

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 14, 2012, at 6:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Christopher J. Dumler, Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Director of Planning, V. Wayne Cilimberg, and Clerk, Ella W. Jordan.

Agenda Item No. 1. The meeting was called to order at 6:04 p.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Boyd said that he had sent out an email earlier regarding the winery issues. Ms. Mallek said the Board would discuss the rural area items at the end of the meeting.

It was the consensus of the Board to adopt the final agenda as presented.

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

Mr. Rooker said that he had a legislative matter he would bring up at the end of the meeting.

Ms. Mallek stated that she had a question regarding shooting regulations in the growth area to discuss at the end of the meeting.

Agenda Item No. 6. Recognitions:

Item No. 5a. Proclamation recognizing the 18th Virginia Festival of the Book.

Ms. Mallek presented the following proclamation to Ms. Susan Coleman, Director, Center for the Book at the Virginia Foundation for the Humanities:

VIRGINIA FESTIVAL OF THE BOOK

WHEREAS, Albemarle County is committed to promoting reading, writing, and storytelling within and outside its borders; and

WHEREAS, our devotion to literacy and our support of literature has attracted over 1,000 writers and tens of thousands of readers to our VIRGINIA FESTIVAL OF THE BOOK; and

WHEREAS, the VIRGINIA FESTIVAL OF THE BOOK celebrates the power of books and publishing; and

WHEREAS, businesses, cultural and civic organizations, and individuals have contributed to the ongoing success of the VIRGINIA FESTIVAL OF THE BOOK; and

WHEREAS, the citizens of the County of Albemarle and Virginia, and the world, have made the VIRGINIA FESTIVAL OF THE BOOK the best book festival in the country;

NOW, THEREFORE, I, Ann Mallek, Chair, on behalf of the Albemarle Board of County Supervisors, do hereby proclaim Wednesday, March 21, 2012 through Sunday, March 25, 2012 as the Eighteenth Annual

VIRGINIA FESTIVAL OF THE BOOK

and encourage community members to participate fully in the wide range of available events and activities.

Signed and sealed this 14th day of March, 2012.

Ms. Coleman said there are over 230 programs throughout Charlottesville and Albemarle County, including 57 school events, planned during the week. She invited everyone to attend one or some of the events.

Item No. 5b. Kathryn Presson as Most Outstanding Fire Corps Volunteer.

Ms. Mallek said the Board is pleased to recognize Ms. Kathryn Presson, who had recently been named the "Most Outstanding Fire Corps" volunteer in Virginia by the Virginia Citizen Corps. She said that Ms. Presson, who works in the Department of Social Services, was the founder of the Albemarle County Fire Corps which focuses on three important programs – supporting a citizen fire/rescue academy designed to educate Albemarle citizens and recruit Fire Corps members; a community services unit that responds to emergencies and provides support directly to citizens recovering from a fire or other major disaster; and a prevention division that provides installation of smoke detectors. She said that Ms. Presson unselfishly invests about 30 hours monthly to ensure the success of the Fire Corps Program. The Board applauds Ms. Presson's willingness to help coordinate volunteer activities that aim to make Albemarle County safer, stronger and better prepared to respond to any emergency situation.

Chief Dan Eggleston stated that he was very impressed with Ms. Presson, who basically took the citizens services unit from just a concept to a program that had evolved over time and has touched many people across the County. The people in Fire and Rescue are very appreciative and thankful that Ms. Presson is part of their family. He then introduced Ms. Linda Rubin, who helped with the award.

Ms. Linda Rubin, of the Department of Emergency Management, said this award was invented several years ago when she began working in this department. She added that this area hosts every Citizen Corps Program. These programs started after 9/11, in President Bush's administration, with the concept being to bring citizens and response communities together to help in between and during disasters. She said that the Community Emergency Response Team Program is led in this community by Ms. Marge Thomas and Ms. Carol Hunt, and the other program is Neighborhood Watch - which they are hoping to integrate with CERT training along with volunteers. Additionally, new programs started were Fire Corps, Volunteers in Police Service (VIPS), and the Medical Reserve Corps. Ms. Rubin stated that there are 31 Medical Reserve Corps Units across the Commonwealth, one in every health district. There are 40 Fire Corps Programs around the Commonwealth, and the average volunteer service to communities is between 10-15 hours per year per volunteer – but Ms. Presson does about 30 hours per month. She then introduced Mr. John O'Prandy, who nominated Ms. Presson for the Virginia Superstar Award.

Chief John O'Prandy said that he was excited about the Fire Corps and the work that Ms. Presson had done with the program. He said that they rely heavily on volunteers to provide fire and EMS services, but not everyone could make the significant time commitment it takes to be an operational volunteer. Chief O'Prandy stated that they are expanding the role of the volunteer and taking advantage of those who could donate four or five hours a year to the community. He said that Fire Corps is about being involved in community risk reduction – creating a self and healthy community, helping neighbors in times of individual or community-wide crisis. He stated that Ms. Presson and the Fire Corps will play a large part in fulfilling the County's strategic goals, not only in ensuring the health and safety of the community, but also promoting individual responsibility and citizen ownership of community challenges. Chief O'Prandy thanked the Board and the state, and said that Ms. Presson is a key component of the County's fire and EMS team of career and volunteers.

Ms. Rubin added that less than 1% of the nation's workforce is responders – so more citizens are needed to be integrated into helping in times of disasters. She said that 9/11 brought over 4,000 volunteers to help, and it is paramount to have people like Ms. Presson involved. Ms. Rubin then presented Ms. Presson with an award of recognition in honor of her work: To acknowledge outstanding volunteer service to Virginia citizens as the most outstanding Virginia Fire Corps Volunteer, exhibiting high standards of professionalism and willingness to share with others, your passion for emergency preparedness is what drives the true community spirit of Virginia Citizen Corps Programs in the Commonwealth of Virginia and across the U.S.A. The award was signed by the VDEM Coordinator Michael Cline, and herself.

Ms. Presson thanked Chief O'Prandy and Chief Eggleston for their vision and leadership in this process, as well as the career and volunteer chiefs, as well as the City of Charlottesville Fire Chief, who helped her to learn and get acclimated into fire service.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Nancy Carpenter, a resident of Eagle's Landing, said that today she read in Charlottesville Tomorrow that the developer of Redfields – Gaylon Beights – has filed a lawsuit in the County subsequent to the Board's December 20th denial of his rezoning request. Ms. Carpenter said that the night of that hearing showed an example of the unity of community, adding that the December 2011 zoning decision was the right and legal thing to do. She said that she would remain positive that the County would prevail in this matter and that Redfields will remain as it is. She stated that there has already been discussion of developing the southern urban area, and what was needed – or not needed – along with infrastructure available. Ms. Carpenter said that the Board members were good stewards of County planning ordinances, the environment, and their constituents in their decision on the matter.

Mr. Chris Kopp addressed the Board, stating that he was here to talk about business climate in the County and how taxes affect businesses. He said that he never had to worry about business taxes, as he had worked for 30 years for other corporations – but when he retired he decided to start doing some consulting. While he was on vacation last month he received two letters and three phone calls from the Tax Department because he had put none on the form that says "Business, Personal, Tangible Property".

He explained that he does all of his business on his smart phone, and didn't really have any property associated with his business. He has found it really strange how this process works. Let's assume he gives his high school nephew a lawn tractor so he can go out and earn money to buy a car, which means he has a small business. His nephew works really hard and earns about \$10,000 during the year. He then gets his tax form in the mail because he got his business license, which now he has to list his tractor on that form. If you use anything in business you have to pay taxes on it, even though his nephew did not purchase the tractor. His nephew has to claim it as property for his business and has to pay between 10-25% in taxes on the tractor each year for up to seven years. If the tractor cost him \$2000 six years ago, his nephew is paying \$200 annually in taxes on the tractor. It seems strange that his nephew would have to pay taxes on that tractor.

Mr. Kopp said there are a lot of people doing internet business. He found that if someone uses their computer to sell something on ebay, they have to pay tax on their computer, regardless of how old that computer. He stated that in Broward County and Palm Beach County, Florida, they exclude the first \$25,000 of business property from the tax. It seems that if the County wants to encourage people to be honest and report things properly, the County should have laws to allow them to do so. It would not take much to change the County Code and give small businesses a chance to do things the right way.

Mr. Rooker stated that he didn't disagree with the point of Mr. Kopp's statement, but questioned the amount of the tax he stated as he was unaware of any tax that was 20-25% of the value of equipment in Albemarle County.

Mr. Kopp said that he would bring the form into the County. Mr. Rooker said the person paying the tax might want to make sure they are looking at the schedule correctly.

Mr. Charles Battig addressed the Board, stating that people were basing recommendations not on data but on climate models. He said that the National Academy of Sciences in 1979 mentioned probable global warming due to doubling of CO2 near 3 degrees Celsius; in 2012, after \$100 billion there is no more known than there was then. He said that there was a fatal flaw in the IPCC's claim that the air temperature measured from the equator should be hotter, as that had not happened. Mr. Battig stated that in 17 years there had been no global warming, despite increased CO2 levels. The IPCC has been wrong every single time in their predictions. He stated that U.Va. should receive a failing grade because there has been no increase in global temperatures for the past 12 years, global sea levels show no increase in long-term rate – with a recent decline, there has been no increase in tropical cyclones or hurricanes, and U.S. drought and flood patterns are without a unilateral trend without historical norms. Mr. Battig also claimed that price increases for electricity and gas in Germany has meant that many households were no longer able to pay their electric bills, and that country was going back to brown coal for power. He concluded by stating nature pays no attention to carbon footprints.

Mr. Tom Olivier, speaking as Chairman of the Piedmont Group of the Sierra Club, stated that countless surveys have shown that residents value natural resources, with the latest by Charlottesville Tomorrow released just in the past week. Mr. Olivier said that with the blessing of the public in recent decades the County has taken many steps to protect essential natural resources, and progress in protecting the environment has been possible because of support from individuals usually characterized as conservatives or pro-business. He stated that in 1991 he attended his first Albemarle County public hearing – for a water resource protection ordinance, and the measure received cheers from the audience when the deciding vote was cast by a Republican Supervisor. Mr. Olivier said that a few years later, the Thomas Jefferson Sustainability Council was chaired by another Republican Supervisor. He stated that the door to the creation of the ACE Program was opened when a conservative independent supervisor declared out of the blue that “we would all be sorry if we didn't soon permanently protect at least 100,000 acres of Albemarle rural areas”. Mr. Olivier said that in 1999, a new natural resources chapter of the Comp Plan – with exceptional commitments to biodiversity protection – was approved unanimously by a Board of Supervisors that included one conservative independent, two Republicans, and a pro-business Democrat. He stated that Republican President Teddy Roosevelt protected 230 million acres of open spaces, which is in stark contrast to the shameful decision last year to withdraw from ICLE or the recent financial gutting of ACE. Mr. Olivier said that truly conservative supervisors would help conserve natural resources, and the Sierra Club hopes they would now give it a try.

Ms. Sally Thomas addressed the Board, introducing Professor Michael Erwin, a research professor at U.Va. and senior scientist at the U.S. Geological Service at the Patuxent Wildlife Research Center. Ms. Thomas said that he has advanced degrees from the University of Rhode Island and the University of Maryland in zoology. Professor Erwin is a wildlife ecologist focusing on coastal wetlands, island restoration, and water bird communities. She said that he has conducted field work since 1968 along the Atlantic Coast, France, Trinidad, Mexico and South America, and has given over 200 presentations – publishing over 125 scientific papers, monographs and technical reports in national and international journals. Ms. Thomas stated that he has conducted research on the impacts of wildlife through sea level rise in coastal regions of the U.S. since 1998 and has co-taught a Capstone Seminar in Conservation Science at U.Va. since 2005. She said that climate change has been the theme of his research for more than a decade.

Dr. Erwin said that many experts around the world could refute the claims that Dr. Battig had made. He said that climate change was indeed real, and trends in temperature and sea level were high – underscoring that most climate scientists around the globe contend that warming of the climate system

was unequivocal. Dr. Erwin stated that he has spent part of the last 12 years conducting field research on the Virginia Coast Reserve along the Eastern Shore. The IPCC force report – along with other reports – suggest a number of scenarios that should give policy makers “great pause.” He said that in the 1995-2005 period, there had been more high temperature records set than at any other decade dating back to the 1880s. Dr. Erwin stated that perhaps related to this were increasing occurrences of high sea surfs and temperatures in the North Atlantic, and since the 1970s an increase in hurricane intensity but not frequency. He said that the global sea level rise rate has risen dramatically over the past 15 years, and a recent federal report suggested that a two-foot rise in the sea level was possible in the mid Atlantic region by the year 2100 – and even more was possible if the ice sheets and Greenland and western Antarctica continue their high rate of melting.

Dr. Erwin reported that the Chesapeake Bay and lower Eastern Shore rates of sea level rise were higher than the global average and higher than for most of the U.S. Atlantic Coast. He said that the Virginia portion of the Bay has lost a large percentage of the Marsh Island area over the past few decades, and measurements of the marsh elevations since the 1990s suggest that over half of the sites monitored were not even keeping up with local relative sea level rise at current rates of about 4 millimeters per year – much less accelerated rates. Dr. Erwin stated that he has documented decreases in more than a dozen species of nesting water birds in the bay as a result of island losses, and studies of land birds have documented a number of species that were migrating and nesting much earlier than they have in the past 50 years. The birds seem to be a major signal of things to come. He said that he hopes Albemarle County policy makers would adopt the conservative approach chosen by the Virginia Governor’s Report of 2008 that had nine recommendations for reducing greenhouse gas emissions. A radical alternative would be to deny a plethora of evidence and adopt a business as usual approach – ignoring the warnings that the birds, plants and climate data are pointing toward.

Agenda Item No. 6. Consent Agenda. Mr. Rooker **moved** to approve the Consent Agenda. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

Item No. 8.1. Approve Plan and Certifications of Compliance required to receive Community Development Block Grant (CDBG) Funds.

The executive summary states that Albemarle County has submitted an application to the Virginia Department of Housing and Community Development (VDHCD) under its Scattered Site CDBG Housing Rehabilitation Program and is also proposing to submit an application in March 2012 for a housing rehabilitation project in Orchard Acres subdivision in Crozet. The two projects are projected to provide assistance to between 20 and 25 homeowners. The use of CDBG funds is considered a “federal action” which requires that the local governing body receiving the funds comply with a number of regulations. Some of the requirements are general and have already been implemented by the County in previous years; however, some, as outlined below, are project-specific and require further action by the Board.

The project-specific CDBG requirements for this grant include:

Local Business and Employment Plan – The County must approve a plan to designate the project area boundaries for the purpose of utilizing, to the greatest extent possible, businesses and lower-income residents located in the project area to carry out the CDBG-funded activities. The proposed Plan (Attachment A) designates the entire County as the project area and requires that the public be notified of this through publication of an advertisement in a local widely-circulated newspaper.

