

BOTETOURT COUNTY BOARD OF SUPERVISORS

MINUTES OF JULY 17, 2023

The continued meeting of the Botetourt County Board of Supervisors was held on July 17, 2023, at the Botetourt County Administration Center, 57 S. Center Drive, Daleville, Virginia, beginning at 6:00 p.m. This was a continued meeting from June 27, 2023.

PRESENT: Dr. Donald M. Scothorn, Chair
Mrs. Amy S. White, Vice Chair
Dr. Richard G. Bailey
Mr. Stephen P. Clinton
Mr. Billy W. Martin, Sr.

OTHERS PRESENT: Mr. Mike Lockaby, County Attorney
Mr. Gary Larrowe, County Administrator
Mr. David Moorman, Deputy County Administrator
Mr. Jonathan Lanford, Assistant County Administrator
Mrs. Lorie Bess, Deputy Clerk to the Board

Dr. Scothorn called the meeting to order at 6:00 p.m.

Attendees participated in the recitation of the Pledge of Allegiance and a moment of silence.

Dr. Scothorn welcomed everyone to the first meeting of FY24 of the Botetourt County Board of Supervisors. He stated due to conflicting schedules for this month, the Land Use agenda items would be addressed that evening and that he anticipated the regular July Board meeting to be moved to July 31, starting at 6:30 p.m.

Dr. Scothorn also stated the Board was happy to announce a new option for citizens to watch Board of Supervisors meetings and public hearings live, starting with this meeting. He explained it had been a goal of the Board to stream services beginning in FY24 and since this was the first meeting of FY24, this new access was being made available to all. He explained that citizens can access the live stream at www.botetourtva.gov/livestream and the meetings would be recorded and published on the Botetourt County YouTube Channel. He noted citizens would not be able to provide comments on digital platforms while viewing the live stream.

Dr. Scothorn also reminded everyone the meeting was a continuation of the June 27 meeting and therefore there would be no Citizen Comment Period other than the advertised public hearings, as shown on the agenda. He asked if anyone was interested in speaking during one of the public hearings to please fill out a comment card and give to the Deputy Clerk.

CONSIDER CHANGING THE REGULAR JULY 25, 2023 MEETING TO JULY 31, 2023 WITH CLOSED SESSION AT 5:30 P.M. AND PUBLIC SESSION AT 6:30 P.M.

The Board discussed moving the regularly scheduled July 25, 2023 meeting to July 31, 2023, with Closed Session beginning at 5:30 p.m. and public session beginning at 6:30 p.m. There were no conflicts with this recommended change.

MOTION: That the Board move the July 25, 2023 Regular meeting to July 31, 2023, beginning at 6:30 p.m.

MOTION: Mrs. White

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-01

BOARD OF SUPERVISORS' DISCUSSION OF BOTETOURT COUNTY PUBLIC LIBRARIES

Dr. Scothorn stated this topic was discussed at the June meeting and he had asked the County Attorney what the Board's legalities and responsibilities were regarding this topic. During the June meeting, when Mr. Lockaby, county attorney, provided his response, many citizens had departed the meeting and did not hear his comments; therefore, Dr. Scothorn asked Mr. Lockaby to repeat his comments while there were more citizens in attendance. Mr. Lockaby read the following statement aloud in its entirety:

"I would like to address the concern that has been brought to the attention of the BOS regarding the power of the Board of Supervisors to remove books from the Public Library in our county. It is important to clarify that the Board of Supervisors has little to no authority in this matter. The autonomy of the Library Board and the requirements of the First Amendment to the United States Constitution are not new and are well-charted.

The Commonwealth of Virginia first established its library system two centuries ago, by an 1823 Act of the General Assembly creating the Library of Virginia to supervise a statewide public library system. Local public libraries supervised by municipal authorities and the Library of Virginia have existed in Virginia since the mid-19th century. In 1970, the General Assembly created the modern system of public libraries and library boards.

*Virginia is a Commonwealth, which means that all power to enact laws comes from the General Assembly. *Harrison v. Day*, 201 Va. 386 (1959). It has all legislative power; under what is known as the Dillon Rule, the Board of Supervisors has only such powers as are expressly granted to it, those necessarily implied, and those essential to carrying into effect the powers granted or necessarily implied. *Commonwealth v. County Board of Arlington County*, 217 Va. 558 (1977). As stated in this same case, when the General Assembly has set forth a means of carrying these powers into effect, that method must be followed.*

*Under the modern Local and Regional Libraries Act, local governments are authorized to establish free public libraries. Va. Code § 42.1-33. Library Boards are independent political subdivisions of the Commonwealth. *Op. of Stephen Rosenthal, Att'y Gen., to Hon. Robert E. Harris, Member, House of Delegates*, 1993 Va. Op. Att'y Gen. 28 (Nov. 29, 1993). Their members serve four-year terms, during which the members may not be removed except for misconduct or neglect of duty. Va. Code § 42.1-35(A). Misconduct of a public officer means corrupt violation of assigned duties by malfeasance, misfeasance, or nonfeasance. Neglect of duty, in effect, means failing to show up and carry out one's duties. Now, it is worth noting that the Library Board could, and has, developed a system for an advisory committee to review books, and has given the Library Director final discretion to remove books that do not meet the collection development policies adopted by the Library Board, and that process could be changed. But there are important bumpers on any such discretion.*

*The Library Board has the power to make rules and policies for the exercise of its authority. Va. Code § 42.1-35(A). This includes developing and implementing policies for the development and retention of books in the library. Botetourt County Public Libraries operate under established guidelines and policies that ensure that it retains and exercises these powers responsibly and in accordance with the Free Speech Clause of the First Amendment to the U.S. Constitution and the parallel language in the Bill of Rights in the Virginia Constitution. In the case *United States v. American Library Association*, 539 U.S. 194 (2003), Chief Justice Rehnquist, in an opinion joined by Justices O'Connor, Scalia, and Thomas, explained that the purpose of public libraries is "the worthy missions of facilitating learning and cultural enrichment." The Library Board's collection development guidelines were developed based on the*

principles of intellectual freedom and access to information, providing a broad range of materials that reflect the diverse interests and perspectives of our community in accordance with professional standards and neutral criteria not designed to censor certain viewpoints. As the U.S. Supreme Court said in another case, the discretion to collect or not collect a book “may not be exercised in a narrowly partisan and political manner.” Part of the wisdom of the degree of independence of the Library Board and the Libraries’ staff is to provide insulation from political processes that would artificially and possibly unconstitutionally limit their discretion in developing a collection that addresses topics of broad interest to the community.

Now I wish to turn to the question of under what circumstances books may be removed that are already part of the library collection. Under the First Amendment, books that are already in the library may be removed due to considerations of the quality, size, and continuing public interest in the books in the collection. Books that are outdated or factually inaccurate may also be removed. However, books may not be removed in an effort to prevent access to ideas or viewpoints with which the Library Board or others disagree. This is prohibited even in the context of public school libraries, but the concern is particularly heightened in the context of free, open public libraries. The language of Board of Education v. Pico, a 1982 U.S. Supreme Court case, is worth quoting here, slightly paraphrased for length and clarity:

Libraries rightly possess significant discretion to determine the content of their libraries. But that discretion may not be exercised in a narrowly partisan or political manner. If a Democratic library board, motivated by party affiliation, ordered the removal of all books written by or in favor of Republicans, few would doubt that the order violated the constitutional rights of citizens who were denied access to the books. The same conclusion would surely apply if an all-white library board, motivated by racial animus, decided to remove all books authored by blacks or advocating racial equality and integration. Our Constitution does not permit the official suppression of ideas. Thus, whether removal of books from libraries denied the citizens their First Amendment rights depends upon the motivation behind petitioners’ actions. If the library board intended by their removal decision to deny respondents access to ideas with which they disagreed, and if this intent was the decisive factor in their decision, then the library board would have exercised its discretion in violation of the Constitution. To permit such intentions to control official actions would be to encourage the precise sort of officially prescribed orthodoxy unequivocally condemned by this Court.

