Article 3: Applications & Permits

Division 3.1 In General

Section 3.1.1 Intent

This Article establishes procedures and requirements for all zoning applications and permits.

Section 3.1.2 Preapplication Meeting

A. **Purposes.** The purposes of a preapplication meeting are to:

1) Provide the applicant and the County with a common understanding of the proposed project;

2) Broadly identify issues generated by the project to be addressed by the applicant prior to submittal of an application; and

3) Notify the applicant of special studies, documentation, or any other information required to be submitted with the application.

B. **Required preapplication meetings.** A preapplication meeting is required prior to applicant submittal of the following applications:

4) Zoning map amendments;

5) Special use permits; and

6) Site plans for parcels developed in accordance with the Rio29 Form-Based Code.

C. **Waivers.** The Agent may waive an otherwise required preapplication meeting if the application is substantially the same as an application previously reviewed, and the required information and the issues raised are well-established, or if the Agent determines that:

7) The proposed use, the proposed density, the proposed scale and potential impacts, or the proposed district do not warrant a preapplication meeting;

8) The required supplemental information for the application can be provided without a meeting; and

9) The application raises no complex issues requiring a meeting.

D. **Requirements prior to meeting.** At least five business days before a preapplication meeting, the applicant must submit to the County a conceptual plan and general application information, including the location and layout of the proposal.

E. **Electronic meetings.** Preapplication meetings may be held electronically.

Section 3.1.3 Community Meeting

A. **Purpose.** The purpose of a community meeting is for the applicant to provide relevant information about the proposal and respond to questions the public may raise.

B. **Required community meetings.** A community meeting is required for the following applications:

1) Zoning map amendments;

2) Special use permits; and

3) Site plans for sites developed under the Rio29 Form-Based Code.

C. **Waivers.** The Agent may waive an otherwise required community meeting if the Agent determines that:

4) The application would be unlikely to generate any public concerns;

5) The applicant has already held one or more community meetings on this proposal prior to the preapplication meeting; or

6) Other relevant factors, based on sound planning and zoning principles, would render a community meeting unnecessary.

D. **Timing of meeting**. The community meeting must be held prior to the first public hearing required for the application.

E. **Additional meetings.** An additional community meeting must be held prior to a public hearing if an application resubmittal substantially differs from the original application per determination by the Agent.

F. **Electronic meetings.** Community meetings may be held electronically.

Section 3.1.4 Forms

A. **Application format**. All applications under this Article must be made in a format acceptable to the County of Albemarle.

B. **Establishment of procedures.** The Agent may establish application procedures in addition to the procedures contained in this Article.

Section 3.1.5 Minimum Submission Standards

C. **Requirements.** All applications must include:

1) A completed application form;

2) Any documentation specified through the preapplication process; and

3) Payment of all applicable fees, as required by Albemarle County Code Chapter 1, Article 5.

Section 3.1.6 Application Completeness

A. **Complete applications.** Only complete applications will be accepted.

B. **Incomplete applications**

1) If the Agent determines that the application is incomplete, the Agent will send notice to the specified applicant(s) that the application is incomplete within 14 days of the application submittal.

2) If the application is not made complete within 90 days of the date of notice, the application will be void. The Agent will send notice to the specified applicant(s) that the application is void.

C. **Time to act.** Any required time to act on an application will begin on the date it is deemed complete.

Section 3.1.7 Application Fee

All required application fees must be paid at the time the application is submitted.

Section 3.1.8 Delinquent Taxes and Charges

Applicants must produce satisfactory evidence that any taxes or other charges constituting a lien on the subject property are paid at the time the application is submitted or prior to issuance of the permit, except when the applicant for a special use permit is an easement holder on the subject property.

Section 3.1.9 Application Review and Action

A. **Staff review**

1) Complete applications will be reviewed by staff and required external agencies.

2) Reviewers will provide comments to the applicant regarding the application and request resubmittal of the application with necessary modifications, if applicable.

B. **Review and action by Commission and Boards.** Once application reviews are complete, County staff will schedule the application for review and action by the

Planning Commission, the Board of Zoning Appeals, the Architectural Review Board, or the Board of Supervisors, as applicable.

C. **Administrative decisions.** For applications requiring administrative review only, the Agent will notify the applicant of approval or denial of the application, including the procedures for appealing the decision in accordance with Division 3.13 of this Article.

D. **Electronic communications.** Except as otherwise provided by state law, electronic communications to the applicant, using the contact information provided in the application, will suffice as official notice.