Residential Anti-Displacement and Relocation Assistance Plan Certification – This certification (Attachment B) states that the County will notify the public and advise the state in the event that a CDBG-funded activity will result in demolition or conversion of residential units. Furthermore, should displacement occur, the County and/or the development owners will provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The proposed Orchard Acres will not involve demolition or conversion of residential units which result in displacement. The Scattered Site projects will involve the reconstruction of two houses which may result in temporary relocation.

Fair Housing Certification – This certification (Attachment C) states that the County will take at least one action annually to affirmatively further fair housing. The action must be from a list of VDHCD-approved actions or must otherwise be approved by the VDHCD. In the past, the VDHCD has approved the County-sponsored Public Housing Alliance community training and the County’s posting of a Board resolution as a display advertisement in The Daily Progress as qualifying actions. This year, the County’s Chief of Housing will seek VDHCD approval of his and a staff member’s Fair Housing certification as a qualifying action.

Previous qualifying actions implemented by the County also include the adoption of the following policies:

- The Non-Discrimination Policy which was most recently amended by the Board on January 3, 2007. This policy, known as the EEOC Policy Statement, is found in the County’s Personnel Policy (P-21); and
- The Section 504 Grievance Procedure and designation of a Section 504 coordinator adopted on February 4, 2009. Section 504 is a regulation of the Rehabilitation Act of 1973 regarding non-discrimination on the basis of handicap.

There are no budget impacts associated with the approval of these items. The cost of the required Local Business and Employment Plan advertisement is a CDBG grant-eligible expenditure, which is reimbursable upon the execution of the CDBG contract.

Staff recommends that the Board 1) approve the Local Business and Employment Plan; 2) authorize the County Executive to execute the Residential Anti-Displacement and Relocation Assistance Plan Certification; and 3) authorize the County Executive to execute the Fair Housing Certification.

By the above-recorded vote, the Board approved the Local Business and Employment Plan; authorized the County Executive to execute the Residential Anti-Displacement and Relocation Assistance Plan Certification; and authorized the County Executive to execute the Fair Housing Certification.

LOCAL (SECTION 3) COUNTY BUSINESS AND EMPLOYMENT PLAN

1. The *County of Albemarle* designates as its Section 3 Business and Employment Project Area the County of Albemarle.
2. The *County of Albemarle*, its contractors, and designated third parties shall in utilizing Community Development Block Grant (CDBG) funds utilize businesses and low-income residents of the Section 3 County in carrying out all activities, to the greatest extent feasible. The Grantee will request all contractors and subcontractors both construction and non-construction to verify their eligibility as a Section 3 Business. The Grantee will monitor for Section 3 compliance all contracts in excess of \$100,000 relative to new hires with a goal of 30% low income representation and subcontracting with a goal of 10% low income representation.
3. In awarding contracts for construction and non-construction the *County of Albemarle*, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the Section 3 County:
 - (a) The *County of Albemarle* has identified the following contracts as necessary to complete the CDBG activities.

Construction trades associated with the repair and reconstruction of single-family residential property.
 - (b) The *County of Albemarle* shall identify through various and appropriate sources including:

The Daily Progress

the Section 3 Business concerns within the Section 3 County which are likely to provide construction contracts and non-construction contracts for services which will be utilized in the activities funded through the CDBG.
 - (c) The identified Section 3 Business concerns shall be included on bid lists used to obtain bids, quotes or proposals for work which will utilize CDBG funds.
 - (d) To the greatest extent feasible the identified Section 3 Business concerns and any other project area business concerns shall be utilized in activities which are funded with CDBG assistance.
4. The *County of Albemarle* and its covered contractors (those awarded a contract for \$100,000 or more) shall take the following steps to encourage the hiring of low-income persons residing in the Section 3 County:
 - (a) The *County of Albemarle* in consultation with its contractors (including design professionals) shall ascertain the types and number of positions for both trainees and employees which are likely to be used to conduct CDBG activities.
 - (b) The *County of Albemarle* shall advertise through the following sources:

Virginia Employment Commission
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the availability of such positions with the information on how to apply.
 - © The *County of Albemarle*, its covered contractors, and subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements, and shall maintain a record of the status of such inquires and applications.
 - (d) To the greatest extent feasible, the *County of Albemarle*, its covered contractors, and subcontractors shall hire low-income project area residents (Section 3 Residents) in filling training and employment positions necessary for implementing activities funded by CDBG activities.
5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1974, as amended*, the *County of Albemarle* shall keep, and obtain from its covered contractors and subcontractors, *Registers of Contractors, Subcontractors and*

Suppliers and Registers of Assigned Employees for all activities funded by the Block Grant. Such listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

6. The *County of Albemarle*, its covered contractors, and subcontractors shall designate a Section 3 Coordinator to ensure compliance with this regulation. The Section 3 Coordinator for the *County of Albemarle* shall be the Chief of Housing throughout the course of this active CDBG agreement.
7. The *County of Albemarle*, its covered contractors, and subcontractors shall create and maintain a Section 3 Directory of all Section 3 Business concerns within the geographic area that perform the work needed to complete this community development agreement.
8. The *County of Albemarle* shall report annually to DHCD on the numerical goals and dollar amounts awarded to Section 3 Residents and Section 3 Business concerns using HUD form 60002.

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN CERTIFICATION

The *County of Albemarle* will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate income dwelling unit as a direct result of activities assisted with funds provided under the *Housing and Community Development Act of 1974*, as amended. All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion.

Before obligating or expending funds that will directly result in such demolition or conversion, the *County of Albemarle* will make public and advise the state that it is undertaking such an activity and will submit to the state, in writing, information that identifies:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low- and moderate- income households in the jurisdiction.

The *County of Albemarle* will provide relocation assistance to each low/moderate – income household displaced by the demolition of housing or by the direct result of assisted activities. Such assistance shall be that provided under Section 104 (d) of the *Housing and Community Development Act of 1974*, as amended, or the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.

The *County of Albemarle* FY12 projects include the following activities:

- Rehabilitation of single-family houses in the Orchard Acres subdivision in Crozet. These activities are not expected to cause displacement.
- Reconstruction of two houses, one in Afton and one in Scottsville. One family will stay with other family members during construction. The other family will be able to remain in their current home while the new one is constructed.

The activities as planned will not cause any displacement from or conversion of occupiable structures. As planned, the project calls for the use of existing right-of-way or easements to be purchased or the acquisition of tracts of land that do not contain housing. The *County of Albemarle* will work with the grant management staff, engineers, project area residents, and the Department of Housing and Community Development to insure that any changes in project activities do not cause any displacement from or conversion of occupiable structures.

In all cases, an occupiable structure will be defined as a dwelling that meets local building codes or a dwelling that can be rehabilitated to meet code for \$25,000 or less.

Fair Housing Certification Compliance with Title VIII of the Civil Rights Act of 1968

Whereas, the *County of Albemarle* has been offered and intends to accept federal funds authorized under the *Housing and Community Development Act of 1974*, as amended, and

Whereas, recipients of funding under the Act are required to take action to affirmatively further fair housing;

Therefore, the *County of Albemarle* agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its project funded with Community Development Block Grant funds. The action taken will be selected from a list provided by the Virginia Department of Housing and Community Development.

Item No. 8.2. Lewis and Clark Exploratory Center Enhancement Grant Reimbursements.

The Lewis and Clark Exploratory Center (“LCEC”), has been awarded grants totaling \$800,000.00 from the Transportation Enhancement Fund Program administered by the Virginia Department of Transportation (“VDOT Enhancement Program”) to provide funding, combined with other funds raised by the LCEC, for the construction of an educational building (including transportation exhibits and river history); an access road and parking area; and a connecting trail network, all located at Darden Towe Park. The LCEC’s application for the VDOT Enhancement Program required the County to be responsible for accepting the grant from VDOT. The Board has previously approved the grant applications for \$150,000 in 2007, \$300,000 in 2008, \$150,000 in 2009, and \$200,000 in 2010, for a total of \$800,000. The County was required to enter into a Project Agreement between VDOT and the County to assure VDOT’s requirements for funding eligibility. The County had to assure VDOT that a 20 percent local match would be paid, that the Project would meet all VDOT requirements, and that the County would reimburse VDOT for any costs expended by VDOT if the Project was not completed. The County then entered into a Pass-Through Agreement with LCEC that, in turn, passed along all of the County’s responsibilities under the VDOT Enhancement Program to the LCEC. Among other things, the LCEC agreed to pay the 20 percent local match and to hold the County harmless from any liabilities created by the County’s acceptance of the VDOT Enhancement Program grants.

As provided in the Pass-Through Agreement, LCEC is responsible for managing the Project. The Project is now under construction. LCEC is required to pay the Project invoices and then submit reimbursement requests, including all necessary documentation, to the County’s Office of Facilities Development. The County is responsible for coordinating the submittal of the reimbursement request documentation to VDOT and process payments from VDOT. VDOT has advised that all reimbursements will be paid to the County for its pass-through to LCEC.

As the VDOT Enhancement Program grant reimbursements are approved, they will be wire-transferred from VDOT to the County and placed into an account set up for this Project. In order for the County to transfer the funds to LCEC to reimburse it for qualifying Project costs, the Board must first appropriate the funds. As discussed above, the total amount of grant funds to be passed through to the LCEC totals \$800,000.

The total budget of \$800,000.00, if approved, is funded entirely by the VDOT Transportation Enhancement Grant funds and requires no local funding.

Staff recommends that the Board authorize the appropriation of \$800,000.00 of funds to be received from the Virginia Department of Transportation Enhancement Program for reimbursements to be paid to the Lewis and Clark Exploratory Center for its Project costs by approving the attached budget amendment (Attachment A) in the amount of \$800,000.00 and approving Appropriation #2012060.

(Discussion: Mr. Thomas commented that this was a fantastic plus.)

By the above-recorded vote, the Board authorized the appropriation of \$800,000.00 of funds to be received from the Virginia Department of Transportation Enhancement Program for reimbursements to be paid to the Lewis and Clark Exploratory Center for its Project costs by approving the budget amendment in the amount of \$800,000.00 and approving Appropriation #2012060.

							APP #2012-060
							DATE 03/14/2012
							BATCH NAME
COUNTY OF ALBEMARLE							
APPROPRIATION							
EXPLANATION: Lewis and Clark Exploratory Center FHWA-VDOT Grant Pass-Through							
ACCOUNT NUMBER							
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION
3	1592	33030	333000	330036	1007	800,000.00	VDOT-FHWA: Transportation Enh Grant
4	1592	72055	472030	568915	1007	800,000.00	LCEC Grant
TOTAL						1,600,000.00	

Agenda Item No. 9. **PUBLIC HEARING:** To solicit public input on the proposed **Community Development Block Grant (CDBG) application** to be submitted to the Virginia Department of Housing and Community Development for the proposed Orchard Acres Housing Rehabilitation Project and the Scattered Site Rehabilitation Project. Residents of the project area are encouraged to attend. The proposal will include rehabilitation of up to 40 houses in Orchard Acres and the reconstruction of two units (one in Scottsville and one in Heards). (*Advertised in the Daily Progress on February 27 and March 5, 2012.*)

Mr. Ron White, Director of Housing summarized the following executive summary which was forwarded to Board members:

The Virginia Community Development Block Grant (VCDBG) is a federally-funded grant program administered by the Virginia Department of Housing and Community Development (DHCD). Since 1982, the DHCD has provided funding to eligible units of local government (in non-entitlement communities only) for projects which address critical community needs, including housing, infrastructure, and economic development. Albemarle County has received numerous grants in previous years to support housing and community improvement initiatives.

The VCDBG application process requires that two local public hearings be conducted. The first public hearing was held on January 4, 2012, at which time information was provided on eligible activities that may be funded by VCDBG, the amount of funding estimated to be available, past activities undertaken with VCDBG funds and the process for applying for funding. There was some public comment regarding use of VCDBG funds for economic development tendered at that hearing. The purpose of this public hearing is to provide information on proposed project applications and to accept public comment on the applications. Applications are submitted by the County to DHCD; however, the proposed activities may be undertaken by other agencies. Albemarle County can submit one or more applications but is limited to awards totaling no more than \$2.5 million. Currently the County has two awards totaling \$742,500.

The County is proposing to submit two applications for VCDBG funds both on behalf of the Albemarle Housing Improvement Program (AHIP). The first application is under a demonstration program, the Scattered Site Housing Rehabilitation Program, and is being proposed at the invitation of DHCD. Four other jurisdictions were also offered an invitation to submit applications. The proposed project consists of the replacement of two substandard, dilapidated houses, one on Coles Rolling Road and one on Heards Lane. Both units are occupied by low- and moderate-income persons. The total project cost for both is approximately \$171,312.78 of which \$164,084.78 is being requested from DHCD. The balance will be provided by AHIP.

The second proposal is for a housing rehabilitation project in the Orchard Acres subdivision in Crozet. The County's Housing Office and AHIP began gathering preliminary information on the greater Crozet neighborhood last summer. Over 370 letters were mailed to residents of an area including St. George Avenue to the north, the Parkside area to the South and eastward to the previous Conagra site. After conducting a residents' meeting on October 19, 2011 and consultation with DHCD, the target site was narrowed to the Orchard Acres subdivision. Approximately 130 letters and surveys were hand-delivered to all residents of Orchard Acres and a second community meeting was held on January 25, 2012. The preliminary work and survey responses indicated that approximately 40 houses appeared to be eligible and in need of some level of repair/upgrade. The survey and assessment was conducted using a \$30,000 VCDBG Planning Grant awarded by DHCD. The work has not been finalized but it is expected that the proposed project will target 30 houses in Orchard Acres. The number of resident beneficiaries is estimated to be 66, ten of whom are elderly, two who are disabled, and seven are families with children. All are low- and moderate-income. The County is proposing to request \$700,000 in VCDBG funding and earmarking up to \$30,000 in available affordable housing proffer funds to cover the estimated costs of the project.

There is no budgetary impact unless or until an application is made and approved for a funded project. Seventy-thousand dollars (\$70,000) is included in the application to cover administrative and grant management costs for the funded activity. Although no match is required for VCDBG funds, some level of local financial support would be factored into the competitive scoring of the proposal. The County proposes to use \$130,000 of its annual support to AHIP for a match (\$65,000 each of two years FY13 and FY14) and \$30,000 in affordable housing proffer money currently on hand. This will provide a 19% match for the total \$860,000 project cost.

Upon receiving information on the proposed VCDBG applications and taking public comment on the two proposals, staff recommends that the Board adopt the project resolutions (Attachments A and D) approving the County's submission of the application for the Scattered Site Housing Rehabilitation Program and the Orchard Acres Housing Rehabilitation Program. It is further recommended that the Board authorize the County Executive to execute the applications (Attachments B and E) as well as the required disclosures (Attachments C and F) and required certifications and assurances (Attachments G and H) to be included in both applications.

Mr. White said that as required by DHCD, a public hearing was held to solicit input on housing and community development needs, and two comments were made from the public regarding use of CDBG funds for economic development. He stated that later that day he had provided Board members with information on that as well as providing information to economic development staff.

