County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
ELECTRONIC MEETING VIA ZOOM
AGENDA
TUESDAY, AUGUST 2, 2022 at 2:00 P.M

1. Call to Order

2. Establish a Quorum

3. Public Hearings:
   A. SP2022-00016 Charlottesville Catholic School Electric Message Sign (Signs #68 & 69)
   Property Owner: Catholic Diocese of Richmond, Walter F. Sullivan, Bishop et al
   Applicant: Catholic Diocese of Richmond, Walter F. Sullivan, Bishop et al
   Staff: Francis MacCall

   B. AP202200002 801 Franklin Street Appeal of a Zoning Determination (Sign #70)
   Property Owner: John Harvey Falls
   Applicant: Allied Portable, LLC
   Staff: Bart Svoboda

4. Approval of Minutes
   A. March 1, 2022

5. Old Business

6. New Business
   A. Review Rules of Procedure
   B. Annual Report Update
   C. Contract Renewal for Legal Counsel

7. Adjournment

*This meeting is being held pursuant to and in compliance with Ordinance No. 20-A(16), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster. Opportunities for the public to access and participate in the electronic meeting will be posted at: https://www.albemarle.org/community/county-calendar.
Participation will include the opportunity to comment on those matters for which comments from the public will be received.

BOARD OF ZONING APPEALS ELECTRONIC MEETING GUIDELINES

Thank you for attending the Board of Zoning Appeals (BZA) electronic meeting. The following information is provided to help ensure the meeting proceeds as efficiently and effectively as possible. As a courtesy to others, please turn off all unused cell phones during the meeting.

General Information:

This meeting is recorded and later transcribed into minutes approved at a later meeting date.

Each item set for public hearing will begin with a presentation of the staff report. Next, the applicant or appellant for that item will be invited to speak. During the course of the process, the Chairman will open the public hearing to comments from the public. At the end of these proceedings the Chairman will announce that the public hearing is closed. Once the public hearing is closed, no further public comments will be allowed unless the Board asks for additional information from the applicant or appellant. For staff and applicants, there is a **15-minute time limit for presentations and a 5-minute time limit for rebuttal comments.**

The BZA reserves the right to digress from these guidelines in any particular case.

To Members of the Public:
If you wish to address the BZA during the public hearing, please follow the instructions below:
- Log in/call in early.
- Via Web: Use the "Raise Hand" icon to notify the BZA Clerk that you would like to sign up to address a public hearing item. The Clerk will acknowledge you and list your name on the sign-up sheet for the specific public hearing item. When the public hearing is opened, the Clerk will introduce each speaker for comment.
- Via Phone: Press *9 to notify the BZA Clerk that you would like to sign up to address a public hearing item. The Clerk will acknowledge you and list your name on the sign-up sheet for the specific public hearing item. When the public hearing is opened, the Clerk will introduce each speaker for comment.

If you do not sign up to speak prior to the meeting, an opportunity to sign up will be given prior to the close of the public hearing. When this opportunity is announced, follow the directions above to notify the BZA Clerk that you would like to provide comment on a public hearing item.

Time keeping is conducted through a timer. Each speaker is allotted **three (3) minutes** to comment. The timer will commence when you begin speaking; you will be notified when three minutes has ended, and you are requested to bring your comments to a close as your microphone will be muted after several seconds.

In order to give all speakers equal treatment and courtesy, the BZA requests that speakers adhere to the following guidelines:

- When called to address the BZA, please state your name. For uncommon spellings, please spell your name for the record.
- Address comments directly to the BZA as a whole - open public debate is prohibited.
- You may email written statements and other relevant material to BoardofZoningAppeals@albemarle.org to be included in the record.
- If you represent a group or organization, you may identify the group to be recognized.
- If you exceed your allotted time, you will be asked to end your comments and the microphone will be muted.
- If a speaker does not use all allocated time, the unused time may not be shared with another speaker.
- Speakers are permitted one opportunity to comment during each of the public comment periods per meeting.

Additional Guidelines for Applicants and Appellants addressing the Board:
- Understand that the Board of Zoning Appeals cannot change County ordinances.
- The BZA reserves the right to place additional time limitations on speakers, as necessary.

SP2022-016 Charlottesville Catholic School - Digital Sign

STAFF: Francis H. MacCall
PUBLIC HEARING: August 2, 2022

STAFF REPORT: SP2022-00016 Charlottesville Catholic School Electric Message Sign

PETITION: The Catholic Diocese of Richmond (Applicant) is petitioning the Board of Zoning Appeals for approval of a special use permit for an electric message sign at the Charlottesville Catholic School on Pen Park Road (Rte. 768), per County Code §18-4.15.7(d).

APPLICANT'S PROPOSAL: The Applicant proposes to replace the existing freestanding changeable message sign with a freestanding electric message sign (EMS) approximately 6 ft x 4 ft. in size with about 13.22 square feet being the electric message signage. (Attachment A) The proposed sign complies with the sign regulations regarding size, height, and setback. The proposed sign reuses the brick base for the new 24 sq.ft. sign to be installed.

LOCATION AND DESCRIPTION OF THE PROPERTY: The subject property (Parcel 061A0-00-00-02900) is located at 1205 Pen Park Road, about 900 feet east of the intersection of Rio Road (Rte. 631), and is zoned R-4 Residential. The proposed sign would be installed in the location of the existing freestanding sign within the school property, approximately 410 feet from Pen Park Road. The sign would be visible from the boundary at the entrance along Pen Park Road. (Attachment B)

CHARACTER OF THE AREA: The subject property is owned by the applicant. The properties surrounding the subject property are zoned R-4-Residential, -Neighborhood Model District (NMD), and adjacent to Pen Park within the City of Charlottesville. This property is located within the Neighborhood 2 – Places 29 Comprehensive Plan Area.

REASON FOR REVIEW (Attachment C): *County Code §18-4.15.7* permits electric message signs (EMS) only by special use permit. *County Code §18-3* gives the following definition:

> *Electric message sign. "Electric message sign" means a sign on which the copy can be changed or altered by electric, electro-mechanical or electronic means.*

The basis for this special use permit requirement is as follows:

a) an EMS can be distracting to the traveling public and may not be appropriate in all locations and/or

b) an EMS may be most appropriate when conditions are applied to the use. As an example of location considerations, an EMS at a major intersection, where traffic may be stopped by a signal, might be less distracting than on a high-speed, high-volume stretch of road without a signal stopping traffic. Without conditions, an EMS could potentially have a flashing multi-color display or could even be a video. Either of these displays could cause saturation and confusion in the field of vision and impact general public safety.

County Code §18-4.15.1 explains the purpose and intent of the County's sign ordinance generally:

> *Therefore, the purpose of this section 4.15 is to establish reasonable regulations pertaining to the time, place, and manner in which outdoor signs and window signs may be erected and maintained in order to:*
> *1. Preserve the rights of free speech and expression;*
> *2. Promote the general health, safety, and welfare, including the creation of an attractive and harmonious environment;*
> *3. Protect the public investment in the creation, maintenance, safety, and appearance of its streets, highways, and other areas open to the public;*
> *4. Improve vehicular and pedestrian safety by avoiding saturation and confusion in the field of vision and by directing and controlling vehicular traffic and pedestrians;*
> *5. Protect and enhance the county's attractiveness to tourists and other visitors as sources of economic development; and*
> *6. Protect property values.*

Although this site is not in an Entrance Corridor, the use of some of the EMS Design Criteria formulated for signs visible from an Entrance Corridor (Attachment D) have been used to evaluate this proposal. Some of these criteria are reflected in the conditions of approval. The guidelines for reviewing any BZA-issued special use permit (below) will also be used.

PLANNING AND ZONING HISTORY: The Charlottesville Catholic School was approved with a special use permit in 1998 (SP1998-12 and 1998-67) and a subsequent site plan in 1999 (SDP1999-130), along with various amendments to the original plan. The existing freestanding sign is a conforming 24 sq.ft. changeable message sign approved in 2006.

STAFF COMMENT:
As noted, some of the Entrance Corridor EMS Design Criteria (Attachment D) were used as general guidance for this review, even though the sign is not visible from an Entrance Corridor. The applicable criteria have been recommended as conditions of approval for this application.

Under *County Code § 18-34.5(i)*, the factors to consider in reviewing a special use permit are as follows (emphasis in original):

> *A. Factors to be considered when acting. The board shall reasonably consider the following factors when it is reviewing and acting on a special use permit:*
>
> > *1. No substantial detriment. The proposed special use will not be a substantial detriment to adjacent lots.*
> > The proposed sign would be perpendicular to Pen Park Road, as is the current freestanding sign. With the sign as proposed, staff believes there would be no substantial detriment to the adjacent roadway or lots.

2. Character of district is unchanged. The character of the district will not be changed by the proposed special use.
With the sign as proposed and subject to the applicable freestanding sign regulations for the R-4, staff believes there would be no change to the district's character.

3. Harmony. The proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the regulations provided in sections 4 and 5, as applicable, and with the public health, safety, and welfare.
As previously noted, this proposal is in harmony with applicable Zoning Ordinance regulations and the public health, safety, and welfare. There is no applicable regulation for this use in Section 5.

4. Consistency with the comprehensive plan. The proposed special use will be consistent with the comprehensive plan.
The subject property is within the Neighborhood 2-Places 29 Comprehensive Plan Area. The Comprehensive Plan does not directly address uses such as this. (Attachment E for the Comprehensive Plan Map.)

Staff believes that this proposal satisfies the goals of the sign regulations and the criteria for issuance of a special use permit, subject to the proposed conditions.

SUMMARY: Staff recommends approval of this application, with the following conditions:

1. The parcel is limited to one (1) freestanding electric message sign no more than 24 square feet, in the general location shown in Attachment B.
2. The sign message must not change more than four times per hour. Each message must display for a minimum of 15 minutes.
3. Content may not blink, flash, scroll vertically or horizontally, or display animation or movement of any kind.
4. Content may change only through an immediate transition that does not have the appearance of moving text or images.
5. Illumination of electric message signs may not exceed a maximum luminance level of 300 Nits during nighttime hours.
6. Illumination of electric message signs may not exceed a maximum luminance level of 5,000 Nits during daylight hours.

Attachment A – Existing-Proposed Sign Design Comparison
Attachment B – Sign Location
Attachment C – Albemarle County Ordinance References
Attachment D – Entrance Corridor Electric Message Sign Design Criteria
Attachment E – Comprehensive Plan Map

CONCEPTUAL
NOT READY FOR PRODUCTION

SIGN TYPE: Digital Sign

Scale: 1" = 1'

COLORS
BLACK
WHITE
BLUE (Pantone 294)
YELLOW (Pantone Yellow)
LIGHT GRAY (Pantone 429)

FONTS
LOGO

EXISTING SIGN

6' Wide X 4' Tall
Base is 8' L X 16" T X 12" D

24 Sq. Ft.



PROPOSED SIGN

6' Wide X 4' Tall
Base is 8' L X 16" T X 12" D

24 Sq. Ft.



AMERICAN MADE SIGNS LLC
407 Earhart St. Suite B,
Charlottesville, VA 22903
PH. (434) 971-7446
PH. (434) 971-1346
Sales@AmericanMadeSigns.com
www.americanmadesigns.com

CLIENT
Charlottesville Catholic School

ADDRESS
1205 Pen Park Rd
Charlottesville, VA

DESCRIPTION
Replacing an existing marquee sign that is non-illuminated to a new LED illuminated sign with a digital display.

DATE 05/09/2022

DRAWING REVISIONS

	DRAWN BY	DATE	CHANGE
1			
2			
3			
4			
5			

COLORS OR GRAPHICS PORTRAYED ARE FOR REPRESENTATION ONLY. COLORS DIFFER WITH MONITORS. SAMPLES AVAILABLE UPON REQUEST This drawing and final sign remains the exclusive property of American Made Signs LLC. Failure to pay in full within 90 days of the completed work will result in a court hearing and we will repossess the signage on the property which it sits or is attached to, or will be sent to collections. Unless other agreements are made in writing. Repossessed signs are subject to a reinstallation fee of $95.00 / hour plus trip charges. Reinstallation must be paid in full before any work is started. This design cannot be shared in whole or part or exhibited in any other manner without written permission from American Made Signs LLC. This only applies to artwork and signs designed and/or manufactured by American Made Signs LLC. Special Orders are non-refundable. All debts not paid within 90 days and is handed off to collections for Liquidated Damages 25% of the principal amount. Customer will owe American Made Signs LLC all court costs, original debt plus 12% interest and attorney fees.

READY TO GO?

☐ APPROVED ☐ RE-PROOF

X _____
Signature

_____
Date

CONCEPTUAL
NOT READY FOR PRODUCTION

SIGN TYPE: Digital Sign

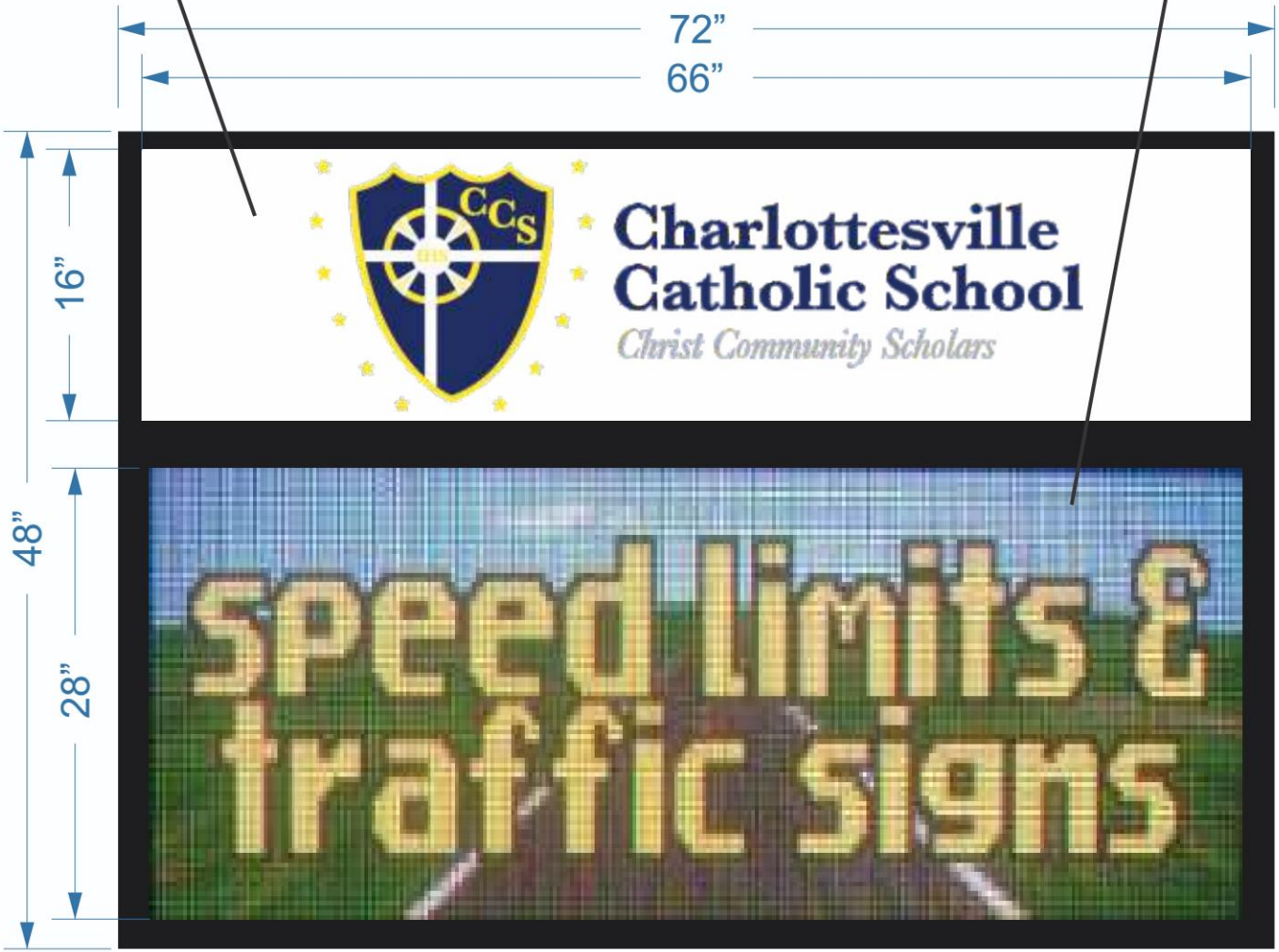
Scale: 1" = 1'

COLORS
BLACK
WHITE
BLUE (Pantone 294)
YELLOW (Pantone Yellow)
LIGHT GRAY (Pantone 429)

FONTS
LOGO

Single Sided, Front-Lit Acrylic with Translucent Vinyl Graphics

Double Sided (2nd Side Only Visible to School) 10mm Pixel Display



AMERICAN MADE SIGNS LLC
407 Earhart St. Suite B,
Charlottesville, VA 22903
PH. (434) 971-7446
PH. (434) 971-1346
Sales@AmericanMadeSigns.com
www.americanmadesigns.com

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2			
3			
4			
5			

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This drawing and final sign remains the exclusive property of American Made Signs LLC. Failure to pay in full within 90 days of the completed work will result in a court hearing and we will repossess the signage on the property which it sits or is attached to, or will be sent to collections. Unless other agreements are made in writing. Repossessed signs are subject to a reinstallation fee of $95.00 / hour plus trip charges. Reinstallation must be paid in full before any work is started. This design cannot be shared in whole or part or exhibited in any other manner without written permission from American Made Signs LLC. This only applies to artwork and signs designed and/or manufactured by American Made Signs LLC. Special Orders are non-refundable. All debts not paid within 90 days and is handed off to collections for Liquidated Damages 25% of the principal amount. Customer will owe American Made Signs LLC all court costs, original debt plus 12% interest and attorney fees.

READY TO GO?

☐ APPROVED ☐ RE-PROOF

X _____
Signature

_____
Date

SP2022-16 Charlottesville Catholic School Electric Message Sign

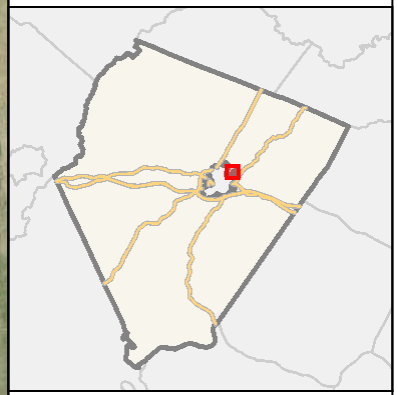


Legend

(Note: Some items on map may not appear in legend)

Parcel Info

- ☐ Parcels



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

July 13, 2022

Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

CURRENT & PROPOSED SIGN LOCATION

ELEMENTARY & MIDDLE SCHOOL
FFE: 450.00'
SEE ARCH. DRAWINGS FOR EXACT ELEVATION

8" PVC (SLOPE TO DRAIN 1% MIN)

COURTYARD DETAILS TO BE PROVIDED AS ADDENDUM

REFER TO ARCHITECT'S PLANS FOR SPECIFIC ROOF DRAIN LOCATIONS (TYP)

Sidewalk (typ)

NOTE: MAINTAIN 10' MIN SEPERATION B/W WATER & SEWER

8" DIP WATERLINE

30' COMBINED WATER/SEWER ESM'T

TO DROP INLET (TYPICAL)

164.12' HDPE

6" PVC

MH-1

DI-1

Existing Gravel Utility Access

8" PVC (SLOPE TO DRAIN 1% MIN)

REFER TO ARCHITECT'S PLANS FOR SPECIFIC ROOF DRAIN LOCATIONS (TYP)

GRASS CRETE SURFACE

Dense Vegetation

OFFSITE GRADING EASEMENT

T.M.P. 48B -1
City of Charlottesville
PENN PARK
DB 507 Pg 427

FIRE VEHICLE ACCESS

2-45 BENDS

FIRE LANE

STRIPE FIRE LANE PER ALB. COUNTY FIRE OFFICIAL

FIRE LANE SIGNAGE PER ALB. COUNTY FIRE OFFICIAL (TYP)

311'-8" PVC

1-8" VALVE

1-8"x6" REDUCER TEE

1-6" VALVE

WATER QUALITY SWALE (SEE SHEET C6.00)

STONE DISSIPATER (CENTERED ON ALL AT CURB CUTS, SEE D.1)

CG-6 (TYP)

8' FABRIC LINED CHANNEL

20' SEWER ESM'T (PRIVATE SEWER BY OTHERS)

SPRING BOX DI-1

T.M.P. 61A-33
William Pruett, Jr.
D.B. 848 Pg. 323

T.M.P. 61A-34
William Pruett, Jr.
D.B. 848 Pg. 323

N 12°54'55" E
184.09'

S 66°50'05" E
100' TAPER

100' TURN

PENN PARK ROAD

S 67°16'24" E
143.30'

8" DIP WATERLINE

EX. 8"x6" TEE
EX. 8"x6" REDUCER
EX. 8" GV.

EX. FIRE HYDRANT ASSEMBLY

EXISTING 8" PLUG
REMOVE & EXTEND 8" DIP

EOP STA 10+00.00

EX. 8"x6" TEE
2-8" GATE VALVES
1-8" CAP/PLUG

APPROX. JACK & BORE LIMITS

EOP STA 8+68.20

EOP HW 632.20

N 27°43'36" E
100.00'

S 67°16'24" W
118.89'

EOP STA 9+68.20

EOP STA 9+86.64

BEG GUARDRAIL

END GUARDRAIL

R=98.00'
L=42.98'

Fence

Dense Vegetation

All easements and permits must be in place prior to construction. See sheet C10.00

Fence

Dense Vegetation

T.M.P. 61A-33
William Pruett, Jr.
D.B. 848 Pg. 323

T.M.P. 48B -1
City of Charlottesville
PENN PARK
DB 507 Pg 427

THE COX COMPANY
Planners, Civil Engineers
Landscape Architects
220 East High Street
Charlottesville, Virginia
22902 (804) 295-7121

SITE PLAN

The County of Albemarle
Virginia

CHARLOTTESVILLE
CATHOLIC SCHOOL

Job No.: 99-10

COMMONWEALTH OF VIRGINIA
FRANK D. COX, JR.
CERTIFICATE NO. 779
PROFESSIONAL ENGINEER

Date: AUGUST 25, 1999
Revision:
COUNTY REV. 11.15.99

Scale: 1"=20' North:

Sheet Title: FINAL SITE PLAN

Sheet No.: C3.00

Sec. 4.15.1 Purpose and intent.