The Court continues:

In brief, we hold that local library boards may not remove books from library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.

There is also some claim that these general principles do not apply to materials that are obscene, and this is true. But obscenity is also a fairly well-known quantity. In the case Miller v. California, 413 U.S. 15 (1973), the basic test is (a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. As examples of patently offensive material, the court cited offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and offensive representation or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. While I do not wear a black robe, the Botetourt County Libraries do not seem to have any books that would fail the Miller test.

Our Libraries have ordering criteria that they submit to publishers that prohibit the publishers from sending them obscene material. Most states have statutes allowing citizens to challenge the sale of

obscene books, including Virginia. I have been unable to find a reported case in which any the 15 books in the Botetourt County Libraries that have been recently challenged have ever been found by a court of law to be obscene under this test, nor have the others I have heard mentioned in public comments. If the Libraries ultimately removed any of these books, I would have very strong concerns that it would be a total failure. There is no getting around the fact that much of the public hue and cry about these books is motivated by disagreement with the content of these books. That is on the public record. Books that are similar—some have been mentioned in public comment—were recently removed from libraries in Llano County, Texas, by order of their county commissioners following similar outcry. Citizens who wanted the books returned to the shelves sued. The Court ruled that the challengers had a substantial likelihood of success, that the County did not, and that the books must go back on the shelves. While that case is on appeal and therefore is subject to change, I would not expect our federal courts in Virginia to act differently. And note that, if the challengers to the removal ultimately win, the County will owe their attorneys' fees, which will be well into the hundreds of thousands of dollars. Books that do not speak to interests of some segment of the community such that they get taken out regularly simply do not stay on the Libraries' limited shelf-space. Books that are of general interest to the community, in other words, are to a large degree self-selecting.

Therefore, I must advise you, as the Board of Supervisors, that as long as we have a Library Board and professional Librarians operating a free public library for the general interest of the public, it is wise to let them follow and implement the neutral policies they have adopted. They have adopted what appear to me to be reasonable criteria for selection and culling of books. They have also adopted policies that give parents total control of their children's library use until age 13, and substantial control until age 18. The parental control restrictions in place are stronger than those in most similar localities.

I hope that this information is helpful to you in making decisions about what your policies should be on this important matter. Please let me know how I can be of further service to you."

Dr. Scothorn asked David Moorman, Deputy County Administrator, and Julie Phillips, Director of Libraries, to come forward to address questions from the Board.

Dr. Scothorn asked how much money, taxpayer dollars, are used to purchase books. Ms. Phillips replied total collections in FY23 was \$149,462. She noted 86% of the budget is funded by the State. She stated library staff pulled out all LGBTQ subjects, and Christian subjects, to see what representation they have and found that LGBTQ materials account for 0.29% of the library collection, while Christian materials account for 6.56%, which comes out to less than one penny per taxpayer.

Dr. Scothorn asked if a citizen has issue with a specific book, what is the process to have it considered for removal. Mrs. Phillips replied there is a reconsideration policy that has been in place for over 30 years. She explained citizens can express concerns by having a conversation with a librarian, the librarian will give them a form to fill out, and the form is sent to the Reconsideration Committee (3 members). Further, the Committee reads the entire material, researches the author, title, looks at the collection development policy, and then makes a recommendation to the Library Director. The Library Director then relays the decision to the requestor. She noted decisions can be appealed to the Library Board.

Mrs. White asked with the reconsideration policy being in place for 30 years, how many books had been nominated to be removed. Ms. Phillips replied 13 and those were recent requests.

Mrs. White stated our libraries have chosen to require children under the age of 13 be supervised by an adult, but that isn't a law. Ms. Phillips replied that is correct and most libraries have that threshold set at age 8-10, so we are being over conservative.

Mrs. White asked what library traffic has been like since we have been having this public discussion about books. Ms. Phillips replied the libraries see almost 2,000 people every week, not counting emails and phone calls, and out of that 2,000, maybe 10 per day have expressed their support for libraries and say they do not want materials removed or altered in any way.

Mrs. White asked the process if a patron wants to add a book. Ms. Phillips replied any patron can submit suggestions for adding materials and those requests go through the same process as purchasing materials. She stated the libraries do not purchase older materials, but they may borrow them from another library. She noted for new titles, they will consider purchasing but the material has to align with the collection development policy.

Dr. Bailey asked Ms. Phillips if she was familiar with any library in Virginia that has removed these books that are being discussed. Ms. Phillips replied not to her knowledge. Mike Lockaby added that he was not certain where Appomattox County stands currently, but he did know some of their library board members were removed, but it is still playing out.

Dr. Scothorn asked about the books in question and how long have they been in the library collection. Ms. Phillips replied the ones requested for reconsideration have been there since December 2022 and up to 13 years prior.

Dr. Bailey asked if the books had been reconsidered before. Ms. Phillips replied she researched the records and they had not been formally reconsidered before.

Mr. Clinton stated he wished to express his own opinion as a precursor to his statement to the Board. He stated the Board and the public had been at this discussion for quite a while. He stated it seemed only fair that a Board member, himself, who is on the Library Board of Trustees, shares where he is headed on this topic. He stated he was moved by Mr. Lockaby's observations, comments, facts, and legal opinions. He stated he personally bought four of these books, read them in their entirety, and looked for something truly offensive. He stated while there are some narratives that he does not agree with, he could not identify a reason to ban the books. He stated the illustrations are fairly innocent and are trying to make a point. He stated he thinks the books are ideal for young parents to share some important things with their children. He stated he could see compelling evidence that these books have some value, even if it may not always be comfortable to everyone, himself included, but they do have value to some patrons. He concluded in his opinion the books do not meet the test of being obscene material.

Mr. Clinton then read the statement below and suggested the Board adopt a stance during the July 31 meeting. Board members agreed to consider a statement to conclude this discussion on July 31. Mr. Clinton's statement was as follows:

*"Mr. Chairman,
Together with the public, we have been debating this issue for more than six months.
That attests to the importance that the Board has assigned to the matter. It does NOT
equate to – as some have claimed -- a "stonewalling" policy or a delaying tactic.*

*Rather, the Board has wanted to encourage a broad "community conversation" -- a
conversation that would allow the expression of diverse viewpoints and that would allow
the Board time to consider those viewpoints. That may have made the process rather
tiresome. That is far better, however, than a haphazard rush to judgement.*

But it's my opinion that we have heard a reliable sample of opinions on the matter, and that we have gathered as much meaningful information as we are likely to gather. It's time to bring it to a conclusion.

So let me suggest that the Board arrive at a draft "policy statement," or "position paper," or "resolution" – whatever we want to call it – putting forth the Board's position, and that that draft be debated and voted on at our next regularly-scheduled meeting, July 31."

Dr. Scothorn asked Board members to give thought to the suggestion and it would be revisited at the July 31 meeting.

Mr. Clinton then read a resolution in support of Library Director and staff.