Mr. White said that a second public hearing is required by DHCD to review and take input on the proposed applications for CDBG funds, and since that meeting there have been requests from AHIP to submit two applications for funding – the first being the scattered site housing rehab program, which would involve the reconstruction of two dilapidated houses in the County that did not have bathrooms – one near Scottsville and one near Coveseville. He said that the total project cost was just over \$171,000, of which they were requesting \$164,084.78 from DHCD, with AHIP providing the balance. Mr. White stated that the application was due today, but DHCD has allowed the Housing Office to submit it unsigned and without the resolution, pending the Board's approval. He said that Albemarle was one of five jurisdictions invited to apply for this demonstration program, of which \$700,000 has been set aside. Mr. White also stated that he had the opportunity to serve on the focus group for DHCD in developing this program.

He explained that the second application is under DHCD's competitive grant process, and is the proposed Orchard Acres rehab program. Mr. White said that they would request \$700,000 – with the maximum request being \$1 million – to be used to rehab 25-30 homes in the Orchard Acres subdivision, providing safe, sanitary, and more energy efficient housing to 66 people. He stated that 10 were elderly, two were disabled, and seven families have children. Mr. White stated that they worked with DHCD since last summer on this project and had obtained a \$30,000 planning grant from them to conduct a comprehensive housing and infrastructure needs assessment for Orchard Acres. He said that they held two resident meetings, and AHIP conducted a number of outreach efforts through the media. Mr. White reported that they also met with the Crozet Community Advisory Council, which voted to endorse the project and to pass a resolution of support.

Mr. White stated that local match is important to these competitive applications, and they are proposing to use \$120,000 of the annual County support to AHIP as part of the match as well as \$30,000 available through affordable housing proffer monies received. Mr. White said that the application is due in two weeks, the draft application would be available in the Housing Office – with the completed application available around March 26. He stated that both grants provide funding to offset the cost of administration, and there is no additional cost to the County for administration. Mr. White said that staff is requesting and recommending that the Board conduct a public hearing to receive input on the two proposed applications, adopt the two resolutions as presented for the programs, and authorize the County Executive to sign the applications and all required documentation for submission of the proposals.

Ms. Mallek commented that the Crozet Community Association also met and gave the project their wholehearted support. She then asked for an update on the number of applicants from Orchard Acres to see if it had grown since the last time.

Ms. Joyce Dudeck, of AHIP, said that they have heard from 63 families from Orchard Acres – with 36 seeming to be income eligible and interested, with lots of housing needs to be addressed. She said that they have completed 19 full estimates and have a few others in the estimating phase, with 25 expected to be done as the application goes out.

Ms. Mallek asked if they will be able to add the others as the paperwork is completed. Ms. Dudeck stated that they would still collect that information and have them on AHIP's regular waiting list.

Mr. Snow asked what type of work is typically being done.

Ms. Dudeck responded that the type of work being done was heating upgrades, energy improvements, accessibility issues, roofing, and plumbing/electrical work.

At this time, the Chair opened the public hearing.

Mr. Neal Williamson, of the Free Enterprise Forum, said that they have no specific position on this project, but would appreciate if the Board could speak to the match and how those funds would be secured. He cited concern about the possible use of housing proffer monies – that were designated for affordable units – was really meeting that policy, or whether it started to lean toward using pots of money for other purposes.

There being no further public comment, the public hearing was closed and the matter was placed before the Board.

Mr. White explained that a portion of the match was General Fund money that went to AHIP for their annual operations, and they had put \$30,000 in. He stated that there was over \$50,000 available in cash proffer money for affordable housing, and the way the policy is written is fairly open to how that money could be used, as the language states – "affordable housing initiatives." Mr. White said that there was an expectation and a discussion of using proffer money to help develop new housing, but that is not happening right now and pulling down a \$700,000 grant would have a much larger impact.

Mr. Rooker stated that he views the preservation of affordable housing stock as an important component of keeping affordable housing in the community, as it is often more cost effective to maintain existing units than to go out and try to build new ones.

Mr. Rooker **moved** to adopt the project resolutions approving the County's submission of the application for the Scattered Site Housing Rehabilitation Program and the Orchard Acres Rehabilitation Program, and to authorize the County Executive to execute the applications as presented as well as the required disclosures, and the required certifications and assurances to be included in the two applications. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.
NAYS: None.

RESOLUTION

WHEREAS, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents and improving the livability of all neighborhoods; and

WHEREAS, pursuant to Public Hearings held January 4, 2012 and March 14, 2012 the County of Albemarle, on behalf of the Albemarle Housing Improvement Program (AHIP), wishes to apply for \$\$164,084.78 in Community Development Block Grant funds to support the substantial reconstruction of two owner-occupied houses both of which are low- and moderate-income; and

WHEREAS, resources in the amount of \$8,227.93 will be provided by the AHIP; and

WHEREAS, the two projects have been reviewed by the Virginia Department of Housing and Community Development (VDHCD); and

WHEREAS, VDHCD invited Albemarle County as one of five (5) jurisdictions to submit applications for its demonstration program for Scattered Site Housing Rehabilitation; and

WHEREAS, the projected benefits of the project include:

- Substantial reconstruction (replacement) of two substandard, dilapidated houses both of which are without bathrooms; and
- The replacement houses will benefit two (2) people.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County hereby authorizes the County Executive to sign and submit all necessary and appropriate documents for the Scattered Site Housing Rehabilitation application under the Virginia Community Development Block Grant program.

RESOLUTION

WHEREAS, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents and improving the livability of all neighborhoods; and

WHEREAS, pursuant to Public Hearings held January 4, 2012 and March 14, 2012 the County of Albemarle wishes to apply for \$700,000 in Community Development Block Grant funds to support the rehabilitation of 25 to 30 houses in the Orchard Acres Subdivision in Crozet; and

WHEREAS, local resources in the amount of \$160,000 will be provided by the County, \$130,000 of which is a portion of the County's annual operating support for the Albemarle Housing Improvement Program (AHIP) and \$30,000 from available proffer funds designated for affordable housing initiatives; and

WHEREAS, the County will execute an agreement with AHIP to implement the day-to-day operations of the grant while the County will maintain administrative and fiscal responsibilities; and

WHEREAS, VDHCD provided a \$30,000 Planning Grant to the County to complete a housing and infrastructure assessment of Orchard Acres; and

WHEREAS, the assessment identified over 40 eligible properties in need of system repair and replacement, structural repairs, energy efficient improvements and accessibility improvements that will benefit approximately 66 individuals.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County hereby authorizes the County Executive to sign and submit all necessary and appropriate documents for the Orchard Acres Housing Rehabilitation application under the Virginia Community Development Block Grant program.

Agenda Item No. 10. **PUBLIC HEARING: ASCA 2012-01. Charlottesville Volvo.** Request to amend the Albemarle County Service Authority Jurisdictional Area boundary to provide sewer service to Tax Map 59, Parcel 23B2. Property located on Ivy Road (US 250 West), approximately .2 mile east of the intersection of Broomley Road and Route 250. Samuel Miller Magisterial District. *(Advertised in the Daily Progress on February 27 and March 5, 2012.)*

Mr. David Benish, Chief of Planning, summarized the following executive summary which was forwarded to Board members:

The applicant is requesting ACSA Jurisdictional Area designation for sewer service to a 3.6 acre property containing a commercial building currently housing the Charlottesville Volvo dealership (Attachment A). The parcel is located entirely within the designated Rural Area, but has been zoned HC, Highway Commercial since at least the 1970s. The property is located on the north side of Ivy Road, adjacent to the University of Virginia Long Range Acute Care Hospital (LTACH) and Northridge Office

Building. The Volvo dealership site is currently designated for public water service only, and is served by an existing septic system. The LTACH and Northridge sites are served by public water and sewer service.

The existing septic system serving the property is failing, and staff from the Virginia Department of Health has determined that there is no alternative area available for a new septic system onsite (Attachment B). The property is relatively small and is mostly developed with the building and paved parking areas for the dealership. The soil on the property consists of mostly fill material which is not suitable for a septic system and the small portion of undeveloped area around the perimeter of the property consists of slopes in excess of 25 percent.

Because this has been deemed an emergency request due to existing conditions, it is being submitted to the Board for an immediate public hearing rather than as an item to be set for a public hearing.

The property is located within the designated Rural Area and is zoned RA, Rural Areas. The Comprehensive Plan provides the following concerning the provision of water and sewer service to the Development Area:

“General Principle: Urban Areas, Communities, and Villages are to be served by public water and sewer (p. 114).”

“Provide water and sewer service only to areas within the ACSA Jurisdictional Areas (p. 130).”

“Follow the boundaries of the designated Development Areas in delineating Jurisdictional Areas (p.130).”

“Only allow changes in the Jurisdictional Areas outside of the designated Development Areas in cases where the property is: 1) adjacent to existing lines; and 2) public health and/or safety is in danger (p. 130).”

Water and sewer services by policy are intended to serve the designated Development Areas where growth is encouraged and are discouraged in the Rural Area because extension of public utility services are a potential catalyst for growth. As such, public water supply and sanitary sewer system capacities need to be efficiently and effectively used and reserved to serve the Development Area. Continued connections of properties in the Rural Area can result in further extension of lines from the fringe of the existing Jurisdictional Area and into the Rural Area, potentially straining limited water resources and sewer capacity.

This request meets both criteria for the provision of service to Rural Area parcels. A sewer line is located adjacent to this site and the adjacent properties to the east of this property are currently served by public sewer. A health and safety issue exists due to the existing system failure and the lack of suitable areas on the property for a replacement septic system and drainfield or other alternative system.

Generally, when properties located in the Rural Area are added to the ACSA Jurisdictional Area, the service provided to those properties is limited to the existing structures only. Given the current zoning of the property, the existing level of development of the site, and the size of the parcel, staff recommends the property be designated for “water and sewer service” without any limitation on any new sewer service being provided to the site. This designation is consistent with the designations for the adjacent LTACH and Northridge sites, which are also in the Rural Area.

The property owner will bear the costs for sewer connection.

After the public hearing, staff recommends that the Board amend the ACSA Jurisdictional Area boundary to provide “water and sewer service” to Tax Map 59, Parcel 23B2.

Mr. Rooker said that one issue that had arisen was whether the applicant could come back and put a larger commercial structure there, as there has been concern expressed by the Scenic Route 250 West group of “creeping commercialism”.

Mr. Benish responded that the by-right zoning of the property would allow for all of the uses permitted by right under the HC zoning and other uses by special permit, but given the size of the site and existing topography, that zoning may not be usable given the lack of available alternative sites unless the property was completely redeveloped. Most of the area in that developed area is fill material and not suitable for a septic system. From a policy standpoint, he said, the County typically places a limited service to the existing structure only – but in this case they would likely render the property undevelopable because of the site limitations. He added that it was possible to have more intensive development based on its zoning, but redevelopment of the site would require critical slope waivers.

Mr. Thomas said that this application was for an emergency sewage situation, not for future development of the property.

Ms. Mallek stated that how it was expressed was the issue.

Mr. Rooker stated that he had no issue with the application, but with the possibility of more intensive development of the site than what was currently there.

Mr. Thomas said that the owner would have to close his business.

Mr. Rooker said that the jurisdictional amendment could be approved to existing structures, not future use.

Mr. Benish said that was an option, and if the issue was a concern in the future the jurisdictional area designation could be reconsidered. He stated that given the character of the site – without the likely ability to put a private system in – the by-right zoning was fairly limited to just that building and that particular use.

At this time, the Chair opened the public hearing.

Ms. Valerie Long, of Williams Mullen, representing the applicant/landowner, said that the property is zoned Highway Commercial. The staff report had indicated that their recommendation was not to limit it only to the two existing structures given the relatively small size of the parcel, the length of time it had been zoned this way, and the site topography. She added that the new U.Va. hospital facilities nearby were not limited to their existing structures. She would ask for consistency in the way the parcels were treated. She added that there is not a lot of room left on the property to develop it much more intensely than it is, even if the applicant wanted to.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

Mr. Rooker stated that there was no in between option here, as the owner should have the opportunity to put a nicer building on the property, if he chooses.

Mr. Snow said it was similar to the Restore 'N Station option, where they tore down the building and lost the right to rebuild.

Mr. Rooker said that given the limitations of the site, he was prepared to support the request.

If the designation was limited to existing structures, Mr. Davis said that if the building burned down it could be rebuilt and not lose its designation; but, if they chose to tear it down, it would lose its designation. They would have to replace it in its existing footprint.

Mr. Snow **moved** to approve an amendment of the ACSA jurisdictional boundary to provide “water and sewer” service to Tax Map 59, Parcel 23B2. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

Agenda Item No. 11. **PUBLIC HEARING: PROJECT: SP-2011-00022. Verizon Wireless/ Southwest Mountain Tier III Personal Wireless Service Facility (Sign #48).**

PROPOSAL: Request for installation of a second flush-mounted antenna array replacing recently removed whip antennas in order to support the attachment of a new antenna array in a second vertical array below the company's existing antennas. This is an amendment of SP 2003-45 #2C to allow more than 5 antenna arrays.

ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 2 -preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots).

ENTRANCE CORRIDOR: NO.

LOCATION: 119 Lego Drive.

TAX MAP/PARCEL: 07800-00-00-051C0.

MAGISTERIAL DISTRICT: Rivanna.

(Advertised in the Daily Progress on February 27 and March 5, 2012.)

Mr. Cilimberg reported that this request falls under the Board's special use permit allowances rather than as a site plan the Commission used to handle, and it would still be subject for approval under the old system. He said that the application is for replacing an array in the Southwest Mountains near Ashcroft, and noted the location of the site on a map provided. Mr. Cilimberg explained that there would be a second flush-mounted antenna array on an existing facility, and it would involve amendment of a condition to allow more than five antenna arrays. He said that the tower has been in existence for over 40 years and there were no other changes proposed. He said that the photo simulations showed the location of the array – with no significant visual impacts. Mr. Cilimberg showed the condition before one array was removed, placed under the prior approval, and this would bring the array into the same general location.

He stated that there are three sections of the Zoning Ordinance that need to be modified regarding number of antenna array. A tree conservation plan requirement is not necessary considering there would be no tree removal to establish this change. Mr. Cilimberg said that this was an existing facility, and there would not be any new impacts to adjacent properties expected for the antenna to be provided there. The proposal met most of the Zoning Ordinance requirements except for the number of

array that the modification would address. He stated that staff and the Planning Commission recommended approval of the modifications to those sections referenced, and recommended approval of the special use permit subject to four conditions.

Mr. Thomas asked if the structure had a light on it.

Mr. Cilimberg responded that it might, but he was not certain.

Mr. Rooker commented that there didn't seem to be any visibility change with this tower.

At this time, the Chair opened the public hearing.

Ms. Lori Schweller, an attorney with LeClair Ryan, addressed the Board on behalf of Verizon Wireless. She stated that they were requesting approval of a special use permit, which would amend the existing special permit to allow six arrays on this structure instead of the current five. Ms. Schweller said that the Commission's minutes stated that up to three antennas were permitted under Tier I and Tier II, with this request considered Tier III because it would have more than three; but she clarified that if they were proposing to add the second or third array it would still be a Tier III because it was subject to a special use permit. She stated that Verizon's position was that if a special use permit condition has been superseded by a by-right provision in the ordinance, it should be by right on that facility also – but that was not the Zoning Department's position, as they indicated that a special use permit could not be superseded by a new application for a Tier II facility.