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

a. The board of supervisors finds that signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks, and other areas open to the public; and that signs are an important means of communication for businesses, organizations, individuals, and government. The board also finds that signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; and that the unregulated erection and display of signs constitute a public nuisance detrimental to the public health, safety, convenience, and general welfare. Therefore, the purpose of this section 4.15 is to establish reasonable regulations pertaining to the time, place, and manner in which outdoor signs and window signs may be erected and maintained in order to:

   1. Preserve the rights of free speech and expression;
   2. Promote the general health, safety and welfare, including the creation of an attractive and harmonious environment;
   3. Protect the public investment in the creation, maintenance, safety, and appearance of its streets, highways, and other areas open to the public;
   4. Improve vehicular and pedestrian safety by avoiding saturation and confusion in the field of vision and by directing and controlling vehicular traffic and pedestrians;
   5. Protect and enhance the county's attractiveness to tourists and other visitors as sources of economic development; and
   6. Protect property values.

Sec. 4.15.7 Signs authorized by special use permit; off-site directional signs, off-site bundle signs, signs in a public right-of-way, electric message signs.

The following signs are authorized by a special use permit granted by the board of zoning appeals under section 34.5, provided that a sign permit required by section 4.15.5 is also obtained for the sign, the sign complies with all applicable requirements of this section 4.15, and the following:

d. *Electric message signs*. A proposed electric message sign shall comply with all applicable requirements of section 4.15 and Virginia Code §§ 33.2-1216 and 33.2-1217 .

Sec. 34.5 - Special use permits.

An application for a special use permit authorized by sections 4.15.5 and 4.15.5A shall be considered by the board of zoning appeals (the "board") as follows:

i. Factors to consider when acting. The board shall reasonably consider the following factors when it is reviewing and acting on a special use permit:

   1. No substantial detriment. The proposed special use will not be a substantial detriment to adjacent lots.

   2. Character of district unchanged. The character of the district will not be changed by the proposed special use.

   3. Harmony. The proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the regulations provided in sections 4 and 5, as applicable, and with the public health, safety, and welfare.

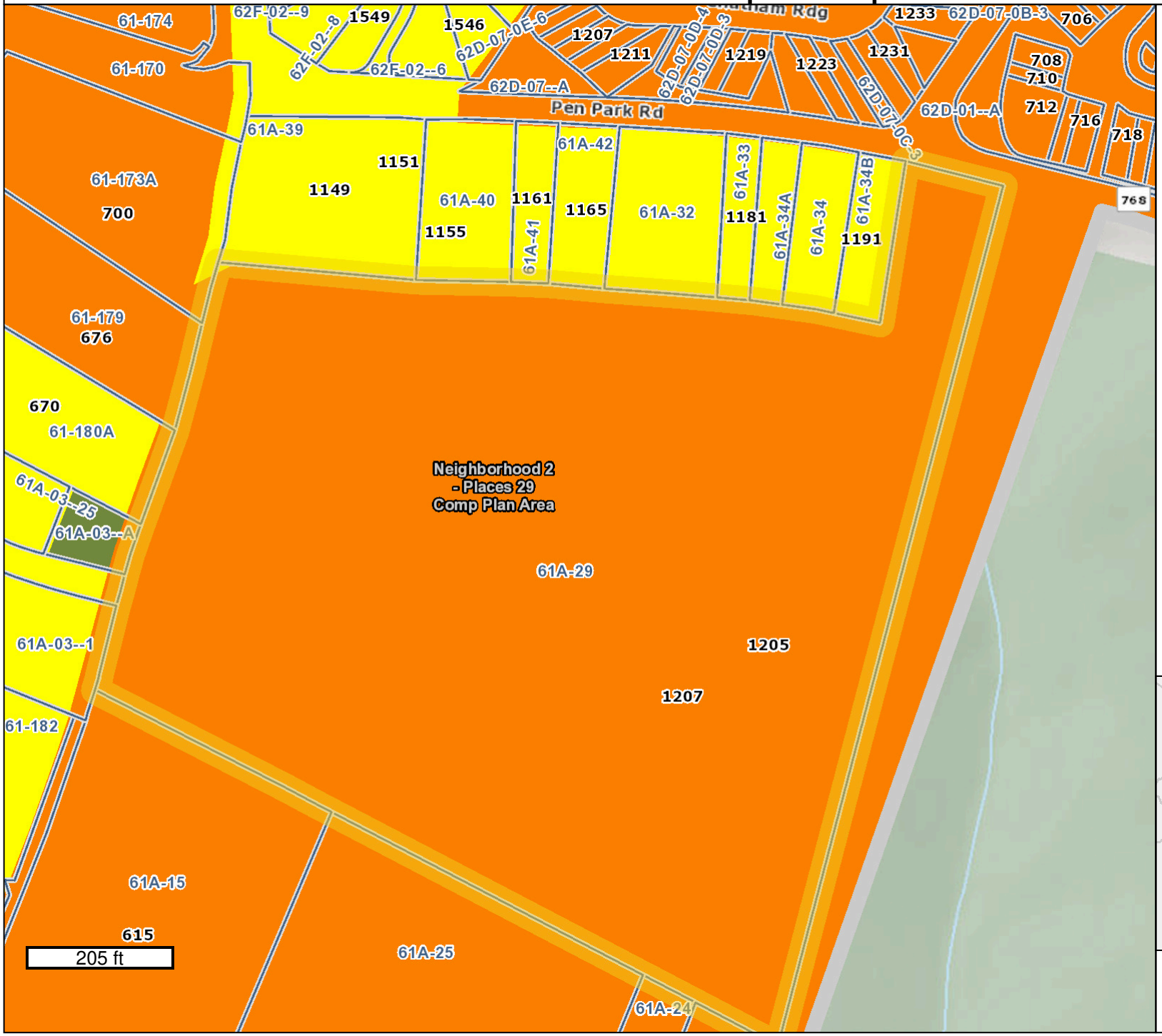
   4. Consistency with comprehensive plan. The proposed special use will be consistent with the comprehensive plan.

ELECTRONIC MESSAGE SIGNS DESIGN CRITERIA (final draft 2-17-2015)				
REF	GUIDELINE		ISSUE	RECOMMENDATION
1	Size	The electronic message sign area shall not exceed 40% of the size of the overall sign face.	NA as the sign is not visible from the Entrance Corridor	None
2a	Integration	The electronic message sign that constitutes part of a freestanding sign shall be located below the static part of the sign so as to appear subordinate to the static sign.	NA as the sign is not visible from the Entrance Corridor	None
b		The electronic message sign cabinet and the static sign cabinet shall be designed to look like an integral unit. The electronic message cabinet shall not appear to float in/above the static cabinet or the sign support structure.	NA as the sign is not visible from the Entrance Corridor	None
c		The structure of a monument sign shall not overwhelm the sign. The structure and the sign that it supports must be in proportion to each other. (Existing guideline 8c)	NA as the sign is not visible from the Entrance Corridor	None
d		Materials used in both the sign and support structure should be complementary. They should also support the aesthetics of the building and/or complex being served by the sign, although a direct duplication is not necessary. It is preferred that the base material match one of the primary building materials unless the design of the sign represents itself as a freestanding element complementing the building. (Existing guideline 8b)	NA as the sign is not visible from the Entrance Corridor.	None
e		Ground cover, shrubs and/or trees must be used to integrate freestanding signs into the overall landscape development of the site. (Existing guidelines 4c and 8d)	NA as the sign is not visible from the Entrance Corridor	
3a	Text size and appearance	Lettering should be in proportion to the sign for visual clarity and overall balance. Proportion of lettering includes font (size) and typeface (style). The use of 3 typefaces or fewer is more appropriate for signs in the ECs. Additional typefaces may be approved if they contribute to a balanced, legible, unified sign design. (Existing guideline 4d)	NA as the sign is not visible from the Entrance Corridor	None
b		Electronic message text height shall not exceed the height of the text in the static part of the sign.	NA as the sign is not visible from the Entrance Corridor.	None
c		The pixilated, "electronic", appearance of the text in an electronic message sign shall be eliminated. Letters shall have the appearance of solid lines. Pixel pitch shall be 12 mm or any higher resolution.	NA as the sign is not visible from the Entrance Corridor	None
d		All pixels must be actual, not virtual, and must be physically present on the sign. Drawings submitted with the sign permit application shall include documentation of this condition.	NA as the sign is not visible from the Entrance Corridor	None

4a	Movement and message change	The sign message shall not change more than 4 times per hour. Each message must display for a minimum of 15 minutes. (The message includes both text and graphics.)		Condition SP
b		Content may not blink, flash, scroll vertically or horizontally, or display animation or movement of any kind. (Content includes both text and graphics.)		Condition SP
c		Sign content shall change only through an immediate transition that does not have the appearance of moving text or images.		Condition SP
5a	Colors	The electronic message sign display shall have a solid black background. The black background of the electronic message sign shall not be counted as a color.	NA as the sign is not visible from the Entrance Corridor.	None
b		The use of three colors or fewer is more appropriate for signs in the Entrance Corridor. Additional colors may be approved if they contribute to a balanced and unified sign design.	NA as the sign is not visible from the Entrance Corridor.	None
c		Gradients of color are not appropriate in the Entrance Corridors.	NA as the sign is not visible from the Entrance Corridor.	None
d		Colors used for the electronic message sign must be harmonious with each other and with the colors of the overall sign. Colors must not clash with other elements on the site, both when viewed in daylight and at night, whether the signs are externally or internally lit. Overly intense color, such as but not limited to dayglo or fluorescent colors, are prohibited. (Existing guideline 4e) Applicants must propose specific color(s) and submit color samples for review.	NA as the sign is not visible from the Entrance Corridor.	None
e		Each graphic in the electronic message sign can have up to 3 colors plus black, if all other guidelines can still be met.	NA as the sign is not visible from the Entrance Corridor.	None
6a	Graphics	Prototypical designs for text and the placement and size of graphics relative to the text shall be submitted for review. For a graphic or series of graphics to be considered for use on the electronic message portion of a sign, the graphic(s) must be accurately illustrated on the sign prototype with size, shape, form, and colors clearly identified.	NA as the sign is not visible from the Entrance Corridor.	
b		The ARB may require that the color and scale of standard templates for trademarks, service marks, corporate logos and graphics be modified. When used, trademarks, service marks, corporate logos and/or graphics shall be incorporated as an integral part of the overall sign. (Existing guideline 4t)	NA as the sign is not visible from the Entrance Corridor.	
c		Illuminated borders are not appropriate in electronic message signs.	NA as the sign is not visible from the Entrance Corridor	None
d		A graphic approved for the static part of the sign can be used, as approved, on the electronic message portion of the sign.	NA as the sign is not visible from the Entrance Corridor	None
e		All guidelines regarding blinking and movement that apply to the overall electronic message sign also apply to the graphic(s).	NA as the sign is not visible from the Entrance Corridor	None
f		Graphics cannot be used on an electronic message sign without text. A graphic cannot occupy the entire face of the electronic message panel.	NA as the sign is not visible from the Entrance Corridor	None

g		Graphic images may not include an illuminated background.		None
7a	Illumination	The background portion of the electronic message sign panel shall not be illuminated.		None
b		Illumination of electronic message signs shall not exceed a maximum luminance level of 300 cd/m^2 (Nits) during nighttime hours.		Condition SP
c		Illumination of electronic message signs shall not exceed a maximum luminance level of 5,000 cd/m2 (Nits) during daylight hours.		Condition SP
d		If an electronic message sign is used, the static part of the sign shall also be illuminated. External illumination is preferred to internal illumination for the static part of the sign. (Existing guideline 8e)		None
8a	Automatic controls	Drawings submitted with the sign permit application shall include documentation that the sign shall be equipped with photocell technology to control and vary the intensity of lighting depending on the amount of ambient light that is present. The sign shall have a photocell interface for the display that operates at all times the display is lit and that dims the display brightness to be below the maximum brightness settings when ambient conditions do not require the maximum allowable brightness.		None
b		Drawings submitted with the sign permit application shall include documentation that the sign shall be equipped with an integrated system that operates independently of the photocell and manages the identification of daytime and nighttime so that they are automatically determined by the actual time of sunrise and sunset at the sign location.		None
c		Drawings submitted with the sign permit application shall include documentation that brightness and message change intervals shall be locked down by the manufacturer/installer at the time of electronic message sign installation.		None
d		Drawings submitted with the sign permit application shall include documentation that the sign shall have a "fail to black" mode such that in the event of a failure of the sign controller/system that would otherwise result in random messages, flashing or other visually distracting operations, the display shall automatically black out.		None

SP2022-16 Comp Plan Map



Legend

(Note: Some items on map may not appear in legend)

Parcel Info
- Parcels

Comp Plan Land Use Info
- Urban Development Area Boundary
- Comprehensive Plan Areas

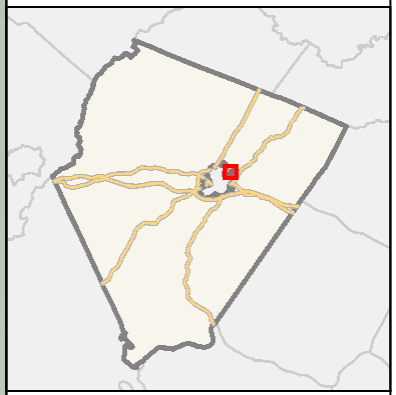
Crozet Master Plan Land Use
- Neighborhood Density Residential L
- Neighborhood Density Residential
- Middle Density Residential
- Urban Density Residential
- Neighborhood Mixed Use
- Commercial Mixed Use
- Community Mixed Use
- Downtown
- Office/R&D/Flex/Light Industrial
- Public Land
- Green Systems
- Institutional
- Split Neighborhood Density Resident

Pantops Master Plan Centers and Di
- Urban Center
- Neighborhood Service Center
- Employment District
- Recreational District

Pantops Master Plan Future Street N
- Principal Arterial
- Boulevard
- Avenue
- Avenue (Conceptual Alignment)
- Local Street
- Local Street (Conceptual Alignment)
- Rural Transition

Pantops Master Plan Urban Center

Pantops Master Plan Land Use
- Neighborhood Density Residential
- Commercial Mixed Use
- Urban Density Residential
- Community Mixed Use
- Office / R & D / Flex / Light Industrial
- Institutional
- Public Parks
- Potential Public Park
- Parks and Green Systems



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

July 13, 2022

Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

APPLICANT SUBMITTAL

Application for Special Use Permit

IMPORTANT: Your application will be considered **INCOMPLETE** until all of the required attachments listed on page 2 have been submitted with the appropriate signature on page 3. Also, please see the list on page 4 for the appropriate fee(s) related to your application.

PROJECT NAME: (how should we refer to this application?) Charlottesville Catholic School Digital Sign

PROPOSAL/REQUEST: Digital Sign Permit

ZONING ORDINANCE SECTION(S): _____

EXISTING COMP PLAN LAND USE/DENSITY: _____

LOCATION/ADDRESS OF PROPERTY FOR SPECIAL USE PERMIT:
7800 Carousel Ln, Richmond, VA 23294

TAX MAP PARCEL(s): 061A0-00-00-02900

ZONING DISTRICT: _____

OF ACRES TO BE COVERED BY SPECIAL USE PERMIT (if a portion, it must be delineated on a plat): _____

Is this an amendment to an existing Special Use Permit? If Yes provide that SP Number. SP-_____	☐ **YES** ☑ **NO**
Are you submitting a preliminary site plan with this application?	☑ **YES** ☐ **NO**

Contact Person (Who should we call/write concerning this project?): Brion Draper - American Made Signs

Address 407 Earhart Street Suite B City Charlottesville State VA Zip 22903

Daytime Phone (___) 434-971-7446 Fax # (___) _____ E-mail brion@americanmadesigns.com

Owner of Record CATHOLIC DIOCESE OF RICHMOND, WALTER F SULLIVAN, BISHOP ETAL

Address 81 CATHERDRAL PLACE City Richmond State VA Zip 23220

Daytime Phone (___) _____ Fax # (___) _____ E-mail _____

Applicant (Who is the Contact person representing?): Brion Draper - American Made Signs

Address 407 Earhart Street Suite B City Charlottesville State VA Zip 22903

Daytime Phone (___) 434-971-7446 Fax # (___) _____ E-mail brion@americanmadesigns.com

Does the owner of this property own (or have any ownership interest in) any abutting property? If yes, please list those tax map and parcel numbers:

FOR OFFICE USE ONLY SP # _____ **SIGN #** _____

Fee Amount $_____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____

ZONING ORDINANCE SECTION _____

Concurrent review of Site Development Plan? YES____ NO _____

County of Albemarle
Community Development Department
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

REQUIRED ATTACHMENTS & OTHER INFORMATION TO BE PROVIDED for THE APPLICATION TO BE OFFICIALLY SUBMITTED & DEEMED COMPLETE

- ❑ **Application Signature Page**
- ❑ **One (1) completed & signed copy of the** Checklist for a Special Use Permit.
- ❑ **One (1) copy of the Pre-application Comment Form received from county staff**
- ❑ **One (1) copy of any special studies or documentation as specified in the Pre-application Comment Form,**
- ❑ **Seventeen (17) folded copies** of a Conceptual Plan.
- ❑ **Seventeen (17) copies** of a written narrative

The narrative must be laid out to identify each of the bulleted TITLES as follows:

- **PROJECT PROPOSAL**
  The project proposal, including
  - its public need or benefit;
  - how the special use will not be a substantial detriment to adjacent lots,
  - how the character of the zoning district will not be changed by the proposed special use, and
  - how the special use will be in harmony with the following;
    - the purpose and intent of the Zoning Ordinance,
    - the uses permitted by right in the zoning district,
    - the regulations provided in Section 5 of the Zoning Ordinance as applicable, and
    - the public health, safety and general welfare.

  (be as descriptive as possible, including details such as but not limited to the number of persons involved in the use, operating hours, and any unique features of the use)

- **CONSISTENCY WITH COMPREHENSIVE PLAN**
  The proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area;

- **IMPACTS ON PUBLIC FACILITIES & PUBLIC INFRASTRUCTURE**
  The proposed project's impacts on public facilities and public infrastructure.

- **IMPACTS ON ENVIRONMENTAL FEATURES**
  The proposed project's impacts on environmental features.

❑ **One (1) copy of the most recent recorded plat**, that shows the Deed Book/Page Number, of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which shall include a metes and bounds description of the boundaries.

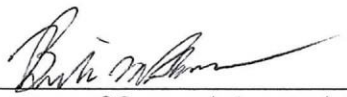
❑ **Taxes, charges, fees, liens owed to the County of Albemarle**
As the owner/agent I certify that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, which are owed to the County of Albemarle and have been properly assessed against the subject property, **have been paid.**

APPLICATION SIGNATURE PAGE

If the person signing the application is someone other than the owner of record, then a signed copy of the **"CERTIFICATION THAT NOTICE OF THE APPLICATION HAS BEEN PROVIDED TO THE LANDOWNER"** form must be provided in addition to the signing the application below. (page 5)

Owner/Applicant Must Read and Sign

By signing this application, I hereby certify that I own the subject property, or have the legal power to act on behalf of the owner of the subject parcel(s) listed in County Records. I also certify that the information provided on this application and accompanying information is accurate, true, and correct to the best of my knowledge. By signing this application, I am consenting to written comments, letters and or notifications regarding this application being provided to me or my designated contact via fax and or email. This consent does not preclude such written communication from also being sent via first class mail.



Signature of Owner / Agent / Contract Purchaser

05/10/2022
Date

Brion Draper
Print Name

434-971-7446
Daytime phone number of Signatory

Required FEES to be paid once the application is deemed complete:

What type of Special Use Permit are you applying for?
Staff will contact you regarding the fee once the application is deemed complete

	FEE	Technology Surcharge	TOTAL
❑ New Special Use Permit	$2,366	$94.64	**$2,460.64**
❑ Additional lots under section 10.5.2.1	$1,183	$47.32	**$1,230.32**
❑ Public utilities	$1,183	$47.32	**$1,230.32**
❑ Child day center	$1,183	$47.32	**$1,230.32**
❑ Home Occupation Class B	$1,183	$47.32	**$1,230.32**
❑ To amend existing special use permit	$1,183	$47.32	**$1,230.32**
❑ To extend existing special use permit	$1,183	$47.32	**$1,230.32**
❑ Farmer's markets without an existing commercial entrance approved by the VDOT or without existing and adequate parking	$580	$23.20	**$603.20**
❑ Farmer's markets with an existing commercial entrance approved by the VDOT and with existing and adequate parking	$130	$5.20	**$135.20**
❑ Reapplication that is substantially the same as the withdrawn application, when authorized by the Board of Supervisors	$1,823	$72.92	**$1,895.93**
ADDITIONAL FEES			
❑ Initial notice fee provided in conjunction with an application, for preparing and mailing notices and published notice	$448	NONE	**$448.00**
❑ ALL SPECIAL USE PERMITS - FIRE RESCUE REVIEW FEE	$50	NONE	**$50**
❑ Signs under section 4.15.5 and 4.15.5A (filed for review by the Board of Zoning Appeals under the BZA Submittal Schedule)	$592	$23.68	**$615.68**

Other FEES that may apply:

Fees for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➢ Preparing and mailing or delivering up to fifty (50) notices	$237 + actual cost of first-class postage
➢ Preparing and mailing or delivering each notice after fifty (50)	$1.19 for each additional notice + actual cost of first-class postage
➢ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between $150 and $250)
➢ Application for uses under sections 5.1.47 or 5.2A	NO FEE
➢ Special Exception – provide written justification with application	**$523.12** $503 + $20.12 Technology surcharge
Resubmittal fees for original Special Use Permit fee of $2,366	
➢ First resubmission	FREE
➢ Each additional resubmission **(TO BE PAID WHEN THE RESUBMISSION IS MADE TO INTAKE STAFF)**	**$1,230.32** $1,183 + $47.32 Technology surcharge
Resubmittal fees for original Special Use Permit fee of $1,183	
➢ First resubmission	FREE
➢ Each additional resubmission **(TO BE PAID WHEN THE RESUBMISSION IS MADE TO INTAKE STAFF)**	**$615.68** $592 + $23.68 Technology surcharge

The full list of fees can be found in **Section 35 of the Albemarle County Zoning Ordinance.**

The full list of fees can be found in **Section 35 of the Albemarle County Zoning Ordinance.**

CERTIFICATION THAT NOTICE OF THE APPLICATION HAS BEEN PROVIDED TO THE LANDOWNER

This form must accompany this zoning application if the application is not signed by the owner of the property.

