of the date last signed below, by and between the County of Albemarle (the "County"), and the Commonwealth of Virginia, Department of Transportation (the "Department" or "VDOT");

**WHEREAS**, the County has a greenway trail known as the Brookhill Trail (the "Trail"), which is located adjacent to the unnamed stream near the Brookhill development in Albemarle County, Virginia; and

**WHEREAS**, the developer of Brookhill (the "Developer") is required to construct improvements in a portion of the roadway referred to as Polo Grounds Road, which will cross over the unnamed stream along the Brookhill Trail, and which will include a concrete culvert structure (the "Structure") to allow pedestrian traffic to pass under the roadway; and

**WHEREAS**, the County is entering into a separate agreement with the Developer regarding the Developer's responsibilities for maintenance and inspection of the Structure; and

**WHEREAS**, because the Structure is intended to serve a secondary purpose that is not essential to the operation of the roadway, the parties to this Agreement agree that the Structure is an extrinsic structure, ineligible for maintenance by the Department at public expense; and

**WHEREAS**, the costs associated with periodic safety inspections and maintenance of such structures, including ultimate closure or removal, are deemed appropriately sustained by the community that they are intended to serve; and

**WHEREAS**, the National Bridge Safety Inspection Act requires that uniquely qualified personnel perform periodic safety inspections of roadway structures to ensure their structural integrity and the safety of those using the structures; and

**WHEREAS**, the County agrees to bear the costs, including but not limited to the construction, maintenance, inspection, and repair, of the Structure, up to but not including the surface of Polo Grounds Road, which the Department shall maintain.

**NOW, THEREFORE WITNESSETH**, that for and in consideration of the aforesaid recitals, which are hereby incorporated into this Agreement as if fully set forth herein, and in further consideration of the covenants contained herein, the parties agree as follows:

A. The County agrees to the following:

1. The Structure will be treated as an integral part of the highway system, but that the County shall be responsible for routine bridge safety inspections of the Structure, the results of which the County will promptly provide to the Department. All inspections must meet the Department's regulatory guidance and be undertaken by an inspector licensed to perform those inspections to the Department's standards.



AGREEMENT FOR THE INSPECTION AND MAINTENANCE  
OF THE GRADE SEPARATED STRUCTURE OF POLO GROUNDS ROAD  
AND THE BROOKHILL TRAIL/GREENWAY, ALBEMARLE COUNTY

2. The Structure shall be inventoried and inspected in accordance with the Department's IIM policy guidance as a large culvert, and that the level of the inventory and inspection shall meet the requirements of the National Bridge Inspection Standards and the Department's IIM policy guidelines provided in the following standards (as they may be amended from time to time):
  - *The National Bridge Inspection Standards (NBIS)* found in the *Code of Federal Regulations title 23 Highways - Part 650, Subpart C*;
  - *The Manual for Bridge Evaluation (MBE)*;
  - *VDOT IIM-S&B-27.8 Bridge Safety Inspections*;
  - *VDOT IIM-S&B-86.1 Load Rating and Posting of Structures (Bridges and Culverts)*.
3. The Department has no maintenance, upkeep and/or repair responsibility or liability for the Structure, except in cases of physical damage resulting from road maintenance operations or road construction projects administered by the Department.
4. The Department, in its sole discretion, may require an inspection of the Structure at any time, and may at any time require that the County perform any maintenance it deems necessary for the timely preservation of the Structure or for public safety. In the event of any disagreement regarding the necessity of an inspection, the Department's determination shall be binding.
5. The County shall operate and maintain all pedestrian facilities within the Structure, or otherwise associated with the Trail crossing of Polo Grounds Road that are within VDOT operated right of way, in compliance with all requirements of the Americans with Disabilities Act or any other state and federal law, and to make no claim for financial assistance from the Department for the operation of the pedestrian facilities.
6. The County shall not fasten or attach to the Structure any pedestrian facility component (including but not limited to: signs, lighting fixtures, paved invert, and hand rails), except (a) by pre-approved attachments to anchor systems installed by the prefabricator or (b) as otherwise approved by the Department in its review of the construction plans. Neither additional attachments to the Structure nor any painting of the Structure's surfaces may be made without approval of the Department's bridge and structures office.
7. All maintenance, repairs or replacements of the Structure performed by the County, and all fastenings or attachments to the Structure made by the County, are herein collectively referred to as the "Work". All of the Work shall be done in accordance with a Single Use Permit issued by the Department pursuant to 24VAC30-151 upon proper application therefor made by the County prior to the commencement of such Work.
8. The County shall carry insurance against liability for personal injury and property damage that may arise from the operation of the Trail, up to one million dollars (\$1,000,000) for each occurrence and five million dollars (\$5,000,000) in the aggregate. In addition, the County or any contractor or subcontractor of the County who wishes to enter the Property for the purpose of performing Work thereon shall obtain and maintain Workers' Compensation, Employer's

AGREEMENT FOR THE INSPECTION AND MAINTENANCE  
OF THE GRADE SEPARATED STRUCTURE OF POLO GROUNDS ROAD  
AND THE BROOKHILL TRAIL/GREENWAY, ALBEMARLE COUNTY

Liability, Commercial General Liability and Automobile Liability insurance as required by, and in the amounts set forth, in the Commonwealth of Virginia Agency Procurement and Surplus Property Manual, as amended (the "Manual"). All insurance required under this Section shall name the Department as an additional insured. The County, or any contractor or other party performing the Work on County's behalf, as the case may be, shall provide to the Department a certificate of insurance evidencing insurance coverage required by this Section prior to commencement of the Work or entry upon the Department's property, and in addition the Contractor shall provide any bonds required by the Manual in form acceptable to the Department. All insurance coverage required hereunder shall require written notice to the Department at least thirty (30) days prior to any cancellation, renewal or expiration of such coverage.

9. If the Structure is no longer required for its intended purpose, the County will permanently close the structure to the Department's satisfaction at no cost to the Department. Alternatively, in such event the Department may elect to close the Structure and recover its costs from the County up to the amount of the actual costs.

10. To timely perform all maintenance of the Structure when required by the Department.

11. To pay all costs of repair of the roadway over the Structure in the event failure of the Structure causes damage to the roadway.

12. Not to seek indemnification or contribution from the Department for any claims or damages arising from improper maintenance or operation of the pedestrian facility by the County.

B. The Department agrees:

1. To accept the operational responsibilities associated with the Structure as part of the highway system carried by the Structure, in keeping with its normal practices and in accord with this Agreement.

2. To coordinate its activities with the County to avoid interfering with the County's activities, events or use of pedestrian facilities within the Structure.

3. To not restrict pedestrian movement on the trail within its right of way without cause.

C. Both parties further acknowledge that:

1. The Department in its sole discretion may close the road above the Structure or the Structure itself, as the Commissioner of Highways or his agent deems necessary for the safety of the public or for the proper completion of work. However, the Department will coordinate its activities with the County to avoid interference with the County's activities, events, and use of the pedestrian facility within the Structure.

2. This Agreement does not relieve the parties hereto of their rights and obligations pursuant to any applicable federal or state laws or regulations.

AGREEMENT FOR THE INSPECTION AND MAINTENANCE  
OF THE GRADE SEPARATED STRUCTURE OF POLO GROUNDS ROAD  
AND THE BROOKHILL TRAIL/GREENWAY, ALBEMARLE COUNTY

3. While this Agreement is not intended to relieve the parties hereto for any liability to each other for the parties' actions under this Agreement for which the parties may be subject under the law, nothing in this Agreement is intended to limit or waive either party's rights to assert sovereign immunity as a defense to any action against that party arising from this Agreement.

Witness the following signatures and seals:

County Board of Supervisors of Albemarle County, Virginia

By: 

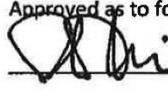
Name: Douglas C. Walker

Title: Deputy County Executive

Date: 10/17/21

Witness: Cheryl Skene

Approved as to form:

 6 October 2021

Albemarle County Attorney

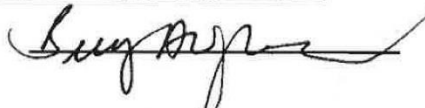
Commonwealth of Virginia, Department of Transportation

By: 

Name: ROBERT W. HOFFRICHTER

Title: DIRECTOR, OFFICE OF CAPITALS

Date: 18 OCT 2021

Witness: 

Page 4 of 4

Item No. 8.4. 2021 Transportation Revenue Sharing Project Resolutions

The Executive Summary forwarded to the Board states that in July 2021, the Board reviewed and approved the updated list of Albemarle County Transportation Priorities. That review and approval included two projects recommended for funding through Revenue Sharing grant applications:

#8 - Eastern Avenue South: US 250 across Lickinghole Creek to Cory Farms Road.

#10 - Avon Street Extended Bicycle and Pedestrian Improvements - Mill Creek Drive to Peregrory Lane.

Staff has continued to develop conceptual cost estimates and designs for these projects with the assistance of the Virginia Department of Transportation (VDOT) and a consultant. Pre-applications were submitted for both projects and it was determined that they were eligible for full submission.

Successful Revenue Sharing projects are typically funded by VDOT at 50%, with the remaining 50% being local match; however, there is a \$10 million per project limit, as well as a \$10 million limit per locality per two-year funding cycle. The local match for both projects would come from the CIP (Transportation Leveraging Fund).

The deadline for the Revenue Sharing grant applications is October 1. A Board Resolution supporting each of these projects must be submitted before then.

Staff is currently preparing the applications for the referenced projects. Though cost estimates for these projects are still being finalized, initial cost estimates are provided below.

**Eastern Avenue South Connector** - This project would extend Crozet's Eastern Avenue from the current stub-out at Westhall Drive south to Cory Farm Road, which later intersects with US 250/Rockfish Gap Turnpike. The project would bridge Lickinghole Creek and include bicycle and pedestrian facilities on both sides of the new roadway. The total cost of the project is estimated at approximately \$22.1 million. Although VDOT typically funds 50% of project costs for Revenue Sharing projects, each project is limited to \$10 million from VDOT. Consequently, the cost to Albemarle County for this project would be at least \$12.1 million (\$10 million as the local match + \$2.1 million to reach the total project cost) if the current cost estimate remains accurate.

**Avon Street Extended Bicycle and Pedestrian Improvements** - This project proposes to construct a shared-use path adjacent to the western side of Avon Street Extended from Mill Creek Drive to Peregrine Lane. It would also include a pedestrian crossing of Avon Street near Swan Lake Drive to connect to the previously funded sidewalk on the east side of Avon Street. The total cost of the project is estimated at approximately \$2.8 million. VDOT typically funds 50% of project costs for Revenue Sharing projects, making the local share approximately \$1.4 million.

The current cost estimates of these two projects would exceed the Revenue Sharing limit of \$10 million in a two-year cycle. The Eastern Avenue project has been recognized as the higher priority project for funding at this time. Staff continues to work to find ways to fund both projects through this round of Revenue Sharing. However, if the Avon Street project cannot be funded through Revenue Sharing at this time, staff would work to identify other funding sources to continue to advance the project.

The combined budgetary impact of both recommended projects is approximately \$13.5 million, which would be required over the next five to seven fiscal years. Because VDOT would administer the Eastern Avenue project, additional cost related to staff time for that project would be minimal. However, because County staff would administer the Avon Street Extended project, staff time requirements for that project would be more significant.

Staff recommends using County CIP funds to meet the local share of these costs. Though part of the local share is already available in the Transportation Leveraging Fund, additional funding will be required in a future CIP in order to complete both projects. Furthermore, the per project and per locality funding limits imposed on this round of Revenue Sharing require staff to further investigate strategies to ensure both projects can be completed as soon as possible. At this time, staff requests resolutions for both projects, with the understanding that decisions to accept either/both grants would be made following the Spring 2022 CIP update.

Staff recommends that the Board endorse the recommended grant applications and adopt the attached Resolutions (Attachments A and B) for the Revenue Sharing grant applications.

**By the above-recorded vote, the Board endorsed the recommended grant applications and adopt the attached Resolutions (Attachments A and B) for the Revenue Sharing grant applications:**

**RESOLUTION TO PARTICIPATE IN  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
REVENUE SHARING PROGRAM FOR FISCAL YEARS 2023 AND 2024  
Eastern Avenue South Connection**

**WHEREAS,** the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2023 and 2024 Revenue Sharing Program; and

**WHEREAS,** the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

**WHEREAS,** these funds are requested to implement the Eastern Avenue South Connection project, which proposes to construct a new road connection from the intersection of Eastern Avenue and Westhall Drive to Cory Farms Road/US 250 (Rockfish Gap Turnpike), including bike lanes, sidewalks, and a bridge over Lickinghole Creek.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2022 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

**BE IT FURTHER RESOLVED THAT** the Board of Supervisors hereby authorizes the County Executive to execute project administration agreements for any approved Fiscal Year 2023 and 2024 Revenue Sharing Program projects.

\* \* \* \* \*

**RESOLUTION TO PARTICIPATE IN  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
REVENUE SHARING PROGRAM FOR FISCAL YEARS 2023 AND 2024  
Avon Street Extended Bicycle and Pedestrian Improvements**

**WHEREAS,** the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2023 and 2024 Revenue Sharing Program; and

**WHEREAS,** the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

**WHEREAS,** these funds are requested to implement the Avon Street Extended Bicycle and Pedestrian Improvements project, which proposes to construct a shared use path adjacent to the western side of Avon Street Extended from Mill Creek Drive to Peregory Lane, including a pedestrian crossing of Avon Street near Swan Lake Drive.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2023 and 2024 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

**BE IT FURTHER RESOLVED THAT** the Board of Supervisors hereby authorizes the County Executive to execute project administration agreements for any approved Fiscal Year 2023 and 2024 Revenue Sharing Program projects.

\_\_\_\_\_

Item No. 8.5. Resolution to Accept road(s) in Old Trail Lower Ballard into the State Secondary System of Highways. (White Hall Magisterial District).

**By the above-recorded vote, the Board adopted the resolution to accept road(s) in Old Trail Lower Ballard into the State Secondary System of Highways:**

**R E S O L U T I O N**

**WHEREAS,** the street(s) in Old Trail – Lower Ballard Field, as described on the attached Additions Form AM-4.3 dated September 15, 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 Old Trail – Lower Ballard Field, as described on the attached Additions Form AM-4.3 dated September 15, 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.

\* \* \* \* \*

**Report of Changes in the Secondary System of State Highways**

Project/Subdivision: Old Trail - Lower Ballard Field

Addition - New subdivision street §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width

1811	Grass Dale Lane	Alley C (PVT)	0.027 Miles North to Rt 1814, West End Drive	0.03	2	DB 2895, PGS 483-499	40
1811	Grass Dale Lane	Rt 1818, Hampstead Drive	0.026 Miles North to Alley C (PVT)	0.03	2	DB 2895, PGS 483-499	40
1811	Grass Dale Lane	Rt 1820, Welbourne Lane	0.046 Miles North to Rt 1818, Hampstead Drive	0.05	2	DB 2895, PGS 483-499	40
1812	Haden Terrace	Rt 1819, Haden Lane	0.08 Miles North to ESM	0.08	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Alley C (PVT)	0.029 Miles North to Rt 1814, West End Drive	0.03	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Alley E (PVT)	0.037 Miles North to Rt 1820, Welbourne Drive	0.04	2	DB 2895, PGS 483-499	40

1813	Summerford Lane	Alley (PVT)	0.022 Miles North to Rt 1215, Killdeer Lane	0.02	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1029, Haden Place	0.012 Miles North to ESM	0.01	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1215, Killdeer Lane	0.069 Miles North to Rt 1029, Haden	0.07	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1814, West End Drive	0.022 Miles North to Alley (PVT)	0.02	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1818, Hempstead Drive	0.03 Miles North to Alley C (PVT)	0.03	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1820, Welbourne Drive	0.014 Miles North to Rt 1818, Hampstead Drive	0.01	2	DB 2895, PGS 483-499	40
1813	Summerford Lane	Rt 1832, Brook View Lane	0.026 Miles North to Alley E	0.03	2	DB 2895, PGS 483-499	40
1814	West End Drive	Rt 1718, West End Circle	0.034 Miles East to Rt 1819, Haden	0.03	2	DB 2895, PGS 483-499	40
1814	West End Drive	Rt 1811, Grass Dale Lane	0.097 Miles East to Rt 1813, Summerford Lane	0.1	2	DB 2895, PGS 483-499	40
1814	West End Drive	Rt 1813, Summerford Lane	0.03 Miles East to Rt 1817, West End	0.03	2	DB 2895, PGS 483-499	40

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1814	West End Drive	Rt 1815, Old Trail Drive	0.058 Miles East to Rt 1811, Grass Dale Lane	0.06	2	DB 2895, PGS 483-499	40
1814	West End Drive	Rt 1817, West End Circle	0.055 Miles East to Rt 1817, West End Circle	0.06	2	DB 2895, PGS 483-499	40
1817	West End Circle	Rt 1814, West End Drive	0.07 Miles North to Rt 1814, West End	0.07	2	DB 2895, PGS 483-499	40
1818	Hampstead Drive	Rt 1811, Grass Dale Lane	0.094 Miles Easat to Rt 1813, Summerford Lane	0.09	2	DB 2895, PGS 483-499	40
1818	Hampstead Drive	Rt 1813, Summerford Lane	0.12 Miles East to Rt 1819, Haden	0.12	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Alley C (PVT)	0.03 Miles North to Rt 1814, West End	0.03	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Alley E (PVT)	0.02 Miles North to Rt 1833, Haden Court	0.02	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Rt 1814, West End Drive	0.029 Miles North to Rt 1812, Haden Terrace	0.03	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Rt 1818, Hempstead Dr	0.008 Miles North to Rt 1833, Haden Ct	0.01	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Rt 1832, Brook View Lane	0.026 Miles North to Alley E	0.03	2	DB 2895, PGS 483-499	40



1819	Haden Lane	Rt 1833, Haden Court	0.009 Miles North to Rt 1818, Hampstead Dr	0.01	2	DB 2895, PGS 483-499	40
1819	Haden Lane	Rt 1833, Haden Court	0.018 Miles North to Alley C (PVT)	0.02	2	DB 2895, PGS 4883-499	40
1820	Welbourne Lane	Alley C (PVT)	0.036 Miles East to Rt 1811, Grass Dale Lane	0.04	2	DB 2895, PGS 483-499	40
1820	Welbourne Lane	Rt 1811, Grass Dale Lane	0.099 Miles East to Rt 1813, Summerford Lane	0.1	2	DB 2895, PGS 483-499	40
1820	Welbourne Lane	Rt 1815, Old Trail Drive	0.024 Miles East to Alley C (PVT)	0.02	2	DB 2895, PGS 483-499	40
1832	Brook View Road	Alley C (PVT)	0.16 Miles East to Rt 1813, Summerford Lane	0.16	2	DB 2895, PGS 483-499	40
1832	Brook View Road	Rt 1813, Summerford Lane	0.11 Miles East to Rt 1819, Haden	0.11	2	DB 2895, PGS 483-499	40
1832	Brook View Road	Rt 1815, Old Trail Drive	0.027 Miles East to Alley C (PVT)	0.03	2	DB 2895, PGS 483-499	40
1832	Brook View Road	Rt 1819, Haden Lane	0.083 Miles East to Alley F (PVT)	0.08	2	DB 2895, PGS 83-499	40
1833	Haden Court	Rt 1819, Haden Lane	0.02 Miles East to Rt 1819, Haden Lane	0.02	2	DB 2895, PGS 483-499	40

Item No. 8.6. SE202100025 Stonefield Towncenter Block C2-1 Residential Units Special Exception.

The Executive Summary forwarded to the Board states that the applicant requests a special exception to vary the Code of Development approved in conjunction with ZMA200100007 to transfer 73 allotted residential units of the Stonefield development from Block E to Blocks A through D. This special exception is permitted under County Code § 18-8.5.5.3, which permits minor changes to Codes of Development for Neighborhood Model Districts. The Applicant requests the special exception to transfer the units in order to construct a new 112-unit residential building on Block C2-1 (Attachments A and B).

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special exception request, subject to the condition attached thereto.

**By the above-recorded vote, the Board adopted the resolution in Attachment D to approve the special exception request, subject to the condition attached thereto:**

**RESOLUTION TO APPROVE  
SE202100025 STONEFIELD TOWNCENTER  
BLOCK C2-1 RESIDENTIAL UNITS**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.5.3 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the special exception:

- (1) would be consistent with the goals and objectives of the comprehensive plan;
- (2) would not increase the approved development density or intensity of development;
- (3) would not adversely affect the timing and phasing of development of any other development in the zoning district;
- (4) would not require a special use permit; and
- (5) would be in general accord with the purpose and intent of the approved application.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves SE202100025 Stonefield Towncenter Block C2-1 Residential Units varying the Code of Development approved in conjunction with ZMA201000007 to transfer 73 allotted residential units of the Stonefield development from Block E to Blocks A through D, subject to the condition attached hereto.

\* \* \*

**SE202100025 Stonefield Towncenter Block C2-1 Residential Units Special Exception Condition**

1. All development must be in accord with the Applicant's Narrative on Stonefield Block C2-1 Special Exception – Residential Units submitted by WW Associates, Inc. dated June 16, 2021.

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Item No. 8.7. SE202100026 Stonefield Towncenter Block C2-1 Maximum Stories Special Exception.

The Executive Summary forwarded to the Board states that the applicant requests a special exception to vary the Code of Development approved in conjunction with ZMA200100007 to increase the maximum number of stories permitted in Block C of the Stonefield development from 5 stories to 7. This special exception request is in accordance with County Code § 18-8.5.5.3, which permits minor changes to Codes of Development for Neighborhood Model Districts. The Applicant requests the special exception to construct a new 112-unit residential building, 5 stories of residential over 2 stories of parking, on Block C2-1 (Attachments A and B).

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special exception request, subject to the condition attached thereto.

**By the above-recorded vote, the Board adopted the resolution in Attachment D to approve the special exception request, subject to the condition attached thereto:**

**RESOLUTION TO APPROVE  
SE202100026 STONEFIELD TOWNCENTER  
BLOCK C2-1 MAXIMUM STORIES**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.5.3 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the special exception:

- (1) would be consistent with the goals and objectives of the comprehensive plan;
- (2) would not increase the approved development density or intensity of development;
- (3) would not adversely affect the timing and phasing of development of any other development in the zoning district;
- (4) would not require a special use permit; and
- (5) would be in general accord with the purpose and intent of the approved application.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves SE202100026 Stonefield Towncenter Block C2-1 Maximum Stories varying the Code of Development approved in conjunction with ZMA201000007 to increase the maximum number of stories permitted in Block C of the Stonefield development from 5 stories to 7, subject to the condition attached hereto.

\* \* \*

**SE202100026 Stonefield Towncenter Block C2-1 Maximum Stories Special Exception Condition**

1. All development must be in accord with the Applicant's Narrative on Stonefield Block C2-1 Special

Exception – Building Height submitted by WW Associates, dated June 16, 2021.

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Item No. 8.8. SE202100029 McCarthy Homestay Special Exception.

The Executive Summary forwarded to the Board states that the applicant requests a special exception pursuant to County Code § 18-5.1.48(i) for a homestay at 5621 Rockery Place to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125-foot setbacks to 64 feet +/- from the southern property line for a homestay use in an existing single-family dwelling (carriage house).

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception, subject to the conditions attached thereto.

**By the above-recorded vote, the Board adopted the resolution in Attachment F to approve the special exception, subject to the conditions attached thereto:**

**RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR  
SE2021-00029 MCCARTHY HOMESTAY**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE202100029 McCarthy Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exception 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 McCarthy Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot southern yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \*

**SE 2021-00029 McCarthy 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 18, 2021.
2. Homestay use is limited to the existing structures, as currently configured and depicted on the House and Parking Location Exhibit dated August 18, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated August 18, 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.

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Item No. 8.9. SE202100031 Blessing Homestay Special Exception.

The Executive Summary forwarded to the Board states that the applicant requests a special exception pursuant to County Code § 18-5.1.48(i) for a homestay at 8464 Mountain Hollow Road to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125-foot setbacks to 27 feet +/- from the western property line for a homestay use in an existing single-family dwelling.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception, subject to the conditions attached thereto.

**By the above-recorded vote, the Board adopted the resolution in Attachment F to approve the special exception, subject to the conditions attached thereto:**

**RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR  
SE2021-00031 BLESSING HOMESTAY**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE2021-00031 Blessing Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the requested special exception 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 Blessing Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125-foot western yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \*

**SE 2021-00031 Blessing 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 17, 2021.
2. Homestay use is limited to the existing structure, as currently configured and depicted on the House and Parking Location Exhibit dated August 17, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated August 17, 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.

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Item No. 8.10. SE202100033 R.A. Yancey - Special Exception.

The Executive Summary forwarded to the Board states that on August 19, 2020, the Board of Supervisors approved a request to modify setbacks and hours of operation at the Yancey Mills lumber yard. The approval included the following condition (among others):

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

On January 6, 2021 the Board of Supervisors approved an amendment to this condition to require the issuance of a Certificate of Occupancy by October 1, 2021 instead of February 1, 2021.

The applicant has requested that the condition be amended to require the issuance of a Certificate of Occupancy by December 15, 2021 instead of October 1, 2021.

With regards to the findings contained in the Staff Analysis (Attachment B), inclusive of the criteria to be considered pursuant to Albemarle County Code, staff recommends approval with conditions of this request for a special exception. The recommended conditions are the same as those approved on August 19, 2020, with a modification to the condition discussed above.

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

**By the above-recorded vote, the Board adopted the resolution in Attachment C to approve the special exception request:**

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

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

**WHEREAS,** by Resolution dated August 19, 2020, the Albemarle County Board of Supervisors restated and reaffirmed the special exceptions previously approved on July 15, 2020, and approved the special exception requests previously deferred subject to conditions; and

**WHEREAS,** by Resolution dated January 6, 2021, the Albemarle County Board of Supervisors amended condition 2 of the approved conditions; and

**WHEREAS,** the Board now wishes to again amend Condition 2 of the approved conditions.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application to amend Condition 2 and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-4.18, 18-4.20, 18-5.1(a), 18-5.1.15, and 18-33.9, the Albemarle County Board of Supervisors hereby restates and reaffirms all the Special Exceptions previously granted for and on County Parcel ID Numbers 05500-00-00-111B0 and 05500-00-00-11200, subject to the conditions attached thereto, with the following amendment to Condition 2:

2. The owner must obtain a Certificate of Occupancy for all existing structures by December 15, 2021. For any structure that is not issued a Certificate of Occupancy by December 15, 2021, the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

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Item No. 8.11. VDOT Monthly Report, **was received for information.**

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Item No. 8.12. Albemarle County Service Authority Fiscal Year 2022 Annual Operating and Capital Improvement Budget, **was received for information.**

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Agenda Item No. 9. **Action Item:** SE202100030 Ramsay Cottage Homestay Special Exceptions.

The Executive Summary forwarded to the Board states that the applicant has requested three special exceptions in association with a proposed homestay at 7704 Rockfish Gap Turnpike:

1. **Increase the Number of Guest Rooms** - Pursuant to County Code §18-5.1.48(i)(1)(i), the applicant is requesting a special exception to permit up to three (3) guest rooms, instead of the two (2) guest rooms otherwise permitted by County Code §18-5.1.48(j)(1)(iii).
2. **Reduce Required Minimum Yards** - Pursuant to County Code § 18-5.1.48(i)(1)(ii), the applicant is requesting a special exception to reduce the 125 ft. setback from the eastern side property line otherwise required by County Code §18-5.1.48(j)(1)(v).
3. **Waive Owner-Occupancy** – Pursuant to County Code § 18-5.1.48(i)(1)(iv), the applicant is requesting a special exception to waive the owner occupancy requirement of County Code § 18-5.1.48(j)(1)(iv), to allow a tenant resident manager for the homestay.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception requests, subject to the conditions attached thereto.

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Ms. Ragsdale shared her screen and said the Board has already heard from the applicant's representative, who offered an introduction to the item, and she would start with the ordinance framework when discussing special exceptions. She said the parcel where the cottage is located is less than five acres, so there are several things one could request a special exception for. She said this special exception is a waiver to modify three things, including a reduction of a 125-foot setback to the eastern property line, to increase the number of bedrooms from two to three, and then waiving the owner occupancy requirement because the farm manager is the resident on that parcel, while the owners themselves live next door.

Ms. Ragsdale said that when the staff reviews these special exceptions, they are analyzing them based on the criteria seen before that includes no detriment to abutting lots; there is no harm to public health, safety, or welfare; this may be approved, denied, or approved with conditions. She said she thinks the applicant's representative gave a good sense of the area in terms of it being in the Greenwood/Afton Historic District and located along the Rockfish Gap Turnpike off of Route 250. She said there is a driveway to the cottage and a separate driveway to the main house.

Ms. Ragsdale said that in looking a little closer at the property and the structures described earlier, the red outline on the presented slide is the approximate property line for the 3.6-acre parcel, and the larger 70-acre parcel surrounds it to the north and west. She said the owner's residence is to the left, not too far from the cottage, at the top of the screen, which is where the three bedrooms will be located. She said the tenant resides on the property, and when the guest rooms are rented, the tenant would stay in the artist studio, and the cottage is also used as the cooking and laundry facilities.

Ms. Ragsdale showed additional photos of the property and structures. She said the proposal currently does not include turning the artist studio into some sort of dwelling, and it is currently considered an accessory structure. She said under the current proposal, there will just be one dwelling on the property with three bedrooms. She moved to the next slide showing photographs along the eastern property line where the 125-ft. setback reduction is requested. She said there are several deciduous trees, and the adjacent neighbor has been contacted and has no objections to this homestay request. She said they did ask that a couple of additional trees be planted to reestablish the buffer where there has been some tree damage. She said one of the County's standard requirements is that the buffer be maintained, and in some cases, supplemental plantings may be necessary. She said staff will verify that need prior to a zoning clearance or guestroom rental if this homestay is approved.

Ms. Ragsdale said staff has no issues recommending approval of the three special exceptions requested. She said there is a unique circumstance with two properties that are under common ownership and are historic in nature. She said staff did identify some technical compliance issues in the report, and there was some discussion about that. She moved to the next slide and said it is a physical survey of the property, and there is a situation where the red dashed line around the homestay parcel, which is Tax Map 75A, and the green asterisk shows the house location, with the other farm properties to the left. She said zooming in, the property line is in red, and the footprint that encroaches over to the other property is in yellow. She said staff identified this in the report, but it is technically a zoning issue in that the structure does not need setbacks; however, it does not preclude the County from approving a homestay or the special exception. She said it has been identified as a technical issue but does not prevent approval of the special exception. She said staff also noted that the parcel was 3.6 acres in size,

so if a second dwelling were desired, it would require a subdivision to make sure there were at least four acres since the minimum lot size is two acres and would then need to come into compliance with setbacks.

Ms. Ragsdale said the summary of the request is to increase the number of guest rooms up to three, reduce the required setback to the one property line, and waive the owner-occupancy requirement. She said in this case, staff did not have any concerns about impacts to adjacent properties, or any harm to public health, safety, or welfare. She said the speaker earlier touched on the original condition that would address those technical issues before a homestay would be approved, but after further discussion with the applicant and their intentions for the property, staff recommended an alternative condition for number four, which is to maintain common ownership. She said the approval would be good so long as ownership remains common for both properties.

Ms. Palmer said she is interested in the fact that the fourth condition can be placed, as it has been historically stated that conditions cannot be placed on a piece of property remaining under a particular ownership, but she recognizes that this is to maintain the same ownership of the two properties.

Mr. Kamptner said that is the key difference.

Ms. McKeel said she did not have any questions but thanked Ms. Ragsdale for the presentation. She said she agrees with adding the fourth condition and thinks it was a good idea.

Ms. Mallek said she also agrees with the fourth condition and feels it is to everyone's benefit. She said judging by the fact the boundary line goes through the middle of the house, substantial other work would have to be done with the boundary maps before any property could be sold. She said she feels everyone is well protected with the arrangement staff has proposed here.

Ms. Price said she concurs with the other Supervisors that the special exception number 4 condition answered the questions that she had. She said she had contacted County staff about some concerns prior to this, and she really appreciates staff and the applicant coming to a common agreement on this concern.

Ms. Price asked Ms. Ragsdale to go back to the image that shows the yellow line going through the red dotted property line. She said this does not affect her support for this but asked if there is some sort of easement required to put the structure where it goes over the property line.

Ms. Ragsdale said there has not been an easement nor a record of it found. She said when the situation was first discovered, staff completed a parcel of record determination. She said the applicant also sent a description of the property history, which explains that the house was built in 1950 over the line, making this the situation now.

Ms. Price asked if the ownership is the same, whether it was necessary to do an easement to yourself. She said Mr. Kamptner could perhaps answer, though she does not feel it is likely necessary. She said she would presume that records going back to 1950 may not address permitting to the same extent that the records do today. She said in the case of her own property, where the house was built in several additions over the years, the records are not as complete as she would have hoped them to be. She said it was just a curiosity she had after seeing a structure that goes over a property line, albeit the two parcels are run by the same individual.

Ms. Price said the only thing she is wary of is there being a manager rather than an owner-occupied situation, and she thinks the resolution of the fourth condition addresses any of her concerns. She then thanked Ms. Ragsdale for the presentation.

Mr. Kamptner explained that the 1950 cottage preceded zoning in Albemarle County, so the setbacks would not have been reviewed. He said this part of the County was probably not subject to the subdivision ordinance. He said the County's first subdivision ordinance was adopted in 1949, so there would not have been review for that issue at the time of the build, especially if it was under common ownership.

Ms. Price thanked Mr. Kamptner for his response and said she was not going to allude to him having been here in 1949 when that was done.

Ms. LaPisto-Kirtley thanked Ms. Ragsdale for the presentation and said she'd like to go back to the image of the dwelling and the artist studio. She said Ms. Ragsdale had previously said the artist studio is not a dwelling, and only the homestay is considered a dwelling, and she would like further clarification on this.

Ms. Ragsdale said the artist studio was constructed as an accessory structure and does not have all the features of a dwelling. She said typically this would include the permanent provisions for cooking that are absent, which is the case for this cottage. She said staff has approved homestays with the situation in which the resident can stay in the accessory structure when the dwelling is occupied by

guests.

Ms. LaPisto-Kirtley clarified that this cottage does not have a complete kitchen but instead may just have a microwave or something similar.

Ms. Ragsdale confirmed this understanding.

Ms. LaPisto-Kirtley asked if this parcel is less than 5 acres, which Ms. Ragsdale confirmed. Ms. LaPisto-Kirtley then said this is to approve a manager occupancy on a less than a three or five-acre parcel, to which Ms. Ragsdale again confirmed that was accurate.

Mr. Gallaway said he did not have any questions and said a motion would be accepted if someone was prepared to make one.

Ms. Mallek **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, Ms. Palmer, and Ms. Price.  
NAYS: None.

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### RESOLUTION TO APPROVE SPECIAL EXCEPTIONS FOR SE2021-00030 RAMSAY COTTAGE HOMESTAY

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE2021-00030 Ramsay Cottage 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 18-33.9, 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.

Homestay, the Albemarle County Board of Supervisors hereby approves the special exceptions (i) to increase the number of permitted guest rooms to three (3); (ii) to modify the minimum 125-foot eastern yard required for a homestay in the Rural Areas zoning district; and (iii) to allow occupancy by a tenant resident manager, all of which are subject to the conditions attached hereto.

\* \* \*

#### SE 2021-00030 Ramsay Cottage Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking area as designated on the House and Parking Location Exhibit dated August 18, 2021.
2. Homestay use is limited to a total of three guest rooms, all of which must be within the Ramsay Cottage, as currently configured and depicted on the House and Parking Location Exhibit dated August 18, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated August 18, 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.
4. A boundary line adjustment subdivision between Tax Parcel IDs 07000-00-00-005 and 007000-0000-005A0 must have been approved and recorded before the issuance of either (i) a zoning clearance for the homestay use of the Ramsay Cottage and/or (ii) a building permit to convert the existing Artist's Studio to a single-family dwelling. An accompanying plat must demonstrate that existing and proposed structures fully comply with County Code § 18-10.4 (Area and Bulk regulations).

