

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on June 8, 2005, at 6:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. David P. Bowerman, Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, Chief of Community Development, Wayne Cilimberg, and Senior Deputy Clerk, Debi Moyers.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chairman, Mr. Rooker.

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

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Agenda Item No. 4. Other Matters Not Listed on the Agenda from the Public.

Mr. Tom Loach, of Crozet, addressed the Board, recognizing that the Crozet Master Plan had won an award on the Council on New Urbanism. He congratulated the planning staff and consultants who worked on the plan, but said that the implementation of the plan at this time still deserves an "F". He said that there is no commitment in dollars approved by the Board to complete the infrastructure set down in the timeline forwarded by the consultants, and development in Crozet continues unabated. Mr. Loach mentioned signs in Crozet for two more rezoning requests, and if approved will result in 1,750 new dwelling units, tripling the number of 550 homes in the Crozet growth area found in the 1990 census. He said that voters will find in the November elections that they are not better off than they were four years ago, and in Crozet there are still no sidewalks and no new library as proposed in 1993.

Mr. Loach continued to say that when Crozet residents came to the county and informed them of a potential lead and arsenic contamination problem in the soil, they were directed to higher-ups in the chain of command, with county staff doing nothing. He added that homes are being sold to new residents who were never told about the possible harm to their families. Since 1993, Mr. Loach said the county has given over \$50 million in tax breaks to the wealthiest landowners, and allocated \$250,000 to fix a road in a subdivision where they had no responsibility. He said that this is in contrast to just \$20,000 allocated for sidewalks in Crozet. Mr. Loach commented that the county cannot afford the development it currently has, and seems unwilling and unable to do anything about this. He cited Mr. Wyant's previous written comments about the Master Plan – "The plan is **unrealistic and unworkable**. I am convinced it will speed up development, increase traffic congestion, create urban sprawl in the area surrounding Crozet. It will surely be costly to the taxpayers." Mr. Loach pointed out that Mr. Wyant voted for the plan, however, once he got elected.

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Ms. Bonnie Stevens addressed the Board as a resident of Cismont to express concerns about Route 20 South, noting that in 2000 a young girl was killed there below the school, and another girl was "maimed for life." Ms. Stevens said that VDOT put the road from Thomas Jefferson Turnpike to Mill Creek Road on the six-year plan, and reminded the Board that there have been two other fatalities since that time as well as numerous fender-benders. She noted that there is a lot of additional traffic with the new apartment complex near Monticello High School, as well as traffic coming up from the southern part of the county. Ms. Stevens encouraged the Board to keep the road improvements on track so that the third lane can be added, and thanked the county engineer who ensured that chevrons and reflectors were placed on the road.

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Mr. Jeff Werner with Piedmont Environmental Council addressed the Board, noting that June is home ownership month and "the accusations are flying as to whose to blame for the lack of affordable housing." He emphasized that the community must engage in an honest and critical analysis of the affordable housing problem. Mr. Werner said that it has been suggested that county staff has been under instruction to delay project approvals, and in some circles it is argued that rural preservation is the culprit. He said that the PEC agrees there should be a streamlined review for projects in the growth area, but have seen no evidence that the review process is the culprit in housing affordability. Mr. Werner noted that there is an affordable housing problem in Albemarle, and said that there are new regulations in the Neighborhood Model regarding affordable housing, but it is not the model's fault as the need for affordable housing has been there for some time.

He added that some say more growth is needed to obtain affordable housing, but noted that in Loudoun County issued an average of 3,400 residential building permits each year between 1990 and 2000. Mr. Werner said that in 2000, Loudoun residents elected a new board, which some say ushered in a period of "zero growth." He emphasized that in 2000, that county already had a backlog of 50,000 approved residential lots, and during the "zero growth" period, they issued over 23,000 building permits. According to the census, in 1990 approximately 8,000 Loudoun County households were unaffordable and in 2000 that number exceeded 12,000. He contended that unbridled growth has not brought affordable housing to Loudoun County. Mr. Werner said that data suggests Albemarle County's growth area is being developed at lower densities than zoning allows – if you combine Mill Creek South, Glenmore, Redfields, Dunlora and Forest Lakes, the total is 2,751 acres or 12 percent of the entire growth area, with 2,606 lots.

He stated that the total net density is less than one unit per acre, and the zoning on this land would have allowed at least three to six dwelling units per acre, or 8,000 to 17,000 units. If the development community really wants to build more housing, why are projects being built to less than 30 percent of the minimum density allowed.

Mr. Werner suggested that the county survey county employees and find out how many live in Albemarle, and how many live elsewhere, and ask them where they would like to live.

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Agenda Item No. 5. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Bowerman, to approve Items 5.1 and 5.2 on the consent agenda. (Discussion on individual items are included with that agenda item. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.

NAYS: None.

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Item 5.1. Approval of Minutes: January 5, January 19(A), March 3(A), March 14(A), and March 16, 2005.

Ms. Thomas had read the minutes of January 5, 2005, pages 20(begin Item #20) - end, and found them to be in, with the exception of some typographical errors.

Mr. Rooker had read the minutes of January 19A, 2005, and found them to be in order.

Mr. Rooker had read the minutes of March 3A, 2005, and found them to be in order.

Ms. Thomas had read the minutes of March 14A, 2005, and found them to be in order, with the exception of some typographical errors.

Mr. Dorrier had the minutes of March 16A, 2005, and found them to be in order.

**By the above recorded vote, the Board approved the minutes as read.**

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Item 5.2. Adopt Resolution of Appropriations for Albemarle County Operating and Capital Budgets for FY 2005/2006 and Resolution of Official Intent for use of VPSA Bond Proceeds.

The executive summary states that the County's FY 2005/2006 Operating and Capital Budgets were adopted by the Board on April 20, 2005, for a total estimated amount of \$255,874,537. The Annual Resolution of Appropriations for the Fiscal Year ending on June 30, 2006 provides the authority from the Board for the County to spend those funds, effective July 1, 2005.

This Resolution is a comprehensive Resolution which appropriates the total County budget, including both operating and capital funds in a single resolution, and includes many of the initial Special Revenue Fund appropriations that in the past were not included in the operating appropriation resolution.

Since April, adjustments have been made to the adopted budget numbers as updated information became available. These adjustments have resulted in a revised net total appropriation amount in this resolution of \$256,152,119, an increase of \$277,582. The change is due to revised revenue estimates in the School Fund, revised estimates of federal funding for the Family Support Program, and changes to interfund transfer amounts.

**General Fund**

**\$176,599,527**

There are no changes to the General Fund Budget adopted in April.

**School Fund**

**\$126,285,987**

The School Fund increases by \$387,593 over the amount adopted in April. This is due to increases of \$371,952 in revenues from fund balance, carry-over, and transfers, \$15,179 in state revenue, and \$462 in local school revenue.

**School Self-Sustaining Funds**

**\$13,359,322**

The School Self-Sustaining Funds are reduced by \$99,985. This is due to a decrease in the schools transfer to the fuel contingency fund of \$100,000 and an increase of \$15 in the preschool special education fund.

**Special Revenue Funds**

**\$15,110,445**

The Special Revenue Funds are reduced by \$160,026. This is due to a decrease in federal funds for the Family Support program of \$110,026 and a decrease in the school transfer to the Comprehensive Services Act (CSA) Fund of \$50,000.

**General Government Capital Improvements Fund**

**\$13,166,000**

There are no changes to the General Government Capital Improvements Fund Budget adopted in April.

**School Division Capital Improvements Fund**

**\$9,383,000**

There are no changes to the School Division Capital Improvements Fund Budget adopted in April.

**Stormwater Capital Improvements Fund**

**\$450,000**

There are no changes to the Stormwater Capital Improvements Fund Budget adopted in April.

**Debt Service Fund**

**\$13,513,819**

There are no changes to the Debt Service Fund Budget adopted in April.

Staff recommends approval of the attached Annual Resolution of Appropriations for FY 2005/2006 that allocates a total of \$256,152,119 to the various General Government and School Division operating, capital improvement, and debt service accounts for expenditure in the FY 2005/2006. Also recommended for approval is the attached Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing.

(Ms. Thomas had a question regarding the Special Revenue Funds which were reduced by \$160,026 due to decrease in federal funds for the Family Support Program. She asked if this is a new decrease or one the Board already knew about through the budgeting process. Mr. Breeden stated it was partly what we knew about, as well as, some further reductions.)

**By the above recorded vote, the Board approved the Annual Resolution of Appropriations for FY 2005/2006 that allocates a total of \$256,152,119 to the various General Government and School Division operating, capital improvement, and debt service accounts for expenditure in the FY 2005/2006, and the Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing.**

**ANNUAL RESOLUTION OF APPROPRIATIONS  
OF THE COUNTY OF ALBEMARLE  
FOR THE FISCAL YEAR ENDING JUNE 30, 2006**

**A RESOLUTION making appropriations of sums of money for all necessary expenditures of the COUNTY OF ALBEMARLE, VIRGINIA, for the fiscal year ending June 30, 2006; to prescribe the provisions with respect to the items of appropriation and their payment; and to repeal all previous appropriation ordinances or resolutions that are inconsistent with this resolution to the extent of such inconsistency.**

**BE IT RESOLVED by the Board of County Supervisors of the COUNTY OF ALBEMARLE, VIRGINIA:**

**SECTION I - GENERAL GOVERNMENT**

**That the following sums of money be and the same hereby are appropriated from the GENERAL FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2006:**

<b>Paragraph One: TAX REFUNDS, ABATEMENTS, &amp; OTHER REFUNDS</b>	<b>\$137,000</b>
1 Refunds and Abatements	\$137,000
<b>Paragraph Two: GENERAL MANAGEMENT AND SUPPORT</b>	<b>\$9,315,938</b>
1 Board of Supervisors	\$442,486
2 County Attorney	\$643,000
3 County Executive	\$1,298,806
4 Department of Finance	\$3,606,800
5 Department of Human Resources	\$956,543
6 Department of Information Technology	\$1,985,089
7 Voter Registration/ Elections	<u>\$383,214</u>
	\$9,315,938
<b>Paragraph Three: JUDICIAL</b>	<b>\$3,108,863</b>
1 Circuit Court	\$85,273
2 Clerk of the Circuit Court	\$635,000
3 Commonwealth's Attorney	\$711,772
4 General District Court	\$16,100
5 Juvenile Court	\$55,045
6 Magistrate	\$5,150
7 Sheriff's Office	<u>\$1,600,523</u>
	\$3,108,863
<b>Paragraph Four: PUBLIC SAFETY</b>	<b>\$21,912,850</b>
1 Albemarle County Fire/Rescue Department	\$3,917,958
2 Department of Police	\$9,984,652

3	Emergency Communications Center	\$1,550,927
4	Fire/Rescue Credit	\$45,000
5	Fire Department Contract (City of Charlottesville)	\$600,565
6	Forest Fire Extinguishment	\$14,000
7	Thomas Jefferson EMS Council	\$20,667
8	Volunteer Fire Departments	\$801,501
9	Volunteer Rescue Squads	\$372,792
10	Inspections	\$1,073,895
11	Community Attention Home	\$49,155
12	Juvenile Court Assessment Center - Community Attention	
13	Juvenile Detention Center	\$855,099
14	Offender Aid and Restoration (OAR)	\$131,913
15	Regional Jail Authority	\$2,346,844
16	SPCA Contract	<u>\$147,882</u>
		\$21,912,850

**Paragraph Five: GENERAL SERVICES / PUBLIC WORKS** **\$3,468,005**

1	General Services / Public Works	<u>\$3,468,005</u>
		\$3,468,005

**Paragraph Six: HUMAN SERVICES** **\$14,342,991**

1	AIDS Support Group	\$4,200
2	Boys and Girls Club	\$12,000
3	BRMC - Latino Lay Health Promoter	\$5,150
4	Charlottesville - Albemarle Legal Aid Society (CALAS)	\$34,117
5	Charlottesville Free Clinic	\$8,017
6	Children, Youth and Family Services (CYFS)	\$90,132
7	Commission on Children & Families (CCF)	\$199,661
8	Computers4Kids	\$8,887
9	FOCUS - Teensight	\$27,568
10	Health Department	\$809,455
11	Jefferson Area Board on Aging (JABA)	\$211,228
12	JAUNT	\$555,663
13	Madison House	\$8,467
14	Music Resource Center	\$5,638
15	Piedmont Virginia Community College (PVCC)	\$22,060
16	Region Ten Community Services	\$453,213
17	Sexual Assault Resource Agency (SARA)	\$23,781
18	Shelter for Help in Emergency (SHE)	\$76,320
19	SOCA	\$3,000
20	Department of Social Services	\$8,580,733
21	Tax Relief for Elderly/Disabled	\$678,638
22	United Way -Child Care	\$99,515
23	Bright Stars Transfer	\$470,138
24	Family Support Transfer	\$165,795
25	Comprehensive Services Act Transfer	<u>\$1,789,615</u>
		\$14,342,991

**Paragraph Seven: PARKS, RECREATION AND CULTURE** **\$5,286,679**

1	Department of Parks & Recreation	\$2,107,107
2	Jefferson-Madison Regional Library	\$2,527,089
3	African American Festival	\$3,000
4	Ash-Lawn Highland	\$8,699
5	Lewis and Clark Festival	\$3,500
6	Literacy Volunteers	\$20,188
7	Municipal Band	\$16,000
8	Piedmont Council of the Arts	\$11,071
9	Virginia Discovery Museum	\$11,008
10	Virginia Festival of the Book	\$10,800
11	Virginia Film Festival	\$11,201
12	Visitors Bureau	\$387,138
13	WHTJ Public Television	\$4,336
14	WVPT Public Television	\$4,336
15	Albemarle County Fair	\$10,000
16	Darden Towe Park Transfer	<u>\$151,206</u>
		\$5,286,679

**Paragraph Eight: COMMUNITY DEVELOPMENT** **\$6,894,518**

1	Albemarle Housing Improvement Program (AHIP)	\$419,274
2	Charlottesville Transit Service	\$265,972
3	Department of Community Development	\$4,848,725
4	Housing Office	\$782,494
5	Monticello Area Community Action Agency (MACAA)	\$168,892
6	Piedmont Housing Alliance (PHA)	\$48,361
7	Planning District Commission (TJPDC)	\$94,357
8	Soil and Water Conservation	\$82,156
9	VPI Extension Service	<u>\$184,287</u>
		\$6,894,518

**Paragraph Nine: CAPITAL OUTLAYS** **\$7,804,581**

1	Transfer to General Government Capital Improvements Fund - Recurring	\$6,160,399
2	Transfer to General Government Capital Improvements Fund - One-Time	\$859,596
3	Transfer to Schools Capital Improvements Fund	\$334,586
4	Transfer to Stormwater Fund	<u>\$450,000</u>
		\$7,804,581