***Resolution in Support of Library Director Julie Phillips
and Botetourt County Library Staff***

WHEREAS, Botetourt County Public Libraries' vision is to fuel a curious, creative, connected community; and

WHEREAS, Botetourt County Public Libraries' mission is to connect everyone, everywhere to learn, grow and share; and

WHEREAS, Botetourt County Public Libraries have four core values; to be insatiably curious; to anticipate and adapt to the needs of the community; to treat everyone with respect and kindness; to empower those around us; and

WHEREAS, Botetourt County Public Libraries provide all community members with access to resources, services, and programs meeting their informational, educational, and recreational needs; and

WHEREAS, Botetourt County Public Libraries ensure a safe, neutral means and environment for the free exploration of a broad range of ideas and provide encouragement and opportunities for all community members; Patrons regularly say that the Botetourt County Library System is a group of friendly, welcoming, professional and knowledgeable staff; and

WHEREAS, Botetourt County Libraries foster an inclusive, innovative community by encouraging the free and civil exchange of ideas and information through personal connection and relationships; and

WHEREAS, Botetourt County Libraries have been led since June 2019, by Library Director Julie Phillips; and

WHEREAS, Ms. Phillips brought an indomitable optimism, passion for learning, and a commitment to public service that has resulted in innovations, partnerships, and staff empowerment; and

WHEREAS, Botetourt Library staff, under Ms. Phillips' leadership, have improved access to resources and programs by

- Eliminating fines,
- Opening meeting rooms to non-profits and community groups free of charge,

- Increasing online resources, including:
 - HelpNow - free, live tutoring kindergarten through college;
 - VetNow – live consultation and resources for military veterans;
 - NicheAcademy – online tutorials including digital literacy; and
 - Just for Kids streaming video.
- Developing new programs
 - 1,000 Things Before Kindergarten;
 - Summer Learning Challenge in partnership with Botetourt County Public Schools, and
 - The #BOCOGrateful Campaign which grew to become a Countywide initiative.
- Implementing a new, easier-to-use, resource-rich Library website
- Opening a new Library materials pick-up and drop-off site at the Daleville Family YMCA
- Making Library facilities more accessible for persons with handicaps and disabilities
- Providing laptop computers for patron use while visiting library branches
- Providing curbside service
- Offering kits and backpacks for student educational adventures; and

WHEREAS, the library staff has seen enhancements in the last few years including a combined libraries/recreation position at the Eagle Rock Branch, the addition of a Blue Ridge Branch Manager for better service to the community and staff support, and the start of staff training totaling 3,853 hours since March 2020; and

WHEREAS, under Ms. Phillips’ leadership, libraries have continued and increased community partnerships with various organizations including the YMCA, Virginia Department of Health, Botetourt County Social Services, Botetourt County Parks and Recreation, Botetourt County Economic Development, Local Office on Aging, Roanoke Regional Small Business Development Center, Senior Navigator, Botetourt County Public Schools, Kiwanis Club, and more; the library partner network has increased exponentially and Friends groups are also growing and being revitalized; and

WHEREAS, in recent months, Ms. Phillips and Botetourt County Library staff have come under personal attack by members of our community, both in person, in local media, and online; and

WHEREAS, the Botetourt County Board of Supervisors has the utmost confidence in Ms. Phillips and her staff to lead Botetourt County Libraries and the Botetourt County Board of Supervisors will not allow Ms. Phillips or her staff to be persecuted for doing the job that they are tasked to do, and that job is to serve all citizens of Botetourt County; and

WHEREAS, the Botetourt County Library team has tangible skills and organizational memory and know how to serve a diverse community; they are always willing to help, whether it be by finding a specific book for a patron, helping a child learn to read, or hosting a community program; our library staff shows up for the community.

NOW, THEREFORE BE IT RESOLVED that the Botetourt County Board of Supervisors give our support of confidence to Botetourt County Library Director Julie Phillips, and we have the utmost respect for her and our library staff and appreciate the job they do each and every day to support the citizens, visitors, and businesses of Botetourt County.

UNANIMOUSLY ADOPTED this 17th day of July 2023.

MOTION: That the Board adopt the Resolution in support of Library Director Julie Phillips and Botetourt County Library Staff, as presented.

MOTION: Mrs. White

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-02

PUBLIC HEARINGS

THE BOTETOURT COUNTY PLANNING COMMISSION HAS AUTHORIZED CONSIDERATION OF TEXT AMENDMENTS TO CHAPTER 25, ZONING OF THE BOTETOURT COUNTY CODE THAT WOULD AMEND THE DEFINITION OF "CHURCH" TO ALLOW A DAYCARE OR PRIVATE SCHOOL OPERATED BY THE CHURCH AS A PERMITTED ACCESSORY USE, AMEND THE DEFINITION OF "GARAGE, PRIVATE" TO REMOVE LIMITATIONS ON THE NUMBER OF GARAGE DOORS AND GARAGE UNITS ASSOCIATED WITH MULTI-FAMILY DWELLINGS, AND TO REMOVE THE USE "KENNEL, PRIVATE".

Jonathan McCoy presented the request, which included three text amendments for the Board's consideration. He explained the intent of these changes was to allow citizens to do more with what they have and to streamline the process for all involved.

He explained the first change is to change the definition of "Church", noting the current definition prohibits churches from having day care and educational activities. The new amendment would allow it. Obviously, they would still have to be reviewed to ensure a safe, quality, location for children, he noted.

Dr. Bailey asked if there were any concerns from the Planning Commission. Mr. McCoy replied there were no concerns and that he also reviewed other localities to see how they handle these.

Mr. McCoy stated the second amendment for consideration was the definition of "Garage, Private".

He stated the final amendment for consideration was the regulation of use for "Kennel, Private". He explained this would not stop anyone from having dogs, it would just take it out of the hands of the Zoning department.

Mrs. White asked for verification that the Zoning Department currently does not have authority over the current rules. Mr. McCoy replied that was correct and it is very difficult to control, and they often get caught in the middle between the citizen and the Sheriff's office.

MOTION: That the Board approve the text amendments regarding *Church, Garage, and Kennel, Private* to the Botetourt County Code, as recommended by the Planning Commission and included in the staff report.

MOTION: Mr. Martin

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-03

BLUE RIDGE DISTRICT: ML PROPERTIES LLC REQUESTS TO REZONE 2.052 ACRES OF A 3.692-ACRE PARCEL FROM THE BUSINESS (B-1) USE DISTRICT TO THE

BUSINESS (B-3) USE DISTRICT AND JIMMY & LESLIE JONSRUD REQUEST TO REZONE 0.185 ACRES OF A 3-ACRE PARCEL FROM AGRICULTURAL (A-1) TO THE BUSINESS (B-3) USE DISTRICT, WITH POSSIBLE PROFFERED CONDITIONS, IN ACCORDANCE WITH SECTION 25-262.- PERMITTED USES AND SECTION 25-581. ZONING MAP AMENDMENT—OWNER-INITIATED. OF THE BOTETOURT COUNTY CODE AND A CHANGE OF PROFFERED CONDITIONS ASSOCIATED WITH THE EXISTING BUSINESS (B-3) USE DISTRICT IN ACCORDANCE WITH SECTION 25-47. – CONDITIONAL ZONING OF THE BOTETOURT COUNTY CODE, LOCATED AT 2655 BLUE RIDGE BOULEVARD, (US ROUTES 460 AND 221) AND 111 MORNING DOVE LANE (SR 1411), IDENTIFIED ON THE REAL PROPERTY IDENTIFICATION MAPS OF BOTETOURT COUNTY AS SECTION 108, PARCELS 221A & 221B.

