

Marsha Alley

From: Bart Svoboda
Sent: Tuesday, December 3, 2024 12:21 PM
To: Marsha Alley
Subject: FW: Appeal Hearing AP2024-00005

-----Original Message-----

From: Heidi White <heidilwhite@comcast.net>
Sent: Tuesday, December 3, 2024 12:12 PM
To: Bart Svoboda <bsvoboda@albemarle.org>; Francis MacCall <FMACCALL@albemarle.org>; Bea LaPisto-Kirtley <bkirtley@albemarle.org>
Subject: Appeal Hearing AP2024-00005

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on links or open attachments unless you are sure the content is safe.

To Whom It Concerns:

As residents of Bentivar who travel daily on Polo Grounds Road, we are very concerned about the condition of the property west of the railroad tunnel.

We have been waiting and wondering for months to see what is to come of this eyesore, and just received notice of today's hearing last week.

Unfortunately, our schedules do not permit us to attend in person today's hearing, however, we want it noted and recorded that we sincerely ask the Board to please uphold the zoning violations.

Thank you for your time and serious consideration of our request.

Sincerely,

Joe and Heidi White
2275 Oakridge Court
Charlottesville, VA 22911

Sent from my iPhone

Date 12/03/2024
Name Dominique Kostelac
Time ± 1:50pm prior to BZA Mtg.
Agenda Item AP2024-005

Narrative of Polo Grounds Defense Dec. 1, 2024 Draft

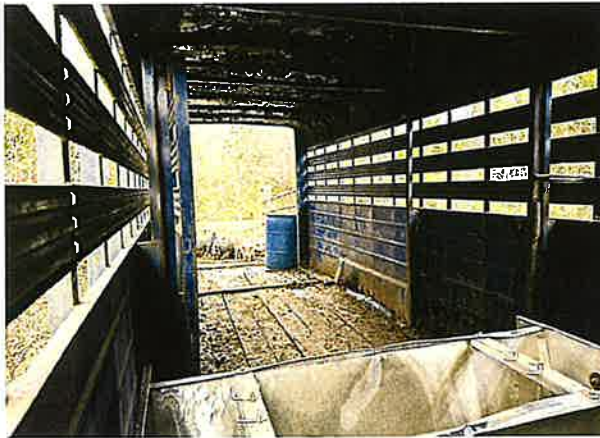
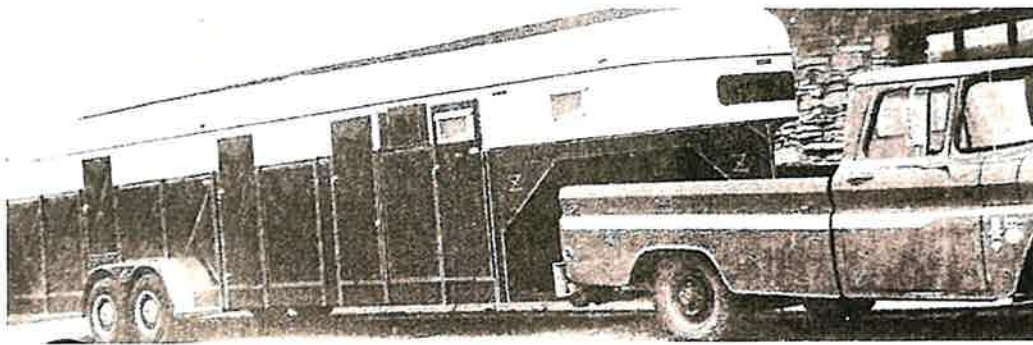
It would be insightful if one of the board members asked County staff the following questions in cross examination:

1. If the Kostelac family built the exact equipment themselves onsite from scratch would the County be able to apply the term "industrialized building" to the wheeled equipment in question? (It would not. It would be classified as building code exempt for use in agricultural per Exhibit A)
2. Would the wheeled equipment be exempt from any building code review if used for an agricultural activity such as raising chickens? (As a "chicken tractor" It would be exempt per Exhibit A)
3. Is there any other wheeled and mobile equipment and especially a mobile chicken coop in Albemarle County that Zoning staff lawfully required to undergo zoning review on agricultural property where it is being used for agricultural purposes. (No there is not)
4. Are mobile chicken coops moving around a farm subject to state regulation? (No they are not as they are classified as farm equipment)

Here are some agricultural equipment examples commonly found on farms to contemplate when answering those questions:







Here is the mobile animal housing and chicken shelter that the Kostelac family has created at great expense at Polo Grounds Road from salvaged building parts:







Notwithstanding the entire body of evidence and code interpretation by Albemarle County, their entire position rests on whether the wheeled, mobile chicken/ farm animal equipment on the subject property is or is not an industrialized building. Additionally, this type of mobile agriculture has been deemed by the BZA board as not a structure under the County ordinances. As such it cannot be an industrialized building since that is defined as a structure.