**Paragraph Ten: REVENUE SHARING AGREEMENT** **\$9,742,748**

1	Revenue Sharing Agreement	\$9,742,748
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**Paragraph Eleven: OTHER USES OF FUNDS** **\$94,585,354**

1	Transfer to General Government Debt Service	\$1,929,082
2	Transfer to School Division Debt Service	\$11,013,888
3	Transfer to School Fund - Recurring	\$80,861,241
4	Transfer to School Fund - One Time	\$119,951
5	Vehicle Replacement Fund	\$289,115
6	Board Contingency Reserve	\$132,077
7	Salary Contingency	<u>\$240,000</u>
		\$94,585,354

**Total GENERAL FUND appropriations for the fiscal year ending June 30, 2006:** **\$176,599,527**

To be provided as follows:

<b>Revenue from Local Sources</b>	<b>\$146,285,394</b>
<b>Revenue from Local Sources - Transfers</b>	<b>\$3,649,034</b>
<b>Revenue from the Commonwealth</b>	<b>\$22,296,310</b>
<b>Revenue from the Federal Government</b>	<b><u>\$4,368,789</u></b>
	<b>\$176,599,527</b>

**Total GENERAL FUND resources available for fiscal year ending June 30, 2006:** **\$176,599,527**

**SECTION II: REGULAR SCHOOL FUND**

That the following sums of money be and the same hereby are appropriated for SCHOOL purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2006:

**Paragraph One: REGULAR SCHOOL FUND**

1	Administration, Attendance & Health	\$8,099,423
2	Facilities Construction/ Modification	\$68,600
3	Facilities Operation/ Maintenance	\$12,096,060
4	Instruction	\$94,521,399
5	Pupil Transportation Services	\$8,167,644
6	Other Uses of Funds	<u>\$3,332,861</u>
		\$126,285,987

**Total REGULAR SCHOOL FUND appropriations for fiscal year ending June 30, 2006:** **\$126,285,987**

To be provided as follows:

<b>Revenue from Local Sources (General Fund Transfer - Ongoing)</b>	<b>\$80,861,241</b>
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Revenue from Local Sources (General Fund Transfer - One Time)	\$119,951
Revenue from Other Local Sources	\$647,703
Revenue from School Fund Balance, Carry-Over, Transfers	\$2,722,206
Revenue from the Commonwealth	\$39,541,683
Revenue from the Federal Government	<u>\$2,393,203</u>
	\$126,285,987

**Total REGULAR SCHOOL FUND resources available for fiscal year ending June 30, 2006: \$126,285,987**

**SECTION III: OTHER SCHOOL FUNDS**

That the following sums of money be and the same hereby are appropriated for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2006:

**Paragraph One: FOOD SERVICES**

1 Maintenance/ Operation of School Cafeterias	\$3,628,400
2 Summer Feeding	<u>\$300,000</u>
	\$3,928,400

**Total FOOD SERVICES appropriations for fiscal year ending June 30, 2006: \$3,928,400**

**To be provided as follows:**

Revenue from Local Sources	\$2,971,400
Revenue from the Commonwealth	\$53,000
Revenue from the Federal Government	<u>\$904,000</u>
	\$3,928,400

**Total FOOD SERVICES resources available for fiscal year ending June 30, 2006: \$3,928,400**

**Paragraph Two: PRE-SCHOOL SPECIAL EDUCATION FUND**

1 Special Ed Pre-School Program	\$68,940
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**Total PRE-SCHOOL SPECIAL EDUCATION FUND appropriations for fiscal year ending June 30, 2006: \$68,940**

**To be provided as follows:**

Revenue from the Federal Government	\$68,940
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**Total PRE-SCHOOL SPECIAL EDUCATION FUND resources available for fiscal year ending June 30, 2006: \$68,940**

**Paragraph Three: McINTIRE TRUST FUND**

1 Payment to County Schools	\$10,000
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**Total McINTIRE TRUST FUND appropriations for fiscal year ending June 30, 2006: \$10,000**

**To be provided as follows:**

Revenue from Investments Per Trust	\$10,000
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**Total McINTIRE TRUST FUND resources available for fiscal year ending June 30, 2006: \$10,000**

**Paragraph Four: PREP PROGRAM**

1 C. B. I. P. Severe	\$869,825
2 E. D. Program	<u>\$752,058</u>

\$1,621,883

**Total PREP PROGRAM appropriations for fiscal year ending  
June 30, 2006: \$1,621,883**

**To be provided as follows:**

**Revenue from Tuition and Fees \$1,621,883**

**Total PREP PROGRAM resources available for fiscal year ending  
June 30, 2006: \$1,621,883**

**Paragraph Five: FEDERAL PROGRAMS**

1	Adult Education	\$114,050
2	Carl Perkins	\$163,003
3	Chapter I	\$1,160,750
4	Drug Free Schools	\$51,756
5	Migrant Education	\$86,000
6	Title II	\$401,282
7	English Literacy/Civics	\$47,458
8	Economically Dislocated Workers	\$20,000
9	Title III	\$79,685
10	Title V	\$47,254
11	Bright Stars	\$36,362
12	Reading First	\$100,000
13	Refugee Grant	\$7,000
14	Families in Crisis	<u>\$12,000</u>
		\$2,326,600

**Total FEDERAL PROGRAMS appropriations for fiscal year ending  
June 30, 2006: \$2,326,600**

**To be provided as follows:**

<b>Revenue from Local Sources</b>	<b>\$21,550</b>
<b>Revenue from Local Sources (Transfer from School Fund)</b>	<b>\$33,500</b>
<b>Revenue from the Federal Government</b>	<b><u>\$2,271,550</u></b>
	<b>\$2,326,600</b>

**Total FEDERAL PROGRAMS resources available for fiscal year ending  
June 30, 2006: \$2,326,600**

**Paragraph Six: COMMUNITY EDUCATION FUND**

1	Community Education	\$1,422,389
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**Total COMMUNITY EDUCATION FUND appropriations for fiscal year  
ending June 30, 2006: \$1,422,389**

**To be provided as follows:**

**Revenue from Local Sources - Tuition \$1,422,389**

**Total COMMUNITY EDUCATION FUND resources available for fiscal  
ending June 30, 2006: \$1,422,389**

**Paragraph Seven: SUMMER SCHOOL**

1	Summer School	\$557,683
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**Total SUMMER SCHOOL appropriations for fiscal year ending  
June 30, 2006: \$557,683**

**To be provided as follows:**

<b>Revenue from Local Sources (Transfer from School Fund)</b>	<b>\$234,243</b>
<b>Revenue from Local Sources - Tuition</b>	<b>\$165,440</b>
<b>Miscellaneous Revenues</b>	<b>\$8,000</b>

Revenue from the Commonwealth	<u>\$150,000</u>	
	\$557,683	
<b>Total SUMMER SCHOOL resources available for fiscal year ending June 30, 2006:</b>		<b>\$557,683</b>
<b>Paragraph Eight: SCHOOL BUS REPLACEMENT</b>		
1 School Bus Replacement	\$1,100,000	
<b>Total SCHOOL BUS REPLACEMENT appropriations for fiscal year ending June 30, 2006:</b>		<b>\$1,100,000</b>
<b>To be provided as follows:</b>		
Revenue from Local Sources (Transfer from School Fund)	\$1,100,000	
<b>Total SCHOOL BUS REPLACEMENT resources available for fiscal year ending June 30, 2006:</b>		<b>\$1,100,000</b>
<b>Paragraph Nine: AIMR SUMMER RENTAL FUND</b>		
1 AIMR Summer Rental	\$446,000	
<b>Total AIMR SUMMER RENTAL FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$446,000</b>
<b>To be provided as follows:</b>		
Revenue from Local Sources (rental)	\$446,000	
<b>Total AIMR SUMMER RENTAL FUND resources available for fiscal ending June 30, 2006:</b>		<b>\$446,000</b>
<b>Paragraph Ten: INTERNAL SERVICE - VEHICLE MAINTENANCE FUND</b>		
1 Vehicle Maintenance	\$542,500	
<b>Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$542,500</b>
<b>To be provided as follows:</b>		
Revenue from Local Sources (charges)	\$542,500	
<b>Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$542,500</b>
<b>Paragraph Eleven: GENERAL ADULT EDUCATION FUND</b>		
1 General Adult Education	\$12,500	
<b>Total GENERAL ADULT EDUCATION FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$12,500</b>
<b>To be provided as follows:</b>		
Revenue from Local Sources	\$4,000	
Revenue from the Commonwealth	<u>\$8,500</u>	
	\$12,500	
<b>Total GENERAL ADULT EDUCATION FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$12,500</b>
<b>Paragraph Twelve: DRIVERS SAFETY FUND</b>		
1 Drivers Safety Fund	\$246,870	

**Total DRIVERS SAFETY FUND appropriations for fiscal year ending  
June 30, 2006: \$246,870**

**To be provided as follows:**

Revenue from Tuition	\$195,979
Revenue from the Commonwealth	<u>\$50,891</u>
	\$246,870

**Total DRIVERS SAFETY FUND resources available for fiscal year ending  
June 30, 2006: \$246,870**

**Paragraph Thirteen: OPEN DOORS FUND**

1 Open Doors Fund	\$99,700
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**Total OPEN DOORS FUND appropriations for fiscal year ending  
June 30, 2006: \$99,700**

**To be provided as follows:**

Revenue from Tuition	\$98,500
Revenue from Local Sources (Advertisements)	<u>\$1,200</u>
	\$99,700

**Total OPEN DOORS FUND resources available for fiscal year ending  
June 30, 2006: \$99,700**

**Paragraph Fourteen: STATE PROGRAMS**

1 Special Education SLIVER Grant	\$21,142
2 Special Education Jail Program	\$114,945
3 Algebra Readiness	\$46,838
4 Individualized Student Alternative Education	\$23,576
5 Teacher Mentor Program	<u>\$8,354</u>
	\$214,855

**Total STATE PROGRAMS appropriations for fiscal year ending  
June 30, 2006: \$214,855**

**To be provided as follows:**

Revenue from the Commonwealth	\$214,855
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**Total STATE PROGRAMS resources available for fiscal year ending  
June 30, 2006: \$214,855**

**Paragraph Fifteen: JEFFERSON REGIONAL DESTINATION IMAGINATION**

1 Jefferson Regional Destination Imagination	\$11,002
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**Total JEFFERSON REGIONAL DESTINATION IMAGINATION  
appropriations for fiscal year ending June 30, 2006: \$11,002**

**To be provided as follows:**

Revenue from Registration Fees	\$3,020
Revenue from Local Sources	<u>\$7,982</u>
	\$11,002

**Total JEFFERSON REGIONAL DESTINATION IMAGINATION resources  
available for fiscal year ending June 30, 2006: \$11,002**

**Paragraph Sixteen: COMPUTER EQUIPMENT REPLACEMENT FUND**

1 Computer Equipment Replacement Fund	\$550,000
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**Total COMPUTER EQUIPMENT REPLACEMENT FUND appropriations for  
fiscal year ending June 30, 2006: \$550,000**

**To be provided as follows:**

Revenue from Local Sources (Transfer from School Fund)	\$550,000
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<b>Total COMPUTER EQUIPMENT REPLACEMENT FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$550,000</b>
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**Paragraph Seventeen: BUILDING SERVICES CONTINGENCY FUND**

1 Building Services Contingency Fund	\$100,000
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<b>Total BUILDING SERVICES CONTINGENCY FUND appropriations for fiscal year ending June 30, 2006:</b>	<b>\$100,000</b>
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**To be provided as follows:**

Revenue from Local Sources (Transfer from School Fund)	\$100,000
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<b>Total BUILDING SERVICES CONTINGENCY FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$100,000</b>
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**Paragraph Eighteen: FUEL CONTINGENCY FUND**

1 Fuel Contingency Fund	\$100,000
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<b>Total FUEL CONTINGENCY FUND appropriations for fiscal year ending June 30, 2006:</b>	<b>\$100,000</b>
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**To be provided as follows:**

Revenue from Local Sources (Transfer from School Fund)	\$100,000
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<b>Total FUEL CONTINGENCY FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$100,000</b>
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<b>GRAND TOTAL - OTHER SCHOOL FUNDS</b>	<b>\$13,359,322</b>
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**SECTION IV: OTHER SPECIAL REVENUE FUNDS**

That the following sums of money be and the same hereby are appropriated for OTHER PROGRAM purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2006:

**Paragraph One: COMPREHENSIVE SERVICES ACT FUND**

1 Comprehensive Services Act Program Expenditures	\$6,163,127
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<b>Total COMPREHENSIVE SERVICES ACT appropriations for fiscal year ending June 30, 2006:</b>	<b>\$6,163,127</b>
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**To be provided as follows:**

Revenue from Local Sources (Transfer from General Fund)	\$1,789,615
Revenue from Local Sources (Transfer from School Fund)	\$890,000
Revenue from the Commonwealth	\$3,483,512
	<u>\$6,163,127</u>

<b>Total COMPREHENSIVE SERVICES ACT resources available for the fiscal year ending June 30, 2006:</b>	<b>\$6,163,127</b>
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**Paragraph Two: BRIGHT STARS 4 YEAR OLD PROGRAM FUND**

1 Bright Stars Program	\$702,699
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<b>Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND appropriations for</b>	
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<b>the fiscal year ending June 30, 2006:</b>	<b>\$702,699</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from General Fund)	\$470,138
Revenue from Local Sources (Transfer from School Fund)	\$23,000
MJ Child Health Grant	\$5,000
Revenue from the Commonwealth	<u>\$204,561</u>
	<b>\$702,699</b>
<b>Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND resources available for the fiscal year ending June 30, 2006:</b>	<b>\$702,699</b>

**Paragraph Three: FAMILY SUPPORT FUND**

1 Family Support Program	\$740,431
<b>Total FAMILY SUPPORT FUND appropriations for the fiscal year ending June 30, 2006:</b>	<b>\$740,431</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (General Fund)	\$165,795
Revenue from Local Sources (School Fund)	\$125,000
Revenue from the Federal Government	<u>\$449,636</u>
	<b>\$740,431</b>
<b>Total FAMILY SUPPORT FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$740,431</b>

**Paragraph Four: TOWE MEMORIAL PARK FUND**

1 Darden Towe Memorial Park	\$260,345
<b>Total TOWE MEMORIAL PARK FUND appropriations for the fiscal year ending June 30, 2006:</b>	<b>\$260,345</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (General Fund)	\$151,206
Other Local Sources	<u>\$109,139</u>
	<b>\$260,345</b>
<b>Total TOWE MEMORIAL PARK FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$260,345</b>