Nick Baker presented the request. He reviewed the following staff report:

Planning Commission Recommendation:

The Planning Commission recommended unanimous approval of the Business (B-3) rezoning with the following proffered conditions:

1. The development of the property shall be constructed in substantial conformance with the site plan included with the application, titled "J.F. Petroleum". Prepared by Engineering Conceptions Inc. and dated May 1, 2023.
2. A row of evergreen trees shall be installed adjacent to the boundary of the Blue Ridge Parkway as shown upon the concept site plan.
3. Overnight parking of equipment shall be located in the equipment parking to the rear of the existing office/warehouse building.
4. The proposed fence around the equipment parking shall be of a material with low reflectivity.
5. No storage of inoperable equipment to be allowed.

Mr. Clinton asked if the evergreen trees will be a minimum height and Mr. Baker replied they would.

Dr. Scothorn declared the public hearing open. Having no citizens wishing to address the Board, Dr. Scothorn declared the public hearing closed.

MOTION: That the Board approve the Business (B-3) rezoning request on the properties of ML Properties LLC and Jimmy and Leslie Jonsrud as recommended by the Planning Commission with the proffered conditions 1-5 submitted by the applicants.

MOTION: Mr. Martin

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-04

THE BOTETOURT COUNTY BOARD OF SUPERVISORS HAVE AUTHORIZED CONSIDERATION OF TEXT AMENDMENTS TO CHAPTER 25, ZONING OF THE BOTETOURT COUNTY CODE THAT WOULD AMEND DEVELOPMENT STANDARDS OF THE TRADITIONAL NEIGHBORHOOD DISTRICT (TND).

Drew Pearson presented the request and reviewed the following staff report:

Staff Report from Planning Commission meeting:

Two citizens spoke on this request. Each brought up concerns with lot size reductions, adding

more people that would be concentrated in an area, and the possibility of houses in such proximity to each other that multiple houses would burn if one was on fire, citing an example that happened in Roanoke City. The Planning Commission asked staff to provide a response to the concerns, where staff noted that the purpose statement for the TND use district promoted communities that have a denser population, as well as smaller lots. In response to the safety concern of homes being placed closer together, staff pointed out that the R-3 use district allowed similar separation in houses and that the Virginia Building Code is designed to address the safety factor regarding how close homes are located to each other by requiring more stringent construction standards than would have been in place at the time of construction of the houses in the example from Roanoke City.

Mr. Clinton pointed out the minimum lot size going from 8500 to 1000 was a big difference. Mr. Pearson agreed, noting this development is unique in nature. He explained they have hopes in promoting “mom and pop” type businesses, small business, Main Street type feeling, small stores and shops, sometimes attached, sometimes detached. So the smaller lot size allows more creativity and possibility to pull in smaller shops.

Mr. Clinton asked about the speed limit going from 30mph to 20mph. Mr. Pearson explained traffic counts allow the 30 mph but as you go into the neighborhood the traffic count would then reduce it to 20mph. Mr. Clinton questioned if it made sense to reduce 10 mph for something on such a small scale because people perceive cars to be traveling faster than they usually are and it makes people feel like it is a “trap”. Mr. Pearson replied VDOT would actually stipulate the speed limit for that section of road.

Mrs. White asked if these text amendments would be applied to future TND, and are they retroactive. Mr. Pearson replied they typically are not. He further explained the TND has language that there is a development plan with design guidelines, and that plan will become part of that guiding document. He noted the current TND was not as strict as today so it's more generic of a layout, meaning they probably have more flexibility than today.

Dr. Bailey questioned the infrastructure of the alleys and if that might affect Fire/Safety services. Mr. Pearson replied it would not necessarily be better but the 18 foot section has been reviewed by Fire/EMS and they did have some questions, but the engineer is prepared to work through those. He stated there were no particular concerns that would negate Fire/EMS responses on the 18' alleys.

Dave Spigle, 2878 Mount Joy Road

Mr. Spigle stated they view these text amendments as bringing the text amendments up to the needs of the community today. He stated the original ordinance was done in 2022/23 and there were some accommodations made for the Daleville Town Center. Since then, there hasn't been any updates to the ordinance, he said. He stated their goal was to create a community, with small businesses that relate well to the residential setting for the rest of the project. He noted the cottages are important nowadays to families who move their elderly parents into their home to care for them. He explained this is exclusive to the TND and not about having these amendments to B2 or R2.

Dr. Scothorn declared the public hearing open.

Rick Painter, 173 Murray Drive

Mr. Painter stated he had multiple concerns with the TND request because this request is a

complete rewrite of the current TND policy. He stated the Board should not set policies when certain situations are being considered, especially when the policy is considered with less than 5-6 hours of careful consideration. He noted this project is the entire reason for this rewrite and while this project is unique, the Board can separate and distinguish this one without rewriting the entire TND policy.

Walter Michael, 1215 Archway Road

Mr. Michael stated just because something works in Hanover or Goochland that does not mean it will work here. He encouraged the Board to carefully consider everything before approving this SEP for Harvest at Blue Ridge because it is hard to put the Genie back in the bottle once she's out. He thanked the Board for their time.

Having no other citizens wishing to address the Board, Dr. Scothorn declared the public hearing closed.

MOTION: That the Board approve the Traditional Neighborhood District text amendments to the Botetourt County Code, as recommended by the Planning Commission and as included in the staff report.

MOTION: Dr. Scothorn

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-05

BLUE RIDGE DISTRICT: MURRAY CIDER CO. INC. AND MURRAY FARM PROPERTIES LLC REQUEST TO REZONE THREE PARCELS CONTAINING 89.39 ACRES, 1.6 ACRES & 3.8 ACRES FROM THE AGRICULTURAL (A-1) AND RESIDENTIAL (R-1) USE DISTRICTS, TO THE TRADITIONAL NEIGHBORHOOD DISTRICT (TND) IN ACCORDANCE WITH SECTION 25-581. – ZONING MAP AMENDMENT—OWNER INITIATED, AND CHAPTER 25 ZONING, ARTICLE II – DISTRICT REGULATIONS GENERALLY, DIVISION 9, TRADITIONAL NEIGHBORHOOD DISTRICT; A SPECIAL EXCEPTION PERMIT FOR PRIVATE ROADS IN ACCORDANCE WITH SECTION 25-210(D) PUBLIC AND PRIVATE STREETS AND SECTION 25-583 – SPECIAL EXCEPTIONS OF THE BOTETOURT COUNTY CODE; AND A COMMISSION PERMIT FOR STREETS AND UTILITIES IN ACCORDANCE WITH §15.2-2232 OF THE CODE OF VIRGINIA AND SECTION 25-576. – COMMISSION PERMIT (“2232 REVIEW”) OF THE OF THE BOTETOURT COUNTY CODE; LOCATED AT 103 MURRAY FARM ROAD AND FRONTAGE ALONG CLOVERDALE ROAD (ALT 220), IDENTIFIED ON THE REAL PROPERTY IDENTIFICATION MAPS OF BOTETOURT COUNTY AS SECTION 108, PARCEL 140 AND SECTION 108(10), PARCELS C AND D.