I certify that notice of the application for, Charlottesville Catholic School Digital Sign
[Name of the application type & if known the assigned application #]

was provided to CATHOLIC DIOCESE OF RICHMOND, WALTER F SULLIVAN, BISHOP ETAL
[Name(s) of the record owners of the parcel]

the owner of record of Tax Map and Parcel Number 061A0-00-00-02900

by delivering a copy of the application in the manner identified below:

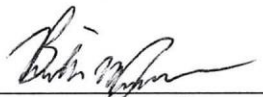
_____ Hand delivery of a copy of the application to _____
[Name of the record owner if the record owner is a person; if the owner of record is an entity, identify the recipient of the record and the recipient's title or office for that entity]

on _____
Date

X Mailing a copy of the application to CATHOLIC DIOCESE OF RICHMOND, WALTER F SULLIVAN, BISHOP E
[Name of the record owner if the record owner is a person; if the owner of record is an entity, identify the recipient of the record and the recipient's title or office for that entity]

on 05/13/2022 to the following address 81 CATHERDRAL PLACE, RICHMOND VA, 23220
Date

[Address; written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records satisfies this requirement].



Signature of Applicant

Brion Draper
Print Applicant Name

05/10/2022
Date

BK1083PG0353

CERTIFICATE OF PLAT

The attached plat, and courses and distances description made by B. Aubrey Huffman & Associates, Ltd., certified Land Surveyor, Charlottesville, VA, dated January 12, 1989, 19____, of the lands of Ruby V. Ballard, situate in Charlottesville District, of the County of Albemarle, Virginia, and being the same land acquired by the said Ruby V. Ballard, by deed dated 21st day of December, 1946, from Andrew C. Hackett & Beatrice P. Hackett, of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 684, page 551, is hereby confirmed and submitted for record in the aforesaid Clerk's Office.

Given under my/our hand(s) this 25th day of January, 1989.

Ruby V Ballard

ACKNOWLEDGEMENT

STATE OF VIRGINIA
AT LARGE, TO-WIT:

I, Christine C. Chapman, a Notary Public, in the State of Virginia, do hereby certify that Ruby V. Ballard, whose name is ~~are~~ signed to the foregoing certificate of confirmation by owners, and Plat, bearing date of the 12th day of January, 1989, has ~~have~~ acknowledged the same before me.

Given under my hand this 25th day of January, 1989.

Christine C. Chapman
NOTARY PUBLIC

My Commission as Notary Expires: June 4, 1990

COUNTY OF ALBEMARLE
PLANNING COMMISSION

DAVID P. BOWERMAN
CHAIRMAN

DATE 1-23-89

COUNTY OF ALBEMARLE
BOARD OF SUPERVISORS

John T. P. Horne
DESIGNATED AGENT

DATE 1-23-89

CERTIFICATION
THIS IS A CORRECT
AND ACCURATE PLAT

ARTHUR F. EDWARDS
LAND SURVEYOR

OWNERS APPROVAL: THE DIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND/OR TRUSTEES. ANY REFERENCE TO FUTURE POTENTIAL DEVELOPMENT IS TO BE DEEMED AS THEORETICAL ONLY. ALL STATEMENTS AFFIXED TO THIS PLAT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Ruby V Ballard 1-13-89

COUNTY OF ALBEMARLE,
STATE OF VIRGINIA, TO WIT:
THE FOREGOING
INSTRUMENT WAS
ACKNOWLEDGED BEFORE ME
THIS 23rd DAY OF January
1989, BY Ruby V. Ballard

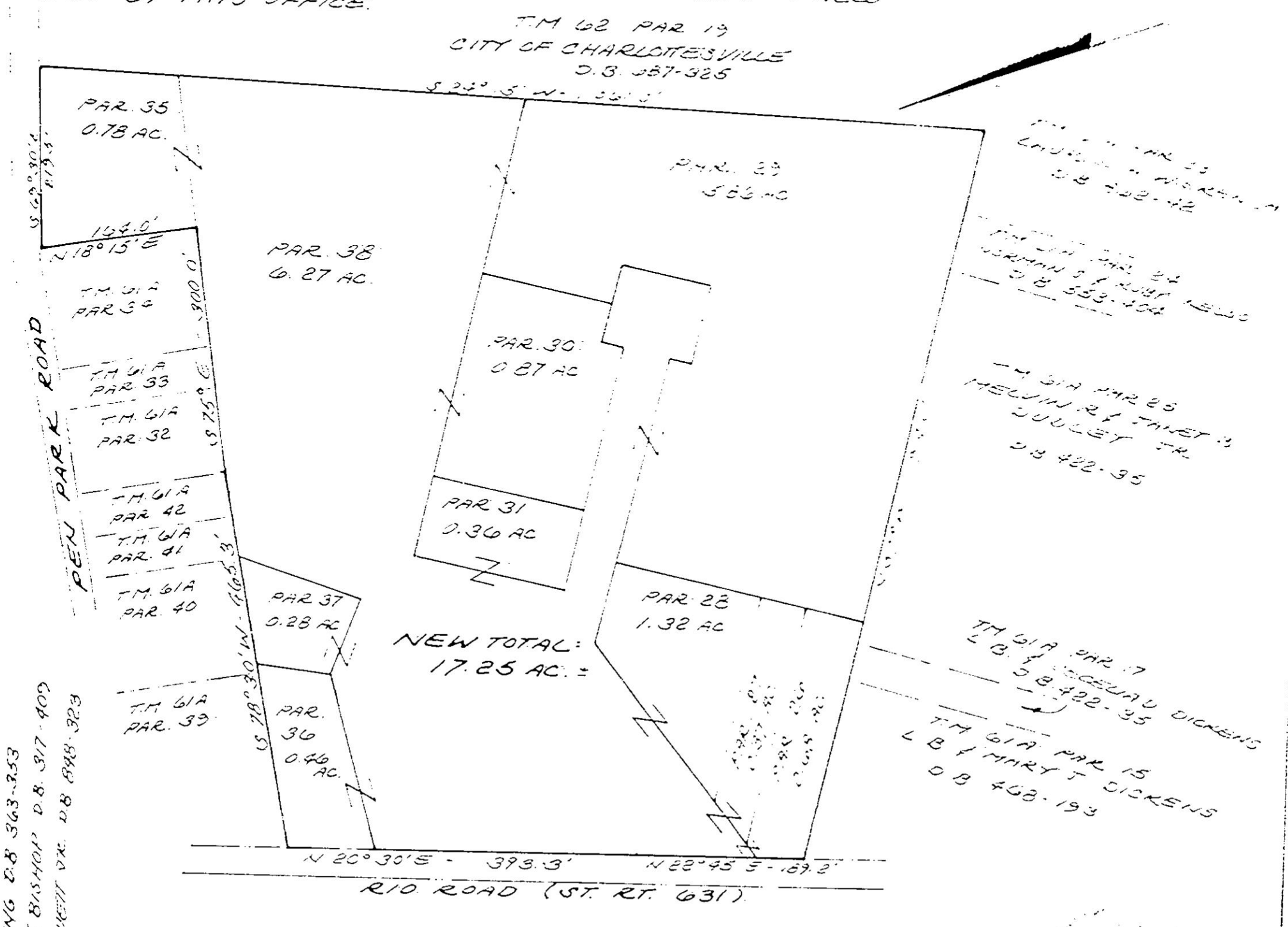
AS OWNERS, PROPRIETORS
AND/OR TRUSTEES.

[illegible]
NOTARY PUBLIC
MY COMMISSION EXPIRES [illegible]

THE LAND USE REGULATIONS LISTED HEREIN ARE IMPOSED PURSUANT TO THE ALBEMARLE COUNTY ZONING ORDINANCE IN EFFECT ON THIS DATE AND ARE SHOWN FOR INFORMATION PURPOSES ONLY. THEY ARE NOT RESTRICTIVE COVENANTS RUNNING WITH THE LAND AND THEIR APPEARANCE ON THIS PLAT IS NOT INTENDED TO IMPOSE THEM AS SUCH.

PROPERTY SHOWN HEREON STANDING IN THE NAME OF
RUBY V BALLARD D.B. 684-551

NOTE: MEETS & BOUNDS SHOWN HEREON WERE TAKEN FROM A PLAT OF RECORD (D.B. 272-18), AND DOES NOT REPRESENT A NEW SURVEY BY THIS OFFICE.



TM 61A PAR 39 & 40 WILDA D. CRENSHAW D.B. 684-480
" PAR. 41 MARY V. KING D.B. 363-353
" PAR. 32 & 42 WALTER F. BISHOP D.B. 317-409
" PAR. 33 & 34 M.A. PRUETT DR. D.B. 848-323

PLAT SHOWING
PARCELS 26, 27, 28, 29, 30, 31, 35, 36, 37 & 38
AS SHOWN ON SHEET 61A, COUNTY TAX MAPS
TO BE COMBINED INTO ONE PARCEL
ALBEMARLE COUNTY, VIRGINIA
JANUARY 12, 1989

0 50 100 200 300 400 500
GRAPHIC SCALE IN FEET

B. AUBREY HUFFMAN & ASSOCIATES, LTD.
CIVIL ENGINEERING - LAND SURVEYING - LAND PLANNING
CHARLOTTESVILLE, VIRGINIA

E.G.L.

BK! 0[illegible]0355

INSTRUMENT NUMBER _____

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ALBEMARLE COUNTY:

THIS DEED WAS PRESENTED, AND WITH CERTIFICATE ANNEXED, ADMITTED TO RECORD

ON Jan 25, 1989, at 9:22 O'CLOCK A M

STATE TAX	$	(039)
LOCAL TAX	$	(213)
TRANSFER FEE	$	(212)
CLERK'S FEE	$ 10.00	(301)
PLAT	$ 2.00	
Sec.58.1-502		
STATE TAX	$	(038)
LOCAL TAX	$	(220)
LOCAL TAX	$	(223)
TOTAL	$ 12.00	

TESTE:
SHELBY J. MARSHALL, CLERK

BY: Karen L Shiflett
DEPUTY CLERK

CONCEPTUAL
NOT READY FOR PRODUCTION

SIGN TYPE: Digital Sign

Scale: 1" = 1'

COLORS
BLACK
WHITE
BLUE (Pantone 294)
YELLOW (Pantone Yellow)
LIGHT GRAY (Pantone 429)

FONTS
LOGO

EXISTING SIGN

6' Wide X 4' Tall
Base is 8' L X 16" T X 12" D

24 Sq. Ft.



PROPOSED SIGN

6' Wide X 4' Tall
Base is 8' L X 16" T X 12" D

24 Sq. Ft.



AMERICAN MADE SIGNS LLC
407 Earhart St. Suite B,
Charlottesville, VA 22903
PH. (434) 971-7446
PH. (434) 971-1346
Sales@AmericanMadeSigns.com
www.americanmadesigns.com

CLIENT
Charlottesville Catholic School

ADDRESS
1205 Pen Park Rd
Charlottesville, VA

DESCRIPTION
Replacing an existing marquee sign that is non-illuminated to a new LED illuminated sign with a digital display.

DATE 05/09/2022

DRAWING REVISIONS

	DRAWN BY	DATE	CHANGE
1			
2			
3			
4			
5			

COLORS OR GRAPHICS PORTRAYED ARE FOR REPRESENTATION ONLY. COLORS DIFFER WITH MONITORS. SAMPLES AVAILABLE UPON REQUEST This drawing and final sign remains the exclusive property of American Made Signs LLC. Failure to pay in full within 90 days of the completed work will result in a court hearing and we will repossess the signage on the property which it sits or is attached to, or will be sent to collections. Unless other agreements are made in writing. Repossessed signs are subject to a reinstallation fee of $95.00 / hour plus trip charges. Reinstallation must be paid in full before any work is started. This design cannot be shared in whole or part or exhibited in any other manner without written permission from American Made Signs LLC. This only applies to artwork and signs designed and/or manufactured by American Made Signs LLC. Special Orders are non-refundable. All debts not paid within 90 days and is handed off to collections for Liquidated Damages 25% of the principal amount. Customer will owe American Made Signs LLC all court costs, original debt plus 12% interest and attorney fees.

READY TO GO?

☐ APPROVED ☐ RE-PROOF

X _____
Signature

_____
Date

CONCEPTUAL
NOT READY FOR PRODUCTION

SIGN TYPE: Digital Sign

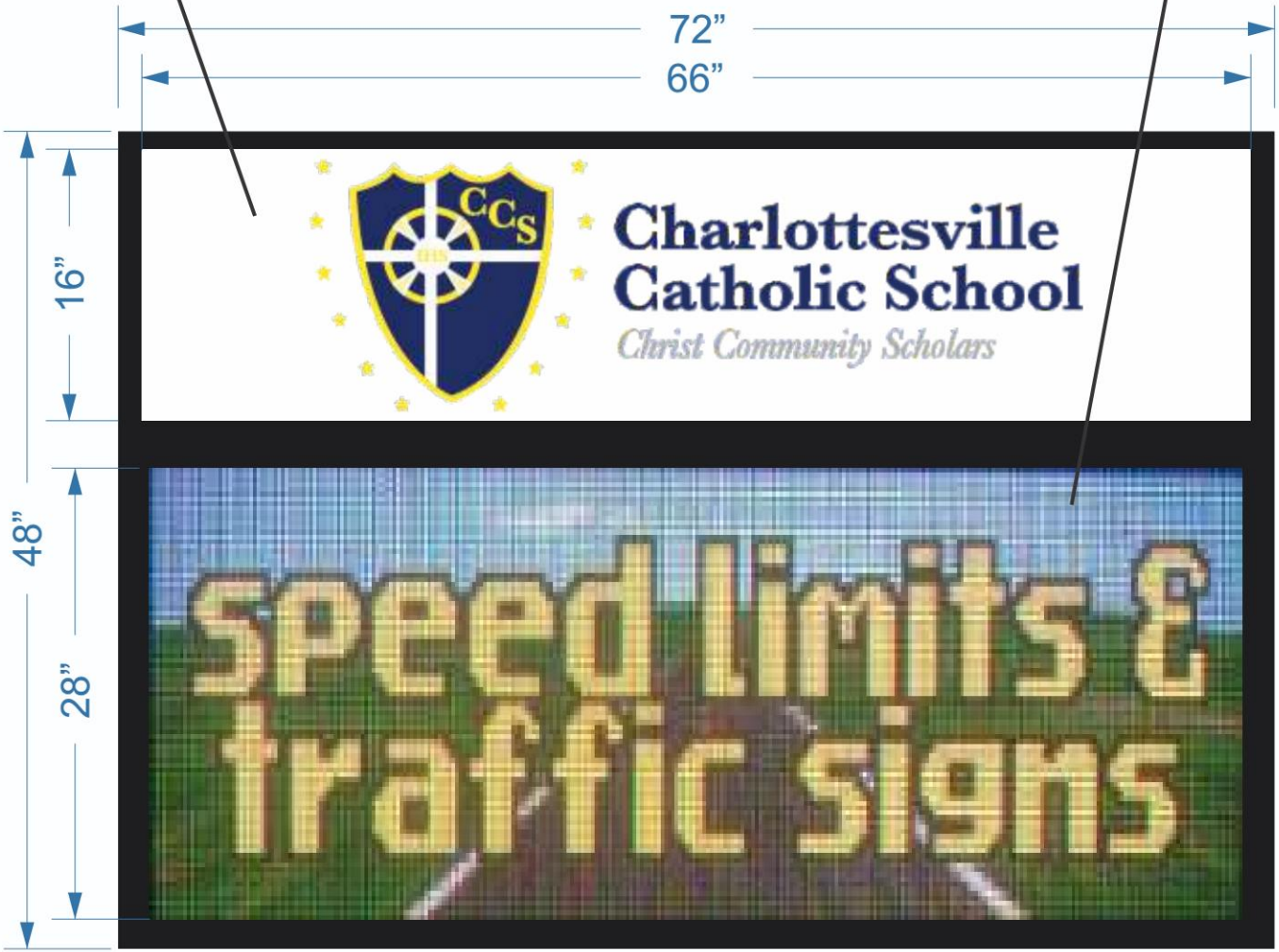
Scale: 1" = 1'

COLORS
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WHITE
BLUE (Pantone 294)
YELLOW (Pantone Yellow)
LIGHT GRAY (Pantone 429)

FONTS
LOGO

Single Sided, Front-Lit Acrylic with Translucent Vinyl Graphics

Double Sided (2nd Side Only Visible to School) 10mm Pixel Display



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READY TO GO?

☐ APPROVED ☐ RE-PROOF

X _____
Signature

_____
Date

CONCEPTUAL
NOT READY FOR PRODUCTION

SIGN TYPE: Digital Sign

Scale: 1" = 1'

COLORS
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BLUE (Pantone 294)
YELLOW (Pantone Yellow)
LIGHT GRAY (Pantone 429)

FONTS
LOGO

LOCATION OF SIGN



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Signature

_____
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FONTS
LOGO

ZONING OVERLAY



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4			
5			

COLORS OR GRAPHICS PORTRAYED ARE FOR REPRESENTATION ONLY. COLORS DIFFER WITH MONITORS. SAMPLES AVAILABLE UPON REQUEST This drawing and final sign remains the exclusive property of American Made Signs LLC. Failure to pay in full within 90 days of the completed work will result in a court hearing and we will repossess the signage on the property which it sits or is attached to, or will be sent to collections. Unless other agreements are made in writing. Repossessed signs are subject to a reinstallation fee of $95.00 / hour plus trip charges. Reinstallation must be paid in full before any work is started. This design cannot be shared in whole or part or exhibited in any other manner without written permission from American Made Signs LLC. This only applies to artwork and signs designed and/or manufactured by American Made Signs LLC. Special Orders are non-refundable. All debts not paid within 90 days and is handed off to collections for Liquidated Damages 25% of the principal amount. Customer will owe American Made Signs LLC all court costs, original debt plus 12% interest and attorney fees.

READY TO GO?