Section 3.1.10 Work Sessions

A. **Purpose.** The purpose of a work session is for staff to present information, seek direction on any issues, and allow the Board of Supervisors, the Planning Commission, and/or the Architectural Review Board to receive public comments on the application.

B. **Scheduling**

1) For any application, the Agent may schedule work sessions with the applicable review body.

2) A work session is subject to the applicant's consent if the work session would extend the time for action by the Planning Commission or Board of Supervisors beyond the deadlines in Virginia Code § 15.2-2285.

Section 3.1.11 Review and Recommendation by Planning Commission

Planning Commission review of subject applications is subject to the following procedures:

A. **Public hearing or meeting**. The Planning Commission will hold any required public hearing or meeting on the application and make a recommendation based on the review standards applicable to the application.

B. **Conditions of approval.** If applicable, the Planning Commission may recommend conditions of approval. Conditions of approval must be reasonably related to the anticipated impacts of the proposed development on the public and surrounding lands. Conditions of approval may include requirements for performance guarantees or bonds. Any recommended conditions of approval must be expressly set forth in the recommendations to the decision-making body.

Section 3.1.12 Decision by Decision-Making Body.

A. **Action.** The Board of Supervisors, Planning Commission, Architectural Review Board, and the Board of Zoning Appeals will review and act on applications pending before them subject to the procedures of this Section.

B. **Public hearing or meeting**

1) As outlined in this Article, the decision-making body will hold any required public hearing or meeting and make one of the decisions authorized for that application.

2) The decision-making body will take one of the following actions:

(a) Refer the application to the Agent or Planning Commission, as applicable;

(b) Defer action to allow for changes prior to final action; or

(c) Approve or deny the application.

C. **Conditions of approval.** The decision-making body may condition its approval to address the anticipated impacts of the proposed development and/or ensure compliance with the review standards. The conditions of approval must be reasonably related to the anticipated impacts of the proposed development on the public and surrounding property. Conditions of approval may include requirements for performance guarantees or bonds. All conditions of approval must be expressly set forth in the decision of approval.

Section 3.1.13 Application Resubmission

Any application for a zoning map amendment, special use permit, or legislative modification previously denied by the Board of Supervisors or an application substantially similar will not be considered within 12 months of the previous denial.

Section 3.1.14 Deferral and Withdrawal of Applications

A. **Deferral request.** Prior to action being taken by the Agent or a decision-making body, an applicant may request to defer an application under the following terms:

1) An applicant may send a written request for a deferral to the Agent. If the application is pending before the Board of Supervisors at the time the request is received, the Agent will immediately inform the Clerk of the Board of the request.

2) An applicant may make an oral request for a deferral directly to the Planning Commission or Board of Supervisors during a public hearing on the application.

B. **Deferral actions.** The County is not obligated to accept a deferral request. If the County accepts a deferral request:

1) Neither the Planning Commission nor the Board of Supervisors will act on the application; and

2) All time periods for review and action will be paused.

C. **Withdrawal by deferral.** An application is deemed voluntarily withdrawn if a deferral is granted in accordance with this Section and the applicant fails to reactivate the application within the earlier of either:

1) Six months of the granting of the deferral; or

2) Thirty-two months of the application submission.

D. **Extension of deferral period.** The Agent may extend the time for action beyond the end of the deferral period if there are extenuating circumstances including but not limited to:

1) Inclement weather;

2) Civil emergencies; and/or

3) Errors in providing required public notice.

E. **Reactivation after deferral.** An applicant may reactivate a deferred application by submitting new information or by requesting that the application be scheduled for public review.

1) The Agent may determine the appropriate procedure to review a reactivated application.

2) The procedure to review may not impose greater requirements than the procedure for a new application but may require a new submittal fee.

3) All time periods for action will be calculated from the reactivation of an application and not from its original submittal date.

F. **Withdrawal by inaction.** An application is deemed voluntarily withdrawn if the Agent or decision-making body provides comments regarding the application, and within six months, the applicant does not either:

1) Resubmit the application; or

2) Request a final decision on the most recent submission prior to provision of the comments.

Division 3.2 Zoning Text Amendments

Section 3.2.1 Applicability

Pursuant to Virginia Code § 15.2-2286 (A)(7), whenever public necessity, convenience, general welfare, or good zoning practice requires, the Board of Supervisors may by ordinance amend, supplement, or change the regulations established in this Chapter.

Section 3.2.2 Standards and Procedures

Initiation of a zoning text amendment. Pursuant to Virginia Code § 15.2-2286 (A)(7), any amendment to a zoning ordinance may be initiated by:

1) Resolution of the Board of Supervisors; or
2) Motion of the Planning Commission.