**Paragraph Five: E-911 SERVICE CHARGE FUND**

1 E-911 Operations and Debt Service (Transfer to General Fund)	\$1,147,000
<b>TOTAL E-911 SERVICE CHARGE FUND appropriations for fiscal year ending June 30, 2006:</b>	<b>\$1,147,000</b>
<b>To be provided as follows:</b>	
Revenue From Local Sources	\$1,147,000
<b>Total E-911 SERVICE CHARGE FUND resources available for fiscal year ending June 30, 2006:</b>	<b>\$1,147,000</b>

**Paragraph Six: VISITOR CENTER FUND**

1 Debt Service	\$67,734
<b>TOTAL VISITOR CENTER FUND appropriations for fiscal year ending June 30, 2006:</b>	<b>\$67,734</b>

**To be provided as follows:**

Revenue from Local Sources	\$67,734	
<b>Total VISITOR CENTER FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$67,734</b>

**Paragraph Seven: COURTHOUSE MAINTENANCE FUND**

1 Transfer to General Government Capital Improvements Fund	\$30,000	
<b>TOTAL COURTHOUSE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$30,000</b>

**To be provided as follows:**

Revenue from Local Sources	\$30,000	
<b>Total COURTHOUSE MAINTENANCE FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$30,000</b>

**Paragraph Eight: TOURISM FUND**

1 Tourism Enhancement (Transfer to General Fund)	\$443,492	
2 Tourism Projects (Transfer to General Government Capital Improvements Fund)	<u>\$445,000</u>	
	\$888,492	
<b>TOTAL TOURISM FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$888,492</b>

**To be provided as follows:**

Revenue from Local Sources	\$888,492	
<b>Total TOURISM FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$888,492</b>

**Paragraph Nine: UNITED WAY DAY CARE FUND**

1 United Way Day Care Fund	\$603,567	
<b>TOTAL UNITED WAY DAY CARE FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$603,567</b>

**To be provided as follows:**

Revenue from Local Sources (Transfer from General Fund)	\$99,515	
City of Charlottesville	\$120,766	
United Way Matching Funds	\$78,000	
Admin Fee - United Way	\$27,021	
Revenue from the Federal Government (HHS Pass Thru Grant)	<u>\$278,265</u>	
	\$603,567	
<b>Total UNITED WAY DAY CARE FUND resources available for fiscal year ending June 30, 2006:</b>		<b>\$603,567</b>

**Paragraph Ten: CRIMINAL JUSTICE PROGRAMS FUND**

1 Criminal Justice Grant Programs	\$608,650	
<b>TOTAL CRIMINAL JUSTICE PROGRAMS FUND appropriations for fiscal year ending June 30, 2006:</b>		<b>\$608,650</b>

**To be provided as follows:**

Revenue from the Commonwealth (Grant)	\$608,650	
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**Total CRIMINAL JUSTICE PROGRAMS FUND resources available for  
fiscal year ending June 30, 2006: \$608,650**

**Paragraph Eleven: VICTIM-WITNESS GRANT FUND**

1 Victim-Witness Program \$83,051

**TOTAL VICTIM-WITNESS GRANT FUND appropriations for fiscal year  
ending June 30, 2006: \$83,051**

**To be provided as follows:**

Revenue from the Commonwealth (Grant) \$83,051

**Total VICTIM-WITNESS GRANT FUND resources available for fiscal year  
ending June 30, 2006: \$83,051**

**Paragraph Twelve: METRO PLANNING GRANT FUND**

1 Metropolitan Planning Organization Funding \$9,500

**TOTAL METRO PLANNING GRANT FUND appropriations for fiscal year  
ending June 30, 2006: \$9,500**

**To be provided as follows:**

Revenue from the Federal Government (Grant) \$7,600  
Revenue from the Commonwealth (Grant) \$950  
Local Funds - Transfer from the General Fund \$950  
\$9,500

**Total METRO PLANNING GRANT FUND resources available for fiscal  
year ending June 30, 2006: \$9,500**

**Paragraph Thirteen: HOUSING ASSISTANCE FUND**

1 Family Self-Sufficiency Program (Transfer to  
General Fund) \$312,837  
2 Section 8 Housing Assistance Payments \$2,736,062  
\$3,048,899

**TOTAL HOUSING ASSISTANCE FUND appropriations for fiscal year  
ending June 30, 2006: \$3,048,899**

**To be provided as follows:**

Revenue from the Federal Government \$3,048,899

**Total HOUSING ASSISTANCE FUND resources available for fiscal year  
ending June 30, 2006: \$3,048,899**

**Paragraph Fourteen: VEHICLE REPLACEMENT FUND**

1 Vehicle Replacement \$756,950

**TOTAL VEHICLE REPLACEMENT FUND appropriations for fiscal year  
ending June 30, 2006: \$756,950**

**To be provided as follows:**

Local Funds - Transfer from the General Fund \$756,950

**Total VEHICLE REPLACEMENT FUND resources available for fiscal year  
ending June 30, 2006: \$756,950**

**GRAND TOTAL - SPECIAL REVENUE FUNDS \$15,110,445**

**SECTION V - GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND**

**That the following sums of money be and the same hereby are appropriated from the GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2006:**

**Paragraph One: COURTS** **\$535,000**

1	Levy Building Renovation	\$25,000
2	Court Square Renovations	\$20,000
3	Court Square Sallyport	\$350,000
4	Court Square Maintenance/Replacement Projects	\$125,000
5	J&D Court Maintenance/Replacement Projects	<u>\$15,000</u>
		\$535,000

**Paragraph Two: PUBLIC SAFETY** **\$4,049,000**

1	Station 11 - Monticello Fire Station Fiber Connection	\$161,000
2	Station 12 - Northside Fire Station	\$880,000
3	Pantops Fire Station	\$842,000
4	VFD Fire & EMS Apparatus Replacement	\$1,893,000
5	Station 8 - Seminole Trail and CARS Station	\$20,000
6	Police Patrol Video Cameras	\$23,000
7	Police Mobile Data Computers	\$180,000
8	SPCA - New County Animal Shelter	<u>\$50,000</u>
		\$4,049,000

**Paragraph Three: PUBLIC WORKS** **\$2,470,000**

1	County Facilities - Maintenance/Replacement	\$650,000
2	Ivy Landfill Remediation	\$640,000
3	COB McIntire Renovations	<u>\$1,180,000</u>
		\$2,470,000

**Paragraph Four: COMMUNITY/NEIGHBORHOOD DEVELOPMENT** **\$3,086,000**

1	Neighborhood Implementation Plan Program	\$217,000
2	Revenue Sharing Road Program	\$1,000,000
3	Sidewalk Construction Program	\$641,000
4	Transportation Improvement Program - Local	\$1,200,000
5	Roadway Landscaping Program	<u>\$28,000</u>
		\$3,086,000

**Paragraph Five: HUMAN DEVELOPMENT** **\$40,000**

1	PVCC - Site Work for Science Building	\$40,000
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**Paragraph Six: PARKS, RECREATION & CULTURE** **\$367,000**

1	Scottsville Community Center Improvements	\$57,000
2	Paramount Theater	\$33,000
3	Greenway Program	\$25,000
4	River and Lake Access Improvements	\$36,000
5	Patricia Byrom Forest Preserve Park	\$83,000
6	Park Enhancements	\$57,000
7	Parks - Maintenance/Replacement	<u>\$76,000</u>
		\$367,000

**Paragraph Seven: LIBRARIES** **\$424,000**

1	New Crozet Library	\$424,000
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**Paragraph Eight: TECHNOLOGY AND GIS** **\$1,195,000**

1	County Technology Upgrade - GIS System	\$220,000
2	County IT - Business Key Systems Upgrade	\$450,000
3	County Computer Upgrade	\$425,000
4	CityView Internet Access	<u>\$100,000</u>
		\$1,195,000

**Paragraph Nine: ACQUISITION OF CONSERVATION EASEMENTS** **\$1,000,000**

1	Acquisition of Conservation Easements (ACE) Program	\$1,000,000
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**Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2006: \$13,166,000**

**To be provided as follows:**

Revenue from Local Sources (Tourism Fund Transfer)	\$445,000
Revenues from Local Sources (General Fund Transfer)	\$7,019,995
CIP Fund Balance/Reserve	\$878,005
Courthouse Maintenance Funds	\$30,000
Loan Proceeds	\$4,643,000
Interest Income	<u>\$150,000</u>
	<b>\$13,166,000</b>

**Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2006: \$13,166,000**

**SECTION VI: SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND**

That the following sums of money be and the same hereby are appropriated from the SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2006:

**Paragraph One: EDUCATION (SCHOOL DIVISION) \$9,383,000**

2	Henley Addition/Renovation	\$1,000,000
3	Murray High School Renovations	\$149,000
4	ADA Structural Changes	\$50,000
5	Monticello HS Auditorium	\$800,000
6	Monticello HS Auxiliary Gym	\$1,999,000
7	Administrative Technology	\$70,000
8	Instructional Technology	\$450,000
9	Maintenance/Replacement Projects	\$3,800,000
10	State Technology Grant	\$700,000
11	Vehicle Maintenance Facility - Emergency Generator	\$165,000
12	Jouett-Greer Site Reconfiguration	<u>\$200,000</u>
		<b>\$9,383,000</b>

**Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2006: \$9,383,000**

**To be provided as follows:**

Revenue from Local Sources (General Fund Transfer)	\$334,586
Proffers	\$265,414
Interest Earned	\$100,000
State Construction Funds	\$197,000
State Technology Grant	\$700,000
VPSA Bonds	<u>\$7,786,000</u>
	<b>\$9,383,000</b>

**Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2006: \$9,383,000**

**SECTION VII: STORMWATER CAPITAL IMPROVEMENTS FUND**

That the following sums of money be and the same hereby are appropriated from the STORMWATER CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2006:

**Paragraph One: STORMWATER PROJECTS**

1	Stormwater Control Program	\$450,000
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**Total STORMWATER CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2006: \$450,000**

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund) \$450,000

**Total STORMWATER CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2006: \$450,000**

**SECTION VIII: DEBT SERVICE**

That the following sums of money be and the same hereby are appropriated for the function of DEBT SERVICE to be apportioned as follows from the GENERAL GOVERNMENT DEBT SERVICE FUND and the SCHOOL DIVISION DEBT SERVICE FUND for the fiscal year ending June 30, 2006:

**Paragraph One: SCHOOL DIVISION DEBT SERVICE FUND**

1 Debt Service Payments - School Division \$11,013,887  
 2 Debt Service Payments - PREP \$246,358  
 \$11,260,245

**Total SCHOOL DIVISION DEBT SERVICE appropriations for fiscal year ending June 30, 2006: \$11,260,245**

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund) \$11,013,887  
 Revenue from Local Sources (PREP Fees) \$246,358  
 \$11,260,245

**Total SCHOOL DIVISION DEBT SERVICE resources available for fiscal year ending June 30, 2006: \$11,260,245**

**Paragraph Two: GENERAL GOVERNMENT DEBT SERVICE FUND**

1 Emergency Services Radio System Lease/Debt Service Payment \$826,556  
 2 Lease/Purchase Software \$41,314  
 3 Debt Service Payments - General Government \$1,375,704  
 4 Bond Issuance Cost \$10,000  
 \$2,253,574

**Total GENERAL GOVERNMENT DEBT SERVICE appropriations for fiscal year ending June 30, 2006: \$2,253,574**

To be provided as follows:

Revenue from Local Sources \$283,178  
 Revenue from Local Sources (Transfer from General Fund) \$1,970,396  
 \$2,253,574

**Total GENERAL GOVERNMENT DEBT SERVICE resources available for fiscal year ending June 30, 2006: \$2,253,574**

**TOTAL APPROPRIATIONS MENTIONED IN SECTIONS I - VIII OF THIS RESOLUTION FOR THE FISCAL YEAR ENDING June 30, 2006**

**RECAPITULATION:**

**Appropriations: \$367,868,100**

Section I General Fund \$176,599,527  
 Section II School Fund \$126,285,987

Section III	Other School Funds	\$13,359,322
Section IV	Other Special Revenue Funds	\$15,110,445
Section V	General Government Capital Improvements	\$13,166,000
Section VI	Fund	
Section VII	School Division Capital Improvements Fund	\$9,383,000
Section VIII	Stormwater Capital Improvements Fund	\$450,000
	Debt Service	<u>\$13,513,819</u>
		\$367,868,100

**Less Inter-Fund Transfers** **(\$111,715,981)**

General Fund to School Fund	(\$81,384,575)
General Fund to Special Revenue Funds	(\$3,434,169)
General Fund to Capital Improvements Funds	(\$7,804,581)
General Fund to Debt Service Funds	(\$12,984,284)
Special Revenue Funds to General Fund	(\$1,903,329)
Special Revenue Funds to Capital Improvements Funds	(\$475,000)
School Fund to Self-Sustaining Funds	(\$2,117,743)
School Fund to Special Revenue Funds	(\$1,038,000)
School Fund to General Fund	(\$150,300)
Self-Sustaining Funds to School Fund	<u>(\$424,000)</u>
	(\$111,715,981)

**GRAND TOTAL APPROPRIATIONS** **\$256,152,119**

**BE IT FURTHER RESOLVED** that the Director of Finance is hereby authorized to transfer monies from one fund to another, from time to time as monies become available, sums equal to, but not in excess of, the appropriations made to these funds for the period covered by this appropriation resolution.

**SECTION IX**

All of the monies appropriated as shown by the contained items in Sections I through VIII are appropriated upon the provisos, terms, conditions, and provisions herein before set forth in connection with said terms and those set forth in this section. The Director of Finance (Richard Wiggins) and Clerk to the Board of Supervisors (Ella W. Carey) are hereby designated as authorized signatories for all bank accounts.

**Paragraph One**

Subject to the qualifications in this resolution contained, all appropriations are declared to be maximum, conditional and proportionate appropriations – the purpose being to make the appropriations payable in full in the amount named herein if necessary and then only in the event the aggregate revenues collected and available during the fiscal year for which the appropriations are made are sufficient to pay all of the appropriations in full.

Otherwise, the said appropriations shall be deemed to be payable in such proportion as the total sum of all realized revenue of the respective funds is to the total amount of revenue estimated to be available in the said fiscal year by the Board of Supervisors.

**Paragraph Two**

All revenue received by any agency under the control of the Board of Supervisors included or not included in its estimate of revenue for the financing of the fund budget as submitted to the Board of Supervisors may not be expended by the said agency under the control of the Board of Supervisors without the consent of the Board of Supervisors being first obtained, nor may any of these agencies or boards make expenditures which will exceed a specific item of an appropriation.