Drew Pearson presented the request and reviewed the following staff report:

EXISTING CONDITIONS AND BACKGROUND

Two surveys were included with the application that show the three parcels that are included in the rezoning request. Tax parcel 108-40 is zoned Agricultural (A-1), is 84.167 acres and contains a single-family dwelling, several agricultural structures that housed the Murray Cider Company; which is no longer in operation, a large water feature and a 200-foot APCO power line easement that runs across the northeastern portion of the parcel. Tax parcel 108(10)C is zoned Residential (R-1) and Agricultural (A-1), is 1.636 acres and contains one agricultural structure. Tax parcel 108(10)D is zoned Agricultural (A-1), is 3.806 acres and contains one agricultural structure. The three parcels total 89.609 acres and contains two separated areas

that have frontage along Cloverdale Road (US ALT 220). The parcels slope upwards from Cloverdale Road and generally increase in elevation as much as 100 feet at certain locations.

PROPOSED DEVELOPMENT

The proposed development consists of a traditional neighborhood featuring a mixture of land uses upon three parcels totally 89.609 acres. The application includes a very detailed development plan (master plan) titled Harvest at Blue Ridge that illustrates various aspects of the development. Should the rezoning be approved, the site layout, design guidelines and other features included in the master plan will become part of the TND District and serve as the basis for all continuing land use controls and permitting throughout the neighborhood development. Those features of the master plan that exceed zoning ordinance requirements will be required, however, the neighborhood will be required to meet all other specifications and general provisions found in the zoning ordinance and in no instance will any features shown or that is not shown in the master plan exempt the development from any local, state or federal standard or requirement.

Site Layout and Phasing

The TND District requires a minimum area of seventy-five (75) acres and no greater than three hundred (300) acres. It also breaks the TND development into areas consisting of Core, Edge, Workplace and Buffer, along with their respective minimal and maximum required sizes. All TND developments are required to have designated Core and Edge areas. The master plan proposes Core, three (3) distinct Edge and Workplace areas and includes calculations that indicate conformance with each of the area requirements. The master plan shows the location for each use type, civic locations, and open space throughout the neighborhood. The plan also separates the overall traditional neighborhood into six (6) phases of development and includes a table that clearly outlines the number and type of residential dwelling units and the commercial square footage proposed within each phase.

Allowed Uses and Building Design

Each type of residential use found in the zoning ordinance is proposed within the neighborhood, including 122 single-family detached units, 24 duplex units, 30 cottage units, 99 single-family attached (Townhome) units and 162 multifamily (Apartment) units. Commercial uses are limited to no more than 60,000 square feet and will be comprised of uses that are permitted by right from the Business (B-1 & B-2) Use Districts. No specific commercial use has been proposed yet and no SEP commercial uses are proposed with the establishment of the TND District. An additional public hearing would be required for any SEP commercial use proposed later. The mater plan includes a plan sheet for the residential and commercial use types that shows the typical arrangement of the uses upon parcels and other sheets provide representative building elevations for the structures that will house the different types of uses and contain design guidelines that contain criteria on required building materials, architectural, and other building elements.

Access, Streets and Sidewalks

Access is provided from Cloverdale Road (US ALT 220) via two proposed public street intersections. The primary access is proposed across from Cortland Road, which is proposed as a signalized intersection and the other is planned as a right-in/right-out that is located upon the northern most connection of the property with Cloverdale Road. The TND District contains a table with required street designs. The street types required throughout the neighborhood is based on traffic volumes for each of the streets and the neighborhood will be served by both public and private streets that include a grided network of streets comprised of a mixture of

street types from the table. In addition, the masterplan preserves corridors that would allow for the possibility of future connections to adjacent properties. Pedestrian accommodations are provided via sidewalks, paths, and trails. The TND District contains standards that stipulate which streets are required to have sidewalks and whether they are required on one or both sides of the street. The master plan also contains a detail for pedestrian paths or trails and shows the locations throughout the neighborhood where they will be located.

Landscaping and Screening

The master plan includes a landscaping sheet, which indicates that all streets, except for alleys will be tree lined, otherwise, the development will be required to meet all applicable landscaping requirements found in the zoning ordinance.

Outdoor Lighting

The master plan includes details showing the styles of outdoor light fixtures that are planned throughout the neighborhood, otherwise, the lighting will be required to meet all applicable lighting requirements found in the zoning ordinance.

Sewer and Water

Both sewer and water will be provided by the Western Virginia Water Authority (WVWA). The WVWA has reviewed the proposed development and issued a letter, dated June 5, 2023 that indicates that sewer and water can be made available to the development under certain conditions as outlined in their letter. The conditions are as follows:

Sewer - This project has two potential options for sewer connection. The information below will describe each option.

Option A: A sewer connection to the east of the subject property at WVWA manhole 10B-3514.5 located on tax parcel 11(2)4. This sewer shed will accommodate the proposed sewer flows for all phases. This option will require additional public sewer easements to be dedicated.

Option B: A sewer connection to the southwest of the subject property at WVWA manhole 400-1867.0 located near the intersection of Cortland Road and Cloverdale Road. While this line does not require any additional easements, the capacity in this line needs additional capacity analysis for the full build out of this development. The WVWA will allow phase 1 of the proposed development to connect but may require the developer to address capacity with system improvements to the existing sewer in the vicinity of this development once this analysis is complete.

Water - The proposed development will need to participate in system upgrades to the 1329 pressure zone which feeds this development. The WVWA is undergoing capital improvements to improve capacity in this area. The developer will need to pay a pro rata share of these improvements based on their capacity needs versus the planned system capacity increases gained by the WVWA capital improvements. A developer agreement will need to be executed to include these needs as part of the development plan.

Declaration of Restrictive Covenants

The master plan includes declaration and community operating agreement language as required by the zoning ordinance, which will be required to be recorded at the Clerk's Office prior to the first final plat approval.

ADJACENT AND SURROUNDING USES/ZONING

	Zoning	Land Use
<i>North</i>	Agricultural (A-1) and Industrial (M-2)	Agricultural and Industrial
<i>South</i>	Agricultural (A-1)	Single-family Residential Dwellings
<i>East</i>	Agricultural (A-1) and Residential (R-1)	Agricultural and Single-family Residential Dwellings
<i>West</i>	Agricultural (A-1), Residential (R-1), Residential (R-2), Business (B-1) and Business (B-2)	Single-family Residential Dwellings, Vacant, Church and a martial arts studio

ZONING ORDINANCE REQUIREMENTS - Traditional Neighborhood District (TND)

The purpose of the Traditional Neighborhood Development District (TND) is to provide opportunities for the creation of new neighborhoods that have the desirable qualities of older neighborhoods that were the common form of development in the United States from early settlements until the 1940's. These neighborhoods feature a mix of land uses and building types, closely linked by an interconnected network of streets that are framed by buildings, and thus are comfortable for pedestrians and provide a sense of place.

Land use and design regulations of the TND District provide greater flexibility than those from other residential districts and therefore, designed to facilitate the creation of unique traditional neighborhoods and carry out the goals and policies of the County's Comprehensive Plan.

Some of the objectives that goes into the design of a traditional neighborhood development are as follows:

- Allow residents to carry out many of life's activities within their neighborhood, including working, shopping, education and recreation.
- Provide a range and mix of retail, office, residential, and civic land uses, and dwelling types.
- Provide a transportation system that provides safe, comfortable, and convenient movement for all forms of traffic, including motor vehicles, pedestrians and bicycles.
- Provide a system of civic spaces including parks, squares, and public structures to create a sense of community.
- Avoid the common features of conventional, suburban development patterns, which include:
 - Buildings spaced far apart from each other, and set far back from the street and sidewalk,
 - Parking lots located between buildings and the street,
 - Garages prominent at the fronts of dwellings,
 - Streets designed for high-speed traffic which makes pedestrian movement uncomfortable and unsafe, and
 - Open spaces that are "left over" areas at the edges of neighborhoods and are not framed by buildings.