Division 3.3 Zoning Map Amendments

Section 3.3.1 Applicability

The Board of Supervisors may by ordinance amend, supplement, or change the boundaries of the districts or classifications of property established on the County's zoning map, subject to this Division.

Section 3.3.2 Agent

For the purposes of Division 3.3, "The Agent" means the Zoning Administrator or designee.

Section 3.3.3 Standards and Procedures

A. **Initiation of a zoning map amendment.** An amendment to the official zoning map may be initiated by:

1) Resolution of the Board of Supervisors;
2) Motion of the Planning Commission; or
3) Application of the owner, a contract purchaser with the owner's written consent, or the owner's representative.

B. **Pre-application meeting.** A pre-application meeting, in accordance with Section 3.1.2, is required for any zoning map amendment application not initiated by the Board of Supervisors or the Planning Commission.

C. **Application requirements.** Each zoning map amendment application must comply with the common procedures in Sections 3.1.4 – 3.1.8.

D. **Application notices.** After an application has been determined to be complete, notices will be mailed in compliance with Virginia Code § 15.2-2204 and the following standards:

1) For a zoning map amendment pertaining to a parcel subject to an open-space easement or conservation easement, the notice will be sent to each holder of said easement(s), other than the County.

2) The notice will inform the recipient the application has been filed and describe the nature of the application.

3) Action on such applications will not be invalidated solely due to a failure to timely mail this notice.

E. **Staff review**. The common procedures in Section 3.1.9 apply to zoning map amendments.

F. **Community meeting.** A community meeting in accordance with Section 3.1.3 of this Chapter is required for any zoning map amendments.

G. **Public hearings**. A public hearing before the Planning Commission and a public hearing before the Board of Supervisors are required for any zoning map amendment. The common procedures in Sections 3.1.11, 3.1.12, and Division 3.14 apply, except as provided in Virginia Code § 15.2-2285.

Division 3.4 Conditional Zoning Map Amendments (Proffers)

Section 3.4.1 Applicability

As part of a zoning map amendment, property owners may voluntarily proffer, and the Board of Supervisors may accept conditions that apply in addition to the underlying district regulations, subject to Virginia Code §§ 15.2-2303, 15.2-2303.4, Division 3.3, and this Division.

Section 3.4.2 Agent

For the purposes of Division 3.4, "The Agent" means the Zoning Administrator or designee.

Section 3.4.3 Standards and Procedures

A. **Initiation of a conditional zoning map amendment**. A conditional zoning map amendment may only be initiated by application of the owner.

B. **Application requirements**. Conditional zoning applications must comply with both:

1) All requirements for a zoning map amendment listed in Division 3.3; and

2) All the Zoning Administrator's requirements for this type of application.

C. **Proffer statement.** Proposed proffers must be:

1) In writing;

2) In a form approved by the County Attorney; and

3) In compliance with Virginia Code § 15.2-2303.

D. **Time to submit.** All proposed proffered conditions must be submitted by the following deadlines:

1) *Before the Planning Commission's public hearing*. Proposed proffers, regardless of whether they are signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development at least 14 days before the Commission's public hearing on the zoning map amendment.

2) *Before the Board of Supervisors' public hearing*. Proposed proffers, signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development no later than nine calendar days before the Board's advertised public hearing on the zoning map amendment. The Zoning Administrator may establish written guidelines that require signed proffers to be submitted a reasonable time prior to the public hearing to allow for review by County officers and employees and by the public.

3) *Amendments to proposed proffers after the public hearing has begun*. The Board of Supervisors may accept, in its sole discretion, amended proffers after a public hearing on the zoning map amendment has begun if the Board concludes that the amended proffers do not materially affect the overall proposal. If amended proffers are submitted after the public hearing is closed, the Board may accept, in its sole discretion, the amended proffers after holding another public hearing.

E. **Effect of condition.** All approved proffered conditions will apply in addition to all applicable zoning regulations.

F. **Period of validity.** Upon the approval of any conditional rezoning, all proffered conditions accepted by the Board of Supervisors will remain in full force and effect until amended or varied by the Board of Supervisors.

G. **Record of conditional zoning.** Each conditional rezoning will be designated on the official Zoning Map by an appropriate symbol designed by the Zoning Administrator. Additionally, the Zoning Administrator will create and maintain a conditional index in accordance with Virginia Code § 15.2-2300.

Section 3.4.4 Amendments to Existing Proffers.