**Paragraph Three**

No obligations for goods, materials, supplies, equipment or contractual services for any purpose may be incurred by any department, bureau, agency, or individual under the direct control of the Board of Supervisors except by requisition to the purchasing agent; provided, however, no requisition for items exempted by the Albemarle County Purchasing Manual shall be required; and provided further that no requisition for contractual services involving the issuance of a contract on a competitive bid basis shall be required, but such contract shall be approved by the head of the contracting department, bureau, agency, or individual, the County Attorney and the Purchasing Agent or Director of Finance. The Purchasing Agent shall be responsible for securing such competitive bids on the basis of specifications furnished by the contracting department, bureau, agency or individual

In the event of the failure for any reason of approval herein required for such contracts, said contract shall be awarded through appropriate action of the Board of Supervisors.

Any obligations incurred contrary to the purchasing procedures prescribed in the Albemarle County Purchasing Manual shall not be considered obligations of the County, and the Director of Finance shall not issue any warrants in payment of such obligations.

#### Paragraph Four

Allowances out of any of the appropriations made in this resolution by any or all County departments, bureaus, or agencies under the control of the board of Supervisors to any of their officers and employees for expense on account of the use of such officers and employees of their personal automobiles in the discharge of their official duties shall be paid at the same rate as that established by the State of Virginia for its employees and shall be subject to change from time to time to maintain like rates.

#### Paragraph Five

All travel expense accounts shall be submitted on forms and according to regulations prescribed or approved by the Director of Finance.

#### Paragraph Six

All resolutions and parts of resolutions inconsistent with the provisions of this resolution shall be and the same are hereby repealed.

#### Paragraph Seven

This resolution shall become effective on July first, two thousand and five.

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Agenda Item No. 6. **SP-2004-041. Crickets Baked Goods and Catering (Sign #33). Public hearing** on a request to allow Home Occupation Class B for catering business in accord w/Sec 10.2.2.31 of the Zoning Ord, which allows for Home Occupations Class B. TM 105, P 46, contains 13.68 acs. Znd RA. Loc at 3047 Thomas Jefferson Pkway (Rt 53), E of the intersec of Thomas Jefferson Pkway & Buck Island Rd (Rt 729). Scottsville Dist. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

Mr. Benish reported that the applicant is requesting approval of a special use permit for a home occupation Class B to allow for a small catering business. He stated that the applicant currently prepares baked goods in a kitchen on the residence and sells to the City Market. They would like to offer additional food items and catering by moving the food preparation into an accessory structure on site. Mr. Benish said that the kitchen would be operated within a garage on the property, which is located on 13.5 acres zoned Rural Areas, on Route 53 east of the intersection of Thomas Jefferson Parkway and Buck Island Road. The property is located in the Scottsville Magisterial District.

He stated that county staff recommends approval and found no unfavorable factors related to the proposal, including no traffic impact or impact to neighboring properties. Mr. Benish said that the Planning Commission has recommended approval with conditions outlined in their April 12<sup>th</sup> action letter, where they enlarged the permitted size to allow more flexibility and prevent the need for further review and action by the county.

The public hearing was opened. The applicant had no comments to add.

There being no public comment, the matter was placed before the Board.

**Motion** was offered by Mr. Dorrier, **seconded** by Mr. Bowerman, to approve SP-2004-041 as recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

#### (The conditions of approval are set out in full below:)

1. No business sign shall be permitted;
  2. The aggregate area of the use, including both the home office and the garage kitchen may not exceed five hundred (500) square feet;
  3. No employees shall be permitted other than members of family residing in the dwelling on premises;
  4. No customer visits to the site shall be permitted; and
  5. The applicant shall obtain a zoning compliance clearance and any necessary Health Department approvals prior to use of the garage kitchen for this home occupation.
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(The next two agenda items were heard concurrently.)

Agenda Item No. 7. **ZTA-2004-03. Monticello Historic District (MHD).** **Public hearing** on an Ordinance to establish new zoning district in Albemarle County pertaining to land uses & structures associated w/Monticello by amending Sec 4.15.8, Regulations applicable in the RA, VR, R-1 & R-2 Zoning Districts; amending Sec 7, Establishment of Districts; amending Sec 8.1, Intent; amending Sec 8.2, Relation of Planned Development Regulations to Other Zoning Regulations; amending Sec 8.3, Planned Development Defined; amending Sec 8.4, Where Permitted; & adding Sec 11, Monticello Historic District, MHD; of Chapter 18, Zoning, of the Albemarle County Code. The amendment to Sec 4.15.8 would add the MHD as a district subject to that Sec. The amendment to Sec 7 would add the MHD as a district subject to that Sec & re-order the list of zoning districts. The amendment to Sec 8.1 would add the MHD as a district subject to that Sec & revise the purposes of planned development districts. The amendment to Sec 8.2 would clarify when a waiver or modification of a requirement of Secs 4, 5 or 32 of the Zoning Ord could be obtained, & revise the findings required for granting a waiver or modification. The amendment to Sec 8.3 would revise the definition of "planned development district" to exempt planned historic districts such as the MHD from certain definitional criteria. The amendment to Sec 8.4 would allow planned historic districts such as the MHD that contain & pertain to a historic site to exist in the Rural Areas of the County as designated in the Comprehensive Plan. The addition of Sec 11 & its subparts would establish the MHD as a zoning district, state its intent & purpose, identify its status as a planned development district, & establish permitted uses & associated regulations applicable within the zoning district. The proposed MHD zoning district would allow uses specifically related to the operation of Monticello as a historic house museum & historic site, including visitor facilities; educational, research, & administrative facilities; temporary events; sales of products; cemeteries; concerts; & agricultural, residential uses, & other delineated uses similar to those permitted in the Rural Areas zoning district. The proposed district regulations also would require that development be preceded by an application plan approved by the County & otherwise be subject to Secs 4, 5, 8 & 32 of the Zoning Ord. The density for new residential development authorized in the MHD would be one dwelling unit per twenty-one acs. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

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Agenda Item No. 8. **ZMA-2004-05. Monticello Historic District (MHD) (Signs #38,39&41).** **Public hearing** on a request to rezone approx 868 acs from RA to the Monticello Historic District (MHD) (reference ZTA-2004-03), to allow uses specifically related to the operation of Monticello as a historic house museum & historic site, including visitor facilities; educational, research & administrative facilities; temporary events; sales of products; cemeteries; concerts & agricultural, residential uses & other delineated uses similar to those permitted in the RA zoning district. The properties proposed for rezoning are within the vicinity of Monticello, S of I-64 & E of Rt 53, & are identified more particularly as follows: TM 78, Ps 22 (Monticello), 23, 25, 28A, 28B, 29; & TM 79, P 7A. (The Comp Plan designates these lands as RA 4, & the general usage for RA 4 is as follows: land uses supportive of the character of the rural area, including agricultural & forestal uses, land preservation, conservation, & resource protection. No density range is specified for RA 4. The density for new residential development authorized in the MHD district would be 1 du/21 acs.) Scottsville Dist. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

Mr. Benish indicated that the applicant would be making a proposal, noting that there would be an overview of the zoning text amendment and proposed modifications that are part of ZMA-2004-005.

Mr. Benish reported that the Thomas Jefferson Foundation, Inc. has requested a zoning text amendment and zoning map amendment to establish a planned district called the Monticello Historic District. He said that the site is currently zoned Rural Areas and is designated RA in the Comprehensive Plan. Mr. Benish noted that the proposed zoning district would include approximately 868 acres, and Monticello as a historic museum and educational center is non-conforming. This plan, he noted, would allow for improvements on the property consistent with ZMA 2004-005. The Foundation is not proposing to introduce new activities and would be continuing the land uses that have been taking place – educational programs, research, visitors' facilities. Mr. Benish pointed out that a new visitors' center, service center, administrative campus, and restoration of the Monticello mountaintop are planned as part of the application.

Regarding the ZTA, he said, there are a number of amendments to the ordinance which are outlined in his report – Sections 4, 7, 8, and 11 of the ordinance. He stated that Section 11 would establish the Monticello Historic District as a zoning district; it states its intent and purpose and identifies the status as a planned district and establishes permitted uses and associated regulations. Mr. Benish said that Monticello and its associated activities are unique to the county and "necessitate a different provision from other existing zoning districts in the county ordinance to meet their land use needs." Given this factor and based on years of input from the Planning Commission and staff, it was felt that a planned district approach would be the most appropriate approach to deal with this type of use.

Mr. Benish concluded with a summary statement pertaining to both applications: The guiding principles of the rural areas that have been provided in the new Rural Areas section are not compromised by this proposal. The applicant and staff have incorporated the concepts of the rural area proposal within both the text amendment and zoning map amendment that support the new Rural Area recommendations. The Monticello Historic District will have reduced development potential than would have occurred by right based on the application of the text and zoning map amendments. He stated that the Planning Commission reviewed this request and recommended approval of both the ZTA and ZMA with proffers and the plan of development as provided in the revised application packet.

Mr. Rooker asked Mr. Davis what the legal mechanism is that makes the application plan binding. Mr. Davis replied that the ordinance stipulates that the application becomes part of the plan without having to include it in the proffers.

Mr. Davis said, in response to Ms. Thomas' inquiry regarding special events such as concerts, the ordinance stipulates that accessory uses such as concerts related to events are permissible, as they are not stand-alone events but are performances associated with other activities.

Mr. Rooker opened the public hearing on ZTA-2004-003 and ZMA-2004-005.

The applicant, Michael Matthews, representing the Thomas Jefferson Foundation, addressed the Board. He introduced Kat Imhoff and Mike Miriam of Monticello, and Valerie Long of McGuire, Woods. Mr. Matthews said that they have had a spectacular, world-class designed team involved in this project. He introduced Sandra Vicchio, project architect from Ayers, Saint, Gross.

Mr. Matthews reported that the Foundation purchased Monticello in 1923 with the dual mission of preservation and education, and a big part of that mission is the visitor program, which has averaged 525,000 visitors over the last 35 years. He said that the Foundation now owns about half of Jefferson's original land holdings. Mr. Matthews pointed out that only about one-fourth of the visitors to Monticello stop at the visitors center down the mountain. He reported that in 2000, a significant master planning study by Cooper-Robertson of New York indicated four items of utmost importance: enhancement of the visitor experience, removal of the 20<sup>th</sup> century from the mountaintop critical to the preservation mission, providing a world center for scholarship and research, and streamlining of the organization that employees almost 300 people in various county locations.

Mr. Matthews presented pictures of the visitor experience at Monticello, showing the shuttle station, food service area, and open-air mountaintop. He said that there are offices within the house itself, which the plan would like to see removed. Mr. Matthews mentioned Kenwood campus with the Jefferson Library and administrative campus as being integral parts of the Monticello layout. He said that there are 300 people scattered from Shadwell to Monticello in a "musical chairs" of staffing issues. Mr. Matthews said that implementation of the plan had already begun with a \$10 million gift by Monticello and its donors, as well as the ISTE grant process coordinated by the county. He stated that the plan was underway, but then stopped when they realized Monticello is a non-conforming use as a result of the 1980 Comprehensive Plan rezoning.

Mr. Matthews reported that in 2000, the Foundation submitted an application for a zoning text amendment, and the Planning Commission suggested they provide additional specificity to the plan. He noted that in 2004 after three years of careful planning and study a planned district concept came about to answer the specificity questions. Mr. Matthews said that they made changes based on Planning Commission recommendations, and in June 2004 they unanimously approved the foundation's recommendation to the Board.

He explained that ZTA-2004-003 creates the district itself as an 868-acre parcel, with the Shadwell home farm and administrative campus that is planned. Mr. Matthews said that this area was chosen because those parcels host the Thomas Jefferson Foundation's programs not currently recognized as acceptable Rural Areas activities. He noted that 96 percent of the district would be in open space, and the district is defined as everything owned by the foundation, was previously owned by Mr. Jefferson, and is at least partially within the UNESCO-World Heritage site. Mr. Matthews pointed out that the applicant has actually eliminated the development rights of the vast majority of the district, and what is shown in the cross-hatch area is the 1,000 acres in easement to the Virginia Outdoors Foundation in late 2004. He said that the original Jefferson birthplace Shadwell is in easement to the Virginia Department of Historic Resources.

Mr. Matthews said that there are three districts created that are bound by the application plan – the mountaintop district, the visitors center district, and the administrative campus. He said that the majority of the mountaintop activity is removal of the 20<sup>th</sup> century – the gift shop and offices, the areas of the gardens would be restored where there are currently parking lots and other structures. He explained the administrative campus would be an extension of the Kenwood campus with a small assemblage of buildings following the form of rural areas style structures. Mr. Matthews showed the visitors center area as it exists now, and the plan for the area. He said that the "area of disturbance" was created in 1976 as prepared for the bicentennial, and the new plan captures this same area but minimizes the disturbance. Mr. Matthews said that the site study has been an ongoing process and showed the original plan which shows more disturbances of the site to accommodate grading and bus service. Monticello is the most self-critical planning group that he has ever encountered, and they felt there had to be a better way to accomplish this. In the new plan, he said, the entire existing parking area can be saved and the buildings can be reconfigured to fit more into the hillside.

Mr. Matthews commented that the phrase "a collection of dependencies" applies to the planning of these buildings – with buildings laid out in the area of the existing shuttle station, a ticketing area that is two-stories with an education center and restrooms, a café for visitors, a two-story building with changing exhibits and bus shuttle area, and the museum shop with a convention and visitors bureau. Mr. Matthews emphasized that the building forms were considered so as not to compete with the Monticello architecture, but to keep in the context of the nearby rural areas. He explained that the shuttle station upper level is 30 feet above the entry level, and the goal is to put part of the building underground. Mr. Matthews noted that a large courtyard would be created in the center of the two-story exhibit area, and showed the area where shuttle bus passengers would be dropped off.

Mr. Matthews emphasized that they have created a district that “respects the world treasure that we have in our community,” and have developed a well thought-out master plan. He noted that this is a great opportunity for tourism in the county, and requested approval of both applications.

Mr. Dorrier asked if Mt. Alto would be included in this application.

Mr. Matthews replied that Mt. Alto was acquired after the process was started, and Monticello has not completed the planning for that site as it falls outside the district.

Ms. Imhoff said that the Foundation Board has agreed not to make any long-term land use decisions until the \$15 million debt is repaid, although they have expressed interest in including parts of the rural area such as the Monticello-Saunders Trail.

Mr. Boyd asked if the language regarding events is acceptable to Monticello.