Ms. Schweller emphasized that a special use permit condition that limited the number of antenna arrays on a tower was not superseded by a Tier I application to add a second array. She stated that that was important because since the U.S. government sold the 700 MHz spectrum, all the carriers have been working diligently since that time to provide 4G service. She stated that 83% of people who had wireless service checked for healthcare information online, and because it was so important – as part of the Middle Class Tax Act – the President signed into law a provision, Section 6409-Wireless Facilities Deployment, which said that “a state or local government may not deny and shall approve any eligible facility's request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” Eligible facility means co-location, removal of transmission equipment or replacement of transmission equipment. Ms. Schweller said that “substantially change” had already been addressed when there was discussion of the federal ruling and referred to the “Nationwide Programmatic Agreement for the Co-location of Wireless Antennas” and defined that. She stated that if a project didn't increase the existing height of a tower by more than 10%, or the height of an array that is separated from the nearest antenna by not more than 20 feet it would not be considered substantial. Ms. Schweller said that if an applicant wasn't widening the structure more than 20 feet, it would also be considered not substantial. The federal government has said that co-locations should be approved, but Albemarle still has a requirement for a special use permit process for something as simple as this. She added that this application was filed September 19, 2011 even though the “shot clock” requirement was supposed to be 90 days.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

Mr. Boyd **moved** to approve modifications modifications to Sections 5.1.40(c)(3)1(l), (c)(4) and (c)(5), and to approve SP-2011-00022 subject to four conditions. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

(The conditions of approval are set out below:)

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled “Southwest Mountain LTE 4G Upgrade”, with a final zoning drawing submittal date of 11/10/11 (hereafter “Conceptual Plan”), as determined by the Director of Planning and Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - Height
 - Mounting type
 - Antenna type
 - Number of antenna
 - Color
 - Location of ground equipment and fencing

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;

2. The monopole shall not be increased in height above the existing two-hundred sixty (260) feet above ground level (AGL).
3. Equipment shall be attached to the exterior of a structure only as follows: (i) The total number of arrays of antennas attached to the existing structure shall not exceed six (6), and each antenna

proposed to be attached under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty two (1,152) square inches.

4. Prior to issuance of a building permit, the owner of the facility shall submit an updated report to the agent identifying each user of the tower to be updated annually between May 1 and July 1 in accordance with the requirements of Section 5.1.40(c)(7).

Agenda Item No. 12. **PUBLIC HEARING: PROJECT: SP-2011-00026. New Cingular Wireless/ AT&T-CV429-Tier III (Signs #24&100).**

PROPOSAL: Special use permit request for a personal wireless service facility including a 119-foot metal monopole with flush-mount antennae. Proposal includes requested waiver of section 5.1.40(d)(6) of the Zoning Ordinance (to allow a pole height 30 feet above the reference tree, over the normal maximum of seven to ten feet).

ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).

SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).

ENTRANCE CORRIDOR: YES.

LOCATION: At the northwest side of the intersection of Scottsville Road (Route 20), Esmont Road (Route 715), and Coles Rolling Road (Route 712).

TAX MAP/PARCEL: 11200-00-00-030G0

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on February 27 and March 5, 2012.)

Mr. Cilimberg reported that the proposal was for a facility in the southern part of the County that included a 119-foot monopole with flush mounted antenna, and it would be 30 feet above the reference tree. He said that the site location was on a very wooded parcel on Scottsville Road/Route 20. He provided images of a general view driving down Route 20 of the site area as well as the proposed antenna and the reference tree. Mr. Cilimberg stated that the balloon was not very visible at all during their site test, and the antenna would not be visible from Route 20 – with the ARB recommending approval on that basis. He added that there were no unfavorable factors. The staff and Planning Commission have recommended approval, with one modification necessary to Section 5.1.40(d)6 to allow the height to extend to 30 feet rather than seven feet above the reference tree. This is a much taller tower than normal, but it is not visible.

Mr. Rooker stated that the only concern that he had was an applicant applying for a tower at 30 feet and coming back three months later to increase it by 10 feet because it is “not material” according to the federal act.

Mr. Davis agreed that it was an existing dilemma and a very valid issue, as the federal law allowed modifications to be made to add antennas as long as the structure was not substantially changed. He said that the staff is doing a review of the laws and regulations as part of the review of the ordinance that would be brought to the Board in the next few months.

Mr. Rooker asked if applicants would have unlimited modifications. Mr. Davis responded that it was something staff needed to examine.

At this time, the Chair opened the public hearing.

Mr. Preston Lloyd, an attorney with Williams Mullen, addressed the Board on behalf of AT&T, the applicant. He said that AT&T proposes building the facility on a heavily forested undeveloped 421-acre site near Keene off of Route 20. Mr. Lloyd stated that the application meets all of the requirements of Tier II facility regulations with the exception of two attributes – the fact it was located in the Southern Albemarle Historic District and the tower’s height, which would be 30 feet above the reference tree. He said that in this case they found that the applicant’s chosen site was particularly well suited for that deviation. Mr. Lloyd presented a schematic of existing coverage in the area and the wireless coverage provided by the proposed facility, adding that the key factor with this application was the minimal visibility. He said that the applicant has done exactly what the ordinance was designed to do.

Ms. Mallek asked if there was an existing farm track to the site or if they would be building a road for access.

Mr. Lloyd said that there would be construction of an access road to get up the hill to the site, and they have a tree plan in place to identify which ones needed to be preserved.

Ms. Mallek asked if there would be a gate at the road. Mr. Lloyd responded that he did not know.

Mr. Dumler commented that AT&T does not have good coverage on Route 20 South, but no other company does either. He then asked how many additional towers would be needed if the tower wasn’t 30 feet above the reference tree.

Mr. Lloyd responded that he didn't have that information, adding that upon study of the site it was determined that 30 feet provided the maximum coverage to achieve the best possible result.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

Mr. Cilimberg noted that the new access road came off of Route 20 and follows the topography back to the site.

Mr. Dumler **moved** to approve modification to Section 5.1.40 (d)(6), requirement that facility extend no more than 7 feet above the reference tree, to permit it to extend 30 feet above the reference tree, and to approve SP-2011-00026 subject to two conditions. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

(The conditions of approval are set out below:)

1. Development and use shall be in general accord with the conceptual plan titled "CV429" prepared by O. Warren Williams, Jr., and dated 10-10-11 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a) Height
 - b) Mounting type
 - c) Antenna type
 - d) Number of antennae
 - e) Distance above reference tree
 - f) Color
 - g) Location of ground equipment

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. Entrance design and location must be approved by the Virginia Department of Transportation before construction of the access road for this use may commence.

Agenda Item No. 13. **PUBLIC HEARING: PROJECT: ZMA-2011-00007. Albemarle Place/ Stonefield Proffer Amendment.**

PROPOSAL: Request to amend proffers on property zoned NMD which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses. No new dwellings or change in residential density proposed.

ENTRANCE CORRIDOR: Yes. **PROFFERS:** Yes.

COMPREHENSIVE PLAN: Designated Urban Mixed Use (in Destination Center) – retail, residential, commercial, employment, office, institutional, and open space; Urban Mixed Use (in areas around Centers) – commercial and retail uses that are not accommodated in Centers; and Commercial Mixed Use – commercial, retail, employment uses, with supporting residential, office, or institutional uses.

LOCATION: Northwest corner Hydraulic Road (Rt. 743) and Seminole Trail (US 29) in Neighborhood 1.

TAX MAP/PARCEL: 061W0-03-00-019A0, 061W0-03-00-019B0, 061W0-03-00-02300, 061W0-03-00-02400, 061W0-03-00-02500 (as of 02/22/12).

MAGISTERIAL DISTRICT: Jack Jouett.

(Advertised in the Daily Progress on February 27 and March 5, 2012.)

Mr. Cilimberg reported that the site is under development, and the changes proposed would allow District Avenue to be a private street with other amendments for consistency and clarity. He said that there are no dwelling units proposed to be added by the amendment, as it is primarily to address the street that connects between US Route 29 and Hydraulic Road. Mr. Cilimberg referenced the original zoning plan and said the amendment would allow for District Avenue to develop as a private street. The Commission has recommended approval. He said that the Commission asked that the reservation for future dedication of District Avenue right of way to the County be provided in the event the County and/or VDOT ever had it as a public street – and modifications to address outstanding non-substantive technical items related to the proffers were also included. Mr. Cilimberg stated that since the Commission's action, the applicant had also amended proffer 8-B to reflect when plans for improvements to roads in the City were submitted – and the requirement to execute the proffer based on that submittal date.

Mr. Cilimberg said that the Commission and staff have recommend approval of the rezoning inclusive of the proffers dated March 13, 2012.

Ms. Mallek asked if the private street had a 40-foot curb and gutter with a wider cross-section.

Mr. Cilimberg responded that the applicants could answer that, but basically to provide the urban context street it could not be done under VDOT standards – which was why they were going to a private street approach.

At this time, the Chair opened the public hearing.

Ms. Valerie Long addressed the Board and introduced Mr. Tom Gallagher of Edens and Avant. She stated that the amendment was primarily to address technical revisions to the proffers and to allow District Avenue, formerly Albemarle Place Boulevard, to be a private road to incorporate design elements such as wider sidewalks and more room for utilities in the streets. Ms. Long said that they worked out language to state that in the event anyone would ask for the road's public dedication, they would reserve the right to do that. She stated that since the Commission's late July meeting, the applicant has recorded a subdivision plat that created a few parcels for the hotel along with some apartments, etc., that reserved the path of District Avenue for future dedication to the public upon the request of the County.

Mr. Boyd asked about the possibility of VDOT changing their standards for utilities in the street.

Mr. Cilimberg responded that it was hard to say, as they had allowed it in some urban developments. He added that he was working on a state-level committee on some of those issues for context in building roads and accepting them into the VDOT system in urban settings. Ultimately, there may be some changes.

Mr. Rooker pointed out that VDOT supported having this as a private street, recognizing that functionally they did not have the standards to have it developed the way they wanted. He added that VDOT was hoping to put off maintenance obligations to private parties.

Mr. Cilimberg said that one of the other challenges was, based on the road being a collector, the VDOT clear zone requirements start pushing the pedestrians and sidewalks into the site and reduce development space and the opportunity to have more of a street presence.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

Mr. Rooker **moved** for approval of ZMA-2011-0007 inclusive of the revised proffers dated March 13, 2012. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

(The proffers are set out below:)

**Albemarle Place/Stonefield
PROFFER FORM**

Date: March 13, 2012

ZMA # 2011-00007 Albemarle Place/Stonefield

Tax Map and Parcel Numbers: 061W0-03-00-019A0, 061W0-03-00-019B0 (as it has been subdivided), 061W0-03-00-02300, 061W0-03M00-02400, and 61W0-03-00-02500

65.034 Acres zoned Neighborhood Model District (NMD) to be rezoned to Neighborhood Model District (NMH)

Albemarle Realty (E&A), LLC, a South Carolina limited liability company is the owner of two parcels of land that were subdivided from tax map parcel 061W0-03-00-019B0, which parcels are shown as "Lot D2", containing 5.487 acres, and "Lot D3", containing 1.010 acres, each on a plat entitled "Plat Showing Subdivision of Stonefield, Jack Jouett Magisterial District, Albemarle County, Virginia" dated July 15, 2011, last revised November 10, 2011, prepared by W.W. Associates, which plat is of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 4135, page 215 (the "Subdivision Plat"). The Haven at Stonefield, LLC, a South Carolina limited liability company, is the owner of a parcel of land that was subdivided from tax map parcel 061W0-03-00-019B0, which parcel is shown as "Lot E2" containing 7.638 acres, on the Subdivision Plat. For the purposes of these proffers, Albemarle Place BAAP, LLC, and Albemarle Realty (E&A), LLC are collectively referred to herein as (the "Owner").

Albemarle Place EAAP, LLC, a Delaware limited liability company, is the tee simple owner (the "Owner") of tax map parcels 061 W0-03-00-019A0, 061W0-03-00-02300, 061W0-03-00-02400, 061W0-03-00-02500, and the residual portions of tax map parcel 061W0-03-00-019B0 that were not conveyed to either Albemarle Realty (E&A), LLC or The Haven at Stonefield, LLC. For the purposes of these proffers, Albemarle Place EAAP, LLC, and Albemarle Realty (E&A), LLC are collectively referred to herein as (the "Owner").

Tax map parcels 061 W0-03-00-0 19AO, 061W0-03-00-02300, 061W0-03-00-02400, 061W0-03-00-02500, and 061W0-03-00-019B0 (including the lots created there from pursuant to the Subdivision Plat) (collectively, the "Property"), are the subject of zoning map amendment application number ZMA 2011-00007 originally submitted as "Albemarle Place Proffer Amendment," which application name has been renamed to "Stonefield."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed in this proffer statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning and it is acknowledged that the conditions are reasonable.

The Albemarle Place/Stonefield project was originally approved by the County Board of Supervisors on October 22, 2003 as ZMA 2001-007, along with proffers from the prior owner dated October 22, 2003, and a Code of Development prepared by The Cox Company dated October 15, 2003 (with Exhibit A to the Code of Development last revised July 8, 2010) (the "Code of Development"). The Code of Development included an application plan (the "Application Plan"). The improvements proposed for the Property are collectively referred to as the "Project."

The term "Owner" as referenced herein shall include within its meaning the owner of record and successors in interest. The term "Application Plan" refers to Exhibit A. The term "Code of Development" refers to Exhibit B. The proffers dated October 22, 2003 that were approved with ZMA 2001-007 were amended by proffers dated July 23, 2010 that were approved with ZMA 2008-0003 by the County Board of Supervisors on August 4, 2010, and by proffers dated August 5, 2011 that were approved with ZMA 2011-0004 by the County Board of Supervisors on September 7, 2011. These proffers amend and supersede the proffers accepted in conjunction with the approval of ZMA 2001-007, ZMA 2008-0003, and ZMA 2011-0004.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provisions of the proffers.

