

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 1, 2023 at 1:00 p.m. in Lane Auditorium on the Second Floor of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA 22902.

BOARD MEMBERS PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J.S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, and Ms. Donna P. Price.

ABSENT: Mr. Jim Andrews.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Steve Rosenberg; and Clerk, Claudette Borgersen.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:01 p.m. by the Chair, Ms. Donna Price.

Ms. Price said Albemarle County Police Sergeant Angela Jamerson and Officer Andy Muncy were present at the meeting to provide their services.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price stated that for that day's meeting, there was a temporary change to the Zoom link for virtual participation, and for the February 15 meeting, a permanent change to the Zoom meeting link would occur. She said that after the change to the meeting link for the February 15 meeting, the link was not expected to change. She said that community members were advised to go to the Participation Guide for Public Meetings on the Albemarle County Board of Supervisors webpage to access the correct Zoom link.

Ms. Mallek **moved** to adopt the final agenda as presented.

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

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

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

Ms. LaPisto-Kirtley said that yesterday, she participated as a judge for the County-wide elementary school spelling bee. She said that it was an honor to be a part of the event.

Ms. Price said that she just received notification that Mr. Lindsey Dorrier, Jr., who served for 12 years on the Board, recently passed away. She said that he was born in August 1943 in Scottsville, where his mother was a teacher at Bellfield School and his father ran a local Ford dealership, the Bruce Dorrier Motor Company. She said that he was raised in Scottsville, attended local public schools, graduated from St. Christopher School of Trinity College, then enlisted in the Army where he graduated from infantry officer candidate school and served as military intelligence.

Ms. Price said that he returned to attend the University of Virginia Law School and pursued his career as a lawyer, then as an elected official. She said that he was a reserve officer in the Army Judge Advocate General's Corps and served his local community for many years. She said it was with great sorrow that she announced his passing, and she thanked him and his family for their many years of dedicated service. She said that the Scottsville Facebook page had more information about Mr. Dorrier's funeral, which would be held at Scottsville Methodist Church, but she was unsure of the date of his burial.

Ms. McKeel thanked Ms. Price for sharing that information. She asked if staff could track that information and share it with the Board.

Ms. Price said that she could forward the relevant information to the Board members.

Ms. Mallek said that she and her siblings attended school with Mr. Dorrier and his siblings and knew his family well. She said that his family supported Albemarle County in many different ways, and she appreciated them all.

Ms. Price said that Mr. Dorrier was a true public servant.

Ms. Price stated that she and Mr. Andrews attended the VACo (Virginia Association of Counties) Chair and Vice Chair Conference in Richmond. She said that the attendance was disappointing, which was likely due to the event being scheduled three weeks earlier in the year than it usually was, and many localities had not yet had their organizational meetings to choose their Chairs and Vice Chairs. She said

nonetheless, it was a good opportunity to be with other counties and to see the differences in challenges faced by other local communities.

Ms. Price said that she was on the Virginia Council on Women, and that the previous week, she was invited to and attended a presentation by the American Council on Growth. She said that at the end of their Board meeting, she would share some of the slides from that with the Board as they discussed some of the factors affecting the economy on international, national, state, and County levels.

Agenda Item No. 6. Proclamations and Recognitions.
Item No. 6. a. Proclamation Celebrating Black History Month.

PROCLAMATION CELEBRATING BLACK HISTORY MONTH

WHEREAS, February 2023 marks the 97th anniversary of Historian, Carter G. Woodson's Dedication in promoting the achievements of Black Americans and people of African Descent; and

WHEREAS, February 2023 marks the 47th anniversary of the federal recognition of Black History Month; and

WHEREAS, Albemarle County celebrates the wisdom of civil rights leaders and community builders this month (and every day); and

WHEREAS, Albemarle County seeks to acknowledge and recognize Black Americans in the local workforce and community who contribute much time and service to enhancing the well-being of all residents.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby honor and celebrate Black History Month as an opportunity for all County residents to recognize and support the social, physical, and cultural contributions of Black Americans, and to take meaningful actions to create a more equitable and inclusive community for all.

Ms. Price **moved** to adopt the proclamation celebrating Black History Month and read it aloud as a motion.

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

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

NAYS: None.

ABSENT: Mr. Andrews

Mr. Jesse Brookins, Director of the Office of Equity and Inclusion, thanked the Board for having him accept the proclamation, which was a significant achievement to acknowledge the contributions of Black Americans locally and nationally. He said that as he was there to receive their acknowledgment, he wanted to ask Mr. Samuel Spencer to speak, as he most appropriately embodied the proclamation in his contributions to the local community.

Mr. Brookins said that Mr. Spencer currently served as a self-sufficiency program manager with Albemarle County's Department of Social Services (DSS) and had been employed with Albemarle County DSS since 2014. He said that he currently oversaw mandated and non-mandated employment service programs in Albemarle County. He said that under the umbrella of self-sufficiency also resided Virginia's initiative for education work, employment and training program, childcare subsidies, services, and Virginia Career Works satellite office in Albemarle County Center.

Mr. Brookins said that additional committees and initiatives that Mr. Spencer participated in were Virginia Career Works Committee, Blue Ridge Area Coalition for the Homeless (BRACH) Board, Virginia Department of Social Services Professional Development Committee, Virginia's Eviction Reduction Program Committee, Reentry Regional Partnership Committee, Albemarle-Charlottesville Restorative Justice Advisory Council, Equity and Inclusion Belonging Facilitator, and Advocacy for Refugee Resettlement.

Mr. Brookins said that Mr. Spencer was also a basketball official, volunteer youth football coach, and high school basketball coach. He said that Mr. Spencer had worked for the past few years behind the scenes to give others the opportunity for success, empowerment, and confidence to thrive in a community that they all knew, loved, and appreciated. He asked that Mr. Spencer receive the proclamation.

Mr. Samuel Spencer, DSS, thanked the Board for the opportunity. He said that he wasn't one for the spotlight, but he believed that when people had the opportunity to receive their flowers, they should, and the opportunity before the Board was a great one. He said that he accepted this because he knew the work was hard, but they were all servant leaders, and being a leader meant that they had to serve those in the community. He thanked the Board.

Ms. Price said that it was clear from Mr. Spencer's actions that he was a leader and well-recognized. She asked him to approach the dais to accept the proclamation.

Ms. LaPisto-Kirtley said that she read in the newspaper that morning a quote from Ms. LaPierre, who was writing a book about the Murray family. She said that Ms. LaPierre lived in Virginia and her family was denied access to check out books from a library because of their race in the 1950s. She said that they fought it and they achieved more equity. She said that Ms. LaPierre had a quote that said, "Progress doesn't happen just because time passes, progress happens when people take action to make things better."

Ms. Mallek said that today had helped her to remember the communities around their rural areas that were getting so much more awareness from the rest of the public. She said that photographs of the older communities and churches helped to tell those stories more fully now, and it was a great accomplishment that she hoped would continue in the future.

Mr. Gallaway said that the proclamations that came before the Board often triggered reflection for him, and he was reminded of Dr. Frank Henderson, who passed away in January 2004, and was honored in a memorial in February 2004. He said that Dr. Henderson was a law school and political science professor at Ohio University in Athens, where he attended as a theater arts and drama major. He said that one of his friends introduced him to Dr. Henderson, and he convinced Dr. Henderson to allow him into some of his classes.

Mr. Gallaway said that Dr. Henderson was one of the first graduates of Little Rock Central High School. He said that Dr. Henderson had had his throat partially crushed during a civil rights protest, which resulted in a distinctive, raspy voice. He said that he had a class called "Intellectual Heroes and Despicable Devils," and set people up based on their political ideologies and demanded that they talk through their issues and perspectives in a respectful way and back it up with readings, resources, and citations for the arguments. He said Dr. Henderson also introduced him to Thurgood Marshall's book, "Dream-makers, Dream-breakers," and he looked forward to revisiting that this month.

Ms. McKeel said that she was pleased that they could celebrate Black History Month each year. She said that it caused them to reflect, and Black history was full of acts to celebrate and sadness. She said that in reflecting on it today, she hoped they were all aware of the recent activities that happened in Memphis, Tennessee.

Ms. McKeel said that she would read the joint statement from the community police chiefs for the record. "We are profoundly saddened by the actions that led to the untimely, senseless, and brutal death of Tyre Nichols at the hands of five former members of the Memphis Police Department. Once again, police officers around the globe who hold dear their oath of office and worked diligently to preserve public trust and confidence have been irreparably harmed by the callous actions of others who abandoned their commitment to peace, justice, and humanity. The disgusting actions we witnessed in this video are not indicative of the hardworking men and women of our agencies.

The work our officers do every day matters in the lives of others. We must set out to do good, act with measured restraint, honor our commitment to the constitutional principles that guide our work, and always, always, respect the sanctity of human life no matter what. It is the undisputed truth that our profession has not always been on the right side of justice. The actions of these five former members show that we have a lot of work to do. The leaders of the three law enforcement agencies in this region are committed to building back the community's trust to uphold the oath we hold so dear."

Ms. McKeel said that this was signed by Timothy Longo, University of Virginia Chief of Police, Michael Kochis, City of Charlottesville Chief of Police, and Sean Reeves, Albemarle County Chief of Police. She said that given today's circumstances, and what was being seen in the press, this was worthy of reading into the formal record.

Ms. Price said that she was proud to be a member of the local chapter of the NAACP (National Association for the Advancement of Colored People), as well as to serve on its executive committee. She said that last week, she attended the MLK (Martin Luther King) Community Commemoration. She said that Dr. Yaba Blay was the keynote speaker, and her remarks clarified why it was a commemoration and not a celebration, because they could not celebrate a battle that had not yet been won. She asked why they offered and approved resolutions such as this one, which commemorated Black History Month. She said that that had been on her mind since listening to Dr. Blay. She said that the history of America since 1619 was one of prejudice and lawful discrimination.

Ms. Price said that 70 years ago this year, the federal government instituted legal requirements that prohibited the employment gay, lesbian, bisexual, and transgender individuals in the federal government, which was then followed up with state laws and corporate policies. She said that this past weekend, antisemitic flyers were distributed around Charlottesville.

Ms. Price said that 16 states were pushing "don't-say-gay" bills and other censorship laws. She said that in the state of Florida, A.P. (advanced placement) courses were offered in a multitude of subjects such as European history, art history, Japanese language and culture, German language and culture, Italian language and culture, Spanish language and culture, but according to their governor, they could not take an A.P. course in African-American studies. She said that the governor of Florida also recently announced his plans to defund diversity, equity, and inclusion programs across Florida universities.

Ms. Price said that racial, ethnic, religious, sexually explicit humor was never okay, and when she was a young adult and they took efforts to bring that to an end, people claimed that they were being politically correct, and the term used today was “woke.” She said that it was simply treating people with dignity and respect.

Ms. Price asked again why they offered and approved resolutions such as this one that commemorated Black History Month. She answered that they did so because they believed in Albemarle County and respected the dignity and worth of every member of their community.

Ms. Price said that they demonstrated that respect through not just their words, but through their actions in support of diversity, equity, and inclusion, which they did to achieve that more perfect union, and because they held these truths to be sacred and undeniable, that they were all created equal, and that every member of their community should have the actual opportunity for life, liberty, and the pursuit of happiness.

Ms. Price said that she was proud to be a member of this community and this Board, which honored their Black brothers and sisters and the contributions that they have made, continued to make, and would make in the future to make this a better country.

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

Mr. John Hall said that he would like to comment on annexation and that his comments were directed toward Ms. Mallek, who had done a lot to make information about annexation available. He said that he would first annex at UVA, which was supported by the statute, as pointed out in the literature. He said no one had appreciated it but himself, and that Weber, a lawyer in town, said that the statutes were historical landmarks and could not take them away.

Mr. Hall said that regarding the idea of annexation of UVA, which was called for by the statute at some point, they had always been given a free ride. He said that they should annex UVA and tap into the billions of dollars they had and would not have to raise taxes, and potentially could lower taxes and give tax rebates. He said that UVA would finally pay its fair share. He said that he would take the money to invest in CAT (Charlottesville Area Transit) all the way to the airport. He said the roads were all there. He said the shelters along the way would have stadium seating and dome lights and would be powered by solar or wind energy. He said that he had invented a “life pipe,” that was used to clean the lungs of carbon pollution using activated charcoal.

Mr. Hall’s time expired and Ms. Price asked him to submit any further remarks to the Clerk to be added to the record.

Ms. Margaret Maupin, Jack Jouett District, said that she had been a resident of Free Union since 1970. She stated that she believed in the 2nd Amendment, and in no way did her comments she offered put into question the right of any citizen to own firearms. She said that she was speaking in response to a letter that she had read about a person who had applied for a major home business dealing in firearms. She said that she was opposed to the process that was delineated in Ordinance 5.2(A), opposed to the approval of this particular application, and opposed to even the concept that they in Albemarle County would allow personal homes or rental homes to alter, make, or store firearms in such dwellings as part of a business.

Ms. Maupin said that her concern was quite simply safety. She said that she suggested to the Board that they already had commercial businesses in the County that addressed the needs of firearms, and which as commercial businesses, would have procedures in place that they could be monitored for safety, for example, Toby’s Pawn Shop. She said that one of the problems with the ordinance was the intersection at Free Union Road and Woodlands, and the area around that intersection was a dangerous place. She asked what stipulations must be met by VDOT for Ordinance 5.2(A), and said that she attempted to reach VDOT, but the person in charge had not been available.

Ms. Maupin said that letters to adjacent landowners were only sent at the tail end of the application process and asked why those letters could not be sent when the application was received by the County, thus allowing any concerned citizens to have sufficient time for research and to respond appropriately. She said that undoubtedly, most people would have little if any interest with regard to most of these home business requests. She asked if letters of notification were sent after all the boxes were checked, whether citizens’ comments had any weight or bearing at all.

Ms. Maupin asked if it was fair that letters of notification were sent only to adjacent neighbors, and did they think that others who lived near the applicant may have concerns. She said to consider a bullet from the most popular handgun, a 9mm gun, could travel 1.2 miles—and rifle bullets even further—according to the NRA (National Rifle Association). She asked if they should not notify residents in that radius. She asked why background checks were not a part of any process for a person applying to deal in any form or fashion of firearms.

Ms. Maupin asked what the involvement was of the Bureau of Alcohol, Tobacco, and Firearms (ATF), an entity she had been unable to reach after many attempts. She said they should keep this

beautiful County as safe as they could. She said that they had commercial businesses that dealt in firearms, and they should allow them to do this kind of work. She asked the Board to not allow homeowners in any area of the County to have firearms businesses.

Mr. Neil Williamson, President of the Free Enterprise Forum, said that on the agenda that day, there would be a great deal of conversation about housing affordability. He said that he encouraged the Board to utilize the calculator function in their cell phones as they calculated the costs and benefits of each proposal. He said that about two years ago, at the adoption of Housing Albemarle, this Board and staff indicated that the plan would not work absent buy-in from the development community.

Mr. Williamson said that the development community wanted to be a partner with Albemarle County to reach their housing affordability goals. He said that early in the Housing Albemarle process, several members of the development community met extensively with Albemarle staff and provided a litany of incentives that could make the mandated 20% affordable housing in new projects work, to no response. He said that the Free Enterprise Forum asked publicly and privately to engage in the conversation, but this past Friday, when the agenda was released, they saw the latest proposal.

Mr. Williamson said that in reviewing the proposal over the weekend, he was reminded that housing affordability was a community goal and should be supported by the entire community, not only the development community. He said that he was also reminded of the Hippocratic Oath taken by doctors, which was first to do no harm. He said that this incentive package, as written, did not meet either the goal of Housing Albemarle or the Hippocratic Oath.

Mr. Williamson said that if this limited proposal went forward as drafted, the vast majority of Albemarle County's new residential projects would go forward by right or not go forward at all. He said that the Free Enterprise Forum hoped that this Board's genuine desire to move something forward did not preclude them from doing the work necessary to cooperatively develop a solution that would incentivize the development of affordable housing.

Non-Agenda Item. **Discussion:** Home Occupations

Ms. McKeel asked Mr. Richardson to address the concerns from the public about the home occupation and the gun ordinance.

Mr. Jeff Richardson, County Executive, asked Mr. Walker to address this issue.

Mr. Doug Walker, Deputy County Executive, said that Mr. Svoboda could speak with more clarity about the particular home occupation and the home occupation procedures.

Mr. Bart Svoboda, Zoning Administrator, said that in the last 10 years, there had been about 3,779 home occupation applications, but it was possible that not all of those had been issued permits. He said that since January 1, 2023, they had done 19 home occupations. He said that this particular one was still pending but was included in that number of 19. He said there were around 370 per year, and that included communication with business licenses to ensure the correct measures were in place.

Ms. Price asked if the ATF would be involved in a sale or manufacturing business involving firearms.

Mr. Svoboda said yes, any gunsmith home occupation was reviewed by ATF, and there was an agent specifically assigned to the area that they worked with. He said that out of all the 3,700 home occupations, they had done 12 gunsmiths in that time, and a majority of those were in the rural areas.

Ms. Price said that communication that was sent out earlier in the day had not yet been reviewed by all of the Board members; however, they could state that the County had received communications from members of the community, and the County was examining this thoroughly as they would with any application, but because of the community interest, it was important to emphasize that the County was examining it from the standpoint of the application as well as whether there should be any revisions to any ordinance, because that was something they should always be evaluating.

Mr. Svoboda said that based on some of the comments received, they were also looking at the process. He said that the home occupation process said that they had to notify adjacent property owners, so they used the same criteria as for all other applications to determine who the adjacent property owners were. He said that with that, there was a minimum five-day notice before they approved the application, but it normally took 30 days, but based on the comments received, the letter was unclear. He said that they were looking into the process to ensure they were clear about what they were doing.

Ms. Price said that it could be summed up to say that it was still in process.

Ms. Mallek asked when the ATF review happened in the application process.

Mr. Svoboda said that they operated in concert, but ATF would not issue a federal firearms license (FFL) without permission from the County. He said that it was not an unusual process for them with state or federal agencies, and because of those forms, similar to one they did last week for air quality, was that they had to have a local governing body or appropriate staff sign off on those things prior

to the state or federal licenses being issued. He said that they were brought into the process almost immediately upon submittal of the application once reviewers realized the application was for a gunsmith.

Ms. Mallek asked if background checks were part of what the ATF reviewed, and if everyone had access to this business.

Mr. Svoboda said that under the code of Virginia, zoning did not have the authority to do background checks, but it was a part of ATF's regulations and licensing as far as he knew.

Ms. Price said that she knew that background checks had to be conducted as a part of this process, but she was unsure if one must be done for every member of the household.

Ms. Mallek asked if there would be ongoing supervision of a business from ATF.

Mr. Svoboda said that ATF had changed their regulations a bit, but for the most part, they performed inspections for federal firearms licensed folks. He said that the gunsmiths that they generally dealt with were upfitting, customizing, or restoring firearms. He said that it was more of a craftsman business that was run in that way.

Ms. Mallek asked if there were stipulations about using bona fide parts. She said that she had read that there was some method of creating parts for these weapons using a 3D printer. She said that she had not seen if that was a part of the application.

Mr. Svoboda said that the information the Board received contained links to the application. He said that they had not had a request for 3D printing, which was heavily regulated by ATF. He said that firearms had to have serial numbers. He said that specific questions about the ATF process he could research and follow up with more information.

Ms. Mallek said that old weapons could be dangerous if stored or used improperly. She asked where the testing or inspection would occur if a weapon was ready to be handed back to its owner.

Mr. Svoboda said that the discharge of firearms was covered under other sections of the County code. He said that if permitted to discharge a firearm on his premises, they would be able to test it there. He said that he imagined many people went to the gun range to do their testing.

Ms. Mallek asked if that could be stipulated by permission.

Ms. McKeel said that some of this information and discussion of the process and ordinances should be discussed again at a later time.

Mr. Svoboda said that the form used for notification had been used for a long time, and some issues had arisen over the years. He said that they were working on addressing this and fixing it.

Agenda Item No. 8. Consent Agenda.

Ms. Mallek **moved** to approve the consent agenda as presented.

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

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

NAYS: None.