A. **Ability to amend existing proffers.** Proffered conditions that the Board of Supervisors has accepted in conjunction with a previous zoning map amendment may be

amended by a later zoning map amendment. An owner whose parcel is subject to proffers may apply to amend only those proffers applicable to that owner's parcel.

B. **Application standards to amend existing proffers.** An application to amend proffers is considered a new Zoning Map Amendment application. The Zoning Administrator may waive the requirements for both community meetings and public hearings for as long as the proffer amendments do not affect the conditions of use or the density of a project.

Division 3.5 Special Use Permits

Section 3.5.1 Applicability

When a use is permitted by special use permit under the Code of Virginia or by the County in a particular zoning district, the applicant may request and the Board of Supervisors may grant a special use permit. Because of its nature, extent, or potential impacts, the use requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the zoning district and compatible with its surroundings.

Section 3.5.2 Agent

For the purposes of Division 3.5, "The Agent" means the Zoning Administrator or designee.

Section 3.5.3 Standards and Procedures

A. **Initiation of a special use permit**. A special use permit may be requested by application of:

1) The owner, a contract purchaser with the owner's written consent, or the owner's representative; or

2) An eligible easement holder or an electric cooperative.

B. **Pre-application meeting**. A pre-application meeting, in accordance with Section 3.1.2, is required for any special use permit application not initiated by the Board of Supervisors or the Planning Commission.

C. **Application requirements.** Each special use permit application must comply with the common procedures in Sections 3.1.4 – 3.1.8.

D. **Staff review.** The common procedures in Section 3.1.9 apply to special use permits.

E. **Community meeting.** A community meeting in accordance with Section 3.1.3 of this Chapter is required for any special use permit.

F. **Public hearings**. A public hearing before the Planning Commission and a public hearing before the Board of Supervisors are required for any special use permit. The common procedures in Sections 3.1.11, 3.1.12, and Division 3.14 apply, subject to the following additions or modifications:

1) No recommendation or action may be rendered until public notices and hearings have been conducted in accordance with Division 3.14 and Virginia Code § 15.2-2204.

2) All applications for special use permits will be acted upon, and decisions made, in compliance with Virginia Code § 15.2-2286(A)(3).

G. **Factors to be considered.** The Planning Commission and the Board of Supervisors will consider the following factors when reviewing and acting on an application for a special use permit:

1) *No substantial detriment*. Whether the proposed special use will be a substantial detriment to adjacent parcels.

2) *Character of the nearby area is unchanged*. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.

3) *Harmony*. Whether the proposed special use will be in harmony with the uses permitted by right in the district, with the applicable performance standards of this Chapter, and with the public health, safety, and general welfare (including equity).

4) *Consistency with the Comprehensive Plan*. Whether the proposed special use will be consistent with the Comprehensive Plan.

H. **Conditions of approval.** The Planning Commission may recommend, and the Board of Supervisors may impose conditions upon the special use to address impacts arising from the use to protect the public health, safety, or welfare.

I. **Effect of decisions.** A special use permit authorizes only the particular use(s) and associated development that is approved and does not ensure approval for any other permit or development approval.

1) A special use permit, including any approved plans and conditions, runs with the land and is not affected by a change in ownership but may expire as provided in (K) below.

2) Unless otherwise specified in this Chapter or specified as a condition of approval, the height limits, yard spaces, lot area, sign requirements, and other specified standards will be the same as for other uses in the district in which the special use permit is located.

J. **Revocation.** The Board of Supervisors may revoke a previously granted special use permit at a public hearing if the Board finds non-compliance with the conditions of the permit. Notice of the public hearing will be as provided in Division 3.14 of this Article.

K. **Voided.** If the use is not commenced within the time specified within the conditions of approval, that special use permit will be deemed void.

Division 3.6 Variances

Section 3.6.1 Applicability

A variance, as defined in Virginia Code §15.2-2201, may be sought and granted in compliance with Virginia Code §15.2-2309 and the requirements of this Division.

Section 3.6.2 Agent

For the purposes of Division 3.6, "The Agent" means the Zoning Administrator or designee.

Section 3.6.3 Standards and Procedures

A. **Initiation of a variance.** A variance may be requested as provided in Virginia Code §15.2-2310 and in accordance with this Article. For purposes of this Section, a property owner includes the holder of an easement where the use for which the variance is sought is a use allowed by the deed of easement or equivalent instrument.

B. **Application requirements.** Applications must comply with the common procedures in Sections 3.1.4 – 3.1.8.

C. **Public hearing scheduling and notice.** The Board of Zoning Appeals will give notice of the hearing in compliance with Virginia Code § 15.2-2204 and Division 3.14.

