

An afternoon adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 9, 2014, at 4:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The regular night meeting was held at 6:00 p.m. The afternoon meeting was adjourned from July 8, 2014.

PRESENT: Mr. Kenneth C. Boyd, Ms. Jane D. Dittmar, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Brad L. Sheffield.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 4:05 p.m., by the Chair Ms. Dittmar.

Agenda Item No. 2. Work Session: Regional Firearms Training Center. (Rescheduled to August meeting).

Agenda Item No. 3. Closed Meeting.

At 4:05 p.m., Mr. Sheffield **moved** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; under subsection (1) to complete the annual performance review of the County Executive and to discuss his employment agreement; and under subsection (7) to consult with and be briefed by legal counsel and staff regarding probable litigation concerning a violation of a subdivision agreement because a public discussion would adversely affect the litigating posture of the County. Ms. Mallek **seconded** the motion.

Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Agenda Item No. 4. Certify Closed Meeting.

At 5:05 p.m., Mr. Sheffield **moved** that the Board certify by a recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Ms. Mallek **seconded** the motion.

Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Non-Agenda. Approval of Employment Agreement – County Executive.

Ms. McKeel **moved** to approve the Amended Employment Agreement for the County Executive. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

(The agreement is set out below:)

EMPLOYMENT AGREEMENT

THIS AGREEMENT made this _____ day of July, 2014 by and between the Albemarle County Board of Supervisors, hereinafter "Employer" and Thomas C. Foley, hereinafter "Employee."

RECITALS

The parties recite and declare:

- A. Employer is in need of the services of a person possessing the skills and ability required to be the County Executive; and

- B. Employee, through education and experience, possesses the requisite skills to perform these duties; and
- C. Employer desires, therefore, to engage the services of Employee as County Executive under the direction of the Employer, pursuant to the authority vested in Employer by Section 15.2-509 of the *Code of Virginia* (1950), as amended.
- D. The parties acknowledge that Employee is a member of the International City/County Management Association (ICMA) and that Employee is subject to the ICMA Code of Ethics, but the provisions of that Code are in no way incorporated into this Agreement.
- E. The parties desire to amend and clarify certain provisions in the Employment Agreement previously approved by the Employer on June 11, 2014.

For reasons set forth above and in consideration of the mutual covenants and promises of the parties, Employer and Employees agree as follows:

SECTION ONE
Employment

Employer employs, engages and hires Employee as the County Executive of Albemarle County, and Employee accepts and agrees to this employment, engagement and hiring. It is acknowledged that pursuant to Section 15.2-510 of the *Code of Virginia* (1950), as amended, the County Executive is not appointed for a definite tenure and may be removed at the pleasure of the Employer.

SECTION TWO
Governing Law

This Agreement and the employment of Employee shall be subject to all applicable provisions of the *Code of Virginia* (1950), as amended, the Code of the County of Albemarle and policies adopted from time to time by Employer (including the provisions of Albemarle County Personnel Manual), relating to sick leave, retirement and life insurance contributions, holidays, other fringe benefits and other matters not specifically addressed in this Agreement.

SECTION THREE
Duties

Employee is hereby delegated the following powers and duties:

- A. The statutory powers and duties as set forth in Section 15.2-516 and powers and duties set forth in any other sections of the *Code of Virginia* (1950), as amended.
- B. Powers and duties delegated or imposed (i) by the Albemarle County Code or (ii) a duly adopted motion, resolution, or ordinance of the Albemarle County Board of Supervisors.
- C. Responsibility to develop and recommend personnel and other policies and revisions to the Board of Supervisors for its approval.

SECTION FOUR
Terms of Employment

- A. This Agreement shall be for a term beginning July 1, 2014 and ending on June 30, 2015. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employer to terminate the services of the Employee at any time, subject to the provisions set forth in Section 4E of this Agreement.
- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time, provided Employee gives written notice to the Chairman of the Board of Supervisors at least forty-five (45) days prior to the effective date of the resignation, unless the parties otherwise agree.
- C. Employee shall remain in the exclusive employ of the Employer and devote all of the Employee's working time, attention, knowledge and skills solely to the interests of the Employer, and Employer shall be entitled to all of the benefits arising from or incident to all work, services and advice of Employee. The term "Employee's time" shall not be construed to include Employee's annual time off.
- D. Employee shall maintain a permanent place of residence within Albemarle County. Permanent place of residence shall be defined to include the purchase or lease of a residential dwelling unit and the occupancy of that dwelling no less than 75% of the time during an average work week while in the active employment of the County.
- E. In the event any Board of Supervisors fails to extend this Agreement, terminates the Employee, or the Employee resigns at the request of the Board at any time during his employment by Employer, Employee's rights to benefits and compensation shall be governed under Section Nine or Section Twelve, below.

SECTION FIVE
Compensation

- A. Salary - Employer shall pay Employee, and Employee shall accept from Employer, an annual salary of \$179,819 effective July 1, 2014 payable in installments as provided for County employees generally. Additionally, Employer agrees to review the performance of Employee on or before June 30th of each year and, upon satisfactory performance review, consider an increase in annual salary. Employee shall annually provide Employer a survey of the market for his comparable position in similar localities to aid the Employer's review of whether the Employee should be considered for a market adjustment of the Employee's annual compensation.
- B. Deferred Compensation - Employer agrees to contribute annually \$23,000 to an eligible deferred compensation program selected by the Employee.
- C. Car Allowance – Employer agrees to provide the Employee an annual vehicle allowance of \$6,300.

SECTION SIX
Benefits

- A. Employer agrees to provide the Employee with annual leave equivalent to that of an employee with twenty four (24) years of consecutive employment with the County.
- B. Employer agrees to provide such other benefits to the Employee that are provided to all County employees per the Personnel Policy & Procedures Manual.

SECTION SEVEN
Dues, Memberships, Education and Meetings

- A. Employer agrees to budget and to pay for the professional dues and subscriptions of Employee necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement, and for the good of the Employer.
- B. Employer hereby agrees to budget for and to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the annual conference of national, regional, state and local government groups and committees thereof which Employee serves as a member.
- C. Employer agrees to budget and to pay for the travel and subsistence expenses of Employee degree courses, institutes, and seminars that are necessary for his professional development and for the good of the Employer.
- D. Employer reserves the right to determine whether Employee is devoting the appropriate amount of time to professional development and may review and direct the Employee to balance the amount of time deemed necessary for his professional development against the other needs of the Employer.

SECTION EIGHT
Performance Evaluations

- A. Employer, acting through its Board of Supervisors, shall conduct an annual performance review of Employee on or before June 30 of each year. Said review and evaluation shall be in accordance with the specific criteria developed jointly by Employer and Employee. Said criteria may be changed from time to time by Employer, in consultation with Employee. Employer shall provide Employee with a written summary of the findings of the Employer and provide an adequate opportunity to discuss said evaluation.
- B. Employer shall annually establish goals and performance objectives which it determines necessary for the proper operation of the County and the attainment of the Employer's policy objectives, which shall be reduced to writing.

SECTION NINE
Termination and Severance Pay

- A. In the event Employee is terminated by the Board of Supervisors or resigns at the request of the Board, or the Board fails to extend this Agreement, Employer agrees to pay for the continuation of all compensation provided in Section Five and health insurance benefits provided for in Section Six, paragraph B, for the current month and for six additional months on a monthly basis beginning the next month after the date of separation from employment. Employee shall also be compensated for all earned vacation and other accrued benefits earned up to the date of termination, excluding any accrued sick leave, as provided in the Personnel Policy & Procedures Manual.

- B. In the event the Employee is terminated for cause, then in that event, Employer shall have no obligation to provide the payments designated in the above paragraph, with the exception of the obligation to pay all compensation, earned vacation and other accrued benefits earned up to the date of termination, excluding any accrued sick leave, as provided in the Personnel Policy & Procedures Manual.
- C. In the event Employer at any time during Employee's employment reduces the compensation or other financial benefits of Employee in a greater percentage than an applicable reduction for all other management level employees of Employer, or for a reason not related to budget reductions caused by adverse fiscal circumstances of the County, then, in that event Employee may, at his option, be deemed to be "terminated" at the date of such reduction and shall be entitled to the payments in paragraph A, above.
- D. In the event Employee resigns following a closed meeting of the Board of Supervisors at which a majority of the members of the Board request his resignation in writing, then the Employee shall be deemed at the date of such resignation to have resigned at the request of the Board and shall be entitled to the payments in paragraph A, above.
- E. In the event Employer fails to comply with any provision of this Agreement that benefits the Employee, without the agreement of the Employee, and the matter is not resolved within thirty (30) days after written notice requesting the Board to comply is received by the Board and the County Attorney, and after a closed meeting discussion between the Board and the Employee the matter remains unresolved, then Employee may, at his option, be deemed to be "terminated" at the date of such failure to comply and shall be entitled to the payments in paragraph A, above.

SECTION TEN
Liability Insurance

Employer shall provide full liability insurance, in an amount at least equal to that provided for the Board of Supervisors, to cover Employee against any loss from tort, professional liability claim, or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties hereunder, unless the act or omission occurring in the performance of Employee's duties involved willful or wanton conduct.

SECTION ELEVEN
Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

SECTION TWELVE
Disability

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of twelve (12) successive weeks, Employer shall have the option to terminate this Agreement, subject to the severance pay requirements of Section Nine, paragraph A. In addition, for any termination made for the reasons set forth in this section, Employer agrees to pay Employee for 25% of all unused accrued sick leave earned up to the date of termination.

SECTION THIRTEEN
Extension of Agreement

If Employee is not notified by Employer of termination or alteration of contractual terms before the expiration date of this Agreement, it shall be extended on the same terms and conditions for an additional year.

All amendments to this Agreement shall be mutually agreed upon by the parties.

SECTION FOURTEEN
Modification

A modification or waiver of this Agreement or of any covenant, condition or provision of it, shall not be valid unless in writing and executed by the parties.

SECTION FIFTEEN
Severability

All Agreements and covenants in this Agreement are severable, and in the event any of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if the invalid Agreements or covenants were not contained.

SECTION SIXTEEN
Entire Agreement

This written Agreement embodies the whole agreement between the parties. There are no inducements,

promises, terms, conditions, or obligations made or entered into by either Employer or Employee other than those contained in this Agreement.

IN WITNESS THEREOF, the Albemarle County Board of Supervisors has caused this Agreement to be signed and executed in its behalf by its Chairman and the Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

Non-Agenda. Appointments to Boards and Commissions.

Ms. McKeel **moved** to make the following appointments/reappointments:

- **appoint** Mr. Richard Wagaman to the Citizens Transportation Advisory Committee (CTAC) with said term to expire April 3, 2017.
- **reappoint** Mr. Frank Stoner and Mr. John Gobble to the Fiscal Impact Advisory Committee with said terms to expire July 8, 2016.
- **appoint** Mr. Dennis Dutterer to the Historic Preservation Committee with said term to expire June 4, 2017.
- **appoint** Ms. Anne Bedarf, Ms. Teri Kent and Ms. Margaret "Peggy" Gilges to the Long Range Solid Waste Solutions Advisory Committee with said terms to expire
- **reappoint** Mr. Albert LaFave to the Region Ten Community Services Board with said term to expire June 30, 2017.
- **reappoint** Ms. Amanda Moxham to the Workforce Investment Board with said term to expire June 30, 2017.
- **reappoint** Ms. Janet Turner-Giles to the Workforce Investment Board with said term to expire June 30, 2015.
- **appoint** Supervisor Ann Mallek to the Piedmont Workforce Network Council with said term to expire December 31, 2014.
- **appoint** Supervisor Jane Dittmar to the Piedmont Workforce Network Council (designee in absence) with said term to expire December 31, 2014

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

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Agenda Item No. 5. Work Session: CPA-2013-01. Comprehensive Plan Update/Amendment, to begin with public comments and possible Board direction.

The executive summary forwarded to Board members states that the Planning Commission's recommended Comprehensive Plan has been provided in the draft dated January 23, 2014 and previously provided to the Board of Supervisors. The Comprehensive Plan may be found online here:

http://www.albemarle.org/upload/images/Forms_Center/Departments/Community_Development/Forms/Comp_Plan_2013/Comp_Plan_Round_3/Table_of_Contents_Final_1-23-14.pdf.

Recommendations regarding focused topics and information since the Commission's actions have also been identified for the Board's consideration. This work session is the fifth in the series of detailed Comprehensive Plan chapter reviews based on the Board's agreed upon review schedule which can be found here:

<http://www.albemarle.org/department.asp?department=cdd&relpage=17151>

The Board's direction to date has been recorded in Action Memos from Board meetings at which the topic was discussed.

The strategic plan mission is to enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds.

At this work session, the Board will review **Chapter 7: The Rural Area**. This Chapter may be found here:

http://www.albemarle.org/upload/images/Forms_Center/Departments/Community_Development/Forms/Comp_Plan_2013/Comp_Plan_Round_3/07_Chapter_Rural_Area_Final_%201-23-14.pdf

The Rural Area (RA) Chapter

- describes expected features of the RA (pages 7.3 – 7.4)
- explains the County's need for a proactive role to help property owners keep their land intact as an alternative to residential development (page 7.4)
- lists criteria for allowing new uses in the RA (pages 7.4 – 7.5)
- notes the importance for proceeding slowly when providing opportunities for new uses (page 7.9)

In addition, the chapter identifies the importance of and strategies for:

- retaining continuous and unfragmented land (pages 7.11 – 7.21)
- supporting a strong ag and forestal economy (pages 7.21 – 7.28)
- recognizing and supporting crossroads communities (pages 7.29 – 7.31)
- promoting a significant tourist economy (pages 7.31 – 7.34)
- providing distinctive boundaries between the DA and RA (pages 7.34 – 7.35)
- educating citizens on the cultural, economic, and ecological aspects of the RA (page 7.36)
- retaining the rural character of Area B in the RA

The Goals, Objectives, Strategies, Implementation Priorities, Measures of Success, and list of Reference Documents for the Rural Area are found in Attachment A. There are no appendices, but the Reference Documents include maps of important agricultural and forestry soils.

A table comparing the existing and recommended Comprehensive Plan recommendations for the Rural Area is provided as Attachment B.

Of all of the topics the Chapters the Planning Commission discussed, they spent the most time on the Rural Area Chapter. Links to staff reports and relevant portions of the Commission's minutes are provided in Attachment C. Public comment to date has included support for and opposition to changes in the Rural Area Chapter draft. Most of the comments relate to the Commission's recommendations for additional uses for properties zoned RA.

Seven topics have been identified for particular focus. One topic provided in the schedule for review, "Implementation Tables" actually belongs in the Parks Chapter and will be discussed with that Chapter. A seventh topic relates to a recommendation for events in the Rural Area from the Commission. This topic was not identified earlier on the schedule for discussion but should be included in the Board's review.

Because the proposed Comprehensive Plan recommends consideration of several new uses, the Commission developed a set of criteria to be considered when allowing new uses. They asked that their proposed, "Criteria for Review of New Uses" be placed towards the beginning of the document. The recommended language is provided below:

Criteria for Review of New Uses

As new uses are proposed in the Rural Area, it is essential that they be able to meet the following standards. They must:

- require a Rural Area location in order to be successful, (e.g., a farm winery has to be located in the Rural Area and would be unlikely to succeed in the Development Areas);
- be compatible with and have a negligible impact on natural, cultural, and historic resources;
- not conflict with nearby agricultural and forestal uses;
- complement the character of the area in which they will be located;
- result in little discernible difference in traffic patterns;
- generate little or no new demand for Fire/Rescue and Police service;
- be able to operate long-term without the need for public water and sewer;
- be sustained with available groundwater; and
- be consistent with other Rural Area policies.

The Board is asked to concur or modify these criteria, as appropriate.

The seven topics for review are explained below:

- **Changes in policy statements for residential development in RA** (pages 7.11 – 7.13)
This topic is brought to the Board's attention because of the Commission's recommended changes to language for residential development in the Rural Area.

Staff comment: Language in the current Comprehensive Plan strongly discourages residential development in the Rural Area. The Planning Commission considered the outcome of past implementation activities to achieve these objectives and the input from the public on the need to preserve property rights. As a result, the Commission recommended a change in tone and slight change in direction in the recommended Comprehensive Plan. Attachment D discusses the issues and outcomes of the Commission's deliberations.

- **Recommendations for crossroads community services** (pages 7.29 – 7.30)
Staff has brought this topic to the Board's attention because of the Commission's support for increased attention to crossroads communities and the amount of study that took place on areas of assembly.

Staff comment: Language in the current Comprehensive Plan recommends enhancing seven crossroad communities' ability to provide basic services for rural residents. These crossroad communities are: Advance Mills, Batesville, Covesville, Free Union, Proffit, Greenwood, and White Hall. Some members of the Commission felt it important to create small area plans for each of these communities, but, the majority believed that this recommendation should wait for the next

Comprehensive Plan update. Instead, emphasis was placed on the importance of meeting with the communities to help identify geographic boundaries and desired community services.

The draft Plan retains the current Plan's recommendations as well as adding a strategy to consider changing the zoning ordinance to allow community centers and religious institutions in these locations and at an appropriate scale by-right. (Recommendations for restaurants in crossroads communities are discussed later in this report.) At present, community centers and religious institutions are only allowed by special use permit. In 2009, the Board of Supervisors asked staff to look into parameters for by-right approval of appropriately scaled religious institutions in the RA. Staff used the Comprehensive Plan update process for the Planning Commission's policy direction regarding this initiative. The Commission determined that the only place where by-right approval of churches might be appropriate was at crossroads communities. Attachment E provides additional background and discusses the Commission's deliberation and recommendations.

- **Recommendations for lodging and restaurants** (pages 7.31 and 7.33). These topics generated the most discussion at Commission meetings and are brought to the Board because of the Commission's recommended change in policy.

Staff comment: In light of the strong emphasis on tourism in the Economic Vitality Action Plan, the Planning Commission explored whether additional provision should be made for lodging and restaurants in the Rural Area. The Commission was keen to find ways to preserve existing historic resources and help prevent large farms and estates from being subdivided for residential development. Although they tried to find appropriate parameters to recommend in the Comprehensive Plan for such facilities, they were unable to agree on any thresholds. As a result, they recommended that lodging, possibly by-right, be considered in the Rural Area zoning district, provided that necessary parameters, such as minimum acreage, maximum number of rooms, etc., could be identified. They also recommended consideration of zoning text amendments to allow for restaurants, by-right, in crossroad communities only. Attachment F provides additional background and discusses the Commission's deliberation and recommendations.

- **Regular Commercial Events at Individual Residences in the Rural Area** (pages 7.32 -7.33) Staff has brought this topic to the Board's attention because of the Commission's recommendation for a potential change in policy.

Staff comment: The preserved scenic beauty of the rural area has provided an economic boon for farm wineries that host events. Farm wineries can host events for up to 200 persons per event as often as they like. The Commission and staff called these, "regular events." As part of its consideration for increasing the availability of the Rural Area for tourism uses events, the Commission discussed whether or not homes at large estates should also be available for regular events. Attachment G provides additional information on the Commission's deliberation and recommendations.

- **Commercial Recreational facilities** (pages 7.33 and 7.34) This topic is brought to the Board because of the Commission's recommended consideration for a change in policy.

Staff comment: Commercial recreational activities desiring rural settings have changed in character over the years. While golf courses and swim/tennis clubs are allowable by special use permit in the RA zoning district commercial recreation such as zip lines and mountain biking may be more in keeping with rural character than golf courses and swim/tennis clubs. The Planning Commission discussed the relationship of commercial recreational activities to tourism and concluded that the list of recreational uses allowed by special use permit should be updated. Attachment H provides additional background and discusses the Commission's deliberation and recommendations.

- **Rural Interstate Interchanges** (pages 7.35 – 7-36) Members of the Board of Supervisors have asked that the full board discuss recommendations for rural interstate interchanges because of their potential for economic development.