Ms. Imhoff replied that it is acceptable, mirrors what they have been doing, and provides protection for both the county and Monticello. Ms. Imhoff reported that they have given the right-of-way for the greenway along the river as part of their proffers.

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

Mr. Davis pointed out an extra “the” in the fifth line on Page 4 of the proposed ordinance, Section 8.2 at the top.

Mr. Davis explained that the Board would need to vote on the Zoning Text Amendment first, then the Zoning Map Amendment.

Mr. Rooker said that this is a vastly improved plan over what was originally presented to the Planning Commission, and a very respectful of the land and historic resources. He commended Monticello for taking their time in developing a plan that is good for both themselves and the county.

Mr. Dorrier commented that the plan moves back to the 18<sup>th</sup> Century while accommodating the 21<sup>st</sup> Century, and that’s what Thomas Jefferson would have wanted.

**Motion** was offered by Mr. Dorrier, **seconded** by Mr. Boyd, to approve ZTA-2004-03 as recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

#### **ORDINANCE NO. 05-18(5)**

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

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

#### **By Amending:**

Sec. 4.15.8 Regulations applicable in the RA, VR, R-1 and R-2 zoning districts  
Sec. 7 Establishment of districts  
Sec. 8.1 Intent  
Sec. 8.2 Relation of planned development regulations to other zoning regulations  
Sec. 8.3 Planned development defined  
Sec. 8.4 Where permitted

#### **By Adding:**

Sec. 11.1 Intent and purpose, where permitted  
Sec. 11.2 Status as a planned development district  
Sec. 11.3 Permitted uses  
Sec. 11.3.1 By right  
Sec. 11.3.2 By special use permit  
Sec. 11.4 Regulation of development

### **Chapter 18. Zoning**

#### **Article II. Basic Regulations**

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

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Monticello Historic District (MHD), Rural Areas (RA), Village Residential (VR) and Residential (R-1 and R-2) zoning districts (Amended 6-8-05):

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

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

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

### **Article III. District Regulations**

#### **Sec. 7 Establishment of districts**

For the purposes of this chapter, the unincorporated areas of Albemarle County are hereby divided into the following districts:

- Commercial District - C-1
- Commercial Office - CO
- Entrance Corridor - EC (Added 10-3-90)
- Heavy Industry - HI
- Highway Commercial - HC
- Light Industry - LI
- Monticello Historic District – MHD (Added 6-8-05)
- Neighborhood Model - NMD
- Overlay Districts:
- Airport Impact Area - AIA
- Flood Hazard - FH
- Natural Resource Extraction - NR
- Scenic Streams - SS (Amended 9-9-92)
- Planned Development-Industrial Park - PD-IP
- Planned Development-Mixed Commercial - PD-MC
- Planned Development-Shopping Centers - PD-SC
- Planned Residential Development - PRD
- Planned Unit Development - PUD
- Residential - R-1
- Residential - R-2
- Residential - R-4
- Residential - R-6
- Residential - R-10
- Residential - R-15
- Rural Areas - RA
- Village Residential – VR

(§ 7.0, 12-10-80; § 7, Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

#### **Sec. 8.1 Intent**

The planned development districts are the Monticello Historic District (MHD), Planned Residential Development (PRD), Planned Unit Development (PUD), Neighborhood Model (NMD), Planned Development – Mixed Commercial (PDMC), Planned Development – Shopping Centers (PDSC), and Planned Development – Industrial Park (PD-IP) zoning districts. Each of these districts is distinct in purpose; however, all are intended to provide for variety and flexibility in design necessary to implement the various goals and objectives set forth in the comprehensive plan. Through a planned development approach, the regulations in section 8 are intended to accomplish the goals and objectives of the comprehensive plan to a greater extent than the regulations of conventional districts. In addition, these regulations are intended to promote: economical and efficient land use through unified development; improved levels of amenities; appropriate and harmonious physical development; creative design; and a better environment than generally realized through conventional district regulations. In view of the substantial public advantages of planned development, these regulations

are intended to encourage the planned development approach in areas appropriate in terms of location and character.

Planned development districts shall be developed: to provide for the comfort and convenience of residents or visitors; to facilitate the protection of the character of surrounding lands, neighborhoods and the adjacent rural areas; and to lessen traffic impacts through a reasonably short travel time between origins and destinations of persons living, working, or visiting in such developments. Housing, commercial and service facilities, and places of employment shall be related either by physical proximity or by adequate street networks so as to promote these objectives.

(12-10-80; Ord. 03-18(2), 3-19-03; 05-18(5), 6-8-05)

### **Sec. 8.2 Relation of planned development regulations to other zoning regulations**

The regulations in section 8 shall apply to the establishment and regulation of all planned development districts.

An applicant may request that any requirement of sections 4, 5 and 32, or the planned development district regulations be waived or modified if it is found to be inconsistent with planned development design principles and that the waiver or modification is consistent with the intent and purposes of the planned development district under the particular circumstances. If the applicant requests such a waiver or modification as part of the application plan, the applicant shall submit its request in writing as part of the application, and shall demonstrate that the waiver or modification would not adversely affect the public health, safety or general welfare and, in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification. Notwithstanding any regulation in sections 4, 5, or 32 establishing a procedure for considering a waiver or modification, any request for such a waiver or modification shall be reviewed and considered as part of the application plan. Nothing in this section prohibits an owner within a planned development from requesting a waiver or modification of any requirement of sections 4, 5 and 32 at any time, under the procedures and requirements established therefor.

In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, and 32, such a waiver or modification may be granted only if it is also found to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8.

(12-10-80; Ord. 03-18(2), 3-19-03; 05-18(5), 6-8-05)

### **Sec. 8.3 Planned development defined**

A planned development is a development that meets all of the following criteria: (1) the land is under unified control and will be planned and developed as a whole; (2) the development is in general accord with one or more approved application plans; and (3) in all planned development districts other than a planned historic district, the development will provide, operate and maintain common areas, facilities and improvements for some or all occupants of the development where these features are appropriate.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

### **Sec. 8.4 Where permitted**

A planned development district may be established in any development area identified in the comprehensive plan, and in any rural area identified in the comprehensive plan if the district is a planned historic district containing a historic site and the purposes of the district include the restoration, preservation, conservation and enhancement of the historic site, provided that its location is suitable for the character of the proposed uses and structures.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

## **Section 11**

### **Monticello Historic District, MHD**

#### **Sec. 11.1 Intent and purpose, where permitted**

The intent and purpose of the Monticello Historic District (hereinafter referred to as "MHD") is to create a planned historic district:

- To permit restoration, preservation, conservation, education, programs, research and business activities related to the operation of a historic house museum and historic site at Monticello;
- To promote the preservation and enhancement of a unique historical site;
- To preserve significant tracts of agricultural and forestal land;
- To be a district that is unique to those parcels which both belonged to Thomas Jefferson and contain uses related to the operation of the historic site, in recognition of:

- the importance of Thomas Jefferson to the history of Albemarle County;
- the importance of Monticello to the reputation, education, and economy of Albemarle County;
- Monticello as a unique element of the historical and architectural legacy of Albemarle County, the nation, and the world, as recognized by its inclusion on the World Heritage List administered by the United Nations Educational, Scientific, and Cultural Organization.

Restoration or re-creation of Jefferson-era structures or landscape features, and their subsequent interpretive use, shall be regulated only to the extent necessary to protect public health and safety.

(Ord. 05-18(5), 6-8-05)

### **Sec. 11.2 Status as a planned development district**

The MHD is a planned development district within the meaning of section 8 of this chapter, and shall not be construed to be an agricultural zoning district or a district in which agricultural, horticultural or forestal uses are dominant.

(Ord. 05-18(5), 6-8-05)

### **Sec. 11.3 Permitted uses**

The following uses shall be permitted in the MHD, subject to the regulations in this section and section 8 of this chapter, the approved application plan, and any accepted proffers:

(Ord. 05-18(5), 6-8-05)

#### **Sec. 11.3.1 By right uses**

The following uses shall be permitted by right in the MHD:

1. Uses relating to the operation of Monticello as a historic house museum and historic site as follows:
  - a. Interpretative, educational and research uses such as tours; interpretive signs, walking paths, displays and exhibits; classes, workshops, lectures, programs and demonstrations; field schools and history-related day camps; and archaeological laboratories.
  - b. Administrative and support activities including visitor ticketing and shuttle bus operations, maintenance operations, equipment storage, vehicle maintenance and refueling, security and general administration, and related support spaces and offices.
  - c. Visitor amenities including: parking lots; travelways; public restrooms; food and drink preparation and vending; picnic areas; walking paths and pedestrian bridges.
  - d. Display and sale of products related to Thomas Jefferson and the history of Monticello.
  - e. Other uses not expressly delineated in subsection 1 (a) through (d) authorized by the zoning administrator after consultation with the director of planning and other appropriate officials; provided that the use shall be consistent with the express purpose and intent of the MHD, similar to the uses delineated in this subsection in character, locational requirements, operational characteristics, visual impact, and traffic generation.
2. Temporary events related to or supportive of the historic, educational or civic significance of Monticello, such as, but not limited to the Naturalization Ceremony on the Fourth of July, Thomas Jefferson's Birthday celebration, summer speakers series, presidential inaugural events, and commemorative events similar to the Lewis and Clark bicentennial.
3. Display and sale of gifts, souvenirs, crafts, food, and horticultural and agricultural products, including outdoor storage and display of horticultural and agricultural products, including wayside stands for display and sale of agricultural products produced on the premises (reference 5.1.19).
4. Establishment and changes to structures shown on the approved application plan:
  - a. Modification, improvement, expansion, or demolition of "modern structures" existing on the effective date of this section 11.
  - b. Modification, improvement, re-creation, or restoration (including expansion) of "historic or interpretive structures."

- c. Establishment of "new primary structures or features" identified as such on the approved application plan.
5. Cemeteries.
6. Detached single-family dwellings, including guest cottages and rental of the same.
7. Side-by-side duplexes; provided that density is maintained and provided that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
8. Agriculture, forestry, and fishery uses except as otherwise expressly provided.
9. Game preserves, wildlife sanctuaries and fishery uses.
10. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable laws.
11. Accessory uses and structures including home occupation, Class A (reference 5.2) and storage buildings.
12. Temporary construction uses (reference 5.1.18).
13. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12).
14. Temporary sawmill (reference 5.1.15 and subject to performance standards in 4.14).
15. Agricultural service occupation (subject to performance standards in 4.14).
16. Divisions of land in accordance with section 10.3.
17. Tourist lodging (reference 5.1.17).
18. Mobile homes, individual, qualifying under the following requirements (reference 5.6):
  - a. A property owner residing on the premises in a permanent home wishes to place a mobile home on such property in order to maintain a full-time agricultural employee.
  - b. Due to the destruction of a permanent home an emergency exists. A permit can be issued in this event not to exceed twelve (12) months. The zoning administrator shall be authorized to issue permits in accordance with the intent of this ordinance and shall be authorized to require or seek any information which he may determine necessary in making a determination of cases "a" and "b" of the aforementioned uses.
19. Farm winery (reference 5.1.25).
20. Borrow area, borrow pit, not exceeding an aggregate volume of fifty thousand (50,000) cubic yards including all borrow pits and borrow areas on any one parcel of record on the adoption date of this provision (reference 5.1.28).
21. Commercial stable (reference 5.1.03).
22. Stormwater management facilities shown on an approved final site plan or subdivision plat.
23. Tier I and Tier II personal wireless service facilities (reference 5.1.40).

(Ord. 05-18(5), 6-8-05)

**Sec. 11.3.2 By special use permit**

The following uses shall be permitted by special use permit in the MHD:

1. Farm sales (reference Section 5.1.35).
2. Private helistop (reference Section 5.1.01).

3. Commercial fruit or agricultural produce packing plants.
4. Flood control dams or impoundments.
5. Concerts (such as performances by the Charlottesville Symphony Orchestra and the Charlottesville Municipal Band), theater, and outdoor drama events open to the general public, not otherwise permitted by right under section 11.3.1(2).
6. Home occupations Class B.
7. Boat landings and canoe livery.

(Ord. 05-18(5), 6-8-05)

#### **Sec. 11.4 Regulation of development**

In order to protect the county's historic resources and the rural character of surrounding lands, all uses and structures shall be subject to an approved application plan, and to sections 4, 5, 8 and 32 of this chapter, including such regulations as may be waived or modified pursuant to section 8.2. In addition:

- a. Density. Density shall not exceed one dwelling unit per twenty-one (21) acres and the minimum lot size shall be twenty-one (21) acres.
- b. Structure height. The maximum structure height established in the standards for development required by section 8.5.1(d)(11) of this chapter shall not exceed forty-five (45) feet.
- c. Yards. The minimum yards established in the standards for development required by section 8.5.1(d)(11) of this chapter shall not be less than the minimum yards provided in section 21.7, except as otherwise provided on the application plan.

(Ord. 05-18(5), 6-8-05)

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**Motion** was then offered by Mr. Dorrier, **seconded** by Mr. Boyd, to approve ZMA-2004-05 as proffered and signed by the applicant dated May 10, 2005. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

**Thomas Jefferson Foundation, Inc.  
Monticello Historic District  
ZMA 04-05  
Proffer Statement**

The following parcels are subject to rezoning application ZMA 04-05 and thus to this proffer statement: tax map parcels 78-22, 78-23, 78-25, 78-28A, 78-28B, 78-29, and 79-7A (the "Property"). The Applicant and Owner of the Property is the Thomas Jefferson Foundation, Inc.

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property to Monticello Historic District as requested, the Owner shall develop the Property in accord with the following proffers pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the requested rezoning, and the Owner acknowledges that (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning requested. If rezoning application ZMA 04-05 is denied these proffers shall immediately be null and void and of no further force and effect.

This Proffer Statement shall relate to the application plan shown on sheets AP-1 through AP-4, each dated February 28, 2005, of the plans entitled "Monticello, Thomas Jefferson Foundation, Inc., Albemarle County, Virginia, Zoning Map Amendment Application Plan, ZMA 04-05, February 28, 2005," which sheets are attached hereto as Exhibit A (the "Application Plan") and also to the terms of Section 8.5.5.3 of the Albemarle County Zoning Ordinance as in effect on the date of this Proffer Statement, a copy of which Section 8.5.5.3 is attached hereto as Exhibit B.