ABSENT: Mr. Andrews

Item No. 8.1. Fiscal Year 2023 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 2023 (FY 23) budget due to the appropriations itemized in Attachment A is \$157,066. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

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

Appropriation #2023031

Sources:	Emergency Communications Center (ECC) Fund Balance	\$65,628
Uses:	Emergency Communications Center (ECC) Fund	\$65,628
Net Change to Appropriated Budget:		\$65,628

Description:

This request is to appropriate the following for entities where the County serves as fiscal agent:

- Pursuant to ECC Management Board approval, this request is to appropriate \$65,628 in ECC Fund balance to the ECC to support a facility programming needs assessment.

Appropriation #2023032

Sources:	General Fund's Fund Balance	\$91,438
Uses:	Department of Voter Registration & Elections	\$91,438
Net Change to Appropriated Budget:		\$91,438

Description:

This request is to re-appropriate unobligated General Fund's fund balance for expenditures approved for FY 22 that were not completed in FY 22. The appropriation will close invoices for upgrades to the electronic pollbook systems, including print on demand ballot printers, that originated in FY 22.

The proposed use of the General Fund's fund balance will not reduce the County's 10% unassigned fund balance or 2% Budget Stabilization Reserve; however, it does reduce the amount of FY 22 undesignated funds that would be available for future uses.

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

**RESOLUTION TO APPROVE
 ADDITIONAL FY 2023 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2023031; and #2023032 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, 2023.

* * * * *

Account String	Description	Amount
3-4100-32100-352000-510100-9999	SA2023031 ECC Fund Balance	\$65,628.00
4-4100-32110-435600-344400-9999	SA2023031 ECC Facility Assessment	\$65,628.00
3-1000-99000-352000-510100-9999	SA2023032 FY22 GF Fund Balance	\$91,438.00
4-1000-17100-413000-372200-9999	SA2023032 DemTech & Civix invoices associated w/ PO 2022-9735	\$91,438.00

Item No. 8.2. Department of Environmental Quality (DEQ) Certification of Compliance of S.L. Williamson Asphalt Plant.

The Executive Summary as forwarded to the Board states that the Board of Supervisors approved Special Use Permit "SP201900009 – S. L. Williamson Replacement Asphalt Plant" on January 19, 2022. As part of its Resolution to Approve, the Board specifically found that the proposed plant 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 Natural Resource Extraction overlay zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

On January 6, 2023, the property owner alerted the Zoning Administrator of two Department of Environmental Quality (DEQ) forms requiring certifications of the local governing body specifically.

The attached DEQ forms (Attachments A and B) are provided to the Board as a statutory

requirement (Attachment C) that apply to air quality applications received by DEQ after July 1, 1990. The state law specifically refers to "the governing body" as the entity that verifies that the source facility's location and operation are consistent with applicable local ordinances. Staff believes that by approving a special use permit, the Board has found the S.L. Williamson Asphalt Plant both to be located in a suitable location and consistent with applicable local ordinances.

No budget impact is associated with this certification.

Staff recommends that the Board authorize certification of the forms attached as Attachment A and Attachment B, confirming both that the S.L. Williamson Asphalt Plant is located in a suitable location and is consistent with applicable local ordinances, as required by DEQ.

By the above-recorded vote, the Board authorize certification of the forms attached as Attachment A and Attachment B, confirming both that the S.L. Williamson Asphalt Plant is located in a suitable location and is consistent with applicable local ordinances, as required by DEQ.:

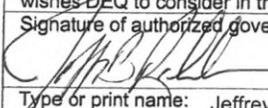
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
 AIR POLLUTION ACTIVITY SITING AND VALUE FORM

Please read the instructions for this page for additional information on this form.

Section 1 – Facility Information
 Filled out by Applicant and sent to Local Governing Body.

Business Entity Name (same name on file with the Virginia SCC) S. L. Williamson Co., Inc.	Registration Number: 81805
Applicant's Name: Blair Williamson, President	Name of Contact Person at the site: Deming Massie
Applicant's Mailing address: 1230 River Road, Charlottesville, VA 22901	Contact Person Telephone Number: (434) 531-0775
Facility location: 2617 Red Hill Road, North Garden, VA 22959	
Facility type, and list of activities to be conducted: Hot Mix Asphalt Production Facility	
<p>Please provide an explanation of the social and economic value of the proposed facility or activity:</p> <p>SLWCO has had an asphalt production facility in this location on Martin Marietta quarry property for over 50 years. We are currently erecting a new production facility that has the latest technology in asphalt manufacturing. It is fuel efficient and is designed to run on Liquid Natural Gas (LNG) and Recycled Fuel Oil (RFO). It was our original intent to run this plant on LNG, but the war between Russia and the Ukraine have made the LNG unavailable to the local market at this time. We plan to switch to LNG when the material becomes available and competitively priced. The new facility has been designed with the latest in burner technology and materials handling. We completed a noise study on the proposed facility and have shown that it will be quieter than the existing facility. The project site is located within a Natural Resources Overlay District as it is immediately adjacent to the quarry. We have been a good neighbor to the North Garden community and look forward to continuing our production at this site to support our paving operations. We employ over 125 people who live Charlottesville and the surrounding communities.</p> <p>The Martin Marietta quarry in North Garden has the largest deposit of aggregate in the area and has at least a century of life in front of it. Many of the other quarries in the community have a much shorter life span. It is in the best interest of the community for us to be able to serve the market and provide the most economical asphalt material. Asphalt cannot be economically transported over long distances as it needs to stay hot to remain a workable product.</p> <p>The Albemarle County Board of Supervisors approved a Special Use Permit for the facility on January 19, 2022. The approved Special Use Permit is identified by the County as "SP201900009 - S.L. Williamson Replacement Asphalt Plant."</p>	
Applicant's signature: 	Date: 1/6/2023

Section 2 – Suitability Certification
 Completed by Local Governing Body representative

<p>The undersigned local government representative states the local governing body has resolved that: (Check one block)</p> <p><input checked="" type="checkbox"/> The location and operation of the proposed facility or activity is suitable to the area in which it is located.</p> <p><input type="checkbox"/> The location and operation of the proposed facility or activity is not suitable to the area in which it is located. If the locality believes the proposed facility or activity may be altered to become suitable, attach an explanation of the steps that may be taken to resolve any issues.</p>	
<p>Please provide any comments the locality may have on the applicant's social and economic value information directly to the Air Permit Manager of the applicable DEQ Regional Office. Please provide any other information the locality wishes DEQ to consider in that submittal.</p>	
Signature of authorized government representative: 	Date: 2/10/23
Type or print name: Jeffrey B. Richardson	Title: County Executive
County, city or town: Albemarle County, Virginia	

Instructions for Activity Siting and Value Form

Section 10.1-1307E of the Code of Virginia specifies that the Department, in issuing a permit, shall consider facts and circumstances relevant to the reasonableness of the activity involved and the regulations proposed to control it, including:

- §10.1-1307E.2 - The social and economic value of the activity involved, and
- §10.1-1307E.3 - The suitability of the activity to the area in which it is located, except that consideration of this factor shall be satisfied if the local governing body of a locality in which a facility or activity is proposed has resolved that the location and operation of the proposed facility or activity is suitable to the area in which it is located.

Explanation

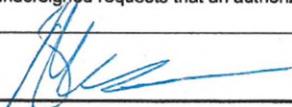
The Department's duty to consider the relevant facts and circumstances for §10.1-1307E.3 (as described above) for this application is satisfied by the local governing body completing Section 2 of this form; however, where a local governing body does not respond or complete Section 2 of this form, the Department is required to evaluate §10.1-1307E.3. For applications where DEQ must independently evaluate §10.1-1307E.3 (i.e., the local governing body does not respond), a showing of the suitability by the owner should include any statements by the locality in approving the siting that indicate suitability as well as significant documentation discussing non-air quality facts relevant to suitability of the activity to the area.

Process

1. Applicant: Fill out Section 1 of the form and sign in the center block certifying accuracy. Send the partially completed notification form to the local governing body. It should be recognized that while the local governing body may choose to complete this form, it is not required to do so. DEQ suggests the form be transmitted to the chief administrative officer of the locality.

2. Local officials: Please fill out Section 2 of the form. The form asks an authorized representative of the locality to certify that the proposed activity is or is not suitable for the area. Please check the appropriate box and sign the form. If the activity is not currently suitable but the locality believes the applicant may be able to address the concerns making the activity unsuitable, please attach an explanation that indicates the corrective measures being taken, if any. The completed form as well as any additional information the locality would like the Department to consider regarding suitability or social/economic value should be directly submitted to the Air Permit Manager of the Regional Office covering the locality. Any submittal must clearly identify the applicant and facility. Please send a copy of the completed form back to the applicant for inclusion in their permit application. If the relevant local government chooses not to respond, it is likely that the application review process will be extended.

Return to ["What Pages Do I Fill Out For My Facility?"](#)

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR PERMITS LOCAL GOVERNING BODY CERTIFICATION FORM	
Business Entity Name (same name on file with the Virginia SCC) S. L. Williamson Co., Inc.	Registration Number: 81805
Applicant's Name: Blair K. Williamson, President	Name of Contact Person at the site: Deming Massie, Plant Manager
Applicant's Mailing address: 1230 River Rd., Charlottesville, VA 22901	Contact Person Telephone Number: 434-531-0775
Facility location (also attach map): 2617 Redhill Road, North Garden, VA 22959	
Facility type, and list of activities to be conducted: Astec hot mix asphalt plant and manufacture of asphalt	
The applicant is in the process of completing an application for an air pollution control permit from the Virginia Department of Environmental Quality. In accordance with § 10.1-1321.1, Title 10.1, Code of Virginia (1950), as amended, before such a permit application can be considered complete, the applicant must obtain a certification from the governing body of the county, city or town in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances adopted pursuant to Chapter 22 (§§ 15.2-2200 <u>et seq.</u>) of Title 15.2. The undersigned requests that an authorized representative of the local governing body sign the certification below.	
Applicant's signature: 	Date: 01/06/2023
<p>The undersigned local government representative certifies to the consistency of the proposed location and operation of the facility described above with all applicable local ordinances adopted pursuant to Chapter 22 (§§ 15.2-2200 <u>et seq.</u>) of Title 15.2. of the Code of Virginia (1950) as amended, as follows:</p> <p>(Check one block)</p> <p><input checked="" type="checkbox"/> The proposed facility is fully consistent with all applicable local ordinances.</p> <p><input type="checkbox"/> The proposed facility is inconsistent with applicable local ordinances; see attached information.</p>	
Signature of authorized government representative: 	Date: 2/10/23
Type or print name: Jeffrey B. Richardson	Title: County Executive
County, city or town: Albemarle County, Virginia	

[THE LOCAL GOVERNMENT REPRESENTATIVE SHOULD FORWARD THE SIGNED CERTIFICATION TO THE APPROPRIATE DEQ REGIONAL OFFICE AND SEND A COPY TO THE APPLICANT.]

Item No. 8.3. SE202200064 Charlottesville Church of the Brethren Wireless Special Exception.

The Executive Summary as forwarded to the Board states that the applicant has requested a special exception to modify County Code §18-5.1.40(b)(2)(c), which requires that antennas be mounted so that the closest point of the back of the antenna be no more than 12 inches from the facility and that the farthest point of the back of the antenna be no more than 18 inches from the facility. This special exception request is to increase the distance of the closest point of the back of proposed antenna from 12 inches to 14.5 inches from the facility. At no point would the back of antenna project more than 18 inches.

The applicant's special exception request (Attachment A) and Staff's Analysis (Attachment B) are attached.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the special exception, provided that no antenna project more than 14.5 inches from the face of the monopole to the closest point of the back of the antenna.

By the above-recorded vote, the Board adopted the Resolution (Attachment E) to approve the special exception request:

**RESOLUTION TO APPROVE
SE 2022-00064 CHARLOTTESVILLE
CHURCH OF THE BRETHREN WIRELESS**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE 202200064 Charlottesville Church of the Brethren Wireless application and the attachments thereto, including staff's supporting analysis, any comments received, all of the factors relevant to the special exception in County Code §§ 18-5.1.40 and 18-33.9, and the information provided at the Board of Supervisors meeting, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the County's zoning regulations to at least an equivalent degree as the specified requirement, and that the proposed special exception would not have adverse visual impacts.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves a special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c) as specified in the SE 2022-00064 application, provided that no antenna authorized by this special exception may project more than 14.5 inches from the face of the monopole to the closest point of the back of the antenna.

Agenda Item No. 9. **Action Item:** SE202200066 Estouteville Farm Homestay.

The Executive Summary as forwarded to the Board states that the applicant is requesting a special exception for a homestay at 5500 Estouteville Farm.

Resident Manager. Pursuant to County Code § 18-5.1.48(d), the applicant is requesting to modify County Code 18-5.1.48(b)(2) to permit a resident manager to fulfill the residency requirements for a homestay use.

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

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

Ms. Lea Brumfield, Senior Planner II, said that this was a special exception to permit a homestay on a property held by K. Holdings, LLC, with the managing member of that LLC being Mr. Ludwig Kutner, who was also the resident of the parcel. She said that the parcel in question was known as Estouteville Farm, and the primary residence of the parcel was built around 1820 and had been the primary residence of Mr. Kutner and his family since the 1980s. She said that the proposed homestay use would be located in two additional dwellings on the property, which were pictured on the screen. She said that the smaller, red cottage predated the primary residence of the property, with an estimated construction date of 1754, and the brick red cottage on the right of the screen had an estimated construction date of 1824.

Ms. Brumfield said that the special exception was being requested because the ordinance required at least one individual owner of the parcel must reside on the parcel itself to qualify for homestay use, and an LLC in that case must have a resident manager approved by the Board. She said that in this case, Mr. Kutner would serve as the resident manager for the property as he was the managing member of K. Holdings, LLC.

Ms. Brumfield said that if the special exception was approved, the owners would then apply for homestay zoning clearance, and during that process, the structures to be used would be inspected for building and fire safety, and the owners would send a notice to their neighbors providing contact information of the responsible agent.

Ms. Brumfield said that the maximum number of guest bedrooms permitted by right on a parcel this size was five bedrooms, and the homestay use for these two structures would include three total guest bedrooms. She said that no new structures were proposed, and as the structures predated the homestay ordinance adopted in 2019 and also predated zoning laws, the structures did not require a special exception for accessory structures.

Ms. Brumfield said that per the homestay regulations in § 5.1.48, the Board may consider whether the permission to have a resident manager instead of the owner as an individual would have any adverse impacts to the surrounding neighborhood; adverse impacts to the public health, safety, or welfare; whether the proposed special exception would be consistent with the Comprehensive Plan and any applicable master or small-area plans; and the proposed special exception would be consistent in size and scale with the surrounding neighborhood.

Ms. Brumfield displayed a satellite photograph to show an aerial view of the property and indicated in light blue the 16.79 acres proposed for use for the homestays. She said that the larger 251-acre parcel that surrounded the smaller parcel on three sides was also owned by K. Holdings, LLC, but was not proposed for use as a homestay. She said that the larger parcel had forested areas, agricultural, and additional dwellings rented as long-term rentals, but is not proposed for any homestay use, as it was not the primary residence parcel of the owners.

Ms. Brumfield showed an aerial photograph of the 16.79-acre property, with the two structures proposed for use as homestays highlighted with green dots. She said that the primary dwelling of the

parcel, which was also Mr. Kutner's residence, was on the far bottom left of the image. She said that immediately to the right of that dwelling was the brick cottage homestay, and located further up next to the vegetable garden was the smaller red cottage. She said that one inquiry was received from a neighboring parcel regarding the public notice of this application, but no concerns or objections were expressed. She said that there was only an inquiry about the specifics of the regulation and the specifics of the application itself.

Ms. Brumfield said that staff did not believe that a homestay under the homestay regulations with one special exception allowing a resident manager would have a negative impact on abutting parcels.

Ms. Price **moved** to adopt the Resolution (Attachment F) to approve the homestay special exception to permit a resident manager to fulfill the residency requirements for a homestay use at 5500 Estouteville Farm.

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

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

NAYS: None.

ABSENT: Mr. Andrews

**RESOLUTION TO APPROVE
SE2022-00066 ESTOUTEVILLE FARM HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2022-00066 Estouteville Farm 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 a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirement, and that the requested special exception:

- (i) would not cause adverse impacts to the surrounding neighborhood;
- (ii) would not cause adverse impacts to the public health, safety, or welfare;
- (iii) would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
- (iv) would be consistent in size and scale with the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that in association with the Estouteville Farm Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to permit a resident manager to fulfill the residency requirements for a homestay use.

Ms. Price said that a number of her recent questions about homestays had been answered. She said that this was a situation where there was a main residence and two outbuildings. She said that the ordinance limited the homestay use to five bedrooms, and that was part of the conversation she brought up last time; a cottage, a cabin, is different than a bedroom. She said that she generally tried to get in touch with applicants within her own magisterial district, and she had asked staff if there was a way for Supervisors to more easily reach applicants for information. She said that in researching Mr. Kutner, she saw that he was a principal in about eight or nine LLCs, all of which were related to real estate.

Ms. Price said that part of the philosophy of homestays as she understands in Albemarle County was to be a collateral use for income generation of what was otherwise a primary residence, as opposed to what in many areas of the country, there was a residential property that was primarily intended for income generation. She said that if they turned residential properties into primarily income-generating short-term rentals, they would only exacerbate the problem they already had with the availability of housing in the community.

Ms. Price said that this one was approved because it was clear that it was the applicant's primary residence, but that did not preclude an individual similar to this from forming a new LLC, purchasing a new property, making it into a primary residence, and turning it into a homestay use. She said that the efforts to try and make this a collateral use of a primary residence rather than turning residences into short-term rentals could be short-circuited that way.

Ms. Price said that there was also a recent Attorney General's opinion that impacted what ability a County may have to regulate homestays if it was part of an agricultural activity on a farm. She said that Delegate Sally Hudson had introduced legislation that would allow any property owner to add auxiliary dwelling units anywhere on the property, so effectively, their County's ability to regulate homestays had been dramatically reduced to very little. She said that if it was an auxiliary structure built after the implementation of the ordinance, they could deny it on those grounds, and they had the special exception that could be made if it was less than 125 feet from the property line or if there was a resident manager or property owner.

Ms. Price said that they also had as a legislative item for the homestay approvals to go with the applicant rather than the property, and that did not make it out of committee, so all of the actions they had taken to limit homestays for the purposes of allowing a property owner to hold onto the property by making collateral income rather than not being able to afford to keep the property, and to avoid turning

residential properties into short-term rentals, which made their housing availability even worse, had been gutted from them. She said that this was already and would continue to be of great concern for land use in the County.

Ms. Mallek asked if there was an affidavit required to establish what a primary residence was. She said that that seemed directly related to where one was registered to vote and have a driver's license.

Ms. Price said that a primary residence could be changed simply by buying another property.

Ms. Mallek asked if the County Attorney had a response.

Mr. Steve Rosenberg, County Attorney, said that the code provision required residency verification in the form of the provision of two forms of verification of permanent residency such as a driver's license, voter registration card, or other documents that the Zoning Administrator determined provided equivalent proof of permanent residence at the subject parcels.

Ms. Price said that the residence could be changed if someone moved.

Mr. Rosenberg said yes.

Ms. Mallek asked how the existing permission that person received was affected by the change in residence.

Ms. Price said that once it had been approved, it went with the land. She said that if it was approved as a resident manager, there was nothing to keep that individual from going and buying another piece of property, establishing residence, and doing the same thing over and over again.

Ms. LaPisto-Kirtley clarified that this was an issue that only affected the urban area housing stock. She said that it would not affect an area that was a 200-acre farm, which was unaffordable for anyone.

Ms. Price said that while it could be less likely, it did not mean that it was unaffordable. She said that many rural properties sold for a variety of prices and acreages. She said that it was an issue throughout the County.

Ms. LaPisto-Kirtley said that if someone had a large home and an accessory dwelling on a large amount of acreage, it was unlikely to be used as affordable housing.

Ms. Price said that she was talking about the availability of housing.

Ms. McKeel said that she was concerned about the urban area near the University of Virginia, where the apartments and much of the affordable housing were being taken by students, and the residents were unable to continue living in the community.