It should be noted that this matter came up previously before this BZA board in July 11 2023 in case number AP2023-00003 with Mr. Kostelac wherein numerous pieces of wheeled agricultural equipment parked on agricultural property were determined to *not be a "structure" and not to be a "manufactured home"*.
(See Exhibit C and E)

The following is the official vote reversing the determination:

MOTION: Mr. Carrington moved to reverse the Zoning Administrator's determination, VIO2023-109, on violations 2 and 4 because of the definitions included in the ordinance related to "structure" and "manufactured home". Mr. Burkhart seconded the motion, which passed (3-1). (AYE: Ms. Joseph, Mr. Burkhart, and Mr. Carrington; NAY: Mr. Shepherd; Mr. Rosenberg was absent.)

The County failed to appeal the decision within the 30 statutory days after the verdicts and the Kostelac's are asserting *a vested interest* in the zoning interpretation as to wheeled, mobile, farm equipment being disqualified as "structures" in the County ordinances.

Below are images of the equipment tendered by the County at the July 11 2023 BZA hearing deemed not to be a "structure" in the above vote. The "non structures" are legally identical to the equipment currently at Polo Grounds Rd

Photographs from March 3, 2023, onsite (for additional photos, see Attachment L):



In the testimony given to the BZA Board member Mr. Carrington (MC) asked the following when Zoning Department Head, Mr. Bart Svoboda (BS), did not read the definition of a manufactured building into the record at approximately minute 55:29 of the hearing. Zoning Department Head, Mr. Bart Svoboda (BS), was asked to actually read the definition of a manufacture building into the record. BS stopped short of reading the entire definition which included very clear disqualifying language. Board Member MC asked that BS read the rest of the definition that he edited out.

Here is the actual exchange:

BZA Board member Mr. Carrington (MC) asked Mr. Bart Svoboda (BS),

MC: "But you stopped short of the section in the middle of that definition that says "" and includes plumbing heating and air conditioning and electrical systems contained in the structure."" I'm curious as to whether you read a break in the definition that somehow separates the utilities from the definition"

Ultimately after some additional queries pressing the point of the legal definition as applied to the wheeled equipment BS stated:

BS "It could not be defined as a single-family home" as required under the clear language in the definition.

The prevailing point made successfully here by BZA Board member Mr. Carrington (MC) is that the subject equipment did not meet the obvious and complete definition after an examination of each word in the full text. As the Head of Zoning, BS surely knew this prior to the hearing. I made this point in my verbal presentation in the July 2023 case with the following insights especially as to the need to examine the FULL definition in the code:

Courts are required to interpret statutes based upon "what the statute says and not by what [the court] think[s] it should have said." *Amerson*, 281 Va. at 421 (quoting *Virginian-Pilot Media Cos. v. Dow Jones & Co.*, 280 Va. 464, 468-69 (2010)).

The doctrine of judicial restraint dictates that we decide cases on the best and narrowest grounds available." *Commonwealth v. White*, 293 Va. 411, 419 (2017) (some internal quotation marks and footnote omitted) (quoting *Commonwealth v. Swann*, 290 Va. 194, 196 (2015)).

Your task in statutory interpretation is "to give reasonable effect to every word" in a statute, *Jones v. Conwell*, 227 Va. 176, 181 (1984), and "we will not read a legislative enactment in a manner that renders any portion of that enactment useless." *Antisdel v. Ashby*, 279 Va. 42, 48 (2010).

In its July 2023 rebuttal to my appeal the County glaringly never referred to the full legal definition when invoking a term nor the actual law in its full form.

Here is the full definition of an industrialized building

*"Industrialized building. "Industrialized building" means a combination of one or more sections or modules, **subject to state regulation, and including the necessary electrical, plumbing, heating, ventilating and other service systems**, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, **to comprise a finished building**. For purposes of this definition, a manufactured home is not an industrialized building."*

The first point to be made is that a mobile chicken coop is not subject to state regulation and therefore such agricultural equipment does not meet the definition of an industrialized building which must be *"subject to state regulation"* See **Exhibit A** on agricultural exemptions from building codes

The second point is that this board in July 2023 looked at the same object moved from the same Chambersburg, PA site to Albemarle County and overturned the position by the Albemarle County zoning determination which asserted it was a "structure".