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Agenda Item No. 10. **Presentation:** Southwood Phase 1 Update.

The Executive Summary forwarded to the Board states that the Southwood Mobile Home Park ("Southwood") is located on Hickory Street south of I-64 and east of Old Lynchburg Road in the Southern Urban Neighborhood and is located in one of the County's Development Areas. Southwood currently has 341 mobile homes and more than 1,500 residents and is the County's largest concentration of substandard housing. Habitat for Humanity of Greater Charlottesville, Inc. ("Habitat") purchased Southwood in 2007 with a stated intention of redeveloping the site into a mixed income, mixed-use development, removing all 341 mobile homes and replacing them with a variety of housing unit types, including site-built homes.

The Board of Supervisors adopted a resolution in October of 2016 supporting a collaborative redevelopment process with Habitat for Southwood. Subsequent to that support, the Board included Southwood Phase 1 as part of its Strategic Plan under Revitalizing Urban Neighborhoods. In January

2018, the Board approved an action plan and authorized the County Executive to sign a performance agreement on behalf of the County in which the County contributed \$675,000 to Habitat to assist in its costs to prepare and submit a complete rezoning application for Phase 1 of the redevelopment of Southwood ("Phase 1").

The rezoning for Phase 1 (ZMA2018-003) was approved by the Board on August 21, 2019, and included approximately 33.96 acres of undeveloped land within Southwood. The area where the existing mobile homes are located was not included as part of Phase 1. The approved rezoning was from R2 Residential to Neighborhood Model District (NMD) and included a maximum of 450 units and 50,000 square feet of nonresidential.

A performance agreement was approved by the Board in June 2019 to support up to 155 affordable dwelling units for Phase 1. The County's contribution within the performance agreement includes up to \$1.5 million for construction of 75 affordable units, \$300,000 for 80 or more Low-Income Housing Tax Credits (LIHTC), and up to \$1.4 million over 10 years in tax rebates.

In addition to the rezoning and performance agreement, the County applied on behalf of Habitat for and was awarded a Community Development Block Grant (CDBG) of \$1 million to support 20 affordable units within Phase 1. Habitat was also awarded \$1.5 million in HUD HOME funds to support the project.

The purpose of this presentation is to give an update on Phase 1 since the rezoning (Attachment A). County staff and Habitat will provide a joint presentation on the planning and submittal of site plans, performance agreement progress, resident and other community engagement, affordable units, rehousing, and construction timeline.

The Planning Commission was provided an update on this topic on July 13, 2021. The minutes from that meeting and Habitat's response to questions for additional information are provided in Attachments B and C.

There are no budget impacts associated with this update.

Staff welcomes questions and feedback regarding the update on Southwood Phase 1.

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Ms. Nedostup thanked Mr. Gallaway and members of the Board and introduced herself as the development process manager for the County. She said joining her in the presentation are representatives from Habitat for Humanity, including President and CEO Dan Rosensweig, along with Albemarle County Housing Policy Manager, Stacy Pethia.

Ms. Nedostup said the presentation would be divided into two sections in which she would cover a brief history of the project, the site plan progress to date, and a performance agreement update. She pointed out the location of Southwood as noted by the blue star on the presented aerial view on the slide, as well as some additional landmarks.

Ms. Nedostup reported that Habitat acquired the property in 2007, and at the time, 1,500 people lived there, including residents in 341 mobile homes. She said in 2016, the County partnered with Habitat for Humanity through a Board resolution to redevelop Southwood. She said in FY17-19, the Board adopted a strategic plan initiative revitalizing urban neighborhoods, which included Southwood. She said in 2018, the Board approved an action plan and the County appropriated \$675K for Southwood to assist with the rezoning application. She said in 2019, a performance agreement was approved for \$1.5M for construction of 75 affordable units, \$300K for 80 or more Low-Income Housing Tax Credits (LIHTC), and \$1.4M over 10 years in tax rebates. She said the Phase 1 rezoning was also approved in 2019.

Ms. Nedostup said the next slide is the zoning plan reminder of what was approved, which included 450 maximum units, and the top of the map shows Old Lynchburg Road coming into Hickory Street. She reminded the Board that this was green field and was not occupied by any mobile homes. She said there is a maximum of 50,000 square feet of non-residential approved, 12 blocks including a neighborhood center special area shown in red on the plan, and the first two blocks designated as amenity areas shown in green on the plan.

Ms. Nedostup stated that the slide shows all of Phase 1 and is currently all under review. She said the four separate areas that the site plans were broken into for planning purposes are for Blocks 11 and 12, Blocks 9-11, Village 1, and then Village 2. Moving to the next slide, she said coming in off Old Lynchburg Road, the first section is of Blocks 11 and 12 and is being developed by the Piedmont Housing Authority (PHA) for 121 LIHTC multi-family units. She said there are three buildings and apartments, a plaza area on the corner of Hickory, and parking lots behind the buildings.

Ms. Nedostup said the next slide is the site plan for Blocks 9-11 and includes 70 market-rate townhomes and 16 affordable Habitat townhomes, for a total of 86 units. She said the next slide is showing the site plan for Village 1 and comes in on a new road off Hickory. She said there are 23 single-family detached market-rate homes and eight single-family attached market-rate townhomes. For the affordable units, she said there are three single-family detached units, 18 single-family attached townhomes, eight duplex units, and 20 multi-family condominiums, for a total of 80 units. She said of those 80 units, 49 are considered affordable.



Ms. Nedostup pointed out streets to orient the group on the layout and location of the site plan for Village 2. She said under the market-rate category, the plan includes 19 single-family detached units and eight single-family attached townhomes; the affordable category includes three single-family detached units, 10 single-family attached townhomes, two duplexes as a total of four units, four multi-family condominiums, for a total of 48 units with 21 identified as affordable.

Ms. Nedostup said the next slide identifies milestones from the performance agreement. She said Milestone 1A, which was \$100K, included planning work and applications completed and awarded. She said Milestone 1B was for \$300K for 80 LIHTC units and is currently in process, noting that the LIHTC was awarded to PHA earlier this summer. She stated that Milestone 1C is the \$200K in funding Habitat secured for 57 affordable units, which is currently in process, and Milestone 1D for \$300K has two parts. She said 1A was site plan approval for 20 affordable units, which has been completed for Village 1. She said 1B was Habitat demonstrating secured funding for 64 affordable units, and that portion is currently still in process. She said Milestone 1E was for \$300K and includes a submittal of building permits for 37 affordable units. She said staff is waiting on the site plan approval to complete that Milestone. She said Milestone 1F is \$600K when Habitat secures funding for 72 affordable units, which is also in process.

Ms. Nedostup said that in addition to the performance agreement, the County did apply on behalf of Habitat and was awarded a Community Development Block Grant of \$1M. She said staff is in the final process, and it should be under contract with the next couple of weeks.

Mr. Rosensweig thanked Ms. Nedostup for her service. He said he understands that this is her last day at the County, and she has been wonderful to work with and he wishes her the best of luck in her future endeavors. He said that Habitat's Counsel and Board Member Lori Schweller would introduce their presentation.

Ms. Schweller thanked Mr. Rosensweig and Ms. Nedostup. She said since the Board's approval of the Southwood Phase 1 rezoning application two years ago, Habitat has made extraordinary progress towards redevelopment. She said land and lot sales contracts are in place with LIHTC and market-rate builders, site work is ongoing, and prospective homebuyers are preparing for ownership, while a second wave of homeowner applications is under review. She said as it is known, Phase 1 will provide the County with over 200 affordable units, a range of product types, and a variety of greenspaces and recreational amenities. She said Habitat is pleased to have the opportunity to report their progress on the development and construction of Phase 1 as they plan for submission of Phase 2. She said she is here today to share Habitat's progress, answer questions, and hear comments so they can ensure the County's expectations are realized.

Ms. Schweller introduced Andrew Vinisky, Chief Construction Officer for Habitat for Humanity. She said Mr. Vinisky has 30 years of experience with two of the largest homebuilders in the country as their chief land development officer and has handled all aspects of land development from purchase and sale contracts through construction. She said she is also happy to introduce Melissa Symmes, Habitat's land development coordinator. She said both Andrew and Melissa earned their Master of Science in Urban and Environmental Planning from UVA.

Ms. Schweller said Mr. Rosensweig would provide an overview of the development and take the Board on a virtual tour highlighting streetscapes, non-residential areas, buildings, parks, and greenspaces; he would also update them on the number and percentage of affordable units, as well as Habitat's rehousing program and non-displacement program. She said Mr. Vinisky would provide a construction timeline, and she would then explain next steps and answer any questions.

Mr. Rosensweig thanked Ms. Schweller and members of the Board for the opportunity to provide an update. He began showing a "fly through" of a virtual tour of the neighborhood from the street view coming into the neighborhood off of Old Lynchburg Road. He said the road being shown is Hickory Street, which passes through the civic park that will be the core of the neighborhood's downtown. He said the video was moving down Horizon Boulevard, the new road being built to bypass the existing mobile home park, so the first phase can be on green fields and allow Habitat to build homes and move people from mobile homes into the new neighborhood.

Mr. Rosensweig said Habitat has worked very closely with Atlantic Builders to design a new product typology so that this streetscape provided a great walk from the deeper end of the neighborhood toward the neighborhood downtown. He said what is being shown are townhomes that are two stories in the front then take advantage of the grade to be three stories behind.

Mr. Rosensweig said the heart of Phase 1 is what the residents really wanted to roll their sleeves up and design, and he said they wanted to make sure that when you move into Village 1, it opens into a lot of green space and feels fundamentally different than the earlier portions. He said there were a lot of fieldtrips to places like Sunrise and Burnett Commons and Forest Lakes, and this was the neighborhood that was dreamed about and designed. He said the section that is being shown now is a mixture of Habitat homes and Southern Development homes. He said Southern is going to build single-family homes and townhomes as part of Village 1, but Village 1 is going to be primarily Habitat homes for Southwood families, with 49 of the roughly 70 units.

Mr. Rosensweig pointed out what the residents have identified as "edge conditions," stating that these are conditions that, in working with the landscape of the existing topography, tend to be at the sides as the topography drops down, and they set up well for duplexes and single-family homes. He said on the left there is a mixture of townhomes, condos, single-family attached homes, and accessory dwelling units.

He said on the right side is a 20-unit condo complex, and residents really did not want to have a big apartment building but wanted it to look and feel like townhomes and be able to walk out onto the street.

Mr. Rosensweig stated that the heart of Village 1 is Five Pillars Park, and the residents got together with UVA Basketball Coach Tony Bennett to talk about their shared values. Mr. Rosensweig stated that the residents asked him if they could name the central park "Five Pillars Park" after the pillars of his basketball program. Mr. Rosensweig said at the middle of the park, the United States Soccer Foundation and Dick's Sporting Goods have sponsored a one-of-a-kind soccer field right in the middle of Five Pillars Park, and it will be surrounded by a fence that the kids can play in all day. He said it will be the first of its kind in the area, and he and the team are very excited about it.

Mr. Rosensweig said he knows the Board deals with a lot of different applications that come through, and the basic concept of Phase 1 isn't as much at the top of their minds as it is his. He said if the Board remembers, the residents presented a block plan rather than a more traditional view that tells everything that is happening on every street, and this plan identifies general formal-based regulations that went together with the topography and the streetscape. He said as the neighborhood develops, it could do so a little more organically through participation and collaboration of the residents living there, designed block by block.

Mr. Rosensweig showed a plan that he said scales down from the more intense neighborhood commercial height activity to less intensive townhome blocks. He said these townhome blocks create a grid system, but it is not all car based. He said there is porosity and openings that will be trails to connect the outside trail to the inside walking and biking infrastructures. He said some of the connectivity will be for cars, but some is specifically for pedestrian and bicycle connections through that section of the park.

Mr. Rosensweig continued showing Village 1 and said it was where much of the soul went into the neighborhood. He said this is where most Habitat homeowners and Southwood residents live and includes everything from a condominium development to townhomes to single-family homes, accessory dwelling units, with the next planning area left for the next group of residents to design as Village 2.

Mr. Rosensweig provided a close-up view coming into the neighborhood off Old Lynchburg Road and said there was some concern about massing along that road, but he thinks the architects did a really good job of stepping the buildings back off two stories and setting them back off of the road, creating a nice streetscape and welcoming gateway into the community. He said as some may recall, the first floors of these buildings by code are 12 feet, so over the life cycle of the building, those uses can go from residential to commercial as things develop. He said, as Ms. Nedostup noted, the 65,000-square-foot civic space is the core for social gathering and interaction in the first experience in the neighborhood. He said it is flanked by commercial-like spaces so that over time, this could be a community center or possibly a café. He said the initial use in this space is going to be a community center, which is what the residents wanted most. He said he would talk more about the commercial business incubation that Habitat is looking forward to doing in Phase 2.

Mr. Rosensweig presented a view of the streetscape along Horizon and noted that the homes are by Atlantic Builders, and some of the things required as part of the architectural design controls were stoops or front porches, or something that's going to make the front of these buildings be an open and lively street for people and not just cars. He showed an image of the resident planners and said that after the zoning was done, there was an offer for those who wanted to go first, and 32 families stepped forward. He said they took the regulations of the form-based code and got granular to build this village. He said one of the things that was crucial to the group was that there be a series of interconnected parks because they know that the future of Southwood is not the current Southwood. He said the core of the neighborhood will still be the people who live there, but they are looking forward to welcoming new people who move in, including market-rate purchasers, potentially new low-income renters, and homeowners. He said they wanted a network of connected parks so that every home looks out over something that is a welcoming public space and common area for all to use.

Mr. Rosensweig reported that one of the first green spaces seen is in front of homes, which creates a nice streetscape and a place for kids to play. He said this is also a way to activate the street rather than it just being about automobiles. He said the next slide shows an actual section but is typical of the edge conditions, with a mixture of Habitat homes and Southern Development homes where the difference cannot be seen. He said the next slide is a view of the first two pilot flex unit structures that are going to be built as part of Phase 1, and Habitat has applied for a grant from Virginia Housing to help with this. He said these are structures that were created in the zoning code for the definition of a "flex-unit structure" that can at times be an affordable rental, and over the lifecycle of the home can be owned by a family with an in-law unit in the back or can be one of the 90 resident-owned businesses that operate out of Southwood right now. He said these are low-impact businesses that work well within the context of a low-scale residential neighborhood.

Mr. Rosensweig said it is worth noting that Habitat is offering a one-story and a two-story version of this, so there is an accessibility component. He said in this case, because parking was on a lot, these are two-story units with parking underneath the flex-unit structure. He scrolled through more slides depicting images of the network parks, referring to one as a more senior-oriented park that looks across the street through an opening between buildings to Five Pillars Park. He said the older residents wanted at least one space that wasn't particularly programmed and served as more of a passive use park. He said the next view is of Five Pillars Park, which is the core and is inspired by the Sunrise neighborhood where the big backyards are surrounded by buildings, so they are protected from the roads by the homes themselves.

Mr. Rosensweig showed the overall green space and trail connection concept, stating that there will be a multi-use trail that navigates the entirety of the park, and this system will continue in Phase 2 and will be networked with the trails that will be developed in Biscuit Run Park. He said one of the proffers was for trail connections so those connections to future County trails and Southwood trails could be made. He said along the way, as part of the environmental review, the Monacan Nation emerged as an interested party. He said one location in Village 2 was a historic hunting ground for the Monacan Nation. He said there were no burial grounds or permanent structures there, but it was a place high on a bluff overlooking a consistent stream, Biscuit Run, where members of the tribe historically would go hunt for prey below them. He said Habitat has reserved an area on the bluff, eliminated a lot, and created some parking adjacent to it, and will be working with the Monacan Nation to design a memorial for Monacan Park on that site.

Mr. Rosensweig said the next slide is Village 2 and goes back to the central idea that the form-based code regulates the general forms and uses but does not prescribe exactly what it looks like, so cohort by cohort, families can come together and design each phase. He said this is where the second village has been attached to Village 1, and there was some concern by the Planning Commission and that it was easier than it might seem. He stated that Horizon Road will continue into the next road, and the design took the common elements and extended them into Village 2. He said the residents did the rest of the design, and it is as cohesive as can be.

Mr. Rosensweig said there was concern amongst Commissioners about the ultimate amount of affordable housing in Phase 1 and whether it would be enough housing to take care of the residents who currently exist at Southwood should the plan move phase by phase, but also to create new affordable housing in the region. He said he thinks they have done a pretty good job, and of the 335 total Phase 1 units, 207 are affordable. He said Habitat is going to build 86 of those 207 units and they would be almost exclusively home ownerships, though there will be some residents at Southwood who will not want to purchase a home until Habitat has committed to making some deeply affordable rentals available interspersed in the neighborhood. He said Habitat believes there will be somewhere between five and 15 Southwood residents in LIHTC. He said in the first phase, which is roughly one-fifth of the land mass of all of Southwood, there will be roughly 100 families rehoused permanently, mostly into homes that they own.

Mr. Rosensweig said there was concern about how residents would stay in control of the neighborhood after the initial design phase. He said as part of the COD, it's written into the rules of the neighborhood that the makeup of the Architectural Review Board must be at least 51% existing Southwood residents. He said that typically, the developer stays as the leader of the ARB through a prolonged, multi-year process, but this was turned over to the residents right away, and they were the ones who vetted all architecture. He said there is also a Mosbey Mountain representative on the review board to help maintain good neighbor relations.

Mr. Rosensweig said he's spent a bit of time talking to some Board members about free housing. He said the initial idea was to build only on green fields so that people could stay in their mobile homes and only move once. He said the reason for that is significant, as there is no affordable housing in the region, and people need to be rehoused on site. He said as the sitework began for Phase 1, it was discovered that the extent of environmental degradation was much worse than what the geo-techs had imagined. He said instead of one or two mobile home parks hooked up to a septic tank, there were 10, so the leach fields are extending into the areas of construction. He said out of an abundance of caution and safety for residents, the team is in the process of moving the first 25 families from the area immediately adjacent to the construction site to the other side of the mobile home park in trailers that are served by sewer. He said this is a much better long-term solution. He said they are in the process of searching for solutions for approximately 50 more families that are in part of the next phase.

Mr. Rosensweig expressed thanks to Mr. Walker for suggesting a rehousing task force, which allowed them to begin work with members of the County and other partners. He said there is now a rehousing task force that will be meeting monthly to try to make sure there are health and safety solutions for everybody as the process is worked through. He said there is also a remediation task force that has formed. He gave the example that the mobile home park has been on electric for many years, but originally there was an oil tank installed underneath every trailer. He said as they started to remove those, the expectation was that one in every 10 would leak, and if they were of decent material to start with, they wouldn't leak at all. He said all 10 of the first ones removed leaked, and this suggests that all 347 will need to be removed. He said thankfully, the Virginia Department of Environmental Quality (DEQ) has a program to help with the undercutting and removal of bad soil; they do not have money for removing the tanks.

Mr. Rosensweig emphasized that the site is clean, and what can be seen in the first picture of the presented slide is what was found in terms of a leaching septic field. He said the crew works with the DEQ, County inspectors, and their own contractors to undercut the soil, which he analogized to cutting out a tumor where the bad stuff is and the unhealthy part around it. He said the site is pristine now, but it has cost a lot more than was expected, and he is looking for a place(s) for the non-compactable soil to go.

Mr. Rosensweig reported that Habitat has a host of partnerships toward the next phase, and one of the most exciting is a steering committee for business incubation. He said as part of Phase 2, the goal is to put together a new entity or partner with several entities to set up a \$10-15K business incubator located in the second downtown phase. He said the uses the residents would like to see include a shared commercial kitchen so that food preppers could grow their businesses in a way that is healthier and more compliant with zoning, stalls or permanent installations for people to sell their wares, and kiosks where

anyone coming to Southwood can find access to a service. He said in addition, he believes there will be about 25,000 square feet of commercial space available in the next phase of downtown. He said there are ongoing conversations between the PHA and the Boys and Girls Club to locate a new 10,000-square-foot club facility there, as well as a 5,000-square-foot Monticello Area Community Action Agency (MACAA) facility for early childhood education for the Head Start program, which represents several partnerships coming together.

Mr. Rosensweig said Phase 2 is the mobile home park and would be in front of the Board again within a few months or by the beginning of next year, and the application would be asking to extend the block plan, uses, and rules from Phase 1 and extend the block throughout the rest of the park. He said this would keep things consistent where edge conditions are similar, as well as internal conditions, and it would be more like a zoning amendment than an actual rezoning.

Andrew Vinisky of Habitat said he is Chief Construction Officer and is overseeing the project, and he thanked the Board. Mr. Vinisky asked Mr. Rosensweig to go back to the beginning of the presentation where there were definitions of the various villages. He stated that Habitat did receive site plan approval, working with Ms. Nedostup and staff for Village 1 late last year and immediately engaging in construction and site work that began early this year in Block 12, and this is where the dirt is coming from to be able to finish Village 1. He said all four site plans have been submitted to the County for all 335 units that are part of Phase 1, and he is expecting site plan approval soon for Blocks 9-11, followed by Blocks 11 and 12, which are the three PHA buildings. He said they are expecting site plan approval sometime early next year. He said he hopes to break ground on Blocks 9-11 by the end of this year, and he hopes to have the building pads ready to sell to PHA in the spring for their 70-unit build. He said when that is done, Habitat will be able to start on Village 2. He said by this time next year, he expects to be fully underway with all the construction activity.

Mr. Rosensweig said he would turn the presentation over to Ms. Schweller for a few final comments and would then open the floor for questions and answers.

Ms. Schweller said to reiterate what Mr. Rosensweig and Mr. Vinisky had stated, Habitat has been working closely with staff onsite for planning and subdivision, and to plan for the submittal of Phase 2. She said this would be an amendment to the existing zoning map by means of a Phase 2 Concept Plan and Code of Development. She said they are targeting mid-October for submission of a rezoning application and hope to meet that so Habitat can have their first meeting with the Planning Commission in January. She emphasized they would like to move forward as quickly as possible for several reasons: They are sensitive to the expectations of Southwood residents who have been working hard to plan the development and are waiting to move out of their trailers; there are grant funding deadlines and market-rate sale deadlines to meet; and there are land development and construction costs to consider. She said the goal is to avoid any construction downtime as much as possible between the phases of development. She said Phase 2 planning meetings with the Southwood residents' planning and design group have guided Habitat towards an extension of the planning concepts, the block pattern, and forms of development that have already been presented from Phase 1 to carry through to Phase 2. She said the planning group has confirmed its commitment to these concepts and has been focused on the green space and open space and trails for Phase 2. She said they look forward to the Board's feedback and thanked the Supervisors.

Ms. Palmer said her questions are all for staff, and she's thrilled to see this moving along. She said that regarding the performance agreement, she wants to make sure she understands the milestones. She said in the performance agreement, there were 155 affordable units, but when she was going through her presentation, it didn't seem like the number was the same. She asked Ms. Nedostup to go back over those numbers again as to where the affordable units are, what they are in Village 1, 2, and Blocks 9-12.

Ms. Nedostup clarified that the total under the performance agreement was 75 units, and the milestones were broken up into those different unit types. She said in addition to the 75, there were to be 80 LIHTC units if those credits were awarded. She said those were the two numbers within the performance agreement, and she is looking back at the presentation for what the total is. She confirmed that the total under Phase 1 is going to be 207 affordable units and 128 market-rate units, and this is above what was required under the performance agreement.

Ms. Palmer asked how much of that is the 75 units versus the 80 LIHTC.

Ms. Nedostup replied that PHA is providing 121 under the LIHTC from the 80, and then there are 86 units for the Habitat, where 75 was in the performance agreement.

Ms. Palmer thanked Ms. Nedostup for that answer and said that the performance agreement had a housing mixture plan and a non-displacement plan. She asked if those two things have been provided to County staff's satisfaction.

Ms. Nedostup said she would let Ms. Pethia respond, as she has been leading that portion of the performance agreement.

Ms. Stacy Pethia said both plans have been submitted to the County and have been approved by all pertinent staff. She also said the non-displacement plan has been submitted to the Virginia Department of Housing and Community Development (DHCD) in accordance with Community Development Block Grant (CDBG) regulations and has been accepted.

Ms. Palmer said the County has committed to Phase 1 at just shy of \$4M of taxpayer dollars, and she wondered how the County can compare what is being received for money being given, going forward on future projects. She commented that these numbers have been difficult to keep track of over time, as there have been a lot of decisions in flux, and she asked if Ms. Pethia has comments about how this could have been done better.

Ms. Pethia said the performance agreement is great the way it is and said she's not sure she would change anything. She said it is difficult to produce an exact cost per unit at the beginning of any project. She said one can be set, as was done in this case, but costs can significantly change, which can have a major impact on the overall project. She stated that she can go back to the performance agreement after this and look at all of the data and investments in the project so far, figure out what that is as cost per unit, and how many units are being provided now.

Ms. Palmer responded that the comparison would be helpful going forward. She asked Mr. Rosensweig if COVID has affected his expectation of Southwood residents qualifying for different housing units. She said she assumes there have been some job losses or changes, and how he sees the pandemic has affected that.

Mr. Rosensweig responded that COVID has had a disproportionate impact on low-income communities across the U.S. and the world, and Southwood was not immune to that. He said thankfully, there was some relief money available, and staff has been working with residents at Southwood to access that. He said Habitat also abated rent for the first two months of the shutdown to help people get through. He explained that where people suffered was not so much with income but with health, and because so many people are self-employed, they didn't necessarily lose jobs. He said many of those residents are laborers, and the market for home improvements and landscaping boomed during the pandemic, but they got sick at an alarming rate.

Mr. Rosensweig stated that the apex he indicated there was a 43% COVID positivity rate at Southwood, which was alarming. He explained that in response, Habitat partnered with the Blue Ridge Health District and others to offer weekly vaccination clinics there, which has made it the most vaccinated Latino community in the Commonwealth. He said that long term, he believes the community is recovering okay. He said he thinks the job losses were temporary, and the long-term impacts on income haven't indicated that people would not be able to afford what Habitat is trying to provide. He noted that their housing obligation is 100%, not just to the people who can afford to pay. He said if people have no income, they will have no rent; Habitat will index people whose ability to pay is little to nothing, and that's what they will pay. He said hopefully that's not too many people, as that is a huge subsidy, but there is already subsidy in every home there. He noted that the \$4M County contribution works out to about \$19K per unit. He said that because of COVID price spikes, the average cost for each home is in the mid-\$200K range, making the County's funding slightly less than 10% of each unit.

Ms. Palmer said that was total units and not affordable units.

Mr. Rosensweig said those figures are for the affordable units, and there is \$19K for each of the 207 affordable units, with each home projected to cost approximately \$250K to build.

Ms. McKeel said this was a great presentation and thanked everyone for their work. She said she really likes the added fact that there is rental along with homeownership. She commented that the greenways are wonderful. She also said this is a unique proposal that is a partnership among many, including county government, Habitat, and other organizations. and it will likely be a model for other communities.

Ms. McKeel said she saw the Planning Commission comments around transit and said the Southwood community really does use transit. She noted that this would be changing over the next few years and said she would like Mr. Rosensweig to come to the Regional Transit Partnership to talk about this. She asked if Mr. Rosensweig had reached out to the schools to inquire about the Bright Stars Program. She then asked him where he stands with VDOT and the public roads.

Mr. Rosensweig responded it is very important in a low-income community that the roads are built to a standard that VDOT would accept for public use and ownership. He said the problem is that the residents' dream of a road does not include narrow roads with no parking. He said VDOT street standards tend to be more minimal roads and even shared or flexible-use roads where the pedestrian has just as much right as vehicles. He said parking is also a major issue. He said the residents at Southwood work, and even though they use transit a lot, many can't because they are self-employed or have multiple jobs during the day and need a car. He said the availability of on-street parking is particularly important.

Mr. Rosensweig said he is an urban planner who believes that parking in neighborhoods on the street is good, as it slows traffic down and gets people out of their cars and walking to front porches, which activates the street. He said it has been a struggle in terms of getting street sections at neighborhood scale and how to close the loop. He said he wants to get streetscapes in front of VDOT but has been getting pushback from County engineers. He said sometimes Habitat has had to pick their battles and has decided to go with an overdesign approach rather than getting into a multi-year argument, and he would love some assistance in figuring out how to navigate that situation. He said he thinks there are people at VDOT and at the County who would like to see different street profiles, especially in low-use/low-intensity neighborhoods, but so far, it has been complicated to navigate.

Ms. McKeel said she thinks VDOT is beginning to recognize that they are going to have to adjust to more urban roads and streets rather than just interstates and secondary roads. She said she would be interested in trying to help if she can be of any use. She said there are transportation departments that are doing this type of work much more than the VDOT group, and that might be an area to explore. She said that she would also recommend that Mr. Rosensweig work through the Virginia Transportation Research Council in town, which has a pretty big influence on the local VDOT office.

Ms. McKeel asked Mr. Rosensweig to talk a bit about where things stand with the sewer connections.

Mr. Rosensweig stated that he would give a high-level overview and will then turn it over to Mr. Vilinsky, who has been working with the engineers. He said all the area south of Hickory in Southwood was originally built off of the County sewer system, and it was his understanding that Southwood had its own internal processing plant that was shut down for non-performance and was never replaced. He noted that people rigging their trailers to too few septic tanks, and for years, Habitat has been pumping and hauling as the tanks have been overflowing, which has been a tremendous expense, and this was one of the reasons for the redevelopment. He said this really came to light when they started digging in the green fields adjacent to the property where the overflow started bubbling up, and it spurred Habitat to take an emergency approach to rehousing and expediting the process for families adjacent and on the septic fields. He said they are narrowing in on a plan for the first section that is on septic, but there are still some gaps in the housing alternatives. He said thankfully, there is now a group of people helping to support Habitat, and the rehousing really needs to happen onsite since there is no other affordable housing in the area. He said one of the ideas raised has been to find a single location to move people offsite as a temporary move and have more people come back to the neighborhood.

Mr. Rosensweig said in terms of longer-term plans, Habitat is having conversations with the Rivanna Water and Sewer Authority and County engineers ahead of redevelopment, with the concept of coming in and installing a permanent sewer line in what is being called Area 2 or the second part of Phase 2. He said there are roughly 100 trailers along that area for people who would be able to stay in their mobile homes a bit longer, and instead of funding temporary solutions, this would be something that would last through the entirety.

Mr. Rosensweig stated that along with that, there has been some media coverage about street conditions in Southwood, and it is unfortunate that things have been taken out of context. He explained that two months ago, Habitat contracted with a local contractor to patch those roads but given the amount of work these businesses have had, it's been difficult to get those roads on the schedule. He noted that those should be patched soon, but the challenge is that those roads will continue to degrade. He said every single year, Habitat is investing tens of thousands of dollars into simply patching roads that are simply not built to last. He said one of the things that he hopes the County would explore is that the upgrade of Hickory is part of the regional long-range transportation plan. He said it is one of the unfunded projects right now and could go into any of the County's plans, and this could happen ahead of redevelopment as well and could be a way to take dollars and investing them in a permanent solution rather than continuing to patch something that is going to continue to have to come up in the first place. He said they could also do utility installations under Hickory that could serve the longer term. He asked Mr. Vinisky if he could provide more details toward the permanent sewer line.

Mr. Vinisky reported that there are roughly 340 trailers onsite today in various stages; about half of those trailers are on drain field systems, and most are south of Hickory. He said over the next few weeks, Habitat would be meeting with senior County staff as well as members of the service authority in hopes of sharing a concept plan with them. He said he hopes they can all agree on that plan and move forward with it so that over the next two years, the 180 or so trailers that are on drain fields would be either moved or tied to a permanent sewer system. He said that permanent sewer would be designed in a way to accommodate Phase 2 future redevelopment.

Ms. McKeel thanked them for their answers. She said it's just assumed in redevelopment that people are on public sewer, and Albemarle is struggling in some of the urban ring neighborhoods. She said it is more pervasive than folks would realize, and it's very important.

Ms. Mallek said she was especially appreciative of the review, and many of her questions have been answered. She said she knows it gave people additional angst to not have everything written down ahead of time, but she thinks the experience with the failing septic fields is a reason the Board was correct to not spend another five years to write everything down, as that never would have been anticipated anyway. She said the only thing to know is that things are going to change, and she is very excited to see Mr. Rosensweig's numbers and how many more units Habitat is providing than what was anticipated. She commented that this is just wonderful, and it has been great to meet the families in the neighborhood and see their personal excitement and anticipation over getting into a place of their very own.

Ms. Mallek said there are communities in the state that are succeeding better with context-sensitive design than the Culpeper District is. She said she learned this because she went to the state about what was going on and the difficulties with J.B. Barnes and two years' worth of delays. She said the VDOT Commissioner was not happy to hear what Albemarle County was suffering, and she would be glad to connect Mr. Rosensweig with the people who might be able to give him some extra leverage to get this done. She said for years, Albemarle County's own VDOT representatives have talked about "context sensitive" and how it's the new way of their planning, but this Board and the County have failed to accomplish that in the Culpeper District. She said part of the problem is that there is a continual change

in staff, and every new staff person who comes in must put their mark on things. She said it is so important that the County not make things look like every other place with 60-foot curb and gutters. She said people have lived for hundreds of years on Beacon Hill on roads that are nine feet wide.

Ms. Price thanked Mr. Rosensweig and staff for the meeting they hosted a few weeks ago at which so many partners came together to see the progress and learn the challenges that the project continues to face. She said it is probably the case that redevelopment is more complicated, complex, and expensive than new development because of the things that Mr. Rosensweig described today. She said the Board recognizes that those are some of the challenges and believes that what Habitat is doing in Southwood remains a model not just for the community, but for the nation. She said she did send a series of questions yesterday and said she looks forward to a response back that can be shared with County staff and the other Supervisors.

Mr. Rosensweig thanked Ms. Price for not requiring answers by this meeting. He said they met as a full team yesterday and parsed out the homework and research necessary to answer those questions but said it would take about a week and he would provide a full report.

Ms. Price said she looks forward to those answers.

Ms. LaPisto-Kirtley thanked Mr. Rosensweig for the presentation. She said the other Supervisors have asked all the questions that she had, and she looks forward to the answers for those Ms. Price has sent over. She asked if Mr. Rosensweig could send the informational items that were written out. She said she thinks that's very useful and as other areas develop and clean up, she it's important to realize that this is not an easy process. She said she liked the figures that were presented as Habitat goes through the transition.

Mr. Rosensweig asked if she was referring to the slides presented last month that had the cost overruns going over the cost from septic, or just the information that was in his PPT today.

Ms. LaPisto-Kirtley responded that she was just looking at today's information slides.

Mr. Gallaway said he remembers about three years ago bringing up an idea about residents there that had businesses and a way to help facilitate or augment their businesses. He said with what was brought forward today, Mr. Rosensweig had figured out how to do just that. He said it is a clever way to have community space for cooking, kiosks, and areas for people to come in and pick things up. He commented that this is a phenomenal way for the community to augment their own economy for their businesses, and it will also be a draw for other people to come in and interact in the neighborhood.

Ms. Mallek said she is not sure if Erik Johnson in DHCD has more recent information but asked if there may be any COVID-related funding to help with the sewer attachments. She said water and sewer is supposed to be one of the big parts of these builds, and she hopes there is some rock that can be turned over to help offset some of the investment that has been made into this project.

Mr. Gallaway replied that the state specifically has funds set aside for sewer and water.

Ms. McKeel asked if staff has anything that they would like to add or say, since so many are on this call.

Mr. Doug Walker said he would like to acknowledge Ms. Nedostup for all of the cases she has been involved in and for her amazing work, including the role she has played in bringing this project to where it is today.

Mr. Gallaway said he appreciates everyone's participation. He said there was a lot of information presented and that this would all be made available to the public. He said the Board looks forward to the responses to their questions and thanked Mr. Rosensweig for his time.

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Non-Agenda Item: Recess.