☐ APPROVED ☐ RE-PROOF

X _____
Signature

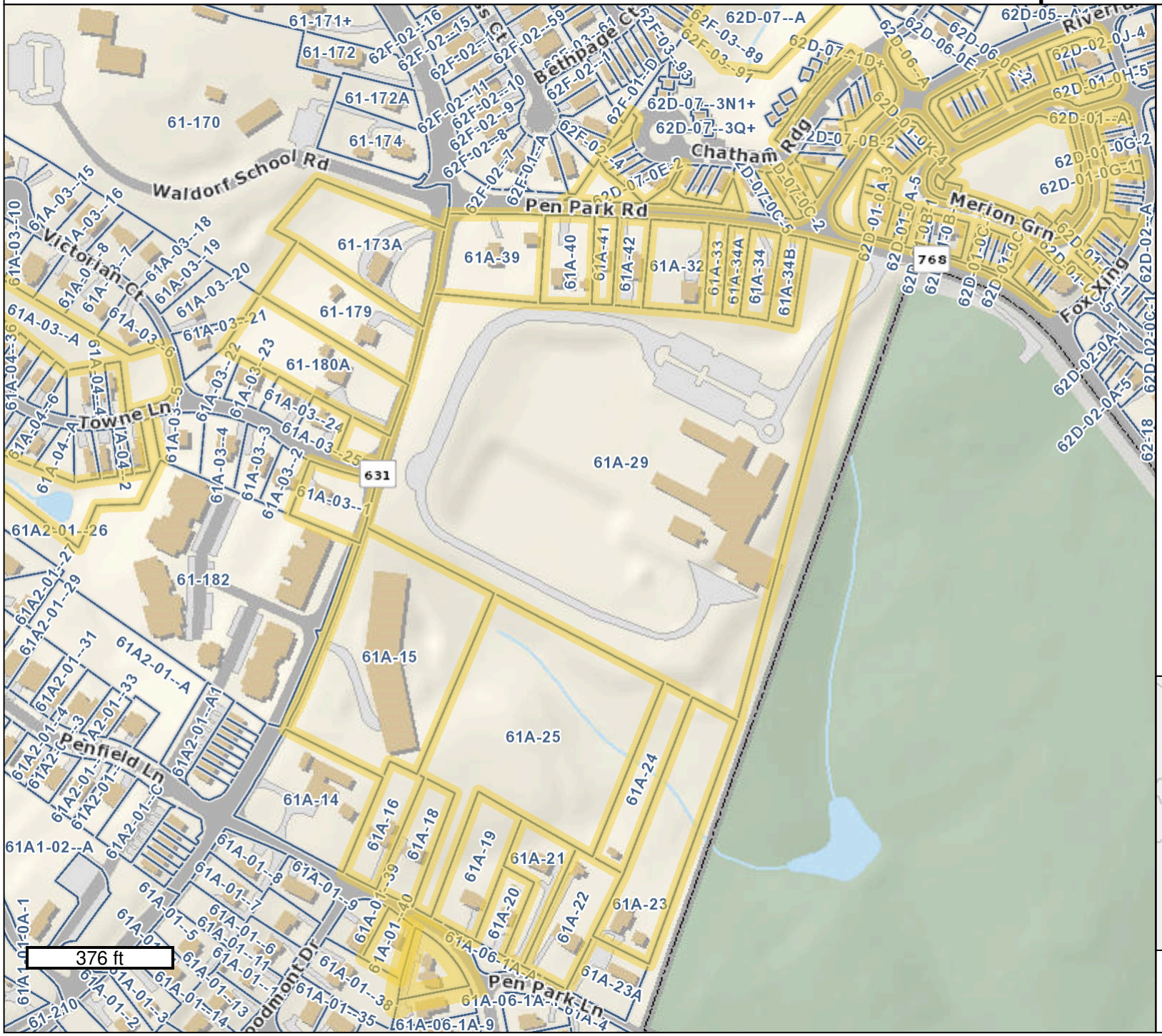
_____
Date

ParcelID	Owner	OwnerAddress	OwnerZip
061000000173A0	JENNINGS, ELLIOTT J	700 RIO ROAD EAST	CHARLOTTESVILLE VA, 22901
06100000017900	KETCHAM, JOHN H OR MARY N	676 RIO ROAD-EAST	CHARLOTTESVILLE VA, 22901
061000000180A0	LARGIADER LIVING TRUST	670 RIO RD E	CHARLOTTESVILLE VA, 22901
061A0000001500	LOFTS AT MEADOWCREEK LLC	1821 AVON STREET EXT STE 200	CHARLOTTESVILLE VA, 22902
061A0000001600	WOOD, JOSEPH B OR LORI D	1110 PEN PARK LANE	CHARLOTTESVILLE VA, 22901
061A0000001800	JAMES, DAVID Q	1120 PEN PARK LANE	CHARLOTTESVILLE VA, 22901
061A0000001900	COLEMAN, ALBIN CLAYTON JR & CRYSTAL J	1140 PEN PARK LN	CHARLOTTESVILLE VA, 22901
061A0000002100	MARICIC, NEVEN OR JOSIPA	1156 PENN PARK LN	CHARLOTTESVILLE VA, 22901
061A0000002200	HARRIS, BYRON L	1160 PEN PARK LANE	CHARLOTTESVILLE VA, 22901
061A0000002300	SHIPE, LORIE WIERENGA	718 BELVEDERE BLVD	CHARLOTTESVILLE VA, 22901
061A0000002400	HARRIS, BYRON L	1160 PEN PARK LN	CHARLOTTESVILLE VA, 22901
061A0000002500	CATHOLIC DIOCESE OF RICHMOND WALTER F SULLIVAN BISHOP ETAL	11 CATHEDRAL PLACE	RICHMOND VA, 23220
061A0000002900	CATHOLIC DIOCESE OF RICHMOND, WALTER F SULLIVAN, BISHOP ETAL	81 CATHERDRAL PLACE	RICHMOND VA, 23220-4801
061A0000003200	TEWKSBURY, DEBORAH J.	1165 PEN PARK ROAD	CHARLOTTESVILLE VA, 22901
061A0000003300	PAUL JASIURKOWSKI & BARBARA JASIURKOWSKI	1181 PEN PARK ROAD	CHARLOTTESVILLE VA, 22901
061A0000003400	HINDMAN, ANNE R	1189 PEN PARK ROAD	CHARLOTTESVILLE VA, 22901
061A00000034A0	RUDMAN, DONNA M	1183 PEN PARK RD	CHARLOTTESVILLE VA, 22901
061A00000034B0	RAUPP, LLOYD N OR SUSAN R	1191 PEN PARK ROAD	CHARLOTTESVILLE VA, 22901
061A0000003900	DAY, DENISE D	1149 PEN PARK RD	CHARLOTTESVILLE VA, 22901
061A0000004000	OP THREE LLC	PO BOX 211	RUCKERSVILLE VA, 22968-0211
061A0000004100	RAY, DELORES J	1161 PENN PARK ROAD	CHARLOTTESVILLE VA, 22901-3109
061A0000004200	TEWKSBURY, DEBORAH J	1165 PEN PARK ROAD	CHARLOTTESVILLE VA, 22901
061A0010004000	COOK, IAN CHRISTOPHER	1125 PEN PARK LANE	CHARLOTTESVILLE VA, 22901
061A00300000A0	PHASE ONE VILLAGE SQUARE PROPERTY	700 NAKED CREEK RD	EARLYSVILLE VA, 22936
061A0030000100	AUGER, NORMAND OR THERESE	1101 TOWNE LN	CHARLOTTESVILLE VA, 22901
061A0061A00700	OETTINGER, MARC P & STEPHANY L OETTINGER	904 LOCHLYN HILL LN	CHARLOTTESVILLE VA, 22901
062D00100000A0	RIVERRUN PROPERTY OWNERS ASSOC. INC	PO BOX 648	CHARLOTTESVILLE VA
062D0010A00300	BOYD, JAMES H OR CHRISTINE A	845 WOODLAND CHURCH RD	BUCKINGHAM VA, 23921
062D00700000A0	RIVERRUN PROPERTY OWNERS ASSOCIATION INC	182 SPOTNAP RD STE A1	CHARLOTTESVILLE VA, 22911-8661
062D0070C00100	PRICHARD, MONICA N & MICHAEL J, TRS OF THE MONICA PRICHARD REVOCABLE TRUST	872 LOCUST AVENUE	CHARLOTTESVILLE VA, 22902
062D0070C00200	GILCHRIST, AMY WALKER	1229 CHATHAM RDG	CHARLOTTESVILLE VA, 22901
062D0070C00300	JOHN E ECHEVERRI-GENT & ELISAVINDA ECHEVERRI-GENT & ANDREA A ECHEVERRI-GENT	102 VICAR COURT	CHARLOTTESVILLE VA, 22901
Adjoining Locality	City of Charlottesville - Pen Park	P.O. Box 911	Charlottesville, VA 22902
Primary Contact	Brion Draper - American Made Signs	407 Earhart Street, Suite B	Charlottesville, VA 22903

34 listings - 0 duplicates = 34 notices

SP2022-016 Charlottesville Catholic School - Electric Message Sign

SP2022-016 Charlottesville Catholic School APO Map

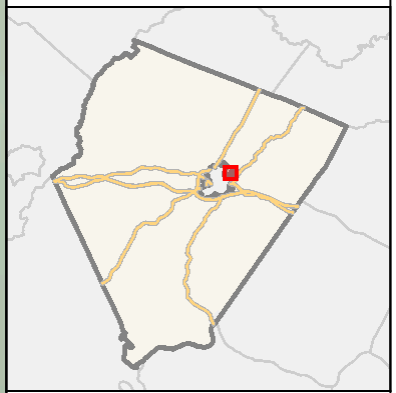


Legend

(Note: Some items on map may not appear in legend)

Parcel Info

- ☐ Parcels



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

June 15, 2022

Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

AP2022-002 801 Franklin Street

STAFF: Bart Svoboda, Zoning Administrator
Lisa Green, Manager, Code Compliance

PUBLIC HEARING: August 2, 2022

STAFF REPORT: AP2022-00002

APPLICANT/APPELLANT: Allied Portables, LLC
P.O. Box 939
Crozet, VA 22932

John Harvey Falls and Virginia S. Falls
P.O. Box 33
Afton, VA 22920

Subject Tax Parcel Number:
801 Franklin Street, Charlottesville, VA - Tax Parcel 07700-00-00-021A0 (the "Property")

Parcel Information:
The Property is located at 801 Franklin Street, with the entrance about 200 feet north of the intersection with Nassau Street. The Property is zoned Light Industrial (LI), is located in the Scottsville Magisterial District, and lies entirely within the 100-year Floodplain, which marks the County's Flood Hazard Overlay District. (Attachment A).

Considering an Appeal:
The BZA's decision on appeal is limited to determining whether the decision of the Zoning Administrator was correct and whether the zoning ordinance was applied correctly. This appeal does not consider whether the proposed use is appropriate, whether it is in the public interest, or whether a zoning regulation is invalid or needs to be amended. The purpose of this hearing is only to determine if the ordinance was applied correctly.

History:
March 23, 2022 - Complaint was received regarding storage of multiple portable toilets in the floodplain.

March 25, 2022 - Zoning staff and the Fire Marshall met on site with the owner's representative. It was discussed that the use taking place was not permitted.

May 2, 2022 - The Notice of Official Determination of Violation (Attachment B - ZVIO2022-076) was sent pursuant to Zoning Ordinance § 30.3 (Flood Hazard Overlay District).

May 27, 2022 - The applicant filed a timely appeal (Attachment C - AP20220002) of the Notice of Official Determination of Violation.

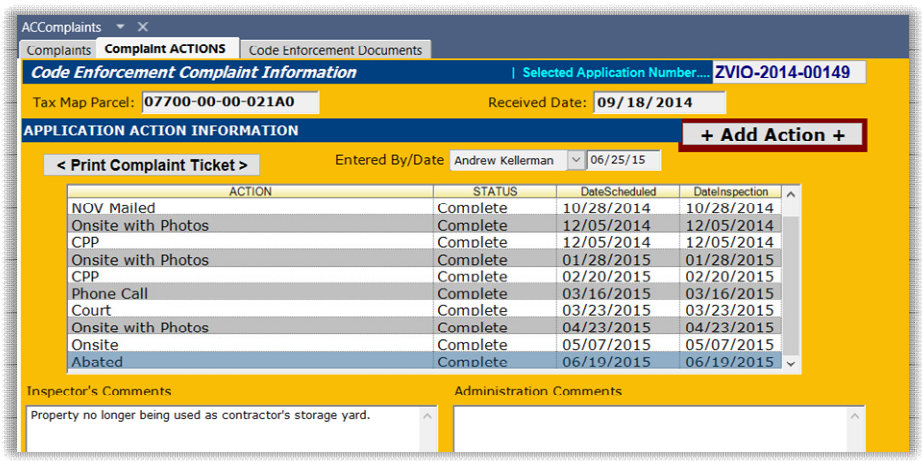
Grounds for Zoning Administrator's Determination:

The storage of multiple portable toilets in the Flood Hazard Overlay District is not a permitted use under County Code § 18-30.3.11 (Attachment D).

Staff's Response to Appeal:

1.) The County does not agree with the claim that the appellants have a legal nonconforming use on this property. A series of aerial photographs (Attachment E) show that a contractor storage yard has not been in continual use since December 2015. These photographs coincide with a prior notice of violation (Attachment F), sent October 28, 2014, which also determined that no use pre-existed the zoning ordinance in effect. Because that notice of violation was never appealed, its finding that a nonconforming use did not exist became a thing decided. The property owner at that time was Mr. Falls and the construction company was Summit Construction. The owners were instructed to have the property brought into compliance by removing material and vehicles. The property was in fact brought into compliance, and the contractor storage yard use ceased to exist on this property on or about June 19, 2015.

Copy of ZVIO2014-00149 Complaint Actions:



Though the appellants' letter states that the use of the property *"was a continuation of a lawfully existing uses prior to and on April 2, 2014,"* as early as October 2014, no lawfully nonconforming use existed.

2. Though the appellants also argue that certain recreational uses are allowed right in the flood hazard overlay district, a business that rents and stores portable toilets is not such a recreational use. Providing goods or services to a park does not make the business providing those goods or services a park or recreational use. In fact, this business is not a park, a picnic area, an athletic field, a fish hatchery, or any other recreational use. It is a contractor storage yard.

Because the business of renting and storing multiple portable toilets (a contractor storage yard) is not a recreational use, it is not permitted to be located within the flood hazard overlay district on this property.

Summary:

On May 5, 2022, Official Zoning Determination ZVIO2022-076 (Attachment B) determined that the storage of multiple portable toilets (contractors storage yard) in the floodplain is not a permitted use. Based on parcel history and the October 28, 2014 determination (Attachment F), a lawfully nonconforming use does not exist on this parcel. The evidence supports the determination that the property does not contain a nonconforming use and is therefore in violation of § 30.3 of the Albemarle County Zoning Ordinance.

Because the Zoning Administrator's determination was and is correct, the Board of Zoning Appeals should affirm this determination.

Proposed Motion:

I move that the Board of Zoning Appeals affirm the Zoning Administrator's determination in ZVIO2022-076.

Attachments:

Attachment A: Location Map

Attachment B: ZVIO2022-076 Notice of Violation May 2, 2022

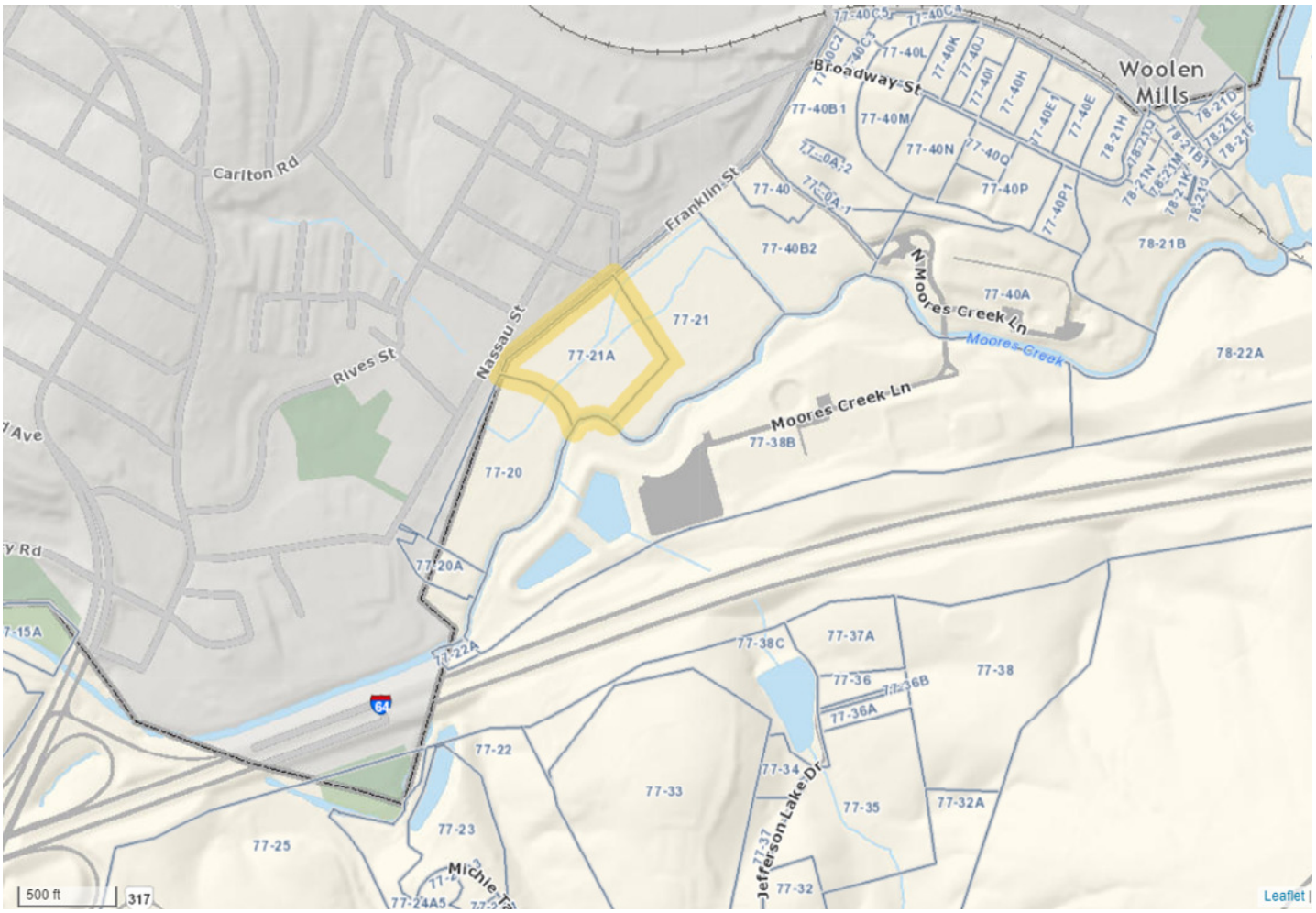
Attachment C: Appeal Application and Justification Statement

Attachment D: Zoning Ordinance § 30.3 Flood Hazard Overlay District

Attachment E: Aerial Photograph History

Attachment F: ZVIO2014-149 Notice of Violation October 28, 2014

Location Map **Attachment A**



ATTACHMENT: B

County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

NOTICE OF OFFICIAL DETERMINATION OF VIOLATION

The Date this Notice of Determination is given is May 5, 2022 No: VIO-2022-076
CERTIFIED MAIL# 7021 0350 0000 3827 0141

John Harvey Falls and Virginia S Falls
PO Box 33
Afton VA, 22920

Allied Portable Toilets in central Virginia
P.O. Box 939
Crozet, VA 22932

Property: Parcel ID 07700-00-021A0

John Harvey Falls and Virginia S Falls
PO Box 33
Afton VA, 22920
Owner of Record

Zoning: Light Industrial [LI] District
Flood Hazard Overlay [FH] District

Dear John Harvey Falls or Virginia S Falls:

This notice is to inform you that the above-described Property is in violation of the Albemarle County Zoning Ordinance. This conclusion is based on the following observations of the above-described Property by a Code Compliance Officer on May 02, 2022:

Multiple portable toilets being stored on this parcel in the designated flood plane is not a permitted.

Because this use of the Property or structure did not pre-exist the applicable Zoning Ordinance, it cannot be considered legal but non-conforming use or structure. Accordingly, the following section of the Zoning Ordinance has been violated:

Albemarle County Code § 18-30.3.11 Flood Hazard Overlay District; Permitted and Prohibited uses and structures

This violation of the Zoning Ordinance is unlawful, and may be subject to civil penalties, criminal penalties, injunctive relief and/or other remedies, pursuant to *Albemarle County Code § 18-36.*

This letter also serves to notify you to stop the activity or use outlined above immediately. Failure to comply with this notice may result in legal action being taken against you and any other owner, tenant or

other responsible party. In addition, you must bring the property into compliance by **June 3, 2022,** to avoid court action. Future compliance past this date does not preclude the County from pursuing legal action for existing or past violation(s).

If you are aggrieved by this determination, you have a right to appeal it within thirty (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311; provided, however, that a ten (10) day appeal period applies to appeals of decisions pertaining to temporary or seasonal commercial uses, and such appeals shall be filed within ten (10) days after this decision. If you do not file a timely appeal, this determination shall be final and unappealable.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with *Albemarle County Code* § 18-34.3, along with a fee of $295.36. This fee includes the $284 application fee and the 4% Technology surcharge of $11.36. Additionally, a separate fee of $448 is required for the cost of providing notice and advertising of the appeal for a public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at https://www.albemarle.org/home/showpublisheddocument/216/637617797415170000. This form applies to appeals of decisions of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are outlined in *Albemarle County Code* § 18-34.3, which may be reviewed online at https://library.municode.com/va/albemarle_county/codes/code_of_ordinances?nodeId=CH18ZO_ARTIVPR_S34BOZOAP_S34.3APORREDEDEBOZOAP.

If you have any questions, please contact Benjamin Cooper, Code Compliance Officer, at 434-296-5832 ext. 3427.

Lisa Green, CZA
Manager Code Compliance
County of Albemarle

ATTACHMENT: C

FOR OFFICE USE ONLY AP # 2022-2 SIGN # _____

ZONING ORDINANCE SECTION: _____

Fee Amount $_____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____

Application for Appeal of Zoning Administrator's Determination

☑ **Appeal of Zoning Administrator's Determination = $295.36**
Application $284 + Technology surcharge $11.36

☐ **Initial notice fee to be provided in conjunction with an application, for preparing and mailing notices and published notice = $448**

FEES for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➢ Preparing and mailing or delivering each notice after fifty (50)	$237
➢ Preparing and mailing or delivering each notice after fifty (50)	$1.19 for each additional notice + actual cost of first-class postage
➢ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between $150 and $250)

Contact Person (Who should we call/write concerning this project?): Steven W. Blaine, Esq.

Address 123 East Main Street, 5th Floor City Charlottesville State VA Zip 22902

Daytime Phone (434) 220.6831 Fax # (434) 260.8270 E-mail sblaine@woodsrogers.com

Owner of Record Mr. John Harvey Falls

Address P.O. Box 33 City Afton State VA Zip 22920

Daytime Phone (540) 456.8154 Fax # (___) _____ E-mail _____

Applicant (Who is the Contact person representing?): Allied Portables, LLC (Allied Portable Toilets)

Address P.O. Box 939 City Crozet State VA Zip 22932

Daytime Phone (804) 658.5548 Fax # (___) _____ E-mail jepley@rivercitycorp.com

Project Name: 801 Franklin Street

Tax map and parcel: 07700-00-00-021A0 **Zoning:** Light Industrial (LI); Flood Hazard District

Physical Street Address (if assigned):
801 Franklin Street, Charlottesville, VA

Location of property (landmarks, intersections, or other):
Immediately adjacent to the City boundary line; near Moore's Creek

The following information shall be submitted with the application and is to be provided by the applicant:

1) Completed application including subject of appeal.
2) Justification for applicant's position, including error in Zoning Administrators determination. You may use the space below to provide this information or submit an attached sheet.
3) If applicable, a copy of the latest deed for the property involved, and the approved and recorded plat.
4) If applicable, the appropriate drawings showing all existing and proposed improvements on the property and any special conditions for the situation that may justify the appeal.
5) Reference to the relevant Zoning Ordinance section or other applicable regulations or case precedence to justify the appeal.
6) Appropriate fee made payable to the County of Albemarle.

Explanation of error in determination and justification of applicant's position:

See attached

Owner/Applicant Must Read and Sign

I hereby certify that the information provided on this application and accompanying information is accurate, true and correct to the best of my knowledge and belief.

Signature of Owner or Contract Purchaser, Agent

5/25/2022
Date

John Epley
Print Name

804.658.5548
Daytime phone number of Signatory

Board of Zoning Appeals Action/vote:

Board of Zoning Appeals Chairman's signature:_____ Date:_____

APPEAL OF ZONING DETERMINATION

VIO-2022-076

This is in support of the Applicant's Appeal of the Zoning Determination (VIO-2022-076), dated May 5, 2022. The Applicant is the owner of Allied Portable Toilets in Central Virginia and leases the property at 801 Franklin Street in Charlottesville from the owner, Mr. John Falls. The property is zoned Light Industrial (LI) and located on the line of the City of Charlottesville limits. Applicant stores portable toilets at the site which are leased on a short-term basis primarily for customers in the construction industry, but also for other commercial and recreation uses which require portable sanitation disposal. As an example, the County of Albemarle leases portable toilets from the Applicant for a variety of uses, as does the City of Charlottesville. The location is favorable because of its proximity to the RWSA solid waste disposal site. The portable toilets stored at the site do not contain any human waste and are without any fluid chemicals during storage. The Applicant began storing portable toilets at this site in 2017 and has never received a complaint until the May 5, 2022 Notice of Violation.

1. *The Zoning Determination is erroneous because the Applicant's manner of use was a continuation of lawfully existing uses prior to and on April 2, 2014 and therefore is a lawful nonconforming use pursuant to Sec. 30.3.3 of the Albemarle County Code.*

The Zoning determination asserts that the storage of portable toilets violates the Flood Hazard Overlay District (FHOD) regulations. The Applicant concedes that the property is located within the FHOD. If not for the FHOD regulations however, the storage of portable toilets would be permitted as a matter of right in the underlying zoning district – LI. The zoning determination does not assert that the use is unlawful under the LI District regulations – only those of the FHOD.

Sec. 30.3.3 states that any use or development lawfully existing on April 2, 2014 shall be nonconforming to the extent that it is not in compliance with Sec. 30.3 (the FHOD regulations). The property has been used for the storage of equipment and materials, without discontinuance since well before April, 2014. The primary use of this property, since 1946 has been as a livestock auction and sales facility. The current owner, Mr. Falls has owned the property since 1980. During that period and prior to April, 2014 the property was also leased to a succession of construction or construction-related companies for equipment and materials storage – uses which did not interfere with the weekly livestock auctions. According to two of Mr. Falls' family members, during the period prior to April 2014, Summit Construction leased the property for equipment and storage. According to Mr. Fall's son, Mr. Palmer Putnam, Summit Construction leased the property up until the time that the Applicant took possession. Prior to Summit Construction, Slurry Pavers, Inc. leased the property for equipment and materials; and prior to Slurry Pavers, Boxley Materials Company did the same. A Google Earth photograph taken in April, 2013 is attached which depicts the site with equipment and trailers, as well as materials present.