This equipment at Polo Grounds Rd, like the equipment discussed in AP2023-00003, was stripped of HVAC, plumbing, electrical, walls, roof and more prior to being delivered to the Polo Grounds property. **(See Exhibit B and F)**

Its roof was removed making it no longer water proof from rain:



Its plumbing was removed as per photo below see PEX pipe in red/ blue and PVC septic



Its walls were removed and replaced with plastic and chicken wire



Its HVAC Equipment and flex duct was removed by Fowler HVAC

< 14

MJ
Madison A.C. Fowler



Keys under rock by 5 ton unit.
Leave there when done

Madison A.C. Fowler

I had a few questions for you,
first being do I have to meet up
with anyone when I get there,
also I noticed one of the units is a
package unit, do you know if it
has flex duct connecting to it or if
it is hard pipe. And after we
disconnect the units do you need
us to move them inside the
buildings.

If u could move them that would
be great. Im not sure on duct. We
could talk while u are there

Copy of payment receipt from FOWLER HVAC INC.

Wed, May 18, 2022, 10:48AM

mailto:do_not_reply@intuit.com
to me, FOWLERHVAC2

Dear

Below is the sales receipt provided to you by FOWLER HVAC INC.

FOWLER HVAC INC.			Receipt
125 NORTH MAIN ST. SUITE 25, P. O. MADISON VA 22727			
Transaction Type	Sale	Amount	\$677.20
Cardholder Name		Credit Card Number	****9358
Card Type	Visa		
Date & Time	05/18/2022 - 07:48 PDT	Authorization Code	076091
Transaction ID	MS0091412013		

Thank you for your order,
FOWLER HVAC INC.

[FOWLERHVAC2@VERIZON.NET](mailto:do_not_reply@intuit.com)

Wheels and extra axels were installed to make them mobile and certified for highway travel



See additional Receipts and affidavits from contractors and workers in Exhibit B and F

Previous to the result of the BZA hearing of July 11 2023. The property owner, Mr. Kostelac, met, in 2022, with zoning head Bart Svoboda (BS), and explained that this wheeled equipment would be used to maintain chickens and animals and potentially other agricultural endeavors on the subject property. The owner, Mr. Kostelac, showed BS pictures of mobile chicken coops after which BS stated that he was inclined to withdraw the Determination Letter.

Sadly, Albemarle County changed its mind and took the position that it had achieved a default judgement and did not need to address Mr. Kostelac on the merits of his position. Mr. Kostelac pointed out that the County did not affect the required service of the Determination Notice and therefore the default judgment was void. The court finally heard the case agreed with Mr. Kostelac around January 2024. The judge chastised the County's attorney for proceeding against the Kostelac's without fulfilling the clearly understood notice requirements and attempting to deny their critical property right protections.

During this expensive court defense which lasted 1.5 years Mr. Kostelac and his family were using up all available cash on legal costs instead of buying the chickens and securing them inside the subject equipment. Additionally, VDOT illegally destroyed the one legal and safe entry to the property, stole construction supplies and the dug a large pit far outside of VDOT'S right of way. VDOT created a water filled moat barring access for nearly a year. VDOT ultimately accepted responsibility for their errors, issued a driveway permit and shoddily refilled the pit nearly a year later. The six-figure damages, theft and trespass case against VDOT is still in the courts at the discovery phase.

Here is the driveway before VDOTS destruction and after. The red flags represent the limit of VDOTS right of way.

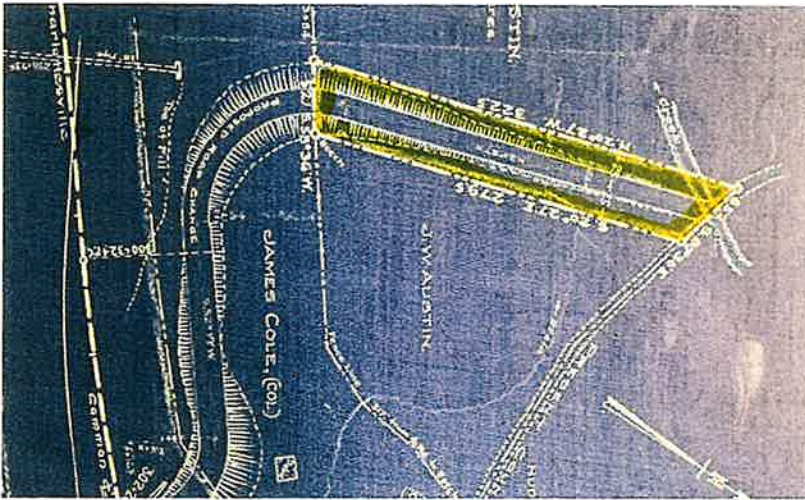
BEFORE:



AFTER



There has always been a road entrance servicing the southern side of the creek where a barn then later a trailer sat until recently.