The Board recessed its meeting at 3:28 p.m. and reconvened at 3:46 p.m.

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Agenda Item No. 11. **Presentation:** Albemarle County's Conservation Easement Programs.

Mr. Scott Clark thanked the Board for their time and the opportunity to speak. He said he would talk about conservation easements, current program status, how they work, how they help the County meet its goals for the rural area, and what these programs have achieved. He noted that these programs address the rural areas in the County for a total of 690 square miles, as opposed to the 35 square miles in the development areas. He said this is a large and very diverse landscape.

Mr. Clark said the County's goals for that landscape are equally diverse. He said that several factors or key aspects of the rural areas that the County is trying to protect through policy include strong agricultural and forestal economies, natural resources, cultural resources, rural and historic landscapes, crossroads communities, distinct boundaries between the rural and development areas, and well-informed citizens.

Mr. Clark said as part of that resource and land-use protection approach, the County's policies direct homebuilding away from the rural areas as much as possible and into the development areas. He said there are these ties in the rural section of the comprehensive plan that say development areas should be the livable, attractive places where the development happens; in the rural areas, the County is looking to do less of the residential development activity and provide landowners alternatives to that kind of development so they can protect resources and rural ways of life.

Mr. Clark said unfortunately, it is not always that simple. He stated that over the last many years, there have been many new dwellings in the rural area. He said development is always ongoing, with levels higher before the recession and somewhat slow to recover, but it has never stopped. He commented that this is an ongoing problem. He said the population has projected to continue to grow, and some of that pressure for development increase is going to fall into the rural area. He said for this reason, the County needs tools to protect the landscape they have.

Mr. Clark said conservation easements are one tool to help do that and are a voluntary form of land conservation as permanent agreements to protect land and associated natural and cultural resources. He explained that they are an agreement between a landowner and an organization called an easement holder, each of which has their own rights and responsibilities. He said the landowner keeps ownership of the land and all the rights not limited by the easement and is responsible for complying with the easements' requirements. He said the easement holder has the right to limit certain land uses, and those include subdivision, construction, and development. He said the easement holder's responsibility is to permanently watch over the activities on that land and make sure that restrictions in easement are followed.

Mr. Clark said that one of the comprehensive plan goals references how easements help them and support growth management, which is protecting rural land from suburbanization, maintaining a rural land-use pattern, and saving public funds by reducing the demand for suburban infrastructure and services where distances make them expensive. He gave the example that easements are assessed at a lower value, they lower the state's assessment for the composite index, which means counties owe less for school funding and get more support from the state. He said that is just one of many ways that easements help fiscal planning for localities.

Mr. Clark said rural land uses keep rural land available for agriculture and forestry against the pressure of development and maintain the large areas of land for viable agricultural economy. He said another aspect of fiscal assistance to localities is from a study that was done in the middle peninsula of VA but is going to be true in general across the country. He said residential costs more in expenditures than what is given in revenue from it. He said working in open land, including those under easements, is more like industrial or commercial land in that it consumes fewer financial resources.

Mr. Clark said in terms of natural resources, easements help protect drinking water from development impacts, protect rivers and streams by reducing pollution and sedimentation, protect habitats for wildlife, and reduce land clearing, erosion, and scenic impacts in mountain areas. He said easements protect the character of the rural area keeping more of a pattern of farm and rural uses against suburbanization, and they maintain the scenic landscapes that are depended on for attracting tourists.

Mr. Clark said with climate protection, the rural area contributes to carbon sequestration, and reducing development in the rural areas means less traffic and less energy expenditure in getting people back and forth to those distant areas.

Mr. Clark stated that there are many organizations that hold easements in the County, and he referenced a list on his presentation. He said between those organizations, they have protected almost 108,000 acres, or about 24.5% of the rural areas, noting that they are shown in green on the displayed map. He said that is an impressive achievement in the time that the County has been working on this. He said many people may not know that the County and the Albemarle Conservation Easement Authority is the second largest holder of easements in the County. He said that is second only to the Virginia Outdoors Foundation, which is the state's largest and oldest easement-holding organization.

Mr. Clark reported that Albemarle has three easement programs, each of which is tailored to address a specific issue. He said there are three problems and three solutions. He said the first problem is that a lot of the farm owners with lower incomes are often under pressure to sell their land to meet their expenses. He said their land is their wealth, and it is often difficult to afford to keep it. He said the Acquisition Conservation Easement (ACE) program allows the County to purchase the development rights on working farms and keep the landowners on the land, pay them for the rights they are not using, and let them keep the land to farm. He said by design, ACE directs County funding to landowners most in need by having an income test, and to the most important land to protect by having a scoring system that establishes conservation value.

Mr. Clark said there is a complex process for getting through the ACE process to put land under one of these easements. He said he won't run through it step-by-step now but would be happy to answer questions about it later. He said as is shown on the slide, there is quite a detailed process to establish both the conservation value and the income need as part of the decision-making process through which applicants are funded and purchased.

Mr. Clark said the second issue the County was facing with rural land conservation was that there are a lot of landowners who wanted to protect their land but had moderately sized properties; they didn't



have large estates, and it was hard for them to find a program that would accept their easements, even if they had very important resources on their property. He said ACE stepped in early in the 2000s to accept donated easements on a whole range of property sizes, focusing more on the resources to be protected than a simple acreage test. He said this provides the County benefits in protecting more land and resources in the rural areas and benefits landowners with access to state and federal tax benefits and lower local property tax rates.

Mr. Clark said the County supports the ACE Authority with Community Development, staffing a FTE planner with varying time demands for easement negotiation/acquisition and management processes, a recording secretary for meetings, a lot of support from the County Attorney's office to make the easements happen, and vehicles and equipment for site visits and monitoring. He said the County also receives some funding for the easement authority from the Virginia Department of Conservation and Recreation (DCR). He said they distribute funds to easement holders based on their recent level of activity, and money is directed to go toward monitoring and enforcement work to make sure that the units stay effective.

Mr. Clark said the third and last problem that the County has addressed with the easements is that under standard RA zoning in the County, subdivisions tend to cut properties up entirely into residential lots. He said a somewhat common solution to that across the country is clustered subdivisions, called Rural Preservation Developments (RPDs). He said this groups all lots together into a small area and put the residual under an easement so it can stay available for farming. He presented an example of a conventional subdivision layout on multiple properties in the rural area. He said there is a scattered bunch of small parcels, a very long road, and five lots that have ended up on top of a high point. He said through the RPD program, there is a grouping of all the development lots together and then one preservation tract on the eastern and high side where a lot of the important resources are will stay under easement. He said this is an example that ends up with a shorter road, streams leading up on the preservation tract, and the prevention of those ridge-top lots. He said while the clustering program is not perfect, it is a much better form of development for the rural areas.

Mr. Clark said in the past, there have been three problems and three solutions through conservation easement programs managed by the County and by the easement authority. He said one thing that these programs have in common is that they all require monitoring and enforcement to be effective. He said an easement that exists only on paper is ineffectual. He said the County must stay on top new activities on these properties, new construction, and plans the landowners may have to make sure the resources stay protected. He said Community Development Department staff carries out both automated notification of building and development activity through monitoring permits on these properties and through field monitoring of easement properties. He said the County is currently aiming for once every two years and hopes to get someday to the point to the Land Trust Alliance standard of once every year.

Mr. Clark explained that one way of looking at how to measure the success of an easement program is to consider how much of the rural residential development that is not wanted is avoided. He said through the three programs in the County, 27,000 acres have been protected. He said 109,080 possible residences across the county have been prevented. He said this is following the comprehensive plan goals of keeping a rural land use pattern and avoiding suburbanization, directing residential development to the development areas. He said depending on how that is measured, that is 7.8- or 10-years' worth of development that has been avoided through just the County's easement programs.

Mr. Clark said just eliminating dwellings is not the only measure of how a program is doing. He said the ACE program offers the best information, but all other resources that these easements have protected can be looked at. He said that over 4,800 acres of prime farm and forest land, 24 miles of buffered streams, five miles of frontage on scenic highways, and over 1,000 acres of mountain protection areas have been protected. He said the ACE program has paid out in 44 out of 53 cases at least 94% of the easement value, which means these are landowners with relatively low incomes who are in serious need, whose income amount was low enough that the County paid almost as much as the entire value of the easement. He said this shows that the program is focusing on the people who really need financial support and have land that is most at risk.

Mr. Clark said the ACE program also helped the County in finding grants and matching funding of over \$3 million over the last 20 years to protect nearly 10,000 acres. He said the next graph shows that over more recent years, the easement authority and the County together have become the most common holder of easements in the County. He stated that since 2006, there was a real mix of holders active in the County with new easements, and other programs have become less active or now concentrate on monitoring; the County has become the holder of choice or the most common holder of easements in the County.

Mr. Clark said the number of acreages per year have varied a lot. He said that while the ACE program from the early 2000s on was more active, in recent years the donated easements have become more active in terms of total number of acreages protected. He said ACE funding has been fairly scattered over the years and has been quite a bit lower since the recession. He said the rate of protection has been scattered, along with that variable rate of funding for the program.

Mr. Clark said another emerging issue with ACE funding is that for several years, the comprehensive plan has called for the strategy to "Strengthen and make permanent and steady, the funding for the ACE program." He said the County has not yet managed to do that, but it is something that would make the program more effective and more reliable for the landowners who need to know what

kind of funding is available for them in the program.

Mr. Clark said another emerging issue is staffing capacity to cover all the work. He said the current staffing includes a half-time ACE coordinator and a variable 0.25 to half-time planner for easement authority work, and in some years, interns can be hired from the DCR funding to do field monitoring, but that has been unsteady since COVID hit. He presented a slide showing the rate of growth of easements protected versus the rate of growth of employees, noting that Albemarle County has more easements per program staff person than is typical for the similarly sized Virginia Land Trust.

Mr. Clark said these three tools have been worked with for over 20 years and have been of great success, but they haven't been reviewed, analyzed, or updated in that time span. He asked if these programs could be made more effective and if, as the activity increases, staff capacity would compare to the actual workload. He asked if there are new needs requiring solutions that these programs can help with.

Mr. Clark said he knows there are new opportunities, and the County has several high-priority conservation policies that could be partly implemented with private land conservation tools like easements, including the Climate Action Plan, the Biodiversity Action Plan, and the ongoing stream health program. He said all of those programs could benefit from land conservation with conservation easements. Mr. Clark stated that from a small beginning, Albemarle County has built a significant local land trust. He said to continue that success, the County needs to identify potential updates to the programs and prepare for new opportunities that are coming up. He said staff proposes to research and recommend updates for the easement programs as part of the upcoming comp plan review, including looking at conservation funding mechanisms, staffing and program capacity, and goal setting for increased effectiveness.

Mr. Gallaway thanked Mr. Clark and opened the floor to Ms. Palmer.

Ms. Palmer said she does not have any questions at this time but appreciates the update. She said she can think of a variety of new things that need to be looked at and imagines that Mr. Clark has a running list.

Ms. McKeel thanked Mr. Clark for his presentation. She said she's been wanting to talk about this program for a while and said it's a great beginning. She said she does agree with his recommendations. She said the ordinance had not been reviewed in many years, and said she thinks that was what Mr. Clark was getting at with his recommendation. She said she would love to know what "landowners of modest means" means and what the criteria is to provide incentives to landowners of modest means. She asked what criteria the County would need to address or change if it were being looked at through the lens of equity, noting that this might go to the definition of modest means as well.

Ms. McKeel said in general, she is very much in favor of the program but thinks that when a program is discussed, it has only upsides for the purposes being brought forward and viewed through that one lens, but taxpayers are paying for it. She said the County and Board should be able to say that they have reviewed the program, know the benefits as well as the downsides, and that the Board/County thinks the benefits outweigh the downsides. She said she did not hear any downsides today. She said there is a push for money every year, and maybe what needs to be considered is what is the appropriate amount of money to put into it every year.

Ms. McKeel asked what the impact would be if the County decided to not fund the program. She said the programs are really saving a lot of County properties from development, but she is unsure if those properties are being saved in the right areas. She asked if they are all really at risk for development. She said she sometimes struggles justifying that to the community. She said there have been several articles lately in the news that are negative about easements that are causing discussions in the community. She said when looking at the County program that hasn't really been reviewed.

Mr. Goodall said the County has an income grid that has been in the ACE ordinance since the very beginning. He said this income grid where landowners who make \$55K or less of adjusted gross income (AGI) over an average of the past three years, the County pays 100%. He said if a landowner's AGI for the past three years is \$55-65K, the County reduces what they pay by 6%. He said from \$65-75K, it is reduced another 6% to 88% of easement value. He said that by the time you get to about \$200K in AGI, the County is basically telling landowners that they should be donating the easement, not looking for ACE funds because the County won't be able to pay very much. He said ACE has always had this income grid that has focused on "landowners of modest means" or the land-rich, money-poor farmers. He said 37 out of 53 of the ACE easements are farmers who aren't making a lot of money. He said they have a lot of expenses, but they are not generating a lot of net income. He said that is how the funding grid was determined and feels it is a hallmark of the ACE program that differentiates it from other programs.

Ms. McKeel thanked Mr. Goodall for his response. She said that if the funding grid had been around for a couple of decades, the maybe it would be interested to look at to see if there were ways improve it and make it better. She said she wanted to look at it through the lens of what are the positives and what are the negatives and through an environmental and equity lens. She said she looks forward to seeing the comprehensive review of all sides of the program.

Ms. Mallek stated that she is very glad for the report and summary, and she does not want to argue, but after 18 years of working with the ACE Committee as a civilian and then as a Board member, every year there have been modifications and analysis. She said having that information and education

about the various aspects of what is protected and why will be very helpful for the community in understanding the importance of the programs, and she looks forward to more discussion. She described an example of the first recipient of the ACE program.

Mr. Goodall said there are several similar situations where people inherit debt from their parents, or people who have farms that are very run down, and ACE funding has allowed them to upgrade their buildings and farm equipment. He said it has made these farms far more productive.

Ms. Price thanked Mr. Clark and Mr. Goodall for their presentation. She said this was so timely, especially with the reports in the news about these programs. She said she was initially very concerned, but the more she learns, the prouder she is of the program they have in the County. She asked if there are minimum acreage or development rights that are necessary for a property to go into a conservation easement.

Mr. Clark said there isn't a single set number, as they take proposals one by one. He said the easement authority has a table of resources to be protected and has taken easements on land from nine acres to 4,500 acres. He said what they are looking at is the amount of residential development being eliminated, but there are also other resources being protected directly by terms of the easement.

Ms. Price asked if she could presume that an owner of a property almost regardless of acreage or development rights could donate some sort of easement or have an easement placed on their property.

Mr. Clark responded that most rural landowners with some development potential could. He said that people in the County usually can't help coming to the realization that they'd like to do some land conservation after they bought their 21-acre lot, but they have nothing to eliminate in terms of development potential, a lot of the impacts have already happened, and there is really nothing the County can do at that point. He said for a lot of landowners who have 40-60 acres and three or four development rights, the programs can do a lot of good.

Ms. Price thanked Mr. Clark for his response and said she looks forward to the report.

Ms. LaPisto-Kirtley said she is very much in favor of the program and also hears Ms. McKeel's concerns regarding refinement. She said she is in a district where she sees two kinds of easements, being the ACE program and just large parcels of land with people who have money and put the land in a conservation easement for tax purposes, which does protect the scenic beauty. She said if the landowners didn't have that, developers would want to come in and build many homes. She said the ACE program is unique to Albemarle County and does protect those people who are farmers who are land-rich but money-poor. She said those are the people she is interested in assisting and feels that's what the program does.

Mr. Gallaway said he is not looking for a reaction here, but as it comes back it can start to be considered. He said he is not looking to see a comparison of good versus bad, but said it is important to understand what the impacts are for the entire County that is rural and urban. He said they must understand how this program impacts the urban area. He said it is stated very clearly that 95% is to be protected as rural area and this program certainly goes to help the County do that. He said Mr. Clark gave the report to look at one of the ways this program has been a success is to look at the number of dwellings the program has stopped from being built. He said that is okay, but he wondered about the impact on the areas of the County when that occurs. He said the Board is about to put a lot of time in tonight on an application where density is being considered. He said nobody wants density coming into their growth area to get upzoned, but that must be done or else the County can't keep this program doing what it's designed to do. He said sometimes these conversations are held exclusively from one another, and the County/Board must start including them together so there is an understanding of how they intermingle and what the impacts are moving forward or there will be continued frustration.

Mr. Gallaway said that Mr. Clark just talked about Albemarle County basically having a local land trust on which nothing will be built. He said that's great, as it supports what is trying to be done with the 95% in keeping the area rural, but they are also being told that for the affordable housing conversation that the biggest obstacle to getting affordable units up is land that the County does not have. He said he's hoping in the housing policy that the County probably needs to start thinking about a land trust that banks land that can be built on.

Mr. Gallaway then asked what is involved when staff goes out to monitor a property that is in the easement program.

Mr. Clark responded that monitoring is mainly to ensure that the property is being managed in accordance with the terms of the easement, which are very detailed. He said they allow a certain number of divisions and a certain number of dwellings, and they have limitations on structure sizes and prohibitions on impacts on certain stream areas, and it really takes an on-the-ground check to be sure that the land management and development limits are being upheld. He said it is also a good way of keeping in touch with the landowners since permission is first needed to go out. He said it is typically about a day's worth of work to research, map, visit the property, ensure compliance, and communicate with the landowner.

Mr. Gallaway said there a lot of things that are asked of staff through a lot of programs. He said Ms. Price talked about compensation, but the County needs to start asking if there is enough staff or capacity to pull off everything they are being asked to do.

Mr. Gallaway noted that he's seeing a lot of hands for comments so he will go back through for comment one more time but asked Supervisors to be aware that they are over time and to keep it brief.

Ms. Palmer asked if as the County reviews the ACE program, the acceptance of the easement could include drone monitoring to reduce the effort needed onsite.

Mr. Goodall replied that the County has looked at different ways to reduce staff time to monitor easements. He said the forestry department looks at recent aerial photographs as part of their monitoring.

Ms. McKeel thanked Mr. Gallaway for his comments, as he stated in a better way what she was trying to say.

Ms. Mallek gave a brief history from the 1980s and 90s about easements and division rights, adding that it is so important to have different living environments in the County.

Ms. Price said she had no further comments.

Ms. LaPisto-Kirtley said she had no further comments.

Mr. Gallaway thanked Mr. Clark and Mr. Goodall and said he looks forward to all of the information and discussion as it comes forth.

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Agenda Item No. 12. **Action Item:** Acquisition of Conservation Easements (ACE) Property Appraisal Request for Fiscal Year 2020 (FY 20) Applicant Class.

The Executive Summary forwarded to the Board states that pursuant to sections A.1-110(G) and A.1-110(H) of the ACE Ordinance, the Board of Supervisors reviews the list of parcels ranked by the ACE Committee and identifies parcels on which it desires to acquire conservation easements. Each conservation easement identified by the Board for purchase is appraised by an independent appraiser chosen by the County.

On October 31, 2019, three applicants enrolled in the FY 20 applicant class. Staff evaluated each property according to the ACE Ordinance ranking evaluation criteria. These criteria include: open space resources; threat of conversion to developed use; natural, scenic and cultural resources; and County fund leveraging from outside sources. An initial review of the applicant scoring and ranking resulted in only the Campbell property qualifying. This result was presented to the ACE Committee on March 9, 2020. The committee's work then paused due to the impacts of the COVID-19 pandemic. Subsequently, one of the Henley parcels (40-12A) became eligible with an amended application to donate a portion of the easement value - according to Criterion D.1 of the ACE Ordinance (County fund leveraging), an applicant may receive one point for each ten percent of the purchase price they donate or leverage. Consequently, staff finds that both the Campbell and Henley properties meet eligibility requirements and recommends that both properties be appraised. Staff will present this recommendation to the ACE Committee at its upcoming meeting, which is scheduled for September 13, 2021 and staff will present the Committee's recommendations at the September 15 Board meeting.

At its June 2, 2021 meeting, following a discussion on the FY 21 budget, the Board directed staff to conduct an "evaluation and analysis" of the Campbell and Henley properties to determine how much funding would be needed to acquire the two easements. This was not a directive to acquire the easements, just approval to scope and price them by means of an appraisal.

If acquired, the easements would provide or protect:

- 1) 200 acres of working farmland (Campbell is 180.48 acres; Henley is 19.10 acres)
- 2) approximately 8,000 feet of riparian buffers with new fencing to exclude livestock
- 3) 350 acres of "prime" farmland
- 4) over 6,000 feet of common boundary with 5 other easements (including 3 ACE easements)
- 5) nearly 4,000 feet of state road frontage
- 6) eliminate 12 potential dwelling sites

The Board must review the Committee's recommended list of ranked parcels and identify and rank those parcels on which the Board desires conservation easements. The Board is not obligated to purchase any qualifying parcel and is not bound by staff or Committee recommendations. The ACE program is a nonexclusive means by which the County may purchase conservation easements, County Code Sec. A.1-113.

The County currently has \$75,619 for the FY20 applicant pool. The Virginia Department of Agriculture and Consumer Services (VDACS), through an Intergovernmental Agreement with the County, holds \$54,000 in reserve to match up to 50% of the County's eligible easement purchase expenses (i.e., purchase price, appraisal, title search, and title insurance). With approximately \$129,619 available to apply to purchase prices, there may be sufficient funds to acquire the Henley easement, but additional funding by the County would be needed to acquire either only the Campbell easement or both easements, if desired. The appraisals will determine how much each easement will cost. Funding for the purchase of these conservation easements would come from the existing Capital Improvement Plan's Community Development Conservation budget. Funds for the appraisal have been accounted for in the

department budget and will have no additional budget impact.

Staff recommends that the Board authorize appraisals of the Campbell (tax parcel 99-36D) and Henley (tax parcel 40-12A) properties.

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Mr. Ches Goodall stated that he would present appraisals of some of the most recent ACE properties, which are from the class of 2020 but were paused due to COVID and were now being reviewed. Mr. Goodall said that in March 2020, he presented the ACE Committee with information about the current class of applicants. He said there were four or five at the time, with two qualified, but he had not finished the scoring and the ranking of this class, which involves looking at 17 different criteria and coming up with scores for each applicant, then producing a final score and rank. He noted that this was just a preliminary ranking from the class that first enrolled the previous fall.

Mr. Goodall reported that the next step when they met in March had been to finalize the scoring and ranking and obtain approval of the various properties of what they wanted to appraise. He said that in March 2020 when COVID struck, ACE funding was paused; in the meantime, Ms. McKeel had suggested in June that staff do an evaluation and analysis of the current ACE class to get some numbers and continue with processing their easements, which they had to stop short in doing. He said that to get some hard numbers, he contacted Wesley Woods, the County's appraiser, which ACE hires on three-year terms, and asked him to provide preliminary appraisals, which are far cheaper and don't provide an exact number of appraised easement value but are very close.

Mr. Goodall stated that prior to this meeting, Mr. Woods got the preliminary appraisals, and the ACE Committee convened to discuss them and make some recommendations for the Board that he would review. He said that in Ms. McKeel's directive to staff, it was clear that she wanted ACE to get numbers, not suggesting that they would acquire the properties but may acquire them and then consider what to do next.

Mr. Goodall presented a typical scorecard put together for ACE applicants, which Mr. Herrick had helped develop in its original form. He said that this shows Campbell, Lanahan, Henley, and a second Henley property, and the conditional formatting shows where people scored the most points. He stated that in the case of Campbell, she was surrounded by a lot of existing easements and scored a lot of points because of that common boundary. He noted that she also scored from a variety of different criteria, which is ideal in an ACE property. He said that 20 points is the minimum needed to be eligible, and Campbell scored 39 points, easily eligible and one of the highest scoring applicants in the history of ACE.

Mr. Goodall stated that with Henley TMP40-12A, his original easement did not score enough to be eligible, but they have a criteria called County fund leveraging whereby if a landowner donates some portion of their easement value or foregoes some of that value, they get one point for 10% of donated value. He said that in talking with Mr. Henley, he said if he had to donate some portion to get to 20 points, he would do that, and it turns out he would have to donate 12% of the easement value to gain an additional 1.21 points and reach the threshold of eligibility. Mr. Goodall said his point is that the Henley property is a fairly small property, and smaller properties generally score fewer points from a variety of conservation values, which is a dynamic reflected in this scorecard.

Mr. Goodall presented slides with photos and aerial shots of the Campbell and Henley properties. He stated that the Campbell property is 180 acres located just south of North Garden on the east side of the C&O or Southern railroad track, and he noted the location of a variety of properties that are under easement. He pointed out the Peter Dutnell property, which was put under easement about five years ago, and on Starlight Drive is the James Powell easement, which was in the first ACE class and was the very first acquisition. He said it's interesting that 20 years later, they are considering a property that's so close to it, and it fills in a nice void that will help unite other easements.

Mr. Goodall presented a close-up of the Campbell property, noting its long road frontage on the road between North Garden and South Garden. He said it has a few stream crossings, with one having an existing driveway and a farm road, and he pointed out the location of critical slopes. He stated that this is a large property that's highly developable with the road frontage, 3,400 feet, and rolling farmland; it was determined that there are 12 development rights, with four of those being two-acre lots and eight being 21-acre lots. He noted that it is an outstanding property that is currently being leased for grazing purposes, and it has been managed farmland for as long as he can remember.

Mr. Goodall presented a map showing the Henley property, stating that it is located on Route 810 between Whitehall and Crozet, and it adjoins a larger block that is also under easement. He stated that this particular property was also from the very first round of ACE properties in 2002 and was also a Henley property from the very first round, joining property that they are now putting up for easement. He mentioned that the property is just above the Beaver Creek Reservoir and does affect water quality flowing into this stream, and Route 810 is a proposed scenic byway. He presented a close-up of the Henley property, noting road frontage, critical slopes just above the northern boundary line, and he said it is close to a perennial stream that feeds into the reservoir. He stated that this property could easily accommodate five houses and is a highly developable parcel.

Mr. Goodall presented new information obtained through the preliminary easement appraisals received on September 13, which went to the ACE Committee when they met later that evening. He said that in the original Board report, the recommendation had been for them to authorize appraisals of the

Campbell and Henley properties for possible easement acquisition; however, based on the recent meeting and new easement appraisals, the committee decided to recommend that the Board defer consideration of the Henley easement and pursue purchase of the Campbell easement, subject to a final appraisal. He noted that this is largely because Henley was a borderline qualifier and the Campbell preliminary appraisal came in at \$722,000, which he had estimated at \$425,000, as included in the Board packet and based on his best guess using comparable properties under easement and what they had gone for per acre or as a percentage of total fair market value. He said that property values have increased, and the \$722K represents 70% of a fair market value that was 50% higher than the County assessment. He said his estimate was \$150,000 for Henley, which had a preliminary appraisal of \$133,500.

Mr. Goodall stated that the considerations for the Board as they discuss funding are to fund both properties, one or the other, or neither, and it is ultimately up to the Board to decide how they want to proceed. He said it is also important to remember that the Campbell easement came in at \$722K, that doesn't mean they have to fund the full amount. He said that ACE typically has limited funds, and if an appraisal comes in higher than what they have, all they can do is offer the applicant what's available. He reiterated that it's up to the Board what they are comfortable funding, and if they add that to the \$133K currently in the budget, they can just make that offer.

Mr. Goodall presented suggested motions to authorize a final appraisal of Campbell for consideration for the County purchasing a perpetual conservation easement; for Henley, ACE would prefer that the Board authorize an appraisal of that property, as they like to get the appraisals done and have them so they can proceed much more quickly and are not delayed. He noted that this is why the suggested motion is to also authorize an appraisal for Henley, and the Board could defer any action on moving forward with that if desired.

Mr. Gallaway asked if Board members had questions.

Ms. Palmer asked how long an appraisal is good for.

Mr. Goodall responded that he thinks an easement appraisal good for six months and then has to be updated, and it's not a major issue for an appraiser to provide an updated value and can do that fairly quickly.

Ms. Palmer said that her feeling about the Henley property is that any time you can take development rights where they are above drinking water is positive, and she suggested that they go ahead and get the appraisal on that property. She said that she also understands where the ACE Committee was coming from in that the Campbell property is very important for the County to get; it's in a very scenic area that has more building going on, and as they get internet there, they would see even more building. Ms. Palmer stated that she was "pretty shocked" at the difference between their original assessment and the new estimated appraisal, but she also knows that the County has spent more on others, and this one is important. She asked if this drained into the Hardware River.

Mr. Goodall responded that it does.

Ms. Palmer noted that there is a TMDL on the Hardware, which is very much an impaired river, and that's another reason to get the development rights off of the property.

Mr. Goodall mentioned that when they revised the ACE ordinance a few years ago, making livestock exclusion mandatory for an easement, when they first approached Ms. Campbell, he told her she would have to fence out the streams because she runs cattle. He said that he put her in touch with Luke Longenecker and Cory Kirkland of the NRCS, who were putting together a livestock-fencing plan, and she would have to have all streams fenced out to preserve water quality and riparian habitat.

Ms. McKeel agreed with Ms. Palmer to authorize the appraisals and clarified with Mr. Goodall that that's what he was requesting.

Mr. Goodall confirmed that this was the case, so they could get actual real numbers for them to consider.

Ms. McKeel said she was happy to do that, adding that this was the first time she had seen the grid and found it very interesting.

Ms. Mallek commented that she is definitely in support of getting the appraisal on Campbell and moderately in support of getting the appraisal on Henley. She said that in the past, when other counties have not taken their allotments from the LCF (Land Conservation Foundation) from the state, Albemarle has picked up \$100K or more, so there may be that possibility, and she'd also like for Mr. Goodall to look at other funding possibilities.

Mr. Goodall stated that he called Jennifer Perkins of VDACS, Office of Farmland Preservation. He said that there have been times when other counties have not utilized VDACS funding, which is redistributed to programs like ACE, but Ms. Perkins has indicated that these funds are not currently available. Mr. Goodall noted that VDACS has already approved \$54,000 in funding for this next round. He stated that the Virginia Land Conservation Foundation typically pays a 50% matching grant, and their deadline passed a few weeks ago with the next enrollment deadline in six months or a year, so Albemarle could potentially apply for that grant funding if they haven't finalized the acquisition. He noted

that while there are no guarantees, Campbell would be a pretty good property for that grant.

Ms. Mallek said that the reason the County only got \$54,000 is because that's all they had, and in the past, Albemarle has tried very hard to maximize the amount in the kitty so they could double it from the state.

Ms. Price commented that this was a great presentation and she agreed with what others had expressed about the scorecard and the value and benefit added by having it. She stated that she supports getting an appraisal on both properties.

Ms. LaPisto-Kirtley said she supports getting an appraisal on both since Henley is near a water source that they want to protect.

Ms. Palmer **moved** to authorize an appraisal of the Campbell easement, Tax Map Parcel 99-360 for consideration of the County purchasing a perpetual conservation easement; and to authorize an appraisal of the Henley easement, Tax Map Parcel 50-12A for consideration of the County purchasing a perpetual conservation easement.

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, Ms. Palmer, and Ms. Price.  
NAYS: None.

Ms. McKeel commented that it would be helpful for the Board to know the impact on property values and assessments with the ACE Program, as it was certainly affecting them. She stated that Attorney General Mark Herring is very interested in the abuse of this program, and the state is suing an Albemarle County couple for violations.

Mr. Kamptner said that was a Virginia Outdoors Foundation (VOF) easement.

Ms. McKeel clarified that her point was that the attorney general takes violations very seriously, and she thanked Mr. Goodall for the presentation.

Ms. Mallek noted that when they talk about this again, they need to discuss how easements are appraised regarding the composite index and the revenue sharing with the City of Charlottesville, because properties under easement do not transfer to the market-rate side for the City or the composite index, which is a very big issue.

Mr. Kamptner said that he would be sending the Board an email regarding the effect of land-use valuation on the composite index and state funding.

Ms. McKeel stated that this was in the presentation.

Mr. Kamptner responded that it wasn't a correct statement of how the formula works.

Mr. Gallaway thanked Mr. Goodall.

Mr. Goodall thanked them for their time and their approval for the appraisals.

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Agenda Item No. 13. **Discussion Item:** COVID-19 Update.

Mr. McKay presented slides that showed current surge figures both locally, and in the state as a whole, with 42.6 cases per 100,000 population across the state and 35.6 per 100,000 in Albemarle County. He stated that the peak of the surge in Albemarle was the week of February 14, 2021, with about 48 cases per 100,000; the highest one-day total during the pandemic was 135 per 100,000 on February 18. He noted that the seven-day average was 53 per day and added that they would like to see those numbers lower, but the Delta variant is having a huge impact.

Mr. McKay reported that the Virginia Department of Health (VDH) containment strategy includes case investigations and contact tracing, and they have gone to a surge mode for which they are trying to prioritize based on risk. He said that school-age children are a current priority because children need to be in school, and it's been well over a year since all students were in person for five days of operation. He stated that they were also looking at other congregate settings such as long-term care, assisted living, or skilled care facilities; mandates for staff in those facilities have not taken shape yet, so there may be individuals who are bringing COVID into those situations. He said there are workplace situations that bring more people together in different settings that help set prioritization, and through support from UVA for a dedicated team, they are focusing on what's happening on grounds and in the City and County with students. Mr. McKay stated that this is created a delay in how they communicate with individuals who have tested positive, and VDH sets a recommendation for 24 hours, but they are not able to meet that on all days, depending on the total number of case counts. He said that contact tracing has been supported by priority organizations such as schools that provide that information, and the department makes fewer phone calls to individuals to give them information about how to quarantine, the length of the quarantine, and resources for getting tested. He said that as the surge declines, they will be able to make better achievements in those areas.

Mr. McKay reported that the Delta variant is far more contagious than what's been experienced with seasonal influenza or other COVID versions and variants, which creates problems for those who are unvaccinated. He pointed out that it also carries a high viral load for those who are fully vaccinated, and that viral load is also higher than previous variants in those two days prior to symptom onset, so people could show no symptoms but could be spreading disease. He noted that this is what's happening now with COVID and the current surge, including what they are seeing in the community for transmission. He stated that on average, an individual who had previously tested positive for COVID may spread it to one to two people; with Delta, individuals are spreading it to five to seven people. He said this average has increased case counts and the impact on the community.

Mr. McKay stated that in looking at what has changed in variants over time to where they are currently, the overwhelming majority of cases are Delta, and any remaining mandates such as masking, social distancing, social gathering limits have all expired. He said that with the intersection of the Delta variant has created a situation that has created more opportunities for the variant to spread, with a surge that we are now trying to contain and mitigate. He noted that this may be an ongoing situation with Delta over the next several months and with new variants as they emerge.

Mr. McKay presented information on case rates by vaccination status, stating that between January 17 and September 4, unvaccinated individuals have developed COVID at a rate that is 8.5 times greater than that of fully vaccinated individuals. He said that even partial vaccination offers some protection against COVID-19, and individuals who are fully vaccinated are far less likely to get the virus, with the worst-case outcomes, death and hospitalization, being a very low percentage. He emphasized that this underscores that the vaccines are working and are preventing the worst-case scenarios for individuals who test positive.

Mr. McKay reported that Albemarle is meeting its 70% goals for vaccination rates in all but one category, 18–24-year-olds, which is a fairly common occurrence across Virginia. He said that in looking at the overall map and where they are as a County and a health district, it is important to note that Albemarle has been at or near the top for percentage of adults and the entire population vaccinated. He noted that this allows them to maintain a lower-case incidence rate than the state and a lot of other localities.

Mr. McKay stated that in the 18-39 age range, the efforts need to improve in terms of reaching communities of color, both locally and as a state. He said that the department is working on several different initiatives, including use of a mobile unit and providing access at community events such as football games. He said they are also centering their messaging with input from local DJs, community members, etc. to focus on this demographic, and VDH is releasing a social media campaign where advertisements will come up in a variety of platforms specifically geared to young adults. He noted that a lot of the COVID cases are in the 18–30-year-old age range. Mr. McKay presented census tract vaccination data, stating that while Albemarle has an extremely high vaccination percentage among the adult population, it is lagging across some of the census tracts in the southern and southeastern parts of the County. He said this is where a lot of the outreach has occurred, and they have tried to provide a lot of access to the mobile unit, including at the Yancey Community Center health clinic.