The Applicant's storage of portable toilets for use on construction sites as well as for customers with temporary sanitation needs is a continuance of a storage use that predates the effective date of the FHOD regulations. Based upon the facts present, the Zoning Determination is erroneous as the Applicant's use is a continuous, lawfully conforming use.

2. *The Zoning Determination is erroneous because the Applicant's manner of use could be argued to be lawful as a matter of right under the FHOD.*

The FHOD regulations allow as a matter of right: "Recreational uses including, but not limited to, parks, swimming areas, golf courses and driving ranges, picnic areas, wildlife and nature preserves, game farms, fish hatcheries, hunting, fishing and hiking areas, athletic fields, and horse show grounds." Virtually all of the permitted recreational uses listed, and that can be found throughout the County of Albemarle deploy portable toilets. The Applicant is a supplier to a number of such uses. If recreational uses located within the FHOD are not permitted to maintain portable toilets on site, (as a result of the logic of the Zoning Determination), then the operation and enjoyment of such uses will be severely, and negatively impacted.

For the foregoing reasons, we respectfully request that the Zoning Determination be reversed.


4/2013
1985
2021
Nassau St
Pattison Auto Body
Pastore's Cleaning Services
Franklin St
The Hogwaller
Nassau St
1985
Imagery Date: 4/5/2013

ATTACHMENT: D

Sec. 30.3 - Flood hazard overlay district - FH.

Sec. 30.3.1 - Purpose and intent.

Under the authority of Virginia Code § 15.2-2280 , the purposes and intent of section 30.3 are to:

A. *Prevention of harm.* Prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base.

B. *Means used.* In order to prevent the several harms described in subsection (A), section 30.3 establishes an overlay zoning district to: (i) regulate uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies; (ii) restrict or prohibit certain uses, activities, and development from locating within areas subject to flooding; (iii) require all of those uses, activities, and developments that do occur in areas subject to flooding to be protected or flood-proofed, or both, against flooding and flood damage; and (iv) protect individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

C. *Flood insurance.* Address a local need for flood insurance and to participate in the National Flood Insurance Program.

(§ 30.3.01, 12-10-80; Ord. 05-18(1) , 1-5-05, effective 2-5-05; § 30.3.1, Ord. 14-18(1) , 3-5-14)

State Law reference— Va. Code § 15.2-2280 .

Federal law reference—44 CFR §§ 59.22(a)(1), (a)(2).

Sec. 30.3.2 - Flood insurance rate map and flood insurance study.

The flood hazard overlay district shall be composed of all areas of the county within the special flood hazard areas delineated on the Flood Insurance Rate Map for Albemarle County, Virginia and Incorporated Areas and the Independent City of Charlottesville, most recently amended effective on and after May 16, 2016 (the "Flood Insurance Rate Map"), and the Flood Insurance Study for Albemarle County and Incorporated Areas and the Independent City of Charlottesville prepared by the Federal Emergency Management Agency, most recently amended effective on and after May 16, 2016 (the "Flood Insurance Study"), and includes all subsequent revisions and amendments to the Flood Insurance Rate Map and Flood Insurance Study.

The Flood Insurance Rate Map and the Flood Insurance Study are incorporated herein by reference. The Flood Insurance Rate Map, including all of the special flood hazard area zones designated thereon, is hereby adopted as the zoning map of the flood hazard overlay district.

(§ 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1) , 1-5-05, effective 2-5-05; § 30.3.2, Ord. 14-18(1) , 3-5-14; Ord. 16-18(5) , 5-4-16, effective 5-16-16)

State Law reference— Va. Code § 15.2-2280 .

Federal law reference—44 CFR § 60.2(h).

Sec. 30.3.3 - Applicability.

Section 30.3 applies as follows:

A. *Territory.* Section 30.3 shall apply to all privately and publicly owned lands within the county that are identified as being within a special flood hazard area according to the Flood Insurance Rate Map provided to the county by the Federal Emergency Management Agency.

B. *Relationship to other regulations.* The regulations in section 30.3 supersede any less restrictive conflicting ordinances and regulations.

C. *New uses and development.* On and after April 2, 2014, no land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of section 30.3, this chapter, and any other applicable ordinances and regulations which apply to uses within the county.

D. *Pre-existing uses and development.* Any use or development lawfully existing on April 2, 2014 shall be nonconforming to the extent that it is not in compliance with section 30.3.

E. *Presumptions.* Any, use, structure or other development lawfully established after April 2, 2014 without a floodplain development permit, elevation certificate, or any other certification or documentation (collectively, the "documentation") required for development within the flood hazard overlay district is presumed to be a violation of this chapter until the documentation is provided to the floodplain

administrator and determined to satisfy the requirements of the district.

(§ 30.3.3; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2280 .

Federal law reference—44 CFR § 60.1(b).

Sec. 30.3.4 - Disclaimer.

The degree of flood protection sought by the provisions in section 30.3 is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Therefore:

A. *Flooding and flood damage may occur outside of flood hazard overlay district.* Section 30.3 does not imply that lands or uses outside of the flood hazard overlay district will be free from flooding or flood damage.

B. *Disclaimer.* Section 30.3 is not a waiver of sovereign immunity or any statutory immunities and shall not create liability on the part of the county or any of its officers or employees for any flood damage resulting from reliance on this section or any decision or determination lawfully made under this chapter.

(§ 30.3.08, 12-10-80; § 30.3.4; Ord. 14-18(1), 3-5-14)

Sec. 30.3.5 - (Repealed 6-5-19)

Sec. 30.3.6 - Designation of floodplain administrator; powers and duties.

The county engineer is hereby designated the floodplain administrator (the "floodplain administrator") and shall have any and all powers and duties authorized by law to administer and to enforce section 30.3, including, but not limited to, the following:

A. *Administration.* Administer section 30.3 which shall include, but not be limited to, performing all applicable duties and responsibilities of the county as provided in 44 CFR § 60.3(a), (b), (c), and (d) relevant to the administration of section 30.3.

B. *Delegation to qualified employees and authorized public entities.* Delegate any duties and responsibilities set forth in section 30.3: (i) to qualified technical personnel, plan examiners, inspectors, and other employees; and (ii) with the prior consent of the Virginia Department of Conservation and Recreation, to an authorized public entity by written memorandum of understanding or memorandum of agreement; provided that the floodplain administrator and the county shall remain responsible for complying with the requirements of this section and all applicable state and federal laws.

C. *Implement commitments.* Implement the commitments required to be made by the county under 44 CFR § 59.22(a).

D. *Recordkeeping.* Maintain and permanently keep records that are necessary for the administration of section 30.3, including: (i) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and (ii) documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the Flood Insurance Rate Map) to which structures have been flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

E. *Reporting.* Report information as required by law, including the following:

1. *Periodic report regarding County participation in program.* Submit to the Federal Emergency Management Agency, either annually or biennially as he determines, a report concerning the county's participation in the National Flood Insurance Program, including, but not limited to, the county's development and implementation of floodplain regulations, under 44 CFR § 59.22(b).

2. *Report of buildings, development and related permits.* Upon the request of the Federal Emergency Management Agency, complete and submit a report concerning participation in the National Flood Insurance Program, and which may include information regarding the number of buildings in the special flood hazard areas, number of permits issued for development in the special flood hazard areas, and number of variances issued for development in the special flood hazard areas.

3. *Changes to base flood elevation.* As soon as practicable, but not later than six months after the date information regarding an increase or decrease to the county's base flood elevations resulting from physical changes affecting flooding conditions becomes available, the administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data.

F. *Signatory on applications for Letters of Map Change.* Sign as the community official on applications for Letters of Map Change to the Federal Emergency Management Agency.

G. *Enforcement.* In conjunction with the zoning administrator who is authorized by section 31.1 to enforce this chapter, enforce section 30.3, inv alleged violations, issue notices to comply, notices of violation, or stop work orders, as authorized by law, and require permit holders to take corrective action.

(§ 30.3.6; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2286.

Federal law reference—44 CFR §§ 59.22(b), 60.2(e), 60.3(b)(5), 65.3.

Sec. 30.3.7 - Administration; interpretation of Flood Insurance Rate Map.

The floodplain administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, including the approximated floodplain, and regulatory floodway boundaries. The following shall apply to the use and interpretation of a Flood Insurance Rate Map and data:

A. *Where field surveyed topography indicates that adjacent ground elevations above or below base flood elevation.* Where field surveyed topography indicates that adjacent ground elevations are:

1. *Above base flood elevation.* Above the base flood elevation, the area shall be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
2. *Below base flood elevation.* Below the base flood elevation, even in an area not delineated as a special flood hazard area on a Flood Insurance Rate Map, the area shall be regulated as a special flood hazard area and subject to the requirements of section 30.3.

B. *Special flood hazard area identified, where base flood elevation and floodway data not identified (approximated floodplain).* In any special flood hazard area where base flood elevation and floodway data have not been identified and the floodplain is approximated, any other flood hazard data available from a federal, state, or other sources shall be reviewed and reasonably used and, for example, the floodplain administrator may use as guidance the Federal Emergency Management Agency publication entitled "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations."

C. *Special flood hazard area not identified.* In any area where a special flood hazard area has not been identified, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

D. *Elevations and boundaries on Flood Insurance Rate Map and in Flood Insurance Study take precedence.* The base flood elevations and regulatory floodway boundaries on a Flood Insurance Rate Map and in a Flood Insurance Study shall take precedence over base flood elevations and regulatory floodway boundaries by any other sources if those sources show reduced regulatory floodway widths, lower base flood elevations, or both.

E. *Reasonable use of other data sources.* Other sources of data shall be reasonably used if they show increased base flood elevations, larger floodway areas, or both, than are shown on a Flood Insurance Rate Map and in a Flood Insurance Study.

F. *Preliminary Flood Insurance Rate Map; preliminary Flood Insurance Study.* If a preliminary Flood Insurance Rate Map, Flood Insurance Study, or both has been provided by the Federal Emergency Management Agency:

1. *Prior to the issuance of a Letter of Final Determination.* Prior to the issuance of a Letter of Final Determination by the Federal Emergency Management Agency, the use of preliminary flood hazard data: (i) is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations, regulatory floodway widths, or both, in existing flood hazard data provided by the Federal Emergency Management Agency; (ii) shall be deemed the best available data and used where no base flood elevations, floodway areas, or both, are provided on the effective; and (iii) any such preliminary data may be subject to change, appeal to the Federal Emergency Management Agency, or both.
2. *Upon the issuance of a Letter of Final Determination.* Upon the issuance of a Letter of Final Determination by the Federal Emergency Management Agency, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from the Federal Emergency Management Agency for the purposes of administering section 30.3.

(§ 30.3.02.2, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.7; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2286.

Federal law reference—44 CFR § 60.3.

Sec. 30.3.8 - Administration; interpretation of district boundaries.

The zoning administrator, in consultation with the floodplain administrator, is authorized to interpret the boundaries of the flood hazard overlay district, as provided in section 31.1(a), subject to any aggrieved person's right to appeal any decision, determination or order to the board of zoning appeals as provided in section 34.

(§ 30.3.8; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2286, 15.2-2311.

Federal law reference—44 CFR § 59.22(b)(1).

Sec. 30.3.9 - Administration; amendment to district boundaries.

With the prior approval of the Federal Emergency Management Agency, the board of supervisors may amend the boundaries of the flood hazard overlay district in one or more of the following cases: (i) where natural or man-made changes have occurred; (ii) where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency; or (iii) an individual documents the need for such change.

(§ 30.3.07 (part), 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.9; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2285, 15.2-2286

Federal law reference—44 CFR § 59.22(b)(1).

Sec. 30.3.10 - Administration; Letters of Map Change.

Letters of Map Change are subject to the following:

A. *Request.* Any owner, developer or subdivider (collectively, the "owner") shall or may request a Letter of Map Change or a Conditional Letter of Map Change as provided by federal law, and as follows:

1. *Letter of Map Amendment ("LOMA") or Conditional Letter of Map Amendment ("CLOMA").* If survey data shows that a parcel, site or structure is or will be above the base flood elevation and the owner wants the parcel, site or structure removed from the special flood hazard area designation, he may request a Letter of Map Amendment from the Federal Emergency Management Agency. The owner also shall provide survey data to the floodplain administrator, which shall be in a form and of a substance that is satisfactory to the floodplain administrator. If the survey data is satisfactory to the floodplain administrator, he shall record the data. An owner may request a Conditional Letter of Map Amendment for an undeveloped parcel.
2. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), optional.* If a new flood study has been conducted showing that the original study was in error or that the new study is based on more accurate or better technical data, an owner may request a Letter of Map Revision or a Conditional Letter of Map Revision from the Federal Emergency Management Agency to change the floodplain or regulatory floodway boundaries or to include new flood data.
3. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), required.* If development, or proposed development, in the floodplain may result in a change to the base flood elevation in any special flood hazard area, encroaches on the regulatory floodway, or would alter or relocate a stream, the owner shall request a Letter of Map Revision or a Conditional Letter of Map Revision from the Federal Emergency Management Agency. If the requested Letter of Map Revision is based on new fill in the floodway fringe where a regulatory floodway is defined, the owner shall request a Letter of Map Revision-fill ("LOMR-F") or a Conditional Letter of Map Revision - fill ("CLOMR-F").
4. *Minimal submittal requirements to the floodplain administrator; signature.* The owner shall submit to the floodplain administrator two copies of the proposed application, together with supporting documentation and models, and the applicable fee, for review and approval prior to the floodplain administrator signing the application as the community official. If the owner is required to obtain a special use permit for any proposed development in the flood hazard overlay district, the owner shall first obtain approval of the special use permit and satisfy all applicable conditions of the special use permit before the floodplain administrator signs the application.

B. *Effect of conditional Letter of Map Change.* A Conditional Letter of Map Change informs the owner and others that when the development is completed, and if the owner submits an elevation certificate and as-built drawings certified by a land surveyor or a professional engineer to demonstrate that the development was built as approved in the Conditional Letter of Map of Map Change, it will qualify for the

particular Letter of Map Change, which must be requested from and issued by the Federal Emergency Management Agency in order for the map to be amended or revised.

C. *Effect of Letter of Map Change on permitting and uses.* A proposed or pending request for a Letter of Map Change affects permitting and uses as follows:

1. *Letter of Map Amendment or Conditional Letter of Map Amendment.* If the owner has or will be requesting a Letter of Map Amendment or a Conditional Letter of Map Amendment as provided in subsection (A)(1), the administrator or any other county official or body may act on any pending application and any authorized use may begin, provided that the owner furnished to the administrator the survey data on which a Letter of Map Amendment or Conditional Letter of Map Amendment is or will be based before the Letter of Map Amendment or Conditional Letter of Map Amendment is issued.
2. *Letter of Map Revision or Conditional Letter of Map Revision, optional.* If the owner has or will be requesting an optional Letter of Map Revision or Conditional Letter of Map Revision as provided in subsection (A)(2), the administrator or any other county official or body may act on any pending application and any authorized use may begin, provided that if the Letter of Map Revision or Conditional Letter of Map Revision, if issued, would reduce any design or construction standard, or change the special flood hazard area designation of the parcel, site or structure from the regulatory floodway to the floodway fringe, any approval may be conditioned on, and no use shall be begin, until the Federal Insurance Administrator issues the Letter of Map Revision or Conditional Letter of Map Revision.
3. *Letter of Map Revision ("LOMR") or Conditional Letter of Map Revision (CLOMR), required.* If the owner has or will be requesting a required Letter of Map Revision or Conditional Letter of Map Revision as provided in subsection (A)(3), the administrator or any other county official or body shall not act on any pending application and no use shall begin until the Federal Emergency Management Agency issues the Letter of Map Revision and all requirements of 44 CFR § 65.12 are satisfied.

(§ 30.3.07 (part), 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.10; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code § 15.2-2286.

Federal law reference—44 CFR §§ 59.22(b)(1), 65.3, 65.6.

Sec. 30.3.11 - Permitted and prohibited uses and structures.

The uses and structures permitted by right and by special use permit, and the uses and structures expressly prohibited, in the flood hazard overlay district are as follows:

Use or Structure	Regulatory Floodway	Floodway Fringe
Agricultural, Natural Resources, and Recreational Uses and Structures*		
Agricultural uses, limited to field crops, pasture, grazing, livestock, raising poultry, horticulture, viticulture and forestry; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted agricultural use; provided that no accessory structures having habitable space are permitted	N	BR
Recreational uses including, but not limited to, parks, swimming areas, golf courses and driving ranges, picnic areas, wildlife and nature preserves, game farms, fish hatcheries, hunting, fishing and hiking areas, athletic fields, and horse show grounds; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted recreational use; provided that no accessory structures for human habitation are permitted	N	BR
Sod farming	SP	SP

Topsoil, sand, and gravel removal	SP	SP
Flood and Water Related Uses and Structures*		
Flood warning aids and devices, water monitoring devices, and similar uses	BR	BR
Flood control, stormwater conveyance, or environmental restoration projects which: (i) are designed or directed by the county, a soil and water conservation district, or a public agency authorized to carry out flood control or environmental restoration measures; or (ii) are reviewed and approved by the department of community development in accordance with the Water Protection Ordinance and with no changes to the base floodplain elevation or horizontal limits to the flood plain	BR	BR
Dams, levees and other structures for flood control or for the public drinking water supply	SP	SP
Engineered structures, including, but not limited to, retaining walls and revetments made of non-natural materials such as concrete which are constructed along channels or watercourses for the purpose of water conveyance or flood control	SP	SP
Water related uses such as boat docks and boat liveries	SP	SP
Hydroelectric power generation (reference 5.1.26)	SP	SP
Public Utility and Telecommunications Uses and Structures*		
Electric, gas, oil and communications facilities, including poles, lines, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding tower structures	BR	BR
Water distribution and sewage collection lines and appurtenances owned and operated by the Albemarle County Service Authority, but excluding pumping stations and holding ponds; public water and sewer transmission lines, main or trunk lines, and interceptors, but excluding treatment facilities and pumping stations, owned and/or operated by the Rivanna Water and Sewer Authority	BR	BR
Pump stations for water or wastewater, including power supply and control devices, holding ponds and other appurtenances	SP	SP
Electrical transmission lines and related towers; microwave and radio-wave transmission and relay towers	SP	SP
Tier I and Tier II personal wireless service facilities that are attached to an existing structure	N	BR
Tier III personal wireless service facilities	N	N
Stream Crossings and Grading Activities*		

Stream crossings for a driveway serving only one single-family dwelling and pedestrian trails, including, but not limited to, pedestrian and multi-use paths that are within county-owned or operated parks and greenways, and any footbridges necessary to cross tributary streams, watercourses and swales, that: (i) meet the applicable requirements of sections 17-406 and 17-604; (ii) demonstrate, in a floodplain impact plan, to the floodplain administrator's satisfaction, that construction of the crossing will have no impact on the elevations or limits of the floodplain; and (iii) will serve one dwelling unit that could not be accessed by any other means.	BR	BR
Bridges, ferries and culverts not serving single-family dwellings	SP	SP
Grading activities in compliance with the Water Protection Ordinance; provided that it is demonstrated, in a floodplain impact plan that the grading will have no impact on the elevations or limits of the floodplain and further provided that any cut or fill shall be only to level areas for playfields, correct erosion problems, build trails, or other fine grading activities which will have no impact on the floodplain. For purposes of this provision, fine grading is defined as a balanced site (cut/fill) with no changes to the base floodplain elevation or horizontal limits to the floodplain.	N	BR
Grading activities, including cut or fill, in compliance with the Water Protection Ordinance, but for which the floodplain administrator determines will or may cause the base flood elevation to rise or the horizontal limits of the floodplain to expand	N	SP
Miscellaneous Structures*		
Aircraft landing strips; provided that structures other than the landing strip, aircraft parking, and aircraft storage are prohibited	SP	SP
Fences	BR	BR
Structures accessory to uses permitted by right in the regulatory floodway, excluding structures having habitable space; provided that any such structure permitted shall be flood-proofed and anchored per section 30.3.15.	N	SP
Structure having habitable space, including any manufactured home, regardless of the structure's proposed use, whether it qualifies as a dwelling unit, and whether it is a primary or accessory structure	N	N
Storage as a Primary or Accessory Use*		
Storage of gasoline, kerosene and other petroleum products	N	N
Storage of flammable liquids, dynamite, blasting caps and other explosives	N	N
Storage of pesticides and poisons and other similar materials	N	N
Storage of machinery and motor vehicles except as accessory to a use allowed by right or by special use permit	N	N

Storage of junk	N	N

*Heading is for organizational purposes only and is not a use classification.

**Heading denotes that the use classifications are prohibited as either primary or accessory uses.

BR: The use is permitted by right, provided that the use or structure satisfies all applicable requirements of this chapter, including, but not limited to, the permitting requirements of section 30.3.12 and the encroachment and construction standards in sections 30.3.13 through 30.3.15.

SP: The use is permitted by special use permit, provided that the use or structure satisfies all applicable requirements of this chapter. including, but not limited to, the permitting requirements of section 30.3.12 and the encroachment and construction standards in sections 30.3.13 through 30.3.15.

N: The use is not permitted.

((§ 30.3.04, 12-10-80); (§ 30.3.05, 12-10-80); (§ 30.3.05.1, 12-10-80); (§ 30.3.05.1.1, 12-10-80, 7-1-81, 5-12-93; Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04; Ord. 09-18(2), 5-13-09); (§ 30.3.05.1.2, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05); (§ 30.3.05.2, 12-10-80); (§ 30.3.05.2.1, 12-10-80, 4-28-82, Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04); (§ 30.3.05.2.2, 12-10-80); § 30.3.11, Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17; Ord. 19-18(3), 6-5-19)

State Law reference— Va. Code § 15.2-2280.

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.12 - Prerequisite to development; required permits and certifications.