1. **Phasing of Improvements:** The Owner shall phase development of the Project as follows:
 - A. **Phase 1:** Phase 1 of the Project shall be composed of Blocks A, B, C and D as shown on the Application Plan, and as shown in more detail on Exhibit A-1 attached hereto ("Phase 1"), and shall include street and utility improvements to serve the planned building improvements contained within Phase 1. As part of Phase 1, the Owner shall design and construct District Avenue (formerly known as Albemarle Place Boulevard and as Fourth Street/Cedar Hill Road) ("District Avenue") from Hydraulic Road to the point where District Avenue connects with the new planned western entrance to the Sperry Marine facility in the location shown on the Application Plan, and as shown in more detail on Exhibit A-1. This first phase of District Avenue shall include all supporting utility infrastructure on such street, and shall be completed prior to issuance of a final certificate of occupancy for any buildings within Blocks A, B, C and D. Construction of the first phase of District Avenue shall be deemed complete when it is constructed in conformance with the plans approved by Albemarle County or by the Virginia Department of Transportation ("VDOT"), as applicable, and in any event the County Engineer has approved it for vehicular travel. No more than three hundred seventy thousand (370,000) square feet of commercial space and one hundred seventy (170) dwelling units may be constructed within the Project until the remainder of District Avenue is constructed to the new planned intersection with U.S. Route 29 as shown on the Application Plan. Notwithstanding anything to the contrary contained in this Paragraph 1A, the Owner shall be permitted to utilize portions of the Phase 2 land (as shown on Exhibit A-1) for the installation of infrastructure to serve the Phase 1 building improvements to be constructed in Blocks A, B, C and D.
 - B. **Phase 2:** Phase 2 of the Project shall be composed of Blocks E, F and G as shown on the Application Plan and as shown in more detail on Exhibit A-L ("Phase 2"), and shall include street and utility improvements to serve the planned building improvements contained within Phase 2. As part of Phase 2, the Owner shall design and construct District Avenue from the point where it connects with the new planned western entrance to the Sperry Marine facility north and east through Blocks E, F and G to the new planned intersection with U.S. Route 29 as shown on the Application Plan and as shown in more detail on Exhibit A-1. This second phase of District Avenue shall include all supporting utility infrastructure on such street and shall be completed prior to issuance of a final certificate of occupancy for any buildings within Blocks E, F and G. Construction of the second phase of District Avenue shall be deemed complete when it is constructed in conformance with the plans approved by Albemarle County or by the VDOT, as applicable, and in any event the County Engineer has approved it for vehicular travel. Notwithstanding anything to the contrary contained in this Paragraph 1B, the Owner shall be permitted to utilize portions of the Phase 2 land (as shown on Exhibit A-1) for the installation of infrastructure to serve the Phase 1 building improvements to be constructed in Blocks A, B, C and D. Notwithstanding anything to the contrary contained in this paragraph 1B or in paragraph 1A above, final certificates of occupancy may be issued for buildings within Blocks A, B, C, D or E beyond the threshold levels contained in paragraph 1A, provided that the Owner (i) has constructed at least a temporary road (at standards acceptable to the Director of Community Development) connecting the first phase of District Avenue to the new planned intersection with U.S. Route 29, or (ii) can demonstrate during the site plan review process, through traffic analysis acceptable to the Director of Community Development and VDOT, that additional traffic from such buildings, when aggregated with the traffic generated by the uses for which certificates of occupancy have been issued for buildings in Phase 1, will not cause the Hydraulic Road/U.S. Route 29 intersection to fall below an acceptable level of service. All final site plans for the Project that include any portion of District Avenue shall include a note

reserving the portion of the property comprising District Avenue for future dedication as a public road, and within sixty (60) days after written request for such dedication, the Owner shall dedicate the portion of the property comprising District Avenue for a public road. If the public right-of-way is not dedicated by subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed to convey the public right-of-way to the County.

- C. Landscape improvements and associated streetscape improvements to serve the planned building improvements contained within each block shall be reviewed at the time of final site plan review for each block. The Project shall have a consistently designed and planted streetscape along Route 29 and Hydraulic Road.
2. **Community Development Authority Participation:** Upon request by the County, the Owner shall petition for and consent to all tax map parcels used for non-residential purposes participating in a Community Development Authority ("CDA") established pursuant to Section 15.2-5152, et seq. of the Code of Virginia ("Code") to be created for the purpose of implementing Route 29 regional transportation improvements, including but not limited to transportation improvements within the "Super Block" (the geographical area bounded by Route 29, Hydraulic Road, Commonwealth Drive, and Greenbrier Drive) and intersectional improvements associated therewith.
3. **Cash Proffer for Route 29 Regional Transportation:** The Owner will make a cash contribution to the County for the MPO/29H250 Phase 2 Route 29 regional transportation study in the amount of One Hundred Thousand Dollars (\$100,000.00). The cash contribution shall be made by the Owner within thirty (30) days upon request by the County. This proffer has been satisfied.
4. **Cash Proffer for City of Charlottesville Traffic Calming Improvements:** The Owner shall contribute Ten Thousand Dollars (\$10,000.00) to the City of Charlottesville for the construction by the City of traffic calming improvements on Swanson Road, Cedar I-Till Road and other City streets intersecting Hydraulic Road in the vicinity of Stonefield. The cash contribution shall be made by the Owner within thirty (30) days upon request by the City. If the traffic calming improvements are not implemented by October 15, 2007, all unexpended funds shall be refunded to the Owner. The City constructed the traffic calming improvements, and requested the prior owner of the Property to pay the contribution on November 9, 2005, but there are no immediately available records that such contribution was ever received by the City. Upon evidence of prior payment of such funds that is satisfactory to the County, the requirements of this Paragraph 4 shall be deemed satisfied. In the event the Owner has not produced such evidence to the County by March 31, 2010, the Owner shall contribute the funds to the City within thirty (30) days of a written request from the City, provided that such request is made no sooner than April 1, 2011. At the time such funds are delivered to the City, the Owner shall provide notice of such payment to the County.
5. **Cash Proffer for Charlottesville Area Transit ("CAT") Commercial Corridor "Jitney Service":** Upon the request of the County, the Owner shall contribute Twenty Thousand Dollars (\$20,000.00) per annum or an amount equal to twenty percent (20%) of the annual operating and maintenance costs, whichever is less, for a period not to exceed five years for operating and/or maintaining a dedicated "jitney bus" service to retail commercial developments, including Stonefield, along the Route 29 Corridor. If the CAT "jitney service" is not placed into operation by the date of issuance of the first occupancy permit for a commercial building in Stonefield, then the Owner shall contribute Seven Thousand Dollars (\$7,000.00) per annum, for a period not to exceed five years, to CAT for costs associated with operating existing CAT bus route(s) that provide service to Stonefield.
6. **Cash Proffer for Capital improvements:** The Owner shall contribute One Million Five Hundred Thousand Dollars (\$1,500,000.00) (hereinafter referred to as the "Total Contribution") to the County (for the purpose of funding capital improvements related to Stonefield. The contribution shall be paid as follows: (a) Three Hundred and Seventy Five Thousand Dollars (\$375,000.00) shall be contributed to the County within thirty (30) days after the first final site plan or subdivision plat containing residential dwelling units is approved for Stonefield; (b) an additional Three Hundred and Seventy Five Thousand Dollars (\$375,000.00) of the total contribution shall be contributed to the County prior to the issuance of a certificate of occupancy for the first residential dwelling unit in Stonefield, and (c) the remaining Seven Hundred Fifty Thousand Dollars (\$750,000.00) of the Total Contribution shall be paid on a pro rata basis of Three Thousand Dollars (\$3,000.00) per residential dwelling unit at the time certificates of occupancy are issued for the first two hundred fifty (250) dwelling units. No additional contribution shall be required for the next two hundred fifty (250) dwelling units. If, five (5) years from the date of approval of the first final site plan or subdivision plat for residential dwelling units, the Total Contribution has not been fully paid, the balance of the Total Contribution shall be contributed to the County within thirty (30) days upon request by the County. If this fund has not been exhausted by the County for the stated purpose within five (5) years from the date the last contribution is made, all unexpended funds shall be refunded to the Owner.

In addition to the foregoing, after building permits have been issued for the first five hundred (500) dwelling units within Stonefield, the Owner shall pay to the County Three Thousand Dollars (\$3,000.00) prior to the issuance of a building permit for each new residential dwelling unit thereafter.

- 7. Construction of Frontage improvements on Route 29 and Hydraulic Road:** At its expense, the Owner shall plan, design, bond and construct travel lane improvements to be dedicated for public use on its Hydraulic Road and Route 29 frontage. The design shall be submitted with the first site plan for the initial phase of Stonefield. The subject frontage improvements are depicted by Exhibit F, "Short Term Route 29 Transportation Improvements." The County may require these improvements to be completed as a prerequisite to the issuance of any certificates of occupancy. The construction of the subject improvements shall be deemed complete when they are constructed in conformance with the plans approved by VDOT and opened to public use as approved by VDOT.
- 8. Construction of Off-Site Improvements:** Upon request by the County or as provided herein, the Owner shall plan, design, bond and construct off-site transportation improvements in the County and the City, as depicted on Exhibit F, "Short Term Route 29 Transportation Improvements". If the improvements are required to be constructed, the County may require these improvements to be completed as a prerequisite to the issuance of any certificates of occupancy. Construction shall be deemed complete when the improvements are constructed in conformance with the plans approved by VDOT and opened to public use as approved by VDOT.
- A. Off-site Improvements in the County at the Northwest Quadrant of the Hydraulic Road/Route 29 Intersection.** The engineering, plats and construction documents for off-site improvements in the County shall be submitted with the first final site plan for Phase 1 of Stonefield.
- B. Off-site Improvements in the City at the Northeast Quadrant of the Hydraulic Road/Route 29 Intersection (numbered items 4 and 11 on Exhibit F).** The Owner shall submit the engineering, plats and construction documents (the "Plans") for the improvements in the City of Charlottesville to the City of Charlottesville by January 11, 2012. The Owner shall diligently pursue approval of the Plans in the City. If the City does not approve the Plans by July 11, 2012, the Owner shall not be required by this proffer to construct any improvements for which approvals have not been obtained. The Owner shall not be required by this proffer to acquire or otherwise pay for right of way in the City for these improvements.

If the improvements are required to be constructed, the Owner shall complete construction of the improvements for which right, of way is available within twelve (12) months alter the issuance of the first certificate of occupancy within Stonefield. Construction shall be deemed complete when the improvements are constructed in conformance with the plans approved by VDOT and opened to public use as approved by VDOT.

This Paragraph 8(B) is subject to the terms of Paragraph 14, "Substituted Transportation Improvements."

- 9. Reservation and Dedication of land for Regional Route 29 and Hydraulic Road Intersection Improvements:** The Owner shall reserve for the future dedication to the Commonwealth of Virginia certain land on the Property in the County for certain short-term transportation improvements for the Route 29 and Hydraulic Road intersection (the "Short-Term Route 29/Hydraulic Road Improvements") as follows: (a) the land shown as "Parcel A 6,511 S.F." on the plat of Kirk Hughes and Associates dated March 3, 2009, last revised March 25, 2010, which plat is attached hereto as Exhibit H; and (b) any portions of the arcc1s shown as "Parcel One Future Right of Way 1,117 S.F.," "Parcel Two Future Right of Way 9,079 S.F.," "Parcel Four Future Right of Way 1,660 S.F.," and "Parcel Five Future Right of Way 790 S.F.," on the Official Map adopted by the County on December 2, 2009, a copy of which Official Map is attached hereto as Exhibit 1, that are required by VDOT for the Short-Term Route 29/Hydraulic Road Improvements (collectively, the "Short-Term Improvements Dedication Area"), provided, however, that the subdivision plats depicting the Short-Term Improvements Dedication Area are subject to final approval by the County Department of Community Development and that the precise boundaries and size of the Short-Term Improvements Dedication Area may be adjusted accordingly.

The Owner shall dedicate the Short-Term Improvements Dedication Area to the Commonwealth of Virginia in fee simple by October 1, 2010, or within thirty (30) days after the County approves the subdivision plat necessary to dedicate the Short-Term Improvements Dedication Area, whichever is first to occur. In addition to the dedication of the Short-Term Improvements Dedication Area, the Owner shall dedicate and convey all necessary drainage and construction easements for the Short-Term Route 29/Hydraulic Road Improvements. If the Short-Term Improvements Dedication Area is not dedicated and conveyed as part of a subdivision plat, the Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the Office of the Attorney General necessary to dedicate and convey the Short-Term Improvements Dedication Area land.

After dedication and until the subject regional transportation improvements are funded for construction, the Owner shall, at the request of the County, and with the consent of the Commonwealth of Virginia, maintain the Short-Term improvements Dedication Area land until requested by the County to no longer do so provided the Owner is granted the right to the exclusive use of the land for landscaped open space, a pocket park, temporary parking, fencing, signage, utilities or other purpose as may be approved with the final site plan for the first phase of Stonefield. Upon being requested by the County to no longer maintain the land, the Owner shall

cease all use of the land and remove all improvements established by the Owner that the County requests be removed.

In the event that the adopted design for future public intersection improvements does not require the utilization of all of the Short-Term Improvements Dedication Area land, upon the Owner's request, the residual portion of the dedicated land shall be transferred to the Owner at no expense to the Owner. The deed(s) of dedication for the Short-Term Improvements Dedication Area may provide for such conditions.

10. Reservation and Dedication of Additional Land for Route 29 and Hydraulic Road

Intersection improvements: The Owner shall reserve for future dedication to the County, subject to the conditions herein below, certain additional land on the Property for the right of way for future Hydraulic Road and Route 29 related regional transportation improvements (the "Long-Term Route 29/Hydraulic Road improvements") as follows: (a) the area shown as "Parcel A1 1,432 S.F." on Exhibit ii and (h) any portions of the parcels shown on Exhibit I that were not previously dedicated to the Commonwealth of Virginia for the Short-Term Route 29/Hydraulic Road improvements pursuant to the Paragraph 9 herein (collectively, the "Long-Term Improvements Dedication Area") provided, however, that the subdivision plats depicting the Long-Term Improvements Dedication Area are subject to final approval by the County Department of Community Development and that the precise boundaries and size of the Long-Term Improvements Dedication Area may be adjusted accordingly.

The Owner shall dedicate the Long-Term Improvements Dedication Area to the County within ninety (90) days after the County's request for such dedication, and such dedication shall include the dedication and conveyance of all necessary drainage and construction easements for the Long-Term Route 29/Hydraulic Road Improvements. If the Long-Term Improvements Dedication Area is not dedicated and conveyed as part of a subdivision plat, the Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the County Attorney's Office necessary to dedicate and convey the Long-Term Improvements Dedication Area.

Until the Long-Term Improvements Dedication Area Land is dedicated, the Owner shall maintain the land and shall retain the right to the exclusive use of the land for landscaped open space, a pocket park, temporary parking, fencing, utilities or other purposes as may be approved with the first final site plan for Phase 1 of Stonefield.

The conditions on the subject reservation and dedication shall be as follows:

(a) In the event that the adopted design for future public intersection improvements does not require the utilization of all of the Long-Term Improvements Dedication Area land, upon request of the Owner the residual portion shall be released by the County from the reservation or, if the land has been dedicated, upon request of the Owner title shall be transferred back to, and for the use of, the Owner at no expense to Owner. The deed(s) of dedication for the Long-Term improvements Dedication Area may provide for such conditions,

(b) The design and construction of the Long-Term Route 29/Hydraulic Road Improvements shall substantially maintain the access, function, and continuity of service of the planned intersection of Swanson Road (Extended) and existing Hydraulic Road into Stonefield at the location of the existing Swanson Road and Hydraulic Road intersection; otherwise this proffer becomes null and void.

11. Signalization of Hydraulic Road and Route 29 Intersections: The Owner shall be responsible for traffic signalization improvements as follows:

A. The Owner at its expense shall engineer, bond, and construct traffic signalization improvements at the intersection of District Avenue and Hydraulic Road. The traffic signalization improvements at this intersection shall be constructed when the County or VDOT request installation of such, but in any event prior to the issuance of a certificate of occupancy for any building in Blocks A, B, C or D, provided that such signal is warranted by the traffic volumes or is otherwise approved by VDOT.