The TND District states that upon approval of a zoning map amendment or revision by the Board of Supervisors, a traditional neighborhood development plan and design guidelines become the basis for all continuing land use controls and supersede any other provisions of this chapter that are less restrictive and that the applicant of a zoning map amendment shall submit a development plan of sufficient detail to demonstrate to the county that the proposal meets all size and dimensional requirements. Upon approval of the development plan, it shall become part of the zoning regulations governing all land within the designated project area.

A TND shall contain at least seventy-five (75) acres of contiguous land, and no greater than three hundred (300) total acres.

A TND shall consist of the following types of areas which shall meet the following requirements:

Core area required. The core area shall be a distinct, contiguous area, and shall contain the designated focal point of the TND. The core area shall extend no further than one thousand four hundred (1,400) linear feet in any direction from the center point and shall include no greater than fifty (50) percent nor less than ten (10) percent of the total net development area of the TND. The core area shall contain residential, civic, commercial, and open space uses.

Edge areas required. Edge areas of the TND shall contain only residential uses, civic uses and open space areas and shall contain the lowest density uses of the neighborhood. Edge areas shall surround the core area on at least two sides. Edge areas shall include no greater than ninety (90) percent nor less than fifty (50) percent of the total net development area of the TND.

Workplace areas, optional. Workplace areas are an optional component of the TND. They shall contain only light industrial, commercial, civic, and open space uses, and shall be distinct areas, contiguous to some other portion of the TND, but need not be contiguous to each other or to the core area. The total land in workplace areas shall include no greater than twenty (20) percent of the total net development area of the TND.

Street design. Street sections in traditional neighborhood districts shall be designed to serve multiple purposes, including movement of motor vehicle traffic, pedestrian and bicycle movement, areas for public interaction, definition of public space and sense of place, and areas for placement of street trees, street furniture and landscaping. Streets shall be designed to balance the needs of all users and promote efficient and safe movement of all modes of transportation.

2010 Comprehensive Plan

The 2010 Comprehensive Plan's Future Land Use Map shows a Medium Density Residential designation for the subject parcels and the purpose statement for the TND District indicates that the district is intended for areas planned for Medium or High-Density Future Land Use and identifies this area as a Community Mixed-Use Location on the Future Mixed-Use Target Areas map. Additional language in the Comprehensive Plan and applicable to the properties is as follows:

Community Mixed Use: This category applies to medium-sized shopping centers and larger pedestrian-oriented retail districts, such as the Daleville Town Center. Typical commercial uses

include supermarkets, medium sized department stores and variety stores, clothing stores, banks, offices, restaurants, and similar uses that draw from multiple neighborhoods. Development intensities could be higher than in Town Edge areas, with mid-rise buildings as well as low rise buildings. Where residential development occurs, ground floor retail would be encouraged, and minimum density standards might be applied. Multiple zoning districts could be developed for this category in the future, recognizing that some of the designated areas are established neighborhood “main streets” and others are corridor auto oriented shopping plazas or strip centers. Although housing would be allowed in all cases, there could be greater incentives for “vertical mixed use” that adjoin future transit nodes (such as service from an express route) or are on traditional “walking” streets.

Mixed Use: Mixed-use developments are the future of dense planning in rural communities. They are efficient in terms of land use and service delivery. There are several design standards associated with promoting mixed use land development.

- o **Building Orientation:** Buildings in mixed-use developments should be oriented along streets, plazas, and pedestrian ways. Their facades should create an active and engaging public realm.
- o **Multi-modal Design:** Mixed use developments should accommodate all modes of transportation to the greatest extent possible.
- o **Parking Location and Design:** New single purpose surface parking lots should be avoided within mixed-use centers. Instead, shared parking facilities with landscaping visible from a public right-of-way should be used.
- o **Public Open Space:** Usable and well-appointed public open space should be provided within mixed-use centers to serve as focal points and community gathering spots.

Corridors: The appearance of Botetourt County’s commercial corridors, specifically U.S Route 220 (including U.S. Route 220 Alternate), U.S. Route 460 and Route 11, has been detrimental to the larger community’s image. As primary entry corridors for visitors to the County, it is essential that these roadways convey a positive impression. At many points along these corridors, there is also a need to mitigate air and noise pollution. The creation of boulevards with landscaped medians, street trees, and sidewalks will greatly improve the appearance of Botetourt County’s corridors, mitigate air and noise pollution, and address the needs of users.

Mixed Use: The resurgence of mixed-use downtowns, employment centers, and retail centers is a national development trend that is evident in recent developments like Daleville Town Center. Mixed-use centers bring together medium- to high-density residential and non-residential uses within a walkable, bicycle-friendly, and/or transit-accessible development framework. Uses can be mixed vertically, within buildings; or horizontally, when tightly clustered in a pedestrian-friendly arrangement. Due to the diversity of uses and activities, mixed-use centers are typically vibrant destinations that attract attention due to their level of activity. Fundamentally, a mixed-use center should provide a full-service environment and diverse land uses (residences, offices, retail, service, entertainment, civic, and open space) for residents, employees, and visitors. Further, mixed-use developments and mixed-use target areas (Map 11- Future Mixed-Use Target Areas) should be coordinated with the implementation of water and waste water infrastructure. While mixed-use developments help reduce overall infrastructure costs, such as less demand of daily traffic on the road network, the demand for water resources does not change with a diversity of land uses.

Botetourt County should coordinate the approval of mixed-use developments with the provision of water resources. Some effective mixed-use aspects are listed below.

- **Composition of Mixed-Use Centers** Mixed-use centers should be comprised of well-mixed and integrated developments that avoid segregated uses and have well planned public spaces that bring

people together and provide opportunities for active living and interaction. • Complementary Uses and Urban Vitality A complementary integration and mixture of land uses should be provided within regional, county, and community mixed-use centers to maintain the County's livability, manage future growth, and provide walkable and transit accessible destinations. An example of this is the potential future development of I-81 Exit 150. • Mixed-Use and Multi-Modal Transportation Promote the development of mixed-use activity centers with multi-modal transportation connections to provide convenient and accessible residential and employment areas. • Zoning Standards for Mixed-Use Revise the Zoning Ordinance to modify setback and buffering to the site design requirements within designated mixed-use centers and mixed-use zoning districts to ensure compatibility and encourage dynamic communities.

TRAFFIC

2021 VDOT traffic data indicates that there is an Annual Average Daily Traffic (AADT) volume of 18,000 trips along Cloverdale Road (Alt VA 220, US 220) between the Roanoke County Line and Lee Highway.

A Traffic Impact Analysis (TIA) report was required for the proposed development. The TIA evaluated current traffic conditions, estimated trip generation for the proposed development for the purpose of determining the impacts of the development on the existing road system and to determine what roadway improvements may be needed to accommodate the projected traffic generated by the development. Evaluations of the existing roadway network included US ALT 220 and each intersection between US 460 and Eastpark Drive. Based on the buildout of the development, the TIA recommended no improvements at US 460, Kingsmen Road, Crumpacker Drive, or Murray Farm Road, however, at Cortland Road/Site Access, there would be a need to install a signal and reconfigure the crossover at Cortland Road into a modified R-cut to only have right-in/right-out, left-in/right-out, and no side street through movements at Cortland Road and Site Access Road and a 300-foot right-turn storage length with a 200-foot taper for northbound approach, and at the northern right-in/right-out site access there would need to be a 200-foot right turn storage lane with 200-foot taper for the northbound.