VDOT's actions disregarded any legal process when creating damage to the Kostelac's property. VDOT was called into taking this lawless action by the very same population that sits before you today on the same dates that all the other departments were called to harass the Kostelacs. There was clearly coordination.

Given the vote of this board as to what constitutes a structure in July 2023, the statement by Svoboda (BS) that he was inclined to withdraw the determination of 2022, The voiding of the determination of 2022 by the Court, the Kostelac's were very surprised by the new Determination letter send in summer of 2024.

To date the County has made the following charges on polo grounds road:

1: *Industrial buildings were on the property. June, 2022*

This was dropped because there were no industrial activities or industrial buildings on the property

2: *Gravel was placed on the property that was not clean fill, June 2022*

This was withdrawing by the County during litigation as not supported by law or evidence

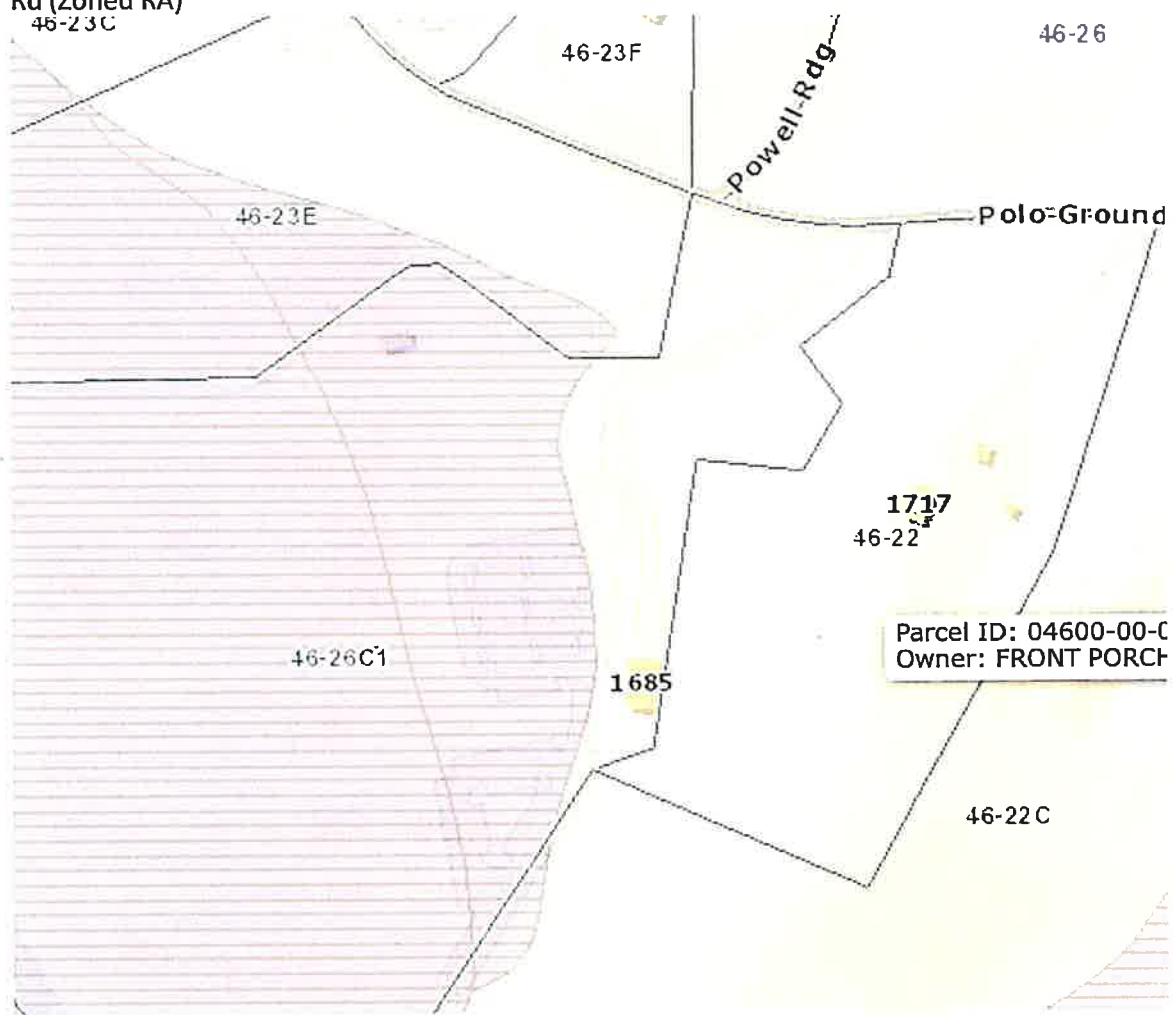
3: *Proper notice of a violation was given to the Kostelac's to obtain a default judgment and not on the merits of the county's case*