1. The Owner will convey easements on certain portions of the Property and on tax map parcel 78-31A for incorporation of such easement areas into the Rivanna River Greenway Trail Park, on the terms and conditions contained herein:
  - a. The Foundation shall convey easements to the County encumbering the portions of tax map parcels 78-28B and 79-7A (collectively, the "Shadwell Quarter Farm") and 78-31A (the "Lego Quarter Farm") that are contiguous to the Rivanna River and consist of the real property defined in the Federal Emergency Management Agency national flood insurance maps as land within the 100-year flood plain on the north side of the Rivanna River (individually, the "Shadwell Easement Area," and the "Lego

Easement Area,” and collectively, the “Easement Areas”) for the extension of the County’s Greenway Trail Park within the Easement Areas.

- b. The easement on the Shadwell Quarter Farm shall be conveyed after an easement or land dedication is conveyed to the County for the County’s Greenway Trail Park by the owners of tax map parcel 78-33D for the extension of the greenway trail through that parcel, upon the request of the County and as soon thereafter as the Foundation can reasonably cause an easement plat to be prepared, prepare the deed of easement in a form reasonably agreeable to the Foundation and the County, and complete any other administrative matters associated with such easement.
- c. The easement on the Lego Quarter Farm will be conveyed within six months after request by the County, or as soon thereafter as the Foundation can reasonably cause an easement plat to be prepared, prepare the deed of easement in a form reasonably agreeable to the Foundation and the County, and complete any other administrative matters associated with such easement.
- d. The easements would be subject to the terms of existing encumbrances and easements of record, including, but not limited to, the Deed of Easement conveyed to the Virginia Department of Historic Resources (“DHR”) of record in the Clerk’s Office of the Albemarle County Circuit Court in Deed Book 1970, page 412, and the Deed of Easement conveyed to the Virginia Outdoors Foundation (“VOF”) of record in the aforesaid Clerk’s Office in Deed Book 2894, page 76, each as applicable.
- e. The easement on the Shadwell Quarter Farm shall be previously approved in writing by DHR and/or VOF, as applicable, with regard to any portion of the Shadwell Easement Area which is subject to the Deed of Easement from the Foundation to DHR or the Deed of Easement from the Foundation to VOF.
- f. The Foundation may expressly reserve the following: (i) a right of access for ingress and egress to and from the Easement Areas from other parcels the Foundation owns for the benefit of the Foundation; (ii) an easement for drainage from any of the Foundation’s stormwater control facilities through the Easement Areas; (iii) for riparian rights in the Rivanna River for the benefit of the Foundation; (iv) the right to physically restrict access by the public to other portions of the Shadwell Quarter Farm and the Lego Quarter Farm, or any other parcels the Foundation owns, as may be necessary or appropriate in the Foundation’s discretion to protect any historical artifacts or features on such parcels; and (v) for crossings of the greenway trail and use of the Easement Areas outside of the greenway trail for other purposes reasonably stipulated by the Foundation, including but not limited to interpretation of historically significant areas that may be present within the Easement Areas.
- g. The Foundation may expressly reserve in the Shadwell Quarter Farm deed of easement a right of access for the benefit of the County through the Shadwell Quarter Farm in an area reasonably agreeable to the Foundation, for access to and from the Shadwell Easement Area for greenway trail maintenance and for emergency purposes, provided that no activities inconsistent with the Deed of Easement from the Foundation to DHR shall be carried out within the Shadwell Easement Area.
- h. The Foundation shall not be responsible for the construction, operation, maintenance, expense or policing of the Easement Areas as portions of the County’s Greenway Trail Park.
- i. Upon the approval of ZTA 2004-03 and ZMA 2004-05, employees, agents and independent contractors of the County shall have reasonable access to the Easement Areas for purposes of planning the greenway trail, provided that no earth shall be disturbed, nor any vegetation cleared within the Easement Areas without the prior consent of the Foundation, and provided further that no activities inconsistent with the Deed of Easement from the Foundation to DHR shall be carried out within the Shadwell Easement Area.
- j. The County shall notify the Foundation at least six (6) months prior to disturbing any land within the Easement Areas. Upon such notice, the Foundation will either cause a Phase I archeological study to be conducted at its expense within the Easement Area proposed for disturbance if the Foundation deems such a study necessary, or it will authorize the County to move forward with such planned land disturbance.
- k. The trail surface shall be not more than 10 feet wide within a clear zone (12 feet wide and 8 feet high), shall be unpaved and shall utilize only natural materials. The trail will be a “Class B” trail pursuant to County standards.
- l. The precise location of the trail within the Easement Areas will be mutually agreed upon by the Foundation and the County.
- m. Any construction, grading or other disturbance by the County within the Shadwell Easement Area must be approved in advance in writing by DHR with regard to any

portion of the Shadwell Easement Area which is subject to the Deed of Easement from the Foundation to DHR.

- n. The Foundation will be responsible for the administrative costs of drafting the deeds of easement, the easement plats, any surveys of the Easement Areas, and recordation costs.
  - o. If the County has not commenced construction of the greenway trail within the Lego Quarter Farm within 20 years of the Foundation's conveyance of the easement thereon, and completed such trail within 22 years of the conveyance, upon request by the Foundation, the County shall release all of its interest in the easement, at no expense to the Foundation, unless the Foundation and the County shall agree to another permissible use by the County for the Easement Area.
  - p. If the County has not commenced construction of the greenway trail within the Shadwell Quarter Farm within 20 years of the Foundation's conveyance of the easement thereon, and completed such trail within 22 years of such conveyance, upon request by the Foundation, the County shall release all of its interest in the easement, at no expense to the Foundation, unless the Foundation and the County shall agree to another permissible use by the County for the Easement Area.
  - q. If the County terminates the Greenway trail program, upon request by the Foundation, the County shall release all of its interest in the easements, at no expense to the Foundation, unless the Foundation and the County shall agree to another permissible use by the County for the Easement Areas.
  - r. When negotiating the deeds of easement pursuant to this paragraph 1 of this proffer statement, the County and the Owner may mutually agree to modify the terms and conditions hereof.
2. Prior to the approval of a final site plan for the proposed Monticello Visitors Center as shown on the Application Plan, the Owner shall make improvements to the existing Monticello exit onto Route 53 as necessary to provide for the turning movement of a "BUS-45" vehicle onto Route 53 without crossing the opposing lane of traffic, to the reasonable satisfaction of the Albemarle County Engineer and the Virginia Department of Transportation.

WITNESS the following signature:

THOMAS JEFFERSON FOUNDATION, INC.

By: \_\_\_\_\_  
Daniel P. Jordan, President

\* \* \* \* \*

Exhibit A

Application Plan

\* \* \* \* \*

Exhibit B

Section 8.5.5.3 of the Zoning Ordinance in Effect on the date of this Proffer Statement

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Agenda Item No. 9. **ZTA-2004-006. Historic Center and Community Center. Public hearing** on an Ordinance to amend Sec 3.1, Definitions; add Sec 5.1.42 Historical centers; & amend Sec 10.2.2, By special use permit, Sec 12.2.2, By special use permit, Sec 13.2.2, By special use permit, Sec 14.2.2, By special use permit, Sec 15.2.2, By special use permit, Sec 16.2.2, By special use permit, Sec 17.2.2, By special use permit, Sec 18.2.2, By special use permit, & Sec 19.3.2, By special use permit; of Chapter 18, Zoning, of the Albemarle County Code. This Ord would amend Sec 3.1, Definitions, by amending the definition of "community center" & by adding a definition of "historical center"; add Sec 5.1.42, Historical centers, to establish supplementary regulations pertaining to the prerequisites for & the operation of historical centers including regulations concerning the size of new historical center structures & the rehabilitation of, or construction on, historic structures used for historical centers, minimum side yards & rear yards, requirements for site plans, items for display, primary & accessory uses, daily operations, special events & festivals; & amend Sec 10.2.2, By special use permit (Rural Areas-RA), Sec 12.2.2, By special use permit (Village Residential-VR), Sec 13.2.2, By special use permit (Residential-R-1), Sec 14.2.2, By special use permit (Residential-R-2), Sec 15.2.2, By special use permit (Residential-R-4), Sec 16.2.2, By special use permit (Residential-R-6), Sec 17.2.2, By special use permit (Residential-R-10), Sec 18.2.2, By special use permit (Residential-R-15), & Sec 19.3.2, By special use permit (Planned Residential Development-PRD) to allow historical centers, historical center special events, & historical center festivals within such zoning districts by special use permit. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

Mr. Benish reported that this amendment is in response to concerns raised by the Planning Commission regarding the current definition of "community center" and its applicability to uses such as the proposed Lewis & Clark Exploratory Center, which is a land use currently not permitted or addressed in the Zoning Ordinance. He said that this ZTA would amend the definition for community center and add a definition for historical center – to be added as a use permitted by special use permit in the rural areas and in all residential zoning districts in the ordinance. He said that the proposed historic center definition is intended to define land uses such as the Lewis & Clark facility, historic homes to be opened for public interpretation, and natural resource interpretation centers. Mr. Benish said that the primary changes regarding definition of community center are to clarify the extent of the geographic area served, and the definition was also revised so that community centers are not limited to buildings. He explained that supplemental regulations have been provided for the historic centers and are intended to limit the scale and intensity of those centers such that increases in service delivery to the rural area will not be required to support them, nor will they be detrimental to agricultural and forestal activities. Mr. Benish added that the amendment may help preserve natural, historic, and scenic resources by encouraging preservation and ability to support historic properties. He said that the Planning Commission reviewed the ordinance and recommended approval.

Ms. Thomas asked for the distinction between basic and supplemental regulations.

Mr. Benish responded that supplemental regulations can be waived for unique characteristics under the provisions of the ordinance, although they set the expectations for uses. He noted that under these regulations, it may be appropriate to waive size standards of structures, for example. Mr. Benish said that the reference allows the use, and that use refers you to the supplemental regulations that are "waivable."

Ms. Thomas commented that the supplemental regulations don't change from one district to another, but there is mention in the staff report that they may be changeable in a structure in the development area.

Mr. Benish responded that the circumstances may be different, such as historic properties in an urban zoning district that may not be able to meet setbacks. In the Lewis & Clark example, the bateau display might require a large area and supplemental regulation waiver might be needed. He said that the Planning Commission and Board of Supervisors would need to act on each matter.

Mr. Wyant asked if any existing historic centers would be grandfathered.

Mr. Benish replied that to his knowledge there is nothing that exists right now that would need to be considered under the provisions.

Mr. Davis pointed out that nothing would be established by this ordinance, unless it comes forward in an application for a special use permit, including existing structures.

Mr. Wyant asked about the change in community center definition.

Mr. Benish replied that clubs, lodges, and fraternal organizations fall under a different category, and community centers in developments are accessory uses to that neighborhood. Most of what we casually consider community centers is permissible through various channels.

Mr. Wyant emphasized that he wants to make sure those uses are not becoming more restricted.

Mr. Rooker opened the public hearing.

Mr. Fran Lawrence, Secretary of the Lewis & Clark Exploratory Center of Virginia, addressed the Board, stating that he would soon become president of that organization. Mr. Lawrence explained that the Planning Commission felt that the Lewis & Clark Center was not a community center, and this application addresses that fact. He described the property – which falls in the urban area – as including 18 acres at the north end of Darden Towe Park through a 40-year lease granted by Albemarle and Charlottesville in 2003. Mr. Lawrence said that property owner Betty McClanahan granted them a permanent easement in the fall of 2003 on which to construct the Rivanna Trail and handicapped accessible trail by which to access the George Rogers Clark cabin. He noted that they will have "the 1750 story" as part of their historic center, and they are tied to both natural and historic resources.

Mr. Lawrence said that his organization does have concern about the limitation on space, noting that the Planning Commission did not want new buildings to "overwhelm the historical structure," but the pure size of the new building doesn't necessarily relate to increased traffic or urban "junkification." He emphasized that they want the center to be "down in the ground" and covered with earth so it is not even visible from Darden Towe Park. Mr. Lawrence noted that new houses are 5,000 square feet, and the center is only planned to be 3,000 to 5,000 as a starting point. He said that the Tuesday edition of the *Daily Progress* had the "Respected, Protected" editorial referencing the "Journey Through Hallowed Ground." Mr. Lawrence emphasized that the Lewis & Clark property is part of this hallowed ground from Monticello to Adams County, PA.

In response to Mr. Dorrier's question, Mr. Lawrence explained that the total indoor size limited by the Planning Commission is 1,500 square feet.

Mr. Rooker emphasized that "this is waivable."

Mr. Davis clarified that in the text of the ordinance, it should say "Section 5 Supplementary Regulations," because these apply to certain uses identified as needing standard approaches to be dealt with, such as airports, stables, theatres, markets, etc. He noted that the ordinance defines how these are typically regulated, recognizing that they may not be appropriate in every case so the Planning Commission can modify or waive requirements upon a finding that such requirement would not thwart the purposes of the ordinance provisions. Mr. Davis added that waivers can be appealed to the Board if the Commission rejects them, and the Board may also grant or modify waivers as part of the special use permit process. He emphasized that the Board could modify the limitation of 1,500 square feet as part of that process.

Mr. Benish commented that this is done regularly with home occupation permits, noting that the Planning Commission's approval of the permit mentioned earlier exceeded the structural size allowance stipulated in the ordinance. He emphasized that the Commission's concern is that the centers typically fall in the rural areas, and they want to make sure that the facilities are appropriate.

Mr. Boyd asked how the limitation of 1,500 arose.

Mr. Benish replied that 1,500 is the square footage used for farm wineries, and there would soon be a special events rezoning to cover some typical activities coming to the Board.

Mr. Davis pointed out that there are general regulations that are not waivable, and supplementary regulations that are waivable. He said that it should state – Section 5, Supplementary Regulations.

Mr. Wyant commented that additions can sometimes be overwhelming, but the Lewis & Clark site certainly does not seem to be given that the parcel is 18 acres.

Mr. Dorrier commented that historic centers are unique structures, and should be considered on a case by case basis, noting that the 1,500 seems restrictive.

Mr. Rooker emphasized that this is a guideline, not a requirement, and this matter is for the general ordinance, not a specific application. He stated that there is a tendency to look at applications in relation to the guidelines in the ordinance, and it is difficult to make judgments, so the starting point perhaps should be larger than 1,500 square feet.

Ms. Thomas noted that she and Mr. Dorrier serve on the Lewis & Clark Exploratory Center Board. She emphasized that she would rather have residents see a smaller number in the ordinance so they don't get the impression that extremely large structures are encouraged.

Mr. Dorrier said that Ash Lawn would be larger than 1,500 square feet, acknowledging that it is exempted because it is state land.

Mr. Boyd stated that the premise of Ms. Thomas' argument "squeezes out the little guy," because they might not have access to architects and planners.

Ms. Thomas responded that she does have concerns about automatically saying you can have 5,000 square foot buildings accessory to structures that might not even be that big to begin with.