Ms. Mallek said that, concerning quiet enjoyment, where lots were even smaller, there was a greater risk to those very small lots if every one of them puts up a house of some size. She said that throughout the countryside, there were mostly older, mostly smaller, but very affordable homes that families had been living in since the 1930s and 1940s, and they were in great jeopardy of being glamorized and becoming unavailable to the community, so it was an issue of both the urban and rural areas. She said that they tried their best to keep the owner-occupied nature, and she was unaware of the totality of that Attorney General's opinion.

Ms. LaPisto-Kirtley said that it would behoove the Board to work with UVA, because the school wanted more on-campus housing for students.

Ms. McKeel said that UVA was working with them on affordable housing.

Agenda Item No. 10. **Work Session:** Affordable Housing Developer Incentives.

The Executive Summary as forwarded to the Board states that in April 2019, the Thomas Jefferson Planning District Commission released the Comprehensive Regional Housing Study and Needs Analysis. The report identified the need for an additional 10,070 affordable housing units in Albemarle County by the year 2040.

On July 7, 2021, the Board of Supervisors approved Housing Albemarle, the County's new housing policy, with delayed implementation of 1) the increased percentage of affordable housing units in residential developments subject to rezonings or special use permits; 2) the increase in compliance periods for affordable housing units; and 3) the new price levels for both affordable for-sale and affordable for-rent units, until a package of developer incentives to support the construction of affordable housing could be approved and implemented.

Between June and October 2021, staff held four meetings with members of the developer community to discuss the components of an incentives package to support the provision of affordable dwelling units and developers' efforts to meet the County's affordable housing goals.

On February 16, 2022, the Board held a work session to discuss a proposal for an Affordable Housing Overlay.

The proposed overlay, which was based on the discussions held with developers, would apply to the County's Development Areas. It included several incentives, including density bonuses, reductions in development standards, waivers or reductions in development fees, and reductions in parking standards. Based on feedback received during the work session, staff determined an alternative approach to developer incentives was more appropriate.

On May 4, 2022, the Board held a second work session to discuss affordable housing incentive programs. The focus of this work session was on Affordable Dwelling Unit Program ordinances, which may include developer incentives as a program component. The Board directed staff to submit a Resolution of Intent to consider amending the Albemarle County Zoning Ordinance to include an Affordable Dwelling Unit Program.

Based on feedback received during the previous work sessions, staff has drafted an Affordable Housing Grant program (Attachment A). Projects eligible for funding under the proposed program include:

1. New residential construction, conversions of non-residential structures to residential units, and substantial rehabilitation of existing affordable housing multifamily properties;
2. Projects with 10 or more residential units;
3. Location within the County's Development Areas;
4. Projects that provide at least 20 percent of the total residential units as affordable housing as defined by Housing Albemarle; and
5. Projects in which at least 10 percent of the affordable units are built to be adaptable for full accessibility.

To support the provision of the affordable housing units, the proposed program would provide annual real property tax rebates in an amount equal to the actual water and sewer connection fees for up to 20% of the total residential units in a development. The maximum term for the grant funding would be 10 years. To apply for the grant, property owners would submit a complete application packet (Attachment B), and would be required to submit annual compliance reports prior to annual grant installments being issued.

The proposed Affordable Housing Grant program was designed to meet the objectives of Housing Albemarle, as well as requirements of Virginia Code § 15.2-958 (Attachment C). This section authorizes the County to make grants or loans to support the construction or rehabilitation of affordable housing. It also requires developers and property owners receiving such assistance to provide 20% of the total residential units in a project as affordable housing, as defined by the locality, for a period of at least 10 years.

Adoption and implementation of an Affordable Housing Grant program would impact the County's budget. The amount of impact would depend on the number of developers seeking grant support and the number of affordable units for which they are seeking funding.

Staff recommends that the Board provide direction and feedback on the draft Affordable Housing Grant Program.

Ms. Stacy Pethia, Housing Policy Manager in the Department of Social Services (DSS) said that she would be discussing developer incentives. She said that in July 2021, the Board approved Housing Albemarle, the new housing policy for the County. She said that at that time, the Board delayed full implementation of the policy until a package of developer incentives could be identified and approved that would support developer efforts to meet the new goals of that housing policy. She said that this affordable housing grant program being proposed today through the work session was part of that package. She said that it was in no way the final version but was a working draft to receive feedback from them today.

Ms. Pethia said that there were three primary items that staff would like the Board to consider in the session today, one of which was support for an affordable housing grant program as it was drafted, which would help developers meet the 20% affordable housing of total housing units that is recommended in the housing policy, as well as lower rents and extended affordability periods.

Ms. Pethia said that she wanted the Board to think about whether this program should be expanded to cover all of the units in a project if that project were 100% affordable, such as Premier Circle, and also if the Board would like the County to establish an annual cap on the total amount of grant funds that would be provided each year.

Ms. Pethia said that in 2019, the Thomas Jefferson Planning District Commission (TJPDC) released a regional housing needs assessment, and in that study, it was identified that the County would need a total of 10,070 affordable housing units by 2040 to meet the housing needs of current residents and the projected future residents.

Ms. Pethia said that the majority of those units were for households with incomes below 80% AMI (annual median income), or about 9,000 out of the 10,000 units. She said that the remaining 1,000 units were for more workforce households with incomes between 80% and 100% of the AMI. She stated that currently, the area median income for Albemarle County was \$111,200 per year.

Ms. Pethia said that, with the new housing policy, there were three recommendations that the Board had put on hold until the package of developer incentives was identified, which were an increase in affordable units from 15% to 20% of total units through rezoning and special use application approvals, to set new rent and sales prices that were lower than what had been accepted over the last several years and set them at a more affordable level, and extend affordability periods for both affordable rentals and for-sale housing.

Ms. Pethia displayed a timeline of the housing policy progress. She said that the Board adopted Housing Albemarle on July 7, 2021. She said that staff met several times with developers from June through December of 2021 to get their feedback and ideas about how staff could help them meet the goals of Housing Albemarle. She said staff held a Board work session in February 2022 to discuss an affordable housing overlay and that the Board did not like the overlay, so staff returned to the Board in May 2022 for another work session about the affordable dwelling unit ordinances and incentives. She said the Board adopted the Resolution of Intent to amend the Zoning Ordinance in June 2022 with an affordable dwelling unit (ADU) program. She said that another work session would happen this spring in which staff would present information specific to that program.

Ms. Pethia said that an ADU ordinance was often adopted to encourage the provision of affordable units in new residential developments, and to provide developer incentives to support the provision of affordable housing units. She said that the ordinance must be implemented through a zoning text amendment and was enabled under Virginia Code §15.2-2304.

Ms. Pethia said that the affordable housing grant program was able to stand on its own outside of an ADU ordinance, and because of that, staff felt it was appropriate to bring this to the Board today before they had gone through the ADU program ordinance. She said that it was able to stand on its own because of Virginia Code §15.2-958, which allowed local governments to provide grants or loans for developing or rehabilitating rental housing. She said that it requires property owners receiving incentives or support through a grant program to provide a minimum of 20% of the total units as affordable housing, with affordable housing as defined by the locality, so as defined in Housing Albemarle, and the locality may require an affordability period longer than 10 years.

Ms. Pethia said that the purpose of the program being proposed today was meant to support the creation and preservation of affordable housing, support for housing projects with 100% affordable housing units, the inclusion of affordable housing in projects where affordable housing may not otherwise be made available, leverage market activities to advance the goals of Housing Albemarle and provide transparency behind the funding process that they went through. There's an application process, then a review process, and it would go back to the Board to make any final decisions. This provides opportunities for more efficient and accountable use of County funding.

Ms. Pethia said that Housing Albemarle recommended focusing rental housing on households with incomes at 60% AMI, which, for a family of four, was about \$88,000 annually. She said that the Office of Housing and the housing choice voucher program had recently increased their voucher programs and payment standards, so it would open up new units to those families as well. She said that the rents recommended in Housing Albemarle were now close to alignment with the housing choice voucher program.

Ms. Pethia said that projects that may be eligible for funding under the proposed program included rental housing projects that had more than 10 units, that were located in the development area, that provided a minimum of 20% of total units as affordable housing at the rent levels and affordability periods recommended in Housing Albemarle, and projects that agreed to build at least 10% of units to be adaptable for ADA (Americans with Disabilities Act) accessibility in the future.

Ms. Pethia said that the Weldon Cooper Center had projected that there would be a substantial increase in the population of County residents who would be 85 and older by 2040, and it would be difficult for seniors on a fixed income to alter their units to add accessibility features.

Ms. Pethia said that the assistance would offer rebates of real property taxes over a ten-year period, and the amount of those property tax rebates would be equal to 100% of the cost of the water and sewer connection fees and would apply to the 20% of units in the project that would be affordable units.

Ms. Pethia said that there would be an application process, and anyone interested in applying for the program would need to complete and submit an application packet, a form that was included in the Board's agenda materials. She said that the application would be reviewed by a team for eligibility and to ensure what they were asking for would qualify.

Ms. Pethia said that the Board would have final approval of any applications recommended for funding, and staff and the applicant would execute a performance agreement similar to what they already had with the Brookdale project in Southwood. She said that those performance agreements would require annual reporting requirements, and it was simply the property manager submitting a list of all the rental units in the project each year, and staff verified that the residents were still income-qualified to rent the

units and that the units were being rented at an affordable price.

Ms. Pethia said that the slide shown had a typographical error, where there should be zeros at the end of the total grant amounts in the chart, for a total amount of \$6 million, not \$600,000. She said that this graph looked at the three case studies done in the past, which were the Brookhill, Rio Point, and RST Residences projects. She said that through this program, they would have approved 452 affordable units at 20% of total units, and each of those would require water and sewer connection fees of \$13,000, and the total \$6 million grant award would be paid out over 10 years.

Ms. Pethia said that there were programs in other localities that had components that the Board may be interested in considering but were not suggested to be implemented as a whole. She said that Chesterfield County, Virginia had an incentive program similar to the one being proposed today. She said that their program was adopted in 2019 to provide tax rebates for the revitalization, rehabilitation, and redevelopment of projects in a targeted area in their community and required developers to make a minimum investment of \$5 million into the area.

Ms. Pethia said that the rebates were provided over a ten-year period with a sliding scale rebate structure, similar to the Brookdale project, and had incentivized a total of 114 affordable rental units. She said that Chesterfield's program was currently on hold while they reassessed to see if the program was working and whether any changes needed to be made to the program.

Ms. Pethia said that Montgomery County, Maryland also provided what they called "property tax reductions," which was the same concept to encourage the provision of affordable housing, and their program had been operating since the 1970s. She said that she chose to share this program because through their budget process each year, Montgomery County decided an annual cap on the amount of property taxes they were willing to rebate each year, and for FY23, they capped the property tax rebate at \$20.6 million.

Ms. Pethia said that Washington, D.C. also put a cap on the total amount awarded for tax abatements each year and was a very new program that was adopted in 2020. She said that for FY24, they had capped the total tax abatement awards at \$200,000, and for FY25, it would be capped at \$4 million, with a 3% annual increase each year thereafter.

Ms. Pethia said she would go back to the three questions she presented at the beginning of the presentation, and asked if this type of program as written was something they could support?

Mr. Gallaway asked if Supervisors could ask some clarifying questions before discussing the staff requests for direction.

Ms. LaPisto-Kirtley asked if the fee for water and sewer hookup was \$1,400 per unit.

Ms. Pethia said that it was currently \$13,470 per unit. She said that she did not know what they were proposing for the upcoming fiscal year.

Ms. Mallek said that she supported more than just the 20%. She said that it would be helpful to offer something to all of the available units, and it should be mandatory for it to be long-term affordability. She said that there was a question of attainability and if the rents were truly something a person could pay working the many jobs in this area that did not pay high salaries.

Ms. Pethia said yes.

Ms. Mallek said that she was glad they had that figured out. She said that she knew that there were manufactured home projects that were in process here and questions were being asked. She asked if they could qualify under this program if they were to be designated affordable units.

Ms. Pethia said that they would not qualify under this program. She said that this program was specifically for rental housing and more multifamily rental housing. She said that they were still looking for ways to expand this to other types of housing.

Ms. Mallek asked if a trailer park she knew of in Crozet would not qualify because those were individual units.

Ms. Pethia said that that was her understanding, but she could verify that.

Ms. Mallek said that this was something they should expand so that it could be used. She said that many residents would rather stay in their own houses than move into an apartment. She said that she appreciated preparing for seniors. She asked if structural changes such as widened doors would be constructed for the 10% of those units.

Ms. Pethia said that the program did not go that far.

Ms. Mallek said that there was potential for it to go that far if someone helped.

Mr. Gallaway said that this was one specific developer incentive program they could offer, and this was more of a work session on this specific program. He asked if the conversation about developer incentives would happen when the ADU ordinances were brought before the Board.

Ms. Pethia said that it was correct that it would be another part of it. She said that they were still working through the limited tools the County could use as allowed through state law. She said that they must be sensitive to the fiscal impact the incentive programs would have on the County budget, so bringing them in one at a time to understand how each would have long-term impact on the County budget made it easier to work through the process.

Mr. Gallaway said that he understood. He said that some of the emails he had received, and comments heard that day gave the impression that this was it.

Ms. Pethia said no. She said that one tool would not do it, and it would have to be a package.

Mr. Gallaway said that the agenda stated that they were discussing developer incentives, and when they only discussed one specific grant program, he could understand how the public perceived this as the complete form. He said that many of his questions were unnecessary knowing that they were talking about one specific grant program and not all developer incentives as related to the affordable housing policy.

Mr. Gallaway asked if Chesterfield's program was capped at 20% or if they provided the full tax rebate for a period of time.

Ms. Pethia said that she was unable to find information on what the total amount of tax rebate had been, but it would begin with 100% of the tax being rebated and would be scaled down to 20% over the time of their agreement. She reiterated that she was not able to find an amount per project.

Mr. Gallaway asked if they did this grant program that for the 20% units, whatever the water and sewer fees were, they would get that amount back in the form of a tax rebate.

Ms. Pethia said that was correct.

Mr. Gallaway said that it was not a tax rebate plus the water and sewer going back.

Ms. Pethia said that was correct.

Mr. Gallaway asked if the math gave them the cost offset to do the entire increase in the additional units they were searching for.

Ms. Pethia said that it would depend on the project, so it was difficult to say.

Mr. Gallaway asked if it may.

Ms. Pethia said that it may.

Mr. Gallaway asked if it would have done so in the three case studies that Ms. Pethia presented.

Ms. Pethia said that she did not know. She said they would need to see their project proformas; without them, it was difficult to determine.

Mr. Gallaway said that it would be an important part of not only this program but all the developer incentives. He said that by right, they had a cost for a project, paid for that, and got an X amount of units. He said that under Housing Albemarle, the density bonus allowed them to add the extra units to offset the cost of increasing to get those additional units. He said that now they were asking that to be increased further, so the incentives needed to offset that cost as well, and it was important for that math to work; otherwise, they did not meet the policy goal.

Mr. Gallaway said that not knowing if the math worked, he did not know whether to say yes or no to this. He said that it would likely always be project-specific, but developers needed specifics to attach to; otherwise, it would always be easier to do by-right development and there was no need for the nebulous incentive package that could exist. He said that he understood that this could be difficult when finding investors, because investors may recommend a clearer program.

Mr. Gallaway said that the Board wanted more affordable unit stock and understood it would cost a lot of money, but if they did not incentivize to get there, it would not build on its own. He said that he would be supportive of programs that allowed them to achieve the policy goal while working as an incentive that offset the cost to get them there, and they would have to commit to that.

Mr. Gallaway said that it made sense that other localities decided it could not be untapped or unrestricted each year, and they'd have to come up with an amount each year, which was how the County was using their fund. He said that he was supportive of the grant program and finding something specific under the state code, and made it clear what this particular one was, but if it did not make sense mathematically, he did not see how anyone would apply for the grant program. He said that he did not know how they could get there to make that certain.

Ms. Pethia said that the only way to be certain was for the developer to submit a proforma of the project so that they could see what the cost over time would be. They would have to do it project-by-project.

Mr. Gallaway said that that made sense as part of the grant application process. He asked if a developer would have a problem with submitting that as part of the grant program.

Ms. Pethia said no. She said that they had done it in the past. She said that this was a start, and was a method that could be used, and the amounts could change. She said that the Board had expressed an interest in the past in covering water and sewer connection fees, and that all of this was subject to change.

Mr. Gallaway said that he appreciated it. He said that he would be supportive of this grant program and making it work contingent on the grant program offsetting the costs to truly incentivize getting the project to meet Housing Albemarle's goals. He said that an application that only incentivized 30% of the cost to get to their goal would not work out. He said that if they could get grant programs in place that truly provided incentives, he would be supportive of the grant program and of finding the monies to make that happen.

Ms. McKeel said that she appreciated the clarification that this was one of the multiple incentives that they would discuss over time. She said that she was supportive of the general approach. She said that she was interested in rehabilitating existing affordable housing multifamily structures. She asked if multifamily residential units with 10 or more residential units were a separate issue.

Ms. Pethia said that it would include both, with existing multifamily properties with 10 or more units.

Ms. McKeel asked if they went together.

Ms. Pethia said that was correct. She said that it would always apply to projects with 10 or more units and could be new construction or rehabilitation.

Ms. McKeel asked if the "quality grade" was an actual grade of measurement.

Ms. Pethia said yes.

Ms. McKeel said that she had heard of other grades.

Ms. Pethia said that it was an actual term in the construction industry. She said that builder grade tended to be the lowest quality, and they wanted things to last longer than that.

Ms. McKeel said she was glad to know this was a higher quality of grade. She said that it was stated that affordable units may float within an eligible project. She asked if that meant that there would be different units at different times.

Ms. Pethia said that was correct. She said that in a multifamily building, the exact location of each affordable unit may change as the construction process progressed.

Ms. McKeel said that she appreciated that this would be individualized and that they would have to deal with applicants on an individual basis. She asked what the timeline that this process would actually take.

Ms. Pethia said that given staff capacity, six weeks at most. She said that they needed time to review the materials, but did not want it to take three months.

Ms. McKeel said that the Economic Development Authority (EDA) review and the County Executive Review could be parallel processes.

Ms. Pethia said that was correct. She said that recently, the process had been that a proposal came to her for housing, and the hired temporary consultant would review the finances, and she would pass the recommendation onto Economic Development, and it went on from there. She said that it would follow the same process that Project Enable did because it had been demonstrated to work well.

Ms. McKeel asked if it came to the Board of Supervisors for final approval.

Ms. Pethia said that this was correct.

Ms. McKeel said that once this process was well-known, the items could be brought onto the Consent Agenda.

Ms. Pethia said that that would be ideal, but working through the process initially would be helpful.

Ms. McKeel said that the Board often asked applicants specific questions about rental prices and other charges, and the answer was often unknown. She said that she hoped that they would get clarity around those questions with this new process.

Ms. Pethia said that was correct.

Ms. McKeel said that she was generally in favor of this item, but details must still be further worked out.

Ms. Price said that the required minimum investment seemed like a good idea, but something that they should be careful about if they decided to implement it in their own program, because it could be based on the scale of the project, but they must take into account things such as inflation as time went by during the completion of a project.

Ms. Price said that in Attachment A of the materials, which was the fiscal approach, the last sentence in the first paragraph about the affordable housing grant program said that the Board of Supervisors could adjust the amount of the grant by increasing or decreasing the total number of installments awarded. She said that she was unsure of how changing the number of installments would increase, because it seemed that they should approve a certain amount and pay it over a number of installments. She said that if changing the number of installments changed the total amount paid, she was unsure of what that meant.

Ms. Pethia said that that would only apply if they had a set amount that they would provide each year. She said that the Board could change the amount given over the number of years. She said that they could remove that sentence.

Ms. Price said that she was confused by the wording. She said that in the materials, in program requirements paragraph 4, it said that if staff determined a project did not qualify for the incentive, the staff would not recommend to the County Executive Office that the project be considered. She asked if that meant that if the County Executive concurred with that, that the item never came before the Board of Supervisors.

Ms. Pethia said that was correct.