Ms. Willie Mae Gray thanked the Board for having her present and said she would discuss health department outreach efforts. She said that as a community health worker, she goes out into the County, particularly in the southern region where she lives, and tries to educate residents. She stated that they have been trying to focus on people of color and are finding that there are people who are willing to talk to the outreach workers, but they don't coerce or force people into making decisions; they present as much information as possible for them to make good decisions for themselves and their family members. She noted that if people are not home, they leave flyers on the door indicating that they have stopped by, as well as information about upcoming events.

Ms. Gray stated that outreach workers are out in mobile units and like to be visible there since they are the ones on the ground, and while they are getting some hesitancy, many people are welcoming them and thanking them for providing information. She said that some people have given a straight-out "no" to getting the vaccine, so staff just gets their names and asks if they can follow up with them. She said that follow-up includes phone calls in which workers ask if they've changed their mind and if it's something they want to do to protect themselves and their family, a lot of times, those constituents say "yes."

Ms. Gray pointed out that it is often a matter of convenience for people, because even missing a couple of hours of work means food not being on the table. She said that staff tries to remove any barriers and offers to go to them, usually 5-7 p.m., and a lot of people get vaccinated that way. She stated that they meet people from all walks of life, including those with mental health issues and those who are mentally challenged. She said that outreach workers let them know they are there for them and encourage them to make the best decisions for keeping themselves and their community safe.

Ms. Gray stated that the health department offers homebound services and will follow up with information, and she has been getting a lot of calls in neighborhoods from people who have gotten vaccinated but have developed COVID. She said that she offers them wraparound services, with Tia Waters being the BRHD representative for that, and they encourage people to take advantage of those things. Ms. Gray stated that she encourages people to still wear their masks, and it is surprising to see large groups of people who aren't wearing masks, and it's concerning to her because this variant is serious. She said that people can always call her, and she will try to get them connected with a physician



or a nurse on staff.

Mr. McKay thanked Ms. Gray and said she is an example of how hard work and dedication are paying off in our communities. Mr. McKay stated that they continue to operate “Mobi,” their mobile unit, and pop-ups on almost a daily basis. He said that over the summer, they were doing events multiple times per day, seven days a week. He stated that they are still operating out of the J Crew location and appreciate support from the County for that lease agreement, with the operating days now including Saturday and discussions for expanding hours in the future should they be providing boosters. He said they are out in the community a lot for vaccinations, with multiple events and various locations. He noted that as Ms. Gray mentioned, they still have a partnership with UVA and the Fire Department to offer homebound services in situations where individuals don’t have the ability to leave their homes or have missed the mobile unit times.

Mr. McKay stated that boosters are a huge topic of discussion, with many recommendations from the White House as to where they need to be. He said that this week, individuals who provide advice on immunization practices for the Center for Disease Control (CDC) and Food and Drug Administration (FDA) would meet on Friday and come up with a recommendation. He said that a decision is supposed to be made by September 20, but they don’t know yet if anyone will be included in the boosters or if they would delay that, with a focus on the most vulnerable individuals in congregate care settings, long-term care facilities, individuals 65+, and health care workers. He said they also don’t know if the boosters will be for the general population or specific to the Pfizer vaccine, so there are lots of planning considerations even though there isn’t a lot of information at this point, which is challenging.

Mr. McKay said that if boosters are recommended and made available, the BRHD would leverage some resources for that. He said they have already mapped out what a drive-through clinic would look like for third doses only, by appointment only at the K-Mart location, working with a regional emergency operations center to put that together. He said that the VDH has approached the department about a community vaccination center, which operated throughout Virginia between January and April, and they did not have a need for that site in the Charlottesville area, given that they had a mass vaccination site at JC Penney and Big Lots locations. He said that this time around, they would appreciate the support, and it would depend on federal recommendations from the CDC; if it’s for the entire population, they anticipate it would be open in Charlottesville, but that would not likely be the case if it were just the tiered groups. He added that they would also expand hours at the J Crew location for third doses.

Mr. McKay reported that they are planning for vaccinations for 5–11-year-olds, and they have heard anywhere from October to December for approval, and data is still being collected by trial sites and provided to the FDA. He stated that it is unknown at this point when that may happen, but they are planning as though it will happen in early October, so staff and community partners are prepared to offer the vaccine for that age group.

Mr. McKay reported that with the increase in incidents and new mandates for employees to get vaccinated or get tested, they have seen a huge jump in the need for testing. He said that each week over the past few weeks, they have seen an increase in tests being conducted; these are PCR tests, which is the gold standard, and last week was the highest count to date. Mr. McKay stated that over the course of Wednesday, Thursday, and Friday, 5,810 people received the PCR test throughout the district. He said that while he doesn’t have solid numbers from UVA, it is proportionately lower than last year because the vast majority of that population is vaccinated. He said that there are several challenges associated with testing, and a lot of the major testing events are in or just outside of Charlottesville, so the rural communities still need access. He stated that as they evaluate the Monday-Friday events in the urban area, the BRHD is looking to incorporate some new testing sites in the rural parts of the County and additional testing sites in some other areas, such as Crozet and Afton, along the 29 corridor for people in the north and in Greene County, and in Scottsville, where people from Fluvanna may also access it. He noted that they are looking at the most efficient way to use the resources they have or those being brought on board, and they are bringing on new staff to do testing, vaccinations, containment, and contact tracing. He said they will initially be rolling out single events and a site for testing in the Crozet/Afton area, working in other parts of the County and district for the one-off sites to do testing; once staff is on board and trained, they will be able to provide more regular testing on these sites and greater access to members of the health district.

Mr. McKay stated that resulting has been a challenge for the labs they work with, whether it’s the state lab or the Next Molecular team that comes in on Wednesdays and Thursdays, and they are working with them on those issues, such as a systems issue with the state lab last week or determining accurate contact information for participants. He mentioned that there would be a testing event at Jack Jouett Middle School the following night, operated by UVA Health; this would be geared toward students who are asymptomatic but need the testing to return to school. Mr. McKay said they also recognize that some of the recommendations and policies around testing, particular those for schools, are putting a lot of pressure on community partners and the BRHD testing team to provide access in a timely manner. He noted that they are evaluating ways with local pediatricians and schools regarding that particular policy, as they try to implement measures to reduce risk for students returning to school.

Mr. McKay presented information on their current challenges, with multiple planning scenarios but not a lot of information, as well as scenarios that would potentially have to play out quickly once decisions are made, the 5-11 age group, and boosters. He said that this means they have to adjust quickly with staff and make adjustments based on priorities around the current surge. He mentioned that there is the potential for future surges, and he referenced a model from UVA’s Biocomplexity Institute, which continues to push out the peak surge of case in the Charlottesville area. He said that this makes

decisions more difficult when data is changing and these dynamics are being pushed out a bit more, and this makes it difficult for many organizations in terms of return-to-work policies, in-person policies related to masking, etc. He said that interpreting models also presents a challenge to the BRHD, particularly in allocating resources to meet changing needs.

Mr. McKay stated that it's important to understand what the end game is, and with the H1N1 pandemic in 2009-2010, it was clear that the flu vaccine would incorporate that particular strain, with the traditional health care and public health infrastructure adopting those vaccinations from one year to the next, but they are unsure how that would translate to COVID-19, and having these surges plays havoc on the planning process. He emphasized that it's a huge effort to manage this, with 80-90 contract employees and more being brought on for the full effort, and maintaining that workforce is a real challenge; they are really looking for some guidance long term as to how this will look in the coming months and years.

Mr. McKay presented some action items, stating that getting vaccinated would end the pandemic, and data about fully vaccinated individuals shows that their risk of having worst-case outcomes is extremely low and demonstrates the importance of getting vaccinated, regardless of whether it's Pfizer, Moderna, or Johnson & Johnson. He added that they also need individuals to continue with the recommendations on the things that have kept case counts low for large portions of the pandemic, including wearing masks in indoor spaces, social distancing, isolation if you are sick, and quarantining if you've been in close contact. He said that a lot of these things will help schools operate at full capacity and help continue efforts to get people vaccinated, reduce stress on the health care infrastructure with hospitalizations and testing, and bring them closer to a new normal where they don't have to worry about the surges that could occur.

Mr. McKay stated that for more information, people can contact the hotline, although it is often busy; for vaccine information, people can visit [vaccines.gov/search](https://vaccines.gov/search).

Ms. Palmer asked if there was any tracking of how many vaccinated people in Albemarle are hospitalized, as she knows two in intensive care right now. She said she realizes they're in the small minority, but it feels like she is seeing several vaccinated people who are sick and two who are in intensive care currently.

Mr. McKay said that if that's a number that VDH is tracking, it's one they can't share publicly, and a lot of their data, particularly related to vaccination status and cases among those who are fully vaccinated is reported at a regional level, so it can't be shared when it's that granular.

Mr. McKay said they had a regional synch-up meeting that included a representative from UVA Health who said the vast majority of individuals in the ICU or in the COVID clinic are unvaccinated, but there are those who are fully vaccinated. He noted that this could indicate that there are comorbidities with those individuals.

Ms. McKeel noted that the PCR testing to which he referred is the nasal swab that people are familiar with.

Mr. McKay confirmed this and said it's the deep nasal swab, and they are working with UVA, which is offering to donate some "Let's Get Checked" kits, which also contain the PCR test and are self-administered. He said that they are working on some logistics and who they would be able to distribute those to.

Ms. McKeel said that she understood UVA to have a tracker that included hospitalization numbers.

Mr. McKay confirmed that UVA has a COVID tracker that includes hospitalization numbers and provides information about faculty and students who tested positive, with some testing numbers. He commented that this is a really good website ([coronavirus.virginia.edu/covid-tracker](https://coronavirus.virginia.edu/covid-tracker)), updated at 4:00 p.m. on weekdays.

Ms. Mallek stated that in her recent correspondence, she had asked Mr. McKay if they had any luck with the school departments that were not accepting the home kits being sold and distributed throughout the area, so children could go back to school. She asked who made the rules about that, so they could get a resolution to this very serious issue, as the department doesn't have the ability to test all of the children all of the time. Ms. Mallek expressed appreciation for them having increased testing with Mobi, because a lot of sick people are having to drive down to JC Penney to get tested, as there is nothing closer for them. She also said that parents have been calling to tell her that the PCR home tests are not accepted by the schools.

Mr. McKay responded that the rapid home tests from BinaxNOW are inaccurate if people are asymptomatic, with many false positives and negatives related to that test. She said that with recommendations from the health district and from local pediatricians, they have not recommended that as an option for at-home testing. He said that the kits UVA would be donating are PCR tests, with those going to a lab for testing, so there's a little bit of a time delay, but this would be an option for individuals to use, especially when there are issues related to transportation and healthcare. He stated that those results are far more accurate than the BinaxNOW tests, which are not tested in a lab and have been shown to be inaccurate.

Ms. Mallek said that people have been told that the \$50 home tests are the proper ones because they came from UVA, so there are obviously some communication issues that need to be addressed, but she would relay the proper information to them.

Mr. McKay pointed out that they meet with all the schools in the district and the local pediatricians on at least a weekly basis, and they can make this a topic of discussion when they meet with them.

Ms. Price thanked him for the information and said she was pleased to see the mobile unit in Scottsville over the weekend but was disappointed to learn from staff the low number of residents who were taking advantage of the opportunity. She stated that the map showing the southeast corner of the County, which encompasses the entire Scottsville Magisterial District and some of the neighboring district, demonstrates the lowest vaccination rates, and she is beyond frustrated with the consequences and costs of dealing with unvaccinated individuals who do not have a medical reason why they can't get the vaccine.

Ms. LaPisto-Kirtley thanked Ms. Gray and Mr. McKay for their presentations and said that she has no questions.

Mr. Gallaway said the County has been working with the health department for many months, and he asked if there was anything they needed in terms of support.

Mr. McKay responded that the ongoing use of the J Crew space through December is critical to operations, as it provides a stable location for people to get vaccinated and expanding hours would be very helpful. He said that opportunities to share information were also critical, and if they need to stand up another location, working through the regional Emergency Operations Center (EOC) and putting them in a position where they can just turn things on may involve the County a little bit, and anything they can do for messaging would be critical. He added that as they look toward the state for guidance regarding long-term plans, it will be important for them as a health district to work with County government on strategies moving forward.

Mr. Gallaway asked Mr. Richardson and Mr. Walker if there were any pieces the County needed to work on in that regard.

Mr. Richardson responded that Mr. Walker and Mr. Henry have been working with the Incident Management Team (IMT), and a number of people have been instrumental in their organization since March 12, 2020 to ensure that they were hand in glove with all key partners, including the City of Charlottesville, UVA and the Emergency Communications Center (ECC). He said they crossed the 18-month threshold on September 12, and he is concerned about sustainability for them to continue to work. Mr. Richardson said that it's critical that the state continue to provide support, direction, and framework to be able to have the health district do its job. He added that the longer this goes on, the more taxing this becomes to staff, and there are a lot of frontline workers in the organization who have been doing their normal job and giving support to the health district in helping regional partners. He emphasized that they must continue getting support from Richmond, and he encouraged the BRHD to let the Board know what they can do to assist.

Mr. Gallaway thanked Mr. McKay and Ms. Gray for their presentations and their work.

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#### Agenda Item No. 14. Closed Meeting.

At 5:47 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. The annual performance of the Clerk; and
  2. The annual performance of the County Attorney and the appointment of his successor upon his pending retirement in 2022

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, Ms. Palmer, and Ms. Price.  
NAYS: None.

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#### Agenda Item No. 15. Certify Closed Meeting.

At 6:04 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

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Agenda Item No. 16. 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 of the Rio District stated that the Board's global warming update at their September 1 meeting has raised some questions for this Board in the five categories in their 2050 Net Zero plan. He said that under category one, Transportation and Land Use, he asked when the last time was that the Supervisors rode a bicycle from their homes to an Albemarle County office or event. He asked if any of them owned an electric vehicle, and if not, what the make, model, year, and miles per gallon of their fossil fuel vehicles. He asked what the most recent time was that they rode a CTS or UTS bus. He said that under category two, Buildings, he wondered if any of the Supervisors had a LEAP energy audit done on their residence, and if they had, how much they had spent on improvements recommended by the audit. He asked if any of them lived in a home with a heat pump, what its SEAR rating was. He said that under category three, Renewable Energy Sourcing, he asked if the Supervisors had a home heated, cooled, or lighted by any amount of solar or wind energy. He said that under category four, Sustainable Materials Management, he asked how many 30-gallon bags of trash the Supervisors generate weekly from their residence and if any of them have a compost bin or pile. He asked how many plastic grocery bags they have in their homes, and what percentage of the products they buy are in recyclable cardboard, metal, or glass instead of plastic. He said that under category five, Landscape, Natural Resources, and Agriculture, he wondered what the most recent time any of the Supervisors planted a tree on their property. He asked how many meat and methane-producing animals they raise per year, if they live on rural property. He asked which national or international tree-planting campaigns the Supervisors belong and/or contribute to.

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Ms. Laura Thomas of the Rio District said that she has lived in Albemarle County since she moved here in 1982 to teach in the public schools. She said that she has been asked by the Dunlora Homeowners Association Board, which represents 377 homes; Shepherd's Ridge at Dunlora, which represents 20 homes; and Dunlora Park, which represents 27 homes, for a total of 424 homes and more than 750 homeowners. She stated that they are alarmed and distressed by the recent County-hired consultant's proposal to construct a two-lane traffic circle at the front of Dunlora mere steps from their homes. She said that this proposal needlessly brings 30,000 daily vehicles and accompanying noise, light, and air pollution much too close to established neighborhoods.

Ms. Thomas stated that when the Meadowcreek Parkway was constructed just one decade ago, after decades of debate, County Supervisor Dennis Rooker, Lou Hatter of VDOT, Tom Harvey of the Dunlora HOA, and others worked together to create the current Dunlora Drive configuration. She said that access roads were created purposefully to help buffer established homes from the increased traffic and noise created by what is now the John Warner Parkway, and Dunlora's front entrance was entirely designed for this purpose at substantial expense. She stated that now 10 years later, a County-hired consultant has proposed to repurpose this painstakingly negotiated buffer road as a main thoroughfare, rerouting the heavily traveled Rio Road to within several feet of established homes in Dunlora Park. She said the plan also eradicates the stand of mature trees at the northwestern entrance of Dunlora.

Ms. Thomas said that the proposal has the effect of unilaterally rescinding hard-fought compromises and agreements, and it is an affront to residents' rights to peacefully enjoy their porches and homes, and they have many questions about this process. She said that just last year, VDOT constructed a roundabout at the intersection of the John Warner Parkway and Rio Road, the intersection it is intended to improve. She stated that no established homeowners would be impacted by a roundabout in this location, and she wondered why the County hired a consultant to change the VDOT plan when the latter was already approved and funded in 2020. She wondered what stakeholders stood to benefit from the relocation of the roundabout, and why the Rio Point development appears in the consultant's drawing when it hasn't yet come before the Board for rezoning approval. She said that County residents have invested their life savings in reliance upon compromises and agreements made when the parkway was first constructed, and they are asking the Board and VDOT to ensure the agreements made by its predecessors are honored. She thanked the Board for their service to the community.

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Ms. Pam Riley stated that she would provide comments on the Southwood Phase One update that they heard earlier today, adding that she is speaking as a concerned citizen and a former Planning Commissioner for the Scottsville District at the time the Southwood rezoning request came through for this phase. Ms. Riley said that in addition to having a master's in community and regional planning, she spent most of her professional planning career working for nonprofit organizations focused on developing and preserving affordable housing and small business opportunities. She said that most of the Board knows that during the phase one rezoning process, the Planning Commission expressed numerous concerns regarding the rezoning, with concerns about the uniquely permissive zoning process that has only been provided to Habitat for Humanity and its for-profit development partners. She stated that there were reservations expressed by the Commission regarding environmental, traffic, and school impacts to the area.

Ms. Riley said that most of the serious concerns centered around the potential displacement of residents due to the higher costs of the newly built housing and low to very low incomes of the residents.

She stated that concerns were shared regarding displacement due to both temporary location of residents and those “choosing” to relocate given how bad it might be to live in a community that is under redevelopment for years or possibly decades. Ms. Riley said that Mr. Rosensweig said earlier today that Habitat is committed to subsidizing any resident’s rent if they are able to afford the rent in their new home, and she trusts that is true, but she wondered about the residents who “choose” not to stay in Southwood. She said that it’s not a coincidence that residents asked CBS-19 to do a news story on the dangerous conditions of the roads in Southwood, and it took great courage for them to go public about the conditions in the trailer park, and she hoped the Board would follow through with their commitment to protect these residents.

Ms. Riley stated that the Board heard today that there may be as many as 50-100 families that may be part of a mass relocation offsite, and she wondered how many of those families would return to Southwood after living offsite for months or years. She asked if they would continue to say that there was no displacement during the redevelopment of Southwood, and perhaps technically under the definition in the Uniform Relocation Act they can say that, but not in reality. She said that she heard today that home prices have gone up, and that most homes would be about \$250,000, and taxpayers deserve to know the price points by unit type, condos, townhomes, single-family attached homes, etc., and deserve to know the subsidy costs, down payments, and unit costs before they entertain phase two of the application.

Ms. Riley said that they also heard today from Habitat’s land use attorney, Lori Schweller, that phase two would come in the form of an amendment to the phase one rezoning. She asked why the acreage of phase two, which is two to three times the size of phase one, come in as an amendment. She commented that this process should be explained and examined.

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Agenda Item No. 17. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson stated that they heard earlier this evening from the Blue Ridge Health District on efforts regarding COVID and the Delta variant, and Emergency Order 21-3 takes effect today and requires all County employees to submit to an affidavit of vaccine status and requires any unvaccinated staff to participate in a weekly screening test. He said that based on information to date, their employee vaccination rate is at least 82% of the entire workforce. He stated that their weekly screening testing would begin on September 20, and the whole program has required significant detail and high-content work from the County Attorney’s Office, Human Resources Department, Facilities team, IT, Finance, and other departments who have all done great work. He stated that he is grateful to them for getting the program set up, and it is designed to keep the community safe, maintain services, and reduce transmission among staff and their families.

Mr. Richardson stated that several Board members mentioned the 20th anniversary of 9-11, and members from Albemarle County Fire & Rescue, Charlottesville Fire Department, and other area departments came together to honor and remember the 343 firefighters that gave their lives on September 11, 2011 with a stair climb recognizing the trek of those individuals. He said that the event took place at Monticello High School and included 30 participants who climbed 2,200 steps, which is the equivalent of 110 stories. He stated that the American Legion Post 74 laid wreaths in honor of those who lost their lives that day and in operations Enduring Freedom and Iraqi Freedom on the war memorial on the front lawn of the County Office Building.

He thanked Board members and staff for their participation in these events.

Mr. Richardson said that he would follow up on a question that was provided to the County Executive’s Office at their last Board meeting regarding hazardous material and incidents that could occur in the County. He stated that the Fire Marshal’s Office advises that the quickest way to ensure the proper resources are mobilized efficiently is to call 911. He said that dispatchers at the 911 center are trained in what questions to ask to quickly determine what resources and how many resources should be mobilized. He said the Albemarle County Fire Marshal’s Office always has someone on call and can be notified immediately of any hazmat incident in the County, responding to most incidents that exceed Hazmat Level 0 designation. He said the on-duty marshal is responsible for all reporting of hazmat incidents to the Albemarle County Facilities and Environmental Services Team and to the Virginia Department of Environmental Quality, if required.

Mr. Richardson reported that Hazmat Level 2 and above receives a regional response that includes the Hazardous Materials Team, comprised of ACFR and CFD; both provide personnel who are highly trained and equipped to respond to complex hazmat incidents in either jurisdiction. He said that all ACFR career and volunteer fire personnel are trained to the minimum hazardous materials operations level, which prepares them to perform hazard identification and defensive operations such as damming, diversion and retention of hazardous materials such as placing absorbent pads on an oil spill or using absorbent booms to prevent liquid from getting into a storm drain. He said that all members of the regional team are trained to the levels of Hazardous Materials Technician or higher; the levels of training teach responders advanced research techniques, chemistry, offensive leak control operations, and working in confined spaces.

He stated that in addition, all members of the team are trained in hazmat evidence collection techniques to ensure that any criminal prosecutions conducted by the Albemarle County Fire Marshal’s Office comply with all applicable rules of evidence. He said that whether a resident or visitor is concerned about something as simple as a sheen collecting on a pond surface or an unknown substance leaking from a drum on the side of the road, they encourage community members to call 911 and report the

incident. He stated that personnel with the County and City are ready to mitigate hazmat incidents that are large or small, to protect the people and natural resources of the County.

Mr. Richardson stated that economic development activity continues to be brisk in the County, taking on many different forms: large public-private partnership announcements such as the Woolen Mills/Willow Tree project, public campaigns like the Albemarle-Charlottesville Buy Local effort, and developing relationships with local businesses, as captured in their business retention and expansion program. He stated that the program recognizes the value of existing business and is designed to identify issues, increase communication, and improve the community's overall business climate by providing an enhanced level of service. He said that understanding the challenges and opportunities facing businesses allows the economic development team to create customized solutions, provide connections to information and resources that help support their common goal of strong and sustained economic vitality in Albemarle County.

Mr. Richardson presented photos of his visit with the economic development team to Rhoback, which makes high-quality performance apparel and has grown rapidly, beginning operations out of a basement and moving into the Comdial building on 29 North in 2019, and they have completed an expansion within the building to keep up with growth. He said that the business was started by three partners who attended UVA's Darden School of Business and has a strong support network. He stated that they met all 20 employees who were part of the daily business operations, and he thanked Jennifer Schmack for coordinating this effort. He said that she also walked the business through the programs they qualify for.

Mr. Richardson reported that the broadband office has been operating for five months and focusing on affordability, and as they look to achieve equity and broadband access across the entire community. He said the FTC announced an emergency broadband benefit program in partnership with many service providers to ensure that low-income households can get and stay connected during the pandemic, recognizing that schools, telehealth, and an increasing number of employment opportunities rely on fast, reliable internet service at home. He said the benefit provides \$50 per month toward service fees that come off of the monthly bill, and the County's broadband office conducted targeted outreach to spread the word about the program and has drawn down \$20,000 in federal funding into the community each month, easing some of the hardships the community continues to face. He presented a map showing the County and the areas where there are the highest and lowest number of household sign-ups.

Mr. Richardson reported that "Let's Talk Albemarle" is the County's new podcast, which seeks to foster community participation through the exploration of important topics in the County. He said that Serena Gruia designs each conversation to make local government interesting and accessible to the community, and the first three episodes are posted, two that cover the initial designs released for the ongoing Rio Corridor Plan work, and one about environmental stewardship. He said that these would continue to be shared every two weeks, and thus far they have had more than 425 downloads in the first four weeks.

Mr. Richardson stated that County police department and parks & rec department would be hosting a Community Day at the Park on September 25 at Simpson Park from 2-6 p.m., providing an opportunity for families and individuals to enjoy the park and celebrate southern Albemarle. He said that this is designed to build stronger relationships among the people who live, work, and serve in the southern part of the county. He said there will be recreational games, activities, and opportunities to engage in meaningful conversations, and local community service organizations would be present to discuss ways the community can unite and make southern Albemarle even stronger than it is today. He said the event would be outdoors and would have socially distant activities, trail walks, fun contests and games, and all participants would be asked to follow the CDC's guidance and recommendations.

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Agenda Item No. 18. **Public Hearing: ZMA202000007 & SE202000003 RST Residences.**  
PROJECT:ZMA202000007 RST Residences  
MAGISTERIAL DISTRICT: Rivanna  
TAX MAP/PARCEL(S): 04600000010800; 04600000010900  
LOCATION: 2883 and 2885 Seminole Trail; and 1374 Ridgewood Circle  
PROPOSAL: Rezone two parcels to allow a maximum of 332 residential units.  
PETITION: Request to rezone a total of approximately 19.51 acres from the R1 Zoning District, which allows residential uses at densities up to 1 unit/acre, to Planned Residential Development (PRD), which allows residential (maximum of 35 units/acre) with limited commercial uses. A maximum of 332 dwelling units is proposed, with 254 multifamily apartments and 78 townhouse units proposed, at a net density of 17.85 units/acre, and a gross density of 17.02 units/acre. An associated request for a Special Exception (SE202000003) to waive the stepback requirements for the proposed buildings, under §18-4.19.5.  
ZONING: R-1 Residential – 1 unit/acre  
OVERLAY DISTRICT(S): AIA – Airport Impact Area, EC – Entrance Corridor, Steep Slopes – Managed, and Steep Slopes – Preserved  
PROFFERS: No  
COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/acre); supporting uses such as religious institutions, schools, commercial, office, and service uses; and Privately-Owned Open Space – privately owned recreational amenities and open space; floodplains, steep slopes, wetlands, and other environmental features; in the Community of Hollymead in the Places29 Master Plan area.

The Executive Summary forwarded to the Board states that this rezoning application was first submitted on June 3, 2020, and a virtual community meeting was held with the Places29-North Community Advisory Committee (CAC) on July 20, 2020. This application was first considered by the Planning Commission at a public hearing on March 2, 2021, and at the applicant's request, the Planning Commission voted to defer taking action to allow the applicant to make revisions to the proposal to address the feedback that was provided by the Planning Commission and members of the public. On May 13, 2021, the applicant returned to the Places29-North CAC to present revised plans to the CAC and community members. The applicant then returned to the Planning Commission on June 15, 2021 to present the revised proposal. At that meeting, the Planning Commission voted 6:1 to recommend approval of the zoning map amendment application. The Planning Commission also voted 7:0 to recommend approval of the special exception request.

Between the first Planning Commission public hearing on March 2, 2021 and the second Planning Commission public hearing on June 15, 2021, the applicant made several changes to the proposal to address comments and questions raised by the Planning Commission and members of the public, regarding the following general topics:

1. Concerns about the harmonious transition of development from the RST property to the existing Ashland Townhomes and Forest Lakes neighborhoods to the east, including:
  - a. the number of units provided in the development;
  - b. the height of buildings in the development; and
  - c. the provision of buffer areas near Ashland Townhomes and along Ashwood Blvd.
2. The need for more clarity and information on the proposed provision of affordable housing in the development.
3. The need for more information on the open space and recreational facilities to be provided.
4. The lack of multi-modal transportation opportunities, including transit access.

A full summary of these changes can be found in "Attachment A – Planning Commission Staff Report from June 15, 2021."

No further changes have been made to the application since the Planning Commission public hearing on June 15, 2021.

On September 2, 2021, the County's Housing Policy Manager reviewed the affordable housing component of this proposal and determined that "this project positively impacts affordable housing needs in Albemarle County." The full evaluation form can be found as Attachment E.

Staff recommends that the Board adopt: 1) the attached Ordinance (Attachment F) to approve ZMA202000007 RST Residences; and 2) the attached Resolution (Attachment G) to approve SE202000003, the special exception request, subject to the conditions attached thereto.

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Senior Planner Andy Reitelbach said this was a public hearing regarding a rezoning request, ZMA202000007, and associated special exception request, SE202000003, for RST Residences. For context, he said that the proposal consists of two parcels located at the northeast intersection of U.S. Route 29 and Ashwood Boulevard. He said the aerial view on the screen showed that the Forest Lakes and Hollymead communities are to the north and east of the site, and the Brookhill community (currently under construction) is to the south of the site.

Mr. Reitelbach presented a more zoomed-in look at the property consisting of two parcels: one parcel along Route 29, which is currently the location of a motel; and another parcel behind it, which is the location of the Ridgewood Mobile Home community. He said Brookhill is to the south, and Forest Lakes is to the east, with the Ashland Townhomes sub neighborhood of Forest Lakes directly to the southeast of the site.

Mr. Reitelbach presented a slide showing a street view of the property from Route 29, with the motel in the center and with the mobile home community to the right and rear of the motel.

Mr. Reitelbach said the zoning of these two parcels (TMP 46-108 and TMP 46-109) is R1, which is residential at one unit per acre. He said the two parcels total just over 19 acres, making the by-right use of this property up to 19 dwelling units, currently, with possible additional units based on the various zoning factors that the Zoning Ordinance allows.

Mr. Reitelbach said the zoning overlay districts for these two parcels are the entrance corridor, airport impact overlay, and areas of both managed and preserved slopes. He said the map on the screen showed that the Forest Lakes community was the large area of the Planned Unit Development (shown in teal). He said Brookhill is zoned NMD to the south, and the properties to the west across U.S. Route 29 are all zoned Rural Areas.

Mr. Reitelbach said that in the Comprehensive Plan, these two parcels are within the Places29 Master Plan and the Community of Hollymead. He said the majority of this property is designated as Urban Density Residential (shown in orange on the map), which calls for residential at 6.01 to 34 units per

acre as the primary use, with secondary uses of retail, commercial, office, and institutional. He said there is a recommended residential building height of a maximum of four stories.

Mr. Reitelbach said in addition, there is a small sliver of privately owned open space (shown in dark green on the map), located right along the Route 29 corridor. He said this is for privately owned recreational amenities as well as areas of steep slopes and other environmental features. He said there is a mix of other designated land uses all around the property, including Neighborhood Density Residential (shown in yellow, consisting mainly of the Forest Lakes and Brookhill neighborhoods). He said there is a parcel designated for institutional right across Ashwood Boulevard, to the south; other areas of privately owned open space; and the property west across Route 29, which is designated as Rural Areas.

Mr. Reitelbach said the proposal requested by the applicant is to rezone these two parcels, which total approximately 19.5 acres, from the current R1 zoning to a PRD (Planned Residential Development) zoning to allow for a maximum of 332 residential uses. He said the applicant is also requesting an associated special exception to modify the stepback requirements so that fourth stories do not have to meet the stepback requirement of 15 feet for all buildings of four stories or taller. He said the central structure of the proposal, however, has two wings, and there is a proposed fifth story that would continue to have a stepback as required by the ordinance. He said the special exception is only to waive the stepback requirement for the fourth stories.

Mr. Reitelbach provided background on the proposal. He said the applicant first went to the Planning Commission on March 2 and at the request of the applicant, the Commission deferred taking action to allow the applicant to make revisions to the plan based on the feedback that was heard by both the Planning Commission as well as the public comment at that meeting. He said that on May 13, the applicant returned to the 29 North CAC to present the changes to the CAC members and community. He said that on June 15, the applicant returned to the Planning Commission again and at that meeting, the Commission did recommend approval by a vote of 6:1. He said there have been no further revisions to the plan since that June 15 meeting.

Mr. Reitelbach said he would go over some of the main changes that did occur between the March 2 meeting and the June 15 meeting, which is the plan being presented to the Board that evening. He said the current plan shows a reduction in the maximum number of units from 370 to the currently requested number of 332. He said this consists of 254 multifamily units and 78 two-over-two townhouse-style units in six rows. He said there were originally eight rows of townhouses, and this has been reduced to six. He said the overall net density of the development is now at 17.85 units per acre, which is approximately a 2-units-per-acre reduction from the original plan that was presented.

Mr. Reitelbach said the height of the buildings has changed. He said in the currently presented plan, there are seven units in each row of townhouses. He said six of them are two-over-two, for four stories total, and the end unit of each row is only three stories. He said the end unit is that which is closest to the Forest Lakes and Ashland Townhomes property line. He said the two central building wings are five stories, with a fifth-story stepback. He said there are three other apartment buildings that are all four stories in height.

Mr. Reitelbach said regarding recreational and open space requirements, 32% open space is being provided as a mixture of both active recreational areas and amenities as well as more passive areas, such as buffers that surround the site and areas of preserved steep slopes. He said a courtyard area is being provided in the center of the townhouse portion of the community that is directly across the street and provides connections, with a pool area that is expected to serve the entire community. He said there is an expanded recreational area at the southern entrance at Ashwood Boulevard, which includes a dog park.

Mr. Reitelbach said the applicant is also now proposing three potential sites for a future bus stop on the application plan. He said the final decision on the location of the bus stop would be made in consultation with whichever transit provider, whether this is CAT, JAUNT, or another provide, when service is expanded to this area, as transit service does not currently serve this area.

Mr. Reitelbach said buffer areas were increased in size. He said that at the June 15 Planning Commission meeting, the buffer along the common property line with Ashland Townhomes was increased from 20 feet to 40 feet. He said the existing berm along Ashwood Boulevard was identified to remain, and there was an expanded recreational area at the southern entrance to the site. He said the first row of townhouses has been stepped back farther from Ashwood Boulevard now, as one of the rows was removed.

Mr. Reitelbach said finally, the amount and rate of affordable housing increased. He said the applicant is proposing 75% of the multifamily units to be designated as affordable, which would total 190 units. He said these would be designated for 30 years for those earning between 30% and 80% of AMI, with an average income of 60% of AMI. He said this amount is significantly more than is what is recommended by the County's housing policy. He said there was also a housing evaluation form prepared by the County's housing policy manager that was included in the Board's staff report packets and includes additional information on this.

Mr. Reitelbach presented the plan that was submitted by the applicant, showing the building and parking envelopes of the proposed buildings, with the six rows of townhouses being at the top of the screen. He said the L-shaped building in the center is the one building of two wings that is five stories, and the other three buildings are the four-story apartment buildings.



Mr. Reitelbach presented the conceptual layout provided by the applicant showing the buffers around the four sides of the property. He said the gray areas are the preserved steep slopes, and the green areas are the designated courtyard, dog park, and more active recreational areas. He said there is a cemetery on the property as well, which is in the bottom-center portion of the graphic.

Mr. Reitelbach said one of the main concerns that was raised at the Planning Commission meetings was transportation and access. He said a TIA was provided by the applicant and was accepted and reviewed by VDOT according to their criteria. He said the TIA was actually based on the original proposal for 375 units, and no objections were expressed by VDOT at that time. He said when the revised plan came in at 332 units (a decrease of about 40 units), there were still no objections expressed about the TIA.