VDOT has reviewed the TIA and issued a conditional concurrence letter, whereby VDOT agrees with the conclusions of the study, but VDOT is requesting that the site entrance across from Cortland Road be designed with a free flow right with an acceleration lane provided on US 220 to reduce the on-site queuing for the right turns out of the development.

FIRE AND RESCUE

Most of the subject properties are currently serviced by the Read Mountain Volunteer Fire & Rescue Zone that is located 0.2 miles from the development and a small portion of one of the parcels is serviced by the Blue Ridge Volunteer Fire and Rescue is located 6.1 miles away. The proposed traditional neighborhood has been reviewed by Fire & EMS staff who noted a concern with the size of the alleyways, however, pointed out that their team would be engaged throughout the development process to ensure that the new community would be designed for proper access in respect to fire and life safety.

SCHOOLS

The proposed traditional neighborhood is in the Cloverdale Elementary, Read Mountain Middle, and Lord Botetourt High school districts. The rezoning application has been reviewed by Dr. Jonathan Russ who responded as follow: "the major impact any new development will have on our school division is that of additional students. This is not to imply this is a "negative" impact. We are in the business of educating our county's children, and we welcome all students

into our buildings. Over the past several years, we have seen a minimal decline in our Average Daily Membership (ADM), which does impact our funding from the state. Additional ADM would not be viewed as a bad thing. At the present time, the only school that could be impacted that would be close to capacity would be Read Mountain Middle School (RMMS); however, I am confident that the number of new students from this new development could be accommodated at RMMS. Additionally, we are concerned about student capacity at Colonial Elementary; however, where this proposal is zoned, those students would attend Cloverdale Elementary.”

FLOODPLAIN

These parcels are not located within the floodway or 100-year floodplain.

The Planning Commission approved the proposed Traditional Neighborhood District Rezoning, the Private Road Special Exception Permit, and the Commission Permit.

Staff Comments:

Six citizens provided public comments. Three adjoining property owners spoke, with two opposed and one in favor of these requests. Their concerns pertained to stormwater infrastructure, run-off and detention pond issues damaging their homes and the desire to ensure buffers were planted early and if an additional buffer would be placed next to Lake View residents, One adjoiner spoke in favor due to the level of detail and the developers’ openness to his ideas. Two others voiced their opposition due to infrastructure costs for schools; additional public water and public sewer; traffic; how police would respond to issues on private roads; issues attributed to a lack of planning, such as runoff, sewer odor at the new elementary school. One citizen spoke in favor of this request based on the lack of people willing to farm, and the developers’ innovation and history of successful projects. Prior to the Planning Commission’s public hearing, two favorable comments were received from Blue Ridge citizens.

Dr. Scothorn declared the public hearing open.

Dave Spigle introduced Dale Wilkinson and stated they had been working on this for 18 months and a lot of planning and preparation had gone into where they were today. He stated they both have been residents of Botetourt and worked together for a long time and they want to make this project good for the community. He introduced other members of their team including Seth Wilkinson, who takes care of the economics side of things, and Tom Lowe, the master planner, who is based in Charlotte, and has done several hundreds of these types of projects. He introduced Bobby Wampler, of Engineering Concepts, and stated he was critical for reviewing the text amendments and had spent hundreds of hours on this. He complimented the County staff, noting there had been a lot of positive back and forth with them. He noted Grady Vaughan with Ramey Kemp Associates had done the traffic impact analysis and signal utilization report, at VDOT’s request. He stated the Reed and Murray families had been extremely patient with their team. He stated, “This is not Ashley. This is not apartments.” Rather, this is focused on having a neighborhood, to tie all these small business and residents together with a full spectrum of housing choices for people. He stated the goal was to welcome young families, working families, giving them a “sense of place”. He said they wanted to make sure this project is consistent with the goals of the County and the Comprehensive Plan of 2010 identified this site as the County’s’ goal for where mixed use and community mixed use locations would be. He reported his team members knocked on all doors along Peach Tree, and while they didn’t speak with everyone, the discussions they did have with people were encouraging and civil when there was a disagreement.

Dale Wilkinson stated an extensive amount of planning had gone into this project. He stated the property came up for sale in March 2022, they began to study it, and eventually contracted with the Murrays, and in July 2022 they enlisted the help of Tom Lowe, a neighborhood planner for 40 years. He reported the public design charrettes allowed them to meet with people, to go on site and tour with County staff and businesses. He stated they have also been working with VDOT. He noted there were some people that had concerns with which schools to go to and stormwater issues, so this was their approach to discuss these issues with the neighbors. He reported Bobby Wampler had modeled the largest tanker purchased by Botetourt County and put it on the alleys and roads to make sure it can make those turns. Also, Sheriff Ward stated he sees this as a project that will benefit Botetourt County. Mr. Wilkinson also noted there would be a lot of green space and a naturally fed pond, as designed by Mr. Lowe. He noted the price range for homes would be \$200,000 and up. He reported the school superintendent gave an opinion that they could handle the additional students as they come in.

Dr. Scothorn recessed the meeting at 8:38 p.m. Dr. Scothorn called the meeting back to order at 8:51 p.m.

Dr. Scothorn asked if Board members had any questions regarding the presentation.

Mr. Clinton stated he feels this is the right project in the right place and he doesn't always feel that way at the onset of a project. He stated the charrette process is outstanding and thorough, and a good start to the project. He stated this is a long-range project which can prove difficult to maintain excitement for. Mr. Spigle replied it can be tricky at the front end but as the project grows, it will improve by need.

Mr. Clinton asked if there would be multiple family units all under one manager. Mr. Wilkinson replied there would be and they will own and manage them.

Mr. Clinton stated he tends to have an aversion to private streets, based on previous experiences. Mr. Spigle replied the streets would be built into the declarations of the HOA, which would be designed to handle all the common areas, green space, landscaping, signage, etc.

Mrs. White thanked the team for their presentation. She asked if they had identified a design firm for all the different types of homes and if they were local firms. Mr. Wilkinson replied there are many well-known firms that do TNDs and they came at the recommendation of Mr. Lowe.

Mrs. White questioned the comment about "imprint development". Mr. Lowe explained it simply meant "laying lightly on the land", meaning they want to be respectful of the topography of the land and keep the organic look of the property.

Mrs. White stated she understands this is a staged project but would like to know the proposed timeline. Mr. Wilkinson replied Fralin and Waldron have a more aggressive approach and this project includes six phases, going up through 2035, to ensure the market is accepting.

Dr. Bailey asked what the takeaways from the community neighborhood meetings were. Mr. Wilkinson replied folks were happy they won't have to go into Roanoke for everything, they were thankful for being included, they weren't clear if schools would reach occupancy, stormwater concerns, and traffic concerns.

Dr. Bailey asked if these would be custom built homes. Mr. Spigle replied they would partner with a builder that they trusted and someone would spec the type of homes, but there would be no “cookie cutter” homes.

Dr. Bailey asked if all types of housing would be included during each phase. Mr. Spigle replied they would be, because the mix has to be there to be attractive to buyers.

Dr. Scothorn asked if the homes would be ADA compliant. Mr. Wilkinson replied he had a request from a group requiring compliance for the special needs children and they are meeting with them to think through these concerns to see how they can organically comply. He further noted he didn't think each home would need to be ADA compliant though.