B. Owner at its expense shall engineer, bond and construct traffic signalization improvements at the intersection of District Avenue and U.S. Route 29. The traffic signalization improvements at this intersection shall be constructed when the County or VDOT request installation of such, but in any event prior to the issuance of a certificate of occupancy for any building in Blocks E, F or G, provided that such signal is warranted by the traffic volumes or is otherwise approved by VDOT, provided that such signal is warranted by the traffic volumes or is otherwise approved by VDOT.

12. Commonwealth Drive Connection: Upon demand of the County, but no earlier than the issuance of a building permit for any building within Block F, the Owner shall reserve right-of-way along the northern edge of the parking lot in Block F of the Property for a future street connection to Commonwealth Drive through the "Comdial Property" (TM 61 W-3- 18). The future connection will be a two lane facility.

Upon the request of the County, the Owner shall engineer, bond and construct both the on-site and the off-site portions of the connection to Commonwealth Drive on the "Comdial Property" provided that easements and acquisition of right-of-way as may be necessary for such

construction for the connection through off-site properties for this improvement have been granted at no cost to the Owner, and the request for such connection through the off-site property is made by the County prior to October 15, 2020. Upon the request of the County, the connection shall be completed by the Owner within twelve (12) months from the date of satisfaction of the conditions as set forth above.

- 13. Other “Super Block” Street Connections:** The Owner shall reserve land and grant construction and permanent access easements or right of way at no expense to the County 11w the purposes of future construction (by others) of inter-parcel street connections within the “Super Block” at the following locations; Houston Street (formerly known as First Street) (to west to Commonwealth Drive), Blackbird Lane (formerly known as Third Street) (to west to Commonwealth Drive), District Avenue (formerly known as Cedar Hill Road Extended) (in Block F north to “Comdial Property”), District Avenue (formerly known as Fourth Street) (between Blocks F and G north to “Comdial Property”), Swanson Road Extended (to north to “Sperry Property”) and at two additional locations into Sperry Property.

The locations for easement or right of way reservation and dedication arc as generally depicted on Exhibit A and labeled thereon as “Future Extension,” however, the locations and numbers of such inter-parcel street connections may be modified by the Owner upon a variation granted by the County Planning Director. These easement or right of way locations shall be identified, platted and dedicated at the request of the Count) in conjunction with subsequent site plan applications for Stonefield.

14. Substituted Transportation Improvements.

- A.** In lieu of constructing the improvements referenced in Paragraph 8(B) herein, which Paragraph 8(B) refers to certain off-site improvements in the City of Charlottesville at the northwest quadrant of the Hydraulic Road/Route 29 intersection, and also other improvements along the City side of Route 29 between Hydraulic Road and Greenbrier Drive, which improvements are collectively hereinafter referred to as the “Paragraph 8(B) Improvements”, the Owner may elect, in its sole discretion, and on the terms and conditions contained in this Paragraph 14, to contribute cash to the City for certain transportation improvements in the City known as the “Rte. 29/250 Bypass Interchange Improvement Project” identified as VDOT and City project number 0029-104-248 (the “Substituted Improvements Project”).
- B.** In the event the Owner elects to contribute cash toward the Substituted Improvements Project (the “Owner’s Contribution”) in lieu of constructing the Paragraph 8(B) Improvements, the following terms shall apply:
1. The Owner shall notify the County’s Director of Community Development (the “Director”) in writing of its election within sixty (60) days after the approval of the first final site plan for Phase 1 of Stonefield (the “Notice”). The Owner shall also send a copy of the Notice to the City Development Services Manager at the same time it is sent to the Director.
 2. The submission of the Notice to the Director shall suspend the deadline for the Owner to submit the Plans (as “Plans” is defined in Paragraph 8(B)) to the City, if applicable.
 3. The amount of the Owner’s Contribution to the Substituted Improvements Project shall be subject to a written agreement between the Owner and the City (the “City Agreement”). Within ten (10) days after full execution of the City Agreement, the Owner shall provide a copy of the City Agreement to the Director.
 4. Within six (6) months after the Notice is sent to the Director, or within sixty (60) days after execution of the City Agreement, whichever is later to occur, the Owner shall contribute a portion of the Owner’s Contribution to the City in the amount of One Million Dollars (\$1,000,000), less any amounts credited by the City and VDOT to the Owner for planning and design work on the Paragraph 8(B) improvements (the “Net Contribution”). The Net Contribution may be in the form of cash or a letter of credit issued by a bank approved by the City, or a combination thereof The City Agreement shall set forth the terms of and schedule for draw down of the Net Contribution.
 5. In the event that the Substituted Improvements Project is terminated, or has not otherwise been completed (as described herein) within thirty-six (36) months after the City receives the Net Contribution (which thirty-six (36) month period may be extended by mutual agreement of the Charlottesville City Manager and the Albemarle County Executive), and upon the City’s refunding of the Net Contribution to the Owner pursuant to the City Agreement, the Owner shall forward funds equal to Five Hundred Thousand Dollars (\$500,000) to the County for funding transportation improvements in the vicinity of the U.S. Route 29/Hydraulic Road intersection identified in the County’s Capital improvements Program. In the event such funds have not been expended by the County for the stated purpose within ten (10) years from the date the funds were contributed to

the County, all unexpended funds shall be refunded to the Owner. Construction of the Substituted Improvements Project shall be deemed complete when the improvements are accepted by the appropriate public entity or are bonded for the entity's acceptance.

6. Notwithstanding the provisions of Paragraph 14(B)(5) herein, upon the City's receipt of the Net Contribution, the Owner shall be relieved of any obligation to construct the Paragraph 8(B) Improvements.

(SIGNED)
ALBEMARLE PLACE EAAP, LLC
A Delaware limited liability company
By: Jodie W. McLean, President

ALBEMARLE REALTY (E&A), LLC
A South Carolina limited liability company
By: Edens realty, Inc., a South Carolina Corporation, its Sole Member
By: Jodie W. McLean, President

THE HAVEN AT STONEFILE, LLC
A South Carolina limited liability company
By: Johnson Development Association, its Manager
By: A Foster Chapman
President

Agenda Item No. 14. **PUBLIC HEARING: ZTA-2010-00005. Signs.** Amend Secs. 4.15.1, Purpose and intent, 4.15.2, Definitions, 4.15.4, Signs authorized by sign permit, 4.15.6, Signs exempt from the sign permit requirement, 4.15.7, Prohibited signs and sign characteristics, 4.15.8, Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts, 4.15.9, Regulations applicable in the R-4 and R-6 zoning districts, 4.15.11, Regulations applicable in the PUD, DCD and NMD zoning districts, 4.15.12, Regulations applicable in the C-1 and CO zoning districts, 4.15.13, Regulations applicable in the HC, PD-SC and PD-MC zoning districts, 4.15.14, Regulations applicable in the HI, LI and PD-IP zoning districts, 4.15.15, Regulations applicable in the entrance corridor overlay district, 30.6.4, Certificates of appropriateness, and 30.6.5, Development exempt from requirement to obtain certificate of appropriateness, and add Sec. 4.15.4A, Signs authorized by temporary sign permit, of Chapter 18, Zoning, of the Albemarle County Code.

(Advertised in the Daily Progress on February 27 and March 5, 2012.)

The following executive summary was forwarded to the Board:

Following its September 13, 2011 public hearing, the Planning Commission took action to recommend to the Board adoption of the proposed Zoning Text Amendment (ZTA) to amend the sign regulations with revisions (Attachment A). At the end of the Board of Supervisors November 2, 2011 public hearing, the Board asked staff to return for a work session to provide more information with more examples and illustrations to clarify the effect of the proposed changes on selected issues. At the conclusion of its February 1, 2012 work session, the Board requested some further refinements and directed the sign ZTA be scheduled for a second public hearing.

Window coverage

The revised draft ordinance limits window coverage by window signs to 25%, reduced from the 50% proposed in the prior draft. In response to the Board's request, additional examples of window signs will be shown as part of staff's presentation on March 14, 2012. Staff was also asked by the Board to obtain information from the Police Department about window signs blocking visibility and any recommendations they might have for public safety purposes. The Police Department has advised that it is an advantage to businesses and police officers if a clear, unobstructed view into their establishments is provided for surveillance or in case a crime is in progress. The Police Department would prefer a 25% rather than a 50% coverage limitation on window coverage. The draft ordinance now reflects a maximum 25% window coverage.

Wall street height

With regards to the question concerning criteria for an increased wall sign height, staff previously reported that the Architectural Review Board made the following statement at its December 5, 2011 meeting: "*The architectural design of some buildings may appropriately accommodate wall signs installed at heights greater than 30'. The forms, details, scale and location of the architecture, together with the scale, color and illumination of the proposed sign are all considerations in determining appropriateness. In no case would a roof-mounted sign or a sign extending above a parapet or similar architectural feature be appropriate. Likewise, the extension of a structure for the purpose of providing wall space for a higher sign would not be appropriate.*" The Board asked if the underlined qualifiers in this ARB statement could be codified. Roof signs are currently prohibited by County Code § 18-4.15.7(c)(7). In the case of an artificial extension of a wall height, the ARB currently has design review authority to control this element in the entrance corridors. The proposed definition of "cornice line" and corresponding height regulations referencing cornice line in this ZTA will implement this limitation generally. The permitted height of wall signs in conventional residential zoning districts will remain unchanged at 20 feet.

Technical changes

Staff also recommends the following two technical changes, both of which are incorporated into the draft ZTA: (1) amend the definition of “bonus tenant panel” (County Code § 18-4.15.2) to clarify that they may be affixed to a single freestanding sign; and (2) correct the maximum square footage for a single freestanding sign in the PUD, DCD and NMD zoning districts (County Code § 18-4.15.11) from 12 to 16 square feet; this change is recommended to correspond to the increase in the aggregate square footage from 24 to 32 square feet, as similarly provided for in other provisions in the sign regulations.

This proposed ZTA is expected to reduce the amount of review time currently required by ARB staff, permit staff, the Planning Commission, the Architectural Review Board, the Board of Zoning Appeals and the Board of Supervisors, thereby reducing the cost to the County and the applicants.

After the public hearing, staff recommends adoption of the attached proposed ZTA (Attachment A).

Mr. Ron Higgins, Chief of Zoning/Deputy Zoning Administrator, addressed the Board, stating that his presentation would focus on items that the Board had requested more information on. This process had started with an action plan and a subsequent Resolution of Intent by the Board to have staff review the sign ordinance. Mr. Higgins said that staff had done a lot of work on the processes that didn't require ordinance changes, which resulted in most signs having a “countywide” certificate of appropriateness because a lot of them used to go to the ARB because they were on Entrance Corridors – but virtually none of them do now, although they see them in the context of development review in the ECs. He reported that there had been about a 70% reduction in the overall time for sign review. In order to accomplish that, the ARB and staff worked on guidelines for the countywide certificate of appropriateness.

Mr. Higgins stated that most items had been through a good deal of discussion and refinement. Previously the Board raised questions about maximum height of walls and how the ARB would address them and avoid some unintended consequences. The ARB did not want artificial wall increases and projections to create a cornice line on a building. He said that there were taller buildings under review currently that fit the definition of what the Board had been concerned about; recently Scenic Virginia had also raised some concerns. Mr. Higgins said that the basic issue with window signs was maximum coverage, and staff would provide examples of windows with 25% coverage. He noted that the Police preferred that limit because it provided more visibility out of and into a store. Mr. Higgins said that with wall signs the staff recommendation was for a limit not to exceed the cornice line, and the ARB supported this. He added that there had been discussion as to whether or not the ARB should look at only wall signs that might go above 30 feet, and the County Attorney's office had drafted a summary of ARB authority – including the countywide certificate of appropriateness. Mr. Higgins pointed out that there were multiple items that could be approved by staff because of the firm guidelines that had been developed, and staff was proposing that they approve all signs without them going to the ARB. Initially the ARB supported that recommendation, but recently there was some concern that some signs would need ARB review if they were going to be very high on a very tall building.

Mr. Higgins said that the draft language, on alternate page 12, states that “signs except for wall signs whose height exceeds 30 feet,” and ARB staff had stated that wasn't an issue because they were reviewing buildings in the Entrance Corridors anyway. Once the ARB sees this in a design, they have essentially provided that guidance to the staff and the staff is quite capable of reviewing and approving the sign given that guidance – plus the guidelines they already have for countywide approval. Mr. Higgins commented that the guidelines were very good and staff would be capable of doing the review.

Ms. Mallek commented that if the County signed away the ability to look at proposed signs when new tenants come along, they lose the chance to see what would come.

Mr. Higgins responded that the page 12 option would require a new user to have their sign reviewed by the ARB. He said that staff would have the same guidelines the ARB did when they reviewed the building, and ARB staff had not indicated issues with County staff review because they would be looking at the building and the sign anyway.

Mr. Boyd said that his understanding was that all the ARB was considering was the option to control the height of the sign.

Mr. Higgins explained that currently when the ARB approved a building and it was built, if the building changed ownership or use and signs changed, the applicant applied for a new sign permit and ARB staff reviewed it under the same criteria they did for the first sign. He also said that there was an option in the ordinance for a “consolidated sign plan,” and the ARB had considered those plans for an entire development, with guidelines approved that were a set of parameters within which any sign coming in could be checked against by ARB staff. It works very well; it happens all the time. Mr. Higgins stated that in some instances the Zoning Ordinance does not allow as many signs in some locations as the ARB did, but sometimes they found it architecturally appropriate.

Mr. Higgins emphasized that if the Board wanted to add some language, the ARB staff had no problem with having the 30+ foot sign trigger.

Mr. Davis explained that under the existing ordinance in the planned development districts there was a 30-foot height limitation for wall signs, and this ordinance removed that so that in appropriate circumstances the height of the sign could be larger or higher – with the only limitation now being that it

couldn't exceed the cornice line. He reiterated that under this ordinance, the ARB now could approve a sign that was over 30 feet tall as long as it was below the cornice line.

Mr. Higgins commented that there had been cases where the ARB would have preferred a taller sign, but that wasn't permitted under the ordinance. He added that the examples he provided to the Board at its meeting last month came from the ARB where it preferred a sign above 30 feet, but could not do it. In those instances the ARB felt the buildings would look better if it had more flexibility in the location of the sign.

Mr. Rooker asked who was making the determination of appropriate circumstances, and when he asked Mr. Higgins about it he had said the ARB would be looking at the building anyway. Mr. Rooker stated that if the ARB could codify what those appropriate circumstances were it would work – but that hasn't been done. He said the guidelines have stipulated it must be underneath the cornice and no artificial roof, and asked if those were the only circumstances under which the ARB felt a taller sign would be appropriate.

Ms. Mallek stated that all of the other guidelines would go into effect. Mr. Higgins agreed that countywide guidelines were designed to make it easy for the staff to understand what they would look at if all applications came to them. He said that it had really been very successful.

Mr. Rooker asked whether there was a basis for distinction between a wall sign that was high and some other sign.