D. **Factors to be considered**. The following factors will be considered in the granting of a variance:

1) *Eligibility*. A variance will be granted only if the evidence shows:

(a) The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property; or

(b) The granting of the variance would:

1. Alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance; and/or

2. Alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability. In addition, all of the following conditions must be satisfied:

2) *Good faith acquisition and hardship not self-inflicted*. The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the applicant for the variance;

3) *No substantial detriment*. Granting the variance will not be a substantial detriment to adjacent and nearby properties in the proximity of that geographical area;

4) *Condition of situation not general or recurring*. The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

5) *Use variance prohibited*. Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property; and

6) *Special use permit not available*. The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this Chapter when the application is filed.

E. **Ex-parte communication.** Ex-parte communication with a member of the Board of Zoning Appeals during variance proceedings are subject to Virginia Code § 15.2-2308.1.

F. **Hearing procedures.** Variance proceedings will be conducted in compliance with Virginia Code § 15.2-2309.

G. **Effect of decision.** A variance authorizes only the particular ordinance deviation that is approved and does not constitute approval for any other deviation(s).

Division 3.7 Site Plans

Section 3.7.1 Applicability

A. **Intent.** This Division establishes a process to assure compliance with Virginia Code § 15.2-2241 and Virginia Code § 15.2-2286 and the site plan regulations contained in this Chapter to ensure the general health, safety, and welfare of the County.

B. **Site plan required.** Except as provided in subsection C, a site plan is required for any of the following:

1) All new uses or development; or

2) Changes or intensification in use that result in changes in required parking, lighting, landscaping, or site access as provided by the developer or recommended by the Virginia Department of Transportation.

C. **Site plan exceptions:** A site plan is not required in any of the following circumstances:

1) The location of the first two dwelling units is on a parcel with public street frontage.

2) The location of the first dwelling unit on a parcel without public street frontage,

3) The location of any structure that is accessory to a dwelling unit.

4) Any agricultural activity.

5) Any religious assembly use of 200 or fewer persons located in the Rural Areas.

6) Temporary uses that comply with the approved site plan.

Section 3.7.2 Agent

For the purposes of Division 3.7, "The Agent" means the Director of Planning or designee.

Section 3.7.3 Preliminary Site Plan Specifications and Contents

A preliminary site plan may be submitted for review prior to a site plan application. Application requirements are as specified by the Director of Planning.

Section 3.7.4 Site Plan Amendments.

Site plan amendments may be submitted for proposed site changes as permitted by the Director of Planning. Application requirements are as specified by the Director of Planning.

Section 3.7.5 Standards and Procedures

A. **Initiation of a site plan application.** Site plan approval may be requested by application of the owner, a contract purchaser with the owner's written consent, or the owner's representative.

B. **Application requirements.** Each application must comply with the common procedures in Sections 3.1.4 – 3.1.8 unless the Director of Planning waives one or more requirements.

1) Site plan applications must be submitted as specified by the Director of Planning.

2) All site plans must be prepared by an architect, professional engineer, land surveyor, or certified landscape architect licensed by the Commonwealth of Virginia.

C. **Staff review**. The common procedures in Section 3.1.9 apply to site plan applications. The Director of Planning may establish procedures for review.

1) The Director of Planning is responsible for reviewing, processing, and requesting additional agency and applicant information.

2) At the discretion of the Director of Planning, staff may seek technical opinions and input on site plans from external individuals and agencies.

3) Site plans must be signed and sealed by an architect, professional engineer, land surveyor, or certified landscape architect licensed by the Commonwealth of Virginia prior to approval.

D. **Waivers and modifications**

1) The Director of Planning may approve modifications that meet the intent of the requirements applicable to site plans, except in the case of proffers previously approved by the Board of Supervisors.

2) The Director of Planning may waive any requirements for site plan review for additions to existing structures, or uses, if the Director of Planning determines such an addition does not substantially affect the requirements of this Chapter.

3) The Director of Planning may set the standards for a sketch plan in place of a site plan for those situations that satisfy the established criteria.

Section 3.7.6 Specifications and Bonding

A. **Improvements required.** All improvements required by this Chapter must be installed at the developer's cost and in accordance with the design and construction standards of Albemarle County.

B. **Specifications**. Any applicable Federal, state, or County specifications for the construction of streets, utilities, lighting, landscaping, stormwater, or other site improvements must be followed. In case of conflict, the more restrictive specifications apply.