Mr. Reitelbach said a few of the items being proposed by the applicant to address traffic or access include proposed extended or new turn lanes, both on Ashwood Boulevard and Route 29; and entrances to the site including a full entrance on Ashwood Boulevard (directly opposite of the proposed Archer Avenue entrance into Brookhill) and a right-in/right-out entrance only on U.S. Route 29. He said as mentioned, the applicant has identified three potential locations for transit to be determined at a later time.

Mr. Reitelbach said there are also additional pedestrian and bike connections being proposed throughout the development, notably a path along Ashwood Boulevard that would connect the existing sidewalk in the Forest Lakes community with the recently constructed multiuse path that runs parallel to Route 29.

Mr. Reitelbach said there are several factors favorable in this rezoning, including that it is consistent with its uses and density recommended by the master plan. He said there is affordable housing being provided at a much greater amount than what is identified in the County's housing policy. He said the request does propose to provide additional pedestrian connections as well as potential locations for future transit. He said the plan proposes to provide a greater amount of open and recreational space than the requested zoning district requires. He said finally, the 12 Neighborhood Model Principles that are identified in the Comprehensive Plan are all either being met or mostly met.

Mr. Reitelbach said there are a couple of factors unfavorable as well. He said the proposed development would result in additional student enrollment at area schools, including Albemarle High School, which is already over capacity. He said the proposed height of five stories of the two central apartment building wings is higher than the four stories recommended in the master plan; however, as mentioned, there is a stepback proposed for the fifth story to help reduce the intensity of that scale.

Mr. Reitelbach said that overall, after the second public hearing, the Planning Commission, at their meeting on June 15, did vote to recommend approval of this rezoning request by a vote of 6:1. He said they also voted to recommend approval of the special exception request to modify the stepback requirements by a vote of 7:0.

Mr. Reitelbach presented the suggested motions for both the zoning map amendment request and the special exception request. He offered to answer any questions immediately or after the public comment portion.

Mr. Gallaway asked the Supervisors if they had questions to direct to staff, asking them to reserve their questions for the applicant until after the applicant presents.

Ms. Palmer said she had two quick questions for Mr. Reitelbach. She asked what the distance is from the back of the property of the houses in Forest Lakes to this development (in feet). She said she was somewhat confused about this as she was reviewing the materials regarding areas and distances.

Mr. Reitelbach replied that he was unsure and would have to look at the plan again. He said there is some open space owned by the Forest Lakes Homeowners Association at the back of the existing townhouses and this property, but he was not exactly sure what that distance is.

Ms. Palmer said she did note this and was interested in the Forest Lakes property to the first building that they would see.

Mr. Reitelbach said the setback of this proposal's building would be 88 feet from the Forest Lakes property line. He said the closest townhouse that is being proposed would be 88 feet from Forest Lakes.

Ms. Mallek asked Mr. Reitelbach if he happened to know when the traffic study was conducted and if it was during active business and school time as far as the time of year, etc.

Mr. Reitelbach replied that he was not sure when the TIA was done. He said that Mr. Kevin McDermott, Transportation Planner, was attending the meeting and could know the answer.

Mr. Kevin McDermott, Transportation Planner, said it appeared that the TIA was done on December 12, 2019.

Ms. Mallek asked if this was a time when schools and university were in session.

Mr. McDermott replied yes.

Ms. Mallek asked if this was during a time of full business opportunity.

Mr. McDermott replied that the TIA stated that UVA was in session at that time.

Ms. Price said Mr. Reitelbach mentioned that with regards to public transportation, three sites were committed to be retained until some sort of cooperation or coordination can be arranged to facilitate with public transportation services in the area. She said she wanted to make sure she was clear on this; that the developer would propose three locations that would be retained so that when that time comes, at least one of those would be available for a bus stop.

Mr. Reitelbach said this was correct.

Ms. Price said she drove to the site that day. She said if going north on Route 29 and taking a right on Ashwood, as soon as one takes a right on Ashwood, one can see where the shoulder on the righthand side has been cleared for curbs, which she understands is the connection to Archer Avenue. She asked if there is currently a retaining pond there and if redevelopment of that has to be done in order to then connect Archer Avenue to the Brookhill development.

Mr. Reitelbach replied yes. He said Archer Avenue is still under construction, but it would eventually come out on Ashwood Boulevard directly across from where this applicant is proposing to have their entrance.

Ms. Price said if going north on Route 29 and turning into where the Brookhill development is, then coming out of Brookhill, one cannot make a left turn to go south on Route 29, and one must take a right, then go past Ashwood, make a U-turn, and head south. She said the Archer Avenue connection would provide a second or alternative option for people turning out of Brookhill. She said they could go north on Archer Avenue, take a left onto Ashwood, then make a direct left turn to go south on Route 29.

Mr. Reitelbach said this was correct.

Ms. Price asked Mr. Reitelbach if with the TIA that was done, if there were certain percentages of vehicles that are presumed to come out of Brookhill that would either go directly to Route 29 and go north versus going to Archer Avenue, which would give them the option of either going north on Route 29 (although this was unlikely, as one would simply go from Brookhill to Route 29), or the vehicles coming out of Brookhill that would come up to Ashwood and take a left so they can turn left and go south on Route 29 at the light. She asked if this was all taken into consideration as part of the TIA.

Mr. Reitelbach replied that he believed so, but he would defer to Mr. McDermott since he had reviewed it.

Mr. McDermott replied that Ms. Price was correct. He said the County had the applicant rely on the data from the Brookhill TIA, which was completed for that development. He said this assumed 10% of the total Brookhill traffic would go up to Archer Avenue and to Ashwood, and the other 90% would either go out the central entrance or go down to Polo Grounds Road, where there is also a signal that allows full movement from Polo Grounds onto Route 29.

Ms. Price asked if it were logical that if coming out of Brookhill and heading south towards Charlottesville, one would more likely go left to Polo Grounds rather than going north to then turn around and go south on Route 29.

Mr. McDermott replied that this is what would typically be expected, especially because one would be able to make a right from Archer Avenue onto Polo Grounds, which is always an easier movement that people tend to prefer. He said this would also reduce out-of-direction travel for users. He said the 10% was a fairly accurate number to assume for that.

Ms. Price said if one were to come out of Brookhill and go north on Archer Avenue to Ashwood, then make a left (particularly if during rush hour), it is a relatively short distance between Archer Avenue and Route 29, but one is having to make a left turn across incoming traffic off of Route 29 onto Ashwood and into outgoing traffic on Ashwood to Route 29. She said it would appear to make more sense to her as well that individuals coming out of Brookhill to go south on Route 29 would more likely go south on Archer Avenue to Polo Grounds and make a right turn onto Polo Grounds so that they can then make the left.

Ms. Price said she looked forward to hearing from the applicant and that she expected a good number of public comments.

Ms. LaPisto-Kirtley said she had no questions but looked forward to the public comments.

Mr. Gallaway said he had a series of questions but that he would wait until after the applicant's presentation. He opened the public hearing to the applicant's presentation.

Ms. Valerie Long with Williams Mullen, representative for the applicant, said she would introduce members of the applicant's team, starting with Mr. Scott Copeland, Principal of RST Development. She said RST Development is a family-owned business and that Mr. Copeland is the "S" in RST. She said Mr. Copeland owns the business with his father and his brother, Mr. Todd Copeland.

Ms. Long said Mr. Carl Hultgren with Ramey Kemp & Associates was present and that his firm conducted the traffic study for the project. She said Mr. Ryan Yauger with Bohler Engineering was present and that his civil engineering firm has been assisting. She said Mr. Alex Mays, also with RST Development, was in attendance, as well as two members, Mr. Neil King and Mr. Scott O'Brien, of the architecture firm, LAS, that regularly works with RST and will be involved in designing the buildings.

Ms. Long thanked Mr. Reitelbach for thoroughly explaining the project and, particularly, the changes made to the project in between the two Planning Commission meetings. She said she would quickly move through the slides that cover this information, and she would be happy to return to any of the slides.

Ms. Long presented a slide showing a map. She indicated to Ashwood Boulevard, Route 29, and the main entrance off of Route 29 to the project site that is a right-in/right-out only. She said there would be a second point of connection that would connect to Ashwood that would align with Archer Avenue once built. She said with any residential community with more than 60 dwelling units proposed, it is a requirement to have two points of access, not only for emergency access and service, but for good planning purposes, traffic flow, and distribution.

Ms. Long indicated to the five buildings on the map that would be apartment buildings, and to three buildings that would be four stories, which were originally three stories. She indicated to the buildings that would be five stories each, which have always been five stories, and to the townhouse rows behind that are proposed to be stacked townhouses. She said this is a relatively new type of housing in the housing community, where there is one townhouse unit on top of another.

Ms. Long said there are a number of amenity areas, and she indicated on the map to a new central green, another amenity area, a pavilion, pool and patio area with grilling stations, a number of small pocket plazas tucked around the roundabout, a tot lot and multisport fitness area, a dog park, and a passive recreation or general open space location.

Ms. Long said Mr. Reitelbach had mentioned a cemetery. She said this is an old cemetery where boundaries were shown on an old plat of record, so the applicant is proposing to fence off this area so as not to disturb it.

Ms. Long presented a copy of the binding application plan. She noted this plan was involved with many details and that she could return to it if the Board wished. She said there was a number of proffered statements on the page on the screen. She said it also establishes the building and parking envelopes seen in red, the recreational open space areas in green, and the travel way and road network represented by the gray dashed line.

Ms. Long said that for point of reference, the dark gray areas both onsite and offsite are preserved steep slopes and as part of the project, the applicant is proposing not to disturb these. She called attention to the gold and yellow areas on the plan and explained these are vegetated buffers. She indicated on the plan to a 100-foot buffer along the frontage of Route 29 as recommended by the Places29 Master Plan. She said there are 20-foot buffers on the two sides adjacent to Ashwood as well as on the northern side, and a 40-foot buffer on the eastern side adjacent to the Forest Lakes Ashland community and the Forest Lakes Cricklewood Court community.

Ms. Long said the next page was a conceptual plan showing how the application plan could be developed. She said there were many details on the plan, but this gives an idea of how this would look with the buildings. She said for instance, the red square shown for building and parking is how two of the townhouse buildings would function, with some parking around and access to garages.

Ms. Long said one particular issue of concern for some of the community members is the appearance of the project from Ashwood Boulevard. She said there is an existing berm, and among other things, the applicant's plan commits to preserving that vegetative berm and replanting it as needed.

Ms. Long said Mr. Reitelbach had talked about the changes that the applicant made in between, but she thought a quick graphic might be helpful as well. She presented the original plan that the applicant brought to the Planning Commission in March that had eight rows of townhouse units, with one being fairly close to Ashwood Boulevard (at 68 feet away). She then presented the revised townhouse layout, which now only has six rows of stacked townhouses. She said where one had been close to Ashwood initially, there is now greenspace there. She said the distance is now 190 feet from the backside of the indicated building to the property line.

Ms. Long said the applicant preserved the berm, added greenspace, and substantially improved both the quantity and the quality of the open space based on the feedback they received from the Planning Commission members. She said the applicant improved the pedestrian orientation of the project, particularly in one indicated area, with the guidance of Mr. Reitelbach and some suggestions that he provided. She said as discussed, the applicant identified three potential locations for a future transit stop.

Ms. Long said the applicant also increased the buffer. She indicated to a buffer on the eastern side of the plan, noting that it was originally 20 feet like the ones on either side. She said that based on feedback and concerns that were expressed by representatives of the Forest Lakes community, the applicant was able to expand this buffer and essentially double it from 20 feet to 40 feet.

Ms. Long said she hoped her next note would address Ms. Palmer's question. She said the distance from the back of the indicated townhouse units to the edge of the property line is now 88 feet, with 40 feet of this being buffer.

Ms. Long said that regarding landscape buffers, there is actually no requirement in the Planned Residential Zoning District to have a buffer. She said the ones the applicant is proposing are voluntary. She said for frame of reference, if this were a commercial or industrial project adjacent to a residential project, the Zoning Ordinance has required buffers and setbacks that would come into play.

Ms. Long said that as she would quickly show, the applicant's buffers and building setbacks are actually more protective of the residential properties than it would be if this project were required to have buffers because it was commercial or light industrial. She said if this were a commercial project, the buildings would have to be set back 50 feet from the line and would have to have a 20-foot undisturbed buffer. She said if this were a light industrial project adjacent to residential, the applicant would have to have a building setback of 50 feet with a 30-foot undisturbed buffer. She said the applicant has an 88-foot building setback and a 40-foot rear buffer in that location.

Ms. Long said that for frame of reference, if this project were a heavy industrial project adjacent to residential, it would be required to have a 100-foot setback. She said while the applicant's setback is not quite that large, it is close, and the 40-foot buffer is larger than would be required if this were heavy industrial.

Ms. Long presented a visual showing the distance of buildings to the various property lines, noting that she said she could return to this slide later. She indicated the 88-foot setback to buildings that are located to the Forest Lakes line. She said the numbers 324 and 321 represent the closest points of the five-story buildings to the adjacent property line.

Ms. Long acknowledged the great concern among the community about the height and potential visibility of these five-story buildings, and the applicant is optimistic that if they are visible, given that they are 320 feet away from the adjacent property line, they would not have an adverse impact on the community. She said the applicant intentionally located them central to the community to be the focal point of the community, with many of its common area's amenities, so the applicant believes this is a good way to establish the central location. She said the five-story building will be almost 400 feet from Ashwood Boulevard at the indicated location and 540 feet from the intersection where there is a view of the trees.

Ms. Long said the amenity areas were of great importance to the Planning Commission, and they were helpful in providing the applicant guidance on how to improve them. She said RST sent its architects and planners back to the drawing board to improve them, and the applicant thinks they have done a wonderful job. She said they agree that there was a lot of room for improvement, and the applicant believes they have nailed it. She presented a list of the various amenities that would be provided. She said as Mr. Reitelbach indicated, the applicant exceeds the ordinance requirements for open space as well as the ordinance requirements for recreational space, which is double the requirement.

Ms. Long presented a slide showing the pedestrian routes and sidewalks in blue so that the Board could see how seriously the applicant takes the goal of having the community be very pedestrian-oriented and friendly. She said for reference, one segment of sidewalks includes a sidewalk in one location that will go all the way down to Route 29 North. She indicated to a parcel that is owned by VDOT and was apparently part of the land VDOT acquired for part of the original Western Bypass. She said the applicant will build this sidewalk, assuming VDOT grants them the license to do so.

Ms. Long said as indicated, the project now commits to having the end unit that is closest to the Forest Lakes community, at 88 feet away, only be three stories, which will provide for a transition between the two-story townhouses in Forest Lakes, then to three stories, then to four.

Ms. Long mentioned that although her time had expired, she had two other slides and would be happy to speak about traffic. She said the applicant has renderings and visual images that show the tree screening of the buildings, and she would be happy to address those if given the opportunity.

Mr. Gallaway asked the Supervisors if they had questions for the applicant.

Ms. Palmer said she looked forward to a full discussion of the traffic later.

Ms. McKeel said she agreed with Ms. Palmer. She asked if this was a good time to talk about tree canopy, or if they wanted to discuss this later.

Mr. Gallaway said he would entertain all topics and that the Supervisors should ask specific questions to the applicant.

Ms. McKeel said the Board has heard a great deal about tree canopies, which are important to them. She asked Ms. Long if she wanted to discuss this.

Ms. Long replied yes. She said the applicant has worked to strike a balance between meeting the goals of having enough affordable units to make the project viable and to preserve the sensitive areas, particularly the cemetery and preserved steep slopes, as well as to provide the vegetative buffers described earlier and all amenity areas and open space requirements. She said the ordinance requires

that for a Planned Residential Development zoning project like this one, there must be at least 25% of open space. She said what the applicant has on this site is 32% of open space, and much of this consists of trees and natural areas that will remain, such as the preserved steep slopes. She said some of it is additional landscaping that will be installed as part of the project. She said a lot of it is landscaped buffers that will be preserved along the borders, the berm that is preserved, etc.

Ms. McKeel said this was very helpful.

Ms. Mallek said she would ask Ms. Long to consider, if the project is approved, that for the mature trees that are especially important around the buffers and edges, real effort is taken to not allow people to park under them or bulldoze them down. She said the County has learned the hard way that things like this have a negative impact to the future of the project's relationship with the community. She said if there are some trees that are impactful to neighbors, she would ask the applicant to go out of their way to save them.

Ms. Mallek said another question that came up that day was about universal design in any of the units. She asked if there is any information at this stage about units that might be constructed particularly to be helpful to people with disabilities or seniors.

Ms. Long replied that she was not sure, but she would ask Mr. Scott Copeland at RST to weigh in. She said their company has designed a building specifically for people with disabilities that just recently opened in Maryland.

Mr. Copeland replied that RST is very aware and sensitive to the issue. He said it is a little premature specific to design-related aspects of these buildings, but it is a personal mission and commitment of RST to provide that type of housing in addition to the affordable components that this project will have. He said RST is familiar with and committed to providing that type of housing as well.

Ms. LaPisto-Kirtley said piggybacking on Ms. McKeel's questions about tree canopy, she would ask if Mr. Copeland had development experience in being careful with the existing tree buffer. She said she believed Ms. Long said that in the back, the trees would be replaced if they die and would ask Mr. Copeland to expand on this.

Mr. Copeland replied that the applicant is typically the general contractor of their projects as well, in addition to being the developer. He said they are long-term owners of their projects, so the relationship to the landscaping and trees is very important to them as well, and they will take every precaution possible. He said anything that is to be preserved on the site will be preserved and will not be accidentally bulldozed over. He said the applicant is committed to enhancing the landscaping along the buffers, as indicated in the plans, which will not only enhance the buffer itself, but also enhance the community.

Mr. Copeland noted that along with the tree discussion, although the applicant does not control the VDOT right-of-way or property, there are quite a few mature trees along that berm that will remain unless VDOT, for whatever reason, does something differently with that area. He said in combination, he thinks that the canopy, as Ms. Long pointed out, will be very well-suited for the applicant's community and for the surrounding one.

Ms. LaPisto-Kirtley said she would hold her remaining questions until after public comment.

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

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Mr. Scott Elliff said that over the past year, a working group of volunteer residents from Forest Lakes and Hollymead has been working to assess the RST proposal with maps, photos, calculations, slideshows, research, and (extraordinarily) some external studies on design and traffic that the HOA paid for. He said they met with the developer and their advocacy teams several times.

Mr. Elliff said that in response to Mr. Copeland's charge to see if they could get to "yes," and even throughout some innovative preliminary ideas to see if anything might stick, unfortunately not much progress has been made. He said the group keeps coming back to the same conclusion: this project is too tall, too dense, out of scale, incompatible with local neighborhoods, inconsistent with County policies and standards, and has potential significant issues relating to school overcrowding, traffic, the environment, and more.

Mr. Elliff said this was after the changes that the developer has made along the way, which Mr. Reitelbach had outlined, some of which helped address the group's concerns, but at the same time, the developer increased the heights of the apartment buildings, which are now four and five stories high, making for the largest cluster of buildings between Charlottesville and Culpeper, or perhaps Warrenton. He added that this makes the site 25-33% taller than the large Brookhill development just to the south, which has 45-, 52-, and 65-foot-tall buildings. He said for point of reference, the CHO airport control tower is only 30 or 35 feet in height, which is less than half that height and an interesting benchmark for a small town.

Mr. Elliff clarified that no one there was opposed to growth in the area, nor were they opposed to more affordable housing, which the developer recently added to the proposal. He said affordable housing is something that is clearly needed in the area. He said all the group is concerned about are the details, and their view is that anything worth doing is worth doing right.

Mr. Elliff said RST is a for-profit developer and for them, more units is better than less. He said they are obviously anxious to start moving dirt, but he would ask at what cost to the quality of life, neighborhoods, aesthetics, the environment, and more. He said the group has briefed the County on much of this, and the County has heard from many local residents on this via emails, meetings, petitions, and more.

Mr. Elliff said the theme is they can and must do better, and after all this time, this project still has deficiencies and open questions all over the place. He said the group has coined it the "Hasty Housing Highrise Project," and it needs to go back to the drawing board to reduce the scale and scope to improve livability and integration with the surrounding community. He asked they bring forward a new plan that meets the high standards that Albemarle appropriately has.

Mr. Elliff asked the Board to ask themselves if all the public comments they will be receiving are wrong, misguided, or self-serving. He said it seemed, rather, that they are everyday local citizens giving the Board frank feedback about what they do not like. He asked if it is possible that the concerns about school overcrowding, traffic congestion and safety, environmental degradation, and more or valid or could be. He said it was not that all the problems would come to pass, but there was also zero chance that no problems would occur.

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Ms. Paula Graziani said she lives in Forest Lakes South. She said she wanted to focus on the affordable housing aspect of the discussion. She said she does favor development of this parcel as well as increasing affordable housing throughout the County. She said RST has captured a lot of attention for proposing almost 60% of their project (191 units) to be affordable housing. She said because of this heavy ratio, as well as the time commitment of 30 years, she believes further evaluation is called for.

Ms. Graziani said the only other large-scale affordable housing undertaken in the County that she is aware of is Southwood. She said the 1,500 people who live there have been able to state their housing preferences in Southwood's redevelopment, and they do not want high-rise apartment buildings. She said they prefer smaller cluster homes such as two-story townhouses, duplexes, triplexes, and quads so that they can enjoy a lifestyle very similar to single-family living, with a variety of amenities that provide a nice standard of life. She said there is no reason to think that people living in RST's development would feel any differently.

Ms. Graziani said that in contrast, RST's current application includes more of an old-school approach to multifamily housing. She said this consists of four- and five-story high-rises, fronted with a large, open parking lot and some standard amenities, but she would ask about the conservation of large trees for shade and landscaping, walking trails, a community vegetable garden, or even a community center for the 600-plus adults and likely 100 or more children who would live in the proposed 332 units.

Ms. Graziani said RST's application is a for-profit venture, but the same time, they will benefit from tax breaks and low-interest loans associated with affordable housing. She said the future RST residents deserve the same well-thought-out, long-term visioning as Southwood. She said she hopes the County will develop a set of minimum standards applicable to all large-scale affordable housing projects – perhaps those with 50% or more affordable housing units. She said RST could be the model of a for-profit project that falls in that category.

Ms. Graziani said RST has proposed 30-80% of AMI for their buildout, and the most in-need group under that is the people who earn under 60% of AMI. She said she would like to know what criteria the County will set to be sure that this most underserved group – those below 60% -- are proportionately represented.

Ms. Graziani said another issue with RST's project is the 30-year commitment. She asked what criteria the County will use in evaluating the sustainability of this project.

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Ms. Jane Keathley, 2657 Coralberry Place, Forest Lakes, said she is a member of the Forest Lakes Board of Supervisors. She said she submitted her comments to the Board separately, and she would review them briefly for the public comment. She said she believes the proposed RST development at the corner of Ashwood and Route 29 is out of scale for the property and the surrounding area, and she thinks it will detract from the attractiveness of Albemarle County as a destination.

Ms. Keathley said there are alternative approaches available that would provide a more livable and desirable community for the residents, including those residents who are eligible for affordable or workforce housing. She said there are many inadequacies in the proposal that would not only detract from the potential for a sought-after, exciting neighborhood, but would also set an undesirable precedent for future similar for-profit developments in the County.

Ms. Keathley said that for these reasons, she would urge the Board to vote no on the development that evening and take time to address the concerns regarding density, greenspace, building heights and exceptions, stormwater runoff, increased traffic, lack of public transportation, etc. that have been stated to the Board both previously and that evening. She said these concerns are part of countywide and regionwide issues on available housing, consistency with surrounding areas, and developer rights that must be addressed by the representative Supervisors.

Ms. Keathley said she does applaud the inclusion of affordable units in the development and believes this is an important aspect to providing a desirable, pleasant community environment. She said the RST proposal, as currently submitted, does not do this but instead, it packs 340 residential units and hundreds of residents into a small parcel of land on the Route 29 Entrance Corridor and four- and five-story buildings with limited greenspace and amenities. She said residents – whether in the 58% of affordable units or in the remaining 42% of the other units – will not be able to enjoy their own yards, garages, or personal outdoor space and will have only minimal amounts of shared greenspace.

Ms. Keathley said they can do better. She said housing developments with lower density, middle density, and soft density have been shown to provide workable options for affordable housing while also giving residents a feeling of ownership, pride, and sense of community. She said these attached units with small yards and community spaces, such as outdoor grilling and picnic areas, bonfire places, and dog washing stands, are all more desirable elements that have not been proposed in this RST proposal.

Ms. Keathley said that in addition to the other concerns that have been raised, which she would not be going into more detail about, she does not believe that the presentation of this development in Albemarle County advances the wishes to be a desirable destination and place to live. She asked the Board to give serious consideration to all of these concerns and vote no on the proposal.

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Ms. Crystal Passmore, Forest Ridge, Charlottesville, said she is very happy that the Planning Commission recommended to approve the project. She said she is also happy that the Board is thinking seriously about bus access here. She said the Albemarle area needs more housing, especially affordable housing, but needs to encourage less driving at the same time, or at least shorter single-occupancy car trips. She said this is the perfect location for both of those things. She said there will be a large number of affordable housing added to the County in an area where people have a chance to not drive, or, at the very least, live close to their place of work.

Ms. Passmore said she also thinks that tree canopy and traffic are important considerations, and if this development is not built, it is important to think about where those 300-plus residents will live instead. She said often, this will be farther out, especially for lower-income residents, and often in places where there is no Charlottesville or Albemarle bus access. She said this would increase traffic and affect the tree canopy in neighboring counties, and it could mean taking down more tree canopy if housing is less dense than what is being offered to the Board. She said if the Board cares about trees and traffic, she would encourage them to push for dense housing close to areas of business, which is exactly what this application is.

Ms. Passmore said she is also glad that the Board wants to hear from people who will be affected by this, and she would urge them to always keep in mind that at least 330 people will benefit from this application being approved. She said she wants the Board to weigh those people against the less-than-a-dozen people who have shown up to give comment, all of whom already have housing, and none of whom live in low-income housing. She said if the Board cares about low-income housing, they can talk to people who live in low-income housing. She encouraged the Board to approve the proposal.

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Mr. Rich DiMeglio said he has lived with his family in the Rivanna District and, prior to that, in the Jack Jouett District for a total of over 16 years. He said he completely supports affordable housing, but not this RST project as it is currently designed. He said he supports the 190 or so affordable housing units that the development proposes, but it is the additional 140 units, cumulative number of units, and the corresponding density that is a problem for him. He said they are housing people into dense, high-rise units, and this is not how as the Supervisors, or anyone, want to remember “solving the affordable housing problem in Albemarle County.”

Mr. DiMeglio said the affordable housing issue requires a two-step process: one, is it affordable, and two, is it truly livable. He said this is an out-of-town, for-profit developer, and this project only became a predominantly affordable housing project as an effort to salvage it after the community came out in force against it due to its size and scope, and after the Planning Commission was going to recommend disapproval of the original development proposal back in March.

Mr. DiMeglio said this parcel of land contained a mobile home park for decades before the developer bought the land and summarily removed all the residents to rebuild this. He said the proposal here is to build four- and five-story high-rises, some of the highest structures in Albemarle County requiring waivers and exemptions, because they need to cram in as many units as possible into a dense space to get the best return on profit.

Mr. DiMeglio said he was struck when he saw the slides the development put up by Ms. Long, the attorney for RST, that evening, as it looked more like an Amazon distribution center than a housing development. He said the development provides minimal amenities, and he believed it was worth considering whether families looking for affordable or workforce housing will want to live in high-rises with few amenities that are not within close walking distance to any employment opportunities when they can drive a few more miles up the road to Greene and get a home with a yard and a garden.

Mr. DiMeglio said the developers will need to clear out the land, moving a lot of the existing trees on hilly terrain to cram this all in. He said the Forest Lakes and Hollymead area previously endured a lot of stormwater and runoff damage when the Hollymead Town Center went in, and this will cause more of the same, especially in light of the climate changes being faced.

Mr. DiMeglio said he is sure the developer takes pride in their work and aims to do a good job. He said the developer claims it wants to provide affordable housing. He asked the Board to hold the developer to this, deny this current proposal, and require them to come back to them with a new and more thoughtful design plan, at a more appropriate density level and with amenities that makes the housing truly livable for future residents, something that everyone can be proud of. He urged the Board to get this right rather than having it be something that simply checks the block on the affordable housing issue.

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Mr. Jimmy Brannock, HOA President of Forest Lakes, said he would like to present some interesting feedback that had not yet been brought up. He said the HOA is 100% for affordable housing, but what bothers him personally are the people in the trailers that were kicked out or asked to leave. He said there are 80-100 trailers that were there, and these are very poor people.

Mr. Brannock said another thing the HOA is concerned about is all the unknowns. He said the big unknown for him is the environment. He said with the trailers, there could be septic systems that they do not know about, and there was a similar problem at Southwood. He said there could be oil tanks that they do not know about and are leaching into the ground.

Mr. Brannock pointed out, regarding clearing for the parking lot, that just because a developer says they will try to keep trees does not necessarily make it so. He said the Board has experience with Hollymead Town Center, Brookhill, and North Pointe, the latter of which drains into the north fork of the Rivanna River. He said this proposed development would drain either into the south fork of the Rivanna River or into Lake Hollymead. He said Brookhill drains into Rivanna, and there has already been an issue with Hurricane Ida. He said that with climate change coming, the HOA is concerned about this.

Mr. Brannock said that when Mr. Copeland spoke earlier, he used the word "premature." He said he himself thinks it is far too premature to approve this development, as there are too many unknowns. He said for example, as previously discussed, there are unknowns around environmental issues and what will happen with schools, which are sure to grow. He said the kids of Albemarle County deserve not to be taught in trailers like they currently are in Baker-Butler. He said learning trailers are not for Albemarle County kids, and they are better than that. He said the traffic is unknown and he believes everyone can agree that if there is north and south traffic on Archer and east and west traffic, with no light or roundabout, there will be traffic issues. He said deep down, he thinks all the Supervisors know that there have to be traffic issues.

Mr. Brannock urged the Board not to approve this proposal as there are simply too many unknowns. He said the future was not crystal clear, and he reminded the Board that just because a developer says something will happen, it does not mean that it is true.

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Ms. Jane Pudhorodsky, Rio District, said she is a member of the Church of the Incarnation and of IMPACT. She said the Board has heard repeatedly from her and from other IMPACT members about the need for more affordable housing in Albemarle County. She said the members were thrilled when the Board voted to approve the new housing plan that includes an affordable housing trust fund, but for the trust fund to work, new housing developments, like the one being proposed, need to be approved. She said building new homes will not fix all of the community's housing problems but unless they build more homes, this housing crisis will only get worse.

Ms. Pudhorodsky said there are people like those the Board heard from that evening, such as Ms. Passmore, who are waiting for affordable housing in the County. She said the Board that evening had the opportunity to approve the construction of 190 new affordable housing units in the RST residences development. She said this means 190 more homes for teachers, firefighters, bank tellers, barbers, and so many more people who keep the community safe and functional every single day. She said unfortunately that evening, the Board would not hear from those people because they cannot afford to live in the community that depends on them.

Ms. Pudhorodsky asked the Board, as they vote on the proposal, to think about what it would mean for the 190 families to be able to live in the community they work in. She said families would have to spend less money on gas and have more time to spend with their children. She said parents would spend less time commuting in from neighboring counties and could spend more time with their kids. She said 190 families deserve a safe, affordable place to call home would be able to do that here in the beloved community.

Ms. Pudhorodsky said on behalf of IMPACT's 28 member congregations, she would urge the Board to support and approve this project and move forward in providing affordable homes in Albemarle County while supporting the people who work there.

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Mr. George Pearsall, 1486 Ashland Drive, Ashland Townhomes neighborhood, said he represents the Board of Directors of the community, which is part of the Rivanna District. He said their community has existed for about 25 years and during that time, residents have been able to enjoy a quality of life that everyone is looking for. He said their small community, however, is about to be assaulted by the construction of a monstrous development. He said it is not only their quality of life, but their property values.



Mr. Pearsall said the Ridgewood Mobile Home Park and Ashland communities have coexisted in harmony for many years, but this will change dramatically if the County approves this RST development. He said small communities and individuals lack the resources to effectively dispute developers, and they depend on the County to look out for their interests.

Mr. Pearsall said the community has concerns about traffic safety, noise, clear cutting and bulldozing the property, closing stormwater runoff problems, school overcrowding, public transit, with these being just the tip of the iceberg.

Mr. Pearsall said the community is not against development. He said anyone who drives on Route 29 can see that development is occurring. He said Albemarle County needs affordable housing, and the community would welcome affordable housing at the neighboring property. He said the RST proposal should not be a model for affordable housing.

Mr. Pearsall said the community is against creating an urban center with four- to five-story buildings, 55 to 65 feet in height and a mere 50 feet from their community. He said the project proposes an inadequate tree buffer between Ashland and the construction site. He said many large trees will be removed and, in the process, may damage the root structure of the trees in his community and perhaps cause them to die.

Mr. Pearsall said the County has designated 5% of the County for development, and the rest is to remain rural. He said this means that all of the development will have to occur in this area. He said the proposed construction is inconsistent with the character of the local area as outlined in the Places29 Master Plan, and it will not create quality living. He said it will degrade, rather than enhance, the quality of living in the area.

Mr. Pearsall said Albemarle County has a goal of providing safe, decent, and sanitary housing. He said approval of this development will not meet that requirement.

Mr. Pearsall said that building 330 apartments and condominiums on a small tract of land is not going to create a quality living area and will significantly degrade the quality of living in the neighborhood. He asked the Board to reject the proposal.

Mr. Pearsall said this brings to mind the lyrics of a Joni Mitchell song from 1970: "Don't it always go to show that you don't know what you've got till it's gone / They paved paradise and put up a parking lot."

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Mr. Josh Carp, a city resident, said he has friends in the neighborhood and used to go there all the time before the pandemic. He said the Board heard a lot from people who live in the neighborhood who have concerns about the development, and he wanted to encourage the Board to center on not just those people who live there now, but the people who could live there if this were built. He said this means almost 200 affordable homes at an average of 60% AMI. He said this is 200 families and hundreds of people who are currently cost-burdened or cannot afford to live in the area at all who could, for the first time, possibly have a place they can afford to live without paying too much in rent.

Mr. Carp said he wanted to offer some numbers, for perspective. He said according to HUD, in 2021, the AMI for a family of four in Albemarle, at 50% AMI, is \$50,000 per year. He said this means that if one is not cost-burdened, the rent one can afford every month is \$1,400, approximately. He said he researched how many rentals are available at that price point in the County right now, and checking Zillow, he found four. He said looking on Craigslist, he saw 11. He said this project offers almost 200 affordable units where, right now, there are about a dozen at most. He said the Board has seen from the TJPDC that this housing is badly needed.

Mr. Carp said if the Board is curious about the experience of a family making this income level, they can look on Zillow or Craigslist to try to find a place to live, but they will not be able to do it. He said by all means, the Board should hear the concerns from the neighbors and make sure there are enough trees, but if this development is turned down, this is 200 families that cannot afford to live in the area that will not have a safe and affordable place to live. He asked the Board to think about those families as well.

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Mr. Rory Stolzenberg said he knew that each of the Supervisors knew well the extent of the affordable housing problem in the area. He said according to the regional housing needs assessment, there are 8,990 renters in the Urban Ring who are cost burdened. He said there are 4,040 renters in the Urban Ring who are severely cost-burdened, paying more than 50% of their income in rent. He said that with this project, the Board has an opportunity to make a significant dent in that problem, creating 190 affordable homes without spending a dime of County money.

Mr. Stolzenberg said this is in addition to another 63 market rate apartments and 78 townhomes, reminding the Board that this is a property designated as Urban Density Residential on the future land use map in the master plan. He said it is well within the density prescribed for those areas and is, in fact, half the density of the upper range of that area.