Mr. Davis said that because these are special use permits, they would come before the Board anyway, and the Board could put a condition to make it more restrictive. These regulations become less significant because it is proposed to be a special use. He added that this just creates a standard, and the Planning Commission took a conservative approach to what those standards should be, but structured it so that appropriate waivers could be granted.

Mr. Wyant commented that this only deals with the structures.

Ms. Thomas noted that it is the same as what is provided for rural wineries.

Mr. Dorrier said that it is unlikely there would be lots and lots of historical structures anyway.

Mr. Benish said that the Rivanna Watershed Foundation wants to develop an interpretive center, and they might use an existing structure to begin with, then add a newer center depending on projected uses.

Mr. Bowerman noted that these are all going to come before the Board anyway.

Mr. Rooker suggested using evaluative factors such as parcel size, visibility of the structure, and size of any adjacent structures to determine the appropriate size.

Mr. Lawrence said that he is content with the discussion that has taken place.

Ms. Imhoff stated that she is supportive of the ordinance, and the Planning Commission's recommendation is a good starting point. She said that the Lewis & Clark center may need more than 1,500 square feet, but properties like Pine Knot include a primary structure of just 1,000 square feet, and the scale and number of visitors should influence the Board as to what should be allowed. She thinks this gives the county the maximum flexibility.

There being no further comments, the public hearing was closed.

Mr. Davis clarified that Section 5 – Supplementary Regulations is not set out as a separate heading, but the ordinance is satisfactory in its draft.

**Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve ZTA-2004-06 as recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

#### **ORDINANCE NO. 05-18(7)**

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

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

#### **By Amending:**

Sec. 3.1	Definitions
Sec. 10.2.2	By special use permit
Sec. 12.2.2	By special use permit
Sec. 13.2.2	By special use permit
Sec. 14.2.2	By special use permit
Sec. 15.2.2	By special use permit
Sec. 16.2.2	By special use permit
Sec. 17.2.2	By special use permit
Sec. 18.2.2	By special use permit
Sec. 19.3.2	By special use permit

#### **By Adding:**

Sec. 5.1.42	Historical centers
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### **Chapter 18. Zoning**

#### **Article I. General Provisions**

##### **Sec. 3.1 Definitions**

The following definitions shall apply in the administration and enforcement of this chapter:

...

*Community center:* A place, structure, area or facility used for cultural, educational and/or recreational activities, which is open to the public and intended to serve the local community. A community center is different from a neighborhood center, which is a use that is typically accessory to a residential development.

...

*Historical center.* One or more buildings, structures or facilities designed and/or used for educational and/or interpretative activities related to natural, cultural, or agricultural history which are open to the public and located at or adjacent to a historic resource. For purposes of this definition, a "historic resource" is a district, site, building or structure with architectural, engineering, archaeological, or cultural remains present, which possesses integrity of location, design, setting, materials, workmanship, and association, and which is associated with one or more of the following historical or cultural themes: (i) events that have made a significant contribution to the broad patterns of local, state or national history; (ii) the lives of persons significant in local, state or national history; (iii) the embodiment of distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction; or (iv) yielding information important to prehistory or history.

...

#### **Article II. Basic Regulations**

##### **Sec. 5.0 Supplementary Regulations**

##### **Sec. 5.1.42 Historical centers.**

Each historical center shall be subject to the following:

- a. *New historical center structures.* Newly constructed structures for historical centers shall be limited to one thousand five hundred (1,500) square feet in size, aggregate, including interpretative space and accessory uses within such structures.

- b. *Rehabilitation or construction on historic structures or sites to be used for historical center structure.* The rehabilitation of historic structures and sites to be used for historical centers shall be completed to the satisfaction of the Virginia Department of Historic Resources (DHR) as demonstrated by a letter to the county. The design and siting of any proposed accessory uses and visitor amenities at a historic structure or site shall also be approved by DHR.
- c. *Minimum side and rear yards.* Notwithstanding any other provision of this chapter, the minimum side yard and rear yard shall be fifty (50) feet; provided that there shall be no minimum side yard or rear yard if the side or rear lot lines are shared with another lot that is part of the historical center; and further provided that greater side yards or rear yards may be required by the site plan agent if deemed necessary because of site-specific conditions, and that lesser side yards and rear yards may be allowed to facilitate the rehabilitation or reuse of a historic structure or site.
- d. *Site plan.* A site plan is required for a historical center. In addition to any requirement of section 32: (i) the site plan agent may impose additional reasonable standards of development as conditions of final site plan approval; (ii) the owner shall submit photographic documentation of existing site conditions with the preliminary site plan; and (iii) the site plan agent may require the applicant to submit a Phase 1 archaeological survey of the areas of the site proposed for the historical center use prior to final site plan approval.
- e. *Items for display.* Items for display shall be related to the significance of the historic resource to be interpreted and shall relate to past or present people, places, things, or events in the county.
- f. *Primary uses.* The educational and interpretative activities that are permitted primary uses include, but are not limited to, passive display, active demonstration including tours, public participation in activities, educational classes, and research.
- g. *Accessory uses.* Not more than ten percent (10%) of the total floor area of a historical center structure may be devoted to uses other than the educational and interpretive activities provided in subsection (f). A floor plan shall be submitted with the special use permit application to ensure that this requirement is met. Accessory uses may include, but are not limited to, administrative offices and shops and facilities such as gift shops, book stores, and accessory food sales such as luncheonettes, snack bars, or refreshment stands.
- h. *Operations.* The operation of each historical center shall be subject to the following: (i) daily tours of a historical center shall be permitted; (ii) the normal hours that the historical center is open to the public shall be limited to daylight hours only, dawn until dusk; and (iii) an outdoor amplified sound system shall be prohibited at all times.
- i. *Special events.* Special events are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.
  - 1. For purposes of this section, a *special event* is an event conducted at a historical center on a single day for which attendance is allowed only by invitation or reservation and whose participants do not exceed one hundred fifty (150) persons; *special events* are limited to events conducted for the purpose of promoting the mission of the historical center.
  - 2. In addition to all other special use permit application requirements in section 31.2.4, the application shall describe the nature of the special events.
  - 3. The special use permit: (i) shall identify the number of approved special events per year, which number shall not exceed twelve (12); (ii) may authorize specific special events, classes of special events, or a combination thereof; and (iii) may include reasonable conditions relative to the special events as authorized under section 31.2.4.3.
- j. *Festivals.* Festivals are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.
  - 1. For the purposes of this section, a *festival* is an event conducted at an historical center for up to three (3) consecutive days which is open to the general public and conducted for the purpose of promoting the mission of the historical center.
  - 2. In addition to any other special use permit application requirements in section 31.2.4, the application shall describe the nature of the festivals.
  - 3. The special use permit: (i) shall identify the number of approved festivals per year, which number shall not exceed four (4); (ii) may authorize specific festivals, classes of festivals, or a combination thereof; and (iii) may include reasonable conditions relative to the festivals as authorized under section 31.2.4.3.
  - 4. The owner shall obtain a zoning compliance clearance prior to conducting a festival at which more than one hundred fifty (150) persons will be allowed to attend. A

single zoning compliance clearance may be obtained for one (1) or more such festivals as provided herein:

- a. The owner shall apply for a zoning compliance clearance at least thirty (30) days prior to the date of the first festival to be authorized by the zoning compliance clearance. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county police department, the county department of fire and rescue, and the local office of the Virginia Department of Health;
- b. The application shall describe the nature of each festival to be authorized by the zoning compliance clearance, the date or dates and hours of operation of each such festival, the facilities, buildings and structures to be used, and the number of participants allowed to attend each festival;
- c. Upon a determination that all requirements of the zoning ordinance are satisfied, and imposing all conditions of such approval required by the offices identified in subsection 5.1.42(j)(4)(a), the zoning administrator shall issue a zoning compliance clearance for one or more festivals. The zoning compliance clearance shall be conditional upon the owner's compliance with all requirements of the zoning ordinance, all conditions of the approved special use permit, the approved site plan, and all conditions imposed by the zoning compliance clearance; and
- d. The zoning administrator may issue a single zoning compliance clearance for two (2) or more festivals if: (i) the application submitted by the owner includes the required information for each festival to be covered by the zoning compliance clearance; (ii) the zoning administrator determines that each such festival is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such festival may be imposed with the zoning compliance clearance.

### Article III. District Regulations

**Sec. 10.2.2 By special use permit**

...

49. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 12.2.2 By special use permit**

...

17. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 13.2.2 By special use permit**

...

13. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 14.2.2 By special use permit**

...

15. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 15.2.2 By special use permit**

...

17. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 16.2.2 By special use permit**

...

17. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 17.2.2 By special use permit**

...

19. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 18.2.2 By special use permit**

...

19. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

**Sec. 19.3.2 By special use permit**

...

11. Historical centers, historical center special events, historical center festivals (reference 5.1.42).

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(The next two agenda items were here concurrently.)

Agenda Item No. 10. **ZTA-2005-002. Airport Impact Area Overlay District (AIA). Public hearing** on an Ordinance to update references to maps designating the Airport Impact Area Overlay District (AIA) & the AIA's Noise Impact Area & Protection Area, & make other associated changes by amending Sec 30.2.1, Intent, 30.2.2, Application, & 30.2.3, Definitions, of Chapter 18, Zoning, of the Albemarle County Code. The review & update of the Charlottesville–Albemarle Airport Master Plan has resulted in new maps that will establish revised boundaries of the AIA, the Noise Impact Area & the Airport Protection Area. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

Agenda Item No. 11. **ZMA-2005-004. Airport Impact Area Overlay District (AIA). Public hearing** on an Ordinance to amend Chapter 18, Zoning, of the Albemarle County Code, would amend the zoning map to change the boundaries of the Airport Impact Area Overlay District (AIA), & the Noise Impact Area & Airport Protection Area within the AIA. The AIA exists for the purpose of minimizing the creation of physical, visual, & other obstructions to the safe operations of the airport facility & to minimize the adverse airport-related impact on persons & properties in the vicinity. The amended boundaries of the AIA District & Noise Impact Area are based on new maps resulting from the update of the Charlottesville-Albemarle Airport Plan, affecting the following Ps within Albemarle County, identified by TM & P number: TM 19, Ps 19, 19B, 19C, 19D, 19E, 19F, 19I, 19J, 19K, 19L, 19W, 19X, 20, 20B, 22D, 22E, 23A, 24, 25, 29D, 30, 30A, 30B, 31B, 31D, 31E, 31E1, 32; TM 20, Ps 6A, 6A1, 6J, 6K, 6L, 6M, 6N, 6NN, 6Q, 6R, 6S, 6T, 6V, 6W, 6X, 13A, 15C, 15C1, 16, 16E, 16E1, 16E3, 16E4, 16E6, 16P, 18, 18A, 19, 19B, 19B1, 19C, 20, 21, 22; TM 21, Ps 3D1, 3E, 5, 11, 11A, 12, 12A, 12B, 12C, 12C1, 12C3, 12D, 13C, 13C1, 13C2, 13C3, 13C4, 13E, 14C, 15, 15A, 15B, 15C, 15D, 15E, 15F, 15G, 16, 16A, 16C, 16D, 18, 18F, 18G; TM 31, Ps 1, 56; & TM 33, Ps 1, 2, 2A, 4, 4A, 4B, 4C, 9, 9A, 10, 12, 12A, 12D, 12E, 21, 22B, 35A, 36, 37J & 37K. As a result of this proposed amendment to the zoning map, some Ps, or portions thereof, will be placed within the AIA, some will remain in the AIA but with the AIA's boundaries changing, & some will remain in the AIA but with no boundary change. The Comprehensive Plan does not address the general usage & density of lands within the AIA, but are determined by the underlying plan designation. The Zoning Ord provides that the general usage & density ranges of lands within the AIA are as authorized by the underlying zoning district designation, except that buildings, structures, objects of natural growth & uses may not penetrate the AIA's Airport Protection Area, generally only agricultural & open space uses are allowed in the AIA's Safety Area, & buildings & structures within the AIA's Noise Impact Area must be designed & constructed to meet acoustical performance standards. (Advertised in the Daily Progress on May 23 and May 30, 2005.)

Mr. Benish reported that this proposal is to amend the text of the Airport Impact Overlay District to modify the boundaries of the county's AIA district, noting that the boundary was established to minimize the adverse impacts of the airport on persons and properties and to minimize the creation of physical, visual, and other obstructions to the safe operation of the airport facility. He said that the AIA boundary and other sub-areas defined within the district are based on some information provided within the airport master plan, recently updated and adopted by the Board as an amendment to the Comp. Plan. He said that based on new information recently provided in the master plan – particularly related to the noise impact area, the airport protection area, and the runway clear zone portions – certain changes to the text and map need to be made. He referenced maps presented and pointed Board members to the draft amendment distributed. Mr. Benish emphasized that the district needs to be consistent with the base information that provides for the boundaries for the sub-parts of the AIA district. He noted that there are federal laws for clear zones, and one mechanism for achieving that is through local application of zoning regulation.

Mr. Benish reported that the primary change to the district is to the airport protection portion of the impact area, and the plan is for the long-term potential to extend the runway by 1,000 feet to the north. By that potential extension, he said, there is a desire to protect the ultimate airspace for approaches and take-off areas for that runway. As a result, he said, the northern arc has changed as properties are now within the district. He confirmed that the goal is to protect the airspace based on approach angles defined in the master plan and based on a certain altitude. Mr. Benish said that as a general rule, the area within that band height of structures is impacted and the change affects structures that are 200 to 300 feet tall. He stated that the impact would primarily be on towers, not residences.

Ms. Thomas said that there are towers there.

Mr. Benish explained that the noise impact area is based on a study of the day/night average sound levels around the airport done as part of the master plan process. He said that properties within those boundaries, averaging 65 decibel in sound level, need to meet certain noise attainment requirements, and that area is now entirely airport-owned so no private properties are impacted. Mr. Benish said that improvements in airplane engine quality have allowed the standard to be met more easily. He reported that the runway protection zone area is a small trapezoidal area at the end of the runways that lies completely on the property, and this amendment is to change terminology from the master plan as well as some minor dimension changes.

Mr. Benish concluded by stating that the Planning Commission recommended approval of both the text and map amendments.

Mr. Rooker opened the public hearing.

Mr. Brian Elliott, Executive Director of the Charlottesville-Albemarle Airport Authority, addressed the Board. He explained that in 1984, the county established the overlay district and it became a model zoning ordinance for the state; the General Assembly enacted legislation in the 1990's that required communities to have overlay districts. Mr. Elliott said that the district adopted in 1984 mirrored the airport's zones at that time, and now they are trying to "clean up changes in the language" and changes brought about because of the recommended runway extension over the next 20 years. He stated that the northern end of the zone does impact a structure of substantial height, and there are existing penetrations, including the radar for the airport installed in the mid-90's, and an old tower leased by AT&T for cell-phone use. Mr. Elliott echoed Mr. Benish's statement about decrease in noise envelope impact.