The County lost their case January 22, 2024

Given that this board has previously ruled that these objects are not structures in AP2023-00003 it follows that:

There is no structure in the flood plain either. Wheeled vehicles are allowed in the floodplain and regularly cross the floodplain and park on Polo Grounds Rd floodplains thousands of times per week.

Parking is shown here occurring in the floodplain at the nearby soccer fields on Polo Grounds Rd (Zoned RA)



And at Brook Hill River Park at the intersection of why 29 and Polo Grounds Rd (zoned RA)



To be clear this agricultural equipment has been stripped of its water, sewer and HVAC connections, walls, roofs and other elements, leaving only an open-air shell suitable for chickens and animals. It is not subject to state regulation and it no longer meets the definition of an "Industrialized Building"

The remnant motivational signs, desks, chairs and pictures have no bearing on the legal status of its use in agriculture or its legal definition in the code. Given the nearly 1-year VDOT created an illegal moat outside its jurisdiction, without process of law and an expensive multi-year court battle to overturn the defective and undelivered notice with Albemarle County is it any wonder that the Kostelac's struggled to allocate further funds to improve and increase agricultural activities. Perhaps that was the idea of these assaults conducted in unison by neighbors and administrative departments.

When discussing this matter with BS in 2022, Mr. Kostelac asked him why the community was so irate about the existence of agricultural equipment on the property. BS stated that it was a nuisance in his and their eyes. Mr. Kostelac then asked why the County and VDOT did not help him eliminate the pointless and incessant honking by every car that passed the abutting tunnel and ignored our pleas to install a silent traffic signal? Mr. Kostelac asked how is the honking not a brutal and daily nuisance in comparison to the sight of agricultural activities. BS acknowledged this irony in this but took no action to eliminate the sound nuisance or assist Mr. Kostelac in ending these most punishing honks almost every minute of the day.

MR. Kostelac stated that he would gladly give up the agriculture for the cessation of the honking as this noise made the entire property uninhabitable for humans.

It should also be noted that for all wheeled equipment brought from PA to Albemarle County: It has been stripped of its water, sewer, HVAC, roofing and walls. And does not constitute a structure. The interior partitions and pictures, slogans, signage etc. have no bearing on its legal definition. The upcycling of former building parts to save on agricultural activities is a long enduring tradition of salvage as a means to farming at a profit in difficult economic times where farming is increasingly unviable.

Having lost 45 chickens to racoon and hawk kills from above the Kostelac's know that a fully enclosed cage is the only viable way to keep chickens. Further given the continuous shifting legal interpretations by the County spanning back decades agricultural investments are only reasonable in mobile assets.

In summary. Based on the previous position of this board that the wheeled agricultural equipment is not a structure there can be no violation of an industrialized building on the property as this mobile chicken equipment is not a structure or a building per examination of the ordinances.

Additionally zoning review is not required for agricultural activities as per chapter 18 section 32.1

Site plan approval:

- **SECTION 32 - SITE PLAN**
- **Sec. 32.1 - General provisions.**
- **Sec. 32.2 - Applicability.**
 - Any construction, use, change in use or other development is permitted in any zoning district only with an approved site plan complying with the requirements of section 32, other applicable requirements of this chapter, and all other applicable laws; provided that no site plan shall be required for the following:
 - a.
 - The construction or location of any single-family detached dwelling on a lot on which not more than two dwellings are located or proposed to be located if the lot has public street frontage, or the construction or location of one dwelling unit on a lot that does not have public street frontage.
 - b.
 - The construction or location of a two-family dwelling on any lot not occupied by any other dwellings.
 - c.
 - Any structure that is accessory to a single-family detached or two-family dwelling.
 - d.
 - Any agricultural activity except as otherwise provided in section 5.