Mr. Stolzenberg said the Board heard that evening that it will be unlivable, despite the amenities, greenspace, and going taller in order to preserve more open area. He asked the Board to ask themselves

if they believe that those apartments and townhomes, once built, will remain empty, or if they knew the reality that teachers, firefighters, journalists, and healthcare workers who badly need housing in the community will leap at the chance to occupy these new homes that the Board has the power to allow to hundreds of people just by voting yes that evening.

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Ms. Cynthia McElroy, Forest Lakes resident, said she had some major concerns. She asked the Board to postpone any approval of the RST project on Route 29 until such time that a property study can be done incorporating numerous government studies along with the studies paid for by the HOA of Forest Lakes and Hollymead. She said this has not been taken into consideration and, according to their meeting with Ms. LaPisto-Kirtley, was not even presented for consideration.

Ms. McElroy said the project is too dense, too tall, and will put an even greater strain on crowded schools, impacting the quality of education. She said the majority of the HOA realize that at the meeting held at the Forest Lakes clubhouse, Ms. LaPisto-Kirtley had already made up her mind to approve the project and move forward her personal agenda that improperly represents approximately one-third of her constituents. She said it is doubtful that any of the Supervisors would want this monstrosity next to them, be it on their sprawling farms in the Crozet area or next to their home in Keswick.

Ms. McElroy said the HOA has no objection to needed affordable housing, but all of these exceptions will continue to change the face of Albemarle County, making it less desirable and going against the thoughtful planning of the Board's predecessors. She asked the Board to reduce the number of total units, whether or not they are affordable housing, and the height. She said they already had the massive Brookhill project on the other side of the south entrance to Forest Lakes. She said it would be considerate to spread affordable housing so that persons in need have options for a geographic location and to have an opportunity to choose the schools to which their children will go.

Ms. McElroy said there is no harm to be done from sending the developer and his attorney back to the drawing board for a more reasonable design and lower population, in an effort to make this a more desirable location than what he did in his Virginia Beach project. She thanked the Board for letting her speak, adding that she hoped they would take this seriously and consider everyone's opinion on this and what is best for Albemarle County so they can continue to be one of the more desirable places to live.

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Mr. Gallaway closed the public hearing portion and offered the applicant five minutes to rebut.

Ms. Long said she would run through her points quickly and address questions from the Board. She said someone raised a question about how the affordable housing commitments would be enforced, and the answer is through two ways. She said one is that they are proffered obligations by the application plan so that the County will have legal authority, as it always does), to enforce those proffers.

Ms. Long said perhaps even more significantly, because the project will be partially financed by the Virginia Housing Development Authority Tax Credit Program, part of that process involves a recorded use agreement between RST and VHDA, or the issuer of the tax credits, which will enforce and regulate those obligations. She said RST will be subject to an annual audit process and strict ramifications if they do not comply. She said RST has an excellent record with VHDA and are a preferred, experienced developer. She said they also have a very high credit ranking with the HUD staff who review projects, and she would be happy to elaborate on that.

Ms. Long said there was a comment by Mr. Elliff that the project is substantially taller than the Charlottesville Airport tower. She said she knows he circulated materials to the Board that had an image of the Charlottesville control tower and claimed that the RST buildings would be twice as tall as that tower. She said she did not actually know how tall it was, but she found out that it is 48 feet tall, according to the executive director of the airport. She said if the buildings were twice as tall as 48 feet, they would be 96 feet tall. She said they know this is not the case, and the five-story buildings will be approximately 58 feet. She said the zoning height limit is 65 feet. She said the four-story buildings will be approximately 48 feet tall.

Ms. Long said Mr. Elliff also mentioned the project being termed the so-called "Hasty Housing Project," as if this has been rushed through and as if there has not been rigorous and thorough review at every level. She said she can assure the Board that this has not been hasty nor rushed. She said the applicant first submitted the application in May of 2020, which was after a pre-application meeting, a lot of due diligence, and study of the project. She said they worked very hard with Mr. Reitelbach and all of his colleagues in Community Development, with VDOT, and with all of the various reviewing agencies.

Ms. Long said the applicant kept going back to update their plans and respond to County staff's comments, round after round. She said they actually resubmitted the project five times. She said they wanted to make sure they got it right, and they are willing to put in the time and resources to do that, of which they are proud.

Ms. Long said with regard to the height issue, the reason the apartments went from three to four stories is because they shifted the density away from the Forest Lakes property line to address the specific concerns they had that they felt the buildings were going to be towering over them. She said they moved those, shifted that density away, and made the end units three stories. She said these buildings are going to be very far away and will not create an adverse impact on any of the neighbors of the Forest Lakes community, nor on anyone else. She said they will have limited visibility, if at all. She said the

applicant thinks that from some locations, it may not be visible at all.

Ms. Long said regardless, the apartments will be subject to the Architectural Review Board process, which is extraordinarily rigorous. She said the applicant is very comfortable and confident that the height of the buildings is appropriate, particularly given their location relative to property lines and building setbacks, adding in buffers as well. She said that as she stated in her earlier presentation, the buffers are more substantial than would be required if this were a light industrial project.

Ms. Long said the applicant had some images of what the property would look like with the trees left in place. She said in response to Ms. McKeel's question about tree canopy, she neglected to mention that there are a number of trees that exist on the VDOT parcel that the applicant would not have any control over. She said RST will certainly not take those trees down.

Ms. Long said that with regards to affordable housing, the Board heard some passionate comments that evening about that, and she is grateful for those who have gone through the effort to speak out that night on behalf of those who were not able to be there. She asked the Board to take a look at Ms. Stacey Pethia's comments in her affordable housing evaluation. She said Ms. Pethia talks about how many affordable units the County needs to secure every year to meet its goals, and this is 376 units per year for the next 20 years. She said this project alone represents 70% of the units needed in 2021.

Mr. Gallaway asked the Supervisors if they had any questions.

Ms. McKeel said that her questions were in response to concerns that she heard expressed by representatives at the meeting that she and Ms. Price had the prior evening, from which she made some notes. She said she would state a couple of their concerns. She said the representatives were concerned that the project would interfere with their cell and internet coverage in Forest Lakes.

Ms. Long said this was a new concern that she had not heard, but she does work with wireless telecommunications providers fairly regularly, and while she is not an engineer, based on her 20 years of experience representing companies like AT&T, Shentel, and others, there is nothing about this project that will have any interference or adverse impact on any existing wireless coverage. She said if the concern is that these buildings, even the tallest five-story ones at 58 feet, would block a signal, she believes this concern is unfounded based on her knowledge.

Ms. McKeel said she would correct herself in that the concern came from some emails that she saw, and it was not from the meeting the prior evening. She said that as she was reading all of the emails, she was taking notes on some of the concerns people were expressing.

Ms. McKeel said that she heard or read that the developer only has experience in development on flat land, and there is a real concern about stormwater. She said she believed someone should address this, as there are regulations around stormwater control.

Mr. Charles Rapp, Planning Director, said he would let Ms. Long speak to the developer's experience, but he knew the developer has developed quite a few communities, and he was sure that they have not all been on flat land. He said this application will have a site plan review process, WPO requirement and permit, will have to comply with all of the County's stormwater management criteria, and will have to handle stormwater runoff in terms of quantity and quality. He said the state's guidelines are fairly specific, and this developer would have to adhere to all of those without exception. He said he was sure Mr. Copeland could speak to his experience with that as well.

Mr. Rapp said that even after the development is in, the County would continue to inspect stormwater ponds and ensure compliance.

Mr. Copeland said RST has been involved in developments for 20-plus years on all terrains. He said he could assure the Board that very few of their sites start out as flat land. He said the applicant has great experience with this and is fully aware of all the rules, regulations, and laws associated with the stormwater that Mr. Rapp just mentioned. He said the applicant will remain fully compliant with all of these, as they have on all their projects.

Ms. McKeel said her question could be for Ms. Long or Mr. McDermott. She said she did note that because of the development, these will be private roads. She said she assumed that the developers and project managers will be taking care of the roads as they are not VDOT roads, but private roads.

Ms. Long said this was correct. She said much of it is travel way. She said like many apartment communities, the roads are a combination of travel ways, driveways, parking lots, etc. She said certainly with all apartments, RST, as the owner and manager of the project, will be responsible for maintaining all of the travel ways, driveways, and any roads in that area.

Ms. Long said the one road that is not a travel way is the road that essentially goes between the townhouses and the apartments, and this will be a private road. She said unfortunately, with the way it is laid out, it is not able to meet the VDOT standards for spacing. She said that with the way the townhouse units come in, VDOT said they could not make it work. She said as the Board knows, VDOT's standards are often in conflict with some of the County's Neighborhood Model Principles in terms of width, street trees, etc.

Ms. Long said that because it will be a private road, the applicant has committed to grant a public

access easement. She said everyone will have access to it, and there will be a recorded road maintenance agreement similar to what happens in many new communities, where one is not able to reconcile the Neighborhood Model Principles with the VDOT design guidelines.

Ms. McKeel said she believed this had been labeled as "C" in the diagram. She said this is one of the challenges the County is currently having at Southwood, with the roads and VDOT. She said it is a huge problem, and they have also had many concerns in the community over the years of roads not being maintained in some of the developments. She said no one can afford to redo the roads after 10 or 20 years because they are exorbitantly expensive.

Ms. Mallek asked if someone could address how the residents of the mobile home park were cared for, as there were some remarks made that struck her as odd, and she wanted to know the truth about that. She asked how the residents were notified and handled to help them find new locations.

Ms. Long said she would be happy to address this. She said this is a big question, and there have been a lot of tough questions about it. She said it is a challenge.

Ms. Long said the owner and long-time property manager, Mr. Gary Howie of Howie Properties, owned and managed the property for decades, and he had a very strong relationship with all of the residents and families who were there. She said unfortunately, he determined in 2019 that with the state of the infrastructure and some of the units there being many decades old and not up to current standards, it was no longer feasible to continue to operate the project as a mobile home community.

Ms. Long said it was put on the market for sale, and RST purchased it. She said whoever bought it would not be able to use it as a mobile home community. She said it was on septic fields and did not meet any of the current development standards. She said there was no stormwater management plan or mechanisms that applied to the property at all.

Ms. Long said that whoever bought the property was going to develop it and thankfully, RST bought it and has been committed to developing it as an affordable housing community from the very beginning. She said the first thing they did was hire Mr. Howie to be the property manager again because of his long-time relationships with the community. She said Mr. Howie wanted to do this as he knew the families and that it would be a challenge for some of them to find new housing, so he wanted to do everything he could to help them. She said Mr. Howie created a website with a list of resources for the residents including other mobile home communities that they could try to move their units to and other affordable housing communities in the County and surrounding counties.

Ms. Long said RST has allowed the residents to stay as long as they needed to in order to find new housing. She said that under state law, there is a requirement for a minimum of six months' notice before any leases end. She said from the very beginning, RST gave all the residents 13- or 14-months' notice, knowing that it would be a challenge. She said after a few months and realizing how long it was going to take to work through the review process, Mr. Copeland and his team decided there was no reason to require the residents to leave any sooner than they had to, as they were not going to be moving dirt there for another year. She said they extended the period to 18 months.

Ms. Long said RST has also been very flexible throughout the process. She said if someone wanted to leave before their lease was up, they were able to do that. She said if they needed a few more months because they were waiting for their new unit to be available, or they were trying to save money for a security deposit, or they were waiting for their mobile home mover to come and move their unit to their new place, RST gave them time and flexibility in an effort to make it as smooth as possible. She said she is sure it has been very challenging for some of the families, but RST did everything they knew to do to make it as smooth as possible.

Ms. Mallek said the unknowns are certainly numerous, as she is sure the applicant is well aware whenever they scratch the surface where there have been oil tanks buried and septic fields untended. She asked the applicant if they could give some background as far as what DEQ's requirements are, or anything else about how they will deal with all of the uncertainties and what they will find when they start moving dirt from these old properties. She said she believed this would help to reassure the neighbors and the community at large.

Ms. Long said she would make a few simple statements, but this was then getting out of her knowledge area. She said she knew the applicant did a lot of due diligence on the front end when they were considering buying the property, so they likely have test results from that process, but she would let Mr. Copeland and perhaps his construction or engineering colleagues.

Mr. Copeland said the applicant performed a Phase 1 before they purchased the property, and there was a tank that they have since remediated. He said they are in full compliance with everything that was highlighted in Phase 1 and are confident that with the remediation of the tank, from an environmental standpoint, the site meets or exceeds those standards of Phase 1. He said the applicant feels very confident with where they currently stand with the site environmentally.

Ms. Mallek said Ms. Long mentioned there was an image of the buildings with trees that might provide a different view from those that the Board had already seen, in terms of what it might look like from the entrance corridor.

Ms. Long presented an image showing the intersection of Route 29 and Ashwood Boulevard. She

said this was a fairly recent photograph and in the top right corner, there was the vantage point showing where the photo was taken. She said this was looking at the corner and the VDOT parcel, which showed the berm and what the existing condition is like.

Ms. Long presented a photo, noting that the architects from LAS helped with it. She noted how the architects ghosted in the massing of the buildings. She stressed that these buildings have not yet been designed, and this process will come later and be subject to the ARB process. She said the applicant wanted to show the relationship between the height and massing of these buildings, their location, and the trees. She said in terms of the relative height, these were ghosted in. She said she did not think the buildings will tower over the trees and dominate or impact the viewshed of the intersection.

Ms. Long presented a photo taken from Ashwood Boulevard. She said for orientation, the vantage of the photo is looking towards where the townhouses will be and the entrance. She said some of the townhouse units were ghosted in behind the trees, and she indicated to one of the corners of the five-story apartment building.

Ms. Long said she knew there were some images circulated and shown to the Board that showed a very different picture than this, where the trees had all been photoshopped out both onsite as well as in the VDOT median. She said one could see from the photo on the screen, however, that the vegetation is quite significant.

Ms. Long said one more exhibit she had showed this in a different way. She said this showed a bird's eye or overhead view, with a blue line representing the property boundaries for RST. She indicated to what is VDOT land, then to what are the Ashland townhomes. She indicated to the townhouse building that will be closest to Ashwood Boulevard, to the park area, and to the new Ashwood connector.

Ms. Long said the applicant wants to be transparent that not all of the trees will remain, but RST is committed to preserving as many as they feasibly can. She said the trees shown on the exhibit in brown are those that would likely have to be removed, in this case, to build the connection, infrastructure, and sidewalks. She indicated to a tree in the corner and explained that this would unfortunately need to be removed because it is where the sewer line connection will be made. She indicated to where, roughly, the sewer line ends. She said all of the other trees on the RST property are not planned to be taken down. She indicated to other trees that are in the VDOT right-of-way.

Ms. Long presented a photo at a different angle, showing what this would look like, which trees would go away, and the relationship of the berm there.

Ms. Mallek said this was very helpful. She said the last thing she would ask about is lighting, as she knows there are some neighborhoods, even established ones, where people wanting to be helpful have had lights on the outside of the buildings, which stay on all night long. She said when there are lots of buildings, even if low-rise or two-story buildings, if there is a light by every door that is on all night long, it does not take long before it impacts neighbors. She asked if there are plans for this or if her question was premature.

Ms. Long said she believed it was a good question and although she was not an expert on the matter, she believed that the apartment buildings, as a multifamily project, will be subject to the County's lighting ordinance or Dark Skies Ordinance and, as part of site plan review, this will be reviewed for compliance with that ordinance which requires, among other things, limits on the lumen levels and a requirement that lights be down shielded and not allow spillover of lighting. She said she was not sure if those regulations officially apply to the townhouse units, and perhaps someone in Community Development or Mr. Yaeger would know. She said this is something RST would be sensitive to as they do not want to create light pollution, but they want to have a harmonious community.

Ms. Long said she knew what Ms. Mallek was talking about as there is some of this in her own community. She said some people love the lights while others hate them, and it can be a challenge.

Mr. Reitelbach said that all of the units in this development would be required to undergo the site plan process, and as part of the requirements for final site plan, the applicant will have to show compliance with the requirements of the lighting ordinance. He said before a certificate of occupancy and the final zoning clearance is granted, the County's Code Compliance Officers would go to the site and ensure that any lighting in the development does comply with the Zoning Ordinance requirements.

Ms. Price thanked the community members who called in, sent emails, and demonstrated their concern and interest for any development in the County. She said this always helps the Board to get the full picture.

Ms. Price said to follow up on the previous occupancy of the trailer park, when she drove through there that morning, it appeared there were still two trailers with residents there, which appears to be somewhat consistent with what Ms. Long said.

Ms. Price said she had a traffic question for Mr. McDermott. She said looking at the traffic study of RST, would it be a somewhat consistent analysis in terms of percentage of vehicles that would be going north versus south on Route 29 coming out of RST, as was analyzed coming out of Brookhill which, if she recalled, about 90% would be estimated to cross over at Polo Grounds and go south on Route 29, and 10% would be going north on Route 29. She asked if this would be a somewhat consistent analysis for RST.

Mr. McDermott replied that staff did go over this and as with every TIA that staff requests, they held a meeting with the developers, traffic engineer, VDOT, and County staff to talk through all the issues of that analysis. He said as a group, they come to an agreement as to how they think the trip distribution will work out. He said that for this development, they said that 67% of the traffic would head south on Route 29, 13% would head north, 15% would go through Brookhill, and the other 5% would go to the east on Ashwood.

Ms. Price said Planning Commissioner Rick Randolph addressed much of this at the Planning Commission meeting and to follow up with Mr. McDermott, from where Route 29 North breaks off at Route 250 down towards Charlottesville all the way up to Airport Road, other than the bridge over Rio Road, she would ask if there were any pedestrian crossovers on Route 29 North where someone could go from the east to the west, or vice-versa.

Mr. McDermott replied that there a number of them. He said there is one just north of the Route 250 Bypass, located in the City at Angus Road. He said there is the Rio crossover Ms. Price mentioned, and then another one just north of RST at the Hollymead signalized intersection that allows people to get from the shared use path that runs north/south on the east side of Route 29 over to the west side so that pedestrians or cyclists can get to Hollymead Town Center.

Mr. McDermott said the County also just received funding for another crossover to be located just north of Hydraulic Road as part of the Smart Scale projects.

Ms. Price said actually then, one of the very few pedestrian crossovers on Route 29 is just shortly north of the proposed RST development.

Mr. McDermott said this was correct.

Ms. Price said to follow up on the public transit stop at RST, this would be helpful for people going north, and the question is what the availability would be of access for public transportation heading south if or when this is actually ever provided. She said she did not expect an answer to this question immediately but clearly, this continues to be a concern in planning in the County in terms of the availability to have both northbound and southbound access for people, whether they are on the east or west sides of Route 29 North, to be able to access public transportation. She said it clearly would not work if one had to simply do a loop all the way up north to the airport, then back south.

Ms. Price asked Ms. Long if she had any images that would show a line of sight for a person standing on the ground near either Forest Lakes or on Ashwood Boulevard. She said Ms. Long showed two images a few minutes earlier of the ghosted the buildings behind the trees, but she would ask if there was an image that shows what the line of sight would look like for an individual in terms of the proposed height of the buildings.

Ms. Long replied that she did. She presented a drawing with a view from Cricklewood Court, which is in the northeast corner of the property. She said these are single-family detached homes, and the image showed the relative elevation. She said it is fairly close, but RST would have a slightly higher ground elevation. She said there is about 100 feet at this location between the back of the home to the property line. She said at this angle, even though the buffer is 40 feet, because this comes at an angle, this line of sight ends up being a 45-foot buffer because it is coming diagonally through that buffer. She said there is a drive aisle, then a three-story unit on the end, transitioning to a four-story unit for the two-over-two condominiums.

Ms. Long said the drawing was prepared by Bohler Engineering to demonstrate the distance involved and the relative line of sight. She said there may be some visibility there, perhaps in the winter when the trees are not leafed out, but the applicant has worked hard to have it be distant and have as much vegetation in the middle as possible.

Ms. Price said taking a layman's glance at this drawing, the scale did not appear to be quite right. She said the first 100 feet or so appeared to be significantly longer than the 45 feet and 57 feet but otherwise, she believed this gave a sense of it. She asked Ms. Long if she had images from any other locations.

Ms. Long replied that she did. She presented a drawing of the view from the Ashland Townhouses, closer to Ashwood Boulevard. She said there is about 60 feet of dedicated open space on their side of the line between the back of the closest townhouse and the property line. She said there is the 40-foot buffer and 48 feet of drive aisle. She said this is the 88 feet that the applicant referenced as the distance the buildings are set back.

Ms. Price said this image appeared to be closer to scale than the other one. She asked what different floor plans are being offered in the apartments and townhouses; one-bedroom, two-bedroom, efficiencies.

Mr. Copeland replied that there would be a mix of one-bedroom, two-bedroom, and three-bedroom units.

Ms. Price asked if there would be any efficiencies.

Mr. Copeland replied no.

Ms. LaPisto-Kirtley said after having met at a community meeting for two hours, she did have questions that she received not only via email, but also from that meeting, that she would like to ask. She said the first question and one that everyone was concerned about is that she worked with some of the HOA board members, who wanted to know whether or not their Forest Lakes HOA-commissioned traffic study could be reviewed by the County. She said she did not know at the time and told them she would ask, and she believed Mr. McDermott would address the traffic study that was submitted by the Forest Lakes HOA so that the Board could see the difference between the two. She said it was evaluated or reviewed by Mr. McDermott, and she would ask him to present his analysis.

Mr. McDermott replied that Forest Lakes had used a consultant the County frequently works with to perform a traffic analysis predominantly focusing on Ashwood Boulevard and Route 29 in the A.M. period, which is the period when staff thinks it will be operating at the worst time. He said he did look at the analysis, and he did not dive into the actual modeling of this as he did not have the information for this or VDOT able to do this. He said looking at the results, however, he was able to note a few things that should be pointed out.

Mr. McDermott said it is true, as some have said, that the results of a TIA should not boil down to just one point such as a level of service for certain queuing length, or a time one must wait. He said they must recognize that there are many factors that go into this at all times. He said generally, what the TIA provides is an average during that peak hour. He said at times, it will be shorter and at other times, it will be longer, but they see that they are generally effective and become more effective as years go on at predicting what the length of that queue is, which is the number of cars waiting in line, or the time one must wait). He said it is true that this is never an exact science, but staff sticks with the standards that are given to them by the Institute of Traffic Engineers and by the models and must rely on those.

Mr. McDermott said the difference between the developer's analysis and the Forest Lakes analysis is that they put different assumptions in as far as how many vehicles would be loaded for the different developments during that peak hour. He said for the number of vehicles coming out of the RST development in the A.M. peak hour, they increased it by 50 vehicles, from the 100 vehicles that staff expects, from which they got the number from the ITE trip generation numbers, to 150, which significantly impacts this. He said 50 vehicles during the peak hour is a high number. He said one can imagine that if they believe 100 vehicles will leave this development during the A.M. peak hour with 370 units, to add 50 more vehicles means they are looking at something that would be more on the scale of 550 units in that development to get it up to 150 A.M. vehicles.

Mr. McDermott said this is a significant increase, and staff does not see any reason for that. He said the HOA did say that because they believe this will be used by perhaps workers who would not have traditional 9-to-5 jobs or the ability to flex time, this was the reason they thought it would have more vehicles leaving, but staff does not see this being possible. He said this is a typical apartment complex with single-bedroom units, which is why one usually sees lower numbers from multifamily units because they have one, two, and three-bedroom apartments, whereas with single-family homes, there are usually always three bedrooms, if not more, and often multiple drivers in those homes. He said there is really no reason to increase it from the 100 vehicles leaving up to 150.

Mr. McDermott said the Forest Lakes-commissioned analysis also added quite a bit more traffic coming from Brookhill, saying that it is because the County did not understand at the time they came up with the Brookhill TIA how many people would be living on the north side. He said this was not true, however, and they did generally know where people would be coming from. He said that as he told Ms. Price earlier, he thinks the 10% that staff assigned going up to Ashwood is accurate.

Mr. McDermott pointed out that in both of these cases, the 370 units that came from RST is now down to 330, so they are actually seeing fewer than what was modeled by the developer. He said staff is sure that Brookhill will not reach this size of development that was assumed when they came up with their TIA.

Mr. McDermott said there was no real reason to increase the count. He said the Forest Lakes TIA initially increased it by 28 trips but then, they also added more than that because they said they did not think a school was going to be built. He said it may be true that a school may not be imminent on the Brookhill's property, but during that TIA, staff did not give them credit for having that school there. He said staff actually assigned additional trips going to Brookhill because they had a school. He said removing that school will actually lower this number of trips.

Mr. McDermott said that between those two additional factors included in the Forest Lakes TIA, this is what showed the large increase in delay at the Ashwood Boulevard intersection. He said staff and VDOT has reviewed the TIA, and he knew that Mr. Carl Hultgren, the developer's traffic engineer, could answer specifically to this, but it met all of the requirements.

Mr. McDermott said while staff recognizes that the analysis which shows that the queue length on Ashwood in the A.M. peak hour is going to be close to 260 feet from the 190 feet it currently is, which is an 80-foot increase and a decent number of vehicles waiting, this seems like it is an accurate number, and it does not seem excessive to him. He said they assume this will take about 53 seconds for any vehicle in that queue to get through from the time it approaches the back of the queue until it gets through. He said currently, even without any Brookhill or RST, it already takes almost 50 seconds on average. He said this increase did not seem significant enough to say that this would be an unfavorable

factor.

Mr. McDermott asked the Board if there were any more specific questions about this.

Ms. LaPisto-Kirtley replied that she believed it covered it. She said she did have a number of other questions from residents. She asked regarding the stormwater runoff management how they will know if this is efficient enough to stop stormwater runoff, especially in light of climate change.

Ms. Long replied that she may ask Mr. Yauger and Mr. Rapp to join in, based on his comments. She said they are more knowledgeable on the stormwater E&S regulations.

Ms. LaPisto-Kirtley asked what protections there will be for the community.

Mr. Ryan Yauger, Bohler Engineering, said that regarding E&S and stormwater management, the applicant will be following the State's and County's guidelines and regulations. He said both have stringent code when it comes to water quality and quantity in a final condition for stormwater management as well as very protective measures for the E&S conditions during construction. He said the County is responsible for overseeing and inspecting during the construction activity, and the contractor is responsible for implementing the measures they have on the design plans to make sure that everyone is protected in the community.

Ms. LaPisto-Kirtley asked what the impact would be on schools, as the Board has heard a lot about that, and people are extremely concerned about it.

Ms. Long replied that the applicant knows schools are at capacity now. She said she knows the School Division is looking at various options, and there is a lot of uncertainty, given the issues going on with virtual learning. She said she does know that the Brookhill project having proffered land for both an elementary school and a high school, down the block, and with the relatively new opening of Center I at the old Comdial space, this has helped. She said there are some plans to open Center II across from Monticello High School, though funding could be in flux or in question.

Ms. Long said that while she is no expert on the schools, her understanding is that the School Division is looking at this very carefully and recognizes that it needs to make some adjustments in some capacity. She said the applicant pays close attention to the school capacity issues for this very reason, and the school has a very helpful formula or calculator that they use to try to make predictions as to how many school children will be living in certain communities when or if they are developed.

Ms. Long said the applicant also works with the School Division staff on how many school-aged children actually move into these apartment communities. She said they find that it tends to be fewer actually living there than the schools' projections would predict. She said this probably makes sense from the County's perspective, as they want to make sure that they are conservative in their preparation for that.

Ms. Long said the reality is that they know the School Division and County have to make some tough funding decisions on schools, going forward. She said the applicant thinks that at the end of the day, the most important thing is providing safety and housing for families and school children in the community who need them so desperately. She said this project will provide 332 units of housing in a perfect location that is very close to public schools. She said the people are there already, or they are going to come. She said perhaps they are living in the Rural Areas and need better, safer housing in the Development Area. She said this project will accommodate those families.

Ms. LaPisto-Kirtley said her next question was for Mr. Carl Hultgren. She asked if when the applicant clear cuts the property, it will cause stormwater runoff and possible damage to Lake Hollymead or the nearby water system.

Mr. Yauger said he could answer the question. He said as far as the erosion and sediment control standards through the state and the County, they are very stringent and have to deal with various sediment basins and sediment traps to trap the sediment onsite, slowly release it so that clean water will be released from the site, and not necessarily impact the adjacent property. He said that in order to accommodate the requirements for the State and for the County, the developer would have to design and build the site in accordance with state laws to protect the surrounding community, meaning there would be no impact to the adjacent properties.

Ms. LaPisto-Kirtley asked who verifies that this has been done correctly so that it would not have an impact and so the silt would be retained.

Mr. Yauger replied that it starts at a partnership with the designer in the County, from a design aspect, where there is a rigorous review of plans. He said County staff reviews to make sure that the requirements are met, and there are inspection services that the County provides when the site is under construction to ensure that the site continues to be compliant.

Ms. LaPisto-Kirtley said her next question was for Ms. Long, and she believed Ms. Long may have already answered it. She asked why the height was increased from three to four floors, or four to five floors.

Ms. Long replied that the two buildings in the middle have always been five stories. She said



there are three other buildings, two of which are the closest to Route 29, and then a third next to it. She said originally, those buildings were three stories each. She said that at the time, there were going to be more townhouse units in the back, adjacent to Forest Lakes, but after the applicant heard so many concerns at the first Planning Commission meeting about the distance of those units to the properties, the height of those units, and there not being enough open space in that area, in working with the architects, land planners, Mr. Copeland, and Bohler Engineering, the idea was to remove some of those townhouse units, about 40 units, and add more greenspace in that area.

Ms. Long said that they had to make up for that lost living space, however, so the applicant felt that the most prudent thing to do, in light of the concerns they had heard, was to shift that density away from the Forest Lakes neighbors and over to the three buildings that are closer to Route 29 and adjacent to undeveloped property. She said the difference between three- or four-story building in that location would not have an adverse impact on anyone. She said they will still be subject to the Architectural Review Board process at the site plan design stage.

Ms. LaPisto-Kirtley said another issue that she has heard from residents is that this has been rushed and that the applicant has not really met with the community on the proposal. She said the concern is that there have not been back-and-forth discussions or negotiations with community members.

Ms. Long said she was sorry that this was the perception. She said the applicant feels confident that they have met every time they have asked. She said she could say with absolute certainty that every time anyone has asked to meet with the applicant, they have done so. She said they received a number of emails and phone calls themselves over the last 15 months in connection with the project.

Ms. Long said she had a list, and though she would not hit all the points on the list, the applicant first started a community meeting on July 20, 2020, which was one of the first virtual community meetings. She said there have been five individual meetings with representatives of the Forest Lakes community, and at least three of those were with Mr. Elliff. She said one or two of them involved the applicant's traffic engineer from the very beginning, knowing that this was going to be a big concern. She said the applicant took the opportunity to walk through their traffic analysis with them at the time.

Ms. Long said they made a presentation to the Places29 CAC meeting, at the applicant's own request, to present the changes that they made to the plan. She said the applicant attended two other CAC meetings to be available to answer questions when they knew that the project was on the agenda for discussion. She said she had an in-person meeting in late May with a handful of the residents, most of whom the Board heard from that evening. She said there was also a meeting as recently as the afternoon of the day prior with some of those same members and a few new ones.

Ms. Long said that every time the applicant has been asked, they have met with the community. She said she knew that Ms. LaPisto-Kirtley had been asked to attend the meeting of the neighbors in late August and asked for the applicant to be available to attend to help answer questions, and the applicant agreed to do so. She said they were then told, however, that the applicant did not want them to attend and participate. She said this was the single opportunity where the applicant did not get to meet with the neighbors, but they were obviously happy to do so.

Ms. Long said she has also had individual phone calls with representatives of the neighborhood over the last 15 months. She said this has not been a rushed process. She said she spoke earlier about how many times the applicant resubmitted to go back through the County review process, which is an expensive and time-consuming process. She said the applicant felt very strongly, though, that they always wanted to put their best foot forward with this application, knowing it was going to be subject to significant scrutiny by the surrounding neighborhood. She said they feel like they have done everything they could and while they are not perfect, every time they were asked to meet, they have done so, and some of the meetings were initiated by the applicant.

Ms. LaPisto-Kirtley said another question, which the applicant had touched on, was that some residents question the reputation of RST as a developer and as a property manager.

Mr. Copeland asked if he could address this quickly, at the late hour. He said RST has been in business for 20-plus years and have a stellar reputation. He said they have performed these types of developments in several states along the East Coast. He said they got their start in Virginia on a preferred developer list at the Virginia Housing Development Authority which, as Ms. Long offered earlier, can help finance this project. He said they have a similar reputation with HUD and other state agencies up and down the East Coast.

Mr. Copeland said he wanted to highlight one thing: the applicant's latest project called "Main Street" ([www.mainstreetconnect.com](http://www.mainstreetconnect.com)) is a housing project in Rockville, Maryland, which is an inclusive and affordable housing project. He said it is inclusive for people with disabilities, where he had referenced earlier the applicant's commitment to that. He said from the National Apartment Association, the applicant won the New Construction Project of the Year in 2021. He said he is willing to put RST's reputation up against anyone.

Ms. LaPisto-Kirtley said the applicant already addressed the community's concern with the height of the buildings, as Ms. Price asked about the impact. She said the applicant knows that density is a real concern and asked if they could address the density issue.

Ms. Long said as was stated earlier by one of the members of the public, the proposed density is

just under 18 dwelling units per acre, or 332 units on 19.5 acres. She said the Comprehensive Plan designates this property for Urban Density Residential, which recommends a density range between 6 and 34 dwelling units per acre. She said at 18 dwelling units per acre, the applicant is well within the middle of that range. She said the applicant thinks this is appropriate, and they have successfully balanced all of the challenging factors that go into development properties.

Ms. Long said as mentioned earlier, they had to meet all the open space recommendations and recreational amenities, made sure they stayed out of the preserved slopes, and offered enough parking, sidewalks, trails, and buffers, which they volunteered. She said there is a real balancing that goes on to find the right number of units so that one can achieve all the regulations, have a viable community in terms of the numbers, but also have a high quality of life for all the residents. She said at the end of the day, RST's main focus is that they are incentivized to have a high-quality development because they want to lease these units to people.

Ms. Long said the applicant thinks the density is fine. She said they have not yet been made aware of any concerns that have been expressed about the density that either did not involve traffic or were not general concerns about the density. She said she would welcome their traffic engineer to talk about this, but at the end of the day, the applicant's traffic study demonstrates that there will not be a traffic impact of any material kind in this area. She said if one trusts this, VDOT, Mr. McDermott, and their analysis and the professional traffic engineers, she believed they could agree that there will not be a traffic impact. She said if the residents of Forest Lakes feel very strongly that this cannot possibly be the case, she would defer to the traffic engineers.

Ms. Long said putting traffic aside, she is yet to be made aware of exactly how the density creates an adverse impact on anyone. She asked if it is about the building heights, or the buildings being too close to people or visible from Ashwood Boulevard or Route 29. She said the applicant thinks that when balancing everything together, given the location of the buildings central to the site, the distance involved, the setbacks, buffers, and care that has gone into the open space, the applicant does not see that there is any impact, specifically, from the density. She said obviously, it is substantially consistent with the Comprehensive Plan regulations.

Ms. Long said if anyone had specifics, she would be happy to try to address them, but the challenge is that everyone says it is too dense and out of scale and proportion. She said the applicant disagrees.

Ms. LaPisto-Kirtley said she knew the applicant already addressed the greenspace and amenities, so she would not have them repeat this, but she did notice that the applicant had told her prior that there would be an indoor gym facility, but it was not mentioned.

Mr. Copeland replied that this was correct.

Ms. LaPisto-Kirtley said this was not mentioned when talking about the amenities.

Mr. Copeland replied that the amenities related to the interior have not been fully designed and obviously are not subject to the rezoning, but they will be substantial and that of a first-class, Class A apartment building. He said this will include a fitness room, community room, and perhaps a demonstration kitchen. He said a dog care center is important, and there is an array of things one would see in any Class-A apartment community. He said, though this one is affordable, it will still have all of those amenities as part of this community.