Ms. Price asked if there would be an appeal process for an applicant.

Ms. Pethia said that there was not one, but they could make one.

Ms. Price said that it seemed that there should be one.

Ms. Pethia said sure.

Ms. Price said that on Slide 11, the last bullet said eligible projects agreed to build at least 10% of units to be adaptable for full ADA accessibility. She said that the materials said it would be 10% of the affordable units.

Ms. Pethia said that the materials had the accurate description.

Ms. Price said that the eligible projects had to have at least 10 residential units, and 20% of 10 was 2, and 10% of two was 0.2. She asked how that factored into the ADA accessibility.

Ms. Pethia said that it would be a number of one unit.

Ms. Price said that the minimum number should be written so that it was not a number less than one. She said that without a minimum, there would have to be fifty units to have a minimum number of one ADA-accessible unit.

Ms. Price said that she trusted that the Community Development Department (CDD) knew more about the proformas than she did. She said that under Rental Project Requirements, Financial Need, the applicant's proforma must demonstrate that the tax incentive was necessary to provide affordable as defined below rental units in the project. She said that she did not understand how that worked.

Ms. Price asked what the cost was to an applicant to comply with the requirements that the government was establishing. She asked if they had any sense of what it actually cost a developer to prepare all of the paperwork that went into submitting these applications. She said that if the math did not work, it was not going to happen. She said that she did not want a plan that was so grandiose that, especially for a smaller project, it would affect an applicant's ability to actually submit a package that they could qualify, and they would lose those opportunities, especially for smaller redevelopments.

Ms. Pethia said that in terms of preparing an application packet, the information included in the application had been taken from applications used in other localities and was also in line with proposals received from developers recently. She said that it was information that they had for their projects already but was repackaging it slightly and writing a proposal. She said that it was also one of the reasons why an application fee was not included in this proposal.

Ms. Price said that on Slide 14, she missed where the added zeros were needed.

Ms. Pethia said that in the last two columns, the total grant amount and annual grant amount needed to have zeros put on the end of each number.

Ms. Price said that she understood.

Mr. Gallaway asked why they would not just use tax rebates for an amount of time for the units.

Ms. Pethia said that this was what this proposal was designed to do. She said that because the Board had expressed interest in covering the cost of water and sewer connection fees, that was why they chose that amount. She said that this would cover the cost of those without having to pay for them all at once; they would be rebated over a number of years. She said that they did not have an easy way for the County to directly transfer funds to the Albemarle County Service Authority (ACSA), so rebating the developer the cost for the fees was the best way forward.

Mr. Gallaway asked why they did not just use the tax rebate if that amount would cover the cost. He said that perhaps the tax rebate would not fully cover those units, and they must go further.

Ms. Pethia said that the amount of the tax incentive could be changed. She said that the number was used because it was expressed in the past. She said that the number also was in line with what had been provided per unit for Premier Circle. She said that the number could be changed to any number or no number at all but was put in as a way to respond to feedback received from the Board in the past.

Mr. Gallaway asked if the mechanism would still be the tax rebate.

Ms. Pethia said that was correct.

Mr. Gallaway asked if Ms. Nelsie Birch, CFO, had a response.

Ms. Price said that for the record, Ms. Birch indicated that she had no involvement and pointed toward Mr. Walker.

Mr. Gallaway asked if the equation mattered for staff time and costs in processing this. He said that they were not offsetting the revenue from coming in if they gave the tax rebate because they were not collecting the taxes.

Mr. Doug Walker, Deputy County Executive, said that it was an amount of money defined within the program that was then rebated through similar mechanisms that they used the EDA to rebate real estate tax revenue through a performance agreement. He said that within that construct, whatever the program amount was, they would have the latitude of flexibility through the design of the program to determine the amount of the rebate as well as how to structure the rebate, going back to the developer in this case.

Mr. Walker said that without being specific about how it might apply in all cases, that was how it had been used in the past and could be structured that way in the future. He said that there was an affordability issue in terms of cashflow, which was why the cap was suggested. He said that from a budgeting standpoint, they would have limitations on the impact on the general fund. He said that they were also trying to provide some degree of certainty on the developer side, which was what they were looking for.

Mr. Gallaway asked if Mr. Walker had mentioned a cap.

Mr. Walker said that that was what the potential cap that Ms. Pethia had identified for the Board's consideration was referring to.

Mr. Gallaway said that it did not complicate it to put in extra math about water and sewer fees, and that was simply a starting point.

Mr. Walker said yes. He said that the connection fees were used as an equivalent to understand the amount of money per unit that was being considered in this proposal.

Mr. Gallaway said that he was concerned that if they did this grant program and had an application before them in which the water and sewer fees covered 80% of whatever the additional cost was, and then an additional tax rebate or something in addition to that amount would need to be provided to make it even. He said that it would not be an incentive program if it did not cover the full cost increase.

Mr. Gallaway said that if they got rid of the water and connection fees, they could just say that they could refund tax amounts or something so that it was clear that it was covering the increased costs to get the units they were trying to incentivize to happen. He said that they could cap the program funds, but he did not want to only use the water connection fees, because it may only cover a portion of the cost in some instances. He said that the program should be defined that way from the start.

Mr. Walker said that there was a challenge to overcome with providing certainty to the developers in exchange for meeting the housing goals and how much it actually cost the County taxpayer to meet those goals without overpaying for the cost of meeting that goal. He said that that number could be reconciled on a project-by-project basis. He said that using the proforma, staff analysis, and coming up with a recommendation on whether it did or did not work, and if it did, at what level.

Mr. Gallaway said that his faith lay in the economic development projects they had done in which it was specific and based on performance metrics. He said that they knew how to do this, but the trick was to figure out how to give certainty to the developer that the offset in cost could happen, for the ultimate benefit of the people who would reside in those units.

Ms. LaPisto-Kirtley asked if matching the cost to the developer of a real estate tax incentive was too simplistic.

Ms. Pethia said that, as an example, a recent proposal that came to her that was not moving forward because the rezoning application did not. She said that they offered to provide 79 affordable units in the project, and the incentive they needed was over \$10 million over a 30-year period for that single project. She said that was why setting a cap on the incentive amount through this tax rebate program to be offered each year was important, because 79 units for \$10 million made sense, but it was a lot of tax revenue that the County would not be able to use in the future, so they had to think about it.

Ms. LaPisto-Kirtley asked if this program would not be a one-to-one tax incentive to build affordable housing.

Ms. Pethia said that she did not understand.

Ms. LaPisto-Kirtley said that if they did a one-to-one tax incentive for the developers to create affordable housing, it would be less revenue for the County as compared to the program that was presented.

Ms. Pethia said that was correct. She said that Mr. Gallaway had recommended that they look at each proposal on their own as they had been. She said that the amount needed depended on the project, and the program gave a defined amount that would be offered, which could change, as it may only work for some projects. She said that it was a balancing act of how much tax revenue the County was willing to forgo.

Ms. LaPisto-Kirtley asked if the projects that were 100% affordable housing did not have other grants and wanted the same 100% from the County, would the County be offering that. She asked if they were expecting developers to get other grants.

Ms. Pethia said that the funding mechanisms were different. She said that Premier Circle, being an affordable housing project, could draw on different financing options than local for-profit developers could. She said that it was dependent on financing and whether or not they would be able to get financing based on the project as it was being funded. She said that they looked at how much rent revenue would be charged over time and any affordable housing would decrease what they would get, so it was more difficult for a developer to get their project financed.

Ms. LaPisto-Kirtley asked if the 100% affordable housing projects would still be reviewed on a case-by-case basis.

Ms. Pethia said that was correct. She said that generally, with 100% affordable projects, they came to the County as one of the final funders, so they had managed to get through multiple different funding sources before asking the County for support. She said that because the funders knew that they were affordable housing projects and would not create the same type of revenue, it was a different funding scheme.

Ms. LaPisto-Kirtley asked if the example project Ms. Pethia mentioned cost \$10 million over 10 years.

Ms. Pethia said that it was over thirty years.

Ms. LaPisto-Kirtley asked if it was not \$10 million per year over thirty years.

Ms. Pethia said that was correct. It was the total amount spread out over thirty years.

Ms. LaPisto-Kirtley asked if they would consider a tax incentive one-to-one program for some of the projects.

Ms. Pethia said yes, and that was why she suggested the developers submit that proposal to them so that they could review those affordable units.

Ms. LaPisto-Kirtley said that flexibility seemed to be the overarching theme.

Ms. Mallek asked if the people with the business model that allowed them to succeed doing what they were being asked to do. She said that the reason the tap fees were appealing was because it was the same per unit, as opposed to one that had multiple different scenarios for builders and business models, with some that could leverage outside money and some that relied on the County to pay for everything. She said that it became confusing, and focusing their efforts and money on the people who were creating the units they were looking for would be helpful.

Ms. LaPisto-Kirtley said that as a part of their overall affordable housing program, she would support this.

Ms. Mallek said that she would support this, and if there were more than 20% of the units, she would be in favor of covering those as well.

Mr. Gallaway said that it had to cover the cost to get the incentivized unit, and the program had to be set up to help with that. He said that otherwise, no one would apply, and they would not get the units.

Ms. McKeel said yes, she supported this item.

Ms. Price stated that she supported this, while acknowledging that it would not be enough by itself. She asked Ms. Pethia if this answered the question asked of the Board.

Ms. Pethia said yes, it did. She said that they had covered the other discussion points as well. She said that the second discussion question was whether it should cover the cost of 100% of the units in an affordable housing project, something like Premier Circle.

All Board Supervisors answered yes.

Ms. Pethia said that the third discussion point was whether there should be a cap on the amount of tax incentive that would be provided each year.

Ms. Price asked if this was the amount provided and funded by the County in any given year.

Ms. Pethia said yes.

Ms. LaPisto-Kirtley asked if the annual cap could be revised and was not permanent.

Ms. Pethia said that was correct, and that the amount could change.

Ms. LaPisto-Kirtley asked if it could go down to a very little amount.

Ms. Pethia said yes. She said that staff would work with the Office of Finance and Budget to determine what that would be.

Ms. Price asked if this was to avoid the County having an unexpected bill by setting the maximum amount each year to stay within their affordability.

Ms. Pethia said yes.

Ms. LaPisto-Kirtley said yes.

Ms. Mallek said yes.

Mr. Gallaway said that they could not plan a budget accordingly if they did not do this, so it made sense. He said that if it was a grant program, it was not discussed, but this was no different than the grants that the County applied for with matched funds, so of course they would look at those who put up money first versus those that did not get alternative funding, because those would score higher in the grant review. He asked if that was correct.

Ms. Pethia said that was correct.

Ms. McKeel said yes.

Ms. LaPisto-Kirtley asked Mr. Richardson if they could make mid-year adjustments to the cap for the fund for this program.

Mr. Jeff Richardson, County Executive, said that the Office of Finance and Budget was monitoring the budget throughout the year to determine if they were running according to what projections for revenue and expenditures were. He said that if adjustments needed to be made, Ms. Birch would work with operational departments and the Board to determine those options, so they would receive reports when that happened during the year.

Mr. Richardson said that they would look at these things in advance simply due to the planning and work that went into this on a yearly basis. He said that they potentially could make mid-year adjustments with revenue enhancements that perhaps were unexpected, but they would have to consider many things at that point.

Ms. Price asked if the Board had answered Ms. Pethia's questions and if she had anything further.

Ms. Pethia said that they had. She said that staff would take the Board's feedback, and although they had tentatively scheduled a public hearing for this item on April 19, 2023, they could change that to a final work session for Board feedback on changes that came out of this and reschedule the public hearing for shortly thereafter. She said that otherwise, they would have a public hearing to adopt the affordable housing grant program on April 19, 2023, as well as a work session on the ADU ordinance.

Ms. Pethia said that they would also have a work session with the Planning Commission at a date yet to be determined, followed by a public hearing at the Planning Commission for the ADU ordinance, and a public hearing with the Board of Supervisors for adoption of the ordinance as well.

Ms. Pethia said that her only remaining question was if April 19 should remain a public hearing for an affordable housing grant program ordinance, or if it should be one final work session.

Ms. Price asked if that work session would be dealing with only this topic and no other potential incentives.

Ms. Pethia said that was correct. She said that there would be two work sessions that day, the first specific to this program and the second would be on the ADU program.

Mr. Walker said that there was an intention to put a pin in the calendar and not let this issue linger. He said that April 19 seemed like an aggressive date for a public hearing based on the questions and comments from Board members, so the question seemed to be if there was value in coming back to reengage around complex issues before setting the public hearing date.

Ms. Price asked what Mr. Walker's comfort level was with this item based on the discussion had today, and whether he thought there should be a work session or a public hearing.

Mr. Walker said that the date seemed too aggressive, despite that being his preferred practice. He said that they needed another work session around this topic before asking for the Board's authorization to schedule a public hearing for an ordinance. He said that he was mindful that this prolonged the policy discussion.

Ms. Price said that it appeared that Mr. Walker preferred another work session.

Ms. McKeel asked Ms. Pethia for her opinion.

Ms. Pethia said that it would be more productive to have a final work session on this issue, and it was early enough in the year that if they changed the April 19 date to a work session, they could quickly follow it up with a public hearing within the next six weeks.

Ms. LaPisto-Kirtley asked if it was possible to keep the public hearing scheduled for April 19 but schedule a work session prior to that.

Mr. Walker said that that was not reasonably achievable.

Ms. Mallek said that she was fine with another work session to put everything together so that when the public reviewed it, it had the best chance of success, but they should do so within a succinct timeframe.

Mr. Gallaway said that he would like to proceed efficiently, but he thought that the discussion today would be for developer incentives and not this specific program that fell under that umbrella, and it made sense to have this lumped into the work session about the other developer incentives so that they could all be refreshed in their minds that day, and this grant program would not be disjointed or disconnected from those. He asked if they were committed to those dates and if there were other developer incentives that had not been brought forward yet.

Ms. Pethia said that none had been fully formed yet, but she could bring some ideas.

Mr. Gallaway asked for that to be brought that day as well so that there would be nothing lingering.

Ms. McKeel asked if April 19 for the work session was what they were most comfortable with. She said that she was happy to have the work session and the public hearing on April 19, because Ms. Pethia seemed to understand what they were talking about.

Ms. LaPisto-Kirtley said that holding both the work session and the public hearing on the same day would be beneficial, even if they had to start it earlier in the day.

Ms. Price said that she would have preferred to have the public hearing on April 19, but she wanted to be cautious not to overburden staff in order to do things correctly rather than quickly. She said that she would defer to Mr. Walker as to whether to make that a work session, but every Supervisor had indicated that if it was a work session and not a hearing, they wanted to get it to the hearing in order to get it done.

Mr. Walker said he understood.

Ms. LaPisto-Kirtley asked if they would be working with developers as they continued with this program.

Ms. Pethia said that what was presented today, the property tax rebates, was one of the ideas developers had put forward in the past, and the addition of covering water and sewer fees had also been put forward as an idea in the past by the developer community.

Ms. LaPisto-Kirtley asked if the PowerPoint presentation could be made available to the Board of Supervisors.

Ms. Pethia said yes.

Ms. McKeel said that if both meetings were held on April 19, it would be helpful to hear the public comment that day.

Mr. Walker said that he would take the Board's guidance under advisement and look to see how they could accomplish the public hearing for the affordable housing grant program ordinance on April 19, as well as the work session, which was specific to the affordable dwelling unit ordinance and administrative guidelines. He said that they were related but were two separate topics. He said that staff would prepare to proceed as indicated by the Board and would let the Board know if they ran into difficulties in being prepared for that.

Non-Agenda Item. Recess.

The Board recessed its meeting at 3:27 p.m. and reconvened at 3:40 p.m.

Agenda Item No.11. **Presentation:** Central Virginia Regional Housing Partnership.

Mr. Ian Baxter, Planner II for the Thomas Jefferson Planning District Commission (TJPDC), introduced Mr. Ned Gallaway to present.

Mr. Gallaway introduced himself as Chair of the Thomas Jefferson Planning District Commission (TJPDC) and Chair of the Central Virginia Regional Housing Partnership (CVRHP). He said that also joining him were Mr. Keith Smith, TJPDC Vice Chair; Mr. Ian Baxter, and Ms. Christine Jacobs, TJPDC Executive Director. He said that Mr. Smith was the first chair of the TJPDC Board for the first three years of the partnership and had represented Fluvanna County on the TJPDC for 12 years. He said that Mr. Smith's work was about creating a specific body that could look at the affordable housing issue in a regional way. He said that each jurisdiction that was a member of the TJPDC had affordability issues, and they could all benefit from working on that problem together and learning from each other in order to help their own jurisdictional issues.

Mr. Gallaway said that there were six members of the CVRHP as listed on the slide he presented. He said that the four pillars were to ensure that the nonprofit world, the for-profit world, the public, and its citizens were represented. He said that the CVRHP was a way for them to all talk about the issues they were dealing with in one place and be able to share data and communicate so that if someone brought forward a project, they had already gotten context.

Mr. Gallaway said that housing affordability was not dictated by political philosophy, but resources and how they used them did, and it was important that the CVRHP communicated to each jurisdiction that they were there to serve as a resource to them and not to tell them what to do within their jurisdiction. He said that this was the first year that Albemarle had specifically contributed to the regional housing partnership, after the first few years of making a contribution or paying TJPDC on a per-capita basis, which was what funded the CVRHP initially. He said that Albemarle's direct contribution this year was based on the per-capita formula and was about \$20,000 as their share.

Mr. Gallaway said that Mr. Smith had just won an award today from RIS Media, who gave awards to realtors for different accomplishments, and Mr. Smith had been awarded as a crusader specific to his work in their area to help housing affordability issues and people to get into affordable units. He congratulated Mr. Smith on that acknowledgement.

Mr. Keith Smith, Vice Chair of TJPDC, said that relationships mattered in this work, specifically the relationship between elected bodies, the private sector, the nonprofit sector, and the people they served. He said that the inventory was down, and the graph shown on the slide displayed the single-family detached homes, not including new construction. He said that for the year, it was somewhere between the numbers for 2018 and 2019 in terms of volume, the number of units sold. He displayed a graph of the median sales price and stated that the bars were sliding up in value. He said that the inventory was going back to 2018 and 2019, but they were increasing in prices quite rapidly.

Mr. Smith said that he was also the Chair of the Piedmont Community Land Trust and wanted to thank the County, because they took \$625,000 and parlayed it into roughly \$8 million worth of appraised value of new construction homes with a partnership with Stanley Martin and the County for 23 permanently affordable homes. He said that they hit 65% AMI (area median income), and 70% of the buyers were female.

Mr. Smith said that he had learned that to hit 80% AMI or below, the sales price of a home needed to be about \$215,000, depending on the rate of the mortgage. He said that today for single-family detached homes, they had 110 active in Albemarle County, and one was below \$200,000 available to buy; the rest ranged between \$300,000 and the median list price of \$700,000.

Mr. Smith said that for single-family attached housing, there were 33 available, with none available below \$200,000, and the median list price was \$450,000. He said that the Charlottesville area realtor system combined duplexes and townhomes as attached. He said that there were 160 pending sales, and the median pending contract was \$696,000. He said that they had zero below \$280,000 in the pending mark. He said that in the family attached pending, they had 142, and three below \$300,000.

Mr. Smith said that on the new construction side of it, the Piedmont Community Land Trust had a \$225,000 new construction single-family attached.

Mr. Smith said that listening to the conversation the Board was having earlier, this could be done if they operated under the four pillars for a healthy housing system and was the success that the regional housing partnership had been bringing to the table. He said that all sectors wanted to do this, but needed to all collaborate to make it happen.

Mr. Ian Baxter said that he wanted to briefly touch on some of their upcoming events and the deliverables that were included in the strategic plan that was adopted formally in June 2022. He said that the strength of the regional housing partnership was its ability to convey information to all of their localities and stakeholders across the region, including elected officials, planning commissioners, nonprofit leaders, and developers in the private sector.

Mr. Baxter said that some of the deliverables that they decided to produce for the region included a real-time housing dashboard that would include information given by Mr. Smith, so that stakeholders could easily access that information to have a clear picture of what was going on in the region.