C. **Performance bond required.** A performance bond is required for all required incomplete improvements.

1) The Director of Planning or the Zoning Administrator may establish procedures for estimating and providing the performance bond.

2) The Zoning Administrator may approve a bond and a certificate of occupancy when:

   (a) Any incomplete improvements are not directly related to health and safety, and safe and convenient access to public roads; and

   (b) The site may be occupied without endangering public health or safety prior to fully completing the required improvements.

3) All bonded improvements must be completed within one year. Prior to the surety expiration, the Director of Planning or the Zoning Administrator may extend this period for good cause. The Director of Planning or the Zoning Administrator establish this process and criteria.

Section 3.7.7 Compliance with Approved Site Plan Required

A. **Conformity with a site plan required.** It is unlawful to construct or substantially alter any structure or to develop, change, or improve land for which a site plan is required except in accordance with an approved site plan.

B. **Deviation from approved site plan.** Deviation from an approved site plan requires written approval from the Director of Planning or submission of a new site plan for review.

C. **Maintenance of improvements.** All improvements shown on an approved site plan must be developed and maintained in perpetuity by the owner. Any removal, alteration, or deviation from the approved site plan constitutes a violation of this Chapter.

Section 3.7.8 Period of Validity

A. **Period of Validity.** A site plan approved under this Article will remain valid for five years from the date of such approval.

B. **Extension.** The Director of Planning may extend the period of validity at the time of approval or at any time prior to the expiration of the site plan upon request by the developer.

Division 3.8 Certificates of Appropriateness

Section 3.8.1 Applicability

A. **Certificate of appropriateness required.** For any development within the Entrance Corridor Overlay District visible from the contiguous Entrance Corridor street, an applicant must obtain a certificate of appropriateness (COA) confirming that the

development conforms with the design guidelines of the Entrance Corridor Overlay District.

B. **Certificate of appropriateness exceptions.** A COA is not required in any of the following circumstances:

1) Primary and accessory dwelling units if no site plan is required by this chapter.

2) Structures for agricultural or forestal uses if no site plan is required by this chapter.

3) Temporary construction headquarters.

4) Temporary construction yards.

5) Temporary industrialized buildings.

6) Agricultural product signs, political signs, public signs, sandwich board signs, temporary signs, window signs and signs exempt from the sign permit requirement.

7) The repair and maintenance of or additions and modifications to structures and site improvements where there is no substantial change in design or materials.

8) The repair and maintenance of or additions and modifications to nonconforming structures or site improvements in accordance with Article 10.

9) Additions or modifications to structures to the extent necessary to comply with the minimum requirements of the Americans with Disabilities Act, the Fair Housing Act, or any other similar federal or state law providing for the reasonable accommodation of persons with disabilities.

10) Interior alterations to structures where there is no change in the exterior appearance of the structures.

11) Issuance of permits classified in Sections 5-202, 5-203, 5-204 and 5-208(A) if a building permit has also been issued and the work authorized by the permit classified in those Sections does not change the external appearance of the structure.

12) The erection of a sign for which a COA was previously issued, which was afterwards required by the Virginia Department of Transportation (VDOT) to be removed in conjunction with a VDOT construction project, whether the same sign is re-erected, or a new sign composed of new materials is erected, provided that the same sign or the new sign complies with the previously issued COA, including all of its conditions. If locating the sign in the previously approved location is not reasonably practicable, it may be located where it

otherwise complies with the condition to the extent practicable, as determined by the Zoning Administrator.

Section 3.8.2 Agent

For the purposes of Division 3.8, "The Agent" means the Director of Planning or designee.

Section 3.8.3 Types of Certificates of Appropriateness

The Architectural Review Board (ARB) is authorized to issue certificates of appropriateness (COAs) for any structure and associated improvements, or any portion thereof, as follows:

A. **Board-reviewed certificate of appropriateness**. The ARB will review applications for COAs for classes of structures, sites, improvements, or architectural elements, subject to the applicable design criteria and procedures, as follows:

1) Specific developments associated with one or more building permits or a single site plan.

2) Sign plans in a multi-business complex or shopping center.

3) Any application for a COA as requested by the Director of Planning or a member of the ARB.

B. **Administrative certificate of appropriateness.** As directed by the ARB, the Director of Planning may review applications for COAs for the following classes of structures, sites, improvements, or architectural elements, subject to the applicable design criteria and procedures:

1) Structures located 750 feet or more from an Entrance Corridor street that are not more than five stories tall.

2) Structures that are proposed to be located behind another structure that fronts an Entrance Corridor street as viewed from the Entrance Corridor street, where the rear structure is no more than twice the height of the front structure.