Ms. LaPisto-Kirtley said she had two more questions on behalf of the residents. She asked with RST's 30-year commitment to almost 60% of their complex being affordable housing, what criteria will be used in evaluating the sustainability of this project.

Mr. Copeland asked Ms. LaPisto-Kirtley if she was asking about this from a financial standpoint.

Ms. LaPisto-Kirtley replied that she was not sure and that this could be a question for staff.

Mr. Copeland said that at the end of the day, RST is a long-term, family-owned business that is very committed to their properties. He said they maintain them at the highest level, regardless of the "reputation." He said they are very confident that this project will be a valuable asset to this community for many years to come, beyond the 30 years that they are required to have for these units.

Mr. Copeland said RST runs its properties in a first-class manner and takes good care of its residents. He said they are good neighbors and are part of a community, which they strongly believe in. He said their assets (physically and otherwise) are treated exactly that way.

Ms. LaPisto-Kirtley said some have read that workforce housing is typically considered 60% to 120% of AMI, whereas affordable housing is considered under 60% of AMI, per the Urban Land Institute. She said the developer has stated a different set of criteria, 30% to 80% of AMI, with 60% anticipated as the average. She asked what criteria RST plans to set to be sure that the most underserved, less than 60%, are proportionately represented. She asked if half are affordable housing while another half are workforce housing, or what the numbers are.

Mr. Copeland replied that this 60% level is a definition of affordable housing and not workforce housing. He said this will be financed as an affordable project, meaning that it is 60% of the AMI or less.

He said there is no question that there is a range within the “and less” part, which goes down to 30% and, in some instances, 20% of AMI. He said the proposed financing for this type of project would not require the applicant to participate at lower levels than 60%; however, as part of RST’s mission and goal to provide this range of affordable housing, they would serve the community in that range, but the average would have to be 60% for it to qualify with this type of financing.

Mr. Copeland said the non-affordable rental units in this community would be above 60% and up to 120% levels, which is the definition of workforce. He said they will see an entire range of socioeconomic groups in this development.

Ms. LaPisto-Kirtley asked if Mr. Copeland was saying this was both affordable and workforce.

Mr. Copeland replied this was correct, but that the legality of it is that the 60% or less is the affordable components.

Ms. Palmer said that with all the questions about the impact to the Forest Lakes community, she was curious as to how long, approximately, the applicant anticipates the construction of this complex, if approved, to take place.

Mr. Copeland replied that he believed it would be somewhere between 14 to 18 months.

Ms. Palmer asked if when the applicant does a development like this, they ever consider phasing the development so that it has the least impact on neighbors, for instance building closest to the homes first to shield noise and activity.

Mr. Copeland replied that the applicant had not yet gotten to that detail, but the challenge of this site is the grading and stormwater management facilities that would have to go in first. He said certainly, the applicant can look at phasing it in such a way that minimizes, from the best of their ability and from a construction standpoint, disruption to the community.

Ms. Palmer said if the project were approved, this would be helpful for those people who are close by there.

Mr. Gallaway said he could be asking questions about things that could have been talked about already and asked to be reminded if his questions were redundant. He said he would start with traffic, mentioning the study that was provided by the residents. He said he appreciated Mr. McDermott reacting to this study as well as that provided by the applicant. He said these traffic studies are all engineer-based, and he asked Mr. McDermott if they take driver behavior into account or subjective elements, or factors such as queuing and the management of the lights going up and down Route 29.

Mr. McDermott replied that it does. He said the signal timing is put into the model when it is run to make sure that this is accurately accounted for, and the model accounts for any other factors that one would see because it tests itself as it runs. He said it is adapted over time to try to reflect the behavior of people in vehicles better.

Mr. Gallaway asked what would happen if the worst case, which is the residents’ study and the long queue of cars lined up, was accurate and what the County would do in response to that. He asked if they would go to VDOT and have the timing of the intersection changed, or what they would do to try to mitigate.

Mr. McDermott replied that VDOT does monitor their signals and signal operations, and if it were necessary to adjust the signal timing to give Ashwood Boulevard, the left turn, or any phase of that, they would work on that. He said the longer vehicles are stopped on Route 29, the bigger the impact because of the volume of vehicles. He said VDOT can adjust the signal timing to correct for any issues.

Mr. Gallaway said his comment was not directed at Mr. McDermott nor at Ms. Long, but moving forward, he wished that they would stop saying “no impact” when they are building a new project. He expressed there have been applications in front of the Board where the intersection was failing, a new project was going to go in, and the sentiment has been that since it will only be failing more, there will not be an impact. He said this is an impact, however, because anytime that they add people anywhere, it will have some impact.

Mr. Gallaway said if they were to start getting into degrees of two seconds, which may be negligible, this is fine and what the studies are for. He said this is emotional content for people, however, so they should stop undermining this out of the gate and insulting intelligence by saying that this is not having any impact. He said while he knew he was on a soapbox; it bothers him when things like this are said.

Mr. Gallaway said it was no offense to any engineers in the room, but he used this statement before this application: engineers would tell his child that based on all of the factors and studies, they should not be afraid of the monster under the bed. He said he is still going to leave the light on, however, because the kid is afraid of the monster under the bed. He said they must remember that there are some subjective and emotional elements of this, and so they should not undermine themselves out of the gate by saying there is no impact when they know that there will be.

Mr. Gallaway said the question, then, becomes what they will do when they see what the actual

impacts are. He said these studies can be changed based on the assumptions that are put in. He said they know this based on the fact that they have two studies showing very different outcomes, so it would far better serve them to say what they are going to do if these impacts begin to occur. He said the light timing management system will be one thing, and drivers will start changing behavior. He said when he encounters an intersection with a long queue, he finds an alternative route to figure out. He said this plays out through the Rio Road area all the time and while he is not saying this is reasonable or a legitimate thing, it is reality, and people do this.

Mr. Gallaway said in terms of the behavior element when these things are encountered, they will have to see how this plays out, but people should not expect that if the worst case does occur, they are not going to be able to do something about it. He said there are a lot of places that are failing or problematic around the County, but they are attempting to get at them through both big projects and smaller-scale ways, and it should not be any different here.

Mr. Gallaway said when the clear cutting of the site happens, there are requirements for the developer to mitigate or prevent runoff from happening. He asked what happens when this fails. He said there are plenty of examples where mitigation strategies did not work, where there was runoff or mud going into a neighborhood. He asked what happens when this occurs.

Mr. Bart Svoboda, Zoning Administrator, replied that generally, they would need to retrieve the material and restore the contaminants. He said the runoff or mud that gets onto the adjacent property would be evaluated, and the process for correcting that would begin. He said depending on the amount, they may end up leaving some of that there, and seed or straw or vegetation would be established on it rather than trying to dig it out. He said when getting into a wooded area, much of this work is done by hand. He said it is important when those things fail.

Mr. Gallaway asked if timing-wise, if a storm blows through at 2:00 a.m., or another event, it is immediately that the developer has to go in and correct the issue.

Mr. Svoboda replied that the developer is aware of the regulations as is the County's staff, including erosion and sediment control inspectors and stormwater inspectors. He said in preparation of a storm, generally, there are routine inspections that take place on the site where this is the time when a basin or trap that is half full needs to be cleaned out rather than when it is completely full. He said there is a component of maintenance to the E&S measures, which are pre- and during development and then for stormwater, post-development.

Mr. Gallaway asked Mr. Svoboda if the County inspects this.

Mr. Svoboda replied that the County has an erosion and sediment control inspector assigned to each development.

Mr. Gallaway asked if they know there is a storm system that will come in a few days, the inspector will go out to check these things days in advance if they know this.

Mr. Svoboda replied that he could not speak specifically for their routine, but the County's inspectors are experienced enough to know their sites based on their visits and communicating with their developers or RLD (Registered Land Disturbors) for those projects to make sure that all silt fence and erosion and sediment control measures are maintained properly to deal with those two- and ten-year storms, which are design criteria based on regulations.

Mr. Gallaway asked if once a development is done, and a stormwater management is in place, a similar level of inspection is done to understand where it is going and if it will handle whatever capacity is projected from the site. He asked Mr. Svoboda if he could talk about this process.

Mr. Svoboda replied that the water cannot leave the site any faster post-development than it can pre-development. He said there are several E&S (erosion and Sediment) and stormwater calculations that go into effect that take in the different drainage areas that exist on the site. He said there may be a site that actually drains in two different directions because there is a crest or a hill. He said each drainage area has its own calculator for both quantity and quality, and that quantity measurement is about the release of that water, and it has to be equivalent to pre-development release.

Mr. Gallaway said he had never actually heard that before and though it has probably been said, he was hearing this for the first time or in a new way. He asked if regarding trees and clear cutting, if the onsite activity damages off-property trees by undermining the root systems of trees off-property, the developer is responsible for putting like trees back.

Mr. Svoboda replied that this is the case for a breach or discharge, and the damage would have to be assessed. He said if they are digging up a root area, or a tree is taken out, the best he can do would depend. He said they would have to see it to see whether or not the repair of that area would be worse than the discharge. He said whether they mitigate it in stabilization measures or by repair, this will be analyzed on a case-by-case basis.

Mr. Svoboda said there have been instances in his career where people have had to go into yards with rakes and shovels to clean out the silt that has breached through a silt fence. He said as Ms. Mallek probably knew, there have been people who have gone into streambeds to clean out discharges and restore the streams. He said it depends on what happens and where it happens because what they

do not want to do is have the repair be worse than the damage.

Mr. Gallaway said he would clarify his question. He said he understood about the stormwater, but an example would be he is digging on the property as a developer, he undermines the root system of a tree that is on someone else's property, and that tree is damaged or dies. He asked if the developer is responsible for replacing that tree.

Mr. Svoboda replied that he would be careful because Mr. Gallaway was asking him to interpret civil law in relationship to trees. He said the same rules would apply to the roots that would apply to the branch overhead, and he believed that trimming and routine maintenance of that tree, though not on one's property, will be more of a civil matter than something that the County has regulation over.

Mr. Greg Kamptner, County Attorney, said generally, if one property owner damages the property of another owner, there is potentially liability and a civil lawsuit.

Mr. Gallaway said that if that occurred, then, there was a way to resolve it.

Mr. Kamptner said there is a possible remedy.

Mr. Rapp added that it is a fairly regular practice that the County works with developers to mitigate any impact on adjacent properties. He said often, developers will try to do plantings to try to offset any of the native impact if it does happen.

Mr. Gallaway addressed Ms. Long and Mr. Copeland. He said he understood they are reducing the floors on some buildings and then having the fifth story on some units. He asked how many units they were getting by having a fifth floor. He asked if the fifth floor was truly units or if it was the case that the fourth floor is the apartment and the fifth floor is its loft.

Mr. Copeland replied that the fifth floor is a half-floor. He said that on a typical floor, the hallways are double loaded, with a unit on either side. He said on the fifth floor, it is only single loaded because of the setback. He said there is a common rooftop amenity, and there are potentially large terraces for those units on that fifth floor.

Mr. Copeland said he believed that the combination of all of the floors that were added, including what he just described as half-floors, allowed the applicant to get to the density proposed, roughly 330 units on the overall site, but still losing 40 units from their original plan. He said he was sorry he did not know the exact number of units, but there becomes the economic reality of the project based on many factors, including the cost of the land and development, that it has to yield a certain density to become economically viable. He said this is where they came up to this amount of density, which included the additional floors on the buildings. He asked Mr. Gallaway if this answered his question.

Mr. Gallaway said that it helped because if there is an entire fifth floor that is the loft to a fourth-floor unit, it will look different than if it were a fifth floor made up entirely of single units. He cited The Lofts at Meadowcreek as an example, explaining that he was trying to get to what the visual would be.

Mr. Copeland replied that these would not be lofts from the fourth floor, and they are still individual dwelling units on that half fifth floor.

Mr. Gallaway said in terms of the transition area, the applicant is doing six townhome units, one floor lower, that would be on the end facing the other neighbor, with setbacks on the fifth floor. He asked about buffering between in terms of screening or trees, and whether on-property or off-property, beyond the setbacks or the floor being reduced, if there were efforts being taken to maintain that the tree buffering area.

Mr. Copeland asked if Mr. Gallaway was referring to the buffered area which is between the applicant's property and the existing townhomes.

Mr. Gallaway said yes.

Mr. Copeland replied yes.

Mr. Gallaway said this went back to his earlier question about worst-case scenarios where the trees inadvertently or purposely get taken out. He said Ms. Mallek loves to talk about big oak trees that are replaced with ones that are thinner than her wrist. He asked if this happens, what will be done to make sure that this is not the case so that there is a different mitigation.

Mr. Copeland replied that the applicant takes great care in creating a tree-safe area. He said with the assistance of staff in the process through the site plan, but also from a construction reality standpoint in the applicant's process, they have done a general, not detailed, pre-survey for this very issue, and they feel extremely confident that in their footprint, one of the slides that was in the blocked area that shows where the improvements, stormwater, parking lots, etc. will be held, they will be able to stay inside that area without damaging any other trees outside of that area.

Mr. Copeland said when the applicant gets there, physically lays it out, and stakes it out, if there are trees in the way there, they can create a tree save around that area to mitigate the loss of any trees, especially mature, substantial trees. He said the applicant has done this in the past, and they are

committed to doing that on this project.

Mr. Gallaway said he would hear a round of comments from the Supervisors.

Ms. Palmer said she believed they had thoroughly gone through this, and she appreciated the time the community put into it. She said at the end of the day, she believed the Board should approve this project. She said she knew it would be disappointing for some in the Forest Lakes community, but she thinks that the concerns have been addressed and that overall, it will be an asset to the community.

Ms. McKeel said she believes that this proposal is an opportunity, and for the community as well. She said they talk about how they are an inclusive, welcoming place to live, and this is an opportunity to create a place for people to live that have not been able to live in the community until now.

Ms. McKeel said she looked up, and Ms. Pethia shared with the Board, that there are 1,500 units (rental and for-sale) in the pipeline, leaving a gap of 7,500 affordable units needed by 2040. She said while it is nowhere near to solving the problem, it is a good start.

Ms. McKeel said there are transit studies the County has paid for that are in progress that are looking into how to provide better transit up 29 North. She said she hopes this proposal will be one of the catalysts that will encourage this workaround transit, as it is well known that more transit is needed. She said one positive in her mind to this proposal is that it will allow some people who are currently driving from distances like Greene and Fluvanna Counties to come to work to be able to live in the community in which they work. She said this is an environmental plus, a plus for their pocketbooks, and a win-win for everyone.

Ms. McKeel said she had a comment about traffic, which was more of a comment about the County's philosophy in general. She said her impression is that the County is always looking at how to connect developments, projects, and roads because offering alternate routes for transportation is a good thing. She said this is why they spent \$234 million over the last five years in creating Berkmar Drive, the Rio intersection, and all of the alternative projects. She said they insist on connectivity because as Mr. Gallaway mentioned earlier, if they provide more access points, they can spread out the traffic in a way that is much more acceptable so that there are not long queues and waits. She said they are working on connectivity, whether it be sidewalks, bicycles, or cars, as they are unfortunately in a car-centric world.

Ms. McKeel said she would like to address schools briefly. She said Albemarle County Public Schools have always been good at predicting enrollments. She said what is tricky and not so good is figuring out where the people are going to live. She said she believed Mr. Gallaway would agree with her on that, as they have watched this over the years.

Ms. McKeel said projections can be fuzzy at the individual school and development level, but currently, the Brookhill development has proffered a site for an elementary school. She said North Pointe, which is on the other side of this proposal, has also proffered a site for an elementary school. She said they all know that the biggest expense in the community for any type of construction is the purchase of the land. She said the School Division already has two proffered lands for elementary schools, and she thinks this will help to address the problem at Baker-Butler. She said while this make take a while, the land is proffered.

Ms. McKeel said she recently pulled the enrollment figures for schools, and Lakeside, the middle school in the area, is not over enrollment. She said they have a good capacity left there, and if looking at what the School Division is projecting for 30/31, it is still under capacity. She said this can change quickly on a dime, but she is not so concerned currently. She said she believed the School Division was updating their numbers and on some plans.

Ms. McKeel said they have some similar work they will be doing at the high school level with another center, and while Albemarle High School is over capacity, as the County has been aware of for many years, the School Division is currently working on a plan to free up space on the Lambs Lane campus. She said she is not a School Board member, and they do not know exactly how they are going to use it, but the Albemarle High School capacity issue is being dealt with and will be coming on board.

Ms. McKeel said she does think that in working with the School Division, they will be able to figure out the school capacity issues. She said this did not necessarily mean that everything would work with perfect timing, but they are addressing some of the concerns.

Ms. McKeel said she wanted to thank and applaud the project as she thinks it offers an option for those who live at lower-income levels to market rate. She said it provides a mixed-use community, and she thought this is what the County has been wanting for years in the area. She said they have been talking about it, this is what the rhetoric has been, and this actually provides it. She said she was thrilled.

Ms. McKeel added that she appreciated hearing from the community. She said there have been lots of emails and concerns, but she hoped that some of the good questions that were asked that evening helped the community to understand that many of these concerns perhaps have solutions and answers, and it will be a good development for the community.

Ms. Price said ultimately, she also was in favor and support of this project. She said drives along Route 29 North demonstrate that it is essentially an eight-lane highway going from Hydraulic Road to the river, and six lanes going north all the way up to the airport exit. She said it is part of the primary

development area, and when looking at the Development Area, it is the area where there should be a larger concentration of lower-cost, more affordable housing, as this is also where public transportation will be that does not exist in some of the other areas of the County. She said it makes sense that this would be the type and mixture of housing that they want.

Ms. Price said they have already discussed in other master plan areas the “missing middle” of housing, and she believes that this development actually provides a greater breadth of housing within the community, not just within the development, than they might find in other places because it does offer, as a starting point, a one-bedroom or two-bedroom apartment. She said it has townhouses. She said living next door, there are the more typical, residential neighborhoods, which will allow individuals or families to move in and have the opportunity to move up while staying within the same school area.

Ms. Price said she did listen to the concerns that the members of the community expressed, and she wanted to recognize this because everyone has concerns with their homes being their largest investment. She said this is where they want to raise their families, and they do not want to see anything that disrupts from their quiet enjoyment.

Ms. Price said she also had to look at this, though, and say that this is a substantial improvement over a trailer park and an abandoned motel. She said there is a 100-foot setback on 29 North that she thinks clearly shields it. She said she was also driving through Brookhill that day, and the four-story buildings there are not substantially different from this project. She said she thinks the setback helps improve and reduce the visibility there.

Ms. Price said with regard to the comment that the project needs more time and study, her concern is that this results in an analysis paralysis. She said there is a need to start to meet the County’s missing housing, and it struck her that this is the perfect place along the corridor where there are so many job opportunities, and as they improve public transportation up and down that corridor, it will make the quality of life much more for the people who live and work in that area.

Ms. Mallek said she appreciated what she learned from all the participants throughout this long process. She said while she was not expecting to from what she had initially heard, she has found many positives in this application, especially regarding the provision of affordable housing units with quality and upkeep required not only by the County, but by VHDA.

Ms. Mallek said that in the district she represents, she has seen many failures in the actual provision of affordable units. She said this process is so much better due to the funding as an affordable project for the wider range of income level, rather than a market rate project where a few affordable units for workforce are sold one time to a lucky buyer. She said here, there are built-in incentives that the affordable units are well done because there will be tenants needed for those 25% of market-rate units, and also for the buyers for the townhouses. She said that for the whole effort to work together, she thinks the applicant has a tremendous desire to see it go well.

Ms. Mallek said moving to sewer from septic systems and buried oil tanks is a huge environmental benefit, and she appreciates that a private investor is taking over the huge expense of doing that. She said even removing one oil tank at her father’s house was very burdensome, so she completely understands a small portion of what the applicant is having to deal with.

Ms. Mallek said she knows that transit will follow the residents, and she supports transit expansion into the County. She said this location will shorten the drive time for many individuals and also reduce those greenhouse gases of transportation in the process.

Ms. Mallek said the Board was asked to look out for the interests of neighbors, and she thinks this application does. She said it doubles the required buffer in circumstances, and it moves buildings back. She said she loves the creation of tree-saved areas, and this term appeals to her. She said the applicant has already done a tree survey to make sure that their buildings will fit within the areas that they have to protect.

Ms. Mallek said she would not be in favor of creating a compound of affordable units with few amenities of value and a little open space to kick a ball or let off steam. She said this plan, however, will be held accountable to County rules and will also provide a useful recreation site. She said the new green that was put in the center is lovely and big enough to do something with. She said the redesigned pool and workout areas are a great improvement.

Ms. Mallek said the applicant has stipulated that there will be careful protection of the mature trees and enhancement of the buffers, and that they will be good long-time owners/managers, which is very important to her, rather than a developer who will flip the property to someone else. She said she will support the proposal.

Ms. LaPisto-Kirtley said she appreciated the very long process. She said she has been listening and working very closely with the developers and the community. She said she thinks the community, unfortunately, did not get the entire picture. She said she spoke with some of the HOA board members, and they were not involved until about a couple of weeks ago. She said this is sad and has caused a lot of angst amongst the community because they have not had the time to engage with the developer. She said she has received many emails which she responded to and tried to get a level of understanding.

Ms. LaPisto-Kirtley said that like Rivanna Village, where they could have built 100 to 200 more

residences and did not, she is hoping that perhaps with this development and Mr. Copeland, while the maximum number of units they can build is 332, perhaps it will be less.

Ms. LaPisto-Kirtley said she did have an issue with the five stories because she did not want to set a precedent for this. She said everything else was fine to her, but she did have a problem with the five stories. She said she was not going to be supporting this because she hoped there would be additional time, now that the residents have found out more about what is actually involved and there could be more compromise and discussions. She said unfortunately, the clock has run out. She said there has been a lengthy discussion and many emails, but she would have liked to see the community be given more time to digest everything and hear what is actually being proposed and offered, as well as to be able to ask additional questions of the developers.

Mr. Gallaway said that in arguments against density, for people who are in less dense areas suggesting that people do not want to live in the density that is coming, they must be careful in that regard. He said he personally lives in an area where many apartment units have gone up, and they filled quickly. He said they are mixed in with residential neighborhoods that are R4 or R2, and it is working out well.

Mr. Gallaway said the question becomes whether the infrastructure is there to support the density. He said the traffic studies, depending on the different assumptions used, suggest different things. He said he is satisfied that along this corridor, the infrastructure is there and that the traffic will be manageable based on this site and the units that are coming in.

Mr. Gallaway said he believed, however, that if his assumption was incorrect and the worst-case scenarios begin to play out, the County and hopefully the developer will get involved to try to mitigate and solve an issue that comes up. He said ultimately, they will find out what the true impact is, and there will be an impact.

Mr. Gallaway said regarding rental versus homeownership, there is a need. He said there are plenty of rental units that are coming on board, and they go quickly in the area. He said they know that in the growth area, they have defined where this density should go, and the corridor moving up from Airport Road towards Ruckersville is only going to continue with more labor and employment coming in. He said this is the part of the corridor where it should be coming in, and places like this will be necessary for people to be able to move who are looking for homeownership. He said this is why some of the rental units are going so quickly.

Mr. Gallaway said regarding transit and schools, these are the two big issues where they cannot simply say they are coming. He said these are two big problems that the Supervisors need to take on. He said solving the school issue is not the responsibility of this applicant, nor staff. He said the Supervisors have to figure out how they can solve an elementary capacity issue that exists in the northern feeder pattern.

Mr. Gallaway said Baker-Butler is at the same overcapacity as is Mountainview. He said Mountainview is about to be recommended for a second huge expansion within a very short amount of time, and they are at the same capacity level as Baker-Butler. He said in looking at the long-range plan that the Long-Range Advisory Committee presented to the School Board a week or so earlier, and with them having the #3 recommended rank in the elementary school in the northern feeder pattern, this is a \$40 million estimated project. He said when they start thinking of CIP projects in the County, and big work, especially on the heels of a \$32 million Center II high school. He said this is not even getting into County projects.

Mr. Gallaway said his point is that he is thrilled to see that they have an elementary project slated for the northern feeder pattern because Woodbrook, the most recent addition in the area, is projecting that in five years, they will already be at 92% capacity, and the Urban Ring will fill that out. He said Agnor Hurt, Greer, and Woodbrook will be full, and they will be talking about what to do there. He said the northern feeder pattern schools will have to fill that in, and there is then Baker-Butler coming from the other direction. He said this is a Supervisor issue and something they must get after in their CIP process.

Mr. Gallaway said the transit issue is on the Supervisors as well. He said they have all said that when there are affordable units, in order to make it work, they have to provide some alternative forms of transportation that makes it easy or work in someone's life to get to and from the job. He said while the applicant has the bus stops there, there is nothing coming to those bus stops until they get the transit route figured out and put in. He said there are studies in place that are trying to figure this out. He said studies are great, but this is one where the whole corridor, as the density goes where it is supposed to, the transit needs to follow, and this is on the Board.

Mr. Gallaway said that at the end of the day, he had a comment/question, but it was not fair to direct it at staff. He said perhaps Mr. Walker or Mr. Richardson would want to react. He asked if this is something the County can make sure is a focus this year in the budget. He said these are big-picture matters when it comes to how they are expending funds and what is happening tax rate wise. He said schools and transit are needed in this area of the County. He said since this was such a big issue in the community, he wanted to know how these big issues will be tackled as they proceed over the next 6-8 months towards the end of the budget.

Mr. Jeff Richardson, County Executive, said Mr. Walker was also on the call and could help him with this, but several things came to mind, the first being that this Board will be participating mid-October



in the joint capital CIP five-year planning meeting with the Board of Education. He said they will be working hard to make sure they take steps to allow the schools to have adequate time to talk about the work they have been doing, which Mr. Gallaway referenced, in trying to determine their long-range needs. He said this meeting would occur in 32 days, and the Boards would be talking about their highest-priority items and bringing five-year financial planning back into focus. He said the Finance Department has been working judiciously on this.

Mr. Richardson said the schools had a strategic planning meeting in July, and they should be prepared in October to talk to the Board of Supervisors about that. He said as the Supervisors know, moving out of those discussions, they will create the momentum and clarity needed as they go into the budget process. He said they will be starting the annual budget process, and their FY 23 planning will already be underway at that time. He said they will be starting meetings with the Board in early 2022.

Mr. Richardson asked Mr. Walker if he had anything to add.

Mr. Doug Walker, Deputy County Executive, acknowledged that even as they will be considering what the implications are as they relate to the work done by the Long-Range Planning Committee with schools and using this as a foundation for understanding what the longer-term and nearer-term capital projects are, in priority order, he wanted to cite the operational impacts of those as well. He said this will also be part of their longer-range financial planning in looking at both what the capital needs are and where those needs are most important. He said he expects that growth in the Development Area is going to be driving a significant part of this discussion, but there are also operational implications. He said both these aspects will be part of conversations that are occurring in the fall.

Mr. Gallaway said he appreciated Mr. Walker responding to that question. He said due to the fact that those two particular items came up so often, he thinks they are legitimate concerns that the Board does have to figure out. He said whether or not this development happens, these are issues that the Board has heard and needs to get at. He thanked Mr. Richardson and Mr. Walker for explaining how this would play out in 2021.

Mr. Gallaway said he hoped people would stay attentive. He said people can be very attentive when projects pop up in their quick, immediate neighborhoods, but he would encourage being attentive of the bigger items and adding their feedback there as well.

Mr. Gallaway asked if Ms. Mallek had an additional comment.

Ms. Mallek said she wanted to say one thing about the fifth floor. She said that in the Crozet Downtown zone, either by special permit or special exception, the standard two to four floors can be pushed up to six. She said that in Stonefield, there is at least one six-story building now, and when there is the right location and it is interior to the project, this is where she thinks the Board has considered to see these things as appropriate in the past.

Ms. McKeel **moved** to adopt the Ordinance (Attachment F) to approve ZMA202000007 RST Residences. Ms. Price **seconded** the motion.

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

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

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**ORDINANCE NO. 21-A(7)**  
**ZMA 2020-00007**

**AN ORDINANCE TO AMEND THE ZONING MAP**  
**FOR PARCEL IDs 04600000010800 AND 04600000010900**

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2020-00007 RST Residences and their attachments, including the application plan dated June 1, 2021 and the concept plan dated June 1, 2021, the information presented at the public hearing, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-8.1, 18-19.1, and 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2020-00007 RST Residences with the application plan dated June 1, 2021 and the concept plan dated June 1, 2021.

\* \* \* \* \*

LOCATION OF SITE  
SEMINOLE TRAIL AND ASHWOOD BOULEVARD  
ALBEMARLE COUNTY, VIRGINIA



Author(s)	Year	Country	Study Design	Sample Size	Intervention	Comparison	Outcome
Smith et al.	2015	USA	Randomized Controlled Trial	1000	Hand hygiene	Control	Reduced infection rates
Johnson et al.	2016	UK	Cohort Study	500	Vaccination	Control	Increased immunity
Williams et al.	2017	Canada	Case-Control Study	200	Isolation	Control	Reduced transmission
Chen et al.	2018	China	Quasi-Experimental	3000	Quarantine	Control	Reduced spread
Miller et al.	2019	Australia	Systematic Review	N/A	Masking	Control	Reduced risk
Lee et al.	2020	South Korea	Observational Study	1500	Physical Distancing	Control	Reduced cases
Patel et al.	2021	India	Cluster Randomized Trial	800	Lockdown	Control	Reduced mobility
Nguyen et al.	2022	Vietnam	Longitudinal Study	600	Trace and Test	Control	Reduced outbreaks
Al-Sayid et al.	2023	Saudi Arabia	Case Series	150	Isolation	Control	Reduced spread
Kim et al.	2024	South Korea	Retrospective Cohort	4000	Quarantine	Control	Reduced cases
Wong et al.	2025	Hong Kong	Quasi-Experimental	2500	Masking	Control	Reduced risk
Adams et al.	2026	USA	Randomized Controlled Trial	1200	Hand hygiene	Control	Reduced infection rates
Brown et al.	2027	UK	Cohort Study	700	Vaccination	Control	Increased immunity
Green et al.	2028	Canada	Case-Control Study	250	Isolation	Control	Reduced transmission
White et al.	2029	China	Quasi-Experimental	3500	Quarantine	Control	Reduced spread
Black et al.	2030	Australia	Systematic Review	N/A	Masking	Control	Reduced risk
Clark et al.	2031	South Korea	Observational Study	1800	Physical Distancing	Control	Reduced cases
Evans et al.	2032	India	Cluster Randomized Trial	900	Lockdown	Control	Reduced mobility
Turner et al.	2033	Vietnam	Longitudinal Study	700	Trace and Test	Control	Reduced outbreaks
Phillips et al.	2034	Saudi Arabia	Case Series	180	Isolation	Control	Reduced spread
Wright et al.	2035	South Korea	Retrospective Cohort	4500	Quarantine	Control	Reduced cases
Scott et al.	2036	Hong Kong	Quasi-Experimental	2800	Masking	Control	Reduced risk
Kim et al.	2037	USA	Randomized Controlled Trial	1300	Hand hygiene	Control	Reduced infection rates
Nguyen et al.	2038	UK	Cohort Study	800	Vaccination	Control	Increased immunity
Patel et al.	2039	Canada	Case-Control Study	300	Isolation	Control	Reduced transmission
Chen et al.	2040	China	Quasi-Experimental	4000	Quarantine	Control	Reduced spread
Miller et al.	2041	Australia	Systematic Review	N/A	Masking	Control	Reduced risk
Lee et al.	2042	South Korea	Observational Study	2000	Physical Distancing	Control	Reduced cases
Patel et al.	2043	India	Cluster Randomized Trial	1000	Lockdown	Control	Reduced mobility
Nguyen et al.	2044	Vietnam	Longitudinal Study	800	Trace and Test	Control	Reduced outbreaks
Al-Sayid et al.	2045	Saudi Arabia	Case Series	200	Isolation	Control	Reduced spread
Kim et al.	2046	South Korea	Retrospective Cohort	5000	Quarantine	Control	Reduced cases
Wong et al.	2047	Hong Kong	Quasi-Experimental	3000	Masking	Control	Reduced risk
Adams et al.	2048	USA	Randomized Controlled Trial	1400	Hand hygiene	Control	Reduced infection rates
Brown et al.	2049	UK	Cohort Study	900	Vaccination	Control	Increased immunity
Green et al.	2050	Canada	Case-Control Study	350	Isolation	Control	Reduced transmission
White et al.	2051	China	Quasi-Experimental	4500	Quarantine	Control	Reduced spread
Black et al.	2052	Australia	Systematic Review	N/A	Masking	Control	Reduced risk
Clark et al.	2053	South Korea	Observational Study	2200	Physical Distancing	Control	Reduced cases
Evans et al.	2054	India	Cluster Randomized Trial	1100	Lockdown	Control	Reduced mobility
Turner et al.	2055	Vietnam	Longitudinal Study	900	Trace and Test	Control	Reduced outbreaks
Phillips et al.	2056	Saudi Arabia	Case Series	220	Isolation	Control	Reduced spread
Wright et al.	2057	South Korea	Retrospective Cohort	5500	Quarantine	Control	Reduced cases
Scott et al.	2058	Hong Kong	Quasi-Experimental	3200	Masking	Control	Reduced risk
Kim et al.	2059	USA	Randomized Controlled Trial	1500	Hand hygiene	Control	Reduced infection rates
Nguyen et al.	2060	UK	Cohort Study	1000	Vaccination	Control	Increased immunity
Patel et al.	2061	Canada	Case-Control Study	400	Isolation	Control	Reduced transmission
Chen et al.	2062	China	Quasi-Experimental	5000	Quarantine	Control	Reduced spread
Miller et al.	2063	Australia	Systematic Review	N/A	Masking	Control	Reduced risk
Lee et al.	2064	South Korea	Observational Study	2400	Physical Distancing	Control	Reduced cases
Patel et al.	2065	India	Cluster Randomized Trial	1200	Lockdown	Control	Reduced mobility
Nguyen et al.	2066	Vietnam	Longitudinal Study	1000	Trace and Test	Control	Reduced outbreaks

the authors have not been able to find any other studies that have examined the effects of a single session of a group-based, self-help, cognitive-behavioral intervention on the self-efficacy of people with low self-efficacy. The authors have also not been able to find any other studies that have examined the effects of a single session of a group-based, self-help, cognitive-behavioral intervention on the self-efficacy of people with low self-efficacy. The authors have also not been able to find any other studies that have examined the effects of a single session of a group-based, self-help, cognitive-behavioral intervention on the self-efficacy of people with low self-efficacy.