Mr. Baxter said that they were hoping to produce a grant library so that the for-profit and nonprofit developers could look into potential incentives and subsidies that could promote and create new affordable housing, as well as a resource toolkit that included definitions related to affordable housing.

Mr. Baxter said that they hoped to have these deliverables from the strategic plan up in the next year.

Mr. Baxter said that there would be an annual housing summit in March 2023, with nine breakout sessions planned and a keynote speaker, Jay Grant, the executive director of LISC (Local Initiatives Support Corporation) in Hampton Roads, who had extensive experience in federal and state affordable housing finance and development.

Mr. Baxter said that this year was the 50th anniversary of the TJPDC, and they hoped to have something with all of the elected officials convening at the TJPDC for discussion and conversation there.

Mr. Gallaway said that a consultant helped with the strategic plan, and there were three pieces that the CVRHP would be working on, and two of them were the data committee and the communications committee. He said that what was learned in the lead-up to figuring out the strategic plan and next steps was, in addition to the relationships being established and developed, was what could they be putting out there.

Mr. Gallaway said that the data and data-sharing was an important place, and to have one specific place be able to work on that was critical, which was the purpose of the data committee. He said that the communications committee could get that information out to people and let them know they were there to serve as a resource. He said that the executive committee had done some bylaws review and was looking at membership to ensure that there were the right members as a part of the group.

Ms. LaPisto-Kirtley congratulated Mr. Smith on being able to turn \$600,000 into \$8 million. She said that bringing in the other counties was important for the entire region.

Mr. Smith thanked Ms. LaPisto-Kirtley. He said that they were addressing a regional crisis.

Ms. Mallek asked if there was a dashboard for apartments available.

Mr. Baxter said that TJPDC maintained an affordable housing locator and resource page called Porchlight. He said that it did not necessarily display housing information and characteristics but more affordable rental units.

Ms. Mallek said that there was so much happening in other rural counties that they could learn from, so communication was important.

Mr. Smith said that a tool they were working on called "Hand" was a visual tool that would show the cost of living in different areas. He said that it was helpful in understanding how people could not afford to live where they worked.

Ms. McKeel asked if the information from the presentation could be shared with her, as it was not in her packet.

Mr. Smith apologized. He said that he thought that the Board had that data already.

Ms. McKeel said that the Board had not seen that data at all.

Mr. Smith apologized. He said that he did not want to take up time going over something the Board had already read. He said that it was in the package, and he could email a link to the Supervisors.

Ms. Price said that this regional approach was important because it was not an issue specific to Charlottesville or Albemarle County. She said that the entire region was affected, and because of the

affordability issues, many people who worked in the County or City had to live outside of the County, which affected both the County that the person lived in and the County that the person worked in. She said that Mr. Smith had taken the time to help her understand the land trust that took a certain amount of money and turned it into a substantial value for the homeowners.

Mr. Smith said that his comments about that were more about the relationships required to make that fiscal achievement possible.

Ms. Price said that Mr. Smith was helping to break generational poverty by creating generational wealth for those at the receiving end of this work.

Mr. Smith said that they had just had their first two resales, where the owner walked away with \$50,000 cash and was able to move up the housing ladder, and behind that was another 80% AMI buyer.

Ms. Price said that the Board would appreciate it if Mr. Smith forwarded this information for further review.

Mr. Smith said that he would.

Mr. Gallaway said that back in the fall, they had a historically robust discussion at a TJPDC meeting about affordable housing after a presentation made by Mr. Baxter. He said that he could forward the schedule and meeting information if Supervisors would like to tune into future meetings, and Albemarle County was a sponsor of the Coming Back Home event, so he looked forward to seeing them there.

Agenda Item No. 12. Closed Meeting.

At 4:06 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
 - to discuss and consider appointments to various boards and commissions including, without limitation, the Albemarle County Easement Authority, the Board of Equalization, and the Pantops Community Advisory Committee; and
 - to discuss the assignment, appointment, promotion, performance, demotion, salary, disciplining, or resignation of a specific administrative employee of the County;
- Under Subsection (3), to discuss or consider the acquisition of real property in the Rivanna Magisterial District for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County; and
- Under Subsection (5), to discuss the location of a prospective business or industry in the northern part of the county where no previous announcement has been made of the business's or industry's interest in locating its facilities in the community.

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

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

NAYS: None.

ABSENT: Mr. Andrews

Agenda Item No. 13. Certify Closed Meeting.

At 6:07 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: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.

NAYS: None.

ABSENT: Mr. Andrews.

Agenda Item No. 15. From the County Executive: Report on Matters Not Listed on the Agenda.

There was no report from the County Executive.

Agenda Item No. 16. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Ms. Heather Rowland, Samuel Miller District, said that she wanted to revisit a topic that she wrote to the Board of Supervisors about last week, namely the controversy surrounding the Charlottesville-Albemarle Society for the Prevention of Cruelty to Animals (CASPCA) regarding its alleged toxic work environment and mistreatment of animals in its care.

Ms. Rowland said that she noted in that letter that, as CASPCA will receive \$1,000,000 in funding from Albemarle County and the City of Charlottesville combined in 2023, both governmental entities had a vested interest in the shelter's operations. She said that she appreciated that she got a very rapid response from the Board in the form of an email from Supervisor Price saying that County staff were aware of the controversy and were investigating.

Ms. Rowland said that there were several points she wanted to bring to the attention of those County staff as she was not sure they would be hearing the full story if staff spoke only to the CEO and the Board of CASPCA.

Mr. Rowland said that CASPCA Concerns produced the damning indictment of SPCA operations and, especially, of its current leadership under Angie Gunter. She said that CASPCA Concerns original headcount of some fifty current and former employees and volunteers had now expanded to over 100, the overwhelming majority of whom have entered details of their own negative experiences into the public record. She said that the CASPCA Concerns report cannot be passed off as the whining of one or two disgruntled employees.

Ms. Rowland said that complaints about CASPCA operations were not new, despite what the chair of the CASPCA Board, Jenn Corbey, said in today's article in C'ville. She said that there were multiple letters on the record to the CASPCA Board dating back several years. She said that there was no excuse for substandard equipment or a backlog of building maintenance, and at the end of 2021, CASPCA had almost \$16,000,000 in net assets, according to its tax return. She said that its wealth was growing as the welfare of the animals and the staff was declining.

Ms. Rowland said that staff turnover was abnormally high: she was told that at least fifty left in the last year, and the total staff count was 123. She said that as an organization that helped fund CASPCA, the County held the power to push for change, to demand a new CEO (chief executive officer) and new Board leadership. She said that fundraising skills were not the sole requirement of the job. She said that the animals deserved a leader with shelter and animal behavior experience. She said that the employees and volunteers deserved to be treated with dignity.

Ms. Vikki Bravo, speaking on behalf of Impact, the interfaith group of 26 congregations, said that Impact had been working on affordable housing for six years. She said that they appreciated today's discussion of the affordable housing grant program, which would grant qualified projects the cost of water and sewage fees for affordable housing. She said that it was a good example of private-public partnership. She said that the Board also discussed the importance of providing enough funds to cover the offset and cost to build affordable housing so that developers would apply and build affordable housing.

Ms. Bravo said that there was another tool that both strengthened the private-public partnership and leveraged funding to fill the gaps, which was affordable housing trust funds. She said that they had been pressing for an affordable housing trust fund for Albemarle County because it was the best practice nationally and was recognized as a strong tool of public-private partnership.

Ms. Bravo said that around the country, counties leveraged on average seven times what they put into affordable housing trust funds, which was because grants from affordable housing trust funds to developers opened up other possibilities of things that could be applied for. She said that these funds not only filled the gaps but brought in money, and they needed an ordinance to set this up because it was needed for accountability and for setting clear rules.

Ms. Bravo said that they appreciated the \$6 million that the County had set aside this year for affordable housing because it showed the seriousness of their commitment. She said that they were pressing for \$5 million in next year's budget for an affordable housing trust fund to be set up by ordinance. She said that if that was done for 10 years, it could build 165 units per year or 1,650 units over 10 years.

Ms. Bravo thanked the Board for their hard work and thoughtful consideration of this critical issue and their concern for the people they served who needed affordable housing.

Agenda Item No. 17. Public Hearing: ACSA202200001 Albemarle County Service Authority Jurisdictional Area Amendment (Pitsiokos).

PROJECT: ACSA202200001 Request for water service (Pitsiokos)

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL(S): 13600-00-00-02700; 92.97 acres

LOCATION: 531 James River Road, South of the Town of Scottsville

PROPOSAL: Request to amend the Albemarle County Service Authority Jurisdictional Area to

authorize water service to an existing structure that contains a barn first level and apartment second level. The structure connected to water illegally. Currently, the designation is “water to existing structures only” and the barn/residence is not a structure authorized for water service. ZONING: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
OVERLAY DISTRICT(S): Flood Hazard Overlay District
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).

The Executive Summary as forwarded to the Board states that pursuant to Virginia Code §15.2-5111, the Board has adopted jurisdictional areas for parcels that may be served by Albemarle County Service Authority (ACSA) water and sewer. The boundaries of the Development Areas generally define the ACSA’s Jurisdictional Area (ACSAJA). The subject parcel (described in the Attachment A application and shown on the map in Attachment B) was designated “water to existing structures only” in 1983. Attachment C shows the current ACSAJA designations on the parcel and surrounding parcels. Without any structures of its own that existed as of 1983, this subdivided parcel does not retain any authorization for water service. The applicant established a water connection to an existing barn/apartment (531 James River Road) without authorization and is now seeking the ACSAJA amendment to bring that connection into compliance.

As noted in the Community Facilities chapter of the County’s Comprehensive Plan, changes to ACSAJA boundaries outside of the Development Areas should be the exception and should be allowed only when: (1) the area to be included is adjacent to existing lines; and (2) public health and/or safety is in danger. Staff has found that the application does not meet the second criterion. A detailed staff analysis is provided as Attachment D. ACSA has issued a final compliance notice dated January 4, 2023 (Attachment E).

If this application were approved, there would be no budget impact to the County. The property owner would bear the cost of the water connection.

Staff recommends that the Board adopt the attached resolution (Attachment F) to deny the requested amendment.

Ms. Rebecca Ragsdale, Planning Manager, said that this request was to authorize water service to a structure that was currently unauthorized for water service. She said that the structure existed at 531 James River Road, just south of the town of Scottsville, adjacent to the James River. She said that the 92.97-acre parcel currently had a sheep farm, railroad tracks across the floodplain, the existing structure that was the subject of the request this evening, as well as other structures.

Ms. Ragsdale said that this request was required because of the type of jurisdictional area designation that the property had. She said that the County of Albemarle established the service areas that the Albemarle County Service Authority (ACSA) may then provide water or sewer service to, and in this particular case, the designation went back to 1983 and limited the water service to specific structures.

Ms. Ragsdale said that of those structures, the only structure authorized for service was the owner’s residence at 9067 Valmont Lane, shown at the bottom of the map on the slide. She said that the other two structures on the parcel were the subject of this request, the barn/apartment, and an existing cottage that was served by a well.

Ms. Ragsdale said that there had been a history of compliance issues that had been raised and discussed as part of this review. She said that the structure was existing with an unauthorized water connection and did not get the appropriate building permits prior to construction. She said that they had gone over the jurisdictional area designation, and the fact that the only house that had the authorization was the owner’s residence.

Ms. Ragsdale said that the permit history went back to 2016 when a farm building permit was issued for a barn, and the farm building permit process included an affidavit that was required to be signed to acknowledge that the applicant knew what a farm building was and was not. She said that it was definitely not a dwelling, which was what was on the form. She said that in 2017, an inspection revealed that a dwelling had been added, which was what was referred to as the apartment above the barn, and at that time, the corrected permit was requested, but there were no inspections approved and no certificate of occupancy issued. She said that the outstanding issue, at that time, which still remained, was water service, and they did not have documentation at that time regarding the septic or drain field for the parcel.

Ms. Ragsdale said that in 2021, the homestay proactive compliance program led to the discovery of the structure of the barn/apartment being occupied and rented as a homestay without a certificate of occupancy (CO), without the required homestay process and zoning clearance, and at that point it was realized that they had connected to the public water service.

Ms. Ragsdale said that the other compliance issues related to the cottage had been resolved, which was another structure that had been constructed without a permit, but now had a CO, and was being rented at the time as a homestay.

Ms. Ragsdale said that the greenhouse-type structure was placed on the property without a

permit, but that now had a farm building permit.

Ms. Ragsdale said that unrelated to this request but brought up during discussion was that the additions the owner had made to the residence on Valmont Lane. She said they had a permit under review, and they were working with the building official to get the appropriate inspections and CO if needed.

Ms. Ragsdale said that the expectation was that the properties in the rural areas would not be served by public water but by private well and septic, even if the site had a history of structures being served at some point in time. She said that during the required building permit process, an applicant would work with the Health Department for approval of their well and septic, and their residential building permit packet brought up the potential issue if they were in a contamination area.

Ms. Ragsdale said that the ordinance required that well testing be done prior to issuance of a building permit. She said that, in any case, if contamination were found, they would discuss other options with the owner for service by well. She said that in this process, the public water service was the last option to pursue and was approved only by exception.

Ms. Ragsdale displayed an aerial image of the property. She indicated where the water meter was located near Valmont Lane and James River Road, and where the water line ran over to the barn/apartment, which was the unauthorized connection. She said that the water that had been consumed had been paid for due to how it was connected through the meter, but it was not a connection that was inspected or approved by the County or the ACSA, and it was not allowed by the jurisdictional area.

Ms. Ragsdale showed on a slide where the barn/apartment was located and said that it now had a permit. She said they now had approval from the Health Department relative to the septic and drain field for the structure, the operations permit, and the cottage to the right of the slide was completely compliant and served by a well that was permitted by the Health Department. She said that the cottage, the well, and the drain field were outside of the buffer area. She said that the action before the Board was whether or not to amend the jurisdictional area to allow for that water service to continue that began unauthorized.

Ms. Ragsdale said that water service was prioritized for the development areas, and continued connections of properties in the rural area should be the exception. She said that the criteria for evaluation, both of which must be met, were whether the area to be included was adjacent to existing lines and whether the public health or safety was in danger. She said that in this case, she mentioned the buffer area, and there was concern over an existing leak site about 1,000 feet away from the barn/apartment.

Ms. Ragsdale said that the County adopted some regulations and processes in 2005 that was out of a result of an abundance of caution after more significant leaks in the County resulted in existing homes that had been recently built being subject to contamination issues. She said that it was not uncommon that they would issue building permits in these buffer areas, with over 200 water-testing and permits issued for these types of situations.

Ms. Ragsdale said that these buffers were shown regardless of the scale of the leakage, which in this case was from a home heating oil tank, which was contained and not deemed a hazard by DEQ. She said that the ordinance required well testing, and a well must be drilled before a building permit was issued, which was the process for a situation like this. She said that the presence of the buffer in and of itself was not something that was part of the evaluation criteria and may not always mean there was an imminent public health or safety issue.

Ms. Ragsdale said that the process for the ordinance was clear, and the well testing and drilling were required. She said that during these jurisdictional area request evaluations, they could consider other information as far as other wells in the area being tested, but the details of the leakage sites and the extent and nature of those contaminations or lack of contaminations, as it was in this case to the groundwater. She said that the staff finding was that this did not meet both criteria, and that led to the recommendation for denial that was before the Board.

Ms. LaPisto-Kirtley asked to see the slide of the leakage map. She asked if the red dot at the center of the radius was the location of the home.

Ms. Ragsdale said that the red dot was the general location of the contamination site.

Ms. LaPisto-Kirtley asked if that was located within 2,000 feet of the barn/apartment.

Ms. Ragsdale said yes, and the 2,000-foot buffer is not unique to this particular site.

Ms. LaPisto-Kirtley asked if that area around there could be contaminated, and they would have to find out.

Ms. Ragsdale said that the map led them to required testing to ensure that there was no contamination in the water. She said that DEQ (Department of Environmental Quality) did not see this leakage as one that would be impactful to the groundwater in the area.

Ms. LaPisto-Kirtley asked if that testing would have to be done prior to digging a well for the

barn/apartment.

Ms. Ragsdale said that the actual testing of the water would be done by digging the wells and testing the water, which had to be completed prior to issuance of a building permit for such a structure.

Ms. LaPisto-Kirtley said that it appeared that the contamination site encompassed the barn and the apartment.

Ms. Ragsdale said that was correct.

Ms. LaPisto-Kirtley said that if that person were required to install a well, they would find out if it was contaminated when they tested it.

Ms. Ragsdale said that yes, any contamination issues would be discovered during water testing.

Ms. LaPisto-Kirtley said that they would find out by digging the well and not by testing the entirety of the land.

Ms. Ragsdale said that they could also seek sites outside of this buffer area and therefore areas that were less likely to have issues.

Ms. Mallek said that she was grateful for the wells to be built and tested before the building permit, because people used to build entire houses before finding out there was no water there. She said that there was a lot of acreage on that property where a well could be located.

Mr. Gallaway said that the water had been paid for.

Ms. Ragsdale said yes.

Mr. Gallaway said that he was unsure of what was still unresolved.

Ms. Ragsdale said that the cottage had been resolved and the farm building permit had been resolved. She said that the water service issue needed to be resolved before the structure could be inspected and the appropriate building permit issued, along with all of the steps taken to get to the CO. She said that there were also additions made to the owner's residence without a permit, and that permit had been issued and the building official had contacted them about next steps.

Mr. Gallaway asked when the connection to the barn/apartment had been established.

Ms. Ragsdale said that she believed it was around 2016 based on information shown on the septic permit. She said that the property owner indicated to the Health Department that they were served by public water when they requested septic and drain field, but that was not supplied to the County, so it was difficult to find the exact date.

Mr. Gallaway asked if part of the property would have been fine to do but the other part was not.

Ms. Ragsdale said that these uses were allowed but the issue was that they did not get permits. She said that the process for the building permit for this structure to be issued needed to be done in order to determine what the water source would be.

Mr. Gallaway said that part of the property was in the jurisdictional area, but the barn/apartment was not in the jurisdictional area.

Ms. Ragsdale said that the map showed the entire parcel as being in the jurisdictional area, but it was a specific type of designation that was tied to structures.

Mr. Gallaway asked if it was common knowledge for water to be allowed to one part of the property and not to another part.

Ms. Ragsdale said yes, this information was available, and the designations were explained on GIS (Geographic Information System). She said that if the entire area on the map was intended to have water service, it would have water service only, and there were several different types of designations.

Mr. David Benish, Development Process Manager, said that as a designation of water and sewer, that was an unfettered use for the entire property. He said that there were two types of service designations, one was limited, meaning there were certain conditions on it, and another limit called water only to existing structures. He said that those were used in the rural area typically because providing service in the rural area was an exception, and those conditions were placed on those properties.

Mr. Benish said that this designation had water only to existing structures, and the ledger sheet had which buildings had that service, and usually was not based on geography but based on how many buildings were on that property. He said that this property had the right of access to serve one building, which was the primary residence, so when this new barn/apartment was constructed, it should have been through the approval process of the ACSA that would allow or not allow for that service. He said they would check the maps to see if they should provide service to the buildings, and that did not occur.

Mr. Gallaway said that he had missed that part of the information earlier about the building only, not because of where it was at geographically.

Mr. Benish said that this building was newer and not part of the original designation for the existing structure.

Ms. McKeel asked if there was no concern about public health or safety.

Ms. Ragsdale said that was correct.

Ms. McKeel asked if it did not meet the criteria.

Ms. Ragsdale said that they found it did not meet the second criterion.

Ms. McKeel said that it appeared there was a lot of land, so there was the possibility of other areas to dig a well.

Ms. Ragsdale said yes.

Ms. LaPisto-Kirtley asked when the water connection was made for the barn/apartment if it was done illegally.

Ms. Ragsdale said that it was an unauthorized use by the ACSA and no permits were issued that may have been required.

Ms. LaPisto-Kirtley asked if the connection was checked for any type of condition or status.

Ms. Ragsdale said that they did not know. She said that they wanted this issue resolved because no inspections had been performed by the County or the ACSA.

Ms. Price said that her understanding was that everything that had been done in 2016, 2017, and 2021 had been done under the current applicant.