3) Personal wireless service facilities.

4) Signs, except for wall signs whose height exceeds 30 feet.

5) Safety fencing and screening fencing.

6) New or replacement rooftop-mounted or ground-mounted equipment.

7) Additions to structures or improvements for which a certificate of appropriateness was issued, where the design of the addition to the structure

or improvement is consistent with the architectural design approved with the certificate of appropriateness.

8) Site lighting or changes to existing site lighting.

9) Amendments to site plans and architectural plans determined to be minor in accordance with Section 3.7.4.

10) Building permits for which the proposed change occupies 50 percent or less of the altered elevation of an existing structure.

11) Electrical, plumbing, or mechanical construction as classified in Chapter 5, Sections 5-202, 5-203, 5-204, and 5-208(A) not otherwise exempt under Section 3.8.1(B).

12) New structures, site changes, or reuse of existing structures in accordance with Section (X-FBC).

Section 3.8.4 Standards and Procedures

A. **Initiation of a certificate of appropriateness.** A certificate of appropriateness (COA) may be requested by application of the owner, a contract purchaser with the owner's written consent, the owner's representative, or a tenant of the property.

B. **Application requirements.** Each COA application must comply with the common procedures in Sections 3.1.4 – 3.1.8.

C. **Review.** In addition to the common procedures in Section 3.1.9, either the Director of Planning or the Architectural Review Board (ARB) will review the application for conformance with the design guidelines of the Entrance Corridor Overlay District.

1) If the Director of Planning or the ARB finds that the design of the application meets the requirements of the Entrance Corridor Overlay District design guidelines, the Director of Planning will approve the COA and notify the applicant within 60 days after the date the original application was officially submitted or by a later date requested by or agreed to by the applicant.

2) If the Director of Planning or the ARB finds that the application does not meet the required design criteria established in the design guidelines, the Director of Planning will notify the applicant and provide suggested revisions. Within 15 days of the date of the notice, the applicant must notify the Director of Planning of the intention to make some or all of the specified revisions or proceed to action. The failure of the applicant to respond to the notice will be presumed to be a request by the applicant to proceed to action on the application without further revisions but will not preclude an applicant from making some or all of the specified revisions.

3) If the applicant does not revise the design of the application to meet the required design criteria, the application will be denied.

D. **Conditions.** The Director of Planning or ARB may impose reasonable conditions with the approval of any COA.

E. **Resubmittal.** No application for a COA may be submitted that is substantially the same as any application for a COA that was withdrawn or denied within 60 days of said withdrawal or denial.

Division 3.9 Zoning Permits

Section 3.9.1 Applicability

A. **Approval prior to commencement.** A use or structure must receive an approved zoning permit before it commences.

B. **Zoning permit required.** A zoning permit is required:

1) Prior to a structure being erected, moved, expanded, or structurally altered; and

2) Prior to establishing a temporary use, a new use, or a change or intensification of an existing use.

Section 3.9.2 Agent

For the purposes of Division 3.9, "The Agent" means the Zoning Administrator or designee.

Section 3.9.3 Standards and Procedures

A. **Initiation of a zoning permit application.** A zoning permit may be requested by application of the owner, a contract purchaser with the owner's written consent, the owner's representative, or a tenant of the property.

B. **Application requirements.** Each zoning permit application must comply with the common procedures in Sections 3.1.4 – 3.1.8.

C. **Staff review and action.** Zoning permit applications are subject to administrative review by the Zoning Administrator in accordance with the common procedures in Section 3.1.9.

D. Period of validity.

1) Temporary use permits will be effective beginning on the date specified in the permit approval. They will be valid for a period indicated on the permit approval, not to exceed 180 days.

2) All other zoning permits are effective from the date of the approval until the use approved by the permit ceases.

Division 3.10 Building Permits and Certificates of Occupancy

Section 3.10.1 Applicability

The Zoning Administrator will coordinate with the Building Official to ensure that all building permits and certificates of occupancy comply with all applicable Sections of this Chapter and other County ordinances.

Section 3.10.2 Agent

For the purposes of Division 3.10, "The Agent" means the Zoning Administrator or designee.

Section 3.10.3 Standards and Procedures

A. Building permits

1) Changes to a structure or use may require a new zoning approval of the building permit.

2) The Zoning Administrator may not approve any building permit for a building or structure for which a site plan is required until the site plan has been approved.

B. Certificates of occupancy

1) The Zoning Administrator will approve certificates of occupancy that comply with this Chapter.