The Kostelac's prevailing defense against having mobile equipment defined as a structure BZA July 11 2023, case number AP2023-00003

Moving on to 2nd accusation in the determination letter that "the storage of structures is not a permitted use":

First let's look as what is the definition of a "structure"

Code of Virginia

Table of Contents » Title 36. Housing » Chapter 6. Uniform Statewide Building Code » Article 1. General Provisions » § 36-97.

"Structure" means an assembly of materials forming a construction for occupancy or use, including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, underground and aboveground storage tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and

other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Structure" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

Not one of the named "structures" in the above list has wheels on it.

To contemplate that "Structure" means any assembly of materials forming a construction for use would create a meaning so broad as to include every object on earth. As such it is not a limiting definition. A structure is not a car, a van, a truck, trailer or RV because these are not fixed to the earth in a meaningful way as are all items in the list. Wheeled vehicles are not a "structure of this general nature"

A road ready wheeled tool/device is not a structure. Is it the position of the current zoning staff that vacant property cannot have a vehicle on it? What is a pickup truck? Is it a farm structure? What is a landscape trailer or box truck with nothing in it? Is it a building – is it a structure?

Submitted by Dominique Kostelac, Managing Member Polo G LLC Dec. 3, 2024

EXHIBIT A

Virginia Uniform Statewide Building Code

The VUSBC addresses farm buildings in the following two sections:

- Section 202 Definitions. *Add the following definitions to Section 202 of the IBC to read:*

FARM BUILDING OR STRUCTURE. A building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm.
 2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products.
 3. Business or office uses relating to the farm operations.
 4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm.
 5. Storage or use of supplies and materials used on the farm.
 6. Implementation of best management practices associated with farm operations.
- Section 102.3 Exemptions. The following are exempt from this code:
 9. Farm buildings and structures, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in Section 35.1-1 of the Code of Virginia and licensed as such by the Virginia Board of Health pursuant

to Chapter 2 (Section 35.1-11 et seq.) of Title 35.1 of the Code of Virginia. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

Application of the VUSBC

A building is exempt from the VUSBC as a farm building when the farm building:

1. Is located on a property where farming operations take place¹; and
2. Is not used for residential purposes; and
3. Is not operated as a restaurant as defined in Section 35.1-1 of the Code of Virginia; and
4. Is not located within a flood plain or in a mudslide-prone area; and
5. Is primarily used for any of the uses or combination of uses specified by the VUSBC definition of Farm Building and Structure.²

¹ All buildings, to include farm buildings, are required to have a County Zoning Approval. For purposes of applying the VUSBC, the County Zoning Approval will serve as evidence that the property is an agricultural use operating as a farm.

² The farm building and structure must be used for farming operations ninety-five percent (95%) of the year. The farm building and structure may be used for non-agricultural uses up to eighteen (18) days per year.

EXHIBIT B

INVOICE 123

INVOICE

\$502.50

Pay Invoice








Nasuto, LLC

Billing To:
Nasuto, LLC
1705 Frays Hill Rd
Hagerstown, VA 22060-1829

Invoice Details
Invoice #: 1234
Invoice Date : 25-01-2022

material 1 unit x \$15.00 \$15.00 total	\$15.00
Moblie welding 4.5 hrs x \$47.00 429	\$200.70
Moblie welding 2 hrs x \$175.00 \$350	\$115.00
Total :	\$502.50

Pay Invoice

Thank you for your business.

A-Z Welding, LLC
azwelding@gmail.com

[illegible][illegible]

EXHIBIT C

Property: Parcel ID 079C0-00-00-00100 Koste Lake LLC
Zoning: Planned Residential Development [PRD] District Owner of Record

Dear Koste Lake LLC and William Harville

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 **March 3, 2023**:

1. **Trees that are not dead and that are greater than six (6) inches in diameter are being cut on this parcel without a site development plan to establish a use.**
2. **The storage of structures on this parcel is not a permitted use.**
3. **The Accumulation of Tires and Car Parts on this parcel constitutes a junkyard and is not a permitted use.**
4. **The manufactured homes stored on this parcel is not on a foundation required by the building code and not being used as a primary residence.**

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

1. **Albemarle County Code § 18-4.3 Tree Cutting**
2. **Albemarle County Code § 18-19.3 Permitted Uses.**
3. **Albemarle County Code § 18-19.3 Permitted Uses**