Ms. Ragsdale confirmed this.

Ms. Price said on Slide 3, all of the properties in blue had County water connections going to the existing structures.

Ms. Ragsdale said that not all of them did.

Ms. Price asked if it was a service area where they all could be connected.

Ms. Ragsdale said yes.

Ms. Price asked to see the slide with the leakage radius map. She said that she understood the red dot in the center was where the underground storage tank for heating oil was located, and it was discovered to have a leak that was relatively small in volume. She said that the language on the right side of the slide read that DEQ had not deemed the area to be at risk. She asked if the area described was the area where the barn/apartment was located or the area within the entire 2,000-foot radius.

Ms. Ragsdale said that it was the entire area.

Ms. Price said that the 2,000-foot radius was not because a risk was identified so much as it was a standard radius from an identified storage tank.

Ms. Ragsdale said that it was the standard in the ordinance but did not mirror anything that DEQ had.

Ms. Price said that there were a number of properties serviced by well rather than County water.

Ms. Ragsdale indicated the parcels that were served by water, which were mostly along James River Road.

Ms. Price asked if it was fair to conclude that there were a number of buildings where water was being provided through a well within the radius of the leak.

Ms. Ragsdale said yes.

Ms. Price asked if any of those had had health hazards identified at this point.

Ms. Ragsdale said that no issues had been identified at this point.

Ms. Price said that Ms. McKeel had asked for clarification that there were no public health or safety issues, but it was more that there were no documented health or safety issues. She said that it was not that it had been cleared, but that the County had nothing to identify that there was a public health or safety concern at the barn/apartment. She said that it would be the responsibility of the property owner or

applicant to demonstrate to the County that there was a concern about that.

Ms. McKeel said that was a good question.

Ms. Price said that Slide 5 identified a number of issues. She said that had the applicant come to the County before building the structure and following the appropriate process, it would have been possible for the County to identify an issue of public health or safety and potentially move structures to different areas.

Ms. Ragsdale said that that was part of the information they went over with building permit applicants.

Ms. Price said that the applicant did not come to the County and just did the structure without permits.

Ms. Ragsdale said that the location of the farm building was approved with a permit.

Ms. Price said that the dwelling part on the second floor was constructed without a permit.

Ms. Ragsdale said yes.

Ms. Price said that if the applicant had come to the County in order to get the permit for the dwelling, many of these issues could have been addressed before the structure was built.

Ms. Ragsdale said yes.

Ms. Price said that in regard to the water line, they knew that the actual water line sort of followed along Valmont Lane, which was approved previously and there was no issue with that. She said that the concern was that the water line that the applicant had installed was on the property owner's side of the water meter, so they knew that the property owner had been paying for the water, but it was an unauthorized extension from that water line on his side of the water meter to the barn dwelling, and that was never inspected.

Ms. Ragsdale said that was correct.

Ms. Price said that they did not know if it was installed appropriately because there was never a permit or an inspection.

Ms. Ragsdale said that was correct.

Ms. Price said that she recalled reading in the materials something about a backflow meter with water that may be subject to potential contamination from agricultural livestock purposes.

Ms. Ragsdale said if the public water connection were authorized, the backflow prevention device protected the public water system from any potential hazards.

Ms. Price asked if that was not currently in the water line.

Ms. Ragsdale said that she did not know if that was installed or not. She said that it may have been addressed in the ACSA letter.

Ms. Price said, looking at Slide 6, if prior to building the dwelling above the barn, the applicant had come to the County and filed the proper paperwork, they would have been able to show the leakage radius, and at that point, the property owner would have had a choice to make about moving to a different location outside of the potential contamination zone.

Ms. Ragsdale said yes.

Ms. Price said, looking at Slide 8, that there was no public health or safety danger that had been documented. She said that based on the slides that showed that the DEQ had determined it was unlikely to be a risk, they could take that into consideration.

Ms. LaPisto-Kirtley asked if the home was on well and septic.

Ms. Price said no.

Ms. LaPisto-Kirtley asked if the owner's home was on well.

Ms. Ragsdale said that the owner's residence was served by public water.

Ms. Mallek said that she had read somewhere in the papers about if the backflow preventer would be required to be installed and properly inspected; even private systems had backflow prevention because it prevented the barn stuff from coming back into the house, so it was important that these things be done properly because it affected everyone in that area.

Ms. Price opened the public hearing. She asked the Clerk if anyone was signed up to speak on

this matter.

Ms. Borgersen said no.

Ms. Price noted that the applicant was not able to be present at the meeting this evening. She said that in the absence of the applicant, she would provide additional information before closing the public hearing. She said that the previous weekend, she had visited the site, met with the applicant, and discussed all of the issues that had been addressed this evening.

Ms. Price said that the applicant was an attorney and had at least three or four issues of actions taken on the property without first going through the proper processes and permitting, although it appeared that most of those had been addressed and resolved. She asked if that was an accurate assessment of where they were in the process.

Ms. Ragsdale said that the applicant had followed through with every application that had needed to be submitted up to this point.

Ms. Price asked if, to the County's knowledge, all of the potential permitting issues had been identified and filed.

Ms. Ragsdale confirmed this.

Ms. Price closed the public hearing and brought the matter before the Board for any additional questions or comments.

Ms. LaPisto-Kirtley said that she would defer to staff's recommendations for this item because the applicant did not follow what was required. She said that she was concerned about the unauthorized connection and the potential hazard it posed, and many things must be remediated before it was reconsidered.

Ms. Mallek said that many applications had been made and been denied because they did not meet the criteria, so that is what she would stand on.

Mr. Gallaway asked if this were denied, the applicant would test and put in a well provided it was safe to do so.

Ms. Ragsdale said yes.

Mr. Gallaway said that if it was not safe to do so, this item would come back before the Board again.

Ms. McKeel said that there was a process which was meant to ensure the health and safety of the community.

Ms. Price said that her recollection was that existing buildings would be principally subject to the connection to a water line if there was a contamination issue. She said that it did not appear to be the same situation, because the building was constructed without permits, and then the potential health issue was identified.

Ms. Ragsdale said that they had a process now that would hopefully lead to fewer occurrences of needing to request public water.

Mr. Benish said that in the scenario that this was denied, and they were to drill a well, they were now an existing structure but were not an existing structure eligible for service under the jurisdiction area now. He said that five years from now, if there were water quality or quantity issues, they could make an application just like any other structure.

Mr. Benish said that when they went through an evaluation for jurisdictional area requests in the rural area, they tried to determine if public water and sewer were the last reasonable resort. He said that on large pieces of property, they would have them exercise other options before resorting to it, but any property that was adjacent to a waterline and had a documented problem that was a health or safety issue was eligible for the service.

Ms. Price said that she would generally look to find a way to help property owners to achieve something, and that had been the philosophy of the County. She said that what troubled her here was the number of items listed where the applicant should have known better and essentially decided to move forward with a number of things, and now came before the County because they did not want to dig an expensive well to find out that the water might be contaminated.

Ms. Price said that she could not vote to approve this application under the totality of the circumstances of this situation. She said that she believed that the existing water line that went from near the water meter to the structure needed to be turned off to protect the health and safety of the water system in that area because they did not know, because it was not permitted or inspected, if there was any contamination.

Ms. LaPisto-Kirtley asked if the property owner had a valid homestay permit.

Ms. Ragsdale said that they had one for the cottage outside of the buffer.

Ms. Price said that that structure was on well and septic.

Ms. Price **moved** to adopt the Resolution to Deny ACSA202200001, James River Road for Parcel ID 13600-00-00-2700.

Mr. Steve Rosenberg, County Attorney, clarified that the resolution that Ms. Price moved to adopt was on a blue sheet of paper that had been distributed to Board members at the meeting and contained a minor revision to the first paragraph to more accurately reflect the nature of the application received from the property owner, but in all other respects, tracked the language of the resolution that was included in the Board package.

Ms. Price confirmed that she was moving to approve the resolution to deny that was handed to the Board that evening and not the one in the Board materials

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

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

NAYS: None.

ABSENT: Mr. Andrews.

**RESOLUTION TO DENY
ACSA202200001 JAMES RIVER ROAD
FOR PARCEL ID 13600-00-00-02700**

WHEREAS, in application ACSA202200001 (“ACSA 2022-01”), the owner of Parcel ID 13600-00-00-02700 (“Parcel 136-27”) has applied for an amendment to the Albemarle County Service Authority (ACSA) Jurisdictional Area to authorize water service to a barn/apartment (531 James River Road), in addition to the existing residence at 9067 Valmont Lane; and

WHEREAS, on February 1, 2023, the Albemarle County Board of Supervisors held a duly noticed public hearing on ACSA 2022-01; and

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for ACSA 2022-01 and all of its attachments, the information presented at the public hearing, and the factors relevant to the ACSA Jurisdictional Area in Virginia Code § 15.2-5111 and in Chapter 12.1, Community Facilities, Strategy 9a, of the Albemarle County Comprehensive Plan, as well as the Comprehensive Plan’s Growth Management Policy and Land Use Plan, the Albemarle County Board of Supervisors hereby denies ACSA 2022-01.

Agenda Item No. 18. **Public Hearing: ZMA202100001 Willow Glen.**

PROJECT: ZMA202100001 Willow Glen

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 032000000049F0; 032000000049I0; 032000000049J0;
032K00000000E0; 032K00000000A0; 032K0000012300

LOCATION: 3621 and 3655 Dickerson Road, on the east side of Dickerson Road, approximately 700 feet north of its intersection with Towncenter Boulevard; and property at the terminus of Shannon Glen Court.

PROPOSAL: Amend the application plan and the proffers associated with previously approved rezoning ZMA200600019.

PETITION: Request to amend the application plan and the proffers associated with ZMA200600019 on six (6) parcels totaling approximately 20.457 acres. Request to amend the application plan to change the proposed dwelling units from a mix of residential types to all multi-family units, and to increase the number of dwelling units permitted in Phase 2 to 324, for a gross and net density of 16.81 dwelling units per acre. The total number of units in Phase 1 and Phase 2 together would increase to 360, for a gross and net density of 15.08 dwelling units per acre.

Request to amend the proffer statement to modify the proffers for affordable housing, cash contributions, and a connection with Towncenter Blvd. Associated special exception requests to modify the recreational facilities requirements for residential uses (SE202100007) and to modify the parking requirements for residential uses (SE202100008).

ZONING: PRD Planned Residential Development – residential (maximum of 35 units/acre) with limited commercial uses; in accordance with ZMA200600019.

OVERLAY DISTRICT(S): Airport Impact Area, Steep Slopes – Managed

PROFFERS: Yes

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre), with supporting uses such as religious institutions, schools, commercial, office and service uses; and Neighborhood Density Residential – residential (3 – 6 units/acre), with supporting uses such as religious institutions, schools, and other small-scale non-residential uses; in the Hollymead community of the Places29 Master Plan area.

The Executive Summary forwarded to the Board states that at its meeting on Tuesday, November

22, 2022, the Planning Commission (PC) conducted a public hearing and voted 4:2 to recommend approval of ZMA202100001 based on the positive aspects identified in the staff report, along with a suggested revision to the application plan to provide a more substantial buffer between parking areas and the proposed stormwater management pond, which acts as an amenity for the development, with proposed trails and benches constructed around it.

With the recommendation of approval of the rezoning, the PC also voted 6:0 to recommend approval of both special exception requests: (i) SE202100007 for substitutions of recreational facilities and (ii) SE202100008 to reduce required parking by 5%. The PC's staff report, action letter, and meeting minutes are attached (Attachments A, B, and C).

At the PC meeting, staff did not recommend approval of the proposed Zoning Map Amendment. However, staff had no objections to the approval of the two special exception requests if the PC chose to recommend approval of the ZMA.

The PC discussed several elements and concerns with the proposed new Willow Glen plan, including the following:

- 1) The proposed increase in density in Phase 2 with 126 more residential units in the development area than was permitted in the original 2006 rezoning.
- 2) The change in unit types from a mixture, such as single-family detached, townhouses, duplexes, and condos, to only a single unit type of multi-family apartments.
- 3) The layout of the site as shown on the proposed new application plan, which does not improve the residential units, parking, and open space from the application plan approved with ZMA200600019.
- 4) The removal of the vehicular interconnection between existing Phase 1 and proposed Phase 2 of Willow Glen, effectively making the two phases separate developments, which is not consistent with the intent of PRD planned residential developments and is inconsistent with policies promoting interconnections.

Since the PC public hearing, the applicant has made several changes to the application to address comments and concerns raised at that meeting. The applicant has revised its project narrative (Attachment D), application plan (Attachment E), recreational facilities substitution exhibit (Attachment F), and proffers (Attachment G).

The application plan has been updated to widen the buffer area between the pond and the nearby parking lot to provide sufficient space for the extension of the trail to fully encircle the pond. This extension of the trail allows expanded pedestrian opportunities in the development. The recreational facilities substitution exhibits have been similarly updated with the trail extension.

The proffer statement has been revised (Attachment G) to remove proposed proffer #3 for ZMA202100001. It was determined that this proffer was not needed, since the proposed application plan depicts the existing Shannon Glen Court as terminating in Phase 1, making the proffer redundant. Proffer #3 from the original 2007 proffer statement remains in effect for Phase 1 of Willow Glen. However, this proffer has not been satisfied at this time, as Shannon Glen Court has not yet been accepted by VDOT for maintenance. The applicant continues to work with both VDOT and County staff to address the remaining requirements for acceptance by VDOT. This process has not been completed, and until VDOT is ready to accept the street for maintenance, staff cannot guarantee that the street will be accepted.

In addition to several community members who spoke at the PC public hearing, a petition signed by residents of Willow Glen Phase 1 was provided after publication of the PC staff report. This petition is now provided as Attachment H.

Although staff recommended denial of the proposed rezoning ZMA202100001 Willow Glen, the PC recommended approval. As a result, staff has prepared both an ordinance to approve (Attachment I) and a resolution to deny (Attachment J).

If the rezoning is approved, staff recommends approval of the associated special exceptions. Resolutions to approve the special exceptions are provided as Attachments K and L.

Mr. Andy Reitelbach, Senior Planner, stated that this was a public hearing for a rezoning request for ZMA202100001 Willow Glen. He said that this rezoning application was focused on what was known as phase 2 of Willow Glen, and the applicant was also calling it "Dickerson Overlook," so it may be referred to as either in the materials.

Mr. Reitelbach said that it was located on the east side of Dickerson Road across the street from the airport, west of the Deerwood Village subdivision, and phase 1 was circled near the bottom of the map shown on the slide where the existing parcels were. He noted that there was one parcel along Dickerson Road that was somewhat square shaped and surrounded by the Willow Glen property, and it was not included in the rezoning request.

Mr. Reitelbach said that the existing rezoning of the three parcels that made up phase 2 of Willow Glen had a current zoning of Planned Residential Development (PRD), and that was approved along with phase 1 of Willow Glen in ZMA200600019, which included proffers. He said that by right, in phase 2, currently a maximum of 198 units were permitted, as 36 of the total 234 units had already been constructed in phase 1. He said that there were Managed Steep Slopes and Airport Impact Area Overlay zoning districts.

Mr. Reitelbach said that for the Comprehensive Plan, the three parcels that were a part of Willow Glen phase 2 were designated as Urban Density Residential, which is the orange color, which recommended 6.01-34 units per acre along with some supporting uses. He said that there was also a small sliver in the southeast portion of Willow Glen phase 2 that was designated as Neighborhood Density Residential and did not affect the rezoning very much and was actually the location of the stormwater management facility for this proposal. He said that the residential building height was recommended for a maximum of four stories.

Mr. Reitelbach said that the purpose of this request was for the proposed phase 2 composed of three parcels that totaled just over 19.27 acres. He said that the applicant was requesting to amend the application plan and the proffers for phase 2 that were previously approved in 2006, and the zoning district for PRD would remain the same.

Mr. Reitelbach said that the applicant was requesting to increase the maximum number of units permitted in phase 2 by 126 units, from 198 units to 324 units, for a grand total of 360 units total in the Willow Glen planned residential development.

Mr. Reitelbach said that for phase 2 only, which was the subject of this rezoning, the gross net density would be 16.8 units per acre, and for Willow Glen overall, there would be just over 15 units per acre. He said that the specifics of this proposal when looking at the application plan were that the applicant changed the unit types in phase 2 from a mix of detached single-family houses, townhouses, condos, and duplexes to all multifamily units across 12 residential buildings that would range from three to four stories tall. He said that there were additional plans to build a clubhouse and fitness center.

Mr. Reitelbach said that there were two site entrances off of Dickerson Road, and in the original application from 2006, a road connection had been proposed that went from Town Center Drive through Willow Glen to Dickerson Road, which was proposed to be eliminated as part of the current proposal. He said that a portion of the existing road in phase 1 of Willow Glen would be terminated and become a dead-end, not connecting to phase 2, and phase 2 would be served by internal streets and travel ways coming off of Dickerson Road.

Mr. Reitelbach said that 25% of open space was required in PRD districts, and this proposal included approximately 37.8% of open space in phase 2, which is just over 7 1/4 acres.

Mr. Reitelbach displayed an image of the proposed new application plan, which showed the building envelopes for the various multifamily buildings. He said the gray areas were parking lots, the bright green yellowish areas were open space areas, and the stormwater management pond was in the top area of the screen. He showed another image of the original application plan from 2006, which showed the original layout of the different unit types shown and the proposed connection between phase 1 and phase 2 just below where the stormwater management pond was located.

Mr. Reitelbach said that this application also proposed to amend the proffers. He said that the first amendment was the removal of the proffer requiring that 15% of dwelling units be affordable for 10 years, which the applicant was replacing by making 20% of units in phase 2 affordable at 80% AMI (area median income) for a period of 15 years, which was in line with the County's housing policy.

Mr. Reitelbach said that another amendment was the removal of the proffer requiring cash contribution for each unit that was not affordable in the development. He said that with the original rezoning in 2006, a cash contribution was not required for any multi-family units and was only required for the single-family detached units and townhouse units.

Mr. Reitelbach said that another amendment was the removal of the proffered connection to Town Center Drive from Dickerson Road, which would be terminated in phase 1, resulting in no vehicular connection between the two phases.

Mr. Reitelbach said that the final amendment was an addition by the applicant for sidewalk construction and conveyance of temporary grading and construction easement for the Dickerson Road frontage on the southwest side of the property.

Mr. Reitelbach said that displayed on the slide was a graph showing the student generation expected from this development. He said that 55 students in total were expected to come from the entirety of phase 2, including the 126 additional units, with approximately 20 students generated by the 126-unit increase being requested. He said that Baker-Butler Elementary School and Albemarle High School were currently over capacity and were expected to remain so for the foreseeable future. He said that Lakeside Middle School had capacity at this time but was expected to be over capacity by the end of this decade.

Mr. Reitelbach said that, going back to the proffers, that the applicant was requesting to remove the cash contributions, and if all of those cash contributions were paid, approximately \$2 million would be given to the County, and could potentially address school impacts, but that money would really go to all public facilities, and it would be up to the County to determine whether it would be schools, parks, or whatever facilities may need that money.

Mr. Reitelbach said that a TIA (traffic impact analysis) was provided with this application and was reviewed by VDOT and the County Transportation Planning Division, neither of whom had any concerns

or objections.

Mr. Reitelbach said that, talking about the through-street from Dickerson Road to Town Center Drive, the constructed portion in Willow Glen phase 1 was called Shannon Glen Court, and was approved as a public street, however, the bonds were still in place, and it had not been accepted by VDOT for public maintenance at that time. He said that to truncate the street in phase 1 as was being requested, VDOT would require the temporary turnaround that existed currently to be changed to a permanent turnaround and to meet cul-de-sac standards.

Mr. Reitelbach said that that had not been completed at this time, however, VDOT had provided a process for how that could be done, and the applicant was currently working through that process to complete the acceptance of Shannon Glen Court into the public highway maintenance system. He said that in place of that connection, the applicant proposed a trail system around the property, with potential connections to adjacent properties, including a bridge and a multiuse path connecting with the end of Shannon Glen Court.