In addition to the requirements for any other permits under this chapter, no use, structure, or any other development (collectively, the "development") within the flood hazard overlay district shall commence without the owner first obtaining or providing the following:

A. *Floodplain development permit.* A floodplain development permit for any development, including those for which other permits or certificates are required under subsections (B) through (E), issued by the floodplain administrator, which shall be deemed to be certification of the following:
   1. *Uses, structures or development subject to permit.* The owner submitted documentation that the proposed development is authorized within the district as it has been proposed and approved under this chapter and that it is in compliance with all applicable state and federal laws.
   2. *Compliance with all applicable laws.* The development is authorized to be undertaken only in strict compliance with the requirements of the flood hazard overlay district, this chapter, and all other applicable laws, including the Virginia Uniform Statewide Building Code, the Subdivision Ordinance, and the Water Protection Ordinance.
   3. *Reasonably safe from flooding.* The site has been reviewed by the floodplain administrator and he is assured that it is reasonably safe from flooding. This assurance shall be based, in part, upon any documentation provided by the owner showing the elevation of the lowest floor, including the basement, of any new and substantially improved structures and, if the structure has been flood-proofed in accordance with the requirements of the flood hazard overlay district, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.
   4. *Adverse effect on capacity of channels and floodways prohibited.* Under no circumstances shall any development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
   5. *Floodway or in a riverine floodplain where the floodway is not mapped.* For any development in the regulatory floodway or in a riverine floodplain where the floodway is not mapped, the owner shall submit to the floodplain administrator a no-rise certificate composed of a professional engineer's certification that the development will not cause an increase in flood levels, based on the technical data required by section 30.3.13. The no-rise certificate shall be on a form provided by the floodplain administrator.

B. *Grading permit.* No grading permit shall be issued for fill in the floodway fringe unless the floodplain administrator determines that the proposed fill satisfies the requirements of section 30.3.14.

C. *Permit to relocate or alter a watercourse; required notice.* Prior to any proposed alteration or relocation of any channels or of any watercourse within the flood hazard overlay district, the owner shall obtain all required permits from the United States Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available

from any of these organizations). In riverine areas, notification of the proposed relocation or alteration shall be given by the owner to all affected adjacent jurisdictions, the Virginia Department of Conservation and Recreation's Division of Dam Safety and Floodplain Management, the Federal Emergency Management Agency, and any other public agencies required to be notified by state or federal law. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

D. *Building permits.* No building permit shall be issued for any structure within the flood hazard overlay district unless:

1. *Elevations.* The building permit includes the existing and proposed ground elevations, the boundaries of the flood hazard overlay district, the base flood elevation on the site, the elevation of the lowest floor, including any basement, and for any structures to be flood-proofed as required by section 30.3, the elevation to which the structure will be flood-proofed.
2. *Elevation certificate.* The owner submits to the floodplain administrator an elevation certificate, to be retained by the floodplain administrator, certifying that the lowest floor is elevated at or above the freeboard elevation. The elevation certificate shall be either on the Federal Emergency Management Agency Elevation form or a form provided by the floodplain administrator.
3. *Flood-proofing certificate; non-residential buildings.* The owner submits to the floodplain administrator a flood-proofing certificate composed of a professional engineer's certification that a non-residential building was properly flood-proofed as required by section 30.3.15. The flood-proofing certificate shall be either on the Federal Emergency Management Agency Elevation form or a form provided by the floodplain administrator.

((§ 30.3.03.2 (part), 12-10-80, 6-10-87); (§ 30.3.03.3, 12-10-80); § 30.3.12, Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2280, 15.2-2286.

Federal law reference—44 CFR §§ 60.3(a)(1), (a)(2), (a)(4)(i), (a)(3), (b)(1), (b)(6), (b)(7).

Sec. 30.3.13 - Encroachment standards; determining impact on base flood elevation.

Any use, structure or other development authorized by section 30.3.11 shall be subject to the following:

A. *Within the floodway in Zone A1-30 or AE.* The following shall apply within the regulatory floodway of any Zone A1-30 or AE:

1. *Encroachment prohibited unless owner demonstrates no increase in water surface elevation of the base flood.* Any encroachment, including new construction, substantial improvements, fencing crossing a stream channel, or other development, but excluding fill, is prohibited unless the owner demonstrates in a floodplain impact plan that the proposed encroachment will not result in any increase in the water surface elevation of the base flood within the county during the occurrence of the base flood discharge. Fill is prohibited in the regulatory floodway regardless of whether the owner demonstrates that the fill will not result in any increase in the water surface elevation of the base flood.
2. *Encroachment which would increase the water surface elevation may be allowed with Conditional Letter of Map Revision.* Any encroachment, including fill, new construction, substantial improvements, or other development, which would increase the water surface elevation of the base flood may be allowed provided that the owner first applies, with the floodplain administrator's endorsement, for a Conditional Letter of Map Revision as provided in section 30.3.10, and receives the approval of the Federal Emergency Management Agency.
3. *Authorized encroachments; applicable design standards.* All new construction and substantial improvements shall comply with the applicable standards in section 30.3.15. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision to replace an existing manufactured home, provided the anchoring, elevation, and encroachment standards in section 30.3.15(A) and (B) are satisfied.

B. *Within Zone A1-30, AE or AH, floodway not designated.* The following shall apply within any Zone A1-30, AE or AH where the floodway is not designated:

1. *Encroachment prohibited unless owner demonstrates cumulative increase in water surface elevation of the base flood will not exceed one foot.* Any encroachment, including fill, new construction, substantial improvements, fencing crossing a stream channel, or other development, is prohibited unless the owner demonstrates in a floodplain impact plan that the cumulative effect of the proposed encroachment, when combined with all other existing and anticipated development, will not result in an increase in water surface elevation of the base flood by more than one foot within the county during the occurrence of the base flood discharge.
2. *Encroachment which would increase the water surface elevation of the base flood by more than one foot may be allowed with Conditional Letter of Map Revision.* Any encroachment, including fill, new construction, substantial improvements, or other development, which would increase the water surface elevation of the base flood by more than one foot may be allowed provided that

the owner first applies, with the floodplain administrator's endorsement, for a Conditional Letter of Map Revision as provided in section 30.3.10, and receives the approval of the Federal Emergency Management Agency.

C. *Within Zone A; floodway not designated and floodplain boundary approximated.* The following shall apply within any Zone A where the floodway is not designated and the floodplain boundary is approximated, in order to determine the location of the floodway and the floodplain, and the elevation of the base flood:

1. *Floodway and base flood elevation.* The base flood elevation and floodway shall be determined for the proposed development using information from federal, state, and other acceptable sources shall be used to determine the floodway and base flood elevation, when available. These sources shall include, but are not limited to, the United States Army Corps of Engineers Floodplain Information Reports and the United States Geological Survey Flood-Prone Quadrangles. If the base flood elevation cannot be determined using these sources of data, then the applicant for the proposed encroachment shall determine the base flood elevation, as follows:

   a. *Other sources.* Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, comparable to those contained in a Flood Insurance Study for subdivisions, site plans, and other proposed development proposals that exceed 50 lots or five acres, whichever is the lesser; or

   b. *Hydrologic and hydraulic analyses.* In his discretion, the floodplain administrator may require a floodplain impact plan.

2. *Approximated floodplain.* In the approximated floodplain, the applicant shall use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, detailed methodologies, or hydrologic and hydraulic analyses. Studies, analyses, computations, and other information shall be submitted to the floodplain administrator in sufficient detail to allow him to conduct a complete review of the analyses. In his discretion, the floodplain administrator may require the owner to submit a floodplain impact plan.

D. *Any zone; additional information.* The floodplain administrator may require a hydrologic and hydraulic analysis for any development. When the base flood elevation data is used, the lowest floor shall be elevated to or above the freeboard elevation.

(§ 30.3.03.2 (part), 12-10-80, 6-10-87; § 30.3.13; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2280, 15.2-2286.

Federal law reference—44 CFR §§ 59.1, 60.3(b), (c), (d).

Sec. 30.3.14 - Encroachment standards; fill in the floodway fringe.

Any fill in the floodway fringe authorized by special use permit under section 30.3.11 shall, in addition to any condition of approval of the special use permit and any applicable encroachment standard in section 30.3.13, be subject to the following:

A. *Minimize obstruction.* The fill shall be designed and constructed to minimize obstruction to and effect upon the flow of water such that: (i) the fill will not, in the opinion of the floodplain administrator, result in any increase in the base flood elevation above that authorized in section 30.3.13; and (ii) no fill is placed in the regulatory floodway.

B. *Protect against erosion.* The fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or another method acceptable to the floodplain administrator. Any structure, equipment or material installed to protect against erosion shall be firmly anchored to prevent dislocation due to flooding.

C. *Non-polluting.* The fill shall be of a material that will not pollute surface water or groundwater.

D. *Additional information.* The floodplain administrator may require any owner to submit additional topographic, engineering and other data or studies as the administrator deems necessary to determine the effect of flooding on a proposed structure or fill, the effect of the structure or fill, or both, on the flow of water during a flood.

E. *Certification by floodplain administrator.* No fill activity shall occur before the owner submits a site plan for review, the floodplain administrator certifies that the requirements of subsections (A) through (D), and all other applicable requirements of the Code, have been satisfied.

(§§ 30.3.06, 30.3.06.1, 12-10-80; § 30.3.14; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2280, 15.2-2286.

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.15 - Construction standards.

The following standards shall apply to any structure authorized under section 30.3.11 within the flood hazard overlay district, and its special flood hazard area zones:

A. *Structures and related improvements in any special flood hazard area; general standards.* Any structures and related improvements in any special flood hazard area zone shall satisfy the following:

1. *Compliance with building code and required anchoring.* New construction and substantial improvements shall be according to the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure.
2. *Use materials resistant to flood damage.* New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. *Use methods to minimize flood damage.* New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
4. *Design to prevent water entering systems.* Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.
5. *Design to prevent water entering water supply systems.* New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. *Design to prevent water entering sanitary sewage systems.* New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
7. *Design to prevent impairment or contamination of on-site waste disposal systems.* On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. *Historic structures.* Any historic structure undergoing repair or rehabilitation that would constitute a substantial improvement shall comply with any requirements of the flood hazard overlay district that do not preclude the structure's continued designation as a historic structure. The owner shall provide documentation from the Secretary of the Interior or the State Historic Preservation Officer that a specific requirement of the flood hazard overlay district will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places, as applicable. Any relief from any requirement shall be the minimum necessary to preserve the historic character and design of the structure.

B. *Buildings in Zones A, A1-30, AE, and AH; elevation and construction standards.* Any buildings in Zones A, A1-30, AE, and AH, where base flood elevations have been provided in the Flood Insurance Study or generated by a certified professional, shall satisfy the following:

1. *Existing residential building.* Any substantial improvement of any residential building, including any manufactured home, shall have the lowest floor, including the basement, elevated to or above the freeboard elevation.
2. *Non-residential buildings.* Any new construction or substantial improvement of any non-residential building shall: (i) have the lowest floor, including basement, elevated to or above the freeboard elevation; or (ii) in any Zone A1-30, AE, or AH, the building may be flood-proofed in lieu of being elevated to or above the freeboard elevation, provided that all areas of the building components below the freeboard elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The certification, including the specific elevation, in relation to mean sea level, to which such structures are flood-proofed, shall be maintained by the floodplain administration.
3. *Drainage paths.* Within Zone AH, adequate drainage paths around structures on slopes shall be established and maintained to guide floodwaters around and away from all proposed structures.

C. *Buildings in Zone AO.* Any buildings in Zone AO shall satisfy the following:

1. *Existing residential building.* Any substantial improvements of any residential building shall have the lowest floor, including the basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade at least as high as the flood depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including the basement, shall be elevated no less than two feet above the highest adjacent grade.
2. *Non-residential buildings.* All new construction and substantial improvements of non-residential buildings shall satisfy either of the following: (i) the lowest floor, including the basement, shall be elevated to or above the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map; if no flood depth number is specified, the lowest floor, including the basement, shall be elevated at least two feet above the highest adjacent grade; or (ii) completely flood-proof the building, including any utility and sanitary facilities, to the freeboard elevation so that

any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

3. *Drainage paths.* Adequate drainage paths around structures on slopes shall be established and maintained to guide floodwaters around and away from all proposed structures.

D. *Structures in Zones A, A1-30, AE, AH and AO; design, construction and use standards for space below the freeboard elevation.* Any fully enclosed area below the freeboard elevation (the "enclosed area") in any new construction or substantially improved structure in Zones A, A1-30, AE, AH and AO, where base flood elevations have been provided, shall satisfy the following:

1. *Uses.* The enclosed area shall be used only for parking vehicles, building access, or the limited storage of maintenance equipment not otherwise prohibited by section 30.3.11 that is used in connection with the premises.
2. *Access.* Access to the enclosed area shall be the minimum necessary to allow for parking vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to other areas of the structure (stairway or elevator).
3. *Construction materials.* The enclosed area shall be constructed entirely of flood resistant materials below the freeboard elevation.
4. *Openings.* The enclosed area shall include measures to automatically equalize hydrostatic flood forces on walls by allowing floodwaters to enter and exit. To meet this requirement, openings shall be provided that are either certified by a professional engineer or architect, or meet the following minimum design criteria:
   a. *Minimum number.* Provide a minimum of two openings on different sides of each enclosed area.
   b. *Minimum net area.* The total net area of all openings shall be at least one square inch for each square foot of enclosed area subject to flooding.
   c. *Multiple enclosed areas.* If a structure has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
   d. *Bottom of opening.* The bottom of all required openings shall be no higher than one foot above the adjacent grade.
   e. *Permitted equipment on openings.* Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
   f. *Flexible skirting, masonry and wood foundations; requirement for openings.* Foundation enclosures made of flexible skirting do not create enclosed areas and do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings.

E. *Recreational vehicles.* Any recreational vehicle in Zone A1-30, AE or AH where base flood elevations have been provided shall either: (i) be stored on the lot for fewer than 180 consecutive days, be fully licensed and ready for highway use; or (ii) satisfy all requirements for new construction in subsections (A) and (B). For the purposes of this subsection, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

F. *Fences.* Any fence crossing a stream channel that, as determined by the floodplain administrator, may block the passage of floodwaters or may catch debris during a flood, shall be designed and constructed to be a breakaway fence that will give way on one end under a specified amount of pressure in order to swing parallel to the flow and minimize both resistance to floodwaters and catching debris.

G. *Accessory Structures.* Accessory structures in the floodplain shall comply with the non-residential structure requirements in section 30.3.15 or, if not elevated or dry flood-proofed, shall:

1. Not be used for human habitation;
2. Be limited to no more than 200 square feet in total floor area;
3. Be constructed with flood damage-resistant materials below the base flood elevation;
4. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
5. Be anchored to prevent flotation;
6. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
7. Shall be provided with flood openings which shall meet the following criteria:
   a. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
   b. The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional

engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

c. The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.

d. Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

(§ 30.3.03.02 (part), 12-10-80, 6-10-87; § 30.3.15; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17)

State Law reference— Va. Code §§ 15.2-2286, 36-98.

Federal law reference—44 CFR §§ 60.3(a), (b), (c), (d).

Sec. 30.3.16 - Nonconforming uses and structures.

Any pre-FIRM structure or any use which lawfully existed before December 16, 1980, but which is not in conformity with the requirements of the flood hazard overlay district, may continue, subject to the following:

A. *Expansion or enlargement of existing uses or structures.* Existing uses or structures shall not be expanded or enlarged.

B. *Modification, alteration, repair, reconstruction or improvement of an existing use or structure; not a substantial improvement.* Existing uses or structures may be modified, altered, repaired, reconstructed or improved (collectively, the "improvements"), but not enlarged or expanded, where the improvements are not a substantial improvement, provided that the improvements: (i) are authorized by sections 6.2 and 6.3, as applicable; and (ii) comply with the Virginia Uniform Statewide Building Code.

C. *Modification, alteration, repair, reconstruction or improvement of an existing use or structure; substantial improvement.* Existing uses or structures may be modified, altered, repaired, reconstructed or improved (the "improvements"), where the improvements qualify as a substantial improvement, provided that: (i) the entire use or structure complies with the requirements of the flood hazard overlay district and all other applicable laws; and (ii) the entire structure complies with the Virginia Uniform Statewide Building Code.

D. *Repair or rehabilitation of historic structure; substantial improvement.* Any historic structure undergoing repair or rehabilitation that would constitute a substantial improvement shall comply with any requirements of the flood hazard overlay district that do not preclude the structure's continued designation as a historic structure. The owner shall provide documentation from the Secretary of the Interior or the State Historic Preservation Officer that a specific requirement of the flood hazard overlay district will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places, as applicable. Any relief from any requirement shall be the minimum necessary to preserve the historic character and design of the structure.

(§ 30.3.09, 12-10-80; § 30.3.16; Ord. 14-18(1), 3-5-14)

State Law reference— Va. Code §§ 15.2-2286, 15.2-2307.

Federal law reference—44 CFR § 60.1(d).

Sec. 30.3.17 - Variances.

The board of zoning appeals is authorized to consider and act on applications for variances, subject to the following:

A. *Eligibility.* Variances may be issued in the following circumstances:

1. *New construction or substantial improvements; nearby structures constructed below the base flood elevation.* For new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided that the board of zoning appeals may, upon good cause shown, consider a variance application pertaining to a lot larger than one-half acre.

2. *New construction, substantial improvement, or development; required for water-dependent facilities.* For new construction, substantial improvements, or other development necessary for a water-dependent facility, not otherwise authorized by a special use permit, provided that all applicable requirements of the flood hazard overlay district not varied are satisfied and any structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

B. *What may be varied.* The following may be varied within the flood hazard overlay district: (i) any requirement of this chapter that is eligible to be varied under section 34.2 and Virginia Code § 15.2-2309; (ii) any minimum encroachment standard in sections 30.3.13 and 30.3.14;

(iii) any minimum construction standard in section 30.3.15; or (iv) any standard applicable to nonconforming uses and structures in 30.3.16. Neither any part of section 30.3.11 nor any administrative or procedural requirement of the flood hazard overlay district may be varied.

C. *Procedures.* The procedures and requirements for applying for and acting on a variance application shall be as provided in section 34.

D. *Factors to be considered.* In considering a variance application under this section, the board of zoning appeals shall consider the following factors in addition to those in section 34.2:

1. *Danger to life and property.* The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any regulatory floodway that will cause any increase in the base flood elevation.
2. *Danger of materials being swept away.* The danger that materials may be swept on to other lands or downstream to the injury of others.
3. *Water supply and sewage systems.* The proposed water supply and sanitary sewage systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. *Susceptibility to flood damage.* The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. *Importance of services.* The importance of the services provided by the proposed facility to the community.
6. *Need for waterfront location.* The requirements of the facility for a waterfront location.
7. *Availability of alternative locations.* The availability of alternative locations not subject to flooding for the proposed use.
8. *Compatibility.* The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. *Comprehensive plan and flood management program.* The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. *Vehicular access.* The safety of access by emergency and non-emergency vehicles to the site in time of flood.
11. *Flood waters.* The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. *Historic nature of structure.* The historic nature of a structure and whether the proposed repair or rehabilitation will preclude the structure's continued designation as a historic structure.
13. *Accessory structures.* Accessory structures within the floodplain that are greater than 200 square feet but not greater than 600 square feet and do not meet all of the requirements for non-residential structures in section 30.3.15 must secure a variance before a permit is issued. The structure must comply with the accessory structure criteria in section 30.3.15. No variance shall be granted for an accessory structure exceeding 600 square feet.

E. *Referral to obtain technical assistance.* The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to the floodplain administrator for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

F. *Findings.* A variance may be issued if the board of zoning appeals finds:

1. *Cause.* The owner has demonstrated good and sufficient cause consistent with the requirements of this section.
2. *Undue hardship.* The failure to issue the variance would result in undue hardship.
3. *Impacts.* The issuance of the variance will not: (i) result in unacceptable or prohibited increases in flood heights; (ii) result in additional threats to public safety; (iii) result in extraordinary public expense; (iv) create a public or private nuisance; (v) cause fraud or victimization of the public; and (vi) conflict with county regulations.
4. *Variance is minimum required.* The variance to be issued will be the minimum required to provide relief.
5. *Additional finding for historic structures.* In addition to findings (1) through (4) above, the proposed repair or rehabilitation of the historic structure will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

G. *Structure below base flood elevation; notice to owner of effect of issuing a variance.* The board of zoning appeals shall notify the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance. Providing this information on a variance application form shall satisfy the notice requirements of this subsection.

H. *Recordkeeping.* A record shall be maintained of the above notification, as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

l. *Use variances.* No variance may be issued to authorize a use in the flood hazard overlay district not otherwise expressly authorized.

(§ 30.3.10, 12-10-80; § 30.3.17; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17)

State Law reference— Va. Code § 15.2-2309.

Federal law reference—44 CFR § 60.6.