Dr. Scothorn questioned if there was a public event held there would it accommodate extra traffic and parking. Mr. Wilkinson replied there is a lot of acreage dedicated to public space but there wouldn't be space for thousands of people all at once and it is not designed for large crowds, it is a neighborhood.

Dr. Scothorn asked about the increase in the number of school kids and while Dr. Russ, school superintendent, has stated there is no issue, it is very difficult to quantify that when trying to identify who will be there, young families, retirees etc. Mr. Wilkinson replied every type of housing has suggestions as to what those markets produce for school kids and it is about 1 child per 3-4 homes but remember this is over 6 phases so it would be a gradual increase over years. He stated they trust Dr. Russ's opinion on the matter and there's time to adjust because it is not all kids at once and they are scattered over grades K-12.

Dr. Scothorn opened the public hearing at 9:16 p.m.

Ed Clark, 5352 Cloverdale Road

Mr. Clark started by saying he had never felt more like a “big black fly swimming around in buttermilk” than now. He reported behind his office is a field and one of the maps shows a retention pond and with a lot of rain, it will probably overflow. He also noted when he decides to sell his property having a pond at the same level as his roof will turn people away. He stated ponds are put in place to hold water but at some point they fill up and run off, and his concern is that it would flood him out. He asked the Board when the time comes, he hopes they will do what they can to protect him. He stated he agrees this is really needed and we do need housing options.

Terri Brockly, 797 Ray Street

Ms. Brockly stated she lives in Laurel Ridge and her concern was that Fralin and Waldron is building a development on Hunt Ridge and she doesn't know how many apartments or townhouses are going to be built there. She stated those people will have to go down Courtland and they could be looking at another 1,000 people on Hunt Ridge, so she is not sure that Murray Farm has put into play how many people will be coming down from Roanoke County since it borders the Botetourt County line. She stated we do need single family housing and have for a very long time. She stated she welcomes this project, and is super excited it's not a Fralin project, but she would like to see the County go with single family homes and cottages because they are very well received with elderly people. She stated she is not in support of the 6 and 8 plex apartments because they may not look like Daleville Town Center, but Botetourt County is getting their fair share of apartments. She stated she would love to see more of an active community and it sounds like there will be walking trails, which would be wonderful to get outside. She stated it would also be nice to have pickleball courts.

Danny Goad, 4766 Read Mountain Road

Mr. Goad stated mentioned the traffic study and how it goes back to the East Park development and 200 yards from that is Hillview Drive onto Route 220. He explained the only place you can get out of that subdivision is to come out on Hillview Drive, or you can snake around Rome Drive close to the Walmart entrance, but either way is a very difficult place to get out of. He stated he is very concerned about the safety of those who are trying to get through that area. He discussed on Route 220 alternate there are already drainage problems and it is very easy to hydroplane on that road. He discussed his second issue is the pond and runoff from that. He noted he really hadn't heard anything about the details of the pond, such as the size, what modifications will have to be done to it, the thickness of the dam and how much of a buffer you have between full pond and overflow. He thanked the Board for their time.

Don Obenshain, 2398 Trinity Road

Mr. Obenshain stated he is in favor of development, but not irresponsible development. He said this project looks well designed and well planned but in the past, when we have had developments, the developer has left and the taxpayers are accountable for upgrades to infrastructure. He stated when you are looking and evaluating these projects, please take that into consideration and make sure funds are available for such.

Christie Cunningham-Taylor, speaking for Kathryn Murray, 273/277 Murray Farm Road

Ms. Cunningham-Taylor stated she was speaking on behalf of Ms. Murray as this topic is difficult for her to discuss. She stated this has been a very emotional time for the Murray family and while they agreed the land needed to be sold, they wanted it to be for something to enhance Botetourt County, not to build 400 homes. She stated the family feels there needs to be better communication and that this is not the Master Plan. She stated they do not feel that changing the TND and adding 400 homes is the answer because people want to live in Botetourt County, but not on top of each other like Roanoke. She stated she does not feel the family is being represented for the four generations living on the road currently. She stated they are concerned how will they access their homes because their driveways are in the land. She stated they are concerned how she will get her mother in and out in the event of needing Fire and Rescue services. She stated she is seeking a legal representative for this matter because the due diligence is not being done.

Grant Homes, 164 Murray Farm Road

Mr. Homes stated four years ago he came before the Board when he got his new job and last year, while sitting on his back porch, they wanted to know how he felt about the plan. He stated the developers have been accessible, helpful, kind, diligent, and careful. He stated he visualizes a community where he can walk to the store to get a loaf of bread. He concluded he is fully supportive of this project.

Having no other citizens wishing to address the Board, Dr. Scothorn declared the public hearing closed.

Dr. Scothorn asked if the Developers wished to address some of the comments and concerns that were presented by the public.

Mr. Spigle stated a citizen mentioned cottages and single-family homes, but we need more than that. He stated he wasn't sure what the hydroplaning on Hillview Drive had to do with the project but they did do a 500 page traffic study and VDOT has issued a letter of concurrence for

the plan. He stated a citizen did raise good questions about the pond, so he wanted to provide more information on that. He noted it is a farm pond, it is not a lake like at Rainbow Forest. It is just a depression in the ground, there is no dam, just the bowl. He stated as for the comment about developers leaving he wanted to respond that is not who they are. He stated they are also residents here and intend to stay here, and furthermore, their reputation is on the line. He stated the citizen is quite right about the additional safeguards for roads and stormwater and those are bonded so there is corporate surety. He explained stormwater is regulated and bonded by the County and DEQ. He noted as far as Ms. Cunningham's comments on behalf of Ms. Murray, they do have a contract with Murray Cider Company so that speaks for itself.

Bobby Wampler discussed the stormwater concerns. He noted stormwater is a highly regulated part of site development and regulations have changed a lot in the past 20 years and will continue to change, but they tend to get more restrictive. He stated the pond behind Mr. Clark's house, is not planned to be a large pond and they intend to use more open channels. He noted there could be other small depressions throughout the property, but regardless of that, they still have to meet regulations, meaning they have to address channel protection and reduce preexisting flows by 20% immediately, according to current regulations. As far as flood protection goes, VDOT also looks at drainage and hydroplaning but there are no technical details yet.

Mr. Clinton asked when the 20% reduction requirement came into effect. Mr. Wampler replied in 2016.

There were no further questions from the Board.

MOTION: That the Board approve the rezoning to Traditional Neighborhood District (TND) for the property of Murray Cider Company Inc. and Murray Farm Properties LLC, as recommended by the Planning Commission.

MOTION: Dr. Scothorn

SECOND: Mr. Clinton

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-06

MOTION: That the Board approve the Special Exception Permit allowing private streets for the property of Murray Cider Company Inc. and Murray Farm Properties LLC as recommended by the Planning Commission.

MOTION: Dr. Scothorn

SECOND: Mr. Martin

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-07

MOTION: That the Board move to uphold the Planning Commission's approval for the Commission Permit on the basis that the proposed streets and public utilities are substantially in accord with the Comprehensive Plan.

MOTION: Dr. Scothorn

SECOND: Mr. Clinton

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

RESOLUTION #23-07-08

ADJOURNMENT

MOTION: That the meeting be adjourned.

MOTION: Mr. Martin

SECOND: Dr. Bailey

AYES: Dr. Bailey, Mr. Clinton, Mr. Martin, Dr. Scothorn, Mrs. White

TIME: 9:47 p.m.