4. **Albemarle County Code § 18-5.6 Manufactured homes on individual lots**



County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5632
WWW.ALBEMARLE.ORG

NOTICE OF OFFICIAL DETERMINATION OF VIOLATION

The Date this Notice of Determination is given is June 13, 2022.
CERTIFIED MAIL #7021 0350 0000 3827 2381

No: VIO-2022-167

Polo G LLC
c/o Nathan Kostelac & Summer Kostelac
1785 Frays Mill Road
Ruckersville, VA 22968

Property: Parcel ID 04600-00-00-10100

Same as Above
Owner of Record

Zoning: Rural Area [RA] District

Dear Nathan Kostelac & Summer Kostelac:

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 June 3, 2022:

1. The industrial buildings placed on this parcel is not a permitted use.
2. The material (gravel) that has been placed on this parcel is not considered clean earth fill.

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:

1. Albemarle County Code § 18-10.2; Permitted Uses
2. Albemarle County Code § 18-5.1.28; Clean Earth Fill

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 July 13, 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).



County of Albemarle
Department of Community Development
401 McIntire Road
Charlottesville, Virginia 22902-4596

RICHMOND VA 230
13 JUN 2022 PM 4 L

Polo G LLC
c/o Nathan Kostelac & Summer Kostelac
1785 Frays Mill Road
Ruckersville, VA 22968

22968-162083

|||||

Zoning: Rural Area [RA] District
Airport Impact [AIA] Area
Flood Hazard Overlay [FH] District

Polo G LLC
Owner of Record

Dear Polo G LLC:

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 **August 20, 2024**.

1. The industrial buildings placed on this parcel is not a permitted use.
2. The industrial buildings placed in the floodplain on this parcel is not 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:

1. Albemarle County Code § 18-10.2 Permitted Uses
2. Albemarle County Code § 18-30.3.11 Flood Hazard Overlay; 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*.

Exhibit D

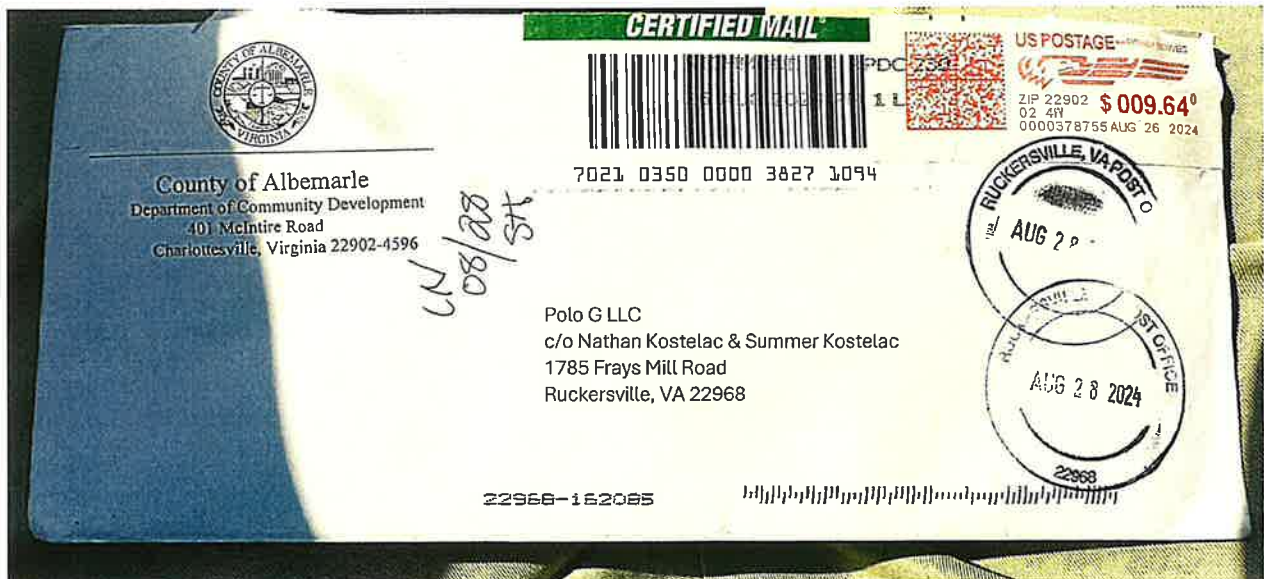


EXHIBIT E

Additionally, We, the Kostelacs, have argued BZA July 12 2023, AP2023-00003 with the County that these are agricultural vehicles and as such they do not have any building code requirements. They simply can be anything.