Location Map Attachment E

Aerial Photo February 2022- March 2022(2022 Eagleview - CONNECTExplorer)



Aerial Photo March 2020 – April 2020 (2020 Eagleview - CONNECTExplorer)



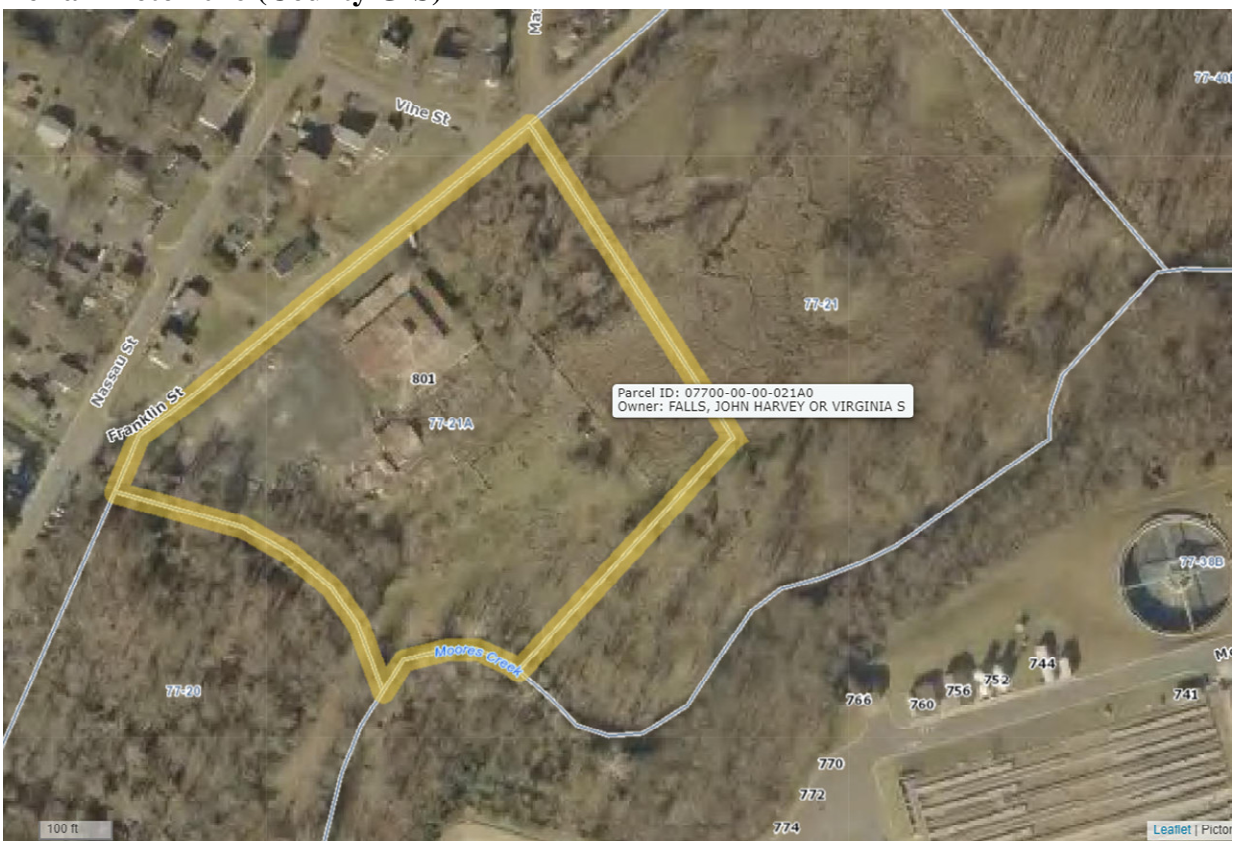
Aerial Photo February 2018 – April 2020 (2018 Eagleview - CONNECTExplorer)



Aerial Photo 2018 (County GIS)



Aerial Photo 2016 (County GIS)



Aerial Photo December 2015-March 2016 (2016 Eagleview - CONNECTExplorer)



ATTACHMENT: F

COUNTY OF ALBEMARLE
Community Development Department
401 McIntire Road
Charlottesville, Virginia 22902-4596

FAX (434) 972-4126 TELEPHONE (434) 296-5832 TTD (434) 972-4012

NOTICE OF OFFICIAL DETERMINATION OF VIOLATION

The Date this Notice of Determination is given is October 28, 2014. ZVIO201400149

CERTIFIED MAIL # 91 7199 9991 7030 7754 5251 CERTIFIED MAIL # 91 7199 9991 7030 7754 5268

Falls, John Harvey or Virginia S.
801 Franklin St.
Charlottesville, VA 22902

Falls, John Harvey or Virginia S.
P.O. Box 33
Afton, VA 22920

Property: 07700-00-00-021A0

Falls, John Harvey or Virginia S.
Owner of Record

Zoning: Light Industry [LI] District

Attention Property Owner:

This notice is to inform you that the above-described Property is in violation of the Albemarle County Code. This conclusion is based on the following observations of the above-described Property by a Code Enforcement Officer on September 18, 2014;

1. **Trash, liter, refuse, waste, and/or other miscellaneous "junk" stored on property.**
2. **Multiple shipping/storage containers stored on property.**
3. **Inoperable vehicles stored on property**

Because these uses of the Property or structure(s) did not pre-exist the applicable Zoning Ordinances, they cannot be considered legal but non-conforming uses or structures. Accordingly, the following sections of Albemarle County Code have been violated:

1. **Albemarle County Code § 13-302 Accumulation, storage and removal of refuse on private property.**
2. **Albemarle County Code § 18–26.2 Permitted primary and accessory uses and structures; prohibited uses and structures. (In Industrial Districts)**
3. **Albemarle County Code § 9-500 Keeping of inoperable vehicles; removal.**

These violations of the County Code are unlawful, and may be subject to civil penalties, criminal penalties, injunctive relief and/or other remedies, pursuant to *Albemarle County Code § 18-36.*

This letter also serves to notify you to stop the activity or use outlined above immediately. Failure to comply with this notice may result in legal action being taken against you and any other owner, tenant or other responsible party. In addition, you must bring the property into compliance by November 28, 2014 to avoid court action. Future compliance past this date does not preclude the County from pursuing legal action for existing or past violations.

If you are aggrieved by this determination, you have a right to appeal it within ten (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311; provided, however, that a ten (10) day appeal period applies to appeals of decisions pertaining to temporary or seasonal commercial uses, and such appeals shall be filed within ten (10) days after this decision. If you do not file a timely appeal, this determination shall be final and unappealable.

This provision applies only to violations of Chapter 18 of Albemarle County Code, otherwise referred to as the "Zoning Ordinance". An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with *Albemarle County Code* § 18-34.3, along with a fee of $240 plus the actual cost of advertising the appeal for public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at www.albemarle.org/cdapps. This form applies to appeals of decisions of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are outlined in *Albemarle County Code* § 18-34.3, which may be reviewed online at www.albemarle.org/countycodebza.

If you have any questions, please contact Andrew Kellerman, Code Enforcement Officer, at 434-296-5832 ext. 3415.

Amelia G. McCulley, A.I.C.P.
Zoning Administrator
County of Albemarle

COUNTY OF ALBEMARLE
Community Development Department
401 McIntire Road, 1st Floor – North Wing
Charlottesville, Virginia 22902-4596

FAX (434) 972-4126 TELEPHONE (434) 296-5832 TTD (434) 972-4012

WHAT HAPPENS AFTER THE NOTICE OF VIOLATION:

The County's goal is voluntary compliance. If you come into compliance by the deadline cited in your letter, no further action will be taken against you. However, if you do not come into compliance and/or make significant progress towards compliance within either thirty (30) days **or** the deadline cited in the letter (whichever is longer), the County may proceed a warrant in debt action in Albemarle County General District Court seeking civil penalties. The warrant in debt will be served by the Sheriff's Department.

Depending on the nature of the zoning violation cited, the first civil penalty will be $200. Each civil penalty that follows is $500. The County may issue a civil penalty once every ten (10) days until the property comes into compliance. Within three months, it is possible that a property in violation could be fined as much as $4,200.

Paying the civil penalties does **not allow the zoning violation to continue.** The County may continue seeking civil penalties as often as every 10 days until the property comes into compliance with the Zoning Ordinance.

AUTHENTICATION OF RECORD/
CERTIFICATE OF MAILING
(*Code of Virginia* § 8.01-390)
(Notice of Official Determination of Violation)

I, **Andrew Kellerman**, hereby certify:

1. that I am a Code Enforcement Officer and an employee of the Albemarle County Department of Community Development;

2. that on **October 28, 2014**, I mailed a true copy of the record attached hereto, consisting of a Notice of Official Determination of Violation dated **October 28, 2014** pertaining to that property identified as Parcel ID Number **07700-00-00-021A0,** to the recipient(s) identified thereon at the address(es) specified thereon; and

3. that the copy of such record which is attached hereto is a true copy of the record that was mailed.

Dated: 10/28/2014 Signed: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF ALBEMARLE:

The foregoing *Authentication of Record/Certificate of Mailing* was signed, sworn to and acknowledged before me by **Andrew Kellerman,** Albemarle County Code Enforcement Officer, this **28th** day of **October, 2014.**

Margie K. Collins
Notary Public

My Commission Expires: 10-31-15
Notary Registration No. 100901

MARGIE K. COLLINS
NOTARY PUBLIC
REGISTRATION # 100901
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
10-31-15

APPLICANT SUBMITTAL

FOR OFFICE USE ONLY AP # 2022-2 SIGN # _____

ZONING ORDINANCE SECTION: _____

Fee Amount $_____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____

Application for Appeal of Zoning Administrator's Determination

☑ **Appeal of Zoning Administrator's Determination = $295.36**
Application $284 + Technology surcharge $11.36

☐ **Initial notice fee to be provided in conjunction with an application, for preparing and mailing notices and published notice = $448**

FEES for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➢ Preparing and mailing or delivering each notice after fifty (50)	$237
➢ Preparing and mailing or delivering each notice after fifty (50)	$1.19 for each additional notice + actual cost of first-class postage
➢ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between $150 and $250)

Contact Person (Who should we call/write concerning this project?): Steven W. Blaine, Esq.

Address 123 East Main Street, 5th Floor City Charlottesville State VA Zip 22902

Daytime Phone (434) 220.6831 Fax # (434) 260.8270 E-mail sblaine@woodsrogers.com

Owner of Record Mr. John Harvey Falls

Address P.O. Box 33 City Afton State VA Zip 22920

Daytime Phone (540) 456.8154 Fax # (___) _____ E-mail _____

Applicant (Who is the Contact person representing?): Allied Portables, LLC (Allied Portable Toilets)

Address P.O. Box 939 City Crozet State VA Zip 22932

Daytime Phone (804) 658.5548 Fax # (___) _____ E-mail jepley@rivercitycorp.com

Project Name: 801 Franklin Street

Tax map and parcel: 07700-00-00-021A0 **Zoning:** Light Industrial (LI); Flood Hazard District

Physical Street Address (if assigned):
801 Franklin Street, Charlottesville, VA

Location of property (landmarks, intersections, or other):
Immediately adjacent to the City boundary line; near Moore's Creek

The following information shall be submitted with the application and is to be provided by the applicant:

1) Completed application including subject of appeal.
2) Justification for applicant's position, including error in Zoning Administrators determination. You may use the space below to provide this information or submit an attached sheet.
3) If applicable, a copy of the latest deed for the property involved, and the approved and recorded plat.
4) If applicable, the appropriate drawings showing all existing and proposed improvements on the property and any special conditions for the situation that may justify the appeal.
5) Reference to the relevant Zoning Ordinance section or other applicable regulations or case precedence to justify the appeal.
6) Appropriate fee made payable to the County of Albemarle.

Explanation of error in determination and justification of applicant's position:

See attached

Owner/Applicant Must Read and Sign

I hereby certify that the information provided on this application and accompanying information is accurate, true and correct to the best of my knowledge and belief.

Signature of Owner or Contract Purchaser, Agent

5/25/2022
Date

John Epley
Print Name

804.658.5548
Daytime phone number of Signatory

Board of Zoning Appeals Action/vote:

Board of Zoning Appeals Chairman's signature:_____ Date:_____

APPEAL OF ZONING DETERMINATION

VIO-2022-076

This is in support of the Applicant's Appeal of the Zoning Determination (VIO-2022-076), dated May 5, 2022. The Applicant is the owner of Allied Portable Toilets in Central Virginia and leases the property at 801 Franklin Street in Charlottesville from the owner, Mr. John Falls. The property is zoned Light Industrial (LI) and located on the line of the City of Charlottesville limits. Applicant stores portable toilets at the site which are leased on a short-term basis primarily for customers in the construction industry, but also for other commercial and recreation uses which require portable sanitation disposal. As an example, the County of Albemarle leases portable toilets from the Applicant for a variety of uses, as does the City of Charlottesville. The location is favorable because of its proximity to the RWSA solid waste disposal site. The portable toilets stored at the site do not contain any human waste and are without any fluid chemicals during storage. The Applicant began storing portable toilets at this site in 2017 and has never received a complaint until the May 5, 2022 Notice of Violation.

1. *The Zoning Determination is erroneous because the Applicant's manner of use was a continuation of lawfully existing uses prior to and on April 2, 2014 and therefore is a lawful nonconforming use pursuant to Sec. 30.3.3 of the Albemarle County Code.*

The Zoning determination asserts that the storage of portable toilets violates the Flood Hazard Overlay District (FHOD) regulations. The Applicant concedes that the property is located within the FHOD. If not for the FHOD regulations however, the storage of portable toilets would be permitted as a matter of right in the underlying zoning district – LI. The zoning determination does not assert that the use is unlawful under the LI District regulations – only those of the FHOD.

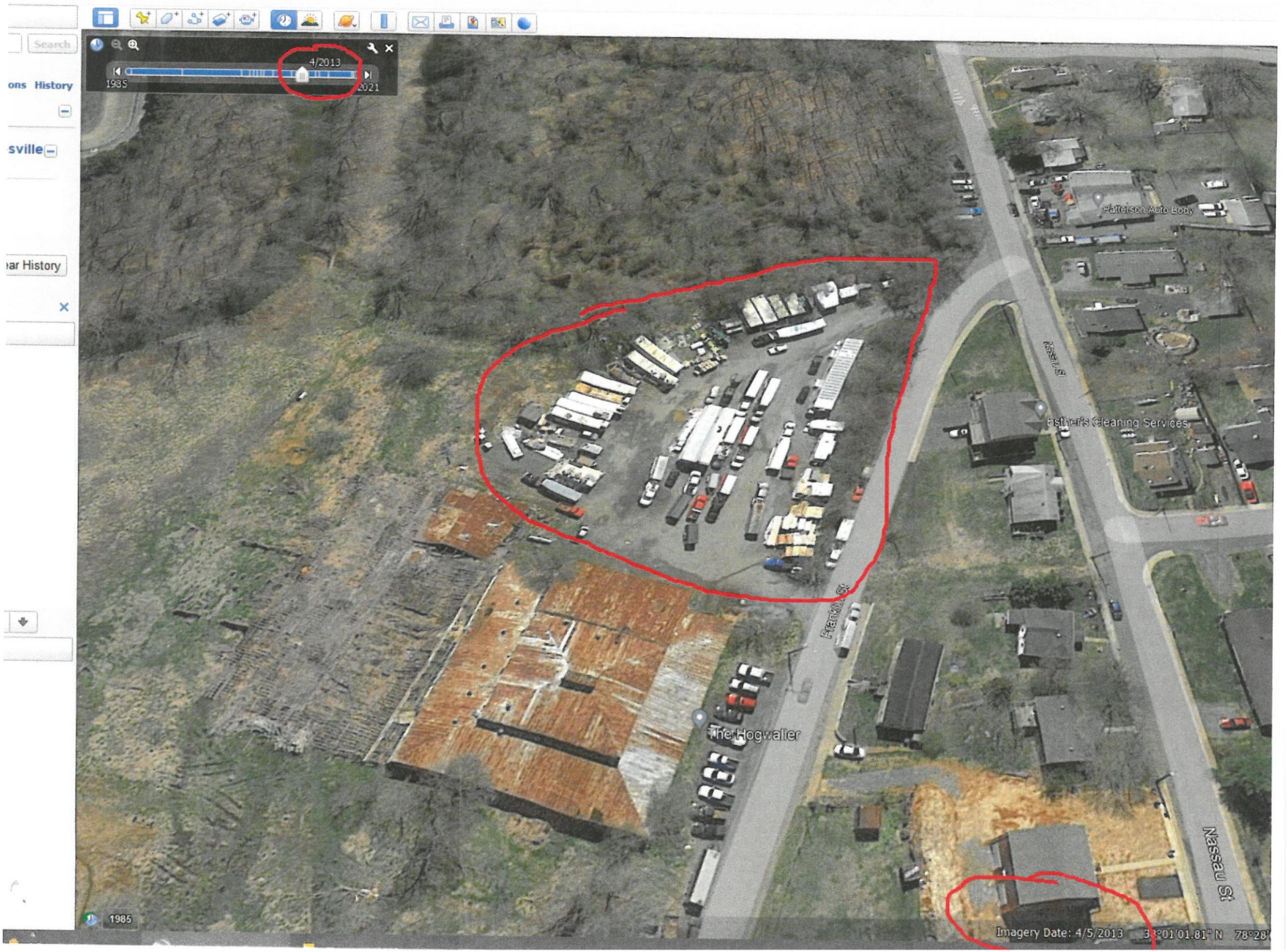
Sec. 30.3.3 states that any use or development lawfully existing on April 2, 2014 shall be nonconforming to the extent that it is not in compliance with Sec. 30.3 (the FHOD regulations). The property has been used for the storage of equipment and materials, without discontinuance since well before April, 2014. The primary use of this property, since 1946 has been as a livestock auction and sales facility. The current owner, Mr. Falls has owned the property since 1980. During that period and prior to April, 2014 the property was also leased to a succession of construction or construction-related companies for equipment and materials storage – uses which did not interfere with the weekly livestock auctions. According to two of Mr. Falls' family members, during the period prior to April 2014, Summit Construction leased the property for equipment and storage. According to Mr. Fall's son, Mr. Palmer Putnam, Summit Construction leased the property up until the time that the Applicant took possession. Prior to Summit Construction, Slurry Pavers, Inc. leased the property for equipment and materials; and prior to Slurry Pavers, Boxley Materials Company did the same. A Google Earth photograph taken in April, 2013 is attached which depicts the site with equipment and trailers, as well as materials present.

The Applicant's storage of portable toilets for use on construction sites as well as for customers with temporary sanitation needs is a continuance of a storage use that predates the effective date of the FHOD regulations. Based upon the facts present, the Zoning Determination is erroneous as the Applicant's use is a continuous, lawfully conforming use.

2. *The Zoning Determination is erroneous because the Applicant's manner of use could be argued to be lawful as a matter of right under the FHOD.*

The FHOD regulations allow as a matter of right: "Recreational uses including, but not limited to, parks, swimming areas, golf courses and driving ranges, picnic areas, wildlife and nature preserves, game farms, fish hatcheries, hunting, fishing and hiking areas, athletic fields, and horse show grounds." Virtually all of the permitted recreational uses listed, and that can be found throughout the County of Albemarle deploy portable toilets. The Applicant is a supplier to a number of such uses. If recreational uses located within the FHOD are not permitted to maintain portable toilets on site, (as a result of the logic of the Zoning Determination), then the operation and enjoyment of such uses will be severely, and negatively impacted.

For the foregoing reasons, we respectfully request that the Zoning Determination be reversed.


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Patterson Auto Body
Fisher's Cleaning Services
Nassau St
Franklin St
The Hogwaller
Nassau St
1985
Imagery Date: 4/5/2013

Additional Information

July 6, 2022

County of Albemarle
Department of Community Development
401 McIntire Road
Charlottesville, VA 22902

Re: Appeal of Zoning
Determination : VIO- 2022-076: TMP
07700-00-00-021A0

To whom it may concern:

This letter is in support of the referenced application, dated May 25, 2022 and filed on behalf of Allied Portable Toilets.

I have been the owner of the property at 801 Franklin Street in Charlottesville since 1980. Beginning in 1946, the property has supported the area of livestock industry and until recently, livestock auctions have been held here – at their peak on a weekly basis. The property has also supported local projects, having served as a storage yard for light construction equipment and materials. The local projects supported by this use have involved reputable companies such as Summit Construction, Slurry Pavers, and Boxley Materials.

The use of the property for a storage yard has been on-going and without abandonment since before, and continuing after April, 2014. The current tenant, Allied maintains the property in a clean and ordered manner.

The property has generated real estate taxes, paid to the County by me for over 40 years. Until this recent notice of violation, we have never had a complaint from the neighbors.

I respectfully request that the Notice of Violation be reversed.

Sincerely,

John H Falls

John H. Falls, Owner

ParcelID	Owner	OwnerAddress	OwnerZip
County:			
07700000002100	RIVANNA WATER & SEWER AUTHORITY	695 MOORES CREEK LN	CHARLOTTESVILLE VA, 22902
07700000002000	FRANKLIN STREET LAND TRUST III	912 E HIGH STREET	CHARLOTTESVILLE VA, 22902
077000000021A0	FALLS, JOHN HARVEY OR VIRGINIA S	P O BOX 33	AFTON VA, 22920
077000000038B0	RIVANNA WATER AND SEWER AUTHORITY	PO BOX 18	CHARLOTTESVILLE, VA
	Allied Portable, LLC	P.O. Box 939	Crozet, VA 22932
	Steven W. Blaine, Esq.	123 East Main Street, 5th Floor	Charlottesville, VA 22902

ParcelNumber	OwnerName	OwnerAddress	OwnerCityState	OwnerZipCode
City:				
610083100	FALLS, JOHN H & VIRGINIA S	P O BOX 33	AFTON VA	22920
610094B00	802 NASSAU, LLC	1500 AMHERST ST	CHARLOTTESVILLE VA	22903
610079000	SHIMP, JUSTIN, TR FRANKLIN LD TR III	912 E HIGH ST	CHARLOTTESVILLE VA	22902
560092000	MOSES, TAMMIE L	P O BOX 7078	CHARLOTTESVILLE VA	22906
560097000	TRACK VIEW, LLC	1327 CARLTON AVE	CHARLOTTESVILLE VA	22902
560094200	THOMPSON, BARBARA, TR BRIGHT SKY LD TI	121 FAITH DR	TROY VA	22974
560094100	THOMPSON, BARBARA, TR BJH LAND TR	121 FAITH DR	TROY VA	22974
610094000	802 NASSAU, LLC	1500 AMHERST ST	CHARLOTTESVILLE VA	22903
610094C00	WILSON, LEON	806 NASSAU ST	CHARLOTTESVILLE VA	22902
610094D00	DEAN, ANDREW P	808 NASSAU ST	CHARLOTTESVILLE VA	22902
610079150	CHAMBERS, ERNEST S, JR & APRIL B	812 NASSAU ST	CHARLOTTESVILLE VA	22902
Adjoining Locality	City of Charlottesville	P.O. Box 911	Charlottesville, VA	22902

18 listings - 1 duplicate = 17 notices

AP2022-002 801 Franklin Street

Charlottesville GIS Viewer

Legend

City Limits



N
W E
S

Feet

0 100 200 300 400

Title: AP2022-002 City APO Map

Date: 6/17/2022

DISCLAIMER:The City makes no warranties, expressed or implied, concerning the accuracy, completeness or suitability of this data, and it should not be construed or used as a legal description. The information displayed is a compilation of records, information, and data obtained from various sources, and the City is not responsible for it's accuracy or how current it may be. Every reasonable effort is made to ensure the accuracy and completeness of the data. Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification or construction of improvements to real property or for flood plain determination.

AP2022-002 801 Franklin Street APO Map - County

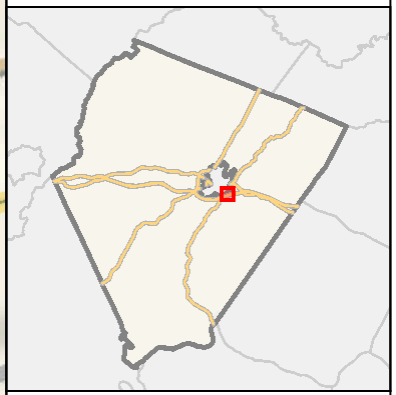


Legend

(Note: Some items on map may not appear in legend)

Parcel Info

- ☐ Parcels



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

June 17, 2022

Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

Supplemental Information

BOXLEY

Stockpile, Equipment and Sundry Storage Agreement

Date: _____August 2, 2017_____

Project No.:___SS-7A-17_____

Property Owner: _____Charlottesville Livestock Market

Address:_1784 West River Road Scottsville, VA 24590_____

Contact Person__Palmer Putnam_____

Phone Number: __434-962-9826_____ Cell Number:_____

Permission is requested to use your property located
___Livestock parking area on Franklin Street in Charlottesville_____

Special Conditions 800
____Rental rate is ~~$250~~ a week_____

Boxley Materials Company will have the right of ingress and egress to park and store their equipment, materials, and sundry items (cones, signs, etc.) necessary to perform their operations throughout the duration of the project.

