



# Albemarle County

## Legislation Text

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**File #:** 19-360, **Version:** 3

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**AGENDA DATE:** 6/19/2019

**TITLE:**

Performance Agreement Among the County, the Economic Development Authority, and Habitat for Humanity

**SUBJECT/PROPOSAL/REQUEST:** Approval of a Performance Agreement Among the County, the Economic Development Authority, and Habitat for Humanity

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Shifflett, Nedostup, Pethia

**PRESENTER (S):** Greg Kamptner

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** 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 700 to 800 unit, mixed income, mixed-use development, removing all 341 mobile homes and replacing them with a variety of housing unit types including site-built homes.

On October 5, 2016, the Board of Supervisors adopted a resolution supporting a collaborative redevelopment process with Habitat for Southwood (the "Collaboration Resolution"(Attachment B)). On September 8, 2017, the Board's work session on its Strategic Plan included a discussion of Southwood. At its January 10, 2018 meeting, 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 agreed to contribute \$675,000 to Habitat in two installments. The purpose for the County's contribution to Habitat was to assist Habitat in its costs to prepare and submit a complete rezoning application for Phase 1 of the redevelopment of Southwood ("Phase 1"). The rezoning application was submitted to the County, and is identified as ZMA 2018-00003 ("ZMA 2018-03"). Phase 1 pertains to approximately 32.5 acres within Southwood. The total developable acreage within Habitat is approximately 80 acres.

The Board and the Planning Commission held a joint work session on ZMA 2018-03 on August 7, 2018. Most recently, the Planning Commission held a work session on ZMA 2018-03 on June 4, 2019. Public hearings on ZMA 2018-03 before the Planning Commission and the Board are tentatively scheduled for July 23, 2019 and August 21, 2019, respectively.

As an extension of the Board's October 5, 2016 Collaboration Resolution, County staff has been meeting with Habitat representatives to develop terms by which the County would provide financial support for the

construction of affordable dwelling units within Phase 1. The Collaboration Resolution states that “strategic investments in Southwood are intended to result in significant returns including, but not limited to, high-quality affordable housing units, additional employment opportunities, increased tax base, and reduction in the high demand for County services,” and that “the Southwood redevelopment project represents an essential public/private partnership opportunity that is consistent with the Comprehensive Plan and the County’s broader strategic goals, the success of which is greatly influenced by the extent and quality of active engagement between representatives of Habitat and representatives of the County, including County staff.” Lastly, the Board resolved in the Collaboration Resolution that “the effective redevelopment of Southwood according to the core values of non-displacement and sustainability is a critical component of successfully working with a concentration of the County’s most vulnerable population that could serve as a blueprint for future revitalization and redevelopment of the County’s aging suburban infrastructure.”

The proposed Performance Agreement (the “Agreement”) is the culmination of these meetings and discussions.

**STRATEGIC PLAN:** Revitalize Aging Urban Neighborhoods.

**DISCUSSION:** Habitat for Humanity is a 501(c)(3) charitable institution that is eligible to receive contributions of public funds appropriated by localities pursuant to Virginia Code § 15.2-953. In addition, the Board is enabled by Virginia Code § 15.2-1205 to give County funds to the EDA, and the EDA is authorized by Virginia Code § 15.2-4905(13) to give funds to any corporation for the purposes of promoting economic development. The County’s contributions in FY 20 and subsequent fiscal years would be subject to appropriation by future Boards.

The following is a summary of the proposed Agreement (Attachment A):

- **The Property:** 32.5 acres composed of Tax Map Parcels 07600-00-00-051A0, 09000-00-00-001A0, and 090A1-00-00-001E0. These parcels are located in an Opportunity Zone.
- **The Project:** Habitat has a rezoning application pending to rezone the 32.5 acres composing Phase 1 to the Neighborhood Model District. Habitat intends to develop a mixed income, mixed use, development on the Property in which safe, clean, stable, affordable housing will also be provided for rent and for purchase by persons of various income levels. Habitat proposes to create 75 Habitat-built or Habitat-contracted affordable dwelling units (“ADUs”) homes in Phase 1, Block A, for sale or rent, with the possibility of an additional 80 or more Low Income Housing Tax Credit or other ADUs in Block B. Non-displacement of the current Southwood residents is a major element of the Project.
- **Public and Private Investment:** Habitat states that the total public and private investment in Phase 1 will be approximately \$94,000,000 and that the total public and private investment for the entire Southwood redevelopment will be approximately \$250,000,000.
- **Maximum County Contribution:** \$3,200,000, in a combination of periodic contributions as milestones are reached, and the rebate of real property taxes collected.
- **The Key Recitals:** The key Recitals are:
  - Recital 3 identifies those parts of the County’s Comprehensive Plan promoted by the Project.
  - Recitals 6 and 7 state the animating public purposes of the Agreement and summarize the County incentives to achieve the animating public purposes.
  - Recital 10 summarizes the relationship between affordable housing and economic development.
  - Recital 11 disassociates the Agreement from the pending rezoning (though the Agreement is of no effect if the rezoning is not approved).
  - Recital 12 states the enabling authority for the County and the EDA to enter into the Agreement.