Mr. Reitelbach said that there was a sidewalk proffered along the southwest frontage of the property, and he displayed a map that showed that one of the frontages on Dickerson Road, sidewalk was provided along with easement conveyance for future extension, and no sidewalk was provided on the other side. He said that that was important for pedestrian orientation, but that ran into concerns that VDOT may not accept "sidewalks to nowhere," and because no sidewalk was constructed along the other properties on Dickerson Road, they would only have small segments of sidewalk on this property, and VDOT had a policy of not necessarily accepting those sidewalks into their maintenance system.

Mr. Reitelbach said that two special exceptions were submitted with this rezoning request, one of which was a request for a modification of recreational facilities from what was required in the Zoning Ordinance. He said that the number of tot lots required by the ordinance was seven, and the applicant was proposing to reduce that to three lots, replacing the remaining tot lots and the half-court basketball courts with other facilities such as a clubhouse and fitness center, trails around the property and the stormwater management pond, as well as viewing platforms and gazebos throughout the property.

Mr. Reitelbach said that the applicant also requested a reduction in the number of parking spaces by 5%, because nearly 600 spaces were required based on the proposed number of units, and they had shown that they could meet that requirement if necessary, however, they were requesting the reduction for more flexibility on the property. He said that staff had no objection to these requests if approval of the ZMA was granted.

Mr. Reitelbach said that staff had several concerns in reviewing this application that were identified in the staff report. He said they included the loss of the inter-parcel connectivity between phase 1 and phase 2, and no other vehicular interconnection had been provided. He said that Shannon Glen Court had not been accepted into the VDOT system, however, the applicant was undergoing that process currently.

Mr. Reitelbach said that there were the school capacity and student enrollment concerns, as well as the fact that the sidewalk was not provided along the one side of Dickerson Road, which may not be accepted as a sidewalk by VDOT because it may be considered a sidewalk to nowhere. He said that due to these concerns, staff had recommended denial at the Planning Commission, however, there were several positive aspects identified by staff.

Mr. Reitelbach said that these included that the request was consistent with the uses and density recommended by the Master Plan, the request was consistent with the majority of the applicable neighborhood model principles, and the request provided affordable units at 20% of the total number of units constructed, which was consistent with County policy. He said that the Planning Commission recommended approval of this application with a vote of 4-2, and they voted 6-0 to recommend approval of both of the special exception requests.

Mr. Reitelbach said that the applicant had made several revisions to the application since the Planning Commission meeting, which included revisions in the project narrative to the discussion of the proffers, affordable housing, and the interconnection, revision to the application plan and recreational facilities exhibit that widened the buffer area between the stormwater management pond and nearby parking spaces to provide a larger space to allow the recreational trail to fully encircle the pond, which was a suggestion of the Planning Commission. He said that another revision was made to the proffers statement to remove proposed proffer #3, which was determined to be redundant because the application plan already showed Shannon Glen Court as terminating in phase 1.

Ms. LaPisto-Kirtley asked to see the slide that showed the development plan. She asked if there were future developments that would help add on to the sidewalk.

Mr. Reitelbach said that currently there were no new proposed developments on either side of Dickerson Road where those sidewalks were. He said that the properties to the north and south were in the development area and could be developed, however, no site plans or anything of the sort was under review.

Ms. LaPisto-Kirtley said that Mr. Reitelbach mentioned that VDOT likely would not approve of this, but eventually it would be built out. She asked if there could be a provision to build the sidewalk now, or if VDOT wouldn't approve it until other developments were aboard, to hold the monies back and build

that extension of sidewalk when another development was built.

Mr. Kevin McDermott, Planning Director, said that if they build segments of sidewalk that did not have ADA (Americans with Disabilities Act) facilities at both ends, it was not a true ADA facility, and VDOT had been reluctant to allow non-ADA facilities to be constructed within the right-of-way, and they would not accept the maintenance of that. He said that it was possible that they could take on maintenance without VDOT's involvement, but if they only constructed a segment of the sidewalk and it was not ADA accessible, VDOT would likely not do it. He said that it was true that dedicated funds could be put aside for future construction, which had been a possible action researched in the past. He said that they understood that eventually it would go somewhere.

Ms. LaPisto-Kirtley said that if they could set it aside for the future when the area was developed, it would be most efficient.

Ms. Mallek said that she thought that the sidewalk was in a different location. She said that the one with the sidewalk provided was taking people down toward Timberwood. She asked if the property next door was done, then that would be the connection.

Mr. McDermott said that was correct.

Ms. Mallek said that the other one that had no sidewalk provided was the one that did not make much sense. She asked if staff had a problem with that.

Mr. McDermott said that where it was notated that a sidewalk was provided, the applicant had offered to provide a sidewalk, but there was no sidewalk for it to connect to on the other side, so VDOT may not allow it to be constructed without a maintenance agreement. He said that this was a new regulation, so despite the fact that there were many stubbed-out sidewalks throughout the County that were previously approved by VDOT, VDOT had taken the stance that they would not approve those now.

Ms. Mallek said that it was worse to walk on the road in heavy traffic, but that was not in their control. She asked if the connection for the road was not needed because it was equally quick for emergency services to take the other road.

Mr. Reitelbach said that was correct. He said that Albemarle County Fire Rescue (ACFR) reviewed this application and had no concerns about it.

Mr. Gallaway asked to see the slide pertaining to the projected school impacts. He asked if the net increase was 20 students.

Mr. Reitelbach said yes, the net increase from the number of units that could be constructed by right today versus what they were asking for with the increase would be about 20 students.

Mr. Gallaway asked if the mix of housing types from the prior application affected the numbers.

Mr. Reitelbach said yes, because of the mix in different unit types, there would be slightly different numbers because multi-family generated more students, usually at the elementary level than middle and high school levels, and those amounts would also change based on the exact mix of unit types.

Mr. Gallaway asked if the current application would result in about 55 students across the entire development.

Mr. Reitelbach said that was correct.

Mr. Gallaway said that with the exception of 15 of those, they were already in the previous approval.

Mr. Reitelbach said that the number was 20.

Mr. Gallaway said that he did not know how that was distributed out and asked Mr. Reitelbach to clarify the cash contribution of \$2 million.

Mr. Reitelbach said that the rezoning and proffer statement currently in effect had a cash contribution based on the units that would be constructed that were single-family detached, attached townhouses, and multifamily units that were not currently included in the cash contribution proffer. He said that the cash contributions would also only apply to those units not designated as affordable. He said that when analyzed, they found it would be an estimated \$2 million the County would receive from those cash contributions if phase 2 as currently approved was fully built out with the unit mix that had been approved.

Mr. Gallaway asked what the calculations were with this current application.

Mr. Reitelbach said that the applicant had requested to remove that proffer.

Mr. Gallaway said that he had read in the statement that it was not affordable.

Mr. Reitelbach said that was correct.

Mr. Gallaway said that that confused him. He said that staff had mentioned the connectivity issue as a negative one, and while connectivity was desirable, he would like to have more depth to the reasoning as to why people would want a connection through that small piece to cut over to Town Center versus going down Dickerson and taking a left onto Town Center where infrastructure was already built for those turn movements. He said they want to put connectivity in for hundreds of units to shoot through a little area to take a left turn there versus going down and taking it where it was designed to be made. He asked how it was a detriment to not have this connectivity.

Ms. Reitelbach said that based on the neighborhood model principles, which promoted interconnectivity among parcels, staff found that to be an important part of the development areas in providing different options for residents in both phases to use in either direction, and because that was how it had been originally approved, staff had viewed it as something that the Board found important in 2006, and that was weighed in the evaluation.

Ms. McKeel said that she would like to clarify if the roads were public or if VDOT would not accept the roads. She asked if these would be completed to the point where they would become public roads.

Mr. Reitelbach said that phase 1 consisted of two roads, Shannon Glen Court and Tempelhof Court. He said that the latter was a private street and always intended to be one upon approval in the original rezoning, and Shannon Glen Court was the first portion of that inter-parcel connection, which was approved with the intention of being a public street. He said that the intention was still for it to be a public street, but it had not been accepted into the VDOT maintenance system at this time because only a temporary turnaround was constructed at the end of Shannon Glen Court since it was based on the existing approval to eventually connect into phase 2.

Mr. Reitelbach said that because it would require some design changes and a permanent turnaround in that area, there were some changes that would need to be made for VDOT to be able to accept a cul-de-sac into the public system instead of the original interconnection that had been proposed originally. He said that the County still held the bonds to finish the construction or whatever must be done to get Shannon Glen Court into the public maintenance system, which was something the applicant was currently working toward.

Ms. McKeel asked if they could be assured that this would happen.

Mr. Reitelbach said that he could not say that it was sure.

Ms. McKeel said that there should be something in the language that indicated that it would happen.

Mr. Reitelbach said that until VDOT said that they were ready to accept it, he could not say so.

Ms. McKeel said that VDOT would accept it if it was brought up to a certain standard.

Mr. Reitelbach said that was correct. He said that if it was brought up to the standards identified by VDOT, they would accept it.

Ms. McKeel said that there should be language stating that it would be brought up to that standard so that VDOT would accept it. She said she had concerns about this due to the poor condition of some of the private roads in her neighborhood. She asked who would maintain the private road.

Mr. Reitelbach said that for Tempelhof Court, it would be the Willow Glen HOA of the existing development, which the applicant may have more information about.

Ms. McKeel said that the proffers were confusing. She asked if the proffers for the schools had just gone away.

Mr. Reitelbach said that was correct for the current application.

Ms. Mallek asked if some of the change in cash proffers was a result of the change in unit type and the fact that there were more affordable units put in.

Mr. Reitelbach said that the applicant could better explain the removal of proffers, but that portion of the proffer statement was being eliminated entirely in the request.

Ms. Price opened the public hearing.

Ms. Laurie Schweller, an attorney with Williams Mullen, said that she was representing the applicant, Dickerson Ridge, LLC. She said that this was a request for a rezoning amendment to the existing zoning of Willow Glen phase 2, now known as Dickerson Overlook. She said that the applicant was represented by George Ray, Jr., and Breeden Construction, the contract purchaser, was represented tonight by Brian Revere and Moises Ramiro. She said that Steve Edwards was present with Edwards Design Studio, Joe Wallace with Ramey Kemp, and Valerie Long with Williams Mullen.

Ms. Schweller said that the property was comprised of three tax map parcels along Dickerson

Ridge Road between the airport and Hollymead Town Center with a variety of residential and commercial development surrounding it. She said that the property was rezoned in 2007, and that following the downturn in the economy, phase 1 was constructed with 36 single-family and townhome units. She said that during the past 15 years, the applicant had tried diligently to proceed with phase 2, and it had been financially impossible because of the cash proffers. She said he had tried a number of different amendments such as proffer reductions to make that work, but they had an opportunity tonight to do something different.

Ms. Schweller said that in phase 1, over \$500,000 in cash proffers were given to the County, six affordable units were constructed, and funds were given to the ACSA to upgrade and analyze systems. She said that for phase 2, as Mr. Reitelbach explained, another \$2 million in cash proffers would be required, as well as affordable housing. She said that the affordable housing commitment would increase with this proposed amendment and the cash proffers would go away, and the only other proffer associated with the 2007 proffers would remain and had to do with Shannon Glen Court being dedicated to public use.

Ms. Schweller said that this requested rezoning would change from a variety of housing to high-quality, multifamily housing at a higher density, with more recreational amenities, more affordable housing for a longer period of time, and would convert the road cut-through to a pedestrian-bicycle connection. She displayed on the screen the approved 2007 plan, which showed there were 198 different homeowners living in phase 2 at ten dwelling units per acre.

Ms. Schweller said that in the new plan, they requested 324 apartments at more dwelling units per acre. She said that there would be about 100 more dwelling units, and about half of the units in the existing plan were multifamily in the form of condominiums, as well as townhomes, duplexes, and single-family detached. She said that they now proposed complete multifamily. She said that this was consistent with the Comprehensive Plan's neighborhood model principal goal of a variety of housing types because in a very small area, there was every other type of housing.

Ms. Schweller said that the affordable housing commitment was increasing from 15% to 20% of the units to meet the goal of the Comprehensive Plan's housing policy for Albemarle County. She said that the period of affordability would be 15 years, and all of these units would be provided on-site. She said that though they were requesting a maximum of 324 units, Breeden's plan was to build 308 units, and the 65 would actually be 62 units, meaning 27 more units would be provided than with the existing approved plan.

Ms. Schweller said that at 80% AMI, as seen on the chart displayed at the bottom of the screen, there was a maximum income that various household sizes could have to qualify for this affordable housing, so these units would be available to the County public servants, such as firefighters, police officers, and teachers.

Ms. Schweller said that they were increasing the recreational areas from the 25% required by the ordinance and the 27% required by the current plan up to 38%, all of which would be available to Willow Glen phase 1 and the new Dickerson Overlook residents. She said that to support the increase in the recreational area and the quality of amenities that she would describe, density must be increased.

Ms. Schweller said that the project was pedestrian friendly. She displayed on the screen the landscaped sidewalk areas that went throughout the entire neighborhood and connected through Shannon Glen Court and Willow Glen phase 1 to Town Center Drive, which did have a sidewalk up and down. She said that secondary routes were around the buildings, trails were around the green spaces, and all of the pedestrian circulation routes connected pocket park destinations throughout the development. She said that interspersed within those were three tot lots, one near Willow Glen phase 1 portion of the development, one near the entrance where the clubhouse and mail kiosk were located, and one near the northern portion of the property.

Ms. Schweller said that the multiuse path would be at least 10 feet wide, would be suitable for bikes and pedestrians, would connect to Willow Glen phase 1, and would allow the residents in phase 1 easy access into Dickerson Overlook to use all of the amenities there. She said that they would also allow the Dickerson Overlook residents to bike or walk through phase 1 to get to Hollymead Town Center.

Ms. Schweller showed a map and indicated the distance along the roads from the southern entrance of Dickerson Road to the entrance of Willow Glen phase 1 was pretty much the same as the distance through the neighborhood, so that road would not serve to alleviate any traffic impacts. She said that they also thought it was preferable to have pedestrian-bicycle connectivity because it encouraged comingling and unification among the neighborhood and encouraged multimodal transportation, as well as alleviating the concern of the Willow Glen phase 1 owners about traffic coming through that small street, which was a potential danger to pedestrians and children.

Ms. Schweller said that the proposed recreational amenities in this development were a strong aspect of this application. She said that displayed on the screen were renderings of the amenities, including parks and what would be provided based on their substitution request.

Ms. Schweller said that the contract purchaser, Breeden, was a Virginia-based, nationally acclaimed, design-build general contractor which provided services to the Breeden companies. She said that Breeden had developed 44 communities, and all of those were owned, maintained, and managed by Breeden. She said that these were deluxe amenities that required a good amount of funding to maintain

through the years, and Breeden took care of those through a special reserve plan. She said that it would be difficult for a homeowner's association, with a number of different unit owners, to be able to afford this type of amenity.

Ms. Schweller said that the proposed changes as summarized were to have a single housing type, to increase in density more appropriate to the growth area, more affordable housing, and pedestrian and bike connection rather than a vehicular cut-through. She said that staff had identified some positive aspects of the project as well.

Ms. LaPisto-Kirtley asked to see the slide with the AMI amounts. She said that 80% AMI was asked for, but that was referred to as workforce housing.

Ms. Schweller said that this was affordable housing under the current policy, and they were providing an increase in the units that was more than what was required in pre-developer incentives, and an increase in the period of affordability. She said that the 80% AMI was what was required now, before developer incentives, and Breeden was committed to affordable housing, and the CEO (chief executive officer) of Breeden sat on a board in Norfolk to promote affordable housing, and the Breeden company had run these numbers as being very interested in possible developer incentives and knew what was needed to give more.

Ms. Schweller said that they would be interested in having discussions on giving more in the time leading up to construction. She said that what they were offering right now with no incentives whatsoever was seen on the slide, which was that 20% of the units were affordable to those making 80% AMI based on household size.

Ms. LaPisto-Kirtley asked if it was 80% or less.

Ms. Schweller said that was correct. She said that was the maximum that someone could make to qualify. She said that the first step in understanding if a prospective renter could have that unit, the household's aggregate income, adjust for household size, and must be at or under the figure in the chart.

Mr. Gallaway said that he appreciated the application history. He said that Ms. Schweller had appeared before the Board some time ago to renegotiate the cash proffers. He asked when that was.

Ms. Schweller said that Ms. Valerie Long presented that before the Board in 2019.

Mr. Gallaway said that that did not go forward.

Ms. Schweller said that there was an effort to get credit for by-right units. She said that there was another effort to possibly rezone the Neighborhood Model Development to do commercial and industrial along Dickerson and was not taken forward because of concerns with traffic.

Ms. McKeel said that she had noticed new Breeden signs in that area. She said that she wanted to make sure that that private road would not be turned over to these homeowners. She said that there was nothing written that said that they would only be maintained by Breeden for five years or 10 years. She asked if Breeden would take care of that private road.

Ms. Schweller said that all travel ways within the entire project would be owned by Breeden, so they would be responsible for all travel ways, parking, and landscaping. She said that they were still in the process of getting Shannon Glen Court dedicated for public use, and that was committed to on the proffer that still existed and they were not amending for Willow Glen phase 1, and that proffer was still in place.

Ms. McKeel asked to see the last slide.

Ms. Schweller said that she had listed staff's three positive aspects to the request's consistency with the master plan neighborhood model principles and 20% of affordable housing. She said that they added additional positives from their point of view of more green space and recreational areas with carefully thought-out amenities maintained by a single professional owner, recreational areas fully available to phase 1, no traffic routing through phase 1, and the new pedestrian/bicycle connection between phases 1 and 2 to unify the neighborhood.

Ms. Price said that the recreation was noted as being fully available to phase 1 Willow Glen residents, but Ms. Schweller had indicated there were other things that were available to phase 1 at an additional fee.

Ms. Schweller said that the fitness center and the pool were open to all phase 1 and Dickerson Overlook owners at an additional membership fee.

Ms. Price said that it was not only phase 1, but all residents had to pay extra to use the fitness center and pool.

Ms. Schweller said yes.

Ms. Price said that while the renderings may have been intended to be illustrative, the tot lot next to a pond without fencing was unwise.

Mr. John Hall said that he lived in Old Town. He said that his comments were directed at Ms. McKeel, who had inquired about the unfinished roads. He said that they were discussing an area near the airport and Hollymead Town Center. He said that he knew that there was a moratorium on annexation, but if they discussed annexation, they could talk about revenue-sharing, as well as going to the airport along the Berkmar Drive corridor up to Timberwood Boulevard, which connected into Proffitt Road on one side and Airport Road on the other. He said that the concession would be that they would take over those private streets and maintain them as part of the City, which would be the revenue-sharing he mentioned. He said they would get that in return, and they would get something for their tax money.

Ms. Price asked if Mr. Hall's comments could be more focused on this particular application.

Mr. Hall said that he was talking about the Willow Glen development. He said that it broke his heart to see what had happened with the affordable housing in Albemarle County. He said that it was supposed to be government-subsidized housing, and he asked what they were doing to the people with 15% of dwellings affordable for 10 years. He said that he had lived at Woods Edge Senior Living, which was located in the County, and after 10 years, he noticed the rents had escalated, and many elderly people on fixed incomes were evicted because they could not pay their rents, because the affordable housing was no longer affordable for them to pay their rent.

Ms. Price said that if Mr. Hall had other comments to make, they could be submitted to the clerk to be added to the record.

Ms. Mary Ellen Isaacson said that she lived directly behind this proposed development, and her house was shown on many of the slides. She said that she attended the Planning Commission meeting and had some comments that she wanted to make sure the Board took into account.

Ms. Isaacson said that she thought it was a great idea to close Shannon Glen Court and make it into a cul-de-sac and not a cut-through, but the traffic on Town Center of people trying to turn onto Dickerson Road in the afternoons backed up past Shannon Glen Drive. She said that adding more density to the development would make that much worse.

Ms. Isaacson said that she had lived there since 2015, had done her due diligence, and understood that there was planned to be a mix of housing varieties, and she was not happy to see it be turned into strictly rental apartments, because it was not in character with the area.