2) The final zoning inspection approval serves as the Zoning Administrator's approval of any addition or alteration to a structure for which a certificate of occupancy has previously been issued or is not required under the building code.

3) A certificate of occupancy may be approved upon finding that:

   (a) The improvements still to be completed and operating are not directly related to health and safety; and

   (b) The site may be occupied without endangering life or public health or safety prior to full completion of the improvements required by the site plan.

4) A certificate of occupancy may not be issued if, after review of any structure or site, the Zoning Administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan.

Division 3.11 Legislative Modifications

Section 3.11.1 Applicability

This Division establishes regulations to allow the Board of Supervisors to approve waivers or modifications from specific zoning regulations as specifically provided in this Chapter. Legislative modifications do not replace variances under Virginia Code § 15.2-2201.

Section 3.11.2 Agent

For the purposes of Division 3.11, "The Agent" means the Zoning Administrator, the Director of Planning, or a designee of either of those offices.

Section 3.11.3 Standards and Procedures

A. **Initiation of a legislative modification.** A legislative modification may be requested by application of the owner, a contract purchaser with the owner's written consent, the owner's representative, or a tenant of the property.

B. **Application requirements.** Each application must comply with the common procedures in Sections 3.1.4 – 3.1.8. Additionally, an application for a legislative modification must include both:

1) A narrative description of why the waiver or modification is necessary; and

2) Any other relevant information the Zoning Administrator determines is necessary to make an informed decision.

C. **Staff review and action.** The common procedures in Section 3.1.9 apply to legislative modifications.

D. **Conditions**. The Board of Supervisors may place conditions on the approval of any legislative modification.

E. **Applicable criteria**. The Board of Supervisors will consider the applicable Sections of this Chapter and the following factors when reviewing and acting on a legislative modification:

1) Consistency with the Comprehensive Plan;

2) Substantial accord with the key elements of prior approval(s); and

3) Lack of adverse impact(s).

Division 3.12 Zoning Determinations

Section 3.12.1 Applicability

The Zoning Administrator has all necessary authority on behalf of the Board of Supervisors to administer and enforce this Chapter, including by making determinations and decisions on any matters arising under this Chapter.

Section 3.12.2 Agent

For the purposes of Division 3.12, "The Agent" means the Zoning Administrator or designee.

Section 3.12.3 Standards and Procedures

A. **Initiation of a zoning determination.** A zoning determination may be issued by the zoning administrator in the execution of administering this Chapter, or requested by application of any individual, organization, or company.

B. **Application requirements.** Each zoning determination application must comply with the common procedures in Sections 3.1.4 – 3.1.8.

C. **Review and decision.** In addition to the common procedures in Section 3.1.9, the Zoning Administrator will provide a response on a complete application within 90 days of the completion date, unless the applicant agrees to a longer period. The Zoning Administrator's written decision or determination will include a statement informing the applicant of the right to appeal the decision as provided in Division 3.13 of this Chapter.

D. **Additional notice.** Based on Virginia Code § 15.2-2204(H), when the applicant is not the owner or the owner's representative for the property, the Zoning Administrator will provide written notice within 10 days of receipt of the application to the owner of the property (at the owner's last known address as shown on the County's real estate assessment records).

Division 3.13 Appeals

Section 3.13.1 Applicability

Division 3.13 applies to decisions of the Zoning Administrator or other Administrative Officer, the Board of Zoning Appeals, the Planning Commission and the Board of Supervisors.

Section 3.13.2 Appeals of Zoning Decisions

Any appeals to the Board of Zoning Appeals must comply with Virginia Code S. 15.2-2311.

Section 3.13.3 Appeals of Planning Commission or Director of Planning Decisions

Appeals of decisions by the Planning Commission or Director of Planning will be made in accordance with Virginia Code § 15.2-2259.

Division 3.14 Public Hearings and Notice

Section 3.14.1 Public Hearing Required

Advertising and notice will be conducted according to Virginia Code § 15.2-2204 and as outlined in this Division.

Section 3.14.2 Required Notice

The applicant must pay the cost of any required notice.

Section 3.14.3 Posting Notice on Property

Notice requirements. Notice of public hearings before the Board of Zoning Appeals, Planning Commission and the Board of Supervisors must be posted on applicable property, based on the following:

1) A sign giving notice must be posted at least 21 days before the public hearing.
2) The sign must be posted in a visible location.
3) Each sign will state the parcel(s) is subject to a public hearing.
4) It is unlawful for any unauthorized person to remove or tamper with signs erected under this Section.
5) The decision from a public hearing may not be invalidated solely because of a failure to post this notice.