Mr. Higgins stated that the only signs that could go that high would be wall signs.

Mr. Rooker commented that his only question was whether there were standards that applied to the wall sign that the ARB had in mind when they said "appropriate circumstances."

Mr. Higgins responded that the guidelines addressed "design and color palette," with the number of colors used in a sign and how they related to the building. They are all design oriented. He said that those standards would always apply to signage in a countywide certificate review done by staff.

Mr. Davis pointed out that those standards were not easily codified and required a contextual evaluation, which was why he would recommend that it be done by countywide permit or by the ARB itself.

Mr. Higgins confirmed that that's what the revised ordinance stipulated.

Mr. Higgins also stated that he had spoken with Police Sgt. Ernie Allen about several scenarios of window coverage, and he had said there had not really been any issues – but they did recommend that a store maintain some visibility. It was always helpful for the Police to be able to see inside the building. Mr. Higgins said the Board had asked for some examples of signs. He then presented examples of two 25% signs, noting that in one instance the store's awning covered part of the glass and thus made the sign look smaller.

Ms. Mallek asked if there was a cap on the total aggregate of sign space.

Mr. Higgins responded that it wasn't aggregate, but 25% of any one window or door. He pointed out that the previous nine square feet was very restrictive, and there was the possibility of an unintended consequence of penalizing stores like grocery stores with signs that were less visible to the public who might be walking to the store. He presented examples of signs with 50%, 75% window coverage, adding that there is a sign panel in the Hollymead Town Center that is 100% window coverage.

Mr. Higgins stated that the recommendation of staff and the Planning Commission was to approve the zoning text amend. He added that the Commission forwarded its recommendation to the Board without the alternate page 12.

Mr. Rooker noted that the Commission hadn't reviewed the alternate page because they didn't have it at the time.

At this time, the Chair opened the public hearing.

Mr. Frank Calhoun, representing Scenic Virginia, a scenic preservation group, thanked County staff for their assistance. Mr. Calhoun said that the proposal before the Board limits the window signs to covering a maximum of 25% of the window, which was an improvement over the first draft they had discussed. He thanked the Board and encouraged them to retain that percentage limit, adding that there should still be some cap on window sign size along Entrance Corridors – perhaps 16 or 25 square feet. Mr. Calhoun said that they recognized the issues with enforcement, but it was still a matter worth discussion. He also stated that they remain concerned about height of wall signs even though sometimes an individual building looks better with a sign at the top. Mr. Calhoun said that they remained concerned that the effect of allowing wall signs to automatically go to the top of any building would prompt a contest of "who can be the highest" with resulting visual clutter, if the current proposal is adopted. He said that Mr. Morgan Butler of the SELC had suggested an approach that would still allow individualized review of proposals to locate wall signs above 30 feet, as under the current proposal Section 30.6.4 of the Zoning Ordinance would be amended to make all signs eligible for countywide certificates of appropriateness. Mr. Calhoun stated that the change would mean that a small subset of signs would not be eligible for the countywide certificates of appropriateness and would require ARB review, and it would only apply to signs

in the EC. Mr. Calhoun emphasized that people want to live, visit and spend their money in places that looks good.

Mr. Neil Williamson, of the Free Enterprise Forum, said that he has previously raised concerns about the sign ordinance. He said that the window sign argument was somewhat academic and he worried that they were pushing forth the idea of ARB permitting – as getting rid of the ARB review was a good thing. Mr. Williamson said that he attended all but four of the ARB meetings in the last year and one-half, and he did not see a window sign permit come through. He does not know how many window sign permits would actually go to the Board or how many are actually administratively approved. Mr. Williamson stated that he imagined a significant case of noncompliance, and he would be happy with 50% of total window area. He said that business owners were responsible for their own security, and he would hope they would make the choice that was safest for their business. Mr. Williamson stated that the certificate of appropriateness for the area and utilizing staff was the proper way to go. He also appreciates Ms. Mallek's concern about new tenants – but it would have to go back through the process if it was new. He added that it would be best handled as an administrative approval as going back through the ARB would add another level of complexity that is not necessary.

Mr. Morgan Butler, of the Southern Environmental Law Center, addressed the Board, thanking staff for all of their work on the ordinance amendment, and for meeting with him on a number of occasions responding to his questions. Mr. Butler said that currently there was a 30-foot limit on wall sign height, and the proposal before the Board would eliminate that limit so an applicant could build up to the cornice. He stated that the proposal before the Board would require a certificate of appropriateness for any sign going above the 30 feet. He quoted the staff report with comments from the ARB: "The architectural design of some buildings may appropriately accommodate wall signs installed at heights greater than 30 feet. The forms, details, scale and location of the architecture together with the scale, color and illumination of the proposed sign, are all considerations in determining appropriateness." Mr. Butler stated that he was also recommending that individualized review be done if the 30-foot limit was exceeded. Mr. Higgins has reported that the ARB staff was not concerned because it would not be a burden given that there would likely be a small number of these applications.

Ms. Valerie Long stated that she supported the ordinance as it was written. She encouraged the Board to keep in mind the impact that having to go to the ARB has on applicants, as it was significant, and if staff felt they could handle it administratively it should be considered. She stated that the wall signs continued to be an issue in terms of aesthetics of buildings. In fact, the hotel at Stonefield had to come in for a waiver for its wall sign as the building was taller than most in the area. Ms. Long also said that she had worked on the Martha Jefferson Hospital wall sign, and the 30-foot limit would have required the sign to be at window level – so a variance was pursued. She said that she thinks the flexibility is really important, and she thinks that County staff is exceedingly competent – whether it is the Zoning staff or the ARB staff – to handle these types of things at an administrative level. She added that staff had brought forth helpful, common sense revisions to the sign ordinance that would have a positive impact on businesses in the community.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

Mr. Boyd said that he was still confused about the 30-foot limit.

Mr. Higgins explained that the ARB had developed a set of countywide guidelines and had not looked at a sign in about two years.

Mr. Rooker stated that it would have to fall into the guidelines to be approved, adding that the only issue was whether there would be ARB approval of all signs over 30 feet in the Entrance Corridor. He said that Mr. Higgins had indicated that the ARB review of such signs should not be a burden if they were already looking at the overall building design.

Mr. Snow said they would already be addressing the height, color scheme, etc.

Mr. Davis stated that the effect of that would be that all signs could be subject to a countywide certificate of appropriateness except for wall signs that exceeded 30 feet in the Entrance Corridor, and they would be reviewed by the ARB.

Mr. Higgins commented that the turnaround time was very quick.

Mr. Thomas said that he liked that aspect of it.

Ms. Mallek said that the reason the Board had not seen many window signs is that people were just putting them up without applying for permits.

Mr. Higgins responded that most of them were also internalized in developments and thus not visible from the Entrance Corridor. He added that permits are not required for window signs.

Mr. Rooker said that someone would have to complain that there was a violation in order for it to be addressed. Mr. Higgins responded that that was correct.

Mr. Rooker then **moved** to adopt the ordinance as presented. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.
NAYS: None.

(The adopted ordinance is set out below:)

ORDINANCE NO. 12-18(2)

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

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

By Amending:

- Sec. 4.15.1 Purpose and intent
- Sec. 4.15.2 Definitions
- Sec. 4.15.4 Signs authorized by sign permit
- Sec. 4.15.6 Signs exempt from the sign permit requirement
- Sec. 4.15.7 Prohibited signs and sign characteristics
- Sec. 4.15.8 Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts
- Sec. 4.15.9 Regulations applicable in the R-4 and R-6 zoning districts
- Sec. 4.15.11 Regulations applicable in the PUD, DCD and NMD zoning districts
- Sec. 4.15.12 Regulations applicable in the C-1 and CO zoning districts
- Sec. 4.15.13 Regulations applicable in the HC, PD-SC and PD-MC zoning districts
- Sec. 4.15.14 Regulations applicable in the HI, LI and PD-IP zoning districts
- Sec. 4.15.15 Regulations applicable in the entrance corridor overlay district
- Sec. 30.6.4 Certificates of appropriateness
- Sec. 30.6.5 Development exempt from requirement to obtain certificate of appropriateness

By Adding:

- Sec. 4.15.4A Signs authorized by temporary sign permit

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.15.1 Purpose and intent

The purpose and intent of this section 4.15 include, but are not limited to, the following:

- a. The board of supervisors finds that signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks and other areas open to the public; that signs are an important means of communication for businesses, organizations, individuals and government; and that the unregulated erection and display of signs constitute a public nuisance detrimental to the health, safety, convenience and general welfare of the public. Therefore, the purpose of this section 4.15 is to establish reasonable regulations pertaining to the time, place and manner in which outdoor signs and window signs may be erected and maintained in order to:
 - 1. Promote the general health, safety and welfare, including the creation of an attractive and harmonious environment;
 - 2. Protect the public investment in the creation, maintenance, safety and appearance of its streets, highways and other areas open to the public;
 - 3. Improve pedestrian and vehicular safety by avoiding saturation and confusion in the field of vision that could otherwise result if such signs were not regulated as provided herein; and
 - 4. Protect and enhance the county's attractiveness to tourists and other visitors as sources of economic development.
- b. The board of supervisors finds that the regulations in this section 4.15 advance the significant governmental interests identified herein and are the minimum amount of regulation necessary to achieve them.
- c. Signs are classified and regulated in this section 4.15 by their purpose (e.g., bonus tenant panel), physical type (e.g., freestanding sign), location (e.g., off-site sign) and characteristics (e.g., illuminated sign). By classifying and regulating signs by their purpose, the board of supervisors does not intend to regulate their content and, more specifically, any particular viewpoint, but rather intends to create a reasonable classification by which to regulate the time, place and manner of signs.

- d. The regulations in this section 4.15 shall apply to all outdoor signs and window signs. Each sign subject to this section 4.15 shall comply with all regulations applicable to that sign.

(12-10-80; 7-8-92, § 4.15.01; Ord. 01-18(3), 5-9-01)
State law reference – Va. Code § 15.2-2280.

Sec. 4.15.2 Definitions

The following definitions shall apply in the interpretation and implementation of this section 4.15:

...

- (8.1) *Bonus tenant panel.* The term “bonus tenant panel” means an additional sign permitted for individual tenants in shopping centers or planned developments when added to one freestanding sign for the shopping center or planned development.

...

- (14.1) *Cornice line.* The term “cornice line” means the location of a cornice along the top of a wall; or, for a wall that has no cornice, the corresponding horizontal line along the top of a wall where a cornice would traditionally be located. In all cases, the “cornice line” applies to the main walls of a building and does not apply to features that extend above the top of the main walls of a building.

...

- (16) *Electric message sign.* The term “electric message sign” means a sign on which the copy can be changed or altered by electric, electro-mechanical or electronic means.

...

- (35) *Off-site sign.* The term “off-site sign” means: (i) within a zoning district other than a planned development, a sign that is not located on the same lot with the use to which it pertains, but does not include a sign located in a public right-of-way; or (ii) within a planned development zoning district, a sign that is not located within the area depicted on the application plan approved for the planned development, but does not include a sign located in a public right-of-way.

...

(12-10-80; 7-8-92, § 4.15.03; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.4 Signs authorized by sign permit

Except for temporary signs subject to the permitting requirements of section 4.15.4A, signs exempt from this section under section 4.15.6 or nonconforming signs subject to section 4.15.24, a sign permit shall be required for each sign prior to its erection, alteration, replacement or relocation, as provided herein:

- a. *Application.* An application for a sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1 of this chapter. A complete application shall consist of the following:
1. A fully completed application form, provided to the applicant by the zoning administrator;
 2. A schematic legibly drawn to scale and sufficiently detailed showing the location and dimensions of the sign; and
 3. Any plans, specifications and details pertaining to, among other things, the sign materials, the methods of illumination, methods of support, components, and the condition and age of the sign, as determined by the zoning administrator to be necessary for the review of the application.
- b. *Application review and permit issuance.* A sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:
1. *Timing of application.* An application for a sign permit may be filed at any time, and if a special use permit for the sign is required under section 4.15.5 or a certificate of appropriateness for the sign is required under section 4.15.15 and section 30.6 of this chapter, the application may be filed with or any time after the application for the special use permit or certificate of appropriateness is filed.
 2. *Action on application.* Within thirty (30) days after receipt of a complete sign permit application, the zoning administrator shall review the application and either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by section 4.15.4(a)(3). An application shall be denied only if the proposed sign is a prohibited sign, does not comply with the regulations set forth in this section 4.15 or, a required special use permit or certificate of appropriateness for the sign was not granted. If the application is denied, the reasons shall be specified in writing.
 3. *Failure to timely act.* If the zoning administrator fails to take one of the actions described

herein within thirty (30) days of receipt of a complete sign permit application, the permit shall be deemed approved as received.

- c. *Administration.* A sign permit shall become null and void if the use to which the sign permit pertains is not commenced within six (6) months after the date the sign permit, special use permit or certificate of appropriateness is issued, whichever is later or, if the sign contains exclusively noncommercial copy, the sign is not erected within six (6) months after the date the sign permit is issued. Upon written request by the permittee and upon good cause shown, the zoning administrator may grant an extension of the six (6)-month period.

(12-10-80; 7-8-92, §§ 4.15.09, 4.15.09.1, 4.15.09.2, 4.15.09.3; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 4.15.4A Signs authorized by temporary sign permit

A permit shall be required for each temporary sign (hereinafter, a “temporary sign permit”), prior to its erection, alteration, replacement or relocation, as provided herein:

- a. *Application.* An application for a temporary sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1 of this chapter, and comply with the application requirements of subsection 4.15.4(a).
- b. *Application review and permit issuance.* A temporary sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:
1. *Action on application.* Within seven (7) days after receipt of a complete application, the zoning administrator shall either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by section 4.15.4(a)(3). An application shall be denied only if the proposed temporary sign is a prohibited sign or does not comply with the regulations set forth in this section 4.15. If the application is denied, the reasons shall be specified in writing.
 2. *Failure to timely act.* If the zoning administrator fails to take one of the actions described herein within seven (7) days after receipt of a complete sign application for a temporary sign, the permit shall be deemed approved as received.
- c. *Administration.* The following regulations shall apply to the administration of temporary sign permits:
1. *Number of permits.* No more than six (6) temporary sign permits shall be issued by the zoning administrator to the same establishment in any calendar year.
 2. *Period of validity.* Each temporary sign permit shall be valid for a period not to exceed fifteen (15) consecutive days after the erection of the sign, provided that a temporary sign permit issued while a permanent sign is being made may be valid for longer than fifteen (15) days until the permanent sign is erected.
 3. *Aggregate duration for temporary signs in calendar year.* Temporary signs shall not be erected at an establishment for more than sixty (60) days, in the aggregate, in a calendar year.
 4. *Portable signs; stabilization.* A temporary sign that is a portable sign shall be stabilized so as not to pose a danger to public safety. Prior to the sign being erected, the zoning administrator shall approve the method of stabilization.
- d. *Exemptions.* A temporary sign permit is not required for a sign exempt from the sign permit requirement under section 4.15.6 or nonconforming signs subject to section 4.15.24.

Sec. 4.15.6 Signs exempt from the sign permit requirement

The following signs are exempt from the requirement to obtain a sign permit under section 4.15.4 and a temporary sign permit under section 4.15.4A, provided that they comply with the regulations set forth below and all other applicable regulations of this section 4.15. A sign exempt from the requirements to obtain permits under sections 4.15.4 and 4.15.4A is not exempt from the requirement to obtain a special use permit under section 4.15.5 if required.

...

- (7) *Home occupation class B or major home occupation sign.* A home occupation class B or major home occupation sign that does not exceed four (4) square feet in sign area.

...

- (18) *Window sign.* A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05)

...

(12-10-80; 7-8-92, § 4.15.04; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(4), 5-5-10)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.7 Prohibited signs and sign characteristics

Notwithstanding any other provision of this section 4.15, the following signs and sign characteristics are prohibited in all zoning districts:

...

- b. *Signs with characteristics that create a safety hazard or are contrary to the general welfare.* Signs whose construction, design, location or other physical characteristic create a safety hazard or are contrary to the general welfare, as follows:

...

- 7. *Sign that obstructs vision.* A sign that obstructs free or clear vision, or otherwise causes a safety hazard for vehicular, bicycle, or pedestrian traffic due to its location, shape, illumination or color; and window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05)

...

(12-10-80; 7-8-92, § 4.15.06; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.8 Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Monticello Historic District (MHD), Rural Areas (RA), Village Residential (VR) and Residential (R-1 and R-2) zoning districts:

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage, plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet, aggregated; if more than 1 sign, no single sign shall exceed 12 square feet	10 feet	5 feet
Subdivision	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
Temporary	1 per street frontage per establishment	24 square feet	10 feet, if freestanding sign; 20 feet, if wall sign, but not to exceed the top of the fascia or mansard	5 feet
Wall	As calculated pursuant to section 4.15.20	40 square feet, aggregated in the RA zoning district; 20 square feet, aggregated, in other zoning districts	20 feet	Same as that applicable to structure

(12-10-80; 7-8-92, § 4.15.12.1; Ord. 01-18(3), 5-9-01; Ord. 05-18(5), 6-8-05)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.9 Regulations applicable in the R-4 and R-6 zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Residential (R-4 and R-6) zoning districts:

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet, aggregated; if more than 1 sign, no single sign shall exceed 12 square feet	10 feet	5 feet
Projecting	1 per street frontage	24 square feet	20 feet, but not to exceed the top of the fascia or mansard	Not applicable

Subdivision	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
Temporary	1 per street frontage per establishment	24 square feet	10 feet, if freestanding sign; 20 feet, if wall sign, but not to exceed the top of the fascia or mansard	5 feet
Wall	As calculated pursuant to section 4.15.20	20 square feet, aggregated	20 feet	Same as that applicable to structure

(12-10-80; 7-8-92, § 4.15.12.2; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.11 Regulations applicable in the PUD, DCD and NMD zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Planned Unit Development (PUD), Downtown Crozet (DCD) and Neighborhood Model (NMD) zoning districts:

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet
Projecting	1 per street frontage	24 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
Subdivision	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
Temporary	1 per street frontage per establishment	24 square feet	12 feet, if freestanding sign; 20 feet, if residential wall sign; 30 feet if nonresidential wall sign, but not to exceed the cornice line	5 feet
Wall	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 32 square feet if residential wall sign, or 100 square feet if nonresidential wall sign	Not to exceed the cornice line	Same as that applicable to structure

One (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.4; Ord. 01-18(3), 5-9-01; Ord. 03-18(2), 3-19-03; Ord 10-18(1), 1-13-10)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.12 Regulations applicable in the C-1, CO and HC zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) zoning districts:

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet
Projecting*	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
Temporary	1 per street	32 square feet	12 feet, if	5 feet

	frontage per establishment		freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	
Wall*	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 100 square feet	Not to exceed the cornice line	Same as that applicable to structure

*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

(12-10-80; 7-8-92, § 4.15.12.5; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.13 Regulations applicable in the PD-SC and PD-MC zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Planned Development-Shopping Center (PD-SC) and Planned Development-Mixed Commercial (PD-MC) zoning districts:

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	16 feet	5 feet
Projecting*	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
Temporary	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	5 feet
Wall*	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

One (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.6; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.14 Regulations applicable in the HI, LI and PD-IP zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Heavy Industry (HI), Light Industry (LI) and Planned Development-Industrial Park (PD-IP) zoning districts.

Sign Type	Number of Signs Allowed	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregate, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	16 feet	5 feet
Projecting*	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the	5 feet

			fascia or mansard 12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	
Temporary	1 per street frontage per establishment	32 square feet		5 feet
Wall*	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

Within the PD-IP zoning district, one (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.7; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.15 Regulations applicable in the entrance corridor overlay district

In addition to all other regulations set forth in this section 4.15, the following regulations shall apply within the entrance corridor overlay zoning district:

- a. *Certificate of appropriateness required.* Prior to the erection of a sign that would be visible from an entrance corridor street, the owner or lessee of the lot on which the sign will be located shall obtain a certificate of appropriateness for that sign unless the sign is exempt under section 30.6.5(d).
- b. *Authority and procedure for acting upon application for certificate of appropriateness.* The authority and procedure for acting upon an application for a certificate of appropriateness for a sign shall be as set forth in section 30.6.
- c. *Opaque backgrounds.* All internally illuminated box-style and cabinet-style signs shall have an opaque background.

(12-10-80; 7-8-92, § 4.15.12.8; Ord. 01-18(3), 5-9-01; Ord. 10-18(5), 5-12-10)

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 4.15.16 Regulations applicable to certain sign types

In addition to all other regulations set forth in this section 4.15, the following regulations apply to the sign types identified herein:

...

- b. *Bonus tenant panels.* In each shopping center exceeding fifty thousand (50,000) square feet in gross floor area: (i) one (1) bonus tenant panel shall be permitted for each fifty thousand (50,000) square feet in gross floor area, not to exceed four (4) bonus tenant panels at the shopping center; and (ii) no bonus tenant panel shall exceed eight (8) square feet in sign area.

...

- i. *Sandwich board signs.* Sandwich board signs shall be subject to the following: (1) the sign shall not exceed four (4) feet in height, two (2) feet in width or eight (8) square feet of area per sign face; (2) if the sign is placed on a sidewalk or any other public pedestrian right-of-way, it shall be placed in a location that provides a contiguous and unobstructed pedestrian passageway at least three (3) feet wide; (3) the sign shall not be located in any required off-street parking space, driveway, access easement, alley or fire lane; (4) the sign shall not be illuminated; (5) the sign shall be removed during non-business hours; and (6) if the sign is located on county-owned right-of-way, prior to placement of the sign, the owner shall agree to indemnify and hold harmless the county against any claim or liability arising from the placement of the sign, and the agreement shall be in a form and have a substance approved by the county attorney.
- j. *Signs using rare gas illumination.* Signs using exposed rare gas illumination, and signs within the entrance corridor overlay district visible from an entrance corridor overlay street that use rare gas illumination covered by a transparent material, shall not have a brightness that exceeds thirty (30) milliamps. Brightness shall be determined by the zoning administrator, who shall consider information provided by the sign manufacturer, the rated size of the sign's transformer, and any other relevant information deemed appropriate. (Added 3-16-05)
- k. *Wall signs.* In order to be eligible to have a wall sign, the establishment shall have an exterior wall.

(12-10-80; 7-8-92, § 4.15.12; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05)

State law reference – Va. Code § 15.2-2280.

Article III. District Regulations

Sec. 30.6.4 Certificates of appropriateness

The architectural review board is authorized to issue certificates of appropriateness for any structure, and associated improvements, or any portion thereof, that are visible from the EC street to which the parcel is contiguous, as follows:

...

b. *Types of certificates of appropriateness.* The architectural review board is authorized to issue the following types of certificates of appropriateness:

1. *Specific developments.* For specific developments associated with one or more building permits or a single site plan.
2. *Signs in a new multi-business complex or shopping center.* For all of the signs in a new multi-business complex or shopping center, where the architectural review board first conducts a comprehensive sign review. Once a certificate of appropriateness for signs in a new multi-business complex or shopping center is issued, the director of planning is authorized to determine whether a particular sign satisfies the conditions of the certificate of appropriateness.
3. *County-wide certificates of appropriateness.* County-wide certificates of appropriateness may be issued for classes of structures, sites, improvements, or architectural elements, subject to the applicable design criteria and procedures, as follows:

a. *Categories of structures, sites, improvements, or architectural elements eligible for county-wide certificates of appropriateness.* The following categories of structures, sites, improvements, or architectural elements shall be eligible for county-wide certificates of appropriateness:

1. Structures located seven hundred fifty (750) feet or more from an EC street that are not more than five (5) stories tall.
2. Structures that are proposed to be located behind another structure that fronts an EC street as viewed from the EC street, where the rear structure is no more than twice the height of the front structure.
3. Personal wireless service facilities.
4. Signs, except for wall signs whose height exceeds thirty (30) feet.
5. Safety fencing and screening fencing.
6. New or replacement rooftop-mounted or ground-mounted equipment.
7. Additions to structures or improvements for which a certificate of appropriateness was issued, where the design of the addition to the structure or improvement is consistent with the architectural design approved with the certificate of appropriateness.
8. New structure or site lighting or changes to existing structure or site lighting.
9. Minor amendments to site plans and architectural plans.
10. Building permits for which the proposed change occupies fifty (50) percent or less of the altered elevation of an existing structure.
11. Permits classified in sections 5-202, 5-203, 5-204 and 5-208(A) not otherwise exempt under section 30.6.5(k).

...

(§ 30.6.4, 10-3-90; § 30.6.4.1, 10-3-90; 5-18-94; § 30.6.4.2, 10-3-90; §30.6.5(formerly § 30.6.3.2, 7-8-92; Ord. 01-18(3), 5-9-01); § 30.6.4, Ord. 10-18(5), 5-12-10)

Sec. 30.6.5 Development exempt from requirement to obtain certificate of appropriateness

The following development is exempt from the requirements of section 30.6:

...

d. Agricultural product signs, political signs, public signs, sandwich board signs, temporary signs, window signs and signs exempt from the sign permit requirement under section 4.15.6.

...

(§ 30.6.6, 10-3-90; § 30.6.6.1, 10-3-90; § 30.6.6.2, 10-3-90, 6-14-00; § 30.6.6.3, 5-18-94; § 30.6.5; Ord. 10-18(5), 5-12-10)

(Formerly SIGNS, Now see 30.6.4, 5-12-10)

Agenda Item No. 15. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek reported that there had been “lots of shooting” in the central core of Crozet’s growth area, and asked if there were any gun ordinances in the growth area – which was R-1 zoning.

Mr. Davis explained that the current County code prohibited discharging of firearms in any area that is zoned residential, so it would be a violation of the current ordinance.

Ms. Mallek asked Mr. Davis to send an email to Police Chief Sellers. Mr. Davis responded that he would although he was certain they were aware of it.

Ms. Mallek said that the Department had been telling landowners that they didn’t have any control, which is why she wanted to clarify it.

Mr. Rooker stated that the issue raised by the High Growth Coalition regarding Governor McDonnell’s transportation bill – which they had unanimously opposed – led to them contacting the County and requesting that Supervisors contact their representatives to oppose the bill. He said that his understanding was that the bill was still in play.

Ms. Mallek commented that it had passed so any opposition would have to go directly to the Governor. She added that the bill was changing the priority of funding and putting the train at the very bottom, within the budget of the public DRPT – and she felt that the County should affirm its reason to be first for all rail and transit.

Mr. Rooker commented that the bill imposed a number of burdens on VDOT regarding land use, but it points out that VDOT does not have the staff or resources to administer the oversight. He asked if the Board would support sending a letter to the Governor asking him not to sign the bill.

Mr. Boyd said that he has a problem with these types of issues because the Board only sees one side of the issue and is asked to vote without enough information. He would prefer that they act individually as Board members, rather than collectively, or unless they have plenty of time to study the issue.

Mr. Rooker stated that he had looked at it long enough to know it was not helpful to localities, but everyone would have to decide if they would be comfortable signing it.

Mr. Snow said that he echoed what Mr. Boyd had stated, and he would like to do some more research on it.

Mr. Rooker added that one of the difficulties is that they don’t have a lot of time. He commented that he had only received the information on March 9, and one of the reasons they were part of groups like the High Growth Coalition was to get some guidance on these issues – and they unanimously opposed the bill. He said that they could each send out individual letters if necessary.

Mr. Boyd said that he would like to take a little bit of time with it. He added that he has sent letters in the past supporting or opposing matters.

Mr. Boyd mentioned the importance of supporting ordinance or comprehensive plan changes to helping provide commerce in the rural areas for b&b’s and wineries. He referred to an email from Ms. Amelia McCulley, Zoning Administration, regarding distilleries. He had asked if there are any County ordinances that would preclude people from operating wineries or distilleries using unusable grapes and fruit products above and beyond State regulations.

Ms. Mallek said that the few responses received from winery people in the County was that their strong preference was to deal with their issues separately so they didn’t get bogged down by the ABC issues. She said that she would like to avoid any interactive meddling with the ABC and the County. She stated that she heard from Mr. Cilimberg that the Resolution of Intent would go to the Planning Commission the subsequent week, with a public hearing slated for April 24, 2012.

Mr. Boyd commented that he was glad this was moving quickly as it was a high priority project for most Board members.

Mr. Dumler stated that this past Monday, the Board tasked the Natural Heritage Committee to develop a recommended species list; two days later they are done. He asked if the next step would be to have staff incorporate the list in the Purchasing policy.

Mr. Snow said that he would like to see it. Mr. Dumler said that Mr. Scott Clark with NHC had not yet provided it.

Mr. Rooker commented that everyone should be able to see the list.

Mr. Foley said that staff could circulate it and see if there were any Board comments.

Mr. Boyd said he would defer to Mr. Snow on the matter.

Mr. Foley stated that once they affirm it, it could be incorporated into County guidelines.

Ms. Mallek added that a benefit was that it would encourage local growers and nurseries to raise these species which would allow more of a market in the community.

Mr. Boyd said that the same request was being made of the Rivanna Water & Sewer Authority.

Mr. Thomas stated that he and Mr. Boyd would be meeting at the Hollymead Fire Station on March 15th with residents regarding the Rockydale Quarry issues. He added that Ms. McCulley, Mr. David Crim and Mr. Angelo Rao from VDOT, and a representative from the Department of Mines, Minerals and Energy would be there – along with the quarry operators.

Ms. Mallek said that Mr. David Willis had indicated he would bring some other solutions to the traveling noise to this meeting.

Mr. Thomas added that VDOT representatives are checking into several other solutions including paving in place for Rio Mills Road.

Agenda Item No. 16. Adjourn to March 28, 2012.

At 8:22 p.m., Ms. Mallek **moved** to adjourn to March 28, 2012 at 6:00 p.m. in Lane Auditorium of the County Office Building. Mr. Dumler **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dumler.

NAYS: None.

Chairman

Approved by Board
Date: 06/06/2012
Initials: EWJ