The site will be dressed up and returned to original condition as much as possible. It is understood by all concerned that there may be excess stone left on the above site after the completion of the project.

The property owner agrees to hold harmless the Virginia Department of Transportation the Commonwealth of Virginia and its employees from responsibility for damages and all liabilities arising from the use of this property.

Boxley Materials Company Date **Property Owner Date**

Release;
It is agreed the property was left in acceptable condition.

Boxley Materials Company Date **Property Owner Date**

TAPSCOTT BROTHERS LOGGING INC

Charlottesville Live Stock Market

7/11/2018

10829

Leasing July, 2018 - July, 2019

6,000.00

Checking - BB&T Leasing July, 2018 - July, 2019 6,000.00

SUMMIT CONTRACTING GROUP, INC.
JACKSONVILLE, FLORIDA 32256

10393

DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	DEDUCTION	BALANCE
1-05-15	CHCKRQUST10515	14-0210 PAVILLION	5400.00	.00	5400.00

CHECK DATE	1-05-15	CHECK NUMBER	10393	TOTALS	5400.00	.00	5400.00

SUMMIT CONTRACTING GROUP, INC.
JACKSONVILLE, FLORIDA 32256

11438

DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	DEDUCTION	BALANCE
5-04-15	CHCKQUST050415	14-0210 PAVILLION	2700.00	.00	2700.00

CHECK DATE	5-04-15	CHECK NUMBER	11438	TOTALS	2700.00	.00	2700.00

LEASE AGREEMENT

THIS AGREEMENT made this 11th Day of July 2018, by and between John Falls, herein called "LESSOR," and Tapscott Brothers Logging, Inc., herein called "LESSEE." LESSOR hereby agrees to rent to LESSEE the dwelling located at Charlottesville Live Stock Market, Charlottesville, Virginia, under the following terms and conditions.

1. **FIXED-TERM AGREEMENT (LEASE):**
LESSEE agrees to lease this dwelling for a fixed term of July, 2018 through July, 2019 to park logging trailers. Within 30 days of expiration of this agreement, the parties here-to shall notify the other, in writing of their intent to renew or otherwise terminate the lease.

2. **RENT:**
LESSEE agrees to pay LESSOR as rent the sum of $ 500.00 per month. LESSEE will pay 12 months rent in advance upon execution of this agreement. LESSOR agrees to refund any prepaid rent should this agreement be terminated for any reason prior to the end of its term.

3. **RENT PAYMENT PROCEDURE:**
LESSEE agrees to send payment by US mail addressed to the Charlottesville Live Stock Market, P.O. Box 33, Afton, Virginia 22920, or deliver in person to the same address, or in such other way as the LESSOR will advise the LESSEE in writing.

4. **CHANGES IN TERMS OF TENANCY:**
LESSOR shall advise LESSEE in writing of any changes in terms of tenancy with advance notice of at least thirty (30) days.

Executed this 11th Day of July, 2018

Kim Gibson — 7/12/18

Business Manager
Tapscott Brother's Logging, Inc. — Date

John Falls — 7/16/18

John Falls
Charlottesville Live Stock Market — Date

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
VIRTUAL MEETING
TUESDAY, MARCH 1, 2022 – 2:00 P.M.

Board Members:	John Shepherd Marcia Joseph Ed Robb Edward (Bo) Carrington Kurt Burkhart
Staff Members:	Bart Svoboda, Director of Zoning Francis MacCall, Deputy Zoning Administrator Lisa Green, Manager of Code Compliance Lea Brumfield, Senior Planner II Marsha Alley, BZA Clerk and Recorder
County Attorney:	Andy Herrick, Deputy County Attorney
BZA Attorney:	James Bowling, IV

1. Call to Order
The meeting was called to order at 2:00 p.m. by Chair Marcia Joseph. She read the following statement: This meeting is being held pursuant to and in compliance with Ordinance No. 20-A(16), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.

2. Establish a Quorum
Ms. Joseph established a quorum with the following statement:
The BZA members who are electronically present at this meeting are Ed Robb, Kurt Burkhart, John Shepherd, and Edward Carrington. She noted that the following staff members were in attendance: Andy Herrick, Bart Svoboda, James Bowling, Francis MacCall, and Lea Brumfield. She continued to state as follows: the opportunities for the public to access and participate in the electronic meeting are posted on the Albemarle County website on the Board of Zoning Appeals home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

3. Public Hearings
Ms. Joseph stated that both applicants have requested deferral pursuant to Board of Supervisors contemplation of a change to the zoning ordinance.

Mr. Svoboda stated that the Board is considering a zoning text amendment (ZTA) and ordinance updates that include the ability to appoint a resident manager for properties larger than five acres in the rural areas.

Mr. Herrick confirmed that both applicants have requested deferral, and the County has no objection.

Ms. Brumfield clarified that the ZTA would allow for all homestays to apply for a resident manager; in the cases presented, the LLC could hold the property and the resident manager would be the person residing on the property.

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Mr. Herrick stated that any motion for deferral should include a date specific to which the request would be deferred and should be one motion for each item.

A. AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility
Property Owner: Howe Whitman/Howe D. Whitman Jr. Family Trust
Appellant: 5600 Turkey Sag Road, LLC/Bradford Manning

The Chair opened discussion regarding the item. Ms. Kelsey Schlein stated that the applicant would seek a May 3, 2022 deferral date. There was discussion regarding the request and the timeframe for deferral.

MOTION: Mr. Burkhart moved to grant the deferral request for AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility to May 3, 2022, at the applicant's request. Mr. Robb seconded the motion, which passed unanimously (5-0).

B. AP2022-00001 WNG, LLC – Homestay
Property Owner: WNG, LLC
Appellant: WNG, LLC & Attila Woodward

The Chair opened discussion regarding the item. Mr. Philip Garland stated that the applicant requests the May 3, 2022 deferral date instead of the original July date as previously requested. There was discussion regarding the request and the timeframe for deferral.

MOTION: Mr. Carrington moved to grant the deferral of AP2022-00001 WNG, LLC – Homestay to May 3, 2022, at the applicant's request. Mr. Shepherd seconded the motion, which passed unanimously (5-0).

4. Approval of Minutes
A. February 1, 2022
There was a brief discussion regarding a needed correction on page 2, line 46 to revise "Ms. Burkhart" to "Mr. Burkhart."

MOTION: Mr. Shepherd moved to approve the minutes as amended. Mr. Robb seconded the motion, which passed unanimously (5-0).

5. Old Business

A. Review and Re-Adopt Rules of Procedure

MOTION: There being no comment for discussion, Mr. Shepherd moved to approve and re-adopt the BZA Rules of Procedure as amended from the last meeting. Mr. Robb seconded the motion, which passed unanimously (5-0).

Mr. Carrington referred to page 4, the end of the first paragraph regarding deferrals, and noted that it states "enabling the BZA to make the decision within 90 days of the application or appeal."

Ms. Joseph asked Mr. Herrick and Mr. Bowling for input.

Mr. Bowling stated that once the applicant requests deferral, the 90-day rule was not applicable to the

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BZA. He said what they don't have the authority to do is go beyond 90 days if the applicant wants to be heard, at which point the applicant is upheld.

Mr. Herrick said that Item 5 under "Deferrals" references Virginia Code Section 15.2-2312 and addresses the statutory requirement for the 90-day consideration, so it is already built into the rules of procedures.

6. New Business

Mr. Burkhart asked how many approved homestays were currently operating in Albemarle County and if there had ever been a review done to establish legal homestay ownership.

Mr. Svoboda indicated that ownership is identified as part of the approval process. Ms. Brumfield clarified that there are about 150 bed & breakfast and accessory tourist lodging permits, and there are 70 approved homestay permits since August 7, 2018. Mr. Svoboda confirmed that a special exception runs with the land unless it is conditioned otherwise. Ms. Brumfield confirmed that a homestay application is a commercial zoning clearance; so, if the property changes hands, a new application is needed. She also stated that the residency requirements in the proposed changes stipulate that at least one individual owner of the homestay parcel (not the LLC) reside on the subject parcel, which was suggested by Mr. Herrick.

7. Adjournment

MOTION: Mr. Shepherd moved to adjourn the BZA meeting. Mr. Robb seconded the motion, which passed unanimously (5-0).

The meeting adjourned at 2:48 p.m.

(Recorded by Marsha Alley and transcribed by Golden Transcription Services)

Respectfully Submitted,

_____

John Shepherd, Secretary Board of Zoning Appeals

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ALBEMARLE COUNTY BOARD OF ZONING APPEALS
RULES OF PROCEDURE

The Albemarle County Board of Zoning Appeals, under the authority of Virginia Code § 15.2-2308 and Albemarle County Code § 18-34.1, establishes the following rules of procedure:

1. Officers

A. *Chair.* At its annual meeting, the Board of Zoning Appeals ("BZA") shall elect a Chair who, if present, shall preside at the meeting and at all other meetings during the year for which elected. On any application or appeal, the Chair may administer oaths and compel the attendance of witnesses.

B. *Vice-Chair.* At its annual meeting, the BZA shall elect a Vice-Chair, who, if present, shall preside at meetings in the absence of the Chair and shall discharge the duties of the Chair during the Chair's absence or disability.

C. *Secretary*. At its annual meeting, the BZA shall elect a Secretary. The Secretary may be either a member of the BZA or another person. The duties of the Secretary shall include keeping and maintaining custody of the records of the BZA, drafting and signing all correspondence necessary for the execution of the duties and functions of the BZA, and such other duties as these rules may provide and the BZA may, from time to time, assign.

D. *Recording Secretary*. The Zoning Administrator (or designee) may serve the BZA as its Recording Secretary. The duties of the Recording Secretary shall include keeping the minutes of the BZA's meetings and such other duties as these rules may provide and the BZA may, from time to time, assign.

E. *Other Offices*. At any of its meetings, the BZA may create and fill any other offices as it deems necessary.

F. *Term of Office.* The Chair and Vice-Chair shall be elected for one-year terms, and until their respective successors take office. Either or both officers may be re-elected for one or more additional terms.

G. *Vacancies in Office*. Vacancies in office shall be filled as soon as practicable using the election procedures provided herein.

H. *Absence of Chair and Vice-Chair.* If the Chair and Vice-Chair are absent from any meeting, a present member shall be chosen to act as Chair.

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2. Meetings

A. *Annual Meeting*. The first meeting of each year shall be known as the annual meeting. At the annual meeting, the BZA shall establish the day, time, and place for regular meetings of the BZA for that year, and shall elect the Chair, the Vice-Chair and the Secretary.

B. *Regular Meetings*. The BZA shall meet in regular session at the time and place and on the day or days established for regular meetings. The BZA may subsequently establish a different day, time, or place to conduct its regular meetings by passing a resolution to that effect.

If the Chair, or the Vice-Chair if the Chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for BZA members to attend a regular meeting, the meeting shall be continued to the next regular meeting date. This finding shall be communicated to the members of the BZA and to the press as promptly as practicable.

Without further public notice, a regular meeting may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the BZA is complete.

C. *Special Meetings*. The BZA may hold special meetings as it deems necessary at such times and places as it deems convenient. A special meeting may be adjourned from time to time as the BZA finds necessary and convenient.

A special meeting shall be held when called by the Chair or requested by two or more members of the BZA. The call or request shall be made to the Recording Secretary and shall specify the matters to be considered at the meeting. Upon receipt of the call or request, the Recording Secretary, after consultation with the Chair, shall immediately notify each member of the BZA and the County Attorney's Office. The notice shall be in writing and shall be mailed or delivered to all BZA members or to their places of residence or business or by electronic communication at least five (5) days prior to the special meeting. The notice shall state the time and place of the special meeting and shall specify the matters to be considered. No matter not specified in the notice shall be considered at the meeting unless a quorum of members is present. The notice may be waived if the time of the special meeting was fixed at a regular meeting, if a quorum of members is present at the special meeting, or if all members sign a waiver for the notice.

Whenever state law requires public notice of a special meeting of the BZA, the Recording Secretary shall provide such notice in accordance with *Virginia Code* §15.2-2204.

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3. Order of Business

A. *Agenda Established by Secretary*. The agenda for each regular meeting shall be established by the Secretary in consultation with the Chair.

B. *Organization of the Agenda*. The agenda of each regular meeting shall be organized in substantially the following order, subject to change at the request of the Chair and with the consensus of the other members of the BZA:

(1) Call to order.

(2) Establish quorum.

(3) Matters deferred from previous meetings.

(4) Scheduled matters: hearings on special use permits, variances and appeals.

(5) Work sessions.

(6) Review and approval of minutes of previous meetings.

(7) Old business.

(8) New business.

(9) Adjournment.

C. *Time Limits for Applicants, Appellants and Other Speakers*. The BZA shall offer an equal amount of time in a hearing to the applicant/appellant and County staff. The applicant/appellant and County staff shall each be allowed a total of fifteen (15) minutes to present its respective case at the outset of the hearing, and five (5) additional minutes to present rebuttal or closing remarks at the close of the hearing. Each person other than parties to the case or their legal representative(s) shall be allowed one appearance not to exceed three (3) minutes. A speaker may not reserve any initial speaking time for rebuttal or transfer any time to another speaker. The time limits set forth herein shall not include any time during which the applicant or other speaker is responding to questions asked by the BZA. The Recording Secretary shall act as the timekeeper. The BZA Chair may set alternate time limits to those listed herein at the Chair's discretion, provided that they are identified at the BZA meeting prior to the meeting at which these new limits would be used.

D. *Deferrals*. The BZA may defer any matter at the request of a member of the BZA, the County staff, or the applicant or appellant. The request may be made either orally at the meeting, or in writing, and may be made at any time prior to the vote on the matter. The person making the request shall state the reasons therefor.

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In considering a request for a deferral of a hearing of an appeal or an application for a variance pertaining to a zoning violation, the BZA shall consider the reasons for the deferral if the request is submitted by the appellant or applicant, the recommendation of staff, and the members of the BZA. In making its decision to grant or deny a request, the BZA shall consider the following factors: (1) whether the deferral would promote fairness in the process; (2) whether the deferral would be solely for the convenience or personal benefit of the appellant or applicant; (3) whether the deferral would delay the enforcement or abatement of a violation that is adversely affecting an abutting property, a neighbor, the neighborhood or the public; (4) whether the deferral would allow the appellant or applicant to resolve the underlying issues so that BZA action might be unnecessary; and (5) whether the deferral would allow the BZA to make its decision within ninety days of the filing of the application or appeal, in conformance with *Virginia Code* § 15.2-2312.

A motion to defer shall either specify the date to which the matter is deferred or defer the matter indefinitely. If the motion to defer pertains to a matter for which a noticed public hearing is required and the motion is to defer the matter to a specific date, the Chair shall either close the public hearing or, if the public hearing was not opened, open and then close the public hearing, before the BZA votes on the motion.

4. Quorum

A majority of the members of the BZA shall constitute a quorum for any meeting of the BZA. A majority of the members of the BZA present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning the meeting from day to day or from time to time. A meeting may not be adjourned to a date and time beyond the date fixed for the next regular meeting.

If, during a meeting, less than a majority of the members of the BZA remains present, no action can be taken except to adjourn the meeting. If, prior to adjournment, a quorum is again established, the meeting shall continue.

If disqualifications under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq*.) leave less than a quorum, the remaining member or members of the BZA shall have authority to act for the BZA by a unanimous vote.

5. Voting Procedures

A. *Approval of Motion.* Except as otherwise provided in subparagraphs (1) and (2) and in paragraph (H), each decision of the BZA shall be made by approval of a majority of the members present and voting on a motion properly made by a

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member and properly seconded by any other member. Any motion that is not seconded shall not be further considered.

1. *Variances, Special Use Permits and Other Matters*. At least three (3) affirmative votes shall be required to grant a variance, to grant a special use permit, or to decide in favor of an applicant on any other matter upon which the BZA is required to act upon under the Zoning Ordinance.

2. *Appeals*. At least three (3) affirmative votes shall be required to reverse any appeal from an order, requirement, decision or determination of an administrative officer.

B. *Time for Vote*. Any matter before the BZA requiring a public hearing shall not be decided by the BZA until the public hearing has been held. The BZA may, however, in its discretion, defer the holding of a public hearing or consideration of such matter, in conformance with paragraph 3(D) above.

C. *Manner of Vote*. The vote on a motion pertaining to any variance, special use permit, appeal, or application for interpretation of the district map shall be by roll call vote. Any other matter may be either by roll call vote or voice vote, in the discretion of the Chair; provided that a roll call vote on such a motion shall be required if requested by a member of the BZA. For each roll call vote, the Recording Secretary shall record the name of each member voting and how the member voted on the motion. For each voice vote, the Recording Secretary shall record the result of the vote.

D. *Tie Vote*. A tie vote shall defeat the motion voted upon.

E. *Effect of Defeat of Motion to Deny*. The defeat of a motion to deny a matter shall not be deemed to be approval of the matter. In such a case, the Chair shall call for another motion.

F. *Abstention*. Any member(s) abstaining from voting on any motion shall state their abstention(s). The abstention(s) shall be announced by the Chair and recorded by the Recording Secretary.

G. *Motion to Amend*. A motion to amend a motion before the BZA shall be discussed and voted by the BZA before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the BZA for its consideration. If the motion to amend is not approved, the original motion is again before the BZA for its consideration.

H. *Previous Question*. The discussion of any motion may be terminated by any member moving the "previous question." Upon a proper second, the Chair shall call for a vote on the motion of the previous question. If approved by a two-thirds majority of those voting, the Chair shall immediately call for a vote on the original

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motion under consideration. A motion of the previous question shall not be subject to debate and shall take precedence over any other matter.

I. *Motion to Reconsider*. Any decision made by the BZA may be reconsidered if a motion to reconsider is made at the same meeting or an adjourned meeting held on the same day at which the matter was decided. The motion to reconsider may be made by any member of the BZA. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the matter for discussion in the exact position it occupied before it was voted upon.

J. *Motion for Rehearing*. Any decision made by the BZA may be reheard upon the granting of a motion for rehearing approved by at least three affirmative votes. The motion may be made only after consideration of a written application by the person requesting rehearing, which shall be filed within thirty (30) days after the date of the BZA's original final decision. The BZA may grant the motion if it finds that the decision has not already been appealed to the Circuit Court and: (1) new evidence can be presented that, in the opinion of the BZA, is relevant and material to the decision but could not have been presented at the original hearing; or (2) in the opinion of the BZA, one or more relevant and material conditions or situations have changed so as to bear on the BZA's original decision. If the BZA grants the motion, it shall set the date for rehearing. Notice of the rehearing shall be provided as otherwise required for the matter being reheard.

6. Final Decision

A. *Date of final decision*. For the purpose of calculating the time in which an aggrieved party may submit a petition for writ of certiorari in Circuit Court requesting the court to review the decision of the BZA, the date of the BZA's final decision shall be the date on which the BZA took its final vote on the merits of the matter.

B. *Deferral of final decision*. If the BZA elects to defer its final decision, nothing in this rule prevents the BZA from obtaining a consensus of its members on the matter to be decided and requesting one or more of the parties to prepare a proposed written decision to be considered when a final vote is taken.

C. *Effect if written decision adopted after final decision*. The date of the BZA's final decision shall not be extended if the BZA later adopts a written decision.

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7. Remote Participation Policy

A. *Applicability of Policy.*

1. *Purposes.* Pursuant to *Virginia Code* § 2.2-3708.3, the following policy:

a. describes the circumstances under which remote participation will be allowed and the process the BZA will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and

b. fixes the number of times remote participation for personal matters can be used per calendar year, not to exceed the limitations set forth in *Virginia Code* § 2.2-3708.3(B)(4).

2. *Application.* This policy will be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member(s) requesting remote participation or the matters that will be considered or voted on at the meeting.

B. *Non-Emergency Individual Participation.* Except as provided elsewhere in this policy, individual members may use remote participation instead of attending a public meeting in person only pursuant to and in compliance with the following rules:

1. *Grounds for Remote Participation; Advance Notice of the Chair.* Individual members may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the member notifies the Chair that:

a. *Personal Medical Condition.* The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;

b. *Family Member's Medical Condition.* A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;

c. *Distant Meeting Location.* The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or

d. *Identified Personal Matter; Limitation on Use.* The member is unable to attend the meeting due to a personal matter (such as a family event or business commitment) and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than

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two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. *Minutes.* If participation by a member through electronic communication means is approved pursuant to this Rule, the BZA shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description.

a. *Medical Condition.* If participation is approved pursuant to Rules 7(B)(1)(a) or 7(B)(1)(b), the BZA shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance.

b. *Distant Meeting Location.* If participation is approved pursuant to Rule 7(B)(1)(c), the BZA shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location.

c. *Identified Personal Matter.* If participation is approved pursuant to Rule 7(B)(1)(d), the BZA shall also include in its minutes the specific nature of the personal matter cited by the member.

d. *Disapproval.* If a member's participation from a remote location pursuant to Rule 7(B) is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

3. *When Chair Requests to Participate Electronically.* In the event the Chair seeks to participate through electronic communication means from a remote location, the Chair must notify the Vice-Chair or other presiding officer and should notify the Secretary on or before the day of the meeting.

C. *During a Declared Emergency or When a Continuity of Government Ordinance is in Effect.* The BZA may meet by electronic communication means without a quorum of the BZA physically assembled at one location when a state of emergency is declared pursuant to *Virginia Code* § 44-146.17 or a local emergency is declared pursuant to *Virginia Code* § 44-246.21, subject to the provisions and requirements of *Virginia Code* § 2.2-3708.2. The BZA also may meet by electronic communication means when an ordinance adopted pursuant to

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Virginia Code § 15.2-1413 to ensure the continuity of County government is in effect.

~~7~~8. Amendment of Rules of Procedure

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

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9. Suspension of Rules of Procedure

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

10. Rules of Procedure not Covered by These Rules of Procedure

Any rules of procedure not covered by these Rules of Procedure shall be governed by the current Robert's Rules of Order.

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(Adopted: 1-5-2016)
(~~Last~~ Amended: 04-02-2019)
(Re-adopted: 01-07-2020, 01-05-2021, 03-01-2022)
(Amended: ___-___-2022

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