Ms. Thomas asked if the AT&T tower would need to be changed.

Mr. Elliott said that the structure could be lit and charted as an obstruction for pilots to be aware of on approach and departure.

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

**Motion** was offered by Ms. Thomas, **seconded** by Mr. Bowerman, to approve ZTA-2005-002 as recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

#### **ORDINANCE NO. 05-18(6)**

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

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

#### **By Amending:**

Sec. 30.2.1 Intent  
Sec. 30.2.2 Application  
Sec. 30.2.3 Definitions

### **Chapter 18. Zoning**

#### **Article III. District Regulations**

##### **Sec. 30.2.1 Intent**

The airport impact area ("AIA") overlay district is created in recognition of: airport related hazards which may endanger lives and property; obstructions which effectively reduce air space required for take-off, landing and maneuvering of aircraft, thereby reducing the utility of the Charlottesville-Albemarle Airport and the public investment therein; and noise from aircraft operations which may adversely affect the health of persons and the peaceful use and enjoyment of property. It is the intent of this overlay district to minimize the creation of physical, visual and other obstructions to the safe operations of the airport facility and to minimize adverse airport-related impacts on persons and properties in the vicinity. The AIA overlay district shall consist of the airport protection area, runway protection zone ("RPZ") and the AIA noise impact area.

(Ord. 05-18(6), 6-8-05)

##### **Sec. 30.2.2 Application**

The AIA overlay district is hereby created and designated generally on the zoning map and specifically on the Airport Airspace Drawing-Part 77, as amended, and on the Existing Noise Contours Map (2002), of the Charlottesville-Albemarle Airport Master Plan, as amended ("Airport Airspace Drawing-Part 77" and "Existing Noise Contours Map (2003)", respectively). Copies of these documents shall be available in the office of the zoning administrator.

(Ord. 05-18(6), 6-8-05)

### Sec. 30.2.3 Definitions

The following definitions shall apply in the interpretation and implementation of this section 30.2:

- (1) *AIA noise impact area.* The term "AIA noise impact area" means all land within the 65 DNL contour as delineated on the Existing Noise Contours Map (2003).
- (2) *Airport protection area.* The term "airport protection area" means the imaginary conical, horizontal, transitional and approach surfaces as delineated and/or described on the Airport Airspace Drawing-Part 77.
- (3) *Primary surface.* The term "primary surface" means a surface longitudinally centered on a runway. The primary surface for Runway 3-21 extends two hundred (200) feet beyond each end and is one thousand (1,000) feet wide. The elevation of the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (4) *Runway protection zone.* The term "runway protection zone" means an area at ground level underlying a portion of the FAR Part 77 imaginary runway approach surface and extending to a point on the ground where the elevation of the approach surface reaches fifty (50) feet above the runway end elevation. The runway protection zone is trapezoidal in shape and centered about the extended runway centerline, with dimensions for a particular runway end defined by the type of aircraft and approach visibility minimum associated with that runway end. The runway protection zone typically begins two hundred (200) feet beyond the end of the runway area usable for takeoff and landing, and extends from the ends of the primary surface. At the Charlottesville-Albemarle Airport, the dimensions of the runway protection zone for Runway 3 are one thousand (1,000) feet (inner width), one thousand seven hundred fifty (1,750) feet (outer width) and two thousand five hundred (2,500) feet (length); the dimensions of the runway protection zone for Runway 21 are one thousand (1,000) feet (inner width), one thousand five hundred ten (1,510) feet (outer width) and one thousand seven hundred (1,700) feet (length).
- (5) *Safety area.* The term "safety area" means the airport primary surface and the runway protection zone at each end of the runway as shown on the Airport Lay-Out Plan.

(Ord. 05-18(6), 6-8-05)

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**Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve ZMA-2005-004 as recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Wyant, Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas.  
NAYS: None.

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Agenda Item No. 12. From the Board: Matters Not Listed on the Agenda.

Mr. Wyant stated that he has received numerous calls on advertising signs in the right-of-way, and the clutter they bring to the county. He said that there are national groups dropping signs everywhere, and expressed concern about resolving the matter.

Mr. Tucker responded that most of these signs are in the right-of-way, and VDOT is supposed to handle the situation.

Mr. Davis pointed out that fines of up to \$100 per sign plus removal costs are applicable to unpermitted signs, but enforcement is labor intensive and the VDOT residency has told the county that when they see them and have time, they take them down.

Mr. Rooker said that the sign-owners will respond if you call.

Ms. Thomas noted that as a citizen, you are not supposed to remove the signs yourself.

Mr. Davis said that there was litigation that occurred in Northern Virginia, when sign-owners sued citizens for removing signs; the court found that the company could not recover damages, but clearly there is no right to self-help in that situation for citizens. He added that if the county wanted to enter into an agreement with VDOT and VDOT authorized county personnel to remove signs, that could be done, but it is a matter of expense and manpower.

Ms. Thomas said that she has picked them up and laid them flat on the ground.

Mr. Rooker stated that it is not a huge manpower issue, as zoning personnel could do it as they pass them on their way to investigate violations.

Ms. Thomas said that county personnel do not routinely make those trips.

Mr. Graham reported that if signs are in VDOT right-of-way, county staff notifies VDOT that there has been a complaint; for signs on private property, the county is "complaint-driven," but does not have the resources to be running around looking for signs. If it is an obvious violation, they will follow up on it.

Mr. Dorrier asked if the police could enforce violations.

Mr. Graham replied that zoning can enforce the private property violations, but the right-of-way violations are VDOT issues.

Mr. Davis confirmed that VDOT right-of-way violations are civil violations, and are subject to a civil fine of \$100 per sign, and there is a presumption that whoever is named on the sign owes the penalty.

Mr. Tucker wondered if VDOT would be interested in contracting that out.

Mr. Davis said that in Northern Virginia, VDOT is more active in pursuing the sign violations, as they have more manpower, and in some instances have entered into agreements with localities.

Mr. Wyant pointed out that there are signs put on power poles as well that cause a great deal of clutter. This is really getting to be a big eyesore.

Mr. Rooker said that the main concern is with 800-number signs, and house for sale signs. He stated that an agreement with VDOT with the county would be helpful so that the county could be authorized to remove them.

Mr. Tucker said that as long as the county can recover some of that fee, that's fine, but it will turn into a manpower issue.

Mr. Davis stated that VDOT and Spotsylvania County are working towards an agreement where the county would take down the signs and recover the sign removal costs, but VDOT would take the \$100 fine. He thinks the authority is there for the county to recover the reasonable costs of the signs and the \$100 fee, and the county could negotiate with VDOT as to how that would be split, but he is not sure if that would cover the costs of a position.

Ms. Thomas suggested sharing the information with Mr. Utterback. Mr. Rooker said that the issue was mentioned to him shortly after he assumed his position.

Mr. Rooker suggested talking with Butch Davies to see if the county could keep the fine, given that VDOT should have an interest in enforcing the sign law.

Mr. Davis replied that he is not sure if the Commonwealth Transportation Board has a formal policy they've passed onto the residency, but they are the board that could get engaged in this.

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Mr. Wyant asked about the status of the business development position.

Mr. Graham replied that the position has been filled, and the new person – Susan Steimert – begins next Monday.

He explained that regarding site plan streamlining, staff is working up a summary on each issue raised and what would be involved with strategies for addressing them. Mr. Graham said that they hope to bring them back in an August work session with the Board for further discussion.

Mr. Wyant commented that there have been excellent meetings regarding overlot grading, and progress is being made on that issue.

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Ms. Thomas reported that the VML newsletter referencing a website [www.schoolmatters.com](http://www.schoolmatters.com) that includes comparative data on state schools was very helpful, as was the site itself.

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Mr. Rooker distributed a letter that he had received regarding Foxfield from a nearby resident who noticed several alcohol-related issues, as well as random offsite parking for the event by property owners charging a fee.

Mr. Davis said that he believes that is not a permitted use.

Mr. Dorrier expressed concern about the large volume of pedestrian traffic around Foxfield, citing safety concerns with cars and people sharing the road.

Mr. Rooker contended that the spring event is the one that seems to get out of hand. He said that the complaining resident asked for the Board to contact Chief Miller prior to the event.

Mr. Davis said that at Free Union there was a sign advertising "for-fee" parking.

Staff agreed to look into the issues related to the event, including contacting Chief Miller.

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Mr. Rooker reported that the Planning meeting related to Places 29 was well-attended, with about 150 people and good participation. He said that the project is moving ahead on schedule, adding that the Planning Academy had 75 attendees. Mr. Rooker complimented staff on both events.

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Mr. Boyd distributed the February 2<sup>nd</sup> meeting minutes which included the summary of the Briarwood Subdivision Board approval. He reported that the applicant has run into a snag because of the way the project was approved. Mr. Boyd said that when the applicant came forward with the site plan, a question arose over the side setbacks. In the staff report, it mentions the applicant's request for variance.

Mr. Graham explained that the Zoning Administrator found there are two separate considerations: setbacks, and building separation. He said that the setbacks were not found to be established in the zoning action, and zoning determined that the R-4 setbacks were the appropriate setbacks. Mr. Graham said that the ordinance does allow for Mr. Cilimberg to administratively make modifications to those setbacks. Building separation, Mr. Graham said, covers the distance between houses or structures in Section 19.8 of the ordinance, which calls for a 30-foot separation. Zoning has determined that the motion acted upon by the Board allowed for a reduction to 20 feet, which cannot be modified administratively. He said that another amendment of zoning would be required to reduce that separation further.

Mr. Graham emphasized that Mr. Boyd's request in his January 3<sup>rd</sup> letter could be administratively managed, but the houses could not be allowed to be less than 20 feet apart from each other. He said that fire is one consideration with building separation.

Mr. Rooker said that there must be 20 feet separation between structures.

Mr. Graham stated that this got complicated because a revised plan was submitted, and there were only four working days between submission and Planning Commission review, and their review did not address setbacks and separation. He added that they unanimously recommended denial. Mr. Graham reported that between that public hearing and the Board of Supervisors review, staff gave comment to the applicant on the November 18<sup>th</sup> plan. Mr. Graham said that Mr. Boyd submitted his letter in January, but staff was still on schedule for a February public hearing, and there was not time for further consideration by zoning staff.

Mr. Graham said that planning staff supported the idea of reduced building separation, but the way the application was pushed through, there was not time to look at the issue.

Mr. Rooker stated that it was contemplated that the buildings would be closer together than 20 feet.

Mr. Graham said that the Zoning Administrator's opinion is that the only way the buildings could be less than 20 feet separated is with another zoning amendment.

Ms. Thomas asked what needed to be done to resolve the issue.

Mr. Graham said that it needed to be put into the motion at the time the Board voted on it.

Mr. Davis stated that the setback issue is an administrative function, but Planned District regulations stipulate that the Board as part of the zoning application can accept proffers and grant waivers, and the motion made was to grant a waiver to Section 20-9.8 to reduce the separation to 20 feet, which was part of the application approval. He added that the legal way to amend that would be to amend the application plan, which requires public hearings on the part of the Planning Commission and Board. Mr. Davis emphasized that the rules of procedure do not allow reconsideration of zoning applications except on the day of the meeting when the vote was taken, and that is consistent with state law that requires a legal process. He does not see any way to undo what was done at the meeting.

Mr. Boyd said that the intent of the motion was to approve staff's recommendation.

Mr. Graham emphasized that this problem was discovered with Briarwood – there was no required setback and separation as part of the zoning, and Zoning had to come forth with a determination letter, in which they established that the R-4 setbacks were appropriate and could be administratively modified. They also determined that the building separation was 20 feet based on the action of the Board of Supervisors.

Mr. Rooker said that the applicant would have needed to show setbacks and separation in his application plan.

Mr. Wyant asked if staff comments to the applicant covered setback and separation.

Mr. Graham replied that comments given in December to the applicant said the plans and proffers "were silent to the issue of separation and setbacks" and needed to be established.

Mr. Boyd emphasized that the letter from staff specifying what the applicant should say was referenced in the minutes, and that did not stipulate required separations.

Mr. Davis said that the letter only addressed setbacks.

Mr. Tucker asked Mr. Graham if he thought staff and the Planning Commission would approve this.

Mr. Graham responded that staff believes it fits in the Neighborhood Model and is generally supportive, but the fire-flow issue would need to be further reviewed.

Mr. Tucker asked if the Board could expedite this so that it could go to the Planning Commission quickly, then back to the Board.

Mr. Rooker asked that the applicant amend the application plan. Mr. Graham confirmed that this would be the "cleanest way."

Mr. Rooker said that the application plan is a proffered part of the zoning, and this one would set forth that separations would not be less than 12 feet.

Mr. Davis said that the applicant would need to amend the plan and show the separation with a note as to what it would be; as part of that, the Board would have to approve a waiver for the required 30-foot separation as set out in Section 20-9.8.

Mr. Tucker stated that it could probably be done in early July.

Mr. Davis said the fastest way would be to have it before the Planning Commission in July, then to the Board in August.

Mr. Graham said that the site plan would need to show building lots and sites. He added that certain lots could be shown as double-lots, but it must be consistent with the application plan. It is going to get complicated.

Mr. Boyd stated that it has cost the applicant a lot of money in engineering, and it would be costly to redo.

Mr. Rooker asked if the preliminary site plan and application plan changes could be considered at the same meeting.

Mr. Davis said that an application plan considered at the first July Planning Commission meeting could go to the Board at their next meeting.

Mr. Rooker said that the worst-case scenario is a three-week delay anyway.

Mr. Graham noted that the Planning Commission cannot approve the preliminary site plan if it is showing building separations that are not accurate.

Mr. Davis suggested that what could expedite it would be for the staff and Planning Commission to review the site plan as if there were a building separation reduction to 12 feet, and not act on it until after the ZMA was approved. The review could be completed and be ready to be approved. He added that there may be other site plan issues to be resolved.

Mr. Graham suggested that the application should be amended just to reflect the setback and separation issues.

Mr. Tucker suggested having a note on the plan to be approved. Staff and Board members agreed.

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Mr. Wyant reported that the committee on overlot grading has spent a great deal of time discussing drainage issues, etc., and that information would be coming to the Board shortly.

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Agenda Item No. 13. Adjourn. At 8:10 p.m., there being no further business to come before the Board, the meeting was immediately adjourned.

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Chairman

Approved by Board
Date: 10/05/2005
Initials: DM