Staff comment: The Board of Supervisors has been discussing the benefits of interstate interchanges for economic growth since 2008. They asked the Planning Commission to consider changes to the County's policies for rural interchanges when the Commission began its work in 2011. Attachment I provides background on this topic and discusses the Commission's deliberation and recommendations.

- **Area B Recommendations** (pages 7.37 – 7.42) Information on Area B land use is brought to the Board's attention so they are aware of the Area A and B boundaries and recommendations.

Staff comment: Area B land use recommendations are contained in several different documents. As part of this Comprehensive Plan update, the Commission supported the recommendation of the Planning and Coordination Council (PACC) to include Area B information within the respective Comprehensive Plans of the City and County. Area B includes both Rural Area and Development Area land and specific recommendations for Area B land in the Rural Area are included in this section of the Plan. No changes to current land use are recommended. One

area for which updating is needed, however, is the future use of the Milton Airport. Decisions by the Board of Supervisors for an indoor firing range in conjunction with the City and the University of Virginia were made after the Commission made its recommendations. These decisions should be reflected in the next draft of the Comprehensive Plan.

Recommendations in the Comprehensive Plan Draft include recommendations for future capital improvements and operations.

The Board is asked to identify any substantive changes to the recommendations herein presented and concur on those changes, focusing on content rather than wordsmithing. Staff will then make any necessary changes and bring those back to the Board for its approval prior to its public hearing.

Ms. Elaine Echols, Principal Planner, reported that Chapter 7, The Rural Area, is one of those with the most significant changes and has a lot of substance, so it may take a while to get through it. She explained that the process underway is to get public comment first, and then for the Board to provide direction. Ms. Echols referenced topics on the screen which are before the Board, and public comment would take place first.

The Chair opened the work session for public comments.

Mr. Bob Satterfield, President of the Board of Directors for the Virginia Center for the Creative Arts (VCCA), addressed the Board. Mr. Satterfield said, in the 1970s, the VCCA operated in Albemarle County but, for the last 35 years, has operated on property owned by Sweetbriar College in Amherst County because of its remoteness and beautiful landscape which is inspirational and offers artists the opportunity to create beautiful work but be very productive in how they function. He stated that they serve 25 artists at a time. He said over 400 artists per year spend between two and eight weeks writing books, plays, movies and music. He said the center provides lodging, three meals a day, and a private studio, in order to give artists ample opportunity to create. Mr. Satterfield said the center operates through a peer review process, and receive about 1,000 applications per year, with artists from all over the United States and more than 60 foreign countries. He stated that the VCCA has been exploring new long-range location opportunities, including those in Albemarle, but currently there is no provision in the zoning ordinance for their type of center so they have applied for a zoning text amendment. Mr. Satterfield said the VCCA would fit nicely into the parameters of the Comp Plan: maintaining farm and forest property, protecting viable habitat for wildlife, protecting historic structures through adaptive reuse, and adding to the tourist economy.

Ms. Mallek asked if the term for this enterprise was "artists' retreat." Mr. Satterfield said it has been called "artists' retreat" and also "artists' colony," although the latter is a misnomer because they are not living there, but are staying just two to eight weeks.

Mr. Boyd asked if the VCCA was requesting that this center be established in the rural area. Mr. Satterfield said the two properties they were considering in Albemarle involve a very large farm, and another property which comprises a 60+ acre private estate. He said they would need space to accommodate 25 people at a time.

Mr. Boyd asked if these would be residences. Mr. Satterfield confirmed that they would be, along with staff offices, and would be dormitory style; however, private baths would be desirable.

Ms. Marcia Joseph addressed the Board, stating that she lives in the Rivanna District and was before them to address page 7.34 of the Comprehensive Plan, which includes a discussion of golf courses. Ms. Joseph said the text says that a golf course "typically involves significant land clearing, planting of non-native turf grass, large amounts of water and use of fertilizers." She said her fear was that by putting a list like this in the Comp Plan and an applicant comes in and says he can comply with it; there are so many other issues beyond a golf course which may be misleading to an applicant. Ms. Joseph suggested that the wording not be so specific because each site is different, each area of the County is different, and will require different things from an applicant. She also said there is a lot of encouragement to create conservation easements and to create more commercial activities in the rural area, but there is no discussion of how these will impact existing conservation easements, or people's desire to create them if these other new commercial uses are available to them. Ms. Joseph said, since the first Comp Plan, the County has tried to protect and preserve its rural areas because that is what makes it Albemarle County, that is what makes people want to come here, and that is what tourism depends on. She asked the Board to keep that in mind when it considers the proposed uses.

Ms. Geri McCormick-Ray of White Hall addressed the Board, stating that she agrees with the general ideas and the wording in the planning document, but is a little concerned about the activity to be accommodated with the wording allowing "increased activity," as this will bring on noise and more pollution, will require more roads and bring congestion, along with higher costs for residents and the community. She said it is a slippery slope and, while it would be great to have rural areas valued as they are, the County needs to be more innovative about how to value them as a demonstration on how people live and not invite music, loud noises and increased activity which will undermine all that should be protected in this area.

Mr. John Lowry addressed the Board, stating that he is a resident of the Samuel Miller District and noting that keeping Albemarle looking rural has been a popular theme in the County's Comprehensive Plan, especially beginning in the 1980s and continuing into the 1990s. Mr. Lowry said zoning law, introduced in the early 1980s, forever changed the development landscape in Albemarle. He stated that he was fine with that and understands the rationale of "looking rural" while channeling growth into a defined area, and his point today was to address what may be too much of a good thing. Mr. Lowry said Albemarle County has 474,000 acres of land, with more than 2/3s of the land in land use which reduces taxes to almost nothing on the theory that fire, police, schools and other services are not needed for that land. He stated that, within the land use segment, are conservation easements and this segment of the total acreage is rapidly growing with 60,000 acres in 2006, and now more than 86,000 acres. Mr. Lowry cited an example of what one landowner gets for perpetual easement: federal, state and local taxes for a parcel of less than 100 acres put into easement in 2013 equates to \$225,000 in state tax credits, good for 10 years and federal tax credits worth \$600,000 with a 15-year life. He said, while this person was a relatively high earner, in retirement, he would not be paying taxes for 15 years, and his estate will fall under the estate tax threshold so, for his conservation easement, he will get more than \$1 million in his pocket. He stated that businesses should be a good partner, paying license tax and a share of sales tax beyond real estate tax. Mr. Lowry said conservation easements are growing at a 4% compounded rate, with population growing at a little over 1%, and asked the Board to consider having the growth area expand a little on average too as it was 24,000 acres 16 years ago and is the same size now, 5% of the land. He emphasized the need to build a Comp Plan that balances interests of competing segments generating income as well as expending it.

Mr. Morgan Butler addressed the Board, stating that he was speaking on behalf of the Southern Environmental Law Center (SELC). He said there is a note in the Comprehensive Plan Rural Areas draft which addresses the balance between potential additional uses and the qualities of the rural area and says, "It is important that changes take place slowly, with enough time to evaluate potential impacts of recent and proposed changes. Analysis of the impacts of recent zoning ordinance changes should be conducted before adopting new zoning text amendments." Mr. Butler said that is an important note of caution, but he also pointed out that, on page 7.4, there are two paragraphs in the middle of the page that strike a different tone: under the section "Land Use Plan for the rural areas," it states "other changes are still needed" and "recommendations are made for changes in the zoning ordinance," and "until now, many of these changes have been prohibited." He stated that the language in that paragraph gives the impression that this Comprehensive Plan is endorsing some of the different ideas that are suggested, but the plan is clear in stating these are just recommendations for the Board to consider so he would propose adding the words "may" and "possible" so those paragraphs remain consistent with the rest of the chapter. He also said the language on page 7.14, Strategy 1D, says they should "consider modifying the zoning regulations to help achieve rural area objectives without reducing residential development rights," and the SELC would ask the Board to be careful with the text there because there may be instances where the Board wants to consider changes to the Zoning Ordinance which may indirectly reduce development potential. Mr. Butler stated that the language there has the risk of cutting off those options, and simply adding the word "directly" before "residential development rights" will give the Board the option of protecting land in the debris hazard zones.

Mr. Neil Williamson addressed the Board, stating that the Free Enterprise Forum applauds much of what is in the revised Rural Area chapters, adding that the community has been engaged in this process, including staff, for a long time. Mr. Williamson said the chapter considers allowing some enterprises in the rural areas that will keep the land economically and environmentally sustainable, but there are some real challenges to rural enterprises in the plan. He stated that they have had positive discussions with several Supervisors related to the topic Ms. Joseph brought up, but they found the language inserted on page 7.34 and included in Attachment H to be philosophically offensive and likely illegal: "While golf courses should not be prohibited, they should only be allowed when a significant unmet need can be established for more of this type of use." Mr. Williamson emphasized that this is not the role of government, and the concept that the County will only allow businesses to exist that serve a government-identified unmet need is beyond the pale, even for Albemarle County. He said the Free Enterprise Forum hopes Supervisors will direct staff to strike this paragraph from the document. Mr. Williamson said the Planning Commission had also proposed new criteria for potential new uses in the rural area, and this criterion virtually guarantees that no new uses will be approved in the rural area. He stated that these criteria are required to be compatible and have a negligible impact on natural, cultural and historic resources, not conflict with nearby agricultural and forestal uses, compliment the character of the area in which they are located, and result in little discernible difference in traffic patterns. Depending upon the interpretation, he said the art center just described could possibly not fit the criteria. He added that the criteria would prevent many of the identified rural enterprises in the plan from occurring, which is in opposition to much of what the Board has directed in other areas of the Comprehensive Plan. Mr. Williamson said this reminds him of a former Supervisor who said, "We love all the wineries; we just do not like their customers." He stated that the rural area makes up 95% of the County, and rural enterprises are bigger than just weddings and wineries, and the criteria – and to a lesser extent the chapter – need to be revised to recognize the rural realities, and the need for additional economic opportunity in the rural areas.

Mr. Peter Hallock of the Rivanna District addressed the Board and encouraged Supervisors to be very careful in what it does in the rural areas, as it is very important to drawing people here. Mr. Hallock said the University has the mountains on its brochure for the North Fork Research Park, and he

emphasized that there should be a limit on special use permits specifically as they pertain to noise and crowd size because there has not been a clear way to enforce these.

Mr. Jim Balheim of the Rivanna District addressed the Board, stating that, while the Board is required to review the Comprehensive Plan, it does not mean the Board needs to change it in many of the ways which have been suggested. He said the list of proposed uses presented in February and March would change the rural areas instead of protecting them. He said things like concerts, lodging, food, warehouses, distilleries, events, restaurants, etc. have not been traditional rural activities. Mr. Balheim said there has been a very successful record of conservation easements in the County, and most of them were done with the intent of protecting the land and way of life that existed at the time they were done. He stated that it is wrong for County government to do an about-face now and make an irreversible commitment and, going forward, the County will end up with fewer easements if it tries to change the rural areas into commercial areas. Mr. Balheim said, if people have more opportunities to profit from their land, they are going to be much more reluctant to obtain easements that would protect their land – especially if they know their neighbors might turn the property next door into a non-agricultural, commercial enterprise. Mr. Balheim said he would like to see the Board expend its efforts in tightening up the rural areas rather than trying to find ways to loosen things up.

Mr. Ben Brewster addressed the Board, stating that he would like to speak to the issue of the golf courses, as there is some question as to whether these fit in with agricultural uses and he believed that is what the Board should be looking at. Mr. Brewster said there is water usage, there are parking lots, there is a clubhouse, all making it a single-purpose use which will be difficult to sell if it goes defunct and, in rural areas, they may not do very well.

There being no further public comment, the Chair closed the public comment section and Ms. Echols resumed her presentation.

Ms. Echols stated that, regarding the last slide with the eight topics identified by staff, those items are not necessarily things the Board is intending to change but staff wanted to highlight them because of changes being proposed in the plan which are very different than what is in the existing plan. She asked the Board to provide any additional items it felt were important to the discussion so staff could help prepare for that. Ms. Echols reported that she would talk about the criteria for review of new uses and said that, as the Planning Commission was going through the topics, they kept coming back to the idea of performance standards, and they felt there needed to be standardization of review criteria. She presented the goal statement to the Board and said staff would want to know whether there was something about it that the Board would want to change, or if it states clearly the expectations for the rural area.

Ms. Echols said the rural areas section had a lot of attention paid to it several years earlier, with a lot of people from the community involved in the consideration of the chapter and a lot of discussion about what the expectations are for features of the rural area. She stated that the first element is “continuous and unfragmented tracks of land,” which is really important for biodiversity and a strong agricultural and forestal economy. Ms. Echols said that particular aspect is changing, and they are seeing different kinds of farms in the rural area as well as some emphasis on locally grown products. She said the second element – “protected natural resources” has been discussed in the Natural Resources Chapter as well as the Historical and Cultural Resources section. She stated that “significant tourist economy” is stated as such in the current Comp Plan but, with this particular plan, the tourism aspects especially related to farm wineries have caught a lot of people’s attention, but there is a desire to find ways to reduce the pressure landowners may feel to subdivide their property for residential uses. Ms. Echols said “crossroads communities” were an introduction to the rural areas section during the last review, as were “distinct boundaries with development areas.”

Mr. Boyd asked when the Board would have an opportunity to take a philosophical look at what it wants to do with expanding the growth area and reducing the rural area. Ms. Echols said that would take place in the next chapter during discussion of the development area.

Ms. Palmer asked Ms. Echols if she wanted the Board to comment on the rural area elements now. Ms. Echols stated that she did, if the Board had comments on them, and noted that these were all from the existing Comp Plan.

Ms. Palmer asked if there would be some kind of reference back to natural resources on the definition of un-fragmented tracks, and said that surface water should be mentioned as well as groundwater. She also asked if there would be a definition of “significant tourist economy,” specifically what the word “significant” means.

Ms. Echols said a lot of the recommendations for tourism relate to the rural area, and there may be a place as the Board goes through it but, if not, it can be added to the list of items that should need further discussion.

Ms. Mallek recommended changes to the language related to “un-fragmented tracks for agricultural and forestry” section to help differentiate between production and sale, and the biodiversity issue with un-fragmented tracks is something entirely different. She also suggested that the language be

limited to "additional uses that support agriculture and tourism," and expressed concern that, in order to solve budget crises, it indicates the County will do whatever comes along in the rural area. She then clarified that the section she was referring to related to tax revenue.

Mr. Boyd said he was concerned that this Comp Plan would set the stage for the County to establish just wealthy landowners, and it is really going to come down to how it is interpreted when there is an application for a special use permit or zoning text amendment. He stated that he did not want to establish a situation where only wealthy people who did not need income from their land could afford to live on it, and he felt they should create an environment in which people can live off the earnings they create from their land.

Ms. Mallek said she was not referring to ownership parcels, but use parcels and does not want to neglect people who have smaller pieces of land.

Ms. Palmer stated that someone had mentioned to her that only approximately 650 landowners in the County owned 100 acres or more and, at some point, the Board should be finding out how fragmented the rural areas really are.

Ms. Echols asked Scott Clark, Rural Areas and Natural Resource Planner, to speak on the expectations for that particular topic.

Mr. Scott Clark addressed the Board and said the County uses the term "fragmentation" in two different contexts in the plan. He said ownership fragmentation refers to the pattern of parcels getting broken down to the point where it is difficult for people who do want to produce crops to have enough farmland. He said, several years ago for example, the Department of Forestry said that parcels of less than 40 acres were "inefficient" to try to use for timbering operations. Mr. Clark said the idea of avoiding ownership fragmentation was not just to expect a smaller number of owners with bigger acreages, but keeping together pieces that were large enough for effective agriculture and timbering operations. He stated that the other use of the term fragmentation is more biological, and talks about the patch sizes of forests and what habitats are needed to maintain certain populations.

Ms. Mallek said the other element is connecting them from one to another so there are travelways, and what is happening with 21-acre parcels is that people are using them as front yards instead of contiguous parcels for farming as was intended in the 1980s when those were created.

Mr. Boyd said he just wants to make sure there is some viable way for people to maintain their properties without having to sell them, enabling them to keep their property within their families.

Ms. Palmer stated that just before the "criteria for uses" section, she would suggest removing the paragraph which refers to changes in the zoning ordinance.

Ms. Echols asked if she felt it was a policy issue. Ms. Palmer said, for her, it was and, as they go through the review, it could be fleshed out.

Ms. Echols said the Planning Commission did not like the term "commercial uses in the rural area" under the criteria for review of new uses, and the current Comp Plan calls them "alternative uses" which are truly intended to provide a property owner with an alternative to subdividing land. She stated that the first thing the Commission said is that it needs to have a rural area location in order to be successful, meaning that, if it has a strong relationship to what goes on in the development area, it should be in the development area such as large distilleries which require a lot of water usage and have many more industrial characteristics than something like a farm winery. Ms. Echols said the main concern the Commission had was it did not want the rural areas to be looked at as the places with the cheaper land, so someone could just go out into the rural area and put a use there so it needs to have a strong relationship to the rural area. She stated that the second criterion has to do with the compatibility issue, and all special use permits are looked at this way, so this is not really new or different. Ms. Echols said the considerations are the impact on the setting, on the resources within the setting, and the relationship to any historic resources, agricultural/forestral districts, etc. She said the third criterion – "little difference in traffic patterns" – was something the Commission grappled with because there are numerous agricultural uses which utilize big trucks, and there is traffic in the rural areas which relates to the rural area by itself, not necessarily tourism. Ms. Echols said the Commission wanted to make sure the amount of traffic on rural roads was not starting to change the character of that road or that particular area, which is why it used the term "little discernible difference."

Ms. Echols stated that fire, rescue and police are services provided in the development areas, and the rural area expectation is that they will not get the same level of service and, if there is a use that is going to have that kind of demand, it may be more appropriately located in the development area. She said, if one is going to be a big user of water, or have a big wastewater disposal need, that is a more appropriate use in the development areas than in the rural area. Ms. Echols said there have been issues with wells drying up in years past, and so the Commission used the term "sustained with available groundwater" as a criterion to consider in thinking about lodging as a possible large consumer of water for individual rooms, laundry, and other activities. She stated that the final criterion was "consistency with other rural area policies" as a rationale for review of new uses.

Ms. Palmer said she would like the phrase "long-term" to be removed from the reference of "the need of public water and sewer" because of the issues with wells on some developments, as there is no anticipation of bringing those services out to the rural area. She stated that the criteria are good, but they are striking because, elsewhere in the plan, they talk about doing certain things, yet these parameters will make it hard to get these things done.

Ms. Mallek stated that there are lots of things possible in the rural area, because things based on actual farm activity are not going to be causing this but, in her mind, these provisions address someone who is importing their product into a farm location to set up a use that is really industrial, and then use another set of trucks to take the product away and consume a lot of water in the meantime. She said, for a big dairy, the milk truck comes every day; for a medium sized one, the milk truck comes every two days, and those happen with 40-foot tanks for the three dairies still existing in the County. Ms. Mallek stated that she anticipates concern when there are a lot of visitors to the rural area who are coming for a particular event from the urban area, and are in a hurry to get there but run up on a hay machine. She emphasized that the County would need to be ready for things to happen when it tries to expand these uses.

Ms. Dittmar said she did not want the term "little or no" demand for fire, rescue and police service in the rural area, because any activity in the rural area would necessitate some demand.

Mr. Boyd said that "lesser" would be a better word.

Ms. Echols suggested that "little" demand would work.

Ms. Mallek said this would provide for a five-room bed and breakfast as opposed to a 50-room hotel, which would increase the risk for a fire/rescue situation.

Mr. Boyd stated that the Comp Plan was just identifying things to be considered in the rural areas, and all of this would have to come in for a special use permit.

Ms. Mallek pointed out that there are many proposed changes for by-right uses, which would mean the Board would never be able to evaluate them for those impacts.

Mr. Boyd noted that he did not mind going through the list of uses to talk about which were appropriate, but mentioned that the County is losing some revenue to neighboring counties that provide for uses like distilleries.

Ms. Echols said that was a health department and ABC thing, but staff has some recommendations for the very small distilleries, not the large ones where there would be a lot of water use. She stated that this was indicative of some of the Commission's concerns, as it could not determine what was small, medium or large and finally ended up saying it would need to include some parameters for the zoning text amendment.

Mr. Boyd said this is similar to what the Board dealt with regarding crossroads stores with restaurants, but not allowing McDonald's, and somehow that needs to be defined. He stated that he was not sure if the Board was considering uses such as breweries in Nelson County that have restaurants, because Albemarle is losing a lot of money that could be gained through its meals tax.

Ms. Mallek said the solution many wineries have come up with on their own is the food truck, because there are still food taxes collected but the wineries themselves do not have to have an inspected kitchen, etc. and some of the trucks have followings so people will go to the wineries to get their favorites.

Mr. Sheffield asked Ms. Echols to refresh his memory as to how new uses were considered now, absent of this criteria, and whether it would be fixing a problem or adding another layer of criteria. Ms. Echols said most of the requests the County receives for special use permits look at these items, and the Commission wanted it front and center because it realized the direct impacts on traffic, water usage, etc. She stated that it is not a new concept, but it is newly articulated very firmly in this particular plan.

Ms. Mallek said this is just out of respect for the emphasis citizens have had on these features for a very long time.

Mr. Sheffield said his only concern is that they evolve and change depending on the demand and the environment the County is working within, as well as the economy and this seems to cement a lot of the unwritten guiding principles considered in the past. He stated that this seems to lock the Board down a bit, and he wants to make sure the Board will be able to deviate from the list as things change.

Ms. Palmer stated that this list becomes particularly important with the changes the Planning Commission suggested and, if the Board were to scale back some of the changes as suggested, the Board may want to look at the criteria again, however, given the degree of changes suggested in the rest of the document, she would feel safer with the criteria. She added that it seems the Commission was trying to strike a balance during its review.

Ms. McKeel asked if the Commission might have wanted the Board to make some connections to the road availability and, if one buys on a gravel road, the expectation is that it would not be paved because the County hears a lot of those comments. Ms. Echols said there is a place for that conversation in the transportation section, explaining that this was more about existing roads; how they deal with those is in the County's unpaved road policy.

Ms. Palmer said one of the things the Board could expect to see on its list of elements in the rural areas could be rustic, safe and scenic roads.

Ms. McKeel said other expectations should be included in that as well.

Ms. Palmer stated that she would like Board members to take a step back and look at what it wants the rural areas to look like.

Ms. McKeel said, in looking at the changes which were really dramatic, she realized Supervisors would need to have more than one work session.

Ms. Dittmar agreed, stating that she did not understand how the County could require someone to be successful, which is included as a bullet point.

Ms. Echols said what that means is it requires a rural area location in order to be successful. She stated that the Board would probably want to come back to the conversations about criteria when it gets to the uses, because that is where the Planning Commission intended the criteria to be applied.

Ms. McKeel commented that there is a disconnect between how it is stated and how it actually plays out.

Ms. Palmer agreed, stating that the Board talks about what it needs for the rural economy but she was not sure Supervisors had ever assessed what that really looks like.

Ms. Mallek said that information is in the agricultural census which is sent to the USDA every February.

Ms. Palmer said there are a lot of businesses that do not necessarily need a rural landscape to be successful.

Ms. Mallek said they should not be directed there then. She said the criteria for having a business in the rural area should include the fact that it needs to be there and it should not be one that can do just as well in the growth area.

Mr. Sheffield stated that this is why the Board appoints educated individuals to the Planning Commission, so they can use their knowledge and experience, along with the information provided, to assess whether a use is appropriate or not for the rural area. He said that is why he has a problem with the criteria, because some of this should be relied on through those appointments.

Ms. Mallek disagreed, stating that it leads to making it up as they go along and she likes the criteria for that reason. She said she would also like to add the phrase "impact current rural residents" in the paragraph related to changing the land use pattern and inviting residential development, because they need to take existing residents into account.

Ms. McKeel said she agreed with Ms. Palmer to take that paragraph out completely.

Ms. Echols said she had skipped over it with the idea of coming back to that discussion.

Ms. Dittmar agreed that Board members should just come back to it.

Ms. Echols reported that the first big change in this section of the plan is the way residential development is described and addressed from the existing plan. She said implementation of the policies to address rural density should be the highest priority with the County aggressively pursuing mechanisms to reduce the amount of residential development potential in the rural area. She said there is a lot of history on this topic because, over the last 10 years, a lot of work has been done to try to implement the existing plan recommendations for residential development. Ms. Echols stated that the Planning Commission heard from a number of people who were concerned about property rights in the rural area and respecting those, and these particular admonitions were too strong; and did not agree that the plans should be as discouraging of residential development. She said the Planning Commission's recommendation was to talk about the balance between what exists now and the desire to prevent suburbanization, and recommended placing more emphasis on positive actions which would encourage people to find alternatives to subdividing their land. Ms. Echols said that was the Commission's proposed plan language and, because it is such a dramatic change, she needed to highlight it and get direction from the Board.

Ms. Palmer said she applauds the Commission for pointing out the portion which focuses on making the development area an attractive place to be, as that was a very helpful and important change. She stated that most of the complaints she gets as a supervisor are related to traffic problems, and a lot of them are in the rural areas. She said the Board needs to strike a balance between the property rights of all people in the rural area, including those that do not plan to operate a business on their property. Ms. Palmer said she preferred the plan the way it was, and is of the understanding that the reason the County has the growth management plan is to keep taxes lower. She stated that the reason why Loudoun County's proffers and property taxes are so high is because they have allowed development all through its rural areas which did have an impact on the cost of the taxes and the proffer system and people do want low taxes.

Ms. Mallek said development rights are legislative, provided by the zoning enforced at the time, which are decisions based on the governing body at the time so those things do change. She said she agreed with the rights of neighbors for their own quality of life, which is often forgotten when people talk about maximizing their own freedom to do something. She asked if there was an explanation in Attachment D so Board members could understand the background philosophy of the strategies which are included.

Ms. Echols said those are under the objectives, with the very first being, "Retain continuous and unfragmented land for agricultural, forestry and natural resources." She stated that each strategy intends to create that, and the objective is not to discourage or prevent residential development but to try to keep the land unfragmented and engaged in agricultural production, adding that the way to do that is to keep it from being subdivided for residential development. Ms. Echols emphasized that all of the strategies under that objective are trying to address how people keep their land whole, and that is an example of the change in tone as recommended by the Commission.

Ms. Mallek stated that, during the 2005 rural area work sessions, there was huge debate that ended quickly because of the unanimity of people not wanting to have multiple priorities in the rural area and wanting agriculture, forestry and conservation to be the top priority. She said this proposed language backs into it but does not really affirm it, and it would be nice to be more intentional about supporting agricultural uses.

Ms. Echols said the second objective is, "Support a strong agricultural and forestal economy," so one way to resolve Ms. Mallek's concerns is to put that one first and put the unfragmented land objective second.

Ms. Mallek said she liked that proposal, as many farmers feel that agriculture is being put on par with housing as a priority for the rural area.

Ms. McKeel noted that the document indicates 52% of new homes have been built in the rural area.

Ms. Mallek said that has turned around over the last five years, so it is infilling in the right direction.

Ms. Dittmar asked if other Board members were in agreement with this proposed language.

Mr. Sheffield said he agreed.

Mr. Boyd said he was somewhat ambivalent about it.

Ms. Dittmar and Ms. McKeel said they liked this balance, and Ms. Dittmar said she would hate to see the Board jeopardizing the rights of rural landowners that already have development rights.

Mr. Boyd said the key to all of this wordsmithing is how staff will interpret it, and that is why it is important to continue getting feedback on what they think it means.

Ms. Mallek added that the concern was how it would show up in a staff report about a particular special use permit.

Mr. Boyd said that is what it is all about, i.e., how the staff report will explain someone's intention when applying for a special use permit.

Ms. Palmer stated that the problem she sees with the new language is how it might yield a different outcome than what Supervisors are expecting, which would mean continued fragmentation of the rural areas.

Ms. Mallek said that is why the criteria are so important.

Ms. Dittmar suggested another look at the criteria and the uses, and then go back to these objectives to see how they are working.

Mr. Foley said, while there is a lot of wordsmithing going on, those words really are important, and there is a fairly significant difference in terms of how staff would start out looking at a proposal based on these two alternatives.

Mr. Boyd agreed, but it would be helpful for staff to indicate in their presentations how they have interpreted the language.

Ms. Palmer said she appreciated that, but still goes back to what the document language and the criteria say, which are contradictory.

Ms. Echols said, having heard the Board's comments, when staff brings back the next draft they can be more careful as to how they articulate things so the strong agricultural and forestal economy comes first and is the most important thing; but, in order to support this as well as other goals in the rural area, they need to have continuous, unfragmented land and the way to have that is to encourage people who have the development rights to do something different.

Ms. Palmer said protection of the natural resources is an extremely important part of the rural areas, along with the agricultural/forestal economy.

Mr. Mallek said the natural resources protection is eminently important to the agricultural economy and, without clean water, there is no agriculture.

Ms. Palmer said that it needs to be mentioned as a "trio."

Ms. Echols stated that they would address "rural crossroads," which were highlighted in the existing Comp Plan in relation to the rural area. She said the Planning Commission felt that the crossroads should get the same kind of attention that the development areas get and perhaps also having master plans for those different crossroads communities. She said other Commissioners felt they should hold off on that, realizing that it would require a significant amount of staffing, and agreed to first work closely with the residents to identify boundaries and see what things are needed in those communities. Ms. Echols said the final consideration was to look at the crossroads as potential areas for assembly as a by-right use instead of a special use. She said restaurants were looked at as being possibly appropriate in crossroads communities and restaurants, as a topic, and would be considered later in the review. She said "areas of assembly" started out with the recognition that almost all churches were approved by special use permit and the Board, in 2009, felt that some criteria could be established so that churches would not have to go through the SP process in the rural area. Ms. Echols stated that staff had established some performance standards for churches in the rural area, but the Commission felt that step was too extreme and felt perhaps they would be comfortable with rural community centers such as the Ruritan Meeting Hall, or the Elks Lodges as well as churches being approved for crossroads communities. She said that was the main difference in that section with the exception of restaurants.

Ms. Palmer said if there is going to be any kind of by-right activity in crossroads areas, it would be a good idea to put the boundaries of those communities on a map.

Mr. Sheffield said strategy 3A addressed that point.

Ms. Echols said it states, "Identify the geographic limits first," and the plan was to develop an actual map which would include meeting with residents.

Ms. Mallek said the Ruritan Hall has been in constant use for 100 years, and asked what special use permit they would need that the County would not be doing anymore.

Ms. Echols said, if someone wanted to build a new one, it would currently qualify as a "club and fraternal group," and would require a special use permit in the rural area.

Ms. Palmer said she would like to have an SP process for new structures, but use of existing buildings for a meeting hall should be by-right as long as it meets the criteria.

Ms. Mallek said country stores had a differentiation between existing structures which were going to be renovated and new structures.

Ms. Echols stated that the Board and/or the Commission would most likely want to address that in the zoning text amendment process and would include parameters around those by-right uses. She said the Planning Commission had a difficult time coming to consensus on this and felt it needed to know some more facts. She said, when the Commission got to a ZTA, they would use the term "consider" as a non-commitment by the County for making a change, but a commitment to think about whether they wanted to make a change.

Ms. Dittmar asked if churches and fraternal organizations had indicated having problems with getting new locations. Ms. Echols said what staff has heard is that the special use permit process is onerous and, in the past, when a church wanted to make an addition of a social hall or restrooms, they would have to come through the SP process. She stated that there have been two levels of SP activity

which many congregations have felt were onerous; one was a brand new church, and one was making a change to an existing church and there are a number of reasons why those things should be reviewed, including new entrances.

Ms. Echols pointed out that the Board would be considering a church application later in its regular meeting.

Ms. Mallek said that is a good example of why the County needs the special use permit process, adding that citizens are very interested in reinvigorating crossroads communities so they are active for more than just annual special occasions.

Ms. Echols asked if Board members wanted to make the clarification now about existing structures or hold off until it gets to the zoning text amendment process. Ms. Mallek said she could wait for the ZTA process, and asked if strategy 3B would have to conform to the criteria with very little water, as some of those uses require lots of water.

Ms. Palmer said the Board could consider adopting more flexible regulations for reuse and renovation of existing historic structures, rather than allowing by-right new structures. She said she would rather have it in the Comp Plan instead of relying on the ZTA process.

Ms. Dittmar asked if the Board was comfortable making that dichotomy between new and existing structures.

Mr. Boyd said he was fine with it.

Mr. Sheffield said he was OK with it, but it would add more work to staff's process.

Ms. Palmer asked if the churches and places of assembly were only referring to the crossroads communities.

Ms. Echols said that was the only place where the Commission felt it was appropriate to consider it.

Ms. McKeel stated that the specific crossroads communities were listed in the document: Advance Mills, Batesville, Coveseville, Free Union, Proffit, Greenwood and Whitehall.

Ms. Echols clarified that the Board's desire was to emphasize consideration of by-right uses in those crossroads communities.

Mr. Boyd asked if Stony Point was not considered a crossroads community, as there is a Ruritan Club there too. Ms. Echols said staff was relying on the crossroads communities study which was done a few years earlier that identified historic crossroads communities and, in many ways, used to be development areas with a lot of village residential zoning. She stated that these were village settlements where there is a lot more going on.

Ms. McKeel asked if there were other communities which should also be recognized. Ms. Echols said it could say, "or other crossroads communities that are identified."

Board members agreed.

Ms. Dittmar thanked Ms. Echols for her work, and stated that the Board seemed to need another work session on the Rural Area section of the plan.

Ms. Palmer said, since the Board would be discussing the Ivy Materials Utilization Center (MUC), and because the solid waste committee has been formed, she felt it would be helpful for the Board to do the Comp Plan portion of the solid waste after rural areas but before moving on to the next chapter.

Ms. Dittmar suggested inserting the solid waste discussion in between the Rural Area and Development Area discussions.

Ms. Echols said she was not sure what the Board wanted to discuss, and was not sure how this fits into the committee's work and the specificity of a particular area. She said there is a plan for the Board to talk generally about that issue in the Community Facilities section, and did not know if Supervisors wanted to address something related to solid waste which was not Comp Plan-related but could discuss that separately from the plan discussions.

Ms. Palmer stated that the committee was going to make some recommendations on the Comp Plan, and she felt it would be a good idea to have some consensus on what the Board wants to do and also about approaches. She said it might allow the Board to get both things done more quickly. She said the Board has asked the advisory committee to do work on long-term thinking, however, the committee does not know where the Board is on it.

Ms. Echols clarified that, at its first meeting in August, the Board will try to finish up Rural Areas. She said, at the second meeting in August, the Board would use at least half of that time for the solid waste discussion in order to provide direction to the committee. She added that, if the Board is not able to finish with Rural Areas by the end of the next meeting, Supervisors may want to discuss both Rural Areas and solid waste in August.

NonAgenda. The Board recessed at 6:46 p.m.

Agenda Item No. 6. Call to Order Regular Night Meeting.

Ms. Dittmar called the meeting to order at 7:01 p.m.

Agenda Item No. 7. Pledge of Allegiance.
Agenda Item No. 8. Moment of Silence.

Agenda Item No. 9. Adoption of Final Agenda.

Mr. Palmer **moved** to adopt the final agenda as presented. Ms. McKeel **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Agenda Item No. 10. Brief Announcements by Board Members.

Mr. Sheffield reported that the US 29 Solutions Advisory Panel would meet the following day, however, he was unable to attend and the panel does not permit alternates. He said Ms. Mallek had planned to attend, so there would be a County official present. He reported that Mark Graham would also attend.

Ms. McKeel said she also planned to attend.

Ms. Palmer reported that she went on a ride-along with a County animal control officer, and was struck by the volume of work that they have, the animal abuse cases they deal with, the dangerous situations they enter into, and the social issues they encounter at some households. Ms. Palmer said it was an interesting experience, and encouraged other Board members and the public to do a ride-along with animal control or a police officer.

Agenda Item No. 11. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Nancy Carpenter of the Scottsville Magisterial District addressed the Board, stating that she had attended the highway trust fund meeting with Senators Hurt and Kaine the previous evening and was struck by the lack of funding for public transit which will impact local bus service. Ms. Carpenter suggested the Board contact Mr. Jones at Charlottesville Area Transit with a letter expressing concern.

Mr. Sheffield stated that the Board had already sent a letter in that regard.

Ms. Carpenter said she was also concerned about the new shopping center construction in the 5th Street area, and wanted to ensure that there were some strategies in place by the County to help the businesses which will be impacted in that area. She also reported that, on July 14 from 1:00-2:00 p.m. at the downtown Free Speech Wall, there would be a rally in support of the protest against the effort by companies to transport natural resources through pipelines constructed through some of the most beautiful country in Virginia to the Cove Point, Maryland deep water port and send those overseas.

Ms. Cyndra Van Clief addressed the Board, stating that she is Albemarle County's citizen representative on the Albemarle/Charlottesville Regional Jail Authority. She said she was appointed to the jail board about a year ago to fulfill an unexpired term, and has attended every meeting as well as Colonel Matthews' retirement party, and served as a member of the hiring committee. Ms. Van Clief stated that she has confidence in Martin Kumer's abilities and his commitment to being the new jail superintendent. She said there are improved medical, dental, mental health, education and library facilities at the jail, and there are relevant programs, i.e., GED and education, Alcoholics Anonymous and Narcotics Anonymous, and a culinary arts program among others. Ms. Van Clief said these programs are sound investments which can pay solid dividends in the community and, as a criminal defense attorney, jail board member and taxpayer, she is pleased to see individuals take advantage of these programs.

She stated that sometimes the jail is a place of despair, but sometimes it is a place of hope, introspection and growth and sometimes a cinder block jail cell can become a sacred space.

Ms. Dittmar commented that the Board is hearing really good things about the jail, and expressed appreciation for her service.

Ms. Carol Milks addressed the Board, stating that she is a resident of Rivanna Village but was speaking on behalf of a neighbor who is requesting public water once that development is built in his backyard. Ms. Milks explained that the neighbor has been told, in the past, that he does not qualify but, now that he lives in the area bordering Rivanna Village master development area, he is hoping he now qualifies.

Ms. Dittmar suggested that Ms. Milks provide contact information to the Board Clerk and offered to follow up on the matter.

Agenda Item No. 12. Consent Agenda. Mr. Sheffield **moved** to approve Items 12.1 (as read) through 12.3 on Consent Agenda. (**Note:** Discussion items are included with that agenda item.) Ms. McKeel **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Item No. 12.1. Approval of Minutes: August 14, August 21, October 2, October 9, November 6 and December 12, 2013; and February 21, March 27 and April 10, 2014.

Ms. Mallek pulled the minutes of August 14, pages 14 – end, August 21, October 2, and October 9, 2013, and asked that those be forward to the next meeting.

Mr. Boyd stated that he had read the minutes of November 6, 2013, and found them to be in order.

Ms. Dittmar pulled the minutes of December 12, 2013 and March 27, 2014, and asked that those be carried forward to the next meeting.

Ms. McKeel stated that she had read the minutes of February 21, 2014, and found them to be in order.

Ms. Palmer pulled the minutes of April 10, 2014, and asked that those be carried forward to the next meeting.

By the above-recorded vote, the Board approved the minutes as read and carried the remaining minutes to the next meeting.

Item No. 12.2. Earlysville Road (Rte 743) Through Truck Restriction. (Pulled for later discussion).

The executive summary forwarded to Board members state that a request has been organized by Supervisor Mallek to restrict through truck traffic (truck, truck and trailer, and semi-trailer combination, except pickup and panel trucks) on Earlysville Road (Route 743) between Rio Road West/Hydraulic Road (Route 631) and Dickerson Road (Route 606). Petitions signed by property owners in the subdivisions along Earlysville Road were submitted with the request in accordance with the County's Through Truck Restriction Process adopted by the Board on December 6, 2000 (Exhibit A). The petitions identified the terminus points of the restriction and the reasons for making the request. A map showing the proposed restriction route is provided for reference (Exhibit C).

As outlined in the Process, staff conducted a preliminary assessment of the request based on the criteria described in the "Guidelines for Considering Requests to Restrict Through Trucks on Primary and Secondary Highways" adopted by the Commonwealth Transportation Board on October 16, 2003 (Exhibit B). The assessment focused specifically on the potential reasonableness of an alternate route; the compatibility of the character and/or frequency of the truck traffic with the impacted area; and whether the roadway is "residential" in nature, or is functionally classified as either a "Local" or "Collector" roadway. The results of the assessment are summarized below.

The alternate route for truck traffic would be US-29, Airport Road (Route 649), and Dickerson Road (Route 606) (see Attachment C). US-29 is a multi-lane divided highway designed and constructed to accommodate truck traffic. Airport Road was reconstructed using Airport Access Improvement funds to create a 4-lane divided roadway and a round-about at Dickerson Road designed to accommodate truck traffic. Realignment and improvements were also made to Dickerson Road (south of Airport Road) as

part of the Airport Authority's Runway Safety Improvements Project and included a round-about at Earlysville Road, also built to accommodate truck traffic.

Staff is aware of the past history of citizen concerns for the character, frequency and encounters with truck traffic along Earlysville Road. VDOT traffic data is available, but the information is from 2012 and would need to be updated. Traffic counts (with vehicle classifications) and other data would need to be collected and analyzed as part of a detailed assessment.

The VDOT Guidelines consider a roadway residential in nature if there are at least 12 dwellings (within 150' on both sides of the road centerline) per 1000 feet of the roadway. Based on the County mapping data, the average along this roadway is only 2 dwellings per 1000 feet. Therefore, staff has determined that this roadway is not residential in nature. However, the functional classification by VDOT is that the road is a rural major "Collector". This classification allows the road to be considered for Through Truck restrictions.

The next step in the County Process would be to conduct a detailed assessment. If authorized, this would entail collecting, analyzing and summarizing traffic and accident data, as well as conducting a field inspection and documenting the geometric and engineering characteristics of the roadway and the alternate route. Staff would also attempt to identify and request input from the businesses and industries currently utilizing this roadway, along with any agencies and business/citizen groups that may have an interest in this request.

Upon the completion of the detailed assessment, staff will schedule this on a Board agenda, at which time it will present a report and recommendation to the Board and will request that the Board set the proposed Through Truck restriction for a public hearing at a later date.

Based on the preliminary assessment, it is reasonably feasible for this request to qualify for a Through Truck restriction.

If a detailed assessment is authorized, the County will be responsible to procure the services of a traffic engineer to obtain the traffic count data needed to support this request. The cost would be in the range of \$5,000 to \$8,000, depending on the number of counter locations and character of the study area. This request may also impact staff time allocations to other projects and priorities, depending on the time commitment needed for and the level of priority assigned to this request.

Staff recommends that the Board direct staff to proceed with a detailed assessment and to present an appropriation request to fund the traffic engineer study to the Board for approval at a future Board meeting.

(Discussion: Ms. Palmer stated that she drives Earlysville Road every day, and asked if the County was currently having a problem with large trucks or if anyone was concerned about the future, as she does not see them on there.

Mr. Sheffield said there is an existing problem.

Ms. Mallek said the County has been trying to get large trucks banned for 15 years due to problems on that road.)

By the above-recorded vote, the Board directed staff to proceed with a detailed assessment and to present an appropriation request to fund the traffic engineer study to the Board for approval at a future Board meeting.

Item No. 12.3. Board of Supervisor's Rules of Procedure - Amend Rules of Procedure for adding Action Items to the Final Agenda.

The executive summary forwarded to Board members state that at its regular meeting held on July 2, 2014, the Board gave notice of its intention to amend its Rules of Procedure. Section G of the Rules provides that the Rules of Procedure may be amended by a majority vote of the Board at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

The Rules of Procedure currently provide that the final agenda for a Board meeting can be amended to add an action item only if the Board member proposing to add the item has given notice of the intent to do so in writing or by email to all Board members, the Clerk, and the County Executive by 5:00 p.m. two days before the meeting date. Without the required notice, the addition of an action item requires the Board to suspend its rule for prior notice.

Rule D(2) of the Board's Rules of Procedure requires that a Board member proposing to add an action item to a final agenda must give notice of the intent to do so in writing or by email to all Board members, the Clerk, and the County Executive by 5:00 p.m. two days before the meeting date. The intent of the rule is to prevent Board members from being surprised by a matter being added to an agenda for action without advance notice. A consequence of this rule, however, is that even matters on which all Board members want to take action can only be added to a final agenda for action by

suspending the rule requiring advance notice. A suggested Rules amendment to address this consequence would be to allow matters not otherwise timely noticed to be added to an agenda for action if there is "unanimous consent of all Board members present".

This suggested unanimous consent approach would let the Board members self-police matters that are appropriate to be added to the agenda and any Board member who is not prepared to take action or believes the public should be allowed notice before an action is taken can simply not consent. Matters that are urgent or simply make sense to be added to a Final Agenda can be accommodated by the Board without suspending the Board's current rule requiring advance notice for adding any matter to the agenda for action. The Chair, upon a request by a Board member to add an action item not noticed, would simply ask, "Does any Board member object to adding this matter to the Final Agenda for action?" If there is no objection, it would be added to the agenda as part of the adoption of the Final Agenda without any other procedural requirements.

There is no anticipated budget impact from a change in the Board's Rules of Procedures outlined above, assuming that existing equipment could allow for the remote participant to be heard at the meeting where Board members are assembled.

Staff recommends that the Board adopt the proposed Rules of Procedure as set forth in Attachment A to amend Section D.2 regarding adding matters for action to the Final Agenda.

By the above-recorded vote, the Board adopted the following proposed Rules of Procedure to amend Section D.2 regarding adding matters for action to the final agenda:

RULES OF PROCEDURE ALBEMARLE BOARD OF COUNTY SUPERVISORS

These rules of procedure are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors. Their purpose is to help the Board conduct its affairs in a timely and efficient manner. They incorporate the general principles of parliamentary procedure found in *Robert's Rules of Order's Procedure in Small Boards* and applicable Virginia laws. The rules of procedure do not create substantive rights for third parties or participants in proceedings before the Board. Further, the Board reserves the right to suspend or amend the rules of procedure whenever a majority of the Board decides to do so. The failure of the Board to strictly comply with the rules of procedure shall not invalidate any action of the Board.

A. Officers

1. *Chairman.* The Board at its annual meeting shall elect a Chairman who, if present, shall preside at such meeting and at all other meetings during the year for which elected. In addition to being presiding officer, the Chairman shall be the head official for all the Board's official functions and for ceremonial purposes. The Chairman shall have a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423)
2. *Vice-Chairman.* The Board at its annual meeting shall also elect a Vice-Chairman, who, if present, shall preside at meetings in the absence of the Chairman and shall discharge the duties of the Chairman during the Chairman's absence or disability. (Virginia Code § 15.2-1422)
3. *Term of Office.* The Chairman and Vice-Chairman shall be elected for one-year terms; but either or both may be re-elected for one or more additional terms. (Virginia Code § 15.2-1422)
4. *Absence of Chairman and Vice-Chairman.* If the Chairman and Vice Chairman are absent from any meeting, a present member shall be chosen to act as Chairman.

B. Clerk and Deputy Clerks

The Board at its annual meeting shall designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board. The duties of the Clerk shall be those set forth in Virginia Code § 15. 2-1539 and such additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)

C. Meetings

1. *Annual Meeting.* The first meeting in January held after the newly elected members of the Board shall have qualified, and the first meeting held in January of each succeeding year, shall be known as the annual meeting. At such annual meeting, the Board shall establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code § 15.2-1416)

2. *Regular Meetings.* The Board shall meet in regular session on such day or days as has been established at the annual meeting. The Board may subsequently establish different days, times, or places for such regular meetings by passing a resolution to that effect in accord with Virginia Code § 15.2-1416. If any day established as a regular meeting day falls on a legal holiday, the meeting scheduled for that day shall be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)

If the Chairman (or Vice Chairman, if the Chairman is unable to act) finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, such meeting shall be continued to the next regular meeting date. Such finding shall be communicated to the members of the Board and to the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code § 15.2-1416)

Regular meetings, without further public notice, may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416)

3. *Special Meetings.* The Board may hold special meetings as it deems necessary at such times and places as it deems convenient. A special meeting may be adjourned from time to time as the Board finds necessary and convenient. (Virginia Code § 15.2-1417)

A special meeting shall be held when called by the Chairman or requested by two or more members of the Board. The call or request shall be made to the Clerk of the Board and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the Clerk, after consultation with the Chairman, shall immediately notify each member of the Board, the County Executive, and the County Attorney. The notice shall be in writing and delivered to the person or to his place of residence or business, or if requested by a member of the Board, by electronic mail or facsimile. The notice shall state the time and place of the meeting and shall specify the matters to be considered. No matter not specified in the notice shall be considered at such meeting unless all members are present. The notice may be waived if all members are present at the special meeting or if all members sign a waiver for the notice. (Virginia Code § 15.2-1418) The Clerk shall notify the general news media of the time and place of such special meeting and the matters to be considered.

D. *Order of Business*

1. *Agenda.* The Clerk of the Board shall establish the agenda for all meetings in consultation with the Chairman. The first two items on the agenda for each regular meeting of the Board shall be the Pledge of Allegiance and a moment for silent meditation.

a. At regular meetings of the Board, the order of business shall generally be as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of Final Agenda.
5. Brief Announcements by Board Members.
6. Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda.
8. Consent Agenda.
9. General Business (To include Public Hearings, Presentations, Work Sessions, Appointments, and other Action Items).
10. From the Board: Committee Reports and Matters Not Listed on the Agenda.
11. Adjourn.

A Closed Meeting shall be held whenever necessary. Generally, a Closed Meeting will be scheduled at the midpoint of the agenda at day Board meetings and at the end of the agenda prior to adjournment at evening Board meetings.

b. The above order of business may be modified by the Clerk of the Board to facilitate the business of the Board.

2. *Adoption of Final Agenda.* The first order of business for a regular meeting of the Board shall be to adopt a final agenda for that meeting. The Board may modify the order of business as part of the adoption of the final agenda. In addition, any Board member may propose to add additional items to the agenda presented by the Clerk for action if notice of that item has been given in writing or by email to all Board members, the Clerk, and the County Executive by 5:00

p.m. two days before the date of the meeting or upon the unanimous consent of all Board members present. Any such item shall be added to the end of the agenda for discussion or action unless a majority of the members of the Board agree to consider the item earlier on the agenda. The final agenda shall be adopted by a majority vote of the members of the Board. No matter for action not included on the final agenda shall be considered at that meeting.

3. *Consent Agenda.* The "Consent Agenda" shall be used for matters that do not require discussion or comment and are anticipated to have the unanimous approval of the Board. There shall be no discussion or comment on Consent Agenda matters. Any Board member may remove an item from the Consent Agenda. Any item removed from the Consent shall be moved to a specific time or to the end of the meeting agenda for further discussion or action. A matter requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
4. *From the Board: Committee Reports and Matters Not Listed on the Agenda.* "From the Board: Committee Reports and Matters Not Listed on the Agenda" shall be the last order of business for a regular meeting of the Board unless a majority of the members of the Board agree to consider the item earlier on the agenda. It shall be limited to matters that are not substantial enough to be considered as additional agenda items to be added to the final agenda. Such matters are not matters to be acted upon by the Board at that meeting. Routine committee reports and information updates by Board members shall be presented under this agenda item.
5. *Public Comment.* The procedures for receiving comment from the public for matters not on the agenda shall be at the discretion of the Board. Unless otherwise decided, individuals will be allowed a three-minute time limit in which to speak during the time set aside on the agenda for "From the Public: Matters Not Listed for Public Hearing on the Agenda".
6. *Zoning Public Hearings.* Zoning applications advertised for public hearing shall be on the agenda for public hearing on the advertised date unless the applicant submits a signed written deferral request to the Clerk of the Board no later than noon on Wednesday of the week prior to the scheduled public hearing. The first request for a deferral will be granted administratively by the Clerk. The Board will be notified of the deferral in the next Board package and the deferral will be announced at the earliest possible Board meeting to alert the public of the deferral. Any request received later than the Wednesday deadline and any subsequent request for a deferral for the same application previously deferred will be granted only at the discretion of the Board by a majority vote. The deferral shall not be granted unless the Board determines that the reason for the deferral justifies the likely inconvenience to the public caused by the deferral. The staff will make every effort to alert the public when a deferral is granted.

It is the Board's preference that a public hearing for a zoning matter should not be advertised until all of the final materials for a zoning application have been received by the County and are available for public review. To achieve this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County no later than two business days prior to the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks advance notice of the deadline.

If the applicant does not submit the required materials by this date, the public hearing shall not be advertised unless the applicant demonstrates to the satisfaction of the Director of Community Development that good cause exists for the public hearing to be advertised. If not advertised, a new public hearing date will be scheduled. If the public hearing is held without final materials being available for review throughout the advertisement period due to a late submittal of documents, or because substantial revisions or amendments are made to the submitted materials after the public hearing has been advertised, it will be the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application, unless the Board finds that the deferral would not be in the public interest or not forward the purposes of this policy.

Final signed proffers shall be submitted to the County no later than nine calendar days prior to the date of the advertised public hearing. This policy is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Board members at the public hearing.

E. *Quorum*

A majority of the members of the Board shall constitute a quorum for any meeting of the Board. If during a meeting less than a majority of the Board remains present, no action can be taken except to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415)

A majority of the members of the Board present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning such meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

F. *Voting Procedures*

1. *Approval by Motion.* Unless otherwise provided, decisions of the Board shall be made by approval of a majority of the members present and voting on a motion properly made by a member and seconded by another member. Any motion that is not seconded shall not be further considered. The vote on the motion shall be by a voice vote. The Clerk shall record the name of each member voting and how he voted on the motion. If any member abstains from voting on any motion, he shall state his abstention. The abstention will be announced by the Chairman and recorded by the Clerk. A tie vote shall defeat the motion voted upon. A tie vote on a motion to approve shall be deemed a denial of the matter being proposed for approval. (Article VII, § 7, Virginia Constitution)
2. *Special Voting Requirements.* A recorded affirmative vote of a majority of all elected members of the Board shall be required to approve an ordinance or resolution (1) appropriating money exceeding the sum of \$500; (2) imposing taxes; or (3) authorizing the borrowing of money. (Virginia Code § 15.2-1428)
3. *Public Hearings.* The Board shall not decide any matter before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the holding of a public hearing or consideration of such matter. The procedures for receiving comment from the applicant and the public for public hearings shall be at the discretion of the Board. Unless otherwise decided, the applicant shall be permitted no more than ten minutes to present its application. Following the applicant's presentation, any member of the public shall be permitted no more than three minutes to present public comment. Speakers are limited to one appearance at any public hearing. Following the public comments, the applicant shall be permitted no more than five minutes for a rebuttal presentation.
4. *Motion to Amend.* A motion to amend a motion before the Board, properly seconded, shall be discussed and voted by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
5. *Previous Question.* Discussion of any motion may be terminated by any member moving the "previous question". Upon a proper second, the Chairman shall call for a vote on the motion of the previous question. If approved by a majority of those voting, the Chairman shall immediately call for a vote on the original motion under consideration. A motion of the previous question shall not be subject to debate and shall take precedence over any other matter.
6. *Motion to Reconsider.* Any decision made by the Board may be reconsidered if a motion to reconsider is made at the same meeting or an adjourned meeting held on the same day at which the matter was decided. The motion to reconsider may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the matter for discussion in the exact position it occupied before it was voted upon.
7. *Motion to Rescind.* Any decision made by the Board, except for zoning map amendments, special use permit decisions, and ordinances, (these exceptions shall only be subject to reconsideration as provided above) may be rescinded by a majority vote of all elected members of the Board. The motion to rescind may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Zoning map amendments, special use permit decisions and ordinances may be rescinded or repealed only upon meeting all the legal requirements necessary for taking action on such matters as if it were a new matter before the Board for consideration.

G. *Amendment of Rules of Procedure*

These Rules of Procedure may be amended by a majority vote of the Board at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

H. *Suspension of Rules of Procedure*

These Rules of Procedure may be suspended by a majority plus one vote of the Board members present and voting. The motion to suspend a rule may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to suspend a rule, if approved, is to make that rule inapplicable to the matter before the Board. Provided, however, approval of a motion to suspend the rule shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

I. Necessary rules of procedure not covered by these Rules of Procedures shall be governed by *Robert's Rules of Order Procedure in Small Boards*.

* * * * *

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014).

Agenda Item No. 13. **Appeal of ARB Decision:** ARB-2014-024. New Hope Church (Deferred from June 11, 2014).

The executive summary forwarded to Board members states that on June 11, 2014, the Board of Supervisors considered an appeal of the Architectural Review Board's (ARB) April 7, 2014 issuance of a certificate of appropriateness, with conditions, for site improvements related to the final site plan for New Hope Church (Church). See Attachment C for the June 11, 2014 Executive Summary. During the Board meeting, the appellant and some Board members voiced concern that tree removal extended beyond the approved limits of disturbance, resulting in a stark appearance that was not anticipated for the Church site. It was suggested that more trees be added to compensate for inappropriately removed trees, and the applicant indicated a desire to add trees in the vicinity of the entrance drive to establish a more densely vegetated buffer. By a vote of 5:1, the Board deferred action on the appeal to allow the applicant time to revise and resubmit the landscape plan to address the Board's concerns.

The legal scope of review for a certificate of appropriateness is limited to the specific issue of whether the site improvements are consistent with the applicable design guidelines. The scope of review is further limited in this case because only a small portion of the Church site – the portion where the Church entrance is located – is within the Entrance Corridor Overlay District (ECOD).

A landscape plan, revised to address the issues raised at the June 11 Board meeting, was received and reviewed by staff (Attachment A). The plan addresses the discrepancy between the currently existing tree line and the approved limits of disturbance and responds to the concern that tree removal extended beyond the approved limits of disturbance. The plan also shows additional planting to be provided along the entrance drive to the Church.

Plant removal outside of the approved limits of disturbance

The Additional Proposed Plantings – Detail (See Attachment B) shows that the existing tree line, depicted in red, and the approved limits of disturbance, depicted in purple, are close to one another. The separation between the two lines ranges from an average of approximately 10 feet on the south side of the entrance drive, to between 2 and 10 feet on the north side of the entrance drive. The Church has confirmed that the only plants removed outside of the approved limits of disturbance were saplings and undergrowth, rather than trees of any significant size.

Additional planting along the entrance drive

Trees and shrubs have been added to the revised landscape plan (Attachment A). Additional plants on the south side of the entrance drive include 5 Eastern Red Cedar, 2 Sweetgum and 5 Wax Myrtle. On the north side of the entrance drive, additional plants include 19 Eastern Red Cedar, 2 Willow Oak, 1 Sweetgum, 1 Red Maple, and 8 Wax Myrtle. The Eastern Red Cedar and Wax Myrtle are evergreen plants.

Of the plants added to the revised landscape plan on the south side of the entrance drive, one is located outside of the ECOD. Of the plants added on the north side of the entrance drive, 17 are located outside of the ECOD.

For easier planting of new trees in the area on the north side of the entrance drive, west of the ECOD line, and to enhance the health of the new trees, the Church would like to remove the remaining existing trees in that area. This area is cross-hatched on Attachment A, Sheet L1.1. A note has been added to the revised landscape plan regarding the tree removal. This area is outside of the ECOD.

Consistency with the Entrance Corridor Design Guidelines

The proposed revised landscape plan is consistent with the Entrance Corridor Design Guidelines. The additional proposed plants are all native plants. The increased quantity of plants, generally, and the increase in number of evergreen plants, will contribute to the transformation of the graded slope into a more natural setting and will help to more fully integrate the entrance into the surroundings. The entrance drive and the adjacent landscape will help establish visual order and an appropriate appearance from the Entrance Corridor.

No changes to the Community Development Department's appropriated budget are anticipated as a result of this appeal.

Staff recommends approval of a Certificate of Appropriateness for ARB-2014-24 with the following condition:

1. Landscaping shall be as illustrated on Sheets L1.1 Landscape Plan New Hope Church and L2.1 Landscape Details New Hope Church, both prepared by Albiston Associates, last revised 6-25-2014.

Ms. Dittmar reminded fellow Supervisors that they had deferred this item to allow time for more work on this.

Ms. Margaret Maliszewski, Principal Planner, addressed the Board, stating that the Board would be considering the appeal of the Architectural Review Board's April 7 action on the final site plan for New Hope Church, which was deferred at the June 11 Board meeting in order to allow the applicant time to submit a revised landscape plan. She said the plan was intended to address concerns raised about tree removal which may have occurred beyond the approved limits of disturbance. Ms. Maliszewski stated that the applicant has submitted the revised landscape plan, which has been provided to the Board and is shown on the screen. She said the scope of review is limited to the small portion of the church site that is within the Entrance Corridor overlay district, and is the portion of the site where the church entrance is located. Ms. Maliszewski presented detail of the area in question on the revised landscape plan, and noted the limits of the district and the purview of this appeal. She pointed out the limits of disturbance and the re-surveyed tree line, which has been surveyed since the June Board meeting and the location of existing tree trunks as of June 18. Ms. Maliszewski said the difference between the re-surveyed tree line and the earlier limits of disturbance line is relatively small, ranging from two feet to 10 feet along the entrance drive and this confirms that any plants removed from beyond the limits of disturbance would have been saplings or undergrowth, not trees of significant size. She stated that, despite the relatively small difference between the tree line and the limits of disturbance line, a significant amount of landscaping has been added to the plan, and plants added since the Board's last review are shown in green on the plan. She noted that the additional trees and shrubs would fill in the tree line along the entrance drive and would help integrate the entrance more fully into the surroundings, adding that the planting is expected to have an appropriate appearance from the Entrance Corridor. Ms. Maliszewski said staff's recommendation is for the Board to approve a certificate of appropriateness for the New Hope Church final site plan, with the condition that landscaping be as shown on this plan.

Ms. Dittmar asked if the Board needed further clarification.

Ms. Palmer said she was grappling with changing the slope from 3 to 1 to 2 to 1, and stated that it is not consistent with the special use permit granted by the Board from the outset.

Mr. Mark Graham, Director of Community Development, addressed the Board and explained that staff had looked at the question during the review of the initial site plan and that was considered; however, there was not a specific requirement for a 3 to 1 slope there. He said the Zoning Administrator did make the determination that the initial site plan was in general accord with the approved special use permit, and that is the standard which was required. In consideration of the entrance, he said the county engineer looked at the question of disturbance of critical slopes, and this speaks to the need to look at requirements that would reduce the impact on the critical slopes. He stated that, as a part of that, the county engineer set a requirement for a 2 to 1 side slope rather than a 3 to 1 in order to minimize disturbance in that area, and that was reviewed as part of the initial site plan and looked at by the Zoning Administrator for consistency.

Ms. Palmer asked if the special use permit was originally approved by the Board of Supervisors with a 3 to 1 slope. Mr. Graham said he could not answer that without the SP before him to review but, in looking at the initial site plan, it was discussed and considered whether it was in general accord and a determination was made that it was.

Ms. Palmer asked for clarification that, if a special use permit is approved with a 3 to 1 slope, then there is no requirement in future decisions to keep that. Mr. Graham said this is the question of "general accord" which is: is the intent of the plan maintained? He stated that it does allow for minor deviations as long as the intent is maintained, which is what is meant by general accord.

Ms. Palmer asked if the change of slope is a minor change. Mr. Graham stated that, in this case, it would have been considered a minor change because the plan was found in general accord.

Mr. Davis said Mr. Graham is correct. He said, when a special use permit is reviewed by the Board, there is typically a plan that accompanies it and a condition of the special use permit typically says that the "use must be developed in general accord with the site plan." He said, if a specific condition addressed the slope and said, "no slope shall be greater than 3 to 1," then it would be required to come back to the Board if the applicant was proposing a slope of 2 to 1. Mr. Davis said, if it is only shown on the site plan, the Zoning Administrator would have to determine whether the change took the site plan out of general accord with what the Board saw as part of its review process for the special permit review process. He stated that, in this instance, the Zoning Administrator looked at the plan accompanying the special use permit, verified that there was no special condition applicable to the slope requirement, and made a determination that the change in slope left the site plan in general accord with what had been submitted and approved by the Board.

Ms. Palmer said the Board has been told that the BZA never saw the minutes or the plan as approved by the Board of Supervisors with the 3 to 1 slope.

Mr. Davis explained that the Board of Zoning Appeals never considered the merits of this application because it was determined that the BZA did not have jurisdiction to hear this appeal. He said what was appealed to the BZA was the site plan approval. Mr. Davis said, under Virginia law, County ordinance, and State Supreme Court decisions, there is no right to a third-party appeal of a site plan approval so a neighboring property does not have the right to appeal whether a final site plan or a preliminary site plan was properly approved by the County. He stated that the BZA simply made a determination that it had no ability to hear the complaint because it had no jurisdiction to do so under Virginia law, as to a third party. He added that what the BZA saw or did not see was not relevant because it could not have decided the merits of the case regardless.

Ms. Mallek said it seems like the Board is hearing both sides of the argument here, and the reasons for the neighborhood angst is they see one thing written in the code, but it has created confusion because the procedures do not match. She said the 3 to 1 and 2 to 1 slopes are all in the purview of the ARB, and what is appropriate here is that, when it was approved originally, even though the plans were conceptual in an initial phase, there was a curve in the driveway and a verbal representation that the land owned by VDOT on the corner was going to cover the driveway because of the curve of the road. Ms. Mallek said the driveway is using half of that VDOT property, and this is one of the shifts from when the Board saw it previously. She added that the term "general accord" has gotten the County into trouble because the Board and citizens do not know about those changes.

Ms. Dittmar suggested the Board talk about that particular aspect under Matters from the Board, and asked Mr. Davis to clarify the deferral parameters.

Mr. Davis explained that the matter comes to the Board as an appeal of an ARB decision and, under the County's ordinance, the Board hears it in the same manner that the ARB heard it which is to determine whether the proposed development is consistent with the applicable design guidelines of the Entrance Corridor. He pointed out that it is not a determination as to where the driveway should be located, as that is a site plan issue which has already been determined. He said the Board may reverse in whole or in part, or modify the approval of the ARB; but what is before the Board is a very limited portion of the site which only includes the driveway. He said the ARB had looked at it and found it to meet the design guidelines with proper landscaping. Mr. Davis stated that the Board is required to give due consideration to the findings, and staff's recommendation is that this has satisfied the ARB design guidelines with the modified plan as presented since the last hearing on this matter. He emphasized that the Board's decision is very limited: whether this small portion of the site satisfies the design guidelines. He said the site plan issue is a separate matter which is not before the Board, and staff's recommendation is to approve it as proposed.

Ms. Palmer asked how the Board could modify the opinion of the ARB. Mr. Davis explained that the Board has the legal authority to either approve, affirm, or approve with conditions so, if the ARB had put conditions on it, for example, the Board could modify approval with different conditions as long as those conditions were reasonable and related to the scope and purpose of the ARB review.

Ms. Mallek asked if there are conditions which exist related to the replacement of trees that die in the Entrance Corridor, because one of the consequences of changing the slope is that major trees require soil to hold their roots and, with a very steep slope, it is unlikely the water will be sufficient to keep the greenery alive. Mr. Davis said ARB approval is part of the site plan approval for this project, and there is a very specific requirement in the zoning ordinance that any landscaping required by the site plan must be maintained in a healthy condition. He said, if it fails for any reason, it must be replaced and, if that is not done, the applicant will be cited for a zoning violation which will be enforced by zoning staff. He noted that, if for some reason they cannot get the landscaping to live there, the applicant would have to come in and ask for a site plan amendment, which would go back to the ARB and back to the site plan process.

Ms. Dittmar asked if the Board wanted to hear again from the applicant and the appellant. Mr. Davis suggested having the appellant first, then the applicant.

Mr. Chuck Boldt addressed the Board, stating that he resides at 5260 Piney Mountain Road. Mr. Boldt said the choices made by the church and the County have had consequences which have led them there tonight, and one of those choices was allowing staff to disturb critical slopes. He stated that, in order to grant an approval, the Board must consider what the ARB thought would happen after the initial approval along with whatever else it feels is appropriate in making the decision. Mr. Boldt said four questions were posed from Mr. Foley's executive summary on the matter from the previous May: do any

deficiencies exist with the proposed entrance; are the design guidelines met with the detail required; does the proposed entrance promote visual order within the Entrance Corridor, and does it reintegrate the site into the surrounding rural environment; and is the proposed landscaping appropriate and does it contribute to an organized development appropriate for the Entrance Corridor in a rural area. Regarding what deficiencies exist, Mr. Boldt said the slope in the initial site plan and ARB approval was 3 to 1, and the Board approved a site plan from the ARB with a 3 to 1 slope; 2 to 1 is something staff did, and the critical slopes at the entrance were not shown to the ARB in their initial decision – those appeared later – and because those appeared later, it is his contention that the applicant should have come back. Mr. Boldt stated that he provided the Board with an explanation as to why Section 18.4.2 Critical Slopes has not been complied with, and his attorney agrees that his analysis is accurate. Regarding the design guidelines being met with the detail required, he said those have been met with regard to plant type, but adequacy and extent is different. Mr. Boldt said he has sent the Board a number of things that would make the plan acceptable if implemented, and he is distressed to hear he has no standing on a site plan approval which affects him. He stated that the only standing he has before the Board is a certificate of appropriateness, and the minute the Board acts, he has no standing to appeal anything done administratively. Mr. Boldt stated that a key element of what he wants the Board to do is have the final site plan approved by the Board.

Ms. Palmer asked if the original approval of the SUP specifically mentioned the 3 to 1 slopes. Mr. Boldt said the SUP did not mention the 3 to 1, but it also did not include critical slopes at the entrance, and staff said there were no critical slopes beyond the 1,300 square feet that the Board approved. He stated that the ARB saw the 3 to 1 slope, but it did not consider alternatives because critical slopes were not shown on the plan that was reviewed; those showed up later. Mr. Boldt said the workaround from staff was to make an administrative decision of what he considers a Board decision, and what his attorney considers a Board decision as well.

Mr. Ed Blackwell addressed the Board, stating that he was the engineer for the church and stating that they would like approval of the landscape plan. Mr. Blackwell said they have gone over and above the normal landscaping requirements for an entrance. He said the fence is put up very close to the disturbance limit so they cleared where they were supposed to and went back and put in additional trees, as well as landscaping for the entrance. He stated that they have been to the ARB twice – once with a 3 to 1 slope and once with a 2 to 1 slope – and, during the initial site plan approval, there was a suggestion to go to a 2 to 1 slope to lessen the disturbance, which they agreed to do. Mr. Blackwell said the ARB concurred with that opinion and, in his mind, there has not been an issue up to now. He stated that they would like to go forth with the plan as presented, and feel that the trees and shrubs as proposed would grow in well.

The Chair then closed the public comment portion of the meeting.

Mr. Boyd said this is the third or fourth time that he has heard this proposal, and what they have here is a dispute between neighbors. He stated that, in these situations, he tends to rely on a staff of experts and, every time, they have come back and recommended that the Board deny the appeal. Mr. Boyd said there has been a lot of discussion about this particular issue over months and months, and he was in favor of denying the ARB appeal.

Ms. McKeel stated that she tended to agree at this point, but wanted to hear from Ms. Mallek as well, because she has been very involved with this situation.

Ms. Mallek said seeing it with one's own eyes makes it completely different than seeing it on paper, and this is a good example as to why the process was changed since this project was approved, and also to require neighborhood meetings with special use permit applications. She said the Planning Commission had suggested that doing so was very important because it is such a rural area, and having meetings with neighbors to understand their concerns would have resolved all of this beforehand. Ms. Mallek said perhaps this is not a "big project," but it is incredibly important to those who live there because, instead of being out in the middle of nowhere, there would be hundreds of cars going in and out. She stated that the neighbors have tried repeatedly to address concerns, without any success, and that is why these numerous attempts have been made to have a voice. Ms. Mallek said the ARB was concerned that the plans they were seeing were not the same as those the Board approved, and that consistency is important to her, as she would like to know when the Board votes on an SUP that the plans represent something. She stated that, if the Board cannot count on the information it is given, it creates a trust issue, and there have been many changes since then that are not relevant to the ARB issue but are relevant to the final site plan issue which will need to be addressed.

Ms. Palmer said the appellant would like to ensure that the final site plan happens correctly, and asked if the Board could do an approval of the final site plan.

Mr. Davis said he would not recommend it, because it goes well beyond the scope of the ARB certificate of appropriateness process. He said whether or not that is a condition that is reasonable to determine whether the landscaping plan has been shown as approved would be beyond reasonableness in his opinion.

Ms. Palmer asked what the recourse for the neighbors would be if it does not happen the way it is shown on the plan. Mr. Davis said, if the landscaping is not put in place when the plan is developed, it would be a site plan violation, and the Zoning Department – upon complaint or otherwise – would require landscaping to be installed as required in the plan. He noted that, if the final site plan were brought back to the Board, all it would see relevant to this application would be the exact same plan again.

Ms. Mallek said she was talking about the site plan for the entire church area, which would show the plantings on the other borders are missing. Mr. Davis said that was beyond the scope of the ARB certificate of appropriateness.

Ms. Dittmar said that was for later, and there would be an approval process for that. Mr. Davis confirmed that was correct.

Ms. Mallek said it would not be before the Board.

Ms. Dittmar stated that she had done a site visit, and met with the appellant as well as representatives from the church. She said she could understand why people were concerned about this, and the critical slope issue Ms. Mallek is mentioning is relevant to this discussion. Ms. Dittmar pointed out that there were a number of churches further down that same road, and those churches had chosen to do driveways that came immediately in so the buffer area was the front area which they controlled. She said she does not know a lot about landscaping, but the pine trees are very spindly, and asked if this would grow up and hide all of that.

Ms. Maliszewski said she did not know if it would "hide" all of it, but a more accurate description would be that it would fill it in.

Ms. Mallek asked what possible suggestions there might be since so much of the buffer is on property owned by VDOT and in effect, by approving this, the Board is allowing someone to use a buffer which they do not own or control. She said, to her recollection, this is the first time this has happened in her tenure on the Board. She said perhaps there are things the applicant would volunteer to do to assure this was going to go forward properly, because that is all within 500 feet of the highway and is part of the ARB distance.

Mr. Davis stated that the VDOT property is not part of the site plan, so there is no reliance or control over the VDOT property. He said the site plan only addresses the property which is owned by the applicant and is under their control.

Ms. Mallek said the real shock is that three-quarters of the entrance is on VDOT property. Mr. Davis stated that the portion of the property that the applicant has under their control would be covered by the site plan, but anything beyond that would not.

Ms. Dittmar said she had spoken with the pastor of the church and the appellant about the importance of getting together and talking these things through, and much of this could have been avoided with planning and with the neighbors kept in mind. She stated that she has encouraged them to get together before they begin looking at designs for the buildings.

Mr. Boyd said there was a similar situation with a church in his district several years ago and, while he would agree that neighbors should talk, sometimes you cannot settle these disputes.

Ms. Mallek asked what future buffer requirements were applicable when the gas line was installed in order to maintain the integrity of the plan. Mr. Davis said the requirement would be to maintain the landscape plan so, if there is temporary construction of the gas line, they may disturb that landscaping but it would have to be replanted and reestablished pursuant to the plan.

Ms. Mallek said it would not have a five-year limit, but would be into perpetuity.

Mr. Graham said it would be applicable as long as the property was developed under this site plan. He said staff has seen this a number of times where electrical or water lines had to be dug up, and the requirement is to reestablish the landscaping per the approved plan.

Mr. Davis stated that the staff-recommended motion is to approve the certificate of appropriateness ARB 2014-024 with the one condition as recommended.

Ms. Palmer **moved** to approve the Certificate of Appropriateness ARB 2014-024 subject to the one recommended condition. Mr. Boyd **seconded** the motion. Roll was called, and the motion failed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar and Ms. McKeel.

NAYS: Ms. Mallek, Ms. Palmer and Mr. Sheffield.

Mr. Davis said, if you move the motion, it is out of order for you to vote against it. Ms. Palmer retracted her motion.

Mr. Boyd asked Mr. Davis for an interpretation of what would happen with a 3:3 tie. Mr. Davis said the motion to approve is denied.

Mr. Boyd asked what the next course of action would be. Mr. Davis said the matter before the Board is an appeal from the ARB, and it is before the Board to make a decision. If the certificate of appropriateness is denied, he said the applicant could appeal the matter to the Circuit Court or submit an alternative plan for ARB review.

Ms. Mallek stated that she would hope the church would work with the neighbors and develop a new plan which they would take to the ARB.

Mr. Mike Henderson, Pastor of New Hope Church, addressed the Board, stating that there are over 300 shrubs and trees on the entrance alone which is more than are in place in front of Kohl's, Target and Harris Teeter on Route 29. Mr. Henderson stated that they have exceeded the requirements and, according to federal law, no jurisdiction can require them to exceed that. He said he has already spoken to federal and local counsel, and there was a law passed in 2000 because it was felt churches were being taken advantage of and were being burdened with too many restrictions and requirements. He stated that the church has volunteered from the outset to do excessive landscaping, and it does not seem to make a difference. Mr. Henderson said he did not know how they could get any more shrubs and trees into the entrance. He stated that the church is having a difficult time understanding why they cannot get approval.

Ms. Dittmar asked Mr. Sheffield and Ms. Palmer to share what would satisfy their concerns, and emphasized that what the Board is voting on is whether the view from the Entrance Corridor was compromised by what the applicant has done with the landscaping.

Mr. Sheffield said there is not enough vegetation that can be installed to satisfy the ARB requirement, and it is the nature of where the entrance is aligned with the corridor. He stated that, while they are not talking about a site plan issue, it is tied to the ARB issue. He said his decision has to be based on the vegetation, and the entrance location is forcing the shrubs and trees to be put in a certain place.

Ms. Palmer said she was not asking for more trees; she had a problem with the ARB and the site and the plan, and where the driveway is and she did not know how to resolve this other than sending it back to the ARB. She stated that she was concerned about the cost to both the appellant and the applicant, and would like them to get together and work it out.

Ms. Dittmar said she has the sense that the Board is concerned about the visibility issue from Route 29 in addition to its dismay over larger issues having to do with process, and it is unfortunate that the Board is not narrowing its focus to the task. She stated that, if this is the way to get at those larger issues for a greater good, she would like to know what the options are for both the applicant and the appellant.

Mr. Davis stated that, if this decision stands before the Board as denied, the applicant has the choice to appeal the decision to the Circuit Court or submit a revised plan to the ARB for further consideration.

Ms. Maliszewski said, if this does go back to the ARB, she would like some direction as to what the Board expects the ARB is to be looking for in a revised plan.

Mr. Davis said, because of the irregularity in the motion, he would suggest the Board re-vote the item.

Mr. Boyd **moved** to approve the Certificate of Appropriateness for ARB 2014-024 New Hope Church with the one condition as recommended by staff. Ms. McKeel **seconded** the motion. Roll was called, and the motion failed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar and Ms. McKeel.

NAYS: Ms. Mallek, Ms. Palmer and Mr. Sheffield.

Ms. Dittmar commented that the Board now has its clarity.

Mr. Davis said the Board actually does not, because a motion to approve which fails is not definitive.

Mr. Boyd said this is why he asked what the motion should be, because he would have made a different motion.

Mr. Davis said there was the assumption that there would be approval.

Ms. Dittmar asked if the Board could add a condition that the final site plan come back to the Board, even though it is irregular. Mr. Davis said that was possible, however, there would need to be a second condition which states: "Final approval of the site plan shall be subject to Board of Supervisor approval."

Ms. Mallek said that would be the entire site plan for the property, which would settle everything and get all the other issues on the table because all of the other elements in this plan go across the ARB's area of purview.

Mr. Davis stated that he wanted to correct his earlier statement, and indicated that there is a denial when there was a motion to approve which was denied so the matter is denied.

Ms. Mallek asked if the answer would still be no for getting the final site plan for the entire project to come back before the Board to ensure all of the elements of concern were addressed. Mr. Davis said

his advice would be that the entire site plan could be before the Board, but the matter for the Board's consideration would be the ARB's scope of that site plan.

Ms. Mallek said, if things proceed more collaboratively and questions are answered, she would be glad to work on it some more.

Ms. Dittmar summarized that the Board sent back something that the ARB said was OK with them even before the Board asked for this enhanced landscaping plan. She said, now, the Board is sending back the plan the ARB had already approved with an enhanced landscaping plan that the Board also denied. She asked what Board members wanted to say to the ARB as the applicant re-approaches them.

Mr. Graham explained that this will be guidance to the ARB on how it should treat all future applications, with the application of the entrance design guidelines. He stated that this is not a unique circumstance but the County must be consistent, so whatever guidance is given will be done with all future applications.

Ms. Mallek asked if there was an ordinance or policy to allow an applicant to use part of a neighbor's property for their entrance or buffer without it being presented to the Board and discussed as part of the special use permit. Mr. Davis said, unless there was a specific condition dictating where the entrance had to be located, it would have to be located in a place which was in general accord with the site plan submitted with the special use permit. He stated that staff has already determined – and it is a final decision – that the location of the driveway is in general accord with the approved special use permit. Mr. Davis said, at this point, the driveway is located where they have a legal right to locate it and, while they could choose to relocate it, they are not required to do so.

Ms. Mallek asked if that was the case even if it was not on their property. Mr. Davis said, as long as it meets the zoning ordinance requirements, it can be where it is located, and he is assuming that has been determined.

Mr. Graham said the driveway design been approved for that location by both staff and VDOT as part of the initial site plan, and that location was found to be acceptable.

Ms. Mallek expressed surprise that this was done without any easements or approval coming to the Board.

Mr. Foley said it seems the discussion for this, as Mr. Graham has suggested, could set some precedent for some new policy and some new guidelines for review and, for that reason, it may be best to spend a little more time on this to ensure the Board does not make a decision it does not fully understand. He stated that he would like to get together with staff and take what they have heard and figure out how to bring it back so the Board can be well-informed about some direction which the Board gives that could set precedent for reviews coming before the ARB.

Ms. Dittmar said she was hoping this particular application would go back to the ARB, with the appellant and applicant having some guidance, and she was not sure what the timeline would be for the staff review.

Mr. Foley said that is a challenge for them but, otherwise, the Board would need to decide tonight, so staff would need to bring this back to the Board at its next meeting.

Mr. Sheffield asked if the Board wanted to vote to reconsider this and postpone the decision based on the precedent it was setting. Mr. Davis stated that if the Board did not want to make a final decision tonight, he would suggest there be a motion to reconsider and bring it back before the Board.

Mr. Sheffield said he was not aware of the precedent and would like to get advice from both Planning and the County Attorney's office.

Mr. Sheffield **moved** to reconsider the denial of the Certificate of Appropriateness for ARB 2014-024. Ms. Palmer **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Mr. Davis said the matter was before the Board again, and the motion would be to defer it to August 6, 2014.

Ms. Mallek **moved** to defer consideration of the Certificate of Appropriateness for ARB 2014-024 until August 6, 2014. Mr. Sheffield **seconded** the motion and added clarification that the motion to defer is for two pieces of information: the legal implications of setting the precedent as well as the ARB precedent. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

Agenda Item No. 14. **Public Hearing:** SP-2013-000019. Tandem Friends School (Sign #84).
MAGISTERIAL DISTRICT: Scottsville.

Proposal to allow for an increase in enrollment and staff capacity from 260 to 300 people and the replacement of a gymnasium on 24.508 acres. No dwellings proposed.

ZONING: R-1 Residential – (1 unit/acre) under Section 18.13.2.2.5 of the Zoning Ordinance which allows for private schools.

ENTRANCE CORRIDOR: No.

COMPREHENSIVE PLAN: Institutional – schools, universities and colleges and ancillary facilities and public facilities and utilities; Urban Area 4.

LOCATION: 279, 285, 295 and 305 Tandem Lane.

TAX MAP/PARCEL: 09100-00-00-002A0.

(Advertised in the Daily Progress on June 23 and June 30, 2014.)

Senior Planner, Scott Clark addressed the Board, stating that this is a request for a special use permit amendment, with the original request being for an increase in enrollment and staff capacity at the existing Tandem School from 260 to 300 people and to replace the existing gymnasium with a larger gymnasium. He stated that the parcel is located on Mill Creek Drive directly across from Monticello High School, and presented a map of the property as it is now and the existing gym building which would be replaced under this proposal.

Mr. Clark presented the conceptual plan for the amendment, noting that the change to the site would be for the existing 8,000 square foot building be replaced with an 18,000 square foot field house and gym. He presented detail for the landscape design for the parking lot to be located next to the building. Mr. Clark said, in addition to building the new gym in the same location, the applicant requests an increase in student and staff enrollment from 260 to 300. Regarding public health, safety and welfare, and consistency with the Comprehensive Plan, staff analysis did not show any significant impact on health and safety from the addition of the building, and VDOT did not feel the increase in staffing and enrollment would create any significant impact on Mill Creek Drive. Mr. Clark said the use as designated in the Comprehensive Plan would remain the same – institutional – as it would remain a school. He stated that staff did not carry out any road design analysis because the only change was the replacement of the gym in the rear of the site. He reported that, at its June 3 meeting, the Planning Commission recommended approval of the amendment with the conditions as presented. He said staff is recommending, under condition 3, that just enrollment be expanded to 250, rather than addressing students and staff, in order to maintain consistency with other SPs for private schools.

The Chair opened the public hearing and asked the applicant to come forward.

Mr. Paul Erb, Assistant Head of School at Tandem School, addressed the Board and said that they would appreciate the Board's approval.

Ms. Mallek asked if he was OK with the change in the condition addressing enrollment numbers. Mr. Erb said he was, as it was just correcting an erroneous number.

Ms. McKeel asked him about a comment he had made previously regarding the school anticipating "the 5320 Consortium" getting together to talk about mutual interests. Mr. Erb said that was a question about whether they were in the Monticello viewscape, and the 5320 is a Consortium of interested parties for Route 53 and Route 20, who get together casually for lunch occasionally to make sure everything is going OK. He added that the school is not in the Monticello viewscape.

The Chair invited other public comment.

There being none, the Chair closed the public hearing and placed the matter before the Board.

Ms. Dittmar **moved** to approve SP 2013-0019 Tandem Friends School Field House subject to the conditions recommended by staff. Ms. Palmer **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

(The conditions of approval are set out below:)

1. The development of the use shall be in general accord with the concept plan entitled, "Tandem Friends School Campus Plan Study Site Plan," prepared by VMDO Architects, and dated April 3, 2014 by staff, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the specified plan, development and use shall reflect the following major elements as shown on the plan:
 - building orientation
 - building size
 - location of the buildings
 - limits of disturbance
 - parking-lot layout and landscapingMinor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. Additional buildings or increase in total enrollment/staffing may only be authorized by a new special use permit; and

3. Total school enrollment shall be limited to two hundred and fifty (250).

Non-Agenda. At 8:26 p.m., the Board recessed the meeting, and then reconvened at 8:33 p.m.

Agenda Item No. 15. **PUBLIC HEARING: ZMA-2013-00012. Rivanna Village.**

MAGISTERIAL DISTRICT: Scottsville.

TAX MAP/PARCELS: 079000000025A0; 080000000046A0; 08000000004600;
080000000046C0; 080000000046D0; 080000000046E0; 08000000005000;
08000000005100; 080000000052A0; 080000000055A0; 093A100000300; and
093A100000400.

LOCATION: 3677, 3701 and 3721 Richmond Road; 3760 and 3738 Cumbria Lane. Intersection of Route 250 East (Richmond Road) and Glenmore Way.

Proposal to rezone TMP 80-51 and 80-52A from Rural Areas zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to Neighborhood Model District (NMD) which allows residential (3-34 units/acre) mixed with commercial service and industrial uses. Also, request to amend proffers, Code of Development and the application plan from approved ZMA2001-008 zoned NMD which allows residential (3-34 units/acre) mixed with commercial service and industrial uses. 400 maximum residential units proposed including apartments, townhouses, attached and detached single family at a density of 4.2 units/acre. A maximum of 60,000 square feet of non residential uses is also proposed which would include commercial, office and retail uses.

ENTRANCE CORRIDOR: Yes.

PROFFERS: YES. C

OMPREHENSIVE PLAN: Town/Village Center- Small commercial, office, retail, service uses; park and recreation amenities; residential at no greater than 6 units/acre. Public Open Space-Parks, greenways, trails, and other public open spaces.

(Advertised in the Daily Progress on June 23 and June 30, 2014.)

The executive summary forwarded to Board members state that on May 6, 2014, the Planning Commission held a public hearing on the application for the rezoning amendment and modifications for the Rivanna Village property. The Planning Commission recommended approval of this ZMA and modifications with the expectation that the following be provided/addressed prior to the Board of Supervisors meeting:

1. Revision to Proffer #3 (See attached action letter- Attachment D) to address concerns from the community regarding the location of the construction entrance.
2. Technical corrections to the proffers, application plan, and code of development as recommended by Staff.

During the Planning Commission meeting the community raised concerns about the location of the construction entrance onto Glenmore Way. They requested that the entrance be placed off of Route 250, however, the Virginia Department of Transportation (VDOT) stated that the safest location is off of Glenmore Way and they would not permit an entrance off of Route 250 (See Attachment E). The Planning Commission voted 7:0 to recommend approval with the condition that Proffer #3 be modified to include language that would require the applicant to make improvements on Route 250 that would allow a construction entrance, if VDOT would approve the entrance at this location.

On May 27th, upon request of a Board of Supervisor Member and Planning Commissioner for the District with which Rivanna Village is located, the applicant, Community Development Staff, County Attorney Staff, Fire and Rescue Staff, representatives of VDOT, the Board Member and Planning Commissioner met to discuss the construction entrance and other issues raised at the Planning Commission meeting at the VDOT residency. During this meeting VDOT reiterated its position concerning the construction entrance, and stated that studies were done to confirm that the safest location for the construction entrance would be off of Glenmore Way. VDOT reaffirmed that an entrance permit for a construction entrance off of Route 250 would not be granted. Based on the VDOT position regarding the construction entrance the applicant offered to mitigate the impacts of the construction entrance for the community by offering to proffer additional measures and worked with County Staff to submit a proffer (Proffer #10) that requires the applicant to develop a detailed Construction Management Plan (See Attachment A). The applicant did not revise the language of Proffer #3, due to the information provided by VDOT that an entrance permit or signal will not be granted for a construction entrance.

In addition to the concerns with the location of the construction entrance, the community also raised concerns with the proposed entrance of Steamer Drive onto Glenmore Way. The community indicated that they would like to see this road revised to a cul-de-sac. The Planning Commission discussed this issue at length, and ultimately decided to recommend approval of the plan with the connection because of concerns that the Fire Station would need the additional entrance to keep a through movement during an emergency call.

During the May 27th meeting, Fire and Rescue stated that the entrance is not needed, and that making Steamer Drive a cul-de-sac would not impact the response during an emergency call.

In response to the communities concerns regarding Steamer Drive with the information provided by Fire and Rescue, the applicant has revised the application plan to allow, if the Board is acceptable, Steamer Drive to be a cul-de-sac. The cul-de-sac will impact the 70 foot buffer provided along Glenmore Way. (See Attachment C) The buffer has been offered by the applicant to help mitigate the impacts of the development to the surrounding community and is not a required buffer.

Staff believes the expectations of the Planning Commission in making their recommendation have been addressed and recommends that the Board approve ZMA2013-012 Rivanna Village with a revised date of June 9, 2014 (Attachment C), Code of Development dated June 9, 2014 (Attachment B), and the signed proffers dated June 13, 2014 (Attachment A).

Staff also recommends approval of the modifications that were previously granted, and recommended for approval by the Planning Commission, as outlined in the action letter dated June 2, 2014 (Attachment D) and further discussed in the Planning Commission staff report.

Ms. Megan Yaniglos, Senior Planner, addressed the Board, stating that this is a request to amend ZMA 2001-008, which is currently zoned Neighborhood Model District, in order to reduce the environmental impacts on the property. She said the applicant is also requesting to rezone two additional parcels – TMP 8051 and 8052A from Rural Areas (RA) to Neighborhood Model and, in total, the properties consist of 94.76 acres. She said this amendment would reduce the maximum number of residential units from 521 to 400, and 120,000 square feet of non-residential to 60,000 maximum. Ms. Yaniglos said the applicant is also requesting approval of the modifications previously approved with ZMA 2001-008. She presented an overview map of the parcels requested for amendment and/or rezoning, and noted the two parcels requesting rezoning from RA to NMD. She said these parcels were included as part of the Village of Rivanna Master Plan, shown as “Village Center,” but were not part of the original rezoning because the applicant did not own the parcels at the time. She said the parcels were shown on the application plan, however, they were just grayed out, and the additional 1.7 acres are designated for Village Center. She stated that the reduction in the maximum number of units overall reduces the impacts and the full build-out of the existing zoning plan.

Ms. Yaniglos presented the application plan, and the proposed plan versus the approved 2001-008 plan, noting the differences in the residential and commercial proposed. She stated that the open space and park acreage proposed has 31.68 acres: 18 of public park and approximately 13 of open space and trails, adding that the earlier plan had just the 18-acre park. She added that this proposal reduces the environmental impacts to the stream buffers and wetlands by locating them mainly in open space. Ms. Yaniglos reported that what occurred after the Planning Commission was that proffer 10 was added to help address the community’s concern with the location of the construction entrance off of Glenmore Way by providing a construction traffic management plan, and the application plan was amended to allow for Steamer Drive to be a cul-de-sac instead of a through-street, which would impact the proposed buffer along Glenmore Way. She said Fire and Rescue has stated that Steamer Drive could end in a cul-de-sac and would not impact response during an emergency call. She stated that the Planning Commission recommended the street remain a through-street due to concerns about fire and rescue, so this has cleared that issue up.

Ms. Yaniglos presented facts favorable to the application: the proposal is in conformity with the recommendations in the Village of Rivanna Master Plan; it is in conformity with the Neighborhood Model; proffers offered are in conformity with what was previously approved and have the additional proffer to address concerns about the construction entrance; the density has been reduced, which was an issue for the surrounding community during the original rezoning; a fully developed public park is offered to the County; and the proposed development has been redesigned from the prior approval to mitigate impacts on streams and wetlands. Based on these factors, she said staff recommends approval.

Ms. Elaine Echols, Principal Planner, reported that she had been working on the project since 2001 so, if anyone is in need of the chronology, she has that available. She explained that the Village of Rivanna as a development area was approved in 1989, and there was a proviso in the Comprehensive Plan amendment which indicated that there would be no commercial uses. In 1996, she said they updated the plan but carried through all the 1989 language regarding the Village of Rivanna. In 2001, she said Frank Kessler proposed a Comp Plan amendment, which was made at a time when the Neighborhood Model was just being adopted by the Board of Supervisors, and there was interest in more mixed-use developments and a mixed-use community. She stated that the application made for the CPA was for a mixed-use center that was significantly larger than what became of it in the master plan. Ms. Echols said there was no land use category at the time, so there were questions about the mixed-use center, and the category chosen was “Community Service,” but there were restrictions on that designation because the mixed-use area did not fit neatly into a Community Service or Neighborhood Service category and those two categories are what would have been in the 1996 plan, but different than where the master plans are headed today. She stated that there was a lot of discussion over how this should be categorized but, instead of just blanketing the designation for “Village Center,” the Comp Plan amendment was adopted with the map color but also a lot of text and images which described what the expectation was going to be. She said the expectation was for 240,000 square feet and no more than six dwelling units per acre. She explained that a Community Service designation would normally be 6-34 units per acre, but this was kind of a hybrid and was worked into what was approved for the Comp Plan Amendment and the specific approval of the text that was included.

Ms. Echols stated that this CPA was to be the first in a series of several things that happened, with the next being a rezoning – ZMA 2001-0008 – but it did not get approved until 2007 and took quite a while to get through the process. She said, when the rezoning got approved as “Rivanna Village at Glenmore,” it was approved for no more than 240,000 square feet of non-residential, and no more than six dwelling units per acre, and was generally in accord with the approved Comprehensive Plan. She stated that there were a lot of concerns from the community at the time of the rezoning, with many people who were not present when the CPA took place, and they took their concerns to the Planning Commission and said that a master plan was needed. Ms. Echols said a master plan was done for the Village of Rivanna at the time, and there were still concerns about the Community Service designation which got changed in the master plan to a Village Center designation, with the description being it would be based on the rezoning that had been done except it would be no more than 125,000 square feet of non-residential, and also relied on the ZMA which had no more than six dwelling units per acre gross density. She said there were several other properties in the rezoning which did not have the Community Service designation, but they were designated for Neighborhood Density Residential, and the Planning Commission and Board at the time said that was acceptable because the uses proposed on those properties were residential at no more than three to six units per acre. She stated that, although there were additional properties added, there was no change in use; the change was in design. Ms. Echols presented text from the master plan which described the characteristics of the “Village Center,” and noted the progression from 1989 up to the 2010 adopted master plan, and is what this particular rezoning proposal has been evaluated against.

Ms. Yaniglos stated that the legal ad and advertisement did not include the fire station parcel, but there are no substantive issues in moving forward with the application before the Board, as shown on the ZMA.

Mr. Davis explained that the proffers do not include the fire station parcel, and the underlying zoning is consistent with the master plan, so a review has determined that it is not essential to be included as part of this ZMA.

Mr. David Benish, Chief of Planning, stated that staff would further deliberate as to whether to bring that property in and get it included in the zoning at a later date, but there is not a substantive issue with the project as reviewed today.

Mr. Boyd said he recalled a big discrepancy at the last rezoning over the inclusion of a ball field and whether it would be a regional park or a community park. He said it looks like there would be a finished park as part of this process, but he was not sure what type of park it would be. Ms. Yaniglos said it would be a community park, and would be dedicated to the County.

Ms. Dittmar stated that she has owned property in the Village of Rivanna area since it opened, having moved there in 1998. She said, at the Planning Commission meeting, there were some concerns raised which she would share with the Board after the public hearing. Ms. Dittmar asked Mr. Davis what the Board is legally focused on in this particular consideration.

Mr. Davis said the property is currently zoned Neighborhood Model District, as it was rezoned in 2007 and, under that plan, they have established property rights to develop that plan unless the zoning has changed. He said this application is a request by the applicant to voluntarily reduce the density – both the residential density and the non-residential density of the property – and, if the Board denies the rezoning request, the property remains Neighborhood Model District with the higher density for both residential and non-residential. He stated that the choice for the Board is to leave it zoned as it is, with the right to develop it as it is, or to approve the requested rezoning, which would reduce the densities.

Ms. Dittmar asked Ms. Yaniglos to re-post the slide showing the difference between the 2007 rezoning and the current proposal.

The Chair opened the public hearing.

Ms. Valerie Long, an attorney with Williams & Mullen, addressed the Board and stated that she was representing Rivanna Village, LLC. She introduced Andrew Boninti, principle of the firm, and said the entire project team was present at the meeting to answer questions and address any issues that may be brought forth. Ms. Long said she appreciated the work done by Ms. Dittmar, Mr. Davis, and County staff on the application. She explained that this is a rezoning, an amendment to the existing zoning, and their main goals are to reduce the density, reduce the amount of non-residential space, and to improve the protection for environmental resources by preserving nearly all of the streams in the project. Ms. Long stated that, with the new proffer #10 regarding the construction traffic management plan, the Glenmore community would strongly prefer that the construction entrance not be located off of Glenmore way. Ms. Long said they are aware that VDOT has looked at the issue very thoroughly and, in an effort to mitigate any impacts should the entrance be located there, they have added the new proffer to require that, prior to any construction activity taking place, a construction traffic management plan be approved by the County and VDOT and be implemented. She said those measures would include construction of a paved entrance, having a flagman present, having a truck wash-down station, and provision of a shared use path to ensure there is adequate pedestrian access and access for bicyclists and equestrian riders. Ms. Long said the applicant has worked very hard to address those concerns and fully understand that the residents may not be comfortable with that approach. She added that the applicant has also included a new change to their plan to convert the vehicular interconnection to a cul-de-sac at Steamer Drive and Glenmore Way to reduce the number of interconnections there. She noted that the Fire and Rescue Department, County Planning, and VDOT have all confirmed their support for that.

Mr. Mark Keller of Terra Concepts addressed the Board and presented a video animation of their proposed new community. He stated that the application was aimed at reducing environmental impacts, density, traffic and a host of other aspects associated with the previously approved rezoning action. Mr. Keller said they strove to maintain the neighborhood model and Main Street feel, but let the land dictate where to develop and what places to work around. He presented a map showing the location of the property, noting the location of Charlottesville and Glenmore, and pointing out the main street where the core of the community resides. He noted the location of the fire station site and said a new water tower would be built there soon. Mr. Keller said single-family homes are located on smaller ridges further into the site and, while some areas of the property appear to be densely developed, this proposal represents a 23% reduction in residential density, and a 52% reduction in non-residential square footage. He stated that, with less density comes less traffic, and stated that their main street runs through the most densely developed portion of the community terminating at a large centralized park. Mr. Keller said intermittent stream beds, an old stone quarry, and other special or sensitive areas such as wetlands are to be preserved in open space, most of which have been set aside as parkland to be dedicated to the County, nearly 32 acres in all. He said the central park hosts a basketball court, tot lot, tennis courts, pavilions, restrooms, a playfield, a dog park, water features, docks and a trail system.

Mr. Keller highlighted the special features of their proposal, pointing out the main entrance to Rivanna Village and stating that the main entry is inside the community and not directly on Glenmore Way. He said several cross streets are envisioned to be promenades, which means they are intended to be both vehicular and pedestrian friendly, and to serve as neighborhood gathering spaces. Mr. Keller said those could be blocked to traffic during events and have special paving, if the County permits them to be private roads. He stated that the parking for these units is already provided to the rear of the structures, and the Village Center is where most or all of the non-residential units would be incorporated, and, ideally, they would be mixed-use structures which include boutique-scale retail, offices, and residential units. Mr. Keller said the central park is directly across the street from the Village Center and, from the pavilions, one can watch a tennis match, have a picnic, or see a soccer game. He stated that rezoning to Neighborhood Model provides for some degree of flexibility and, at the same time, sets limits on what can and cannot be done with a property. He said what he presented was the applicant's current vision for the property and, overall, the applicant feels the vision will result in Rivanna Village being a pleasant place to live, work and play.

Mr. Dennis Odinov addressed the Board, stating that he is Chairman of the Village of Rivanna Community Advisory Council and lives in the Scottsville District. Mr. Odinov said Mr. Boninti and his team have been extremely cooperative in meeting with residents, discussing their concerns, and answering questions and have even changed several aspects of the code of development in response to those. Mr. Odinov said the council is generally in support of Rivanna Village but has some issues, which will be presented later by other residents. He stated that the council has become very frustrated and discouraged with the process, specifically the lack of transparency when changes are made to the ZMA process which result in contradictions between the Comp Plan and master plan and what the final ZMA says. Mr. Odinov said the Comp Plan says that villages and the Village of Rivanna shall have the "expectation of neighborhood-scale services," but the Comp Plan does not document the change and what it is for. He stated that they waste a lot of time trying to find out whether violations have occurred, and they should not have to go through the archives of the last 13 years to find the origin of these variances. Mr. Odinov said the lack of clear documentation and public record often results in anger, misunderstandings, and wasted time, and the history of the ZMA abounds with these frustrations.

Ms. Dottie Barton addressed the Board, stating that she is a resident of the Village of Rivanna and a member of the advisory council, living in the Scottsville District. Ms. Barton said, at the Planning Commission meeting, a map was presented showing Steamer Drive as a through-street, and the council requests that it be a cul-de-sac, as the developer would like. She stated that, as a through street, it connects to nothing except Glenmore Way, which is not part of Rivanna Village. She said, while part of the neighborhood model is connectivity, this road as a through street would create a traffic nightmare and a dangerous situation. Ms. Barton said people coming out of that exit from Rivanna Village would have to make a right onto Glenmore Way and then shift over two lanes to make a left on Route 250 to head into Charlottesville.

Ms. Betsy Gohdes-Baten addressed the Board, stating that she is a resident of Glenmore and serves on the Village of Rivanna Advisory Council. She said, when the 2007 ZMA for Rivanna Village was approved, the neighborhood density designation specified for development areas in the County was 3-6 units per acre. At a work session prior to the public hearing, she said a Planning Commissioner asked the applicant to change the per-acre residential density from 3-6 to 4-6 units, and the applicant agreed but there was no documentation as to why this change was made. She stated that, at that point, Rivanna Village became the only Neighborhood Model development with a nonconforming density minimum, and there appears to be no rationale for this other than a desire to pack more dwellings into the development area and this is another example of County government disregarding its own policies. She asked that they restore density minimum to three units per acre, stating that it will not affect the density of the present application but would place Rivanna Village in conformity with the Neighborhood Model. Ms. Gohdes-Baten said the present applicant's original plan called for 242 residential units, with almost 40% of the available land devoted to parks and open space and, if that plan had been acceptable, she would not be here. She stated that, since the four dwelling units per acre minimum was approved by the Board in 2007, the ZMA application now calls for 400 units which is an overall residential density of 4.2 units per acre on roughly 90 gross acres in Rivanna Village. She stated that the problem is, the entire 90 acres is not suitable for development, and landscape features such as a quarry pond, wetlands, intermittent streams and parklands reduce the actual acreage suitable for development to 51 acres. Ms. Gohdes-Baten asked the Board to consider that the 2007 ZMA sets aside only 17 acres and, at that time, 70 acres

were planned for development with a maximum of 521 units which resulted in a net density of 7.36 units per acre. She said the present ZMA application, with a maximum of 400 dwelling units on 51 developable acres, yields a net density of 7.8 units per acre and, at maximum density, the new plan will appear denser than the old plan even though there will be fewer units.

Mr. Neil Means addressed the Board, stating that he is a resident of the Village of Rivanna and a member of the advisory council. Mr. Means said the staff report indicates that the proposal is "in conformity with the recommendations" of the Village of Rivanna Master Plan, and the council believes that statement to be inaccurate and misleading. He stated that the applicant is requesting rezoning of two parcels – 8051 and 8052A from RA to NMD – and, in the master plan on page 31, it says, "Approval of any development by rezoning will be predicated on the completion of a number of transportation improvements to improve the volume to capacity ratio of US 250 between Louisa Road and Charlottesville. Addressing traffic issues on US 250 is the highest priority for the Village of Rivanna. It is essential that all of the US 250 improvements be constructed before new development occurs in the village." Mr. Means said, among other projects, the improvements include widening Route 250 to four lanes between I-64 and either Milton Road or Glenmore Way, and that requirement in the master plan is very important to village residents and the council. He stated that it is painfully obvious to residents that Route 250 has been over-capacity for many years, and the current ZMA was adopted in 2007 before the master plan; and shortly thereafter, during the master planning, a study of traffic data from 2005 was released from the Thomas Jefferson District Planning Commission, VDOT and the County. Mr. Means said the study documented that, in 2005, Route 250 was seriously over capacity. He said that is why the master plan requires widening Route 250 before further rezonings in the Village of Rivanna. He said 8051 and 8052A are small parcels and they do not want to create a precedent for other developers. He emphasized that, if the Board decides to disregard the master plan, the council would appreciate them justifying its actions clearly and on the record. Mr. Means said the rezonings of those parcels should be denied and, while staff says that "accommodation was made for inclusion of the parcels in the Village of Rivanna Master Plan," there is no mention of that in that master plan. He stated that he wonders if someone at the County promised the previous owner that additional parcels not yet owned would be rezoned by a future Board of Supervisors.

Mr. Richard Wagaman addressed the Board, stating that he lives in the Village of Rivanna and is part of the advisory council. Mr. Wagaman said he wants to address trust, expectations and common sense and the first element of trust is having good plans which people understand, and referenced the County's Comp Plan dated January 23, 2014, the Village of Rivanna Master Plan dated May 12, 2010 and the current ZMA. Mr. Wagaman said, throughout the plans, neighborhood services were used and the residents agreed and, tonight, they expect the Board to stand behind those plans. He stated that the plan states the housing density should not exceed six units per acre, and residents agree and expect the 3-6 units per acre to be honored. Mr. Wagaman said the key to Rivanna Village's success is traffic flow, to and from the urban core, and residents agree. He stated that their last Supervisor and Albemarle staff's expert said the level of service on that road was currently F during certain times of the day, and it is getting worse – not better – day by day. Mr. Wagaman said nothing has been done since 1989 and, while VDOT does not want Rivanna Village traffic to exit off of Route 250, the council does not agree. He stated that construction traffic using the only road from the County's easternmost emergency center is a risk, and putting Village of Rivanna families and friends at an unnecessary risk and they expect the County to help eliminate this risk.

Mr. Trevor Joscelyne addressed the Board, stating that he is President of the homeowners association at Glenmore, the Glenmore Community Association, and is speaking to the Board on their behalf. Mr. Joscelyne said he would address the subject of construction traffic, and stated that they generally do not have many problems with the Village of Rivanna plan but do have issues with the construction traffic. He stated that there are two entrances planned for the Village – one off of Glenmore Way and one off of Route 250, and what they need is to ensure the second entrance from Route 250 be available to use at the beginning of the project so construction traffic does not have to come down Glenmore Way which is the only access for the whole of the Glenmore community, as well as the only access for the East Rivanna Volunteer Fire Company, the equestrian center, the Glenmore Country Club, and residents of Ashwell Lane. Mr. Joscelyne said there are 4,000 to 4,500 vehicles per weekday hours using Glenmore Way, and recent traffic counts, with schools not in session with lower than average numbers showed 4,100 average vehicle trips per day, or 300 per hour. He emphasized that it is a heavily used road, and they also have 12% of residents using Glenmore Way for walking, biking and horseback riding. He stated that they have held three previous meetings where residents have expressed their concerns very clearly. Mr. Joscelyne said 900 residents have signed a petition asking for a second entrance for construction traffic, and said that everybody is on board with that except VDOT, which apparently feels this is not the right thing to do. He encouraged the Board to pass a resolution urging VDOT to open the second entrance on Route 250 so construction traffic can use it during the project.

Ms. Judy Summer addressed the Board, stating that she is a resident of Glenmore in the Scottsville District, and is confused about what is actually going to happen on the 94 acres. She said they saw a video from the applicant that specifically showed buildings, including multi-story structures, yet the block by block description says the principal use of Block A would be residential uses that will most likely include single-family detached units; Block B would most likely include single-family attached villa style units; Block C is envisioned primarily for residential uses, and will likely be rear-loaded and accessed by alleys; Block D will likely be contained; Block E is envisioned to be developed with townhouse units; Block F is envisioned to be developed with townhouse units; Block G and Block H are envisioned; Block I is primarily residential uses and will likely include; Block J will be a community park, and also a number of residential units that will most likely involve single-family attached units. She asked if this was the option of the developer that, once they get started, whatever was said does not matter because of the use of

terms “likely” and “envision.” She said she would be more comfortable if they knew exactly what the developer planned to do where.

There being no further public comment, the Chair asked if the applicant wanted to speak to any of the issues raised.

Ms. Long stated that the Comprehensive Plan does speak to 3-6 dwelling units per acre for this area, but speaks expressly to “gross density” as opposed to “net density,” which means that all land is taken into consideration even that which may be environmentally sensitive and may or may not be undevelopable. She said, by her map and based on the number of units proposed, the gross density has a range of 2.8 dwelling units per acre to 4.0 dwelling units per acre. By contrast, she said what is permitted now under the approved rezoning is a minimum of 348 dwelling units and a maximum of 521 – which equates to a range of 3.68-5.51 so they contend that the density is clearly consistent with the Comp Plan. Ms. Long stated that, regarding the two parcels currently zoned RA, which are proposed to be rezoned to Neighborhood Model District to match the rest of the property, the parcels were not owned by the original developers at the time because they were tied up in court in probate but they were clearly shown and outlined on the application plan approved in 2007. She said, in the code of development, they are noted as “under contract” to Glenmore Associates, and there is an explanation within that code which explains the intention to include them along with a caveat that, upon ownership, the developer will have to come back in and seek a rezoning of those parcels. Ms. Long referenced a page from the 2010 master plan, noting that the parcels were shown as part of the Village Center, which matches the outline of Rivanna Village so the master plan designates them as part of the center, which is Rivanna Village. She said not only were they contemplated to be included, the master plan designates them as being part of the plan. She added that the comment by the previous speaker as to what is “envisioned” for each block is accurate, but what is also included in the code of development is a table of uses with the code effectively acting as a zoning ordinance for any Neighborhood Model District zoning. Ms. Long said the code of development will control what uses are allowed in each of the different blocks, and it controls how many dwelling units and how much square footage is involved in each one. She stated that Blocks A and B, which are the closest to Glenmore Way, are planned to include single-family detached units and attached villas, respectively, but the code of development does permit a few other uses, and they could change those around or have townhouses there. Ms. Long emphasized that the code of development is flexible, but the Board has the ability to see the options, know what it is approving and be comfortable with that amount of flexibility.

Ms. Dittmar closed the public comment portion of the hearing.

Ms. Dittmar said she has been immersed in this project and had recently met with the citizens’ advisory committee for Rivanna Village, in a meeting that was attended by current and former Planning Commissioners. Ms. Dittmar said the frustration expressed by the advisory committee chair is not finger-pointing, and both the committee and Glenmore association have worked many hours on this project. She stated that, since the Planning Commission’s approval, there was a second entrance and some concern that the fire department might need it, so she was pleased that Chief Dan Eggleston waived their need to have that access. Ms. Dittmar explained that, several years ago, Planning Commissioner, Bill Edgerton, asked that this go from 3-6 to 4-6 dwelling units, and the reason was to seek higher density in the development area in an effort to protect the rural area.

Ms. Dittmar asked what the precedent was here to develop the additional 1.7 acres before the improvements were done on Route 250.

Ms. Echols stated that her recollection is that the original application showed that area as being part of the rezoning but they did not own the property so the County indicated that they take the parcels off of the plan because one cannot make a request to rezone property it does not own. She stated that the streets, the access and odd shape of some of the parcels implied that access could be accommodated through the Village of Rivanna and, with all of those contributing factors when the line was drawn for the master plan in 2010, that area got included but was not officially under review as part of the rezoning in 2007.

Ms. Palmer asked if that was the property in probate at the time, and Ms. Dittmar confirmed that it was.

Ms. Dittmar said what Board members are being asked to do tonight is to add language to protect the County from having this considered as precedential in terms of contradicting the master plan. She stated that the big issue which remains is the construction entrance and said that, in January, VDOT issued a formal letter stating that it would not permit the Route 250 entrance with some discussion of doing two deceleration lanes, installation of a light, etc. Ms. Dittmar said she worked with Joel DeNunzio on this, and the answer came back from VDOT repeatedly that they would not permit the road – only Glenmore Way, which is the only entrance in and out of the community. She stated that, after the Planning Commission meeting, the County invited the safety engineers and other representatives from VDOT to explain why and VDOT indicated that they did not want to assume liability for that construction entrance, however, if things changed, they would reevaluate it. Ms. Dittmar said there is an effort underway to get others to look at it, and the Board has also looked at a resolution to ask VDOT to be more open-minded about it. She asked for input from Planning staff on the concerns raised regarding terminology such as “envision” and “possibly.”

Ms. Yaniglos explained that this section of the code of development was a general description of what could occur in the blocks and, further in the code, it does go into detail which is what staff evaluates

during the site plan process regarding what uses are allowed per block. She referred Supervisors to page 7 and 8 of the code of development, as it clearly specifies which uses are allowed per block or SP uses and, if it is blank, those uses are not allowed in those blocks. Ms. Yaniglos stated that on, page 10, it specifies the densities on each block – a minimum and maximum residential and non-residential density – and there are also lot regulations on setbacks, minimum lot sizes, number of stories and maximum height of buildings later in the document. She said planners evaluate proposals based on what is in the code of development, specifically the tables with those parameters outlined.

Ms. Dittmar asked staff to review the specifics of proffer #10.

Ms. Yaniglos provided proffer #10 on screen, and explained that the intent is to install temporary traffic control signage above and beyond what is typically required, provide the asphalt-paved entrance, provide a wash-down area with the paved construction entrance, have a flagman present to aid large truck access to and from the site, clean the intersection of Glenmore Way at the construction entrance every evening if necessary, and provide the homeowners association with weekly updates of anticipated construction activity for the week. She stated that the applicant would also submit the construction management plan to Community Development, with the director, county engineer and VDOT all providing input. She said the proffer also includes a statement about the entrance onto Route 250 if VDOT reevaluates it and makes a decision that a construction entrance can occur at that location.

Ms. Palmer said VDOT must have some criteria for deciding that would be unsafe, and asked for comments as to what that was.

Mr. Joel DeNunzio of VDOT addressed the Board, stating that VDOT would like to have the safest access during construction for all residents and for all users of Route 250 and Glenmore Way. He said VDOT is looking at the intersection of Glenmore Way and Route 250, the construction entrance, and the future entrance down Route 250 east. He stated that VDOT looked at the corridor and considered the type of traffic coming in and out of the entrance, and felt strongly that it is safest if cars come in at the existing signalized intersection. Mr. DeNunzio noted that vehicles access about 750 feet off of Steamer Drive to come in the construction entrance. He said VDOT is willing to look at this on a dynamic basis, and could make alterations if the variables change; however, at this point and in looking at the two proposed entrances, the safest location for the beginning of construction is access through the existing signal.

Ms. Palmer asked if that might change as construction ensues and if it could be made into a full commercial access.

Mr. DeNunzio explained that, at first, a lot of earth-moving equipment is brought in, is mobilized to the site, and stays on the site so there are not a lot of those vehicles coming in and out. He said they would start building the roads, and some of the reasons for accessing there versus down to the east is that most of the materials are coming from the Charlottesville area. He said when those vehicles are coming out Route 250 going through the existing intersection and coming down a hill and accessing through there, VDOT feels it is much safer for the vehicles to access off of Steamer Drive. Mr. DeNunzio said, once the roads get developed, they will have the commercial entrance onto Rt. 250 and that will be open to all traffic at that time, including construction traffic. He stated that if safety issues develop after this starts, VDOT will reconsider, but they do not want to put themselves in a situation with proffers that puts anybody in a bad situation should there not be these issues. Mr. DeNunzio stated that his concern is if they have proffers that require moving a construction entrance from Glenmore Way to Rt. 250 – just with a commercial entrance opening, closing all construction traffic to Glenmore Way – that might put VDOT in a bad situation if the safety issues mentioned never occur. He said VDOT could actually be introducing issues that have not been a problem so far, by requiring it to move to Route 250.

Ms. Mallek said, if there were a commercial entrance further east and a truck was exiting from there and heading west toward Charlottesville, it would be an uphill pull.

Mr. DeNunzio stated that a few hundred feet down the road, it starts going up at a 4-5% grade, and that is one of the concerns with having traffic head back toward Charlottesville, adding that any time a new intersection is introduced onto a road, there will be an increase in crashes. He confirmed that the speed limit on Steamer Drive is 25 mph and that drive is about 700 feet up so, if someone is coming up the hill on Route 250 either way and coming in the entrance there, it would be difficult for a construction vehicle to actually get very much speed in that distance before turning into the construction entrance.

Ms. Dittmar said one of the parts of the construction management proffer is inclusion of a protected path for joggers and walkers, which currently exists as you enter Glenmore but, once leaving there, one would have to go out onto the road so this new path would help resolve that.

Ms. Long said the path has not been designed yet, but the proffers are written in a way so that issue is addressed as part of the review of the construction plan, noting that there is a path shown on the application plan located within the 70-foot buffer. She stated that the path has always been in the plans and would have been required anyway but, as part of the discussions on construction traffic, they designed the proffer to say there is an adequate shared-use path somewhere in that area and, if not, they will build it somewhere else, perhaps even wider than originally planned. Ms. Long said they tried not to lock that in because they did not want to make the decision without input from people.

Ms. Dittmar asked when the weekly updates with the Glenmore Community Association would begin. Ms. Long said the construction traffic management plan proffer requires weekly updates, so it

could start as soon as any construction activity begins. She stated that Mr. Boninti and his team have worked hard to maintain open lines of communication with the Glenmore residents, community advisory committee, and lots of individuals, and that would continue. She added that they would work hard to go above and beyond plan requirements to make sure everyone has sufficient information.

Ms. Palmer said one speaker had asked about the cul-de-sac and Steamer Drive, and if that had been worked out already. Ms. Long said it had been worked out, and pointed to its location on the plan as shown – a vehicular interconnection – which says “potential future cul-de-sac.” She stated that, if the Board agrees, they will convert it to a cul-de-sac. She said the applicant originally wanted to change the plan to show that, but the Planning Commission had wanted to leave it as a through-road due to fire concerns and give the Board an opportunity to consider that issue independently. Ms. Long added that the owners are very willing to make that change.

Mr. Sheffield said he looks at this from a transportation perspective, and does not ever see this warranting two traffic signals. He stated that he was not convinced that the current lane configuration would be able to handle the turning movement onto Route 250, and he had concerns about the proffers in the sense that they may not be able to handle the amount of traffic taking a left when a signal is installed.

Mr. Sheffield said this is not something to be considered here, but Glenmore Way is going to become a major intersection on Route 250 and it needs to be something that the County addresses for the future as part of larger transportation dynamics in the area.

Mr. Joel DeNunzio, Resident Highway Engineer, said there was a traffic study revised for this development, and VDOT reviewed it with the average queue on Glenmore Way in the development being 95 feet, or about five cars. He said the study did not show the need for dual left turns or any improvements to the intersection. He stated that the biggest problem is that there are no dual receiving lanes on Route 250 for those left turn lanes but, if there were, what they have coming out from Glenmore Way is one right turn lane, one left turn lane. He added that, since it is a three-way intersection, there is no reason they could not share the rightmost right turn lane and make it a left and right turn so one would have the dual lefts when needed, and then it is just a matter of putting the signal post out.

Ms. Mallek stated that it is a substantial improvement based upon the 2007 plan for the trails and the wetlands to keep those streams exposed rather than being in pipes, which will help with stormwater and a whole lot of other enjoyment issues.

Ms. Palmer said she was fine with the proposal, but was not sure if the Board needed to change the cul-de-sac issue.

Mr. Davis stated that there is a motion as prepared by staff which would include that as part of the motion along with the adoption of the resolution.

Mr. Greg Kamptner, Deputy County Attorney, addressed the Board, stating that staff has prepared three resolutions for the Board's consideration: the ZMA resolution, which will memorialize the Board's action if its decision is to approve the ZMA and also addresses the special exceptions originally approved with ZMA 2001-008. He said the third key issue this resolution covers is stating the Board's consideration of the precedent which might be set by rezoning the 1.76 acre parcels from RA to Neighborhood Model District (NMD), and states why this particular situation is unique, so the Board's action would not set a precedent. He said the second resolution goes back to the 1990 Glenmore ZMA, which was followed by another ZMA, and those earlier zoning map amendments had proffered 27 acres for a school site or public facilities. He said, when ZMA 2001-008 was considered, with the proffer for the park, the applicant requested and the Board approved a resolution which memorializes the fact that the due park proposed satisfied the “public facilities” component of the original ZMA. He said this ZMA does the same thing – it proffers the park space, it clarifies the acreage which will be devoted to the park, it includes some other specifics – and staff is recommending approval of this resolution, which also deems that the proffered park for this ZMA satisfies the earlier Glenmore proffer for the school site. Mr. Kamptner said the third resolution is a request to VDOT to continue considering the eastern entrance as circumstances may change as the site develops, so the entrance permit may be considered and approved as soon as determined to be appropriate. He stated that it also supports the Glenmore Community Association's efforts in pursuing approval for the entrance permit with VDOT. As requested by Ms. Dittmar, Mr. Kamptner read the resolution regarding the 1.7 acres not being precedential.

Ms. Dittmar **moved** to adopt the resolution approving ZMA-2013-0012 and the special exceptions related thereto with the addition that Steamer Drive end as a cul-de-sac. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

(The adopted resolution is set out below:)

RESOLUTION

WHEREAS, the application of Rivanna Village, LLC, to amend the zoning map for Tax Map and Parcel Numbers 07900-00-00-025A0, 08000-00-00-04600, 08000-00-00-046A0, 08000-00-00-046C0, 08000-00-00-046D0, 08000-00-00-046E0, 08000-00-00-05000, 08000-00-00-05100, 08000-00-00-

052A0, 08000-00-00-055A0, 093A1-00-00-00300 and 093A1-00-00-00400 (the "Property") is identified as ZMA 2013-00012, Rivanna Village ("ZMA 2013-00012") for a community known as "Rivanna Village"; and

WHEREAS, 93.0 acres of the Property are zoned Neighborhood Model District, subject to the code of development, application plan and proffers approved and accepted in conjunction with ZMA 2001-00008 on June 13, 2007, and ZMA 2013-00012 proposes to amend the code of development, application plan and the proffers applicable to the Property; and

WHEREAS, 1.76 acres of the Property, comprised of Tax Map and Parcel Numbers 08000-00-00-05100, 08000-00-00-052A0, are designated Town/Village Center in the Village of Rivanna Master Plan and are zoned Rural Areas, and ZMA 2013-00012 proposes to amend the zoning map and change the zoning of those parcels from Rural Areas to Neighborhood Model District, to be added as part of Rivanna Village, and to be subject to the amended code of development, application plan and proffers applicable to Rivanna Village; and

WHEREAS, ZMA 2013-00012 would reduce the maximum number of residential units allowed on the Property from 521 to 400 and the maximum square footage of non-residential structures from 120,000 square feet to 60,000 square feet, and would make other amendments to the code of development, the application plan, and the proffers that were approved in conjunction with ZMA 2001-00008; and

WHEREAS, the Board held a public hearing for ZMA 2013-00012 on July 9, 2014 after notice was provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285, and Albemarle County Code § 18-33; and

WHEREAS, the Board also considered at the public hearing for ZMA 2013-00012 the owner's request for special exceptions that would modify zoning regulations pertaining to yards, parking and loading, signs, recreation, outdoor lighting, and swim, golf and tennis clubs as set forth in Attachment D to the Executive Summary, which had previously been approved in conjunction with ZMA 2001-00008.

NOW, THEREFORE, BE IT RESOLVED that upon consideration of the material and relevant factors in Virginia Code § 15.2-2284, including the consideration of the Village of Rivanna Master Plan, the executive summary and reports prepared by the County's planning staff, and the comments and information received from the public, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby amends the zoning map and approves ZMA 2013-00012 with the code of development dated June 9, 2014, the application plan dated June 9, 2014, and the proffers dated June 13, 2014; and

BE IT FURTHER RESOLVED that in rezoning Tax Map and Parcel Numbers 08000-00-00-05100 and 08000-00-00-052A0 from Rural Areas to Neighborhood Model District, the Board is mindful that the Village of Rivanna Master Plan states that "approval of future development should be monitored in conjunction with improvements to US 250 and available sewer capacity so that approval of new units or uses does not exceed capacity of the sewage treatment plant or the road system" (page 4) and "in addition to sewer limitations, approval of any development by rezoning will be predicated on the completion of a number of transportation improvements" (page 32); however, although these improvements have not been made, rezoning these parcels as part of ZMA 2013-00012 would not establish a precedent because these parcels were anticipated for future inclusion within Rivanna Village when ZMA 2001-00008 was approved, as reflected in their inclusion on the application plan for that rezoning and being designated for "Potential Future Development," the parcels are adjacent to the other portions of Rivanna Village, and ZMA 2013-00012 reduces the maximum number of dwelling units and commercial intensity allowed and, therefore, the impacts from Rivanna Village are less than the potential full buildout under ZMA 2001-00008; and

BE IT FURTHER RESOLVED that the special exceptions for the modifications set forth in Attachment D to the Executive Summary for ZMA 2013-00012 are approved, based upon the Board's consideration of the relevant factors set forth in Albemarle County Code § 18-33.9 and the specific sections being modified, and the executive summary and reports prepared by the County's planning staff, including those prepared for these modifications, in conjunction with ZMA 2001-00008.

Ms. Dittmar **moved** to adopt the resolution finding that the land and improvements proffered in Proffer 6 of ZMA 2013-00012 provide the public facilities envisioned by Proffer 2 of ZMA 1999-016 and that Proffer 2 of ZMA 1999-016 is satisfied to at least an equivalent degree. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

(The adopted resolution is set out below:)

RESOLUTION

WHEREAS, Proffer 2 of ZMA 1999-016 (Glenmore), originally accepted as a proffer for the rezoning of Glenmore ZMA 1990-019, stated that the owner, Glenmore Associates, would donate approximately 27 acres of land to the County or its designee for a public school or other public use facilities as the County may select, together with an appropriate right of way; and

WHEREAS, Proffer 6 of ZMA 2001-00008 (Rivanna Village at Glenmore) stated that the owner, Glenmore Associates, would, at its expense and at the request of the County, engineer, construct, and dedicate in fee simple to the County a park comprising approximately 18 acres, which would be platted with the first plat for Rivanna Village at Glenmore, and all of the park improvements described in the code of development would be built or bonded prior to the issuance of the certificate of occupancy for the 174th residential unit within Rivanna Village; and

WHEREAS, the County desired the park proffered in Proffer 6 of ZMA 2001-00008 to serve the residents of Albemarle County; and

WHEREAS, the land referred to in Proffer 2 of ZMA 1999-016 was part of the land rezoned under ZMA 2001-00008 and, as a result of such rezoning, the land offered by Proffer 2 of ZMA 1999-016 was no longer available for public facilities uses; and

WHEREAS, in conjunction with its approval of ZMA 2001-00008, the Board adopted a resolution finding that the land and improvements proffered in Proffer 6 of ZMA 2001-00008 would provide the public facilities envisioned by Proffer 2 of ZMA 1999-016 and that such land and improvements were deemed to satisfy Proffer 2 of ZMA 1999-016 to at least an equivalent degree and that neither Glenmore Associates nor its successors nor assigns would have any further obligation with respect to Proffer 2 of ZMA 1999-016; and

WHEREAS, Proffer 6 of ZMA 2013-00012 (Rivanna Village) restates Proffer 6 of ZMA 2001-00008 but amends certain terms including that the park will comprise 18.4 acres and will be located in Block J, and that all of the park improvements described in the code of development will be built or bonded prior to the issuance of the certificate of occupancy for the 137th residential unit within Rivanna Village.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors finds that the land and improvements proffered in Proffer 6 of ZMA 2013-00012 provide the public facilities envisioned by Proffer 2 of ZMA 1999-016 and that such land and improvements are deemed to satisfy Proffer 2 of ZMA 1999-016 to at least an equivalent degree; and

BE IT FURTHER RESOLVED that neither Glenmore Associates, Rivanna Village LLC, nor their successors nor assigns, shall have any further obligation with respect to Proffer 2 of ZMA 1999-016.

Ms. Dittmar **moved** to adopt the resolution requesting that VDOT continue to evaluate whether an entrance permit at Route 250 and Butterfield Lane should be issued during the development of Rivanna Village to allow construction traffic to use that entrance. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.

NAYS: None.

(The adopted resolution is set out below:)

RESOLUTION

WHEREAS, the application plan approved in conjunction with ZMA 2013-00012 for Rivanna Village shows an eastern entrance designated as Butterfield Lane from Route 250 into Rivanna Village; and

WHEREAS, the Virginia Department of Transportation ("VDOT") previously determined that it would not issue an entrance permit at Butterfield Lane to serve construction traffic during the development of Rivanna Village (the "decision") and, as a result, construction traffic will use Glenmore Way, subject to a construction traffic management plan proffered by the owner of Rivanna Village, subject to approval by the County's Department of Community Development; and

WHEREAS, the residents of Glenmore are concerned about the construction traffic using Glenmore Way during the construction of Rivanna Village and these concerns are primarily focused on safety and congestion on Glenmore Way; and

WHEREAS, the Glenmore Community Association and Glenmore residents have stated that they will continue to request that VDOT reconsider its decision, and the Board supports these efforts.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby requests that VDOT continue to evaluate whether an entrance permit at Butterfield Lane should be issued during the development of Rivanna Village to allow construction traffic to use such an entrance and that it reconsider its decision based on changing conditions, traffic data, or other justifications that may arise during the development of Rivanna Village.

Ms. Dittmar thanked all involved parties.

Agenda Item No. 16. Appointment of three additional representatives to the Long Term Solid Waste Solutions Advisory Committee.

Note: All appointments were made following the Closed Meeting at the beginning of the Board meeting.

Agenda Item No. 17. From the Board: Committee Reports and Matters Not Listed on the Agenda.

There were none.

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

Mr. Sheffield said he shared his frustration with fellow Board members and Mr. Foley over the scheduling of early meetings. He stated that, in looking at past trends, the Board in 2013 had only five meetings before 5:00 p.m. and, in 2012, there were seven meetings before 5:00 p.m.; this Board has had 17 meetings before 5:00 p.m. Mr. Sheffield said he works a full-time job from 8:00 a.m. to 5:00 p.m., and has had to make up all time taken off so it is becoming difficult for him with that many meetings. He also stated that, if the Board has enough time in advance to schedule a meeting, he can make arrangements, but he needs to be able to plan for those a little better.

Ms. Palmer said the Comp Plan work sessions could be moved to another evening meeting.

Mr. Sheffield stated that leaving 15 minutes early to get to a Comp Plan meeting is not a problem.

Mr. Foley said it is the Comp Plan meetings which have created the difficulty and, in the future, the Board may decide to hold regular work sessions, but now, that slot is filled every single meeting.

Ms. McKeel said the issue is the total number of meetings, not just Comp Plan meetings.

Mr. Foley said he understood how difficult it was to manage meetings when Board members work full time jobs, and he has been frustrated with trying to manage this calendar with all of the projects. He added that a lot of things the Board has asked to talk about that they do not have time to do. He stated that he has been talking with staff about what they do not have to bring to the Board, and they are working together as partners to figure out how to deal with this. He stated that these are not things staff has created to bring to them, and everyone needs to figure out a solution.

Mr. Sheffield said he just needs to make sure that meetings are scheduled far enough in advance so Supervisors can plan for them.

Mr. Foley said upcoming items that must be discussed include the economic development office and the firearms training facility. He said he can report to the Board at its night meetings what the next month will look like.

Mr. Sheffield said the Board also had the joint City/County meeting in the middle of the day this month.

Ms. Palmer said she felt the meeting held the previous night with the Planning Commission was unnecessary, because it was her understanding that it was sent to the Fiscal Impact Advisory Committee and did not really get much done.

Mr. Sheffield said sometimes it is good just to sit down and discuss things.

Ms. Dittmar said the Board had put the second Wednesday of each month on its calendars but, if that is not going to work, that should be taken off.

Mr. Sheffield said he had thought Supervisors were going to meet at 4:00, but it turned out to be 3:00.

Mr. Foley suggested adding a third night meeting from 5:00 to 7:00.

Ms. Mallek said the Board used to have three meetings per month, in the evenings, and things had been quiet for a while but they are heating up again and she hoped Board members would consider the third Wednesday for another meeting.

Mr. Sheffield said former Supervisor Rooker had given him some advice after the election that said, "You will not have a night where you do not have something to do."

Ms. Palmer asked about the need for the firearms training facility meeting.

Mr. Foley said the Board will review the schematic, adding that Board members had indicated a desire to do. He said there is an issue on cost which the Board will have to say yes or no to, and there were also concerns about sound mitigation which are to be revealed in the final studies.

Ms. Dittmar said Board members will have finalized its community meetings at that point.

Mr. Foley said staff was rethinking whether or not the Board needs to take action on certain things, but are hearing from some Board members that there is a desire to review certain items, and do not on others. He said the Board could meet on Tuesday evenings from 5:00-7:00 before the Wednesday evening meeting.

The Board agreed to hold a meeting on Monday, August 11, from 6:00-8:00 p.m. instead of 3:00-5:00 p.m. on August 13 with a start time on August 11 of 5:00 p.m. for the Comp Plan discussion, and going forward with this schedule for the remainder of the year.

Ms. Mallek said she would rather work longer on that Monday if there is more to do, since she has quite a drive to get there.

Board members agreed to start at 6:00 p.m.

Mr. Foley said the Board should be able to finish in two hours, unless there are other items added to the agenda.

Ms. Dittmar said Board members were zeroing in on August 28 for a joint meeting with the School Board, but it would require meeting at 3:00 p.m. She said the Board would need to go back to the drawing board if it wanted to adhere to the 5:00 p.m. start time.

Ms. Mallek asked how long that meeting would need to be.

Mr. Foley said there was a desire to meet for three hours.

Mr. Davis reported that the County had reached agreement on the Arrowhead property, had signed documents, and it should be recorded first thing tomorrow.

Regarding the vote confusion earlier in the meeting, Mr. Davis reported that, under the Board's rules of procedure, if there is a motion to approve that fails, then that is a denial of a land use application; however, a motion to deny which fails is not an approval. He said, in order to bring finality to a land use matter, someone would need to make a motion to approve that would then fail on a 3-3 vote in order for it to be a denial.

Agenda Item No. 19. Adjourn.

At 10:24 p.m., with no further business to come before the Board, the meeting was adjourned.

Chairman

Approved by Board
Date: 05/06/2015
Initials: EWJ