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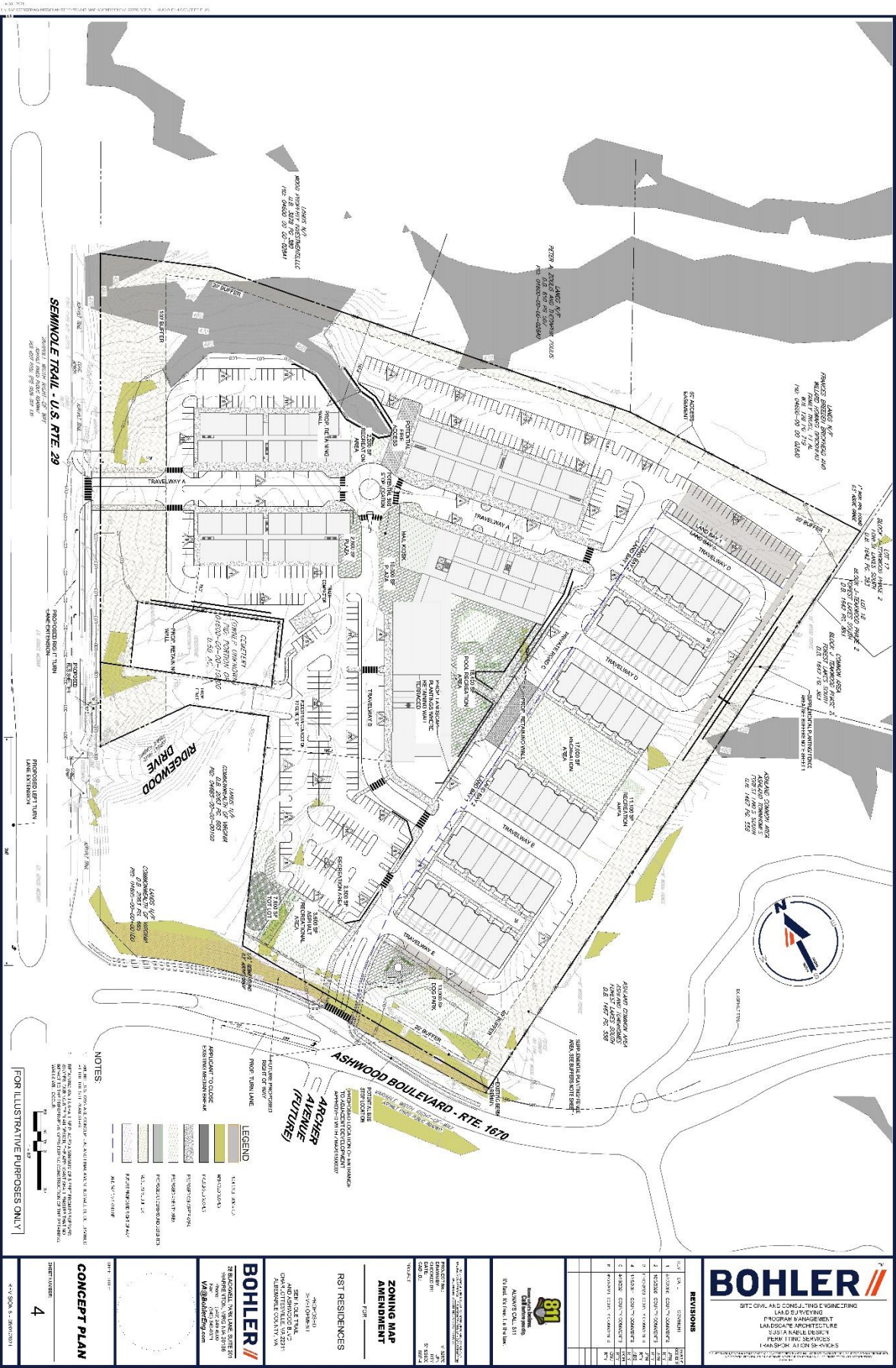
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REVISION 8 - 08/10/2021







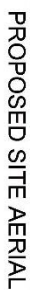
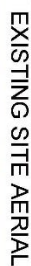
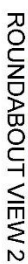












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8			



PROQUEST ID: 815127  
 DRAWN BY: JHT  
 CHECKED BY: NLT  
 DATE: 02/01/2004  
 CADLD: 02/01/2004

**ZONING MAP  
AMENDMENT**

PROPOSED  
DEVELOPMENT  
GENNOLT TRAIL  
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ALBEMARLE COUNTY, VA

**BOHLER**  
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## S. C. HILL SITE VIEW EXHIBIT

REVISION 6 - 06/01/2001





EXISTING TREES  
PROPOSED TREES

**ILLUSTRATIVE CONCEPT PLAN**  
**RST RESIDENCES**  
Seminole Trail and Ashwood Boulevard, Charlottesville, VA 22911  
6/1/21  
LAS # 11463-00

**LORD  
AECK  
SARGENT**  
A KATERRA COMPANY





**CONCEPTUAL PLAN - AMENITY SPACES**  
**RST RESIDENCES**  
Seminole Trail and Ashwood Boulevard, Charlottesville, VA 22911  
6/1/21  
LAS # 11463-00







- PROPOSED TREES
- EXISTING TREES
- BUFFER

**CONCEPTUAL PLAN - BUFFERS**  
**RST RESIDENCES**  
Seminole Trail and Ashwood Boulevard, Charlottesville, VA 22911  
6/1/21  
LAS # 11463-00







Ms. McKeel **moved** to adopt the Resolution (Attachment G) to approve SE202000003, the special exception request, subject to the conditions attached thereto. Ms. Mallek **seconded** the motion.

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

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

**RESOLUTION TO APPROVE A SPECIAL EXCEPTION FOR  
SE2020-00003 RST RESIDENCES**

**WHEREAS**, upon consideration of the Transmittal Summary and Planning Commission Staff Report prepared in conjunction with the SE2020-00003 RST Residences application, which was filed in connection with ZMA2020-00007 RST Residences, and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.19(5) and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the requested special exception:

- (i) is consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of County Code § 18-8;
- (ii) is consistent with planned development design principles;
- (iii) would not adversely affect the public health, safety or general welfare; and
- (iv) would satisfy the public purposes of the original regulation to at least an equivalent degree by the modification.

**NOW, THEREFORE, BE IT RESOLVED**, that in association with SE2020-00003 RST Residences, the Albemarle County Board of Supervisors hereby approves the special exception to modify the setback requirements for buildings in the development, subject to the conditions attached hereto.

\* \* \*

**SE 2020-00003 RST Residences Special Exception Conditions**

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the application plan entitled, "ZMA2020- 00007 Zoning Map Amendment for RST Residences," prepared by Bohler, dated May 18, 2020, last revised June 1, 2021.
2. The setback requirement is waived for the fourth story of each of the six townhouse structures as shown on the plan and identified in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020- 00003," dated May 18, 2020, last revised June 1, 2021.
3. The setback requirement is waived for the fourth story of each of the multi-family apartment buildings identified as Buildings 2, 3, and 4 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021.
4. The setback requirement is waived for the fourth story of each of the two wings of the central multi-family building identified as Building 1 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021.
5. The fifth story of each of the two wings of the central multi-family building identified as Building 1 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021, must be stepped back. For calculation of the setbacks, the frontage for the North Wing of Building 1 is Travelway A, as identified on the application plan entitled, "ZMA2020-00007 Zoning Map Amendment for RST Residences," prepared by Bohler, dated May 18, 2020, last revised June 1, 2021, and the frontage for the South Wing of Building 1 is U.S. Route 29.

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Non-Agenda Item. Recess. The Board recessed its meeting at 9:46 p.m. and reconvened at 9:53 p.m.

(Ms. Palmer left the meeting at 9:46 p.m.)

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**Agenda Item No. 19. Public Hearing: SP202100009 Natural Burial Ground at Panorama Farms.**

PROJECT: SP202100009 Natural Burial Ground at Panorama Farms

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 04500000000100 (portion)

LOCATION: 3550 Reas Ford Lane, Earlysville VA 22936, at the western entrance of the parcel

PROPOSAL: The applicant is requesting approval of a special use permit to establish a cemetery on approximately 20-acres of a 706.40-acre parcel.

PETITION: Cemetery uses are allowed by special use permit under Section 10.2.2(32) of the Zoning Ordinance. No new dwelling units proposed.

ZONING: RA, Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

OVERLAY DISTRICT: AIA, Airport Impact Area

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots) within Rural Area 1 of the Comprehensive Plan.

The Executive Summary forwarded to the Board states that a public hearing for special use permit SP202100009 was conducted by the Planning Commission at its meeting on July 6, 2021. The Commission voted unanimously (6-0) to recommend approval of SP202100009 with revisions to the conditions recommended by staff.

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

During staff's presentation, two corrections to the staff report were identified. The first acknowledged that there are four locations along Reas Ford Lane, leading to the subject property, where the travel-way width is less than 20 feet, not two areas, as the stated in the staff report. The second correction was to the conditional language offered by staff. This change was superseded by revised conditions recommended by the Commission.

Three members of the public spoke during the public comment portion of the meeting. Speakers primarily focused on concerns related to the impacts of this use on Reas Ford Lane, including the length of narrow road portions, erosion on private property, and the number of cemetery visitors utilizing the public road.

The Commission's discussion on the special use permit covered many topics, such as the operation of the green cemetery (including site entrances, hours, attendance, and burial area density), how the proposed use would integrate with other special uses on the property, and aspects around Reas Ford Lane. The Commission also considered and discussed changes to the special use permit conditions recommended by staff. These changes included a request from the applicant to amend bullet point four (4) under Condition #1, to allow the 20-acre burial area to shift into the northern corner of the property, along Reas Ford Lane, if Virginia Code requirements are met. Additional changes included the specification of set hours for the maintenance and operation of the cemetery uses (Condition #2) and a revision to Condition #5 that expanded the restriction of plastics for memorials to include any non-biodegradables. This last revision, in particular, acknowledges the environmentally-oriented nature of the proposed green cemetery use and further enhances the favorable factors identified in the staff report.

The Commission voted unanimously to recommend approval of the proposed special use permit with revised conditions. The County Attorney's Office and Community Development Department staff have further revised the conditions recommended by the Planning Commission to provide additional clarity and enforceability.

Iterations of the recommended conditions are provided below for ease of reference. (Strikethrough text indicates language that has been removed. Underlined text indicates language that has been added.)

#### CONDITIONS INITIALLY RECOMMENDED BY STAFF

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plans titled "Green Cemetery Footprint – aerial – v 4.5" dated April 21, 2021 and "Green Cemetery Parking and Pavilion – v 3.0 100ft scale" dated March 13, 2021. To be in general accord with the Conceptual Plans, development must reflect the following essential major elements:
  - Burial areas
  - Parking areas
  - Potential future pavilion location
  - A 250-foot setback of the burial areas from the dwelling unit on TMP 31-21E.

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

2. Maintenance and operation, including the digging of graves, of the cemetery is restricted to day light hours only.
3. Burial services cannot be scheduled to occur at the same time as special events associated with SP201100027.
4. Only biodegradable materials may be interred into the ground during burials. Non-biodegradable materials include embalming fluids, non-biodegradable caskets, and concrete vaults.
5. No plastic memorials are permitted.
6. No individual grave will be marked by a fixed, upright marker, monument, or other structure.
7. The footprint of the pavilion structure will not exceed 2,000 square feet.

#### CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plans titled "Green Cemetery Footprint – aerial – v 4.5" dated April 21, 2021 and "Green Cemetery Parking and Pavilion – v 3.0 100ft scale" dated March 13, 2021. To be in general accord with the Conceptual Plans, development must reflect the following essential major elements:
  - Burial areas
  - Parking areas
  - Potential future pavilion location

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

2. Maintenance and operation, including the digging of graves, of the cemetery is restricted to the hours of 8:00 a.m. – 5:00 p.m. only.
3. Burial services cannot be scheduled to occur at the same time as special events associated with SP201100027.
4. Only biodegradable materials may be interred into the ground during burials. Non-biodegradable materials include embalming fluids, non-biodegradable caskets, and concrete vaults.
5. No non-biodegradable memorials are permitted.
6. No individual grave will be marked by a fixed, upright marker, monument, or other structure.
7. The footprint of the pavilion structure will not exceed 2,000 square feet.

#### STAFF REVISIONS TO CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the Conceptual Plans titled “Green Cemetery Footprint – aerial – v 4.5” dated April 21, 2021 and “Green Cemetery Parking and Pavilion – v 3.0 100ft scale” dated March 13, 2021. To be in general accord with the Conceptual Plans, development must reflect the following essential major elements:
  - Burial areas
  - Parking areas
  - Potential future pavilion location
  - Seventy (70) foot setback along Reas Ford Lane

Minor modifications to the Conceptual Plans that do not conflict with the above elements may be made to ensure compliance with the Zoning Ordinance.

2. Maintenance and operation of the cemetery, including the digging of graves, are restricted to the hours of 8:00 a.m. – 5:00 p.m. only.
3. Burial services may not occur at the same time as special events associated with SP201100027.
4. Only biodegradable materials may be interred into the ground during burials. Non-biodegradable materials include embalming fluids, non-biodegradable caskets, and concrete vaults.
5. No non-biodegradable memorials are permitted.
6. No individual grave will be marked by a fixed, upright marker, monument, or other structure.
7. The footprint of the pavilion structure will not exceed 2,000 square feet.
8. Uses permitted in accordance with this application must maintain a fifty (50) foot setback along the northern property boundary.

The revised conditions now recommended by staff include setbacks to be preserved in the event that the 20-acre proposed cemetery use is permitted to shift into the northern corner of the property in the future. The applicant has indicated that it is agreeable to these revised conditions.

Staff recommends the Board adopt the attached Resolution (Att. D) to approve SP202100009, subject to the revised conditions attached thereto.

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Ms. Mariah Gleason, Senior Planner II, said the subject property’s proposed special use is a 20-acre proportion of Tax Map Parcel 45-1, which is 706.4 acres in size. She said the location of the 20-acre portion was identified on the map on the screen by the yellow star. She said TMP 45-1 is located in the Rural Area, west of the Charlottesville-Albemarle Airport, southwest of Earlysville Business Park, and north of the South Fork Rivanna River Reservoir.

Ms. Gleason said the 20-acre portion of the property, which was highlighted on the map shown in light yellow, is located at 3550 Reas Ford Lane, which is about half a mile from the intersection of Reas Ford Road. She said other properties located on Reas Ford Lane are primarily Rural Area residences.

Ms. Gleason said the applicant is requesting a special use permit request for some interior uses. She said the applicant is specifically seeking to establish a green cemetery, which is defined as a cemetery in which everything in the ground is biodegradable. She said unlike a conventional cemetery, there is no embalming, no metal caskets, and no concrete vaults. She said above-ground green internment sites are usually marked with flat, natural field stones or native plantings. She said plastic memorials are typically prohibited in green cemeteries.

Ms. Gleason said development associated with this use includes designated parking areas, two entrances (one of which currently exists), and a potential future pavilion.

Ms. Gleason said staff reviewed the special permit request, and the proposal is in compliance with Virginia state code requirements, which generally guide the establishment and operation of cemeteries, including perpetual maintenance, as well as Albemarle County Code.

Ms. Gleason said staff’s presentation to the Planning Commission focused on Reas Ford Lane, the road serving the proposed use because this was a concern for several surrounding community

members. She said Reas Ford Lane is a public road that is approximately 1 mile in length, with the proposed use located towards the midpoint. She said the road is an unimproved gravel and dirt road that serves 19 residences, five of which are located past the proposed use.

Ms. Gleason said concerns regarding the use of Reas Ford Lane were primarily around the quality and maintenance of the road and potential traffic. She said there are four locations along the road where the travel way is less than 20 feet. She said that as a public road, Reas Ford Lane is maintained by VDOT. She said VDOT, in their review, did not note any necessary improvements; however, should there be a need in the future for minor improvements along the road, the County is able to work with VDOT to have those improvements made.

Ms. Gleason said Fire Rescue also reviewed the proposal and had no concerns about the ability to provide emergency services. She said a review by Transportation Planning staff noted that vehicular trip generation estimates related to this proposal were based on conventional cemeteries of a much larger size, not green cemeteries specifically, and not at this size. She said as such, it is likely that estimates provided by staff are higher than what may be seen in actuality. She said it was also beneficial to note that traffic associated with this use would be gradual in nature, as burials occur over time and not all at once.

Ms. Gleason said a nearby barn on the property, located south of the proposed burial areas, was approved in 2012 for special events by SP2011-27. She said this permit approved the use of Reas Ford Lane for 24 events per year of up to 200 attendees each. She said acknowledging that the roadway was deemed sufficient by that permit for 200-person events, staff concluded that the traffic impact associated with this use would not be substantially detrimental; however, staff included Condition #3 to prohibit special events and burial events from occurring simultaneously.

Ms. Gleason said there will be additional opportunities to evaluate traffic associated with this use in the future. She said one will be when the potential future pavilion is developed, and the site plan will be required at that time. She said another opportunity will be if the proposed use seeks to expand beyond 20 acres.

Ms. Gleason said that in summary, staff found the following factors favorable to the proposal, including that the proposed use will offer a service that is not currently available in Albemarle County and that income from this use will help support the preservation of farm and agricultural property.

Ms. Gleason said one unfavorable factor was identified: that the proposed use will generate additional traffic on Reas Ford Lane.

Ms. Gleason said to preserve the factors that were found favorable, staff recommends the following conditions. She said as noted in the transmittal summary to the Board, the conditions presented reflect recommendations provided by the Planning Commission and additional revisions recommended by the County Attorney's Office and Community Development's Zoning and Planning Divisions. She said the applicant has indicated that they are agreeable to these revised conditions.

Ms. Gleason said the Planning Commission voted unanimously to recommend approval of the proposed special use permit.

Ms. Gleason concluded her presentation and offered to answer questions from the Board.

Ms. McKeel admitted that she did not know very much, if anything, about natural burial grounds like this. She said she is excited about it, and she thinks it is fascinating. She said people will obviously purchase the burial sites, and she was trying to figure out how this would work. She asked if with a regular cemetery, a couple could buy several plots or the number and size of plots they would need.

Ms. Gleason replied that this would be an operational question. She said a body can be wrapped in shrouds or cremated, but she would defer to the applicant on those questions.

Ms. McKeel said it was not that she was against this at all, but she was trying to figure out exactly how it works.

Ms. Gleason asked Ms. McKeel if she was referring to how bodies are interned into the site.

Ms. McKeel said there were no markers.

Ms. Gleason said this was correct. She said they are lined out and then, GPS is used to establish where someone is. She said this helps people visiting the sites of their ancestors, which is always allowed by Virginia state code. She said the GPS point accesses their record.

Ms. McKeel said one would then be able to purchase one to two plots as a gravesite.

Ms. Gleason said as indicated by the applicant, the burial areas would be less dense than conventional cemeteries, where 1 acre is about 1,000 plots. She said this would be more along the line of 1 acre with 300 to 400 plots, which is much less than a conventional cemetery.

Ms. McKeel expressed that this answered her questions.



Ms. Gleason said the applicant may be able to answer more questions.

Ms. Price said as the applicant would address, there would be no headstones, plastic memorials, or metal-lined caskets, and it is not as dense as a conventional cemetery. She said she had no questions and sees this as a great benefit to bring to the community.

Mr. Gallaway invited the applicant to speak for 10 minutes.

Mr. Chris Murray, a member of the Murray family and co-owner, along with his seven siblings, of Panorama Farms. He said they are seeking approval for a natural burial ground at Panorama Farms, otherwise known as a green cemetery. He said the Board saw the application and the conditions, as well as a good synopsis of how a green cemetery is defined, so his intention was to present a bigger context.

Mr. Murray said that in the U.S. now, there are two mainstream options for the disposition of a human body: a conventional burial, and cremation. He said a natural burial ground introduces a third alternative. He said natural burials are the current practice for most of the rest of the world. He said as the Board heard a letter from the Congregation Beth Israel, the Jewish community as well as most Native American communities currently practice green burials in the U.S.

Mr. Murray said that embalming was not common until the Civil War, when it was necessary to return bodies of fallen soldiers to Pittsburgh and Birmingham. He said since then, embalming in cemeteries has become the standard in the U.S. He said green burials, therefore, are not very common. He said according to the Green Burial Council, as of June 2021, there were 333 in the U.S., two-thirds of which are hybrid cemeteries, which are conventional cemeteries with a green component.

Mr. Murray said one reason they are relatively rare is that green burials are not for everyone. He said natural burial puts the family much closer to the process, where some people do not want to be. He said it gets the family more involved in what is called "death care." He said many families find that it is more in line with how they live their lives nowadays. He said they come away with a deep sense of meaning, having been part of something that is not consumer driven. He said many report it has a profound effect in enabling them to send off their loved one.

Mr. Murray said the scale is generally smaller. He said the services are generally smaller, simpler, and more intimate, with fewer attendees than one would find in conventional internments.

Mr. Murray said there are a myriad of benefits and that he would go through a few of them. He said first, thinking globally and acting locally, natural internments are better for the planet. He said Scientific America magazine cites jaw-dropping statistics for conventional cemeteries, which involve almost 1 million gallons of embalming fluid; millions of exotic wood, copper, bronze, and steel caskets; and tons of reinforced concrete, all of which goes into the ground.

Mr. Murray said it would seem that cremation would be a more responsible alternative, but it consumes a lot of fossil fuel and emits 600 pounds of carbon dioxide per procedure. He said as for air pollution, bodies contain dioxin, lead, and mercury. He said that for the planet, green cemeteries may be the ultimate recycling program.

Mr. Murray said secondly, it is better for the immediate environment. He said the applicant believes that the success of a natural burial ground can be measured by how well it blends into the landscape and by how little one notices it. He said conventional cemeteries, on the other hand, are manicured landscapes, prominent tombstones, and plastic flowers often set in bronze markers. He said the grounds are heavily mowed with heavy equipment, and they literally use chemical fertilizers and pesticides. He said the environmental impact is considerable compared to the green alternative.

Mr. Murray said third, it is better for Albemarle County. He said there are only three non-hybrid green cemeteries in Virginia, with the closest about 75 miles away. He said this would be the first one in Albemarle County, and it meets both the letter and the spirit of the Rural Area District in the Comprehensive Plan. He said the applicant believes the revenue from these 20 acres will help them preserve the farm in this Rural Area and keep it in open space, undeveloped for generations. He said development, selling off 20 one-acre lots, is about the only alternative that future generations might have to preserve the land as open space.

Mr. Murray said his family has been stewards of this land and are committed to doing everything they can to preserve it. He said this project continues that stewardship.

Mr. Murray said that Jim and Bunny Murray, his parents, moved to the area in 1953. He said farming was as difficult then as it is now. He said he thinks it broke their hearts in the early 1980s when they had to sell almost 200 acres to educate eight children. He said the Graymont subdivision next door is the result of that. He said the family continued to farm until 1997, when they had to conclude that farming was not sustainable. He said they sold the cattle and pivoted to a compost operation, to holding wedding events, to adding mountain bike trails. He said today, they continue to host intercollegiate and scholastic cross-country running events.

Mr. Murray said now, the applicant seeks to establish a natural burial ground. He said that like previous initiatives, the applicant thinks it is a creative and pragmatic approach to avoid selling more land, as his parents had to, in order to sustain the farm. He said the hope is that Panorama Farms can become even more of a community-focused resource than it is today, and it can remain in open space for

generations. He said in fact, they are delighted that a fourth generation is now living on the farm, and they hope for many more in the future.

Mr. Murray said in summary, a green cemetery will continue his family's legacy of environmental stewardship. He said it will pay to preserve open space that is truly sustainable, and they hope to do so for generations. He said finally, a natural burial ground will give Albemarle County residents a third option: a natural returning of the body to the earth from which it came.

Ms. McKeel said she believed her question was answered, but she was trying to figure out if a person would buy a plot or two just as they would at a regular cemetery.

Mr. Murray replied this was correct. He said the overall density could be in the neighborhood of 400 burials per acre. He said conventional cemeteries are 1,200 to 1,800 burials per acre and in the middle of Brooklyn, they are 2,500 burials per acre. He said this would be far less dense. He said a family would purchase a plot, just as they would at a normal cemetery, and that plot would be approximately 5 feet by 10 feet. He said where it would be and how it would be laid out are all operational considerations that the applicant would have to get to.

Ms. McKeel said she knows that in some cemeteries, because they are running out of property, they have begun stacking, and she was trying to figure out how this would work, out of curiosity, as she was not familiar with this concept.

Mr. Murray said he could virtually assure Ms. McKeel that there would be no stacking, but with this said, there is some precedence in the United States for the right to bury in a spot being limited to 75 years or three generations. He said this, too, is an operational issue because the cemeteries that he is aware of that do this will offer a discount to a family that will permit those burial rights to disappear in 75 years so that someone else could be there. He said the applicant has no intention of doing this but at the moment, he could not say that they would not because this is an operational matter. He said if the demand were there, they would probably make it available.

Ms. McKeel thanked Mr. Murray for giving her a better understanding.

Ms. Mallek said she personally was not offended by layering at all, having been to Glasnevin in Ireland, where for a thousand years, they have been burying in the same 50 acres. She said there must be 10 layers, and all the stories one can read are magnificent.

Ms. Mallek said she thinks the proposal is grand, and being in the neighborhood, she would congratulate the applicant on this great idea.

Ms. Price said Mr. Murray was so eloquent in his description, and it was a pleasure to meet with him a number of weeks ago to actually walk some of the land and see what his family has done over the generations to be able to maintain that. She said that evening, the Board talked about the acquisition of conservation easements and an expense to the County for that, whereas here, the applicant came up with an innovative way that allows the maintaining of the rural property without the expense to the County. She said to her, it makes perfect sense that this would be a leasehold for a term of years rather than a fee simple acquisition because after a few years, there are very few people who will be looking for a particular grave, in any event.

Ms. Price said she has researched this for a number of years, and she truly believes that this is the way to go. She said she thinks conventional cemeteries are a long-term, permanent misuse of land and that this proposal is a much more sustainable way both locally and for the environment.

Ms. LaPisto-Kirtley said it was a pleasure going out to meet Mr. Murray and walking the area. She said she thinks this is a wonderful project, and she commends Mr. Murray on using it in such an innovative way.

Mr. Gallaway said he had questions, but he would hold until after the public comment. He opened the public hearing.

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Mr. Blaze Gaston said he lives near Earlysville in the White Hall District. He said he has known Mr. Murray and the rest of his extended family for 45 years. He said he knows them to be a family with extraordinary vision, compassion, and honesty. He said these qualities will be very much needed in order to make this green cemetery become a reality and to last for perpetuity. He said that while the initial design and building of the cemetery will be a major project, he suspects that the planning and work to keep it going will be a challenge as well.

Mr. Gaston said he and his wife have reserved spots there for their bodies when the time comes. He said he trusts that the Murray Family and their descendants will keep their commitments and that the cemetery will flourish for generations.

Mr. Gaston said the Murrays are making great efforts to keep Panorama Farm from being developed and to keep it so that their descendants will be able to keep it a wonderful open space.

Mr. Gaston said that to this end, this endeavor must be financially sustainable. He asked the Board to look at this proposal carefully and be very careful in any requirements they make rather than

overburdening the applicant with costly obligations.

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Ms. Leslie Middleton, 374 Shepherd's Ridge Circle, Rio District, said she was speaking to heartedly endorses the proposal to create a natural burial ground at Panorama Farm. She said there are so many good reasons for approving this low-impact proposal. She said this will provide an alternative burial option for people in the community who are eager to find a final resting place for their own family's or friend's body once they have passed on. She said the creation of this natural burial ground will contribute to protecting a significant area of land to keep it perpetually in a state free of development.

Ms. Middleton said this mode of burial is about as natural as it gets. She said bodies buried in this way will decompose thanks to all the microbes and other organisms that will be doing the work, in contrast to energy and resource-heavy alternatives such as cremation and more modern burial practices.

Ms. Middleton said these burials, by their very nature, are respectful. She said this alternative is in complete alignment with the sense of honoring people and respecting the earth from which everyone comes and will return.

Ms. Middleton said she is personally very excited about having this option in the County, and she urged the Board to approve the special use permit.

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Mr. Gallaway closed the public hearing. He said the applicant was welcome to make any responses to the public comments.

Mr. Murray said he was eternally grateful and appreciated the comments.

Mr. Gallaway said out of some of the correspondence he received, everyone is generally in support of the project. He said Mr. Murray probably heard what was a rigorous conversation about traffic, which is the main impact or concern. He said he did not necessarily agree that there was a condition that the Board could get at that would limit this, but he did recall the day that he and Ms. Mallek met Mr. Murray, when they walked and started to understand the project, this type of burial did not seem to be something that would draw large crowds to one individual event. He asked Mr. Murray if he could speak to this.

Mr. Murray replied that he made contact with 10 green and hybrid cemeteries in the Southeast, in five different states, and he spoke to the operator and asked them about the number of attendees they have, how big the services are, and how often they have them. He said he actually made available in the application a spreadsheet of all those comments. He said the average number of services is one per week, and the average number of attendees are 13 per service. He said this is the best data that he has. He said visitors, on average, are about eight per week.

Mr. Murray said he did not have data for the number of attendees, visitors, or services for conventional cemeteries, but he could say anecdotally from several of the hybrid operators who have a green component at a conventional cemetery report that the green portion's services are much smaller, more intimate, and quieter.

Mr. Gallaway thanked Mr. Murray for this. He said regarding the traffic concerns, if for some reason the road needed maintenance, or the capacity of the road needed to be addressed because the volume would get to that point, he would ask Mr. McDermott what would be done. He asked if this were something they would have to bring up with VDOT to address any capacity issues.

Mr. McDermott replied this was correct. He said it is an unpaved road, and the County can always put in a request to have VDOT do maintenance on that road. He said they could probably widen some small sections as long as they are within the bounds of the current easement, but it would be minor maintenance issues. He said he did review the data on traffic generation that Mr. Murray submitted, and he agrees that it does not seem as if this will be a significant traffic generator, so he was not concerned about that.

Mr. Gallaway said it will certainly be less than a wedding, as a wedding will draw more people. He said this is a completely different situation.

Mr. Gallaway said his question was not one he anticipated having to ask, but someone did ask about pet burial. He asked if this is something that would be allowed. He said he did not know if the person were asking because they were for or against it, but he would ask Mr. Murray if this was something he has come across in his research of natural burial in terms of people wanting to bury their pets with them, and if this is allowed or not allowed.

Mr. Murray replied that there are cemeteries that allow pets to be buried nearby, and some even allow pets with the interred. He said he sees this as an operational issue. He said the only thing that would contribute to the applicant's decision to do it or not would be that some faiths take a very dim view of mixing animals with people in the same area. He said the applicant would not want to offend any faiths, and so they would do this appropriately. He said this is an operational decision, and they have not gotten there yet.

Mr. Gallaway said his next question was probably an operational question as well, but a resident

asked about renewable lots. He asked Mr. Murray if he could speak to the idea of renewable lots.

Mr. Murray replied that he was not sure he knew what this meant. He said he assumed that it meant if a plot could be recycled after a certain amount of time. He said this, too, is an operational decision, and in some ways, it is a marketing decision because the cemeteries that he is aware of that do allow a time limit or release of the plot after a certain amount of time allow a discounted charge when they sell the rights to bury in that plot.

Mr. Gallaway said his last question was not something Mr. Murray could speak to as far as 10, 30, or 50 years down the road, but whether the project is approved or not, people are thinking about the other possibilities for development. He said they are wanting to understand what is feasible and perhaps not what is in the vision. He said if there was some other use that was not by right, the applicant would have to come back for a special use permit, and he wanted to confirm that the by-right uses are fine in an agricultural area, but anything that is outside of the by-right use would have to come through, just like this one did, in the special exception process.

Mr. Murray replied that he could say that the premise behind the whole initiative is to create a revenue source that is environmentally sensitive, and he hopes that for generations, this will prevent them from having to sell land in order to develop it. He said they have no plans to do residential development on the property.

Mr. Gallaway said in terms of other types of events, while the applicant could not see perfectly into the future, this idea came as one that they used on this side of the land. He said he could not imagine that with this use in place, then a wedding event and the other items the farm does, there would be a lot of land left to do anything else on this side of the property. He asked the applicant if they have had other considerations or thoughts that they would be willing to share to put minds at ease that there are things other than residential uses to keep the farm viable.

Mr. Murray replied that they will continue farming to the extent that they can. He said they currently make hay on this property itself, and they will continue to do that. He said they have other initiatives, such as hunting rights on the farm.

Mr. Murray said it is a challenge to keep a farm in open space, and while the applicant hopes that this would be all that they would need to do, they are pragmatic and recreative, and they are committed to open space.

Mr. Gallaway thanked Mr. Murray for answering the questions. He said the questions were asked in a very respectful matter, with those people trusting that things will be taken care of and wondering about what happens down the road. He said he appreciated Mr. Murray's willingness to speak to that.

Ms. Price said because the body is not embalmed, she would presume that it is more likely to be a shorter distance in period of time between death and burial in the green cemetery than in the more traditional cemetery, when the body is embalmed, and they may lay in state for an extended period of time. She said if a burial is not done sooner, there would be some sort of refrigeration costs or other things. She asked if her assumption was somewhat correct.

Mr. Murray replied that it is correct. He said funeral homes now are realizing that offering a la carte services is advantageous and offering refrigeration between the time of death and time of disposition is one thing that they offer.

Ms. Price said as a result of the COVID pandemic and deaths, they have seen refrigeration being used quite often. She said also as mentioned, because there is not embalming, lead-lined caskets, or other costs, green burial would be significantly less expensive than the more traditional burial or cremation.

Mr. Murray replied that he could not say one way or another, but he could say that there is no expensive casket or concrete vault. He said that with those costs out of the way, it is likely to be less expensive. He said again, this is operational, and the applicant has done pro formas, but it is dependent on so many factors. He said he could say that it would probably be less.

Ms. Price said she did not mean to come across as asking Mr. Murray to price out his services, but it was more of a general question. She said she has done a lot of research on this over the years. She said part of the reason she was asking those questions is that one of the concerns that had been raised was with regard to the size of crowds that may show up and traffic impact. She said to the effect that if the burial is taking place sooner rather than later after a death, then it is more likely that the majority of the people who may be in attendance are already geographically local as opposed to traveling across the country on relatively short notice. She said it is likely that there would be smaller crowds.

Mr. Murray said this was correct.

Ms. Price said she is totally in support of it, and it is a great benefit to the community. She said Mr. Murray must also feel good about the person who called in and said how well he and his family are held in high regard in the community.

Mr. Gallaway **moved** that the Board adopt the Resolution (Attachment D) to approve SP202100009, subject to the revised conditions attached thereto. 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. Price.

NAYS: None.

ABSENT: Ms. Palmer.

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**RESOLUTION TO APPROVE  
SP202100009 NATURAL BURIAL GROUND AT PANORAMA FARMS**

**WHEREAS**, upon consideration of the staff report prepared for SP 202100009 Natural Burial Ground at Panorama Farms and the attachments thereto, including staff's supporting analysis, the information presented at the public hearing, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(32) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves SP 202100009 Natural Burial Ground at Panorama Farms, subject to the conditions attached hereto.

\* \* \*

**SP202100009 Burial Ground at Panorama Farms Special Use Permit Conditions**

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the Conceptual Plans titled "Green Cemetery Footprint – aerial – v 4.5" dated April 21, 2021 and "Green Cemetery Parking and Pavilion – v 3.0 100ft scale" dated March 13, 2021. To be in general accord with the Conceptual Plans, development must reflect the following essential major elements:

- Burial areas
- Parking areas
- Potential future pavilion location
- Seventy (70) foot setback along Reas Ford Lane

Minor modifications to the Conceptual Plans that do not conflict with the above elements may be made to ensure compliance with the Zoning Ordinance.

2. Maintenance and operation of the cemetery, including the digging of graves, are restricted to the hours of 8:00 a.m. – 5:00 p.m. only.
3. Burial services may not occur at the same time as special events associated with SP201100027.
4. Only biodegradable materials may be interred into the ground during burials. Non-biodegradable materials include embalming fluids, non-biodegradable caskets, and concrete vaults.
5. No non-biodegradable memorials are permitted.
6. No individual grave will be marked by a fixed, upright marker, monument, or other structure.
7. The footprint of the pavilion structure will not exceed 2,000 square feet.
8. Uses permitted in accordance with this application must maintain a fifty (50) foot setback along the northern property boundary.

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

Ms. Mallek asked the Board to think about whether they wanted to send a letter to Daniel Kerry, Secretary of Human Services in Virginia, asking for some more leadership on COVID matters. She said they see that their own Health Department is having a terrible time doing what they need to do because the state is not able to do what they are supposed to do. She said it is a general frustration she has had for two years now.

Ms. Price reminded the Board and community members that the following Monday was the Scottsville Town Council meeting. She said herself and County staff, along with representatives from

CenturyLink, will be there to talk about broadband difficulties in Southern Albemarle.

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Agenda Item No. 21. Adjourn to September 27, 2021 at 6:30 p.m., an electronic meeting pursuant to Ordinance No. 20-A(16).

At 10:39 p.m., the Board adjourned its meeting to September 27, 2021 at 6:30 p.m., a joint Community Advisory Committee meeting, 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 homepage.

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Chair

Approved by Board
Date: 08/02/2023
Initials: CKB