Ms. Isaacson said that someone on the Planning Commission said that there was a need for more density in that area, but they had just built a complex on Berkmar Drive not far away, and Brookhill Commons was going up as well. She said that there was a lot of capacity that had been added recently, and she did not understand why this must be ramped up so much.

Ms. Isaacson said that they said that she agreed with the statement that the proximity to the airport was good, but no one was going to walk their wheeled suitcase down the sidewalk. She said that she could walk to the airport in Deerwood because there were connecting sidewalks, and without a connecting sidewalk, they could not do that. She said that there was mention of the roads being turned over to the homeowners, and phase 2 was strictly rental, so no one would own it except for the developer.

Ms. Price asked if there were no further signups.

Ms. Borgersen said that was correct.

Ms. Schweller said that this would be strictly multifamily but would not be only an apartment complex. She said that it was a community with multifamily housing, meant for singles, couples, and families, creating a sense of place with many recreational areas. She said that it was important for them to have a variety of housing and housing that people could afford. She said that 20% of this plan would be available to 80% AMI, and that rental housing generally was more affordable than purchasing a home, especially in Albemarle County where it was extremely difficult to live.

Ms. Schweller said something that may be interesting to the Board as they continued discussions of potential incentives for developers was that for this particular project, if they wanted to provide 20% of the units at 65% AMI, it would cost \$156,082 per year to provide those 62 units, and in order for a market-rate developer to obtain the same return on cost as if there were no affordable units. She said that they could achieve that with a 22% tax rate reduction.

Ms. Schweller said that as they continued to think about these incentives, costs, income to developers, assessments, and HUD (U.S. Department of Housing and Urban Development) AMI all changed almost annually. She said that she thought they should consider that the credit they provided to developers needed to be a percentage of costs and not a flat figure. She said that if she calculated what the current tap fees were for multifamily housing, it was \$6,928 per unit, and multiplying that by 62 units, the total was \$429,536. She said that \$430,000 would not cover the cost of what they wanted to do.

Mr. Gallaway asked if they were building a turnaround.

Ms. Schweller said that Shannon Glen Court was completed to VDOT standards, and it was already constructed and currently existing. She said that it was a turnaround that had been there with a temporary easement and a permanent easement was to be recorded. She said that it was in good shape with design and construction, and they were working through the process of dedicating it and having it

accepted by VDOT.

Mr. Gallaway asked if the other street was the issue.

Ms. Schweller said that the other street, Tempelhof Court, was a private street and would not be dedicated.

Mr. Gallaway asked if that would remain and Breeden would take care of that.

Ms. Schweller said that the entirety of Dickerson Overlook, or phase 2, would be taken care of by Breeden. She said that located in phase 1 were two streets, one being Tempelhof that was taken care of by the homeowner's association of Willow Glen. She said that Shannon Glen Court would become public.

Mr. Gallaway asked if Ms. Schweller meant that the 22% was for the timeframe extended.

Ms. Schweller said that it was 22% for each year that affordability was maintained.

Mr. Gallaway asked if that would be 15 or thirty years.

Ms. Schweller said that was right.

Mr. Gallaway said that the 22% would apply for each of these years.

Ms. Schweller said that running the numbers on the current proforma, that was what was determined, and it was an example to say that it needed to be a percentage of real estate taxes.

Mr. Gallaway asked if that pertained to all units or only affordable units.

Ms. Schweller said that it was a 22% tax rate deduction on the entire project.

Mr. Gallaway said it was for all units.

Ms. Schweller said yes.

Mr. Gallaway asked if the presentation could be provided to the Board of Supervisors.

Ms. Schweller said that she would be happy to provide it.

Mr. Gallaway said that if incentives were in place, they could consider it as project-specific. He said that this was a project that could conceivably have more units added if the developer incentive process was in place. He asked if this was hypothetically possible.

Ms. Schweller said that that was why Breeden wanted to share this information with the Board tonight; they were paying attention to the Board's discussions and were open to working together, but also agreed that they were a market-rate builder that needed to get to a certain point for owners and investors to provide the additional affordability.

Mr. Gallaway asked Mr. McDermott if the traffic backup mentioned by the public was going in a certain direction.

Mr. McDermott said that it happened in both directions, but most often at peak hours, likely people going to and from work in the Earlysville area.

Mr. Gallaway asked if when they did the justifications for getting Berkmar to Airport Road if they had any sense of how that would relieve anything on that intersection.

Mr. McDermott said that he did not think that it would alleviate a lot. He said that when they modeled for the TIA, they did provide that project, and it was part of the consideration when loading traffic into the system.

Mr. Gallaway asked if Mr. McDermott was referring to this specific one.

Mr. McDermott said yes.

Mr. Gallaway said that with the current situation, with the extension not there, it could go out to Airport Road and take a left rather than taking a left and a right onto Dickerson.

Mr. McDermott said that there would likely be some diversion of the traffic.

Mr. Gallaway asked if they knew what would happen if the connection was there. He said that he would be concerned of cars queuing up through phase 1 because the left turn would delay their ability to get out to the Town Center.

Mr. McDermott said that as the member of the public mentioned, the queuing on Town Center was approaching Shannon Glen Court from the Dickerson and Town Center intersection, which was considered when looking at the value of that connection because if someone were trying to get to phase 2

and that connection did exist, they would no longer have to go through that intersection when going home. He said that when leaving, the morning congestion was not as bad on Town Center, but the afternoon had backup, so they felt it would be beneficial to provide that second access to the people in phase 2.

Mr. Gallaway asked if it was a cut-through to get home.

Mr. McDermott said yes.

Mr. Gallaway said that he understood.

Ms. Price closed the public hearing and brought the matter back before the Board for comments.

Ms. Mallek said that she appreciated what the applicant was trying to accomplish.

Mr. Gallaway said that it was important because, especially in the Rio and Jack Jouett Districts, in any development area where density was asked to be increased, the reason why the development was going up was that it was the development area, and that was by design in the County with the Comprehensive Plan. He said that if they did not allow that density to happen in those areas, it would become problematic.

Mr. Gallaway said that if the Town Center Dickerson Road traffic becomes more problematic with the increased density, that would probably make its way onto a Transportation priority list. He said that the density was planned for the development area, and that this particular area had the infrastructure to support larger density. He said while he appreciated the connectivity, he was concerned about hundreds of people cutting through that area as it continued to develop, and there had been other successful bike-ped travel ways, so he had no issue with that vehicular connection going away.

Mr. Gallaway said that he accepted that the tot lots could be reduced. He asked what older kids had as an amenity, because the ability for teenagers to have a place to go in these developments was limited, and then people complained that they were hanging out in the tot lot. He said that the applicant had come before the Board in an attempt to renegotiate the cash proffers, which were an obstacle to getting the project done, but that did not go anywhere, but in order to get this project done, this was their answer, because it allowed the cash proffer to essentially go away.

Mr. Gallaway said that he appreciated the attempt to get to the Housing Albemarle goal was there, and he appreciated the willingness to have conversations about getting the AMI down further in the incentive conversation. He said that if the application did not go through, the alternative was that it stayed undeveloped, so he felt that at some point the Board would have to renegotiate, and this was likely an even better solution than the renegotiated proffers because they were getting more affordable units at a longer time than what they were required. He said that he supported the application.

Ms. McKeel said that a solution for the teenagers was a basketball court. She said that she was pleased with this project, and she felt that although connectivity should be maintained, they must acknowledge that it did not always work in every place. She said that she appreciated being able to revisit and make changes to an approved project from so long ago. She said that rental units were needed in this community, and she appreciated that it was under one management that could monitor and take care of it.

Ms. McKeel said that both the schools that were over capacity would be expanded in the future, so that problem would have a solution. She said that she agreed with the reduction in parking spaces and approved of the trails and landscaping around the land and pond. She said that she could support this project and agreed with the changes.

Ms. Price said that Mr. Ray had approached the podium to answer Mr. Gallaway's question, but he was unable to provide remarks as the public hearing had closed. She said that she largely concurred with her fellow Supervisors. She said that if they did not build to a higher capacity within the development area, they would run out of space in the development area.

Ms. Price said that the actual increase in density in this particular location was very appropriate. She said that she did not like seeing the loss of differing housing unit types within an individual development because it made it more difficult for people to stay within their community as they either upsized or downsized.

Ms. Price said that she recognized and acknowledged the underlying circumstances as to why that happened. She said that she concurred that she did not like to lose connectivity, but in this instance, it made more sense than having the connectivity, and in fact, it increased the area for the amenities and helped the communities be better connected than if a road was put through.

Ms. Mallek said that the traffic going through that area was moving east into town in the morning, and that gave anyone who went south on Dickerson a good chance to get out. She said that in the afternoon, the solution for many people was to stay on Airport Road or go all the way around so that one did not have to negotiate against traffic for a left turn. She said that she was glad to hear the discussion about the stub-outs, because while it was a great concept, requiring it in every place every time was not necessary.

Ms. Mallek said that Crozet residents had been begging for a skatepark for teenagers, and basketball was a great amenity as well. She said that she appreciated the need to have the bike-pedestrian path rather than a vehicular connection. She said that the application showed an appreciation for quality and extra care for how it would be for the people who would live there.

Ms. Mallek said that she assumed that there would be different numbers of bedrooms in the apartments so that families could stay in the area. She said that Mr. Ray was the pioneer for asking for waiving of the proffers for by-right units, which was now standard after following his attempts and failures.

Mr. Gallaway said that he hoped that Breeden would use all resources available to get the people who needed those units to get into the units and not only rely on County staff to do so. He said that resources such as the regional housing partnership were available and ready to help. He requested that everything be done so that the targeted individuals ended up there.

Ms. Price asked if there was a motion.

Mr. Gallaway **moved** to approve ZMA202100001 as in Attachment I. Ms. LaPisto-Kirtley **seconded** the motion.

Mr. Steven Rosenberg, County Attorney, said it should be Attachment J.

Mr. Gallaway said he got confused, and was approving the resolution to deny, so he needed to **withdraw** that motion. Ms. La-Pisto Kirtley **withdrew** her second.

Mr. Gallaway **moved** that the Board of Supervisors adopt the Ordinance (Attachment J) to approve ZMA202100001 Willow Glen.

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

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

NAYS: None.

ABSENT: Mr. Andrews.

ORDINANCE NO. 23-A(1)
ZMA 2021-00001

**AN ORDINANCE TO AMEND THE ZONING MAP FOR
PARCELS 03200-00-00-049F0, 03200-00-00-049I0, AND 03200-00-00-049J0**

WHEREAS, an application was submitted to rezone 19.27 acres on Parcels 03200-00-00-049F0, 03200-00-00-049I0, and 03200-00-00-049J0 from its zoned Planned Residential Development (PRD) to be rezoned with the amended plan and proffers;

WHEREAS, on November 22, 2022, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2021-00001;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2021-00001 and their attachments, including the Application Plan last revised January 5, 2023 and the Proffers revised January 11, 2023, the information presented at the public hearings, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code § 18-19.1, and for the purposes of public necessity, convenience, general welfare, and good zoning practices, the Board hereby approves ZMA 2021-00001 with the revised Application Plan entitled "Willow Glen Phase 2 – Rezoning PRD Amendment Application for Dickerson Overlook" prepared by Edwards designStudio, dated January 19, 2021, last revised on January 5, 2023, and the Proffers revised January 11, 2023.

Mr. Gallaway **moved** that the Board of Supervisors adopt the Resolution (Attachment K) to approve the Special Exception request SE202100007 to modify the requirements for recreational facilities associated with the Willow Glen development.

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

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

NAYS: None.

ABSENT: Mr. Andrews.

**RESOLUTION TO APPROVE
SE202100007 WILLOW GLEN**

BE IT RESOLVED that, upon consideration of the staff reports prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, all of the comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.16, 18-8.2(b), 18-19.6.2 and 18-33.9, the Albemarle County Board of Supervisors hereby finds:

- i. that the proposed special exception is consistent with the intent and purposes of the planned
- ii. development district under the particular circumstances, and satisfies all other applicable requirements of section 8 of the Zoning Ordinance;
- iii. that the proposed special exception is consistent with planned development design principles;
- iii. that the waiver or modification would not adversely affect the public health, safety or general welfare; and
- iv. that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.

WHEREUPON, the Albemarle County Board of Supervisors hereby approves SE202100007 Willow Glen and grants a modification of Albemarle County Code § 18-4.16 and § 18-19.6.2 to allow substitutions of recreational facilities that are in accord with the applicant's Recreational Facilities Substitution Request Narrative, last revised March 21, 2022.

Mr. Gallaway **moved** that the Board of Supervisors adopt the Resolution (Attachment L) to approve special exception request SE202100008 to permit a reduction in the required number of parking spaces associated with the Willow Glen development.

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

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

NAYS: None.

ABSENT: Mr. Andrews.

Mr. Gallaway said that Town Center Drive was one of the few roads that had a speed increase. He said that they should remember that with the transportation priority list if there was an issue with queuing at that intersection.

**RESOLUTION TO APPROVE
SE202100008 WILLOW GLEN**

BE IT RESOLVED that, upon consideration of the staff reports prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, all of the comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 184.12.6, 18-8.2(b), and 18-33.9, the Albemarle County Board of Supervisors hereby finds:

- i. that the proposed special exception is consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8 of the Zoning Ordinance;
- ii. that the proposed special exception is consistent with planned development design principles;
- iii. that the waiver or modification would not adversely affect the public health, safety or general welfare; and
- iv. that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.

WHEREUPON, the Albemarle County Board of Supervisors hereby (i) approves SE202100008 Willow Glen and (ii) pursuant to Albemarle County Code § 18-8.2(b), grants a modification of § 18-4.12.6 to require only 550 parking spaces, in accord with the applicant's Special Exception Request Narrative, last revised October 18, 2021.

Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. LaPisto-Kirtley said that at the Pantops CAC (Community Advisory Committee) meeting, there were about fifty people in attendance and there was an excellent discussion. She said that staff had presented about Freebridge Lane and the options to either make it one-way or to close it and make it a greenway promenade. She said that Ms. Price was present, and everyone in the room loved the idea of closing it and creating the greenway promenade.

Ms. Mallek said that she had forwarded a PDF with the VACo (Virginia Association of Counties) committees, and she would appreciate the Supervisors' and staff's feedback on the committees that were available to participate in. She said that she had just received an email that there was a substitute on the

HB 2100 that was going to be offered at 7:30 a.m., turning it into some study to develop a model local ordinance for the administration of accessory dwelling units because there were so many concerns with the original draft. She said that she would forward the relevant information.

Mr. Gallaway said that the two he had joined at VACo were transportation and economic development. He said that this afternoon, the TJPDC learned and had since released a press release that they had received the "Safe Streets and Roads for All Grant," for \$857,600, and with the match that all the localities agreed to, it was over \$1 million.

Ms. McKeel said that there were a series of transportation town hall meetings, so the public should seek out the information related to where they lived. She said that part of the presentation would be specific to an area for the transportation projects. She asked if Ms. Kilroy could share those dates.

Ms. Emily Kilroy, Assistant to the County Executive, said that Albemarle County Police Department (ACPD) was partnering with VDOT and Community Development for traffic town halls, which began on February 6 at 7:00 p.m. at East Rivanna Fire Station, hosted by Supervisors LaPisto-Kirtley and Price, then on February 7, from 6:30 p.m. to 8:00 p.m. at The Center, cohosted by Supervisors McKeel and Gallaway, and on February 16, at 7:00 p.m. at the North Garden Volunteer Fire Department, cohosted by Supervisors Mallek and Andrews.

Ms. Kilroy said that any community member could go to any town hall that they wished, although the meetings were aligned around magisterial districts. She said that most of the presentation would be the same, but there would be localized data, and they expected the questions the community raised would be different based on the location they were in.

Ms. Kilroy said that there would be a recording posted at some point in February as a special purpose presentation, with some of the most common questions as well, so that people could access the same information available at the in-person meetings. She said that there would also be an opportunity to submit a question with a response given via email.

Ms. McKeel said that the localized data was important to share and implement.

Ms. Price said that yesterday, she and Mr. Doug Walker, Deputy County Executive, went with a number of staff members over to the Charlottesville-Albemarle County Health Department for an overview of multiple topics. She said that in 1900, public health departments were established, and from that point up until the present, with the exception of 1918-1919 flu pandemic and the 2020-present day Covid-19 pandemic, death rates from infectious diseases in the United States dropped precipitously, particularly in the first half of the last century, from 800 per 100,000 population to 175, because of access to clean water. She said that they must do everything possible to maintain the integrity of their public water systems.

Ms. Price said that other things of fairly significant interest were the prevention and control of communicable diseases, gastrointestinal diseases, tick-borne diseases, and sexually transmitted diseases. She said that the local Health Department did incredible work taking care of the population. She said that she learned much more about the treatment of tuberculosis patients.

Ms. Price said that there were about 120,000 people in the County, and 1,200 people were volunteers in the medical reserve corps. She said that more data was provided, and she thanked public health officials for doing their jobs to keep the public healthy, especially with septic systems and water systems.

Ms. Price said that she attended the American Council on Growth in Richmond. She said that one of her colleagues on the Virginia Council on Women gave a presentation, which at first focused on the company that she headed, and then she discussed issues affecting the supply chain and economic fallout, which was relevant to the report recently given to the Board by Virginia Tech's Dr. Bailey.

Ms. Price said that the presenter came from the Norfolk area and spent a lot of time talking about the things that affected them. She said that there was an abrupt shutdown of many industries, labor shortages, container shortages, all-time high shipping costs, and sudden e-commerce. She said that they had larger ships with more cargo to unload, but they were going to port infrastructures that were not capable of handling these heavier loads. She said that there were also inefficiencies in warehousing, trucking, and rail.

Ms. Price said that Ukraine was one of the largest producers and shippers of wheat. She said that what she didn't know if were all of the things listed on a slide she presented, including that they also had the world's second-largest manganese ore reserves, the world's tenth-largest titanium ore reserves, and Europe's largest proven reserves of uranium. She said that the impact of the war in Ukraine on the world economy was incredible.

Ms. Price said that they gave proclamations because they wanted to demonstrate dignity and respect for all of their community members. She said that one of the current problems in the economy was that they were 85,000 drivers short, and within two years, it would be almost 160,000.

Ms. Price said that an attendee asked if there was an increase in female commercial long-haul drivers, and the presenter replied that she had recently asked the same question to an instructor at a training facility, and they replied that the several women who had completed their training were some of

the best drivers they had seen for the past 10 or 15 years. She said that a man behind her proclaimed that was true so long as they did not get lost, upon which the other men around him laughed.

Ms. Price said that she immediately called him out on it and let the organization know, because that type of language permeated an organization, and when it permeated an organization, they undercut everything they believed about dignity, equity, equality, and inclusion. She said that she had not yet heard back from the organization, which was a disappointment. She said that she was hurt more by the men who laughed at the man's joke than the man who said it.

Ms. Price said that there was a 25% higher volume of rail shipments in 2022 than in 2021. She continued and displayed a map of Virginia's ports. She said that Norfolk was the second largest on the east coast in tonnage and third in containers, and that there were fifty privately operated deep-water marine cargo terminals in Tidewater. She displayed aerial images of the main shipping area in Tidewater, the ports along the Elizabeth River, and the James River. She said that many different industries in Virginia were dependent upon marine resources.

Ms. Price said that one of the City Councilors in Charlottesville had resigned, and the position had been opened for people to serve. She said that 20 people had applied for that seat. She said one of the things that drew her to this area was the educated population that was committed to public service., She said that ,yet, when it came to elections, they struggled to find enough people to field candidates, which meant that there was not a loss of civic duty so much as there was a struggle with the electoral process, the animosity, the anger, and the accusations made against people.

Ms. McKeel said that the school system transportation departments in the City and County were a part of the regional transit partnership, and they were working with the public schools to create a career ladder for bus drivers. She said that it was interesting and a different concept for how to bring school bus drivers into the fold as a career.

Agenda Item No. 20. Adjourn to February 15, 2023, 1:00 p.m. Lane Auditorium.

At 8:51 p.m., the Board adjourned its meeting to February 15, 2023, 1:00 p.m., Lane Auditorium, Second Floor of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA 22902. Opportunities for the public to access and participate in this meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

Chair

Approved by Board
Date: 02/19/2025
Initials: CKB