- **Prerequisites to County Funds Transferring:** Section 4(A) provides that before any County funds (lump sum contributions or real property tax rebates) transfer to Habitat, Habitat must satisfy the County that the Project is economically viable, based on specific information required to be provided by Habitat.
- **“Lump Sum” Fund Transfers from the County to Habitat, Through the EDA:** Section 4(B)(1) delineates the lump sum transfers from the County to Habitat that may reach \$1,800,000 if Habitat reaches all of the identified milestones. Section 4(B)(3) requires that, aside from the first \$100,000 transfer which may be used for planning work and applications, all other transfers be applied only to actual ADU construction.
- **Real Property Tax Rebate Transfers from the County to Habitat, Through the EDA:** Section 4(C) states that the County will transfer to Habitat the equivalent of up to \$1,400,000 in real property taxes collected from the Property over the first 10 years of the Project. Section 4(C)(3) establishes that the County will transfer 100% of the real property taxes collected through Calendar Year 2024, reduced to 50% thereafter. Section 4(C)(5) requires that these transfers may be applied only to actual ADU construction, then to Habitat debt to construct those ADUs, then to be deposited in an escrow account to be applied only to actual ADU construction in subsequent phases of Southwood’s redevelopment.
- **Protecting the County’s Contributions:** Numerous provisions are included in the Agreement to protect the County’s contributions:
  - Section 4(D) authorizes the County to suspend transfers if Habitat is not in compliance with any term of the Agreement.
  - Section 4(E)(1) identifies eight circumstances when Habitat must return transfers to the County in their entirety (e.g., the \$300,000 transferred if LIHTC credits awarded must be returned if those credits are later voided or those ADUs are not occupied before June 30, 2027).
  - Section 4(E)(2) identifies two circumstances when Habitat must return transfers to the County on a prorated basis when the number of ADUs fall short of the minimum required in the Agreement (e.g., \$20,000 for each ADU less than the 75 Habitat-built or Habitat-contracted ADUs agreed to).
  - Section 4(F) authorizes the County to record an instrument against any portion of the Property to secure the return of County transfers if Habitat fails to make a timely return.
- **Habitat’s Obligation to Provide ADUs:** Section 5(A) requires Habitat to provide a minimum of 75 Habitat-built or Habitat-contracted ADUs within the Project. Section 5(B) requires Habitat or a third party to construct 80 or more LIHTC ADUs within the Project, provided that if credits are not awarded in the 2020 application cycle, Habitat must diligently pursue until June 30, 2021 the construction of 80 or more LIHTC or other ADUs within the Project. Section 5(C) requires Habitat to ensure the long-term affordability of ADUs within the Project for up to 40 years.
- **Other Habitat Obligations:** The other provisions within Section 5 impose a number of other obligations on Habitat, including the following:
  - Section 5(D) requires Habitat to diligently fundraise until the Project is 100% funded
  - Section 5(E) requires Habitat to develop and implement a non-displacement plan that must be submitted to and approved by the County’s Housing Planner.
  - Section 5(F) requires Habitat to provide a housing mixture plan showing a mixture of owned and rented housing for a range of area median income levels from 20% AMI and up; the housing mixture plan must be submitted to and approved by the County’s Housing Planner
  - Section 5(G) requires Habitat to develop and implement neighborhood design guidelines consistent with the Comprehensive Plan and the Master Plan; if not addressed in the rezoning, the guidelines must be submitted to and approved by the County’s Planning Director.
  - Section 5(H) requires Habitat to develop and implement minimum external standards (e.g., roof

pitches, window types, building materials) for ADUs to ensure they blend with market rate units; the standards must be submitted to and approved by the County's Planning Director.

- Section 5(I) requires Habitat to requires Habitat to develop and implement minimum internal standards (e.g., minimum square footage, kitchen features); the standards must be submitted to and approved by the County's Housing Planner
  - Section 5(K) requires Habitat to have a professional staff in its employment or under contract with the skills, experience, and capacity to successfully complete the Project; the professional staff must include, at a minimum, a fundraiser and a project manager/developer with experience
- **Other Provisions in the Agreement:** Section 6 provides that the Agreement is contingent upon the Board's approval of ZMA 2018-00003 by June 30, 2020. Section 7 addresses the possibility of non-appropriation by the Board in future years. Section 9 is labeled "Miscellaneous" and addresses a range of issues typical in agreements.

**BUDGET IMPACT:** Funds for the County's possible financial contribution in FY 20 pursuant to the Agreement are available in the Housing Fund in the FY 20 Budget and would be appropriated at the agreed upon intervals when Habitat reaches required milestones. All of the County's financial contributions are subject to non-appropriation by the Board.

**RECOMMENDATION:**

Staff recommends that the Board adopt the Resolution (Attachment B) to approve the Agreement.

**ATTACHMENTS:**

- A - Performance Agreement
- B - October 5, 2016 - Collaboration Resolution
- C - Resolution Approving Performance Agreement