We have further argued that they are vehicles:

One aspect of agricultural use concerns accessory use per Sec. 3.1 – Definitions

Accessory use, building or structure. "Accessory use," "building" or "structure" means a subordinate use, building or structure customarily incidental to and located upon the same lot occupied by the primary use, building, or structure, and located upon land zoned to allow the primary use, building or structure; provided that a subordinate use, building or structure customarily incidental to a primary farm use, building or structure need not be located upon the same lot occupied by the primary farm use, building, or structure. For the purposes of section 1.7(c)(2), any street may serve any use or structure authorized by this chapter, regardless of whether the use or structure is on the same lot or in the same zoning district as the street.

It must be beyond argument that mobile tools such as tractors, hay wagons, tool trucks and harvesting equipment are clearly expected under preserved accessory uses in agriculture. The determination letter points out certain wheeled carts and absurdly attempts to define them as manufactured buildings in violation #4 .

The definition of manufactured homes withing the Albemarle County code in no way described the objects in question. Per Chapter 18, Article1 Sec. 3.1 – Definitions:

Manufactured home. The term "manufactured home" means a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be **used** as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; **and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.** The structure and **use** commonly known as a "mobile home" is a manufactured home. For floodplain management purposes, "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for longer than 180 consecutive days, but does not include a recreational vehicle.

It is easily demonstrated by first glance that these wheeled devices are missing entire walls or sides and that they are completely absent of infrastructure of any kind such as "**plumbing, heating, air-conditioning, and electrical systems contained in the structure.**"

Without such elements which are essential to "to be **used** as a single-family dwelling" the attempt to define them as such is erroneous and clearly, willful and malicious harassment.

In addition, violation #3: the accumulation of tires and car parts is in error. These new spare tires and axels are a required companion to these mobile agricultural devices as they routinely require parts replacements when being moved. Such specialized parts are hard to find and must be immediately available when needed.

The use of mobile salvaged elements which the county is absurdly defining as a manufactured home has been thoroughly reviewed in sessions with the owner by Director of Zoning, Bart Zvodoba in numerous previous meetings. Pictures of the adaptive reuse of cost-effective wheeled assets for farm use were provided at these meetings showing common innovative solutions for a financially sustainable agriculture activity.

The owner/ manager Dominique Kostelac and family have long been leaders and innovators in agricultural projects in Albemarle County employing up to 80 people and creating critical farm revenue of millions of dollars annually in Albemarle County. The County Zoning department is well aware that the owners are well-documented innovators of wild gathered agricultural products and proprietary value-added techniques operating's over numerous farm properties inside and outside of the County.

To summarize the rebuttals to the four violations noted on the determination letter of Mar. 3 2023

#1 Trees being cut is a preserved nonconforming legal use

#2 The storage of structures is an inappropriate definition for wheeled tools supporting an permitted agricultural activity. Such wheeled equipment is clearly understood to be necessary and appropriate for a wide range of preserved agricultural activities.

#3 The mis-definition of needed parts as a junkyard is inappropriate to equipment required to support preserved agricultural activities.

#4 Defining wheeled equipment as manufactured residential buildings is inappropriate and clearly in error.

Submitted April 2, 2023

Dominique Kostelac, Koste Lake LLC, Managing Member
via upload Alb Co website

EXHIBIT F

Affidavit of Joe Page regarding stripping and transformation of salvaged building materials
December 3 2024

I, Joe Page, managed, witnessed and hired subcontractors to transform salvaged architectural elements into mobile agricultural equipment previously located in Chambersburg, PA, and moved to Albemarle County at both Shadwell Road and Polo Grounds Road. This process took many months and was quite expensive and time-consuming.

The activities I participated in were:

- Adding and welding on wheels, axles and tow hitches
- Removal of roofs, rainproofing sheeting, HVAC ducts, electrical wiring, plumbing infrastructure, walls, insulation and drywall among other components.

I can testify that the agricultural modules arrived at sites in Albemarle County unfit for any use except agricultural purposes.

A handwritten signature in black ink, appearing to read 'Joe Page', with a stylized, cursive script.

Joe Page
December 3, 2024

EXHIBIT G

Code of Virginia

[Table of Contents](#) » [Title 46.2. Motor Vehicles](#) » [Subtitle I. General Provisions: Department of Motor Vehicles](#) » [Chapter 1. General Provisions](#) » § 46.2-100. Definitions

§ 46.2-100. Definitions.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes