**Albemarle County Planning Commission**
**October 23, 2012**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 23, 2012, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Ed Smith, Bruce Dotson, Thomas Loach, Richard Randolph, Don Franco, and Calvin Morris, Chairman. Members absent were Russell (Mac) Lafferty, Vice Chairman. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Sarah Baldwin, Senior Planner; Scott Clark, Senior Planner; Brent Nelson, Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Susan Stimart, Economic Development Facilitator; Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, J.T. Newberry, Senior Planner, Francis MacCall, Counter Planner; Bill Fritz, Director of Current Development; Mark Graham, Director of Community Development; David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission; and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum**:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

**Other Matters Not Listed on the Agenda from the Public**:

Mr. Morris invited comment from the public on other matters not listed on the agenda.

Due to time constraints to attend a funeral family night Wendy Shaver, with Albemarle Towing, spoke regarding ZTA-2010-00004 Industrial Uses and the need for locations to accommodate towing uses.

There being no comments, the meeting moved to the next item.

**Consent Agenda**:

Approval of Minutes: 7-17-2012

Mr. Morris asked if any Commissioner wanted to pull an item from the consent agenda.

**Motion**: Mr. Loach moved and Mr. Smith seconded for acceptance of the consent agenda.

The motion carried by a vote of 6:0.

Mr. Morris noted the consent agenda item was approved,

**Items Requesting Deferral**

**SP-2010-00049 Howardsville Camping**
PROPOSED: Campground with 24 sites for recreational vehicles, 24 tent sites, building for office and restrooms. ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard - Overlay to provide safety and protection from flooding SECTION: 10.2.2.20 Day camp, boarding camp (reference 5.1.05) COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: No LOCATION: Baber Lane, Howardsville, at the intersection of James River Road (Route 626) and Howardsville Turnpike (Route 602) TAX MAP/PARCEL: 139A0000001600,

139A0000001700, 139A0000001900, 139A0000002000, 139A0000002100 MAGISTERIAL DISTRICT: Samuel Miller (Scott Clark)

**AND**

**SP-2010-00050 Howardsville Canoe Livery**
PROPOSED: Howardsville Canoe Livery: Canoe-rental livery with use of campground building for office and storage (see SP201000049) ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard - Overlay to provide safety and protection from flooding SECTION: 30.3.05.2.1 (2): Water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots) ENTRANCE CORRIDOR: No LOCATION: Baber Lane, Howardsville, at the intersection of James River Road (Route 626) and Howardsville Turnpike (Route 602) TAX MAP/PARCEL: 139A0000001600, 139A0000001700, 139A0000001900, 139A0000002000, 139A0000002100 MAGISTERIAL DISTRICT: Samuel Miller (Scott Clark)
APPLICANT REQUESTING DEFERRAL OF THESE SPs TO THE NOVEMBER 13, 2012 PLANNING COMMISSION MEETING

Mr. Morris noted the applicant is requesting deferral of SP-2010-00049 Howardsville Camping and SP-2010-00050 Howardsville Canoe Livery to the November 13, 2012 meeting.

Motion: Mr. Loach moved and Mr. Randolph seconded for acceptance of the applicant's request for deferral of SP-2010-00049 Howardsville Camping and SP-2010-00050 Howardsville Canoe Livery.

The motion passed by a vote of 6:0.

Mr. Morris noted that SP-2010-00049 Howardsville Camping and SP-2010-00050 Howardsville Canoe Livery were deferred to the November 13, 2012 meeting.

**Public Hearing Items**

**AFD-2012-00006 Carter's Bridge Additions** - Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel(s) to the Carter's Bridge Agricultural and Forestal District (Albemarle County Code § 3-222) on October 23, 2012, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 112 Parcels 16J and 16K. The parcel(s) proposed for addition are approximately 268.85 acres in size and are located on Fry's Path (Route 627) approximately one mile north of Plank Road (Route 712). The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this addition. (Scott Clark)

Scott Clark noted this was the only application received for this fall's round of addition to the agricultural and forestal districts.

Proposal: Addition of two parcels (Tax Map 112 Parcels 16J and 16K) totaling 268.85 acres to the District. This land was previously included in the District as a single parcel—it was added in October, 2007, and then removed in July, 2008 (during the last review). It has since been divided into two parcels, the smaller of which is 39.52 acres.

Approximately half of the proposed addition includes soils rated as Prime or Locally Important by the Comprehensive Plan. Essentially the same area is rated highly for hardwood production in the Comprehensive Plan.

The proposed addition of two parcels would increase the total acreage of the Carter's Bridge District to 8,895.

Committee Recommendation:
On October 1, 2012, the Agricultural and Forestal District Advisory Committee recommended approval of

the proposed addition to the Carter's Bridge Agricultural and Forestal District.

There being no questions for staff, Mr. Morris opened the public hearing and invited public comment. There being none, the public hearing was closed, and the matter before the Planning Commission.

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of AFD-2012-00006 Carter's Bridge Additions.

The motion passed by a vote of 6:0.

Mr. Morris noted that AFD-2012-00006 Carter's Bridge Additions would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

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**AFD-2012-00007 Blue Run Review** - Periodic (10-year) review of the Blue Run Agricultural and Forestal District, as required in Section 15.2-4311 of the Code of Virginia. The district includes the properties described as Tax map 22, parcel 10; tax map 35, parcels 22, 23, 24A, 26, 26B, 26B1, 26C, 26D, 28A, 29, 31, 32A, 41A, 41E, 43; tax map 36, parcels 6A, 9, 20; tax map 49, parcels 4A1, 4A5, 24, 24A, 24B; tax map 50, parcels 5, 5B, 32A, 41A, 41Q, 42A, 42A1, 43, 45B, 47, 47A, 47B; tax map 51, parcels 13, 14. The district includes a total of 4,219 acres. The area is designated as Rural Area in the Comprehensive Plan and the included properties are zoned RA Rural Areas. (Scott Clark)

Scott Clark summarized the staff report. This is the periodical review 10-year review of the Blue Run Agricultural and Forestal District.

Purpose of the review: Each district is reviewed (usually every 10 years) "to determine whether the district should be continued. … Both the Advisory Committee and the Planning Commission provide recommendations to the Board as to whether the district should be terminated, modified or continued."

- History of the Blue Run District
    - The District was created in June, 1986, and originally included 1,185 acres.
    - The District now includes 40 parcels and 4,219 acres.
    - Last review: 2002

Committee Recommendation: On October 1, 2012, the Agricultural and Forestal District Advisory Committee recommended renewal of the Blue Run District for a 10-year period.

There being no questions for staff, Mr. Morris opened the public hearing and invited public comment.

Neil Williamson, with The Free Enterprise Forum, asked in the process for identifying and reviewing these districts are the adjoining property owners told of the diminution of their property rights by these actions. If having an agricultural forestal district next to your property impacts what you can do on your land it seems as though you should have that information to have the opportunity to speak. For the record, the Free Enterprise Forum believes that agricultural forestal districts are a good thing. They think it preserves agricultural uses and it is much more like renting than a permanent conservation easement and allows flexibility for the owners. That being said he just wanted to ask a question with regard to notification of neighboring property owners especially when some cases, as in this case, where they are being effectively surrounded by the district.

Mr. Morris asked if staff wanted to address that.

Mr. Clark pointed out the county does notify the adjacent property owners of the hearings regarding these items. The first notification is actually for the owners in the district because during the review is the only time they are permitted to easily withdraw from the district themselves. So that is pretty early on in the process. Then they do notifications to the adjacent owners. The adjacent owners would get the standard notification letter that they would for any other public hearing.

Mr. Randolph asked that Mr. Cilimberg address this point. He asked is there any evidence of a diminution of property values as a result of soil district protection.

Mr. Cilimberg replied in recalling over the years he has been here, there have been on occasion consideration of agricultural forestal districts adjacent to properties where there has been a request for a special use permit. He did not remember too any cases where there was a recommendation against a special use permit because of its location next to an agricultural forestall district. It may have happened on one or two occasions. However, he can't recall that specifically. For those not in a district he would say that the potential impact is very minimal in terms of their rights. Of course, all of their by right allowances would remain. Only in the case of a special use permit location next to a district might that come into play. He could not recall any cases where they have recommended denial based on that. However, it may have been on one or two occasions that it occurred. He also knows that agricultural forestal districts can have some effect on public projects, such as the routing of a new road. In the earlier days of the Western By Pass and some the routes they were looking at he thought that actually spurred the number of requests they got for agricultural forestal district designation at that time. However, that is really not a property rights kind of issue. That was more of a public project's consideration. From his experience he did not see it as being a significant impact at all.

Mr. Randolph agreed that was the way it struck him. The common sense notion is that in this region and area a special use permit for a cidery with the noise and nuisance effect will have a greater effect on property values than an agricultural forestal district designation around it. He would see that as more of a compelling issue affecting property rights and property values than the agricultural district in this case. He just wanted that clarification from staff.

Mr. Cilimberg pointed out there could be the case where an agricultural forestall district if it were created next to a development area might be considered as having some kind of impact on the ability of the development area to develop under the comprehensive plan. However, that has not been the case either here. They have been fairly careful about agricultural forestall district designations where development areas are existing or potentially where they might expand.

There being no further public comment, the public hearing was closed, and the matter before the Planning Commission.

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of AFD-2012-00007 Blue Run Review.

The motion passed by a vote of 6:0.

Mr. Morris noted that AFD-2012-00007 Blue Run Review would go to the Board of Supervisors on December 5, 2012 with a recommendation for approval.

**SP-2012-00024 Verizon Wireless Va. Dept. of Forestry "Buckingham Circle" Tier III Personal Wireless Service Facility**

PROPOSED: Request for installation of a 110 foot tall "steath" monopole structure ("monopine") and associated ground equipment.
ZONING CATEGORY/GENERAL USAGE: CO Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/ acre); EC Entrance Corridor – Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access
SECTION: 23.2.2.15 Tier III personal wireless facilities
COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood 6; Office Service – office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre).
ENTRANCE CORRIDOR: YES
LOCATION: 76 feet SW of Natural Resources Drive on the Forestry Dept. Headquarters TAX MAP/PARCEL: 07600-00-00-017A0
MAGISTERIAL DISTRICT: Samuel Miller (Sarah Baldwin)

Sarah Baldwin presented a PowerPoint presentation to summarize the staff report.

This is a request for installation of a Monopine=monopole structure designed to look like a pine tree on tax map 76, parcel 17A, which is roughly 33 acres. It is located near an existing parking lot on the Department of Forestry site and accessed from Natural Resources Drive. The surrounding area contains vacant R-1 and CO land.

The proposed PWSF facility will be 110 feet tall with a top elevation of 616 AMSL. The applicant is requesting three waivers, which staff is supporting.

- There is a request to waive the requirement of the reference tree for the monopine. The surrounding trees are arranged from 30' to 50' lower than the monopine.
- There is a request to waive the diameter of the base of the tower, which will be 54".
- There is a waiver request since the proposed antennas will be more than 12" from the structure.

Staff is supporting the waiver requests because of the location and the lack of visibility.

Staff inquired about safety standards of the monopine. The applicant has stated that the monopine must meet all of the regular safety standards all towers must meet including the branches, which also must be water proof and have a UV protective coating. The applicant can further speak to that if necessary. The applicant has submitted an example of a monopine.

Staff attended a balloon test on September 12 and viewed it from various areas. It is slightly visible from Fontaine Research Park and briefly visible along the I-64 Bridge over the Norfolk Southern Railroad. The applicant has also provided photo simulations of the monopine. Views include on-site views adjacent to the parking lot and views from Resources Drive and the I-64 Bridge.

Factors Favorable:

1. The ARB finds that the proposed location of the facility will minimize visibility such that no significant negative impact on the Entrance Corridor will be created. However, their opinion is specific to this site and the treatment, and does not endorse this monopine treatment to be used on a wider scale in circumstances where the pole exceeds the recommended height above the surrounding trees.
2. This facility will provide advanced technology service and support a larger project to provide fourth generation (4G) services; therefore, contributing to the general health, safety and welfare of the public.
3. No objection has been received from the adjacent property owner (Fontaine Research Park), which is where the structure is visible.

Factors Unfavorable:

1. The Personal Wireless Service Facilities Policy looks unfavorably on mitigating visual impact by creating more visual impact.
2. The height of the monopine relative to the surrounding trees increases its visibility primarily on site and from the adjacent property.

It is Staff's opinion that an artificial tree of this scale could actually draw more attention and generally this approach should be avoided. However this site is mitigated due to limited visibility at this location.

<u>Recommendation:</u>

- Staff recommends approval of this Tier III Personal Service Wireless Facility with the modifications (special exceptions) provided herein.
- Should the Planning Commission choose to recommend approval of this application to the Board of Supervisors, staff recommends the conditions as outlined in the staff report.
- Staff recommends approval of the modifications for this personal wireless service facility for Sections 5.1.40(c)(3), (d)(5) and (d)(6) under the special exception criteria of Section 31.8 of the Zoning Ordinance.

Mr. Morris invited questions for staff.

Mr. Loach asked if there is any chance for co-location on this tower since they were going away from a number of the usual provisos, such as the reference tree.

Ms. Baldwin replied yes, she believed there is a chance for co-location.

Mr. Randolph suggested this be called a Mono Sequoia instead of a Monopine since it is so big. He pointed out the color of the Mono Sequoia in the pictures is green yet the specifications in Section 5.1.40(d)(7) indicate that each wood monopole shall be a dark brown natural wood color. If approved and erected the monopine if brown will look like a dead monopine. He questioned if Section 5.1.40(d)(7) should be revised in some way so each metal monopine shall be a dark green natural wood color, which would certainly blend in more with surrounding trees. He noted this is a metal structure and not a wooden structure. He was a little concerned because the brown would really look like a dead tree. However, it is just an observation.

Ms. Baldwin noted that she had an example of what it would look like. The actual bark, if they want to call it that, is brown. The limbs are brown. However, the pine needles on it will be green.

Mr. Dotson noted he had a question about our policy that emphasizes visibility. He asked how our policy specifies the point from which they would judge visibility. In other words, the images they provided are from I-64, Fontaine, and the parking lot and does our policy address where they look in order to judge visibility.

Ms. Baldwin replied it was either in the policy or the ordinance itself and addresses the nearest residential areas and visibility and then areas of concern such as Entrance Corridor or other scenic areas.

Mr. Dotson pointed out that might explain the Buckingham Circle reference.

Ms. Baldwin noted staff actually did go by Buckingham Circle and it is not visible at all.

Mr. Randolph asked how adaptive this structure is to 5G and other iterations of technology coming down the pike.

Ms. Baldwin replied that it was for 4G. However, she was sure the applicant can speak to that fact.

Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Laurie Schweller, attorney with LeClair Ryan, represented Verizon and requested a recommendation of approval for the special use permit for this first 110' monopine or mono sequoia in Albemarle County. She made the following points:

- They are requesting this special design for this particular location because the Department of Forestry requested it. They have never requested one before and understand the Architectural Review Board is not inclined to see a monopines at every single site. The primary location of visibility for this site is actually the Department of Forestry land. It is quite visible from that building and so they wanted it to look like a tree. From the office park parking lot they can see the top of it. However, otherwise it is pretty much not noticeable. They drove around the surrounding residential neighborhoods and up and down 20 and I-64 and found the only place they could see it is the overpass bridge that goes over the Norfolk Southern Railroad. Both westbound and eastbound it can be seen over the treeline just for a brief moment. Therefore, they think the visual impact is fairly minimal.
- Because of this particular design they are able to do a full array. They have a three sector antenna array so all of the antennas are on one plane. So they are offering the PCS, the cell and the LTE all on that one antenna array. That leaves it open for potential co-locators or other technologies if those were required later on. Their site plan does show three locations for antennas for the one they will be using and two potential other locations. She would be happy to answer any questions. In response to Mr. Dotson's question about the Buckingham Circle reference she noted the names of the Verizon Wireless sites are arbitrary and selected by their RF engineers just to give a frame of reference. Therefore, it really was not referring to visibility from that neighborhood but just for reference.

Mr. Morris invited questions for the applicant.

Mr. Smith asked who receives the remuneration for rent this project's lease.

Ms. Schweller replied she believed the lease is with the Commonwealth.

Mr. Smith asked when the balloon test was done.

Ms. Schweller replied the balloon test was done the first week of October around the 8th.

Ms. Baldwin pointed out the balloon test was done on September 12th.

Mr. Smith asked were the commissioners notified.

Ms. Baldwin replied that she was not positive that the Commissioners were notified. However, she knew the Architectural Review Board was.

Mr. Smith pointed out he was not notified of the balloon test.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Mr. Loach noted to be honest he thought this monopine is dumb and they should just put the pole up. He questioned why the Department of Forestry would want to look outside their window and see a plastic Christmas tree going up 110'. It kind of puzzles him. However, he did not know how they would craft language. He thought that it is needed. The visibility is only towards the Department of Forestry, but he did not want to see a monopine there. He would support the lovely java brown going up, but not a phony tree.

Mr. Dotson said one of benefits he could see of this is that it might have a tourism value. Since it would be unique people might want to come and see it. He did not know. He thought they could handle the traffic impacts. He was concerned about the precedent of the mono pine and was concerned about the precedent of not complying with or even coming close to the reference tree. The reason he asked about visibility is that the Department of Forestry and Mines, Minerals and Energy are located there. It is a public street and people will see this rather huge tower right at the edge of the public street. While it has limited visibility from more distant sites it has got extreme visibility from the interior. Therefore, he will not be able to support it.

Mr. Franco echoed Mr. Loach's comment that it is silly. He thinks they need the service and it is an appropriate site to have a pole. However, he did think it is silly to have it dressed up like a tree because it brings more attention to it than a pole would.

Mr. Smith suggested they ask the applicant if it would fly if was not a tree. He asked if the Forestry Department would approve it if it was not a tree.

Ms. Schweller replied that she can't say for sure. It was a requirement in part of their lease. Therefore, they would have to go back with them and discuss it.

Mr. Dotson noted that several of the Commissioners have said there is a facility needed in this general vicinity. He asked if they have exhausted all other potential locations that might comply with the ordinance.

Ms. Schweller replied that the way the process works is the RF engineer identifies the general area where the service is needed. Then our site acquisition people look at lots of different properties and identify those that would serve basically at that ring. She did not know what the process was for choosing this particular site. She referred the question to Stephen Waller, zoning consultant.

Stephen Waller, consultant with GDN Sipes, said he had been working with Verizon Wireless, on this site since 2008. The reason this site is called Buckingham Circle is because there is a huge dead spot for service providers in there. There is a site on the opposite side of the street called Gold Eagle, which is the site the Commission approved for an extension of a brown monopole sometime earlier this year. Even with that site the service still does not get into the Buckingham Circle neighborhood and on that back side going out to Fontaine Road Extended. He made the following points:

- This location was chosen by the RF engineers because of its height above Buckingham Circle and its ability to shoot into that neighborhood. The other site is on the other side of I-64 from Buckingham Circle. When they go into the Forestry Department they will notice it is uphill. They have a site that has good topography and good elevation above the target area that they are really trying to shoot into and they also have a situation where they have property that is large enough to set the site away from any property lines and basically be interior to their property. It really is a combination of everything. Everything just worked to where this site is the best location for it. To try to go back down to the Fontaine Research Park and get on to one of the rooftops they still have the hill that rises up to the Forestry Department so they are still not getting into that Buckingham Circle area. Therefore, that site does not really serve its whole purpose of getting onto that side of I-64 as well.
- Personal wireless service facilities are hypothetically allowed in every zoning district. However, if they really want to plop it down into Buckingham Circle first they would have to find a property that would be large enough to place a facility and meet the setbacks. Then they also have to deal with the neighborhood association and things of that nature. Going back and picking up this site from 2008 with the Forestry Department and having their input is great. This is like a pilot site for them. They feel if it works and that the design is proper then it could fit in some other areas throughout their property.
- When they went through the ARB process they understood that it is not an end all, be all solution for Albemarle County. But, it also gave them an opportunity to kind of partner with them. He was not sure if it is fully explained in the staff report but the design of this particular monopole that they are proposing is also based off of a design that was put in place on the property of the Greenbrier Resort in White Sulfur, West Virginia. It is on the National Historic Registry.
- The discussion of java brown came up, but the amount of money that is being put into this site that kind of sets it apart from other monopines you see is taken up in a lot of the design aspects. Instead of having just a painted pole with fake branches on it, the pole would be wrapped in fake bark. So it will have the texture of bark. There are some photos that they provided to staff that did not come across in the staff report. There are several before and after photos where they see the pole and the branches and all of the parts that go into it lying on the ground. It conveys how much money and work that is put into this particular design, which again was accepted by the West Virginia Department of Historic Resources to go on that nationally recognized historic property.
- The Department of Forestry visited five sites. There are others nearby at Mont Pelier, Mount Vernon, and Colonial Williamsburg. When they visited the site that Verizon Wireless built at the Greenbrier Resort they decided that was the design they wanted to have. This is where they are in that part of the process with having a lease where they were told that this is the design they wanted them to have in order to further the lease. So they are in a situation where they are trying to please the state by providing the design they basically mandated within the leasing process, but also trying to provide service in this area to these customers in the Buckingham Circle area who again happen to have very spotty coverage if any coverage or accessibility to any of the carriers that are providing locally. This is how they got here.

Mr. Dotson asked if they were approved for a monopole that was not a monopine then would the flat panel antennas be a possibility as opposed to the type that are proposed here. He thinks it was necessitated because of the camouflage.

Mr. Waller replied it would be possible to do that. However, any time you can increase the number of antennas from the flush mount design from a coverage area standpoint with all those aspects of performance the coverage and level of service provided is going to be better. Right now because they were looking at doing a design that would have the branches on it to cover up the antennas and then have the antennas colored to fade away within those branches the Verizon Wireless design was based

off of having a full sector with 9 to 12 antennas. Another part with dealing with flush mounted antennas is the antennas are set up in sectors. There are three sectors at a standard site. If they have one antenna pointing in that one direction and it has two types of service combined within that one antenna, then if that one antenna goes down then they lose both of those services pointing in that direction. Basically, the beam spreads out like a pie shape to try to connect those three sectors based on those three antennas. So if one antenna goes out in a standard flush mount there is going to be an amount of time where everyone who is getting service off of that one antenna is going to suffer a loss of coverage. There are several reasons why there is a preference for more antennas. With the understanding that they can't just go up and do a full array in working with the Forestry Department there was an effort to disguise that array.

Mr. Smith asked how they would climb the tower.

Mr. Waller replied that it would be pretty much the same way that a climber would climb a tree. The photos provided with the existing tower shows the different phases of assembly. It shows the different places where there are holes in the antennas. Another interesting fact is in the beginning when the tower goes up the branches on the lower ends because there is no other carrier who has identified that they will use this tower yet and if another carrier can make use of this location and use of the lower heights he was sure it was something they would look into using. However, as of right now basically the design that they are using for three levels is the same as the one that is done at the Greenbrier. Any future carriers would have to get their own ground lease with the Forestry Department. Verizon Wireless does not make money off of leasing tower space. They make money by having the best coverage available to their customers. In the future if someone else did want to come in and co-locate below those denser branches would be replaced with a wider set of branches so those branches could then cover those lower antennas. It is pretty much a situation where that is how it is maintained. They would have to pay to replace those original branches for branches that are planned to provide screening to additional antennas from theirs.

Mr. Loach asked staff to bring up on the screen Attachment D. It is the picture that shows the monopine from the Forestry Department. His viewpoint is that is the most important view. He could see if they were trying to use this monopine to the right in the cluster of trees to make it less visible. However, where the monopine is proposed right now it just reminds him of something from back from the early science fiction movies where a tree got a nuclear radiation and not is coming back for revenge. It just looks so unnatural. With that said he does not mind the pole. He could live with the pole because he thinks that is reasonable.

Mr. Franco noted with that said his understanding from outside the property it has little to no visual impact. This picture is from within the property. So while he thinks it is silly he thinks it is the landowner's decision.

Mr. Morris agreed with Mr. Franco. It sounds like they are in between a rock and a hard place. They have really done a lot of research on this. This is what the property owner wants. The ARB has given their approval. If they go back to just a solid pole they are probably putting them back a good two years. That was a guess on his part.

Mr. Franco noted he was less concerned about the time period and all of those things. Again, he thinks service is important. However, if it is only impacting the owner of the property, it is still the state in this particular case, and then he leaves that up to them. That said he would like to make a motion.

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of SP-2012-00024 Virginia Department of Forestry "Buckingham" Verizon Wireless Tier III PWSF with the conditions outlined in the staff report.

Mr. Morris asked to modify the motion slightly that they choose to recommend approval.

Mr. Franco agreed.

The motion passed by a vote of 4:2. (Dotson & Loach voted nay)

Mr. Morris noted that SP-2012-00024 Virginia Department of Forestry "Buckingham" Verizon Wireless Tier III PWSF would go to the Board of Supervisors on November 14, 2012 with a recommendation for approval subject to the conditions outlined in the staff report, as follows,

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Buckingham Circle Rawland Monopine," with a final zoning drawing submittal date of 9/25/12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
   a. Height
   b. Mounting height
   c. Antenna type
   d. Number of antenna
   e. Color
   f. Location of ground equipment

   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

Motion: Mr. Franco moved and Mr. Smith seconded to make a recommendation to the Board of Supervisors to approve modifications for Sections 5.1.40(c)(3), (d)(5) and (d)(6) under the special exception criteria of Section 31.8 of the Zoning Ordinance for SP-2012-00024 Virginia Department of Forestry "Buckingham" Verizon Wireless Tier III PWSF for reasons outlined in the staff report.

Mr. Kamptner clarified that in looking at the drawing the D5 special exception the staff report noted that it was going to allow an increase in the diameter of the base. It looks like they also need to be allowed to expand the diameter at the height of the pole.

Ms. Baldwin pointed out it was her understanding that is okay and within the regulations.

Mr. Kamptner noted the drawing shows 2' and the regulations put a limit of 18" at the top of the monopole.

Ms. Baldwin agreed that it needs to be clarified that it needs to meet that.

Mr. Kamptner noted there was one other special exception that was needed for one other provision, which he did not write down that they discussed.

Mr. Morris pointed out it was the height of the structure in relation to the reference tree.

Mr. Franco noted it was the height and the color.

Mr. Kamptner noted between now and when this goes to the Board staff can work with the applicant regarding the color of the pole itself, the branches, and the needles so that all of those issues are clear.

Amended Motion: Mr. Franco amended the motion as it stands with an addition to include the two recommendations as staff works them out to address color and diameter of the pole.

Mr. Smith seconded the amendment to the motion.

The motion passed by a vote of 4:2. (Dotson & Loach voted nay)

Mr. Morris noted the modifications for SP-2012-00024 Virginia Department of Forestry "Buckingham" Verizon Wireless Tier III PWSF would go to the Board of Supervisors on November 14, 2012 with a

recommendation for approval of the modifications for special exceptions of this personal wireless service facility as proposed with an addition to include the two recommendations as staff works them out to address the color and diameter of the pole.

1. Section 5.1.40c)(3) – no antenna to project more than 12 inches from a structure
2. Section 5.1.40(d)(5)-maximum base of the diameter
3. Section 5.1.40(d)(6)-height of the structure in relation to the reference tree.

**SP-2012-00025 Verizon Wireless – Piedmont College – Tier III PWSF**

PROPOSAL: Tier III personal wireless service facility on 157.49 acres. No dwellings proposed.
ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: Chapter 18 Section 10.2.2.48 of the Albemarle County Code, which allows for Tier III personal wireless service facilities (reference 5.1.40)
ENTRANCE CORRIDOR OVERLAY DISTRICT: To protect properties of historic, architectural, or cultural significance from visual impacts of development along routes of tourist access: Yes
COMPREHENSIVE PLAN: Institutional, Neighborhood 4, Institutional uses allow for a range of public uses including schools, universities and public recreational facilities. LOCATION: 1800 Monticello Avenue (Route 20)
TAX MAP/PARCEL: 07700-00-00-02500
MAGISTERIAL DISTRICT: Scottsville (Brent Nelson)

Brent Nelson presented a PowerPoint presentation to summarize the staff report.

- This is a proposal to install a Tier III personal wireless service treetop facility on tax map 77, parcel 75 located at 1800 Monticello Road. The applicant, Verizon, is proposing to install a 90 foot tall Tier III Personal Wireless Service Treetop Facility, along with associated ground equipment. The top of the proposed monopole will be 14 feet above the 78 foot tall reference tree, indentified as a 24" caliper Pecan.
- The proposed facility is to be located on a 158 acre parcel split by the I-64/Route 20 interchange with the proposed facility located in the northwest corner, north of I-64. The parcel is mostly wooded and home to the Piedmont House rehabilitation facility. The wireless facility is to be located approximately 165 feet west of the Route 20 right-of-way at the edge of the lawn surrounding Piedmont House. The property is adjacent to the Charlottesville city limits and surrounded by areas both urban and rural in character with developments that include Piedmont Virginia Community College. The existing access drive is used to access the proposed facility.
- A balloon test was conducted on August 29, 2012. During the site visit, staff observed a balloon that was floated at the approximate height of the proposed monopole. Routes 20 and I-64 were traveled to determine the extent of visibility of the proposal. The balloon was only visible just above treetops, and for a very short duration, along Route 20 (just south of the interchange with I-64) as shown in the photo taken by staff and along I-64 (just east of the interchange with Route 20) as shown in the photo. While the balloon did not have a wooded backdrop in both locations, the height of the balloon was such that the lack of backdrop did not have a negative impact. It is Staff's opinion that at the fourteen foot height, the low level of visibility is not expected to have a negative impact on the Entrance Corridors, the Route 20 Virginia Scenic Byway and nearby properties.

Factors Favorable:

- The monopole is located so that it is only visible right at treetop level and for a short duration along Routes 20 & I-64.
- The Architectural Review Board staff has recommended approval based on minimal visibility from the Route 20 & I-64 Entrance Corridors.

Factors Unfavorable:

- The proposal is within the Route 20 Virginia Byways Overlay District. The impact is mitigated by the limited visibility of the site.

Recommendation: Staff recommends approval of this facility at fourteen (14) feet above the tallest tree with the conditions outlined in the staff report.

The Planning Commission's role in this case is the following:

- To recommend approval or denial of modifications for Section 5.1.40 (d)(6) of the Zoning Ordinance.
- To recommend approval or denial of the special use permit for this Tier III personal wireless service facility.

Mr. Morris invited questions for staff. There being none, the public hearing was opened and the applicant was invited to come forward and address the Commission.

Laurie Schweller, representative for Verizon Wireless, said even though this parcel is along the scenic byway of Route 20 there is such a minimal visual impact that they did not see the one negative impact as a negative. Therefore, there are only positive factors here. It might help their deliberations to note that for Alltel in February of 2009 this site was approved as a Tier II treetop facility because by their measurements they determined that it met the qualifications. When they merged with Alltel and took over this site Verizon Wireless did another tree survey and determined that the reference tree is actually 14' taller than the proposed 90' monopole. Because of that they are requesting a recommendation for a Tier III approval. That is the only requirement under the ordinance for which they are requesting any modification. Otherwise, it is perfectly in line with a Tier II personal wireless service facility.

Mr. Morris invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Randolph and Mr. Dotson seconded to recommend approval of granting the modification of Section 5.1.40(d) of the Zoning Ordinance for SP-2012-00025 Verizon Piedmont College Tier III PWSF to allow the special exception for a Tier III personal wireless service facility at fourteen (14) feet above the reference tree for reasons outlined in the staff report.

The motion passed by a vote of 6:0.

Mr. Morris noted the modification for SP-2012-00025 Verizon Piedmont College Tier III PWSF would go to the Board of Supervisors on November 14, 2012 with a recommendation for approval.

Motion: Mr. Randolph moved and Mr. Dotson seconded to recommend approval of SP-2012-00025 Verizon Piedmont College Tier III PWSF with the conditions outlined in the staff report.

The motion passed by a vote of 6:0.

Mr. Morris noted that SP-2012-00025 Verizon Piedmont College Tier III PWSF would go to the Board of Supervisors on November 14, 2012 with a recommendation for approval, as follows:

The Planning Commission, by a vote of 6:0, recommends approval of SP-2012-00025 Verizon Wireless – Piedmont College – Tier III PWSF subject to the conditions outlined in the staff report, as follows,

Development and use shall be in general accord with the conceptual plan titled "Piedmont College Rawland Monopole (University of VA Real Estate Foundation Property) prepared by Justin Yoon latest revision date 9/25/12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan.:

- Height
- Mounting type
- Antenna type
- Number of antenna
- Distance above reference tree
- Color
- Location of ground equipment and monopole

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

The Planning Commission recessed at 6:57 p.m. and the meeting reconvened at 7:02 p.m.

**Public Hearing**:

**ZTA-2010-00004 Industrial Uses** – Amend Secs. 3.1, Definitions, 4.14.5, Certified engineer's report, 5.1.10, Junk yards, 5.1.15, Sawmill, temporary or permanent, 5.1.20, Sale and/or storage of petroleum products including kerosene, gasoline, and heating oil, 5.1.21, Dwellings in commercial and industrial districts, 5.1.31, Body shop, 8.5.5.2, Review of site plans and subdivision plats, 26.1, Intent, where permitted, 26.3, Permitted and accessory uses and structures, 26.6, Height regulations, 26.10, Minimum yards requirements, 27.1, Intent, where permitted, 27.2, Permitted uses, 27.4, Additional requirement, 28.1, Intent, where permitted, 28.2, Permitted uses, 28.4, Additional requirements, 29.1, Intent, where permitted, 29.2, Permitted uses, 29.5, Additional requirements; by adding Secs. 5.1.49, Dry cleaning plants, 5.1.50, Foundries, 5.1.51, Outdoor activities, 5.1.52, Outdoor storage, 5.1.53, Rendering facilities, 5.1.54, Slaughterhouses, 5.1.55, Tire recycling yards, 26.6, Site development and use; and by repealing Secs. 26.2, Application, 26.4, Standard ratios, 26.5, Off-street parking and loading requirements, 26.7, Performance standards, 26.8, Sign regulations, 26.9, Minimum landscaped area, 26.11, Utility requirements, 26.12, Site planning – external relationships, 26.12.1, Vehicular access, 26.13, Building separation, 27.2.1, By right, 27.2.2, By special use permit, 27.3, Minimum area required for establishment of district, 28.2.1, By right, 28.2.2, By special use permit, 28.3, Minimum area required for establishment of district, 29.2.1, By right – Category I, 29.2.2, By special use permit – Category I , 29.2.3, By right – Category II, 29.2.4, By special use permit – Category II, 29.3, Minimum area required for creation of district, 29.4, Number of permitted uses; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the regulations pertaining to industrial uses by adding definitions pertaining to certain industrial and common use classifications (3.1); amend the requirements for the certified engineer's report (4.14.5); amend and add supplemental regulations applicable to several uses that are industrial in character (5.1.10, 5.1.15, 5.1.20, 5.1.21, 5.1.31; 5.1.49, 5.1.50, 5.1.51, 5.1.52, 5.1.53, 5.1.54, 5.1.55); amend the regulations for the review of site plans and subdivision plats within the PD-IP zoning district (8.5.5.2); and amend the industrial zoning district regulations by revising each district's stated intent, the uses allowed by right and by special use permit, the area of certain uses allowed by right and by special exception, the accessory uses allowed and prohibited, and other uses prohibited, by renumbering and reorganizing those district regulations, and by repealing certain regulations (26.1 through 29.4).

Mr. Cilimberg presented a PowerPoint presentation and summarized the staff report. This has been an initiative underway for more than two years. There have been prior phases of amendment that has been enacted that put into place, as an example, the performance standard updates. This is dealing with industrial uses and how to hopefully modernize our ordinance to deal with the kinds of businesses and industrial activities in today's world. Most recently back in May they had a work session on this particular zoning text amendment. The Planning Commission provided some direction, which staff has followed up since and have covered in the staff report. He would not get into all of the particulars but certainly can answer any questions the Commission might have regarding what they have covered in the staff report.

**Background and Efforts-to-Date**

Efforts to amend the Industrial Districts have occurred simultaneously with the review of the Target Industry Study and update to the Comprehensive Plan:

- BOS passed Phase I of Industrial ZTA (6/2/2010)
- BOS adoption of Economic Vitality Action Plan (8/2010)
- BOS passed Phase II of Industrial ZTA (1/11/2011)
- BOS discussion of results from Target Industry Study (3/2/2011)
- Industrial and Interstate Interchange Roundtable for Comprehensive Plan Update (11/28/2011)
- PC Worksession on Phase III of Industrial ZTA (1/31/2012)
- 2nd Worksession on Phase III of Industrial ZTA (5/15/2012)

**Objective**

- To modernize the industrial regulations to provide greater flexibility for today's industrial uses while preserving the integrity of the industrial districts and accommodating target industries.

**New Ordinance Language**

- Moves to "broad categories" of by-right industrial uses and specifically lists other uses that may be subject to special use permit or treated differently than by-right in some cases.
- Provides for industries noted in the Target Industry Study
- Broadens by-right uses and expands opportunities for "blending" industrial and commercial uses (commercial in industrial; industrial in commercial)

**Broad Categories**

Most new industrial uses will fall under the following general categories.

| Use | LI | HI | PD-IP Cat. 1 | PD-IP Cat. 2 |
|---|---|---|---|---|
| Manufacturing/Processing/Assembly/Fabrication/Recycling (Includes Agribusiness and Food Processing Target Industry) | BR | BR | BR | BR |
| Storage/Warehousing/Distribution/Transportation (Includes Data Center and Agribusiness and Food Processing Target Industries) | BR | BR | BR | BR |
| Laboratories/Research and Development/Experimental Testing (Includes Biosciences/Medical Devices and Information Technology and Defense Security Target Industries) | BR | BR | BR | BR |

The resolution of intent before the Commission tonight covers allowing industrial in commercial districts and they would bring back that language to the Commission next month. It is a fairly quick matter they can deal with, but one the Commission presented at their last work session and agreed they should move forward with.

Mr. Cilimberg quickly reviewed the essence of the amendments were about. There was a lot done to address bringing language in the ordinance up-to-date more from a housekeeping perspective. Obviously there were a number of changes that dealt with uses themselves. The three broad categories of uses are shown. He noted, too, where particular target industries would fit under these broad categories of by-right uses. These are not the only uses that would be allowed in those categories. He just wanted to point out as an example in the manufacturing/processing/assembly/fabrication/recycling category that would include agribusiness and food processing target industries. Again, noted here as well are other activities, businesses under the target industries for the county that would be allowed by right through the general categories.

Under each category are also a number of uses that either will not be allowed or allowed by special use permit in the different districts. Those are listed separately. He did not go over each one of them. However, they are grouped under the broader categories of industrial use types. One use type that does not have any uses listed that are otherwise not by right is the laboratories/research and development and experimental testing. This is really a combination of a number of types of uses that existed in the

ordinance previously either by special use permit or by right. They did include in the ordinance definitions for this particular area because this has a specific and particular relevancy to the target industries for the county. Then there is the question of office uses, which has come up previously in the work sessions. They have tried to address offices that would have some kind of relationship to industry differently than offices that might exist independent of industry, such as a doctor's office, but without completely removing any by-right status for independent office. Currently some do exist in industrial areas and they did not want to create an automatic nonconformity in the ordinance.

They identified independent offices at a square footage size that they felt was reasonable to allow independent office uses by-right either under existing circumstances or in the future. But, also for those that would get larger than 3,000 square feet to have a provision for a special exception. That is a process that is rather new in the county but has essentially involved the staff making recommendation to the Board of Supervisors for approval in some cases. They also could be recommending denial. The denials they would probably see in the special exception process, whereas the approvals would go directly to the Board. In this case they have made one modification tonight that they would like the Commission to include in an action in making a recommendation to the Board that the 3,000 square feet is going to be based rather than based on a building size. Essentially it is a 3,000 square foot limit to the individual use at the site that can be by-right. Above that would be special exception. There would be a continuing allowance for industrial offices, which are offices operating in conjunction with the industry. That is all by-right. Then their supporting offices as well that have a percentage of gross floor area that is allowed as they might support the primary industry operating at a site.

On the commercial use side they have the possibility that the Commission had agreed they would want to move forward of C-1, CO and HC uses being permitted in the industrial districts by special use permit. That is on the first line in the presentation chart of the particular commercial uses. There are other uses allowed that are allowed by special use permit. Much of this is retaining what already exists in the ordinance today. In both cases they are increasing the percentage of gross floor area if possible. This is particularly important for the subordinate retail sales because it really allows a business producing something to retail the sale of that product at their industrial location. In both cases they are proposing that a 25% area be available by-right and above that is a special exception.

Previously staff talked about one new residential use possibility for multi-family dwellings. That is not available today. The idea is multi-family dwellings might be a good fit for having employees live close to where they work in some industrial locations, particularly in a larger complex of industrial. That is a special use permit in the LI District. It is not allowed in the HI district.

The Summary Table really summarizes what he just mentioned in terms of what is currently allowed and what is proposed. Basically it is to show how the particular kinds of uses of office, commercial and residential could now be allowed through either by-right or special exception under the proposal. As well they talk here about what would be proposed under a subsequent amendment that would allow the industrial uses from the by-right categories in the Highway Commercial (HC), C-1 and Commercial Office Districts. That would be the subject of the resolution of intent tonight and the particulars would be brought in a subsequent hearing. This staff was hearing in their latest Round Table would open up possibilities for small start up industrial type uses to have more location possibilities. They think this is also a good addition to their allowances and one the Commission did initially see in the last work session. There are other uses that already exist in the ordinance that are still specified for various types of activities both public and private.

There is a list of prohibited uses, which they don't have now in the ordinance. This they think is a valuable addition so that there is an understanding of those kinds of industrial activities that would not be allowed.

**Prohibited Uses**

1. Incinerators. The establishment or use of an incinerator.
2. Manufacture of certain products.
3. Sludge. The storage of sludge.
4. Toxic wastes. The disposal or storage of toxic wastes regulated under the federal Toxic Substances Control Act (15 U.S.C. § 2601 et seq.).

**(See Attachment D and Attachment F at end of minutes)**

**Recommendations**

- Approval of ZTA-2010-00004 (Attachment D of Staff Report) inclusive of modifications to refer to rural areas district rather than agricultural district in 26.4 Minimum yards and refer to GFA (gross floor area) of use rather than of building for independent offices in the office use table. This was pointed out in Marcia Joseph's email that staff feels should be modified before it is enacted.
- Approval of Resolution of Intent re: by-right industrial uses in commercial districts as outlined in the staff report's Attachment F

Mr. Morris invited questions for staff.

Mr. Loach asked what controls are there regarding the uses for laboratory, research and development. He asked if they would allow is somebody wanted to come in and do experiments with dangerous biological or radiologist material. He asked if that would be by-right.

Mr. Cilimberg replied that they have the recently updated performance standards for industrial uses. They also have the prohibited activities, which include toxic wastes. He referred to Ms. McCulley in terms of how they might treat something such as biological materials.

Ms. McCulley replied that is correct. The performance standards would apply and then anything that would be one of the prohibited uses as far as laboratory activity would not be permitted.

Mr. Cilimberg noted that biotech is a targeted industry. So there is an element of that type.

Mr. Loach noted he understand biotech in making pharmaceuticals and that. His worry is suppose the government wanted to come down and set up a research center.

Mr. Cilimberg pointed out the federal government is not subject to our land use laws. Therefore, our districts don't make a difference to them.

Mr. Loach pointed out he wanted to make sure there were some controls.

Mr. Dotson asked how what the person spoke about at the beginning of the meeting intersects with what he just summarized.

Mr. Cilimberg replied the towing business now has become part of the general by-right category for storage, warehousing, distribution and transportation. As noted in a table distributed at a prior work session, towing and storage of motor vehicles used to be by special use permit in the LI District. Temporary storage of motor vehicles, which had a nuance of difference, was by right in the HI District previously. Now essentially the towing type business, as well as body shops, is a by-right use under the general categories. He did not believe the person who spoke at the beginning of the meeting was at their roundtable. But, they did have a couple of towing business interests that came and they did talk some about that. Those persons understood how that was being handled.

Mr. Franco asked how it applies in the prohibited uses under toxic waste the disposal and storage. He noted that a dentist office might have chemical waste that have to be stored and disposed of properly. Is that considered storage if they have a temporary storage.

Mr. Cilimberg noted that would be like the box outside the dentist office.

Ms. McCulley replied that would not apply and that certainly is not the intent. For background, they followed a lot of ordinances, for example in the research triangle. A lot of what they see is what Raleigh, North Carolina has their prohibited uses. For small amounts of by-products of what was classified as toxic waste that is not going to be considered something that would be prohibited because that is an

accessory by-product of the main use.

Mr. Franco said it was doing something with toxic waste as opposed to generating it.

Ms. McCulley replied that was correct.

Mr. Randolph commended staff on all of the work. What they have right now is clearly a cubby hole system because for each use there is one zoning cubby hole for it. What they have talked about in previous discussions is how much they have tried to suggest and how staff has tried to respond in a very sincere thorough manner to provide flexibility and adaptation. However, as he read through the minutes he was not convinced that they are quite there yet. The reason he says that is tonight they are really focusing more on the zoning aspects about use and he thinks they ought to be focusing on scale and impact. What Mr. Dotson suggested earlier about a flex zone he thought was valuable because it does allow a variety of different businesses to operate no matter whether the business is commercial, light industrial, etc. but not residential, which needs a formula approach in measuring those businesses by square footage and percentage of use. They could look at that flex zone and basically say that a business could be there if the scale is small, the impact is small, and the primary and secondary uses are consistent with the goals and objectives for the county in terms of businesses coming in and start ups being initiated. Then it would be by-right in that situation. Where the scale gets to be larger he would depend on a wordsmith, like Mr. Cilimberg and Mr. Kamptner to put that together and define what small would actually be. It would have to be quantified. A special use permit would be needed if the use impacts and scale get out of the small category. They do not want the process to be too complicated since they need to minimize the time and money for the applicant and the county so they can get to the place they want to be. He suggested that there might be a better way to do it to make it more simplified for applicants and staff.

Mr. Loach said he would like to see if this matrix could be applied to an overlay of the master planned areas where it was applicable. That way the advisory councils could have looked at what the potential is for development and to look at the size and scale to make it more flexible for use. It is important that they know how this is going to fit.

Mr. Cilimberg pointed out that staff has discussed a lot of what the Commission has talked about in the best and quickest way to get there. They are dealing with a lot of acreage that is already zoned. So they had to really be cognitive of trying to modify existing zoning districts to work for properties that are already zoned so that they are not faced with going through a rezoning process to get to something that is different in structure than what they've recommended to the Commission. So they have that fact that they have a lot of LI and HI zoning as well as a lot of commercial zoning and they did not want to put those properties through rezoning process. They were trying to adapt the existing districts to existing zoning and give more flexibility for them. Having to go through an actual zoning map amendment process on a lot of these properties to get them into a more flexible kind of district is actually adding cost and time. That was one objective in how they approached this. Secondly, for those properties that would come through for rezoning that are not already zoned they really are relying on the comprehensive plan and the master plans to guide how those zoning approvals would enable the property owners to develop their property. Then they can apply the proper zoning district as well as the allowances under that district as those properties seek rezoning. That is where they really then overlay the district they may be asking for as they do in all rezoning approvals. They would overlay that district request with the actual land use or master plan that applies. They did not go into this effort with the idea of overhauling all of the zoning districts and readopting zoning maps because that was not a direction the Board gave them in the beginning. The Board really wanted to create more flexibility with the districts they had. That has been their priority approach in trying to address the need to make the districts work a little more easily for people and at the same time recognizing it as they create these new allowances. They can then use those in combination with land use plans and master plans for those new proposals or new rezoning requests that come in so the Commission and Board could then see in the requests are doing what Mr. Loach mentioned. That is adequately fitting within the land use plan. It would be pretty difficult to anticipate every kind of size and impact for every existing industrial district and figure out how to rezone it to be more in keeping with what is appropriate in that particular area. That would take a lot of time and would have an effect on property owners. If they were starting with scratch where they had a comp plan

and they really did not have business, industrial and commercial districts at all, he thinks they could do a lot of what he was saying. They would have the land use plan to essentially form the zoning over. They don't have that luxury because of the acres that are already zoned. That is why they have taken this approach.

Ms. McCulley pointed out with regards to the office use there is no event that sends someone to a special use permit for an office use. Every situation where they exceed the 3,000 square feet it is a special exception, which is a much simplified process than a special use permit. They were cognizant of the major change they were making with regards to office use and try to think what an appropriately reasonable streamline process was for that. That is what they came up with for the special exception.

Mr. Cilimberg pointed out one example of how this can work a little more easily for a property owner was Ms. Albrecht's request for the rezoning of an industrial property to Neighborhood Model. The whole basis in staff recommending that Neighborhood Model zoning for that property was the fact that it reflected the Places29 Master Plan in what she was proposing to do. These amendments would have allowed her to do it without going through that rezoning process. That is an example of how they think this provides better opportunity to fit circumstances for people. They always still have the master plans kind of as a basis for the land use plans. That is where they see the zoning changes interacting with the plans to create potential for landowners to exercise a little flexibility in the use of their properties. In a different area of Places29 they would not have recommended an approval. He thought that reflects in small part some of what Mr. Loach was saying as to how they try to match the use with the plan through the zoning.

Mr. Loach said his point would be that if in fact because of the changes in this ordinance there would be a dramatic expansion of the types of uses of the land in the master planned area that at least at the advisory council level they should be aware what the potential is for those significant changes. They are talking about flexibility on one hand, but he could also appreciate the neighbors and residents in the area who bought in the area under the pretext of the zoning when they moved in and now the rules have changed.

Mr. Franco noted in the staff report it used the term site. However, he did not see it defined. He was trying to understand when you limit square footage to the site what happens if a townhouse property was subdivided so that one building could have a number of different parcels and ownerships. Is that multiple sites at that point or is it still one site.

Mr. Kamptner replied that the term site is actually defined in a different zoning text amendment that is working its way through. It may be in the site plan process zoning text amendment, which was adopted by the Board. Site was intended to address the situation where they have a single development that is composed of more than one parcel. It is to recognize multiple parcels in particular circumstances.

Mr. Franco said if he did a unified plan and had a number of buildings he would be limited to 3,000 square feet for that development without having to go to a special exception. However, if he subdivided first and then do the same development he could arguably have more.

Ms. McCulley noted that 3,000 square feet applies to each individual office use. On one site or one tax map/parcel you can have a building with multiple individual separate business uses/office uses that each are up to the 3,000 square feet. So there is not a cap and it is per separate office entity. They had that same discussion today. It is a little bit confusing. They might need to find some language that clarifies it a little better.

Mr. Franco said that would help. He commented on the multi-family. He is dealing with some sites in the city now. If they are to go this route and allow multi-family or residential in there, is there a reason not to include single-family attached.

Mr. Cilimberg replied that they did not because they were thinking of building type that they would typically think would be industrial or business and that multi-family would be in its form more like industrial buildings than say townhouses would be.

Mr. Franco pointed out when he thinks about Downtown Charlottesville and the Eck's building that was industrial at one point in time and the worker housing that is adjacent to it that is all single-family detached. It seems like if they are thinking about what he described, which was creating an opportunity then expanding that to allow for townhouses and/or single-family attached would make a certain amount of sense.

Mr. Cilimberg said if that is something the Commission would want to recommend they could certainly make sure that was included in an amendment. They were being somewhat careful since they had never really been in the residential uses other than the sleeping quarter kind of uses in industrial areas.

Mr. Dotson noted there were complex objectives here. It is a matter of balancing different ones. However, one he understands is that they have a certain amount of industrial land and they don't want to use that up with non-industrial uses. They want to be protective, but at the same time they want to be flexible and allow some commercial and other kinds of uses in there. They have come up with these definitions like supporting, subordinate and industrial offices, which could even be in the City of Charlottesville, etc. That strikes him as really complicated, confusing and maybe difficult to administer. He tried to think about is there a way they could protect the industrial land, allow flexibility, and not be so complicated. What he came up with is to take a site and figure out the ground area that would actually be developable. They would take out the setbacks, the landscaping, the parking and the circulation. He suggested they keep at least 75% of that ground area for industrial uses and the other 25% could be used for office. If they wanted more office, then they could go up to two stories. It would not limit the square footage, but would protect the industrial footprint which he thought was one of the most important objectives. If something like that could work maybe they would not have to get into these definitions of supporting and subordinate where they have to make a judgment and if it is related. Maybe it was related to the use at the time it was built, but now a new user has come in and all of a sudden it was no longer in conformity. This seems to be fraught with confusion potentially. The objective is to protect places to put industry so let's 75 percent of the footprint area.

Mr. Franco noted his reaction to that is that there is a lot of time and effort that has gone into this. He would hate to change track mid-way on what they are doing. To protect that 75 percent they wrote off 25 percent allowing those other uses to go in automatically. He did not think this does that. It makes a provision for those uses to come in, but it still preserve arguably 100 percent of that footprint to be used for the industrial type uses. So they have not completely written it off.

Mr. Morris opened the public hearing and invited the public comment since the County is the applicant.

Gary Henry, founder and Executive Director of the Charlottesville Technology Incubator, said it was a mentoring, networking and support nonprofit organization for technology start ups in the area. He was also a management consultant for his own firm and works with a number of technology companies in the area. In his experience he has two relative comments about this particular zoning proposal.

1. There is very little industrial zoned space in the county. That is an issue. In his management consulting capacity he has worked both with Relay Food trying to find a location, which is a very desirable business and a growing one in our area. It was quite difficult looking both in the city and the county to find appropriate space. It was a danger that they would locate outside the area. Also in working with Micro Systems and a licensee of their Siemens Energy who bought the Micro Aire Building. That also came very close to leaving the area because they could not find a suitable building. At the last minute the Micro Aire building became available. He was underscoring the fact that they need to do everything they can to preserve the industrial use or however it is zoned or conceived in the model that there is an opportunity for those kinds of businesses to find an appropriate home. Otherwise, there is so little currently zoned industrial space that they are going to write off in a lot of cases the kinds of jobs that could be created by those startup companies by not having a place for them to reside here in the county.
2. Part of this proposal was also to liberalize what could happen in the commercial districts. Every start up technology company more or less starts out in office space. Even thought they might be making a pharmaceutical they may have a wet lab someplace else not in the office space obviously. They could be a medical device company and they may need to have a variety of different pieces of equipment, but they need to make sure they have flexibility to accommodate

them. Otherwise, they will go someplace else.

John Lowry, Chair of the Economic Development Authority of the county, pointed out he was speaking for the EDA Group who are all volunteers for the county.

- He thanked them for their participation in the rewrite of the comp plan. He sees business land use really as part of that rewrite. Staff has been implementing the economic action plan for 2 ½ years. Among the parts of the implementation are the comp plan rewrite, the rewrite of some of the code regarding zoning, and the Target Industry Study. All of these are parts of hand and glove. The county staff, in his opinion, expertly uses management by objective. What staff has discovered in their planning process is that Albemarle County has a small amount of land useful to business labeled Light Industrial. What the Commission is considering tonight is a codification remedy to that deficiency. He was all in favor of it.
- To get more land zoned usefully to business is one thing, but to keep it that way is another. What staff realized by having round tables and discussions with business people is business land can be gobbled up for purposes that diminish the land supply for targeted industries, as an example. Specifically, commercial buildings and retail uses preempt the true light industry use. They can resolve the conflict by having 25 and 30 percent limits in certain categories of zoned land so the commercial uses in a supporting role and not the primary role. He urged the Commission to agree with this approach.
- Last staff has realized that in order to streamline the process for businesses to get up and running either by-right or by special use permits for land a third leg was needed in the approval stool. If a business use could not get by-right approval and a special use permit seemed too complicated or too expensive then a new category called special exemptions seems appropriate. The special exemptions are administratively approved and then they go to the Board of Supervisors before the exemption was made. This is new to our county, but not to other counties. They are only catching up with what others already do. He encouraged the Commission to agree to this new approach in the code. He thanked them for their constructive thinking in these matters.

Morgan Butler, with the Southern Environmental Law Center, noted this effort is one that has been engaged in over a long period of time. There has been a lot of input into it. He thanked staff for all of their efforts they have undergone to get input most recently being the roundtable of a couple of weeks ago. He commended staff for taking all that input and putting it into ordinance language. It requires close scrutiny.

- As he has made clear throughout this process the SELC supports the idea of adding some flexibility to our industrial zoning districts, but share the concerns that have been voiced tonight by others in the audience. They don't want to inadvertently make it harder for true industrial uses to locate in our industrial districts, which will then increase pressure on the rural areas to open the rural areas up to more industrial uses. They are glad to see staff is considering the idea of allowing some of these industrial uses by right in our commercial zoning districts because they have such a glut of commercially zoned land. He thought that was a very appropriate solution.
- He was also concerned that there are aspects of the ordinance language that are going to inadvertently create some obstacles for those true industrial uses and make it hard for them to compete with some of these more commercial and office oriented uses for our industrially zoned land. He would like to take the time to walk through some of those concerns.
- The office category that is on page 14 of the attachment, he noted the idea that they would allow industrial offices by right makes sense. But when he reads the definition of industrial office he is very concerned that it is so vague that it basically allows any type of office. An office related to and serving an industrial use could conceivably apply to a bank where industrial use has an account. Related to is very difficult to nail down. He suggested that they go with subordinate office for the office uses that would be allowed by right in an industrial uses. Subordinate being an office of an actual industrial use that is located on the site much the same way that subordinate is used in the retail and commercial section.
- On the supporting office part moving from industrial office to supporting office that definition is also very broad. It essentially would allow pretty much any type of office up to 25 percent of the industrial use area on the site. Then they could do anything more with that simply with a special exception. He suggested they consider there is a special use permit required to go above the 25

percent. Also, it would be important to consider how that 25 percent is going to be calculated. If it is calculated at the outset when a proposal or site plan is submitted that allows a situation where the industrial part may never be built and they just get the office.

- Turning to the commercial uses on page 15 he had the same concern that the supporting commercial was very broadly defined. Up to 25 percent of supporting commercial is allowed by right. There are no real limits on what supporting commercial is. If they are going to go above they should consider a special use permit rather than a special exception. He has the same concern that the 25 percent be nailed down based on existing building space as opposed to a proposal. For example, they could say it has to be 25 percent of the industrial area at the time they come in for a certificate of occupancy for the commercial use. That way the industrial part of the development has actually been built out.
- The 25 percent cap in the office and commercial category has no upper cap or limit. They are talking about opening the door to multiple big boxes on the site that would fit within that 25 percent cap. He suggested there be some kind of cap, perhaps 50,000 square feet, on the size of a commercial use that would be allowed pursuant to that 25 percent allowance.

Neil Williamson, with the Free Enterprise Forum, took exception to some of Mr. Butler's comments. While he understands the definition question he thinks one of the missions of this document is to make Albemarle County open for business. The idea of changing from a special exception to a special use perm it makes it harder. Do they want to make it harder? Quite honestly the idea of the 25 percent office space is a good balance. The special exception is there if they want more. The special use permit creates a higher bar. It creates a public hearing. It creates a great upset in the community for what he thinks this community wants, which is career ladder jobs. That is what this is about. This is about making the community open to career jobs, specifically the jobs that Albemarle County helped pay for the TJPED Study to be in here. This lines up with the TJPED Targeted Industries. He encouraged the Commission to pass this. There are things that could be changed in this that would make it better. They have been at it for a long time and it is time to move on it.

Helen Coffin, the new President at Thomas Jefferson Partnership for Economic Development, reiterated what Mr. Williamson said. It is great to see that they are considering the target markets. They are a key sponsor of our target market report. As they take charge and start to implement that it is wonderful to see the commission take this proactive step this evening. She thanked the Commission for all of their thoughtful time and attention to this.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter back before the Commission for discussion.

Mr. Franco asked if the special exception runs with the land or the use.

Mr. Kamptner replied the special exception is quite similar to a special use permit in some respects. Under State law they have the same meaning. They have broken them out. The special use permit pertains to uses that otherwise would not be allowed. The special exceptions came to Albemarle County as a result of the Sinclair case. It was initially the umbrella procedure adopted for all of the existing waivers and modifications that they allowed under the zoning ordinance. Special exceptions are similar to special use permits in it runs with the land and legislative in nature when approved by the Board of Supervisors. They are defined under our ordinance in the legislative process zoning text amendment to deal with among other things, which is relevant to this zoning text amendment, allowing the area of an otherwise by right use to be increased beyond the threshold stated in the ordinance. That is the key role they play here in they allow the area to increase.

Ms. McCulley pointed out special exceptions can be subject to conditions for their approval.

Mr. Kamptner agreed.

Mr. Loach asked if heard that special exceptions are administrative and don't require a public hearing.

Mr. Kamptner replied that only certain types do. One if they are a change in use, which would be a

special use permit. Also, if they increased the bulk or area of a building by more than 50 percent within the distance of an adjoining locality, then the city gets notice of it. In most cases it was going to be the City of Charlottesville. Those are subject to public hearing. The way the special exceptions are set up those should be very rare situations.

Mr. Smith asked if special exceptions are revocable in any way, shape or form.

Mr. Cilimberg replied obviously they are granted for a particular allowance with conditions and there could be a violation. However, he did not know about revocability.

Ms. McCulley noted the county can revoke special use permits for willful noncompliance after a public hearing.

Mr. Kamptner said our ordinance provides that special use permit can be revoked if there is noncompliance with conditions. In his experience where there is noncompliance with a condition they enforce the condition to get compliance.

Mr. Smith asked about the special exception.

Mr. Kamptner replied that the same enabling authority applied to the special exception.

Mr. Randolph asked if the Planning Commission will see every special exception.

Mr. Kamptner replied no. Under the policy for processing special exceptions the commission would see only those where staff is not recommending approval.

Mr. Cilimberg added or where there is a condition the applicant disagrees with.

**Motion**: Mr. Franco moved and Mr. Morris seconded to recommend approval of ZTA-2010-00004 as provided in Attachment D of the staff report inclusive of modifications to refer to rural areas district rather than agricultural district in 26.4 Minimum Yards and refer to GFA of use rather than of building for independent offices in the office use table.

The motion passed by a vote of 6:0.

Mr. Morris noted ZTA-2010-00004 will go before the Board of Supervisors with a recommendation for approval on a date to be determined.

**Motion**: Mr. Franco moved and Mr. Smith for approval of the Resolution of Intent regarding by-right industrial uses in commercial districts as provided in Attachment F of the staff report.

The motion passed by a vote of 6:0.

Mr. Morris noted the Planning Commission approved adoption of the Resolution of Intent regarding by-right industrial uses in commercial districts as provided in Attachment F of the staff report. A ZTA under the resolution of intent will come before the Planning Commission on a date to be determined.

**Deferred Item**

**ZTA-2012-00006 Legislative Review Process Improvements** – Amend Secs. 1.7, Official zoning map, 3.1, Definitions, 4.8.1, Determinations concerning unspecified uses, 4.15.5, Signs authorized by special use permit, 10.5.2, Where permitted by special use permit, 20.1, Intent, where permitted, 20.2, Application, 30.1.2, Application, 30.5.5, Permitted uses by right and special permit, 31.1, Designation of zoning administrator, authority, 34.4, Application for variances, 35.1, Fees; and repeal Secs. 1.9, Application for land use permit; payment of delinquent taxes, 8.5.1, Applications and documents to be submitted, 8.5.2, Preapplication conferences, 8.5.3, Review and recommendation by the planning commission, 8.5.4, Review and action by the board of supervisors; effect of approval, 8.6, Amendments

to planned development districts, 20A.3, Application requirements; required documents and information, 20A.4, Application plans, 31.6, Special use permits, 31.6.1, Reserved to board of supervisors, 31.6.2, Application, 31.6.3, Conditions, 31.6.4, Revocation, 31.8, Special exceptions, and 33 (and its subsections), Amendments; and adding Secs. 33.1, Purpose and intent, 33.2, Uniform requirements for the initiation of zoning text amendments and zoning map amendments, 33.3, Uniform procedures for zoning text amendments and county-initiated zoning map amendments, 33.4, Uniform procedures for owner-initiated zoning map amendments and special use permits, 33.5, Uniform procedures for special exceptions, 33.6, Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval, 33.7, Owner-initiated zoning map amendments; authority to accept proffers, 33.8, Special use permits; relevant factors to be considered; conditions; revocation, 33.9, Special exceptions; relevant factors to be considered; conditions; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the regulations pertaining to the zoning map and its interpretation (1.7); relocate the obligation to pay delinquent taxes as a condition of applying for a land use permit but add and update that obligation (from 1.9 to 33.4 and 34.4); add definitions (3.1); update cross-references to related sections (4.8.1, 4.15.5, 10.5.2, 20.1, 20.2, 30.1.2, 30.5.5); relocate the application requirements, procedures and relevant considerations for planned developments (from 8.5.1 through 8.5.4 and 8.5.6), the neighborhood model district (from 20A.3 and 20A.4), special use permits (from 31.6.1 through 31.6.4) and special exceptions (from 31.8), to section 33 and its subsections; add express authority for the zoning administrator to administer and enforce proffers and to keep and make available a conditional zoning index (31.1), and allow application fees for zoning map amendments and special use permits to be paid when the application is determined to be complete instead of at the time the application is first submitted (35.1). In repealing the existing regulations for zoning map and zoning text amendments in Sec. 33 (current 33.0 through 33.10), this ordinance would consolidate all legislative zoning actions of the board of supervisors in new subsections in Sec. 33 applicable to zoning map amendments, zoning text amendments, special use permits and special exceptions and these subsections would pertain to purpose and intent (33.1), uniform requirements for the initiation of zoning text amendments and zoning map amendments (33.2), uniform procedures for zoning text amendments and county-initiated zoning map amendments (33.3), uniform procedures for owner-initiated zoning map amendments and special use permits (33.4), uniform procedures for special exceptions (33.5), relevant factors to be considered for zoning text amendments and zoning map amendments and the effect of approval (33.6), authority to accept proffers in conjunction with owner-initiated zoning map amendments (33.7), relevant factors to be considered for special use permits and authority to impose conditions and revoke permit (33.8), and relevant factors to be considered for special exceptions and authority to impose conditions (33.9). (Wayne Cilimberg)
DEFERRED FROM THE AUGUST 21, 2012 PLANNING COMMISSION MEETING

Mr. Cilimberg summarized the PowerPoint presentation and staff report for ZTA-2012-00006 Legislative Review Process Improvements. This is a matter which has a lot of history and the Commission has spent a lot of time on. He was not going into the particulars as to how they have tried to approach this and hopefully provide for an opportunity to meet primary interests they see for applicants, staff and the public. Obviously, they hear from the applicants that they want clarity, consistency, and reasonable predictability. Staff really wants the information that is necessary to provide a comprehensive review and to provide for that reasonability, which is what applicants are looking for. The public wants to be informed. Ultimately everyone who is involved in the process of reviewing a development proposal going through rezoning or special use permit in tracking it wants a reliable decision making timeframe. So they made initial recommendations along those lines to the Board back in September of 2010, which the Commission has seen before, codifying expectations, requiring the pre-app conferences, providing a community meeting process, and maintaining dates for public hearings being those goals they were working towards.

**Clarifying the Goal**

- **Shorten Approval Times and Cost of Development Review**
- **Avoid Unnecessary and Burdensome Regulations**
- **Maintain Opportunities for Public Info / Input**
- **Maintain Community Quality**

**Primary Interests**

- **Applicants want clarity, consistency and reasonable predictability**

- **Staff wants information necessary to provide comprehensive review**
- **Public wants to be informed**
- **All want reliable decision-making timeframe**

**Staff Recommendations Concurred with by BOS – 9/1/10**

- **Codify Expectations** - Application requirements should reflect the issues the Board wants routinely considered with each application.
- **Require Pre-application Conference** – Verify the application is complete and give early notice of potential issues / concerns
- **Provide a Community Meeting Process** – Get the neighbor's concerns on the table as early as possible
- **Maintain Dates for Public Hearings** – Avoid indefinite deferrals that confuse neighbors and used in complaints about the time to approval

**Staff Follow-up After 9/1/10**

- **Consulted with several of Albemarle's peer counties –**
  - Visited Fauquier and Hanover
- **Common Theme -**
  - Pre-application preparation with prospective applicants
  - QC for application acceptance
  - Community awareness regarding application proposals
- **Drafted Recommendations -**
  - Reviewed with BOS members June and July, 2011
  - Roundtable meeting 7/19/11
  - Joint BOS/PC/ARB Meeting 8/3/11
  - PC Resolution of Intent 11/29/11
  - PC Work Session 5/15/12
  - Roundtable meeting 6/20/12
  - PC Public Hearing 8/21/12
  - Small Business Roundtable meeting 10/8/12

They have had a lot of follow ups since then. Most recently they had a public hearing in August, which was deferred until today. They actually as a follow up at their request also held a small business roundtable meeting on October 8th and invited applicants who were one time type applicants or small business type applicants that they have had in the last couple of years. Unfortunately, they only had one attendee as he noted in the staff report. However, she provided some very good input. Since that hearing and with the roundtable input as well they have worked to try to address some points that the Commission raised at the end of that hearing.

**Since PC Public Hearing**

- Purpose for pre-app meeting and the factors to consider in requiring the meeting noted
- Purpose for the community meeting and factors to consider in requiring the meeting noted
- No changes to density definitions
- Pre-app process concepts developed (Attachment F)
- Number of days before PC meeting signs are posted further defined
- Work session purpose and alternatives described
- Small business/one time applicant roundtable held
- Intent for application plans clarified; distinguishes app plans and conceptual plans; factors to be considered in requiring supplemental information noted
- Role of ARB staff as advisory clarified

One is really to note and identify the purpose of the pre-app meeting and the factors to consider in requiring the meeting. It is intended to provide the potential applicant and staff a common understanding of the proposed project, provide feedback to the applicant as to the project's consistency with the comprehensive plan of the relevant policies, ordinance provisions, and broadly identify potential issues that may need to be addressed by the applicant and confirm the information that will need to be submitted with the actual application for staff to undertake a full and comprehensive initial review of the project.

They have also worked to identify the purpose for the community meeting and factors to be considered in requiring the meeting. It has been consistently encouraged as they have noted before by staff to provide the public an opportunity to receive information about a project proposal and the applicable county policies, regulations, and review process. They have even noted that the applicant may chose to hold such a meeting before they even make an application and the subsequent meeting after an application may be determined to be unnecessary.

There was some controversy in the last meeting about potential changes to density definitions. Staff noted in the report that after further consideration it has been advised by the County Attorney that they leave their density definitions as is. There is more research that really needs to go into that. So those are no longer being proposed. That was one of the more controversial aspects of the last version of this amendment.

They also have tried to further identify and outline the pre-app process concepts. That was included as Attachment F as to how they would approach pre-apps. (See Attachment F at end of minutes) Really the whole process of what is important is really what they are focusing on and the fact there are going to be projects they know don't need to go through a process beyond their initial meeting with staff as the exploratory type of meetings that they have had for several years. Good examples are as they saw tonight with the second of the telecommunications towers, which is not going to have to go through a mandatory pre-app meeting. There will be larger scaled projects where the pre-app process is going to be very important and they will really want to have that opportunity for it to be mandatory.

There was the question at the last meeting of the number of days before a Planning Commission meeting that signs are posted. They further defined that to note that it would be at least 21 days before a Commission public hearing. It also authorizes the Director of Planning to include the requirement for posting before community meetings are held. In those cases where it is determined that a community meeting is needed earlier in the review process they would want to post the site so that it was understood by folks who might be interested in attending and know that project is before us.

The work session purpose and alternatives have been described. There are two approaches to work sessions. Both are voluntary for an applicant. One that they have had on some occasion is actually a pre-application work session with the Planning Commission before anyone makes an application. That might take the place of other aspects of the pre-app process if someone is coming to the Planning Commission to get feedback on a potential project before making application. The other that has been used more often is a work session typically at the end of the first review period by staff where the applicant says they want to go to the Planning Commission and have them provide input on the project and staff's comments. The Commission has seen some of those come before them as well. Those are still processes that can take place.

The input from the small business/one time applicant roundtable focused on the extreme importance of getting a clear understanding of the potential issues an applicant might face with their proposal and guidance as to what information will be important to submit. That can carry considerable weight in deciding whether to invest the time and money in a particular project. There was also particular concern that new issues not arise during the review process. It is very important to understand the issues up front and have the expectation in addressing those issues they are addressing the needs of an application. The importance of internal staff communication regarding all potential issues was also stressed in that meeting.

They have clarified the intent clarified intent for application plans. It was something else requested out of the last meeting. They have actually distinguished application plans that go with planned developments from conceptual plans that could accompany special use permit or a rezoning into a conventional district. They have also noted the factors to be considered in requiring supplemental information as defined in the ordinance where they are asking for things to be provided as part of an application.

They have clarified the role of ARB staff is advisory. If an applicant asks that the ARB review their project in the legislative review process the comments of the ARB itself are advisory as well. That was a

question that came up at the last meeting that they have clarified.

**Recommendations**

- Staff recommends approval of the most updated version of ZTA-2012-00006. (Attachment C shows the changes – See at the end of the minutes)
- Effective April 1, 2013 – allows further development of administrative process to enact the ordinance and provide for exceptions

Mr. Cilimberg noted the public hearing was held at the last meeting. However, the Commission can certainly open for public comment again.

Mr. Morris invited questions for staff.

Mr. Randolph suggested that staff in Attachment C #22 regarding the pre-application meeting insert some wording about scale and impact as a determinant of requiring a pre-application meeting. There is nothing that tells an applicant what might trigger a pre-application meeting. The more they can give that information up front to applicants that they know by the nature of the scale and the impacts of the project then the likelihood the Director of Planning is going to require the pre-application meeting will occur.

Mr. Cilimberg replied that is one of the kinds of things they want to identify in that administrative process. That is why they want to delay inaction so they can make sure they can do that type of thing.

Mr. Randolph said that would continue over to C #26 where staff has worked in a reference to impacts but nothing about scale in C #26I. There needs to be something added about scale in C #26J community meetings so to be consistent. The outline will be helpful on the web site. The wording used in exploratory information gathering meetings "anticipate will continue to be regularly used" should be changed "to be expected to be continue to be regularly used". Anticipation leaves some doubt and expectation may be a little clearer. Under required pre-application meeting the first bullet, the first dash the scope level of complexity, impacts might want to be in there as well, does not warrant the required pre-app meeting. He thought that scale was perhaps covered by scope. Technically if scope and scale are different then scale might want to be in there as well. Then in community meetings it is already in the wording of C on page 26 about scale and impact driven. He did not think it needed to be repeated. The only concern he had is under bullet 3 under community meetings "it is anticipated that some projects". He suggested possibly adding some criteria in parenthesis (particularly in the rural areas will not need a community meeting and others will). There is some wordsmithing needed on Attachment F. Otherwise, it is excellent. Things are much more spelled out here than before. Staff has done a great job.

Mr. Cilimberg said provided they get Board approval within the next month or two staff would want to bring back the administrative procedures for the Commission to see before the April 1st start up. Those suggestions for changes in the procedures are helpful.

Mr. Dotson started on page 22 of Attachment C that Mr. Randolph referred to. In Section 33.4.a.2 it says a pre-application meeting shall be held unless the Director in his discretion decides that the meeting would not achieve the purposes, etc. He suggested comparing that wording to up above item a, which says the Director of Planning is authorized to require. His reading is that those two are not saying the same thing and that they should be consistent to avoid confusing anybody. He proposed that in both cases it say "a pre-application meeting shall be held unless" for consistency and clarity. Then that is consistent and everybody can understand that. A few pages later use exactly the same comment about the community meeting to use that identical wording so that it is clear and consistent. He picked up on a comment made by Ms. Long last time this was before them. It was in addition to this they should be working as quickly as they could on improving the process information. Staff has provided some good flow charts. Ms. Long referred to the City of Charlottesville and the descriptions they have. He looked at those today. It is a very general flow chart with multiple colors. When he looked at our own website they have something under forms, applications and check list that was much more detailed. There are 68 different forms there. There is a 40 page land use chart. In other words, it is much more detailed. He thinks what Ms. Long was saying is that something that is more of a simplified presentation of the process. He would hope and ask that maybe they could make some progress on that even while working

on the ordinance changes. It may actually help sell the ordinance changes if it can be presented in that manner.

Mr. Cilimberg asked if it would be more along the lines of the flow diagram that staff included here as Attachment E.

Mr. Dotson replied that would be helpful.

Mr. Franco made the following comments:

- On page 22 in section 33.4.a.1 for the purpose of the meeting some of the discussion that has happened in the past is really been to talk about the quality of the submittals is what he has heard from staff. From the public he has heard sort of level of staffing, guidance, and some of the things he mentioned earlier. He did not think that the purpose as written here reaches out to address some of the concerns the applicants have had. It would help to have some kind of language in there that talks about providing the applicant that information.
- There is some language up higher about a description of the meeting. However, when it gets down to the purpose it all seems to be better inform staff as to what is going on, but there is nothing that says let's convey that information to the applicant so that they can provide a better plan. He understands that is one of the reasons for doing that. He would like to see some kind of language similar to section F on page 25 where it talks about procedures for denial. It says the Director of Planning shall inform the applicant and then list a bunch of things. The same thing could happen at the end of this paragraph saying that the Director of Planning will inform the applicant as to what those procedures are and what additional information is to be required.
- Staff talked about clarification of the conceptual plan versus the application plan on page 24 #7. It is clearer, but it looks like it is now requiring a conceptual plan. Part of what he heard from Ms. Long and others last time is that a rezoning to a conventional zoning versus a PUD currently does not require a concept plan.

Mr. Cilimberg said that it would be under the pre-app process something that they say needs to be submitted with an application. However, he believed that the language Mr. Kamptner put earlier is to make that at the discretion of the Director of Planning and not a requirement for every application.

Mr. Franco asked if it is a requirement now.

Mr. Cilimberg replied it is encouraged now. They don't have any requirements for that.

Mr. Franco said that it helps a lot with the questions. However, when he looks at what is required of a conceptual plan and an application plan a lot of it seems to be the same information. It might not be used in the same fashion. Again, he was reacting to some of the comments he heard earlier. On page 29 with the community meetings under purpose one of the slides earlier talked about helping the public to understand the process, the comp plan, and those kinds of issues. He thinks that needs to be expressed in the purpose of the meeting as well. Right now it seems to fairly one-sided where they talk about it is to inform about the project. He really thinks it is important to make part of the purpose of that meeting to advise the citizens as to the process and what the comp plan calls for. He knows staff plans on addressing some of that in the policies. He would like to see that in the Code.

Mr. Cilimberg said he was looking for the kind of language for some of the points that were raised in the staff report.

Mr. Franco agreed.

Mr. Cilimberg said one thing they could do is go back to the staff report and pull some of those points out for both the community meeting, work session meeting and the pre-application meeting.

Mr. Franco agreed. For the pre-app meeting it was really the guidance and the new issues. For the community meeting it is process and the comp plan.

Mr. Smith asked who attends the pre-app meeting.

Mr. Cilimberg replied that currently they have pre-app meetings scheduled each week. They will have the staff that they believe would be the most involved in that review attend that pre-app meeting. Depending on the project they could have a zoning person, engineering person, a planner, and a representation from VDOT when they can. What they would continue to do is expect to have those staff that is particularly going to understand the project because they would have the pre-application form people would submit. They would know what the project is about so they can make sure they have the staff there from our side that could advise the applicant and deal with some of the things Mr. Franco was pointing out should be part of the pre-app process. It is not just to hear from the applicant. It was also to be able to let them know some of the things they may have to address or need to consider in making their application.

Mr. Smith said in other words there would be somebody present to address each issue that the applicant might have.

Mr. Cilimberg agreed. He added the staff would answer questions. In the rezoning cases they like to have someone who would be a reviewer on the rezoning and that same person would hopefully also understand the Comprehensive Plan, which provides a lot of the guidance, or the Master Plan if it was in a master planned area. So they try to match the staff to the project based on where it is and what is proposing right now. That was pointed out in a roundtable as being very important to some of the consultants that they are hearing from people who know what they are talking about and can expect that they will be the people reviewing their project or that information they get in that meeting is going to be the information that will be understood by the people reviewing the project.

Mr. Franco said while they can't necessarily commit to having all senior staff at these meetings having a result of the meeting being a written list of guidance and documents to be expected in providing that list of issues. That list should be produced afterwards. Then they can make sure the right staff is involved. That probably starts to at least mitigate some of their concerns.

Mr. Cilimberg pointed out what Mr. Benish did in the attachment was the outline they are getting people to submit in advance so they have a chance to actually look at and talk about what they are submitting. Then they can make sure when they go into the pre-app meeting they can answer questions and provide advice. Then they have the ten days afterwards to actually provide the applicant a respond and clearly indicate what needs to be submitted in the application.

Mr. Cilimberg pointed out the public hearing did not have to be opened since it was held at the last meeting.

Mr. Morris opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Randolph moved to recommend approval of ZTA-2012-000006 Legislative Review Process Improvements with an effective date of April 1, 2013 that allows further development of administrative process to enact the ordinance and provide for exceptions.

Mr. Kamptner assumed it includes the suggested changes made by the Commissioners with respect to the purposes of the pre-application meetings, community meetings, work sessions and the other items discussed by the Commissioners.

Mr. Randolph agreed with Mr. Kamptner that the motion includes the suggested changes made by the Commission.

Mr. Franco seconded the motion.

The motion passed by a vote of 6:0. (Lafferty absent)

Mr. Morris noted ZTA-2012-00006 Legislative Review Process Improvements would be forwarded to the

Board of Supervisors with a recommendation for approval at a time to be determined with an effective date of April 1, 2013 that allows further development of the administrative process to enact the ordinance and provide for exceptions with the suggested changes made by the Commissioners with respect to the purposes of the pre-application meetings, community meetings, work sessions and the other items discussed by the Commissioners.

**Old Business**:

Mr. Morris asked if there was any old business.

- Next week there is a proposed work session on the Comp Plan. An email came through today from the city that has three attachments talking about in our last joint session it was recommended that they have sub committees. Those sub committees have been recommended for their approval. He asked the Commissioners to please take a look at them.

There being no further old business, the meeting moved to the next item.

**New Business**:

Mr. Morris asked if there was any new business.

- The next Planning Commission meeting will be held on Tuesday, October 30, 2012.

**Adjournment**:

With no further items, the meeting adjourned at 8:28 p.m. to the Tuesday, October 30, 2012 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)

**Attachments for ZTA-2010-00004 INDUSTRIAL USE**

**ATTACHMENT D**
**Draft: 10/15/12**

**ORDINANCE NO. 12-18( )**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, OF ALBEMARLE, VIRGINIA

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

**By Amending:**

Sec. 3.1 Definitions
Sec. 4.14.5 Certified engineer's report
Sec. 5.1.10 Junk yards
Sec. 8.5.5.2 Review of site plans and subdivision plats
Sec. 26.1 Intent, where permitted
Sec. 27.1 Intent, where permitted
Sec. 27.2 Permitted uses
Sec. 28.1 Intent, where permitted
Sec. 28.2 Permitted uses
Sec. 29.1 Intent, where permitted
Sec. 29.2 Permitted uses

**By Amending and Renaming:**

Sec. 5.1.15 Sawmills, temporary or permanent, planing mills and wood yards
Sec. 5.1.20 Sale ~~and/~~or storage of petroleum products, including kerosene, gasoline, and heating oil
Sec. 5.1.21 ~~Dwellings in commercial and industrial districts~~ On-site dwellings and sleeping quarters accessory to commercial and industrial uses
Sec. 5.1.31 ~~Body shop~~ Automobile or truck repair shops, body shops, motorcycle and off-road vehicle sales and service shops, and public garages

**By Amending, Renumbering and Renaming:**

| Old | New | Heading |
|---|---|---|
| Sec. 26.3 | Sec. 26.2 | Permitted primary and accessory uses and structures; prohibited uses and structures |
| Sec. 26.6 | Sec. 26.3 | ~~Height regulations~~ Structure height and setback |
| Sec. 26.10 | Sec. 26.4 | Minimum yards ~~requirements~~ |
| Sec. 27.4 | Sec. 27.3 | ~~Additional requirement~~ Structure height, yard, setback, development, use |
| Sec. 28.4 | Sec. 28.3 | ~~Additional requirements~~ Structure height, yard, setback, development, use |
| Sec. 29.5 | Sec. 29.3 | ~~Additional requirements~~ Structure height, yard, setback, development, use |

**By Adding:**

Sec. 5.1.49 Dry cleaning plants
Sec. 5.1.50 Foundries
Sec. 5.1.51 Outdoor activities

Sec. 5.1.52 Outdoor storage
Sec. 5.1.53 Rendering facilities
Sec. 5.1.54 Slaughterhouses
Sec. 5.1.55 Tire recycling yards
Sec. 26.6 Site development and use

**By Repealing:**

Sec. 26.2 Application
Sec. 26.4 Standard ratios
Sec. 26.5 Off-street parking and loading requirements
Sec. 26.7 Performance standards
Sec. 26.8 Sign regulations
Sec. 26.9 Minimum landscaped area
Sec. 26.11 Utility requirements
Sec. 26.12 Site planning – external relationships
Sec. 26.12.1 Vehicular access
Sec. 26.13 Building separation
Sec. 27.2.1 By right
Sec. 27.2.2 By special use permit
Sec. 27.3 Minimum area required for establishment of district
Sec. 28.2.1 By right
Sec. 28.2.2 By special use permit
Sec. 28.3 Minimum area required for establishment of district
Sec. 29.2.1 By right – Category I
Sec. 29.2.2 By special use permit – Category I
Sec. 29.2.3 By right – Category II
Sec. 29.2.4 By special use permit – Category II
Sec. 29.3 Minimum area required for creation of district
Sec. 29.4 Number of permitted uses

## Chapter 18. Zoning

## Article I. General Provisions

### Sec. 3.1 Definitions

. . .

*Data center*. A facility used to house computer systems and associated components, such as telecommunications and storage systems and which may include redundant or backup power supplies, redundant data communications connections, environmental controls such as air conditioning or fire suppression, and security devices.

*Data processing facility.* Facilities where electronic data is processed by employees, including but not limited to, data entry, storage, conversion or analysis, subscription and credit card transaction processing, telephone sales and order collection, mail order and catalog sales, and mailing list preparation.

. . .

*Energy and communications transmission facilities*. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers, micro-wave and radio-wave transmission and relay towers, substations and appurtenances; but excluding personal wireless service facilities.

. . .

*Independent office*: An office that is neither an "industrial office" nor a "supporting office."

*Industrial office:* An office related to and serving an industrial use that is located in Albemarle County or the City of Charlottesville, but which need not be on the same site as the industrial use.

. . .

*Laboratories/Research and Development/Experimental Testing:* Scientific research, testing, investigation or experimentation, the development of prototype products, and/or the assembly or manufacture of prototype products, including but not limited to bioscience and medical devices research, development and manufacturing and information technology and defense security research, development and manufacturing; scientific or technical instruction.

. . .

*Manufacturing, Processing, Assembly, Fabrication and Recycling*: The processing and/or converting of goods, materials or products; the assembly of components, pieces or subassemblies into articles or substances of different character, or for use for a different purpose**.**

. . .

*Outdoor*: Either outside a structure, or inside a structure that has open windows, doors or other openings so as to allow the activity inside the structure to be visible or audible outside the structure.

. . .

*Public uses*. Public uses and buildings including, but not limited to, schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies and including temporary or mobile facilities for these purposes; public water and sewer transmission, main or trunk lines treatment facilities, pumping stations and similar facilities owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.12).

. . .

*Recycling collection station*: A facility providing designated containers for the collection, sorting, and temporary storage of recoverable resources such as paper, glass, metal, and plastic products until they are transported to a recycling process center or to another location.

. . .

*Recycling processing center*: A facility to recycle, process, or treat recoverable resources such as paper, glass, metal, and plastic products in order to return them to a condition in which they can be reused for production**.**

. . .

*Storage/Warehousing/Distribution/Transportation*: An establishment used primarily for the safekeeping, selling or transferring of saleable goods or raw materials to be incorporated into saleable goods including, but not limited to, storage facilities, call centers, data processing facilities or transit; an establishment used as a privately owned and operated waste transfer station.

. . .

*Subordinate retail sales*: The retail sales of products of an industrial use that are located on the same site as the industrial use.

. . .

*Supporting commercial uses*: A retail use within an industrial district that is subordinate to and which primarily serves industrial uses or their employees including, but not limited to, restaurants, beauty salons or bank branches.

*Supporting office*: An office within an industrial district that is subordinate to and primarily serves industrial uses within the district.

. . .

*Water, sewer, energy and communications distribution facilities*. Facilities that are: (i) electric, gas, oil and communication facilities, including their monopoles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding their towers and excluding personal wireless service facilities; (ii) water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority; or (iii) central water supplies and central sewerage systems in conformance with chapter 16 and all other applicable law, except as otherwise expressly provided.

## Article II. Basic Regulations

### Sec. 4.14.5 Certified engineer's report

Prior to the issuance of a zoning clearance or approval of a final site plan, each prospective occupant of a use of an industrial character shall submit a certified engineer's report as follows, except as provided in section 4.14.5(c):

a. *Contents*. Each certified engineer's report shall include the following information unless the county engineer determines that any such information is not necessary:

1. *Nature of the operation*. A description of the proposed operation, including all machines, processes, and products.

2. *Emissions and discharges*. The identification of all by-products or wastes, stating the expected levels of emissions or discharges to land, air, and/or water of any liquid, solid or gas, and the emission of electrical impulses and sound under normal operations.

3. *Control of emissions and discharges*. Descriptions and specifications as to how emissions and discharges will be treated and the equipment and practices that will be used to control emissions and discharges.

4. *Other information*. Any state or federal permits, readings, measurements, plans or documentation necessary to demonstrate that the proposed use will comply with this chapter, other requirements of the Code and all applicable state and federal laws, including but not limited to those pertaining to the following:

(a) *Air emissions*. Air emissions subject to the applicable regulations of the State Air Pollution Control Board and the Virginia Department of Environmental Quality.

(b) *Water discharges*. Water discharges subject to the applicable regulations of the State Water Control Board and the Virginia Department of Environmental Quality.

(c) *Radioactive materials and radiation emissions*. Radioactive materials used in conjunction with, and radiation emissions from, a use that is subject to the applicable regulations of the State Board of Health and all applicable requirements arising from all agreements between the Commonwealth of Virginia and the United States of America, and any department or agency thereof, pertaining to radioactive materials or radiation emissions, and all interstate compacts pertaining to radioactive materials or radiation emissions to which the

Commonwealth of Virginia is a party. Any radioactivity or radiation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

(d) *Flammable, hazardous and explosive materials*. Flammable, hazardous and explosive materials used in conjunction with a use shall comply with the applicable requirements of the county fire marshal and the Virginia Department of Environmental Quality.

(e) *Disposal of waste and spill containment*. The disposal of waste and the containment of spills in conjunction with a use shall comply with the applicable requirements of the county fire marshal. Any use required by section 5 to provide a waste management plan shall provide a plan that demonstrates that waste will be disposed of only in strict compliance with state and federal regulations.

(f) *Mosquito control plan*. Any use required by section 5 to provide a mosquito control plan shall provide a plan that demonstrates how mosquitoes will be controlled.

b. *Review of report*. The certified engineer's report shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5. If a site plan is required, the county engineer shall review the report and inform the commission or the agent prior to action on the preliminary site plan as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

c. *Document in lieu of certified engineer's report*. In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

(§4.14.8, 12-10-80; 9-9-92; § 4.14.5, Ord. 11-18(8), 8-3-11)

**Sec. 5.1.10 Junk yards**

Each junk yard shall be subject to the following

a. All storage and operational areas shall be enclosed by a solid, light-tight, sightly fence not less than eight (8) feet in height or alternative screening and/or fencing ~~satisfactory to the commission;~~.

b. ~~Storage yards~~ Any storage area and the site's access to a public road~~s~~ shall be maintained in a dust-free surface.

**Sec. 5.1.15 Sawmill, temporary or permanent, planing mills and wood yards**

Each temporary or permanent sawmill, planing mill and wood yard shall be subject to the following: (Added 10-3-01)

a. No structure and no storage of lumber, logs, chips or timber shall be located closer than one hundred (100) feet to any lot line. Trees and vegetation within the one hundred (100) foot setback

shall be maintained as a buffer to ~~adjoining~~ abutting properties and uses, provided that during the last three months of operation ~~such~~ the trees may be removed~~;~~.

b. No saw, planer, chipper, conveyor, chute or other ~~like~~ similar machinery shall be located closer than six hundred (600) feet ~~to~~ from any dwelling on ~~other property in the area~~ any lot other than the lot on which the sawmill, planing mill or wood yard is located.

c. No machinery used for sawing, planing, chipping or ~~operation of~~ other wood processing ~~machinery~~ shall ~~occur~~ operate between 7:00 p.m. and 7:00 a.m. No ~~loading/unloading of wood/wood products shall occur~~ wood or wood products shall be loaded or unloaded between 12:00 midnight and 7:00 a.m.~~;~~

d. All timbering and milling operations, including reforestation/restoration and the disposal of snags, sawdust and other debris, shall be conducted in accordance with Title 10.1 of the Virginia Code and the regulations of the Virginia Department of Forestry~~;~~. (Amended 10-3-01)

~~e. All such operations shall be subject to the noise limitation requirements of section 4.18. (Amended 10-3-01)~~

(§ 5.1.15, 12-10-80; Ord. 01-18(6), 10-3-01)

**Sec. 5.1.20 Sale ~~and/~~or storage of petroleum products, including kerosene, gasoline, and heating oil**

The sale or storage of petroleum products, including kerosene, gasoline, and heating oil, in excess of six hundred (600) gallons shall be subject to the following:

~~a. No storage in excess of six hundred (600) gallons or sale of petroleum products shall be established without Albemarle County fire official approval;~~

~~b. In such review and approval the fire official may, in addition to other safety requirements, separation between such use and adjoining uses as deemed necessary to protect the public health and safety.~~

a. The sale or storage of the petroleum products shall satisfy the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Prevention Association,

b. No storage tanks and loading facilities shall be located closer than one hundred (100) feet from any lot line.

**Sec. 5.1.21 ~~Dwellings in commercial and industrial districts~~ On-site dwellings and sleeping quarters accessory to commercial and industrial uses**

Each on-site dwelling or sleeping quarters that is accessory to a commercial or industrial use shall be subject to the following:

a. Dwellings ~~in commercial and industrial districts are limited to~~ and sleeping quarters may be occupied only by owners or employees of the establishments, including ~~night watchmen~~ on-site security officers, scientists and lab technicians~~;~~.

b. ~~Such~~ Any dwelling may be ~~located individually~~ detached from the establishment to which it pertains or within the same structure as the ~~main use~~ establishment, subject to Albemarle County building official and fire official approvals~~;~~.

c. Any sleeping quarters shall be located within the primary structure and shall be subordinate to the primary use.

~~c~~d. Not more than one (1) dwelling unit or sleeping quarters shall be permitted per establishment~~;~~.

~~d~~e. No ~~mobile~~ manufactured home shall be permitted as a dwelling unit for a period in excess of six (6) months. (Added 3-17-82) (Amended 4-17-85)

**Sec. 5.1.31 ~~Body shop~~ Automobile or truck repair shops, body shops, motorcycle and off-road vehicle sales and service shops, and public garages**

Each automobile or truck repair shop, body shop, motorcycle and off-road vehicle sales and service shop, and public garage shall be subject to the following:

a. ~~There shall be no storage of~~ All parts, materials ~~or~~ and equipment shall be stored ~~except~~ within an enclosed building.

b. No vehicle awaiting repair shall be located on any portion of ~~such property~~ the site so as to be visible from any public road or any residential property, and shall be limited to locations ~~designed~~ designated on the approved site plan.

~~c. Nothing herein shall be construed to limit the authority of the governing body in the review of any special use permit, including, but not limited to, the regulation of hours of operation, location of door and/or windows and the like. (Added 12-7-88)~~

c. All services shall be performed within an enclosed building.

d. No buildings in which services are performed shall be located closer than fifty (50) feet from any residential or agricultural district.

**Sec. 5.1.49 Dry cleaning plants**

Each dry cleaning plant shall be subject to the following:

a. The use of perchloroethylene is prohibited.

b. The use of petroleum solvents is prohibited.

**Sec. 5.1.50 Foundries**

Each foundry shall be subject to the following:

a. The outdoor production, processing, or repair of equipment shall be located no closer than three hundred (300) feet from any residential or agricultural district. The distance shall be measured from the closest edge of the outdoor production, processing, or repair area to the boundary of the residential or agricultural district.

b. No outdoor activity, including the location of internal access roads, shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.

c. No activity shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

**Sec. 5.1.51 Outdoor activities in industrial districts**

Except as expressly permitted for a particular use, each use permitted by right or by special use permit in an industrial district shall be subject to the following:

a. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall be conducted within a completely enclosed building.

b. No activity expressly permitted shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

c. No outdoor activity and no internal access road shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.

**Sec. 5.1.52 Outdoor storage in industrial districts**

Except as expressly permitted for a particular use, the outdoor storage of parts, materials and equipment in an industrial district shall be subject to the following:

a. Storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than seven (7) feet nor more than ten (10) feet in height.

b. No wall or fence screening a storage area shall encroach into a sight distance triangle.

c. The parts, materials and equipment stored in a storage area shall not be stacked higher than the screening wall or fence.

d. No outdoor storage shall be located closer than fifty (50) feet from a residential or agricultural district.

e. The outdoor storage of recyclable materials at a recycling collection or recycling processing center is prohibited.

**Sec. 5.1.53 Rendering facilities**

Each rendering facility shall be subject to the following:

a. The use may be established and maintained only on a site that is at least five (5) acres in size.

b. In the light industry (LI) district, no building or parking area shall be located closer than three hundred (300) feet from any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located closer than two hundred fifty (250) feet from any residential or agricultural district.

c. No building shall be located closer than one thousand (1,000) feet from any school at the time the rendering facility is established.

d. The certified engineer's report shall include a detailed waste management plan demonstrating that waste shall be disposed of only in strict compliance with state and federal regulations.

e. The outdoor storage of offal, dead animals or portions thereof, meat wastes, blood, tankage or any putrescible organic matter is prohibited.

**Sec. 5.1.54 Slaughterhouses**

Each slaughterhouse shall be subject to the following:

a. The gross floor area of the building shall not exceed four thousand (4,000) square feet.

b. The use may be established and maintained only on a site that is at least three (3) acres in size.

c. In the light industry (LI) district, no building or parking area shall be located closer than two hundred (200) feet from any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located closer than one hundred fifty (150) feet from any residential or agricultural district.

d. No building shall be located closer than one thousand (1,000) feet from any school at the time the slaughterhouse is established.

e. Outdoor holding pens for animals are prohibited.

f. The certified engineer's report shall include a detailed waste management plan demonstrating that waste shall be disposed of only in strict compliance with state and federal regulations.

**Sec. 5.1.55 Tire recycling yards**

Each tire recycling yard shall be subject to the following:

a. Tire storage piles are permitted as follows:

1. The site may have up to four (4) tire storage piles in which unchipped or unshredded tires may be stored.

2. No storage pile shall be more than one hundred (100) feet in width or depth nor taller than twelve (12) feet unless a larger or taller storage pile is permitted by the fire official.

3. Each tire storage pile shall be surrounded by containment berms as required by the fire official.

4. Tires stored in a storage pile shall be laced.

b. Tires that are not stored in a storage pile shall be chipped or shredded before they may be stored onsite.

c. Storage piles and all other outdoor storage ("storage areas") are subject to the following:

1. Storage areas shall be screened by a solid wall or fence (including solid entrance and exit gates) not less than seven (7) feet nor more than twelve (12) feet in height.

2. No wall or fence screening a storage area shall encroach into a sight distance triangle.

3. Tires stored in a storage area shall not be stacked higher than the screening wall or fence.

4. No storage area shall be located closer than fifty (50) feet from a residential or agricultural district.

d. The certified engineer's report shall include a mosquito control plan demonstrating how mosquitoes will be controlled at the site.

e. Appropriate firefighting apparatus, water supply, and foam suppressant shall be available on the site, and they shall be of a type and in quantities required by the fire official.

f. Twenty-four (24) hour on-site caretaker(s) trained by the local fire district to provide security and first-line firefighting, or a twenty-four (24) hour surveillance and alarm system may be approved where the tire recycling yard is served by a manned fire station.

g. The site shall have paved or hard-surfaced fire access lanes and cleared areas around the exterior of the storage area and in between individual tire storage piles. The fire access lanes and cleared areas shall be established and maintained to the standards required by the fire official.

## Article III. District Regulations

### Sec. 8.5.5.2 Review of site plans and subdivision plats

Each preliminary and final site plan and subdivision plat for a planned development shall be reviewed for compliance with the applicable regulations, as follows:

a. *Planned development districts established on or before December 10, 1980*. Each preliminary and final site plan and subdivision plat within a planned development district established on or before December 10, 1980 shall be reviewed for compliance with the applicable regulations when the site plan or subdivision plat is under county review; provided that, at the option of the developer or subdivider, each preliminary and final site plan and subdivision plat may be reviewed for compliance with the applicable regulations in effect when the planned development was approved if the developer or subdivider establishes a vested right as provided in Virginia Code §§ 15.2-2296 *et seq*. or 15.2-2307 to develop under the previously approved planned development district, and further provided that any site within the planned development industrial park (PD-IP) district may be used for those uses currently authorized by right or by special use permit.

b. *Planned development districts established after December 10, 1980*. Each preliminary and final site plan and subdivision plat within a planned development district established after December 10, 1980 shall be reviewed for compliance with the applicable regulations in effect when the planned development district was established or, at the option of the developer or subdivider, in effect when the site plan or subdivision plat is under county review; subject to the following:

1. *Election to comply with regulations in effect when district established; exception for certain current subjects of regulation unless vested rights established*. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, all of the following subjects of regulation in effect when the site plan or subdivision plat is under county review shall apply unless vested rights are established under Virginia Code §§ 15.2-2296 *et seq*. or 15.2-2307: (i) entrance corridor overlay district (section 30.6); (ii) flood hazard overlay district (section 30.3); (iii) landscaping and screening (section 32.7.9); (iv) outdoor lighting (section 4.17); (v) parking (section 4.12); and (vi) signs (section 4.15). If rights are determined to have vested, the regulations for these six subjects in effect when rights vested shall apply. For the purposes of this section 8.5.5.2(b), an application plan approved on and after March 19, 2003 that complies with the requirements of an application plan under section 8.5.1(e) or section 20A.4, or a prior version thereof in effect on and after March 19, 2003, is a significant governmental act within the meaning of Virginia Code § 15.2-2307.

2. *Election to comply with regulations in effect when district established; election to comply with certain current subjects of regulation*. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, the developer or subdivider may also elect to comply with one or more of the subjects of regulation listed in subsection 8.5.5.2(b)(1) in effect when the site plan or subdivision plat is under county review instead of with the corresponding regulations in effect when the planned development district was established.

3. *Uses within the planned development industrial park district*. Notwithstanding subsections (b)(1) and (b)(2), any site within the planned development industrial park (PD-IP) district may be used for those uses currently authorized by right or by special use permit.

c. *Review for compliance and conformance*. A site plan or subdivision plat shall be reviewed to determine whether it complies with the applicable regulations and other requirements of law, and whether it conforms to the application plan, as follows:

1. *Zoning administrator*. The zoning administrator shall determine whether a site plan or subdivision plat complies with the applicable regulations. In addition, the zoning administrator, after consultation with the director of planning, shall determine whether the proposed permitted uses comply with the applicable regulations and, in doing so, may permit as a use by right a use that is not expressly classified in this chapter if the zoning administrator further determines that the use is similar in general character to the uses permitted by right in the district or by the code of development and is similar in terms of locational requirements, operational characteristics, visual impacts, and traffic, noise and odor generation.

2. *Director of planning*. The director of planning shall determine whether a site plan or subdivision plat conforms to the application plan. In determining conformity, the director shall determine whether the central features or major elements within the development are in the same location as shown on the application plan and if the buildings, parking, streets, blocks, paths and other design elements are of the same general character, scope and scale as shown on the application plan.

3. *County engineer*. The county engineer shall determine whether an erosion and sediment control plan, grading plan, stormwater management plan, road or street plan, and mitigation plan conform with the concept grading, stormwater management, streets, and mitigation shown on the application plan.

d. *Applicable regulations defined*. For the purposes of this section 8.5.5.2, the term "applicable regulations" means, as appropriate and applicable, all zoning regulations, all subdivision regulations, the application plan (except for those elements authorized to be shown at a conceptual or general level), including those plans formerly referred to as general development plans, conditions of approval, accepted proffers, the code of development, special use permits, variances, and waivers, modifications and variations.

e. *Applicability of chapter 17*. Each preliminary and final site plan and subdivision plat within a planned development district shall be reviewed for compliance with chapter 17 ~~of the Albemarle County Code~~ in effect when the site plan or subdivision plat is under county review, regardless of when the planned development was established or whether the developer or subdivider elects, or establishes vested rights, under sections 8.5.5.2(a) and (b) to proceed with review under the applicable regulations in effect when the planned development was approved.

f. *Vested rights not impaired*. Nothing in this section shall be construed as authorizing the impairment of a vested right that may be established under Virginia Code §§ 15.2-2261(C), 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2307.

(§ 8.5.6.2, 12-10-80; 9-9-92; § 8.5.5.2, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

**Sec. 26.1 Intent, where permitted**

~~It is intended that i~~Industrial districts ~~hereby and hereafter created shall~~ are intended to be for the purpose of providing places of employment and strengthening the local economic base in furtherance of the economic development policy of the comprehensive plan. ~~To this end, activities involving industrial and limited commercial land uses shall be encouraged in amounts and locations designated for such purposes in the comprehensive plan. It is further intended that the enlargement and expansion of existing uses shall be encouraged as well as development of new uses appropriate to the character of industrial districts.~~ To this end, the following shall be encouraged: (i) the establishment and continuation of industrial uses and their supporting uses in the locations and at the levels of intensity designated for

those uses in the comprehensive plan; (ii) the establishment of new industrial uses that are appropriate for the character of the industrial districts; and (iii) the enlargement and expansion of existing industrial uses.

Industrial districts are intended to be established in areas having all of the following characteristics: (i) the area is served by public water and sewer facilities; (ii) the area is served by major highway, rail or air service, or secondary roads improved to standards approved by the county; and (iii) the area is clearly demonstrated to be suitable for the intended uses, considering the physical characteristics of the land and the intended uses and their relationship to surrounding development.

~~**Sec. 26.2 Application**~~

~~Where industrial districts have been established prior to the enactment of this ordinance, and such districts are recognized on the zoning map, the same shall be considered to have been established under this ordinance in compliance with minimum area required for establishment of districts (reference sections 27.3; 28.3; 29.3).~~

**Sec. 26.~~3~~2 Permitted primary and accessory uses and structures; prohibited uses and structures**

~~Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established; and provided further that in no case shall a parking structure, other than a parking lot or garage located entirely at or below grade, be deemed to be accessory to any use in any industrial district. In no case shall a drive-in window be deemed to be accessory to any use in any commercial district.~~

Uses and structures within the industrial districts are permitted as follows:

a. *Primary uses and structures*. Primary uses and structures within the industrial districts are permitted by right, by special use permit, and by special exception as provided in the following table:

| Use | LI | HI | PD-IP Cat. 1 | PD-IP Cat. 2 |
|---|---|---|---|---|
| **Manufacturing/Processing/Assembly/Fabrication/Recycling*** | BR | BR | BR | BR |
| Asphalt mixing plants. | N | SP | N | SP |
| Brick manufacturing, distribution. | SP | BR | SP | BR |
| Cement, lime gypsum manufacture or processing. | N | SP | N | SP |
| Chemical, plastics manufacture or processing. | SP | SP | SP | SP |
| Dry cleaning plants (reference 5.1.49). | SP | BR | SP | BR |
| Foundries (reference 5.1.50). | N | SP | N | SP |
| Inorganic fertilizer manufacture or processing. | N | SP | N | SP |
| Materials recovery facilities, privately owned and operated. | SP | BR | SP | BR |
| Organic fertilizer manufacture or processing. | SP | BR | SP | BR |
| Petroleum, gasoline, natural gas and manufactured gas bulk storage (reference 5.1.20). | SP | BR | SP | BR |

| Use | LI | HI | PD-IP Cat. 1 | PD-IP Cat. 2 |
|---|---|---|---|---|
| Petroleum refining, including by-products (reference 5.1.20). | N | SP | N | SP |
| Pulp or paper manufacture or processing. | N | SP | N | SP |
| Recycling processing. | SP | BR | SP | BR |
| Rendering plants (reference 5.1.53). | SP | BR | SP | BR |
| Sawmills, temporary or permanent; planing mills; wood yards (reference 5.1.15). | SP | BR | SP | BR |
| **Storage/Warehousing/Distribution/Transportation*** | BR | BR | BR | BR |
| Airports. | SP | SP | SP | SP |
| Heavy equipment and heavy vehicle parking and storage yards. | SP | BR | SP | BR |
| Heliports (reference 5.1.01). | SP | SP | SP | SP |
| Helistops (reference 5.1.01). | SP | SP | SP | SP |
| Junk yards (reference 5.1.10). | N | SP | N | SP |
| Warehouse facilities where there may be the storage of gasoline, kerosene or other volatile materials, dynamite blasting caps and other explosives, pesticides and poisons, and other materials which may be hazardous to life in the event of accident. | SP | BR | SP | BR |
| Wholesale businesses where there may be the storage of gasoline, kerosene or other volatile materials, dynamite blasting caps and other explosives, pesticides and poisons, and other materials which may be hazardous to life in the event of accident. | SP | BR | SP | BR |
| **Laboratories/Research and Development/Experimental Testing** | BR | BR | BR | BR |
| **Offices**** | | | | |
| Independent offices; gross floor area of the building does not exceed 3,000 square feet. | BR | BR | BR | BR |
| Independent offices established or vested on or before December __, 2012, regardless of the gross floor area of the building. | BR | BR | BR | BR |
| Independent offices; gross floor area of the building exceeds 3,000 square feet. | SE | SE | SE | SE |
| Independent offices established or vested on or before December __, 2012 where, regardless of the gross floor of the building on that date, an expansion of the building would result in a gross floor area exceeding 3,000 square feet. | SE | SE | SE | SE |
| Industrial offices. | BR | BR | BR | BR |
| Supporting offices; use does not exceed 25% of the gross floor area of freestanding building or of multiple buildings on an industrial site. | BR | BR | BR | BR |
| Supporting offices; use exceeds 25% of the gross floor area of freestanding building or of multiple buildings on an industrial site. | SE | SE | SE | SE |
| **Residential Uses**** | | | | |

| Use | LI | HI | PD-IP Cat. 1 | PD-IP Cat. 2 |
|---|---|---|---|---|
| Dwellings and sleeping quarters, on-site (reference 5.1.21). | BR | BR | BR | BR |
| Dwellings, Multiple-family. | SP | N | SP | SP |
| **Public Uses, Utilities and Services, and Telecommunications Uses**** | | | | |
| Energy and communications transmission facilities (reference 5.1.12). | SP | SP | SP | SP |
| Fire and rescue squad stations (reference 5.1.09). | BR | BR | BR | BR |
| Personal wireless service facilities, Tier I (reference 5.1.40). | BR | BR | BR | BR |
| Personal wireless service facilities, Tier II (reference 5.1.40). | BR | BR | BR | BR |
| Personal wireless service facilities, Tier III (reference 5.1.40). | SP | SP | SP | SP |
| Public uses (reference 5.1.12). | BR | BR | BR | BR |
| Water, sewer, energy, communications distribution facilities (reference 5.1.12). | BR | BR | BR | BR |
| **Temporary Uses**** | | | | |
| Temporary construction uses (reference 5.1.18). | BR | BR | BR | BR |
| Temporary events sponsored by local nonprofit organizations (reference 5.1.27). | SP | SP | SP | SP |
| Temporary nonresidential mobile homes (reference 5.8). | BR | BR | BR | BR |
| **Commercial Uses**** | | | | |
| Uses permitted by right or by special use permit in the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) districts not otherwise expressly authorized by this section either by right or by special use permit. | SP | SP | SP | SP |
| Farmers' markets conducted in a new permanent structure (reference 5.1.47). | SP | SP | SP | SP |
| Farmers' markets conducted outdoors or within a temporary or existing permanent structure (reference 5.1.47). | BR | BR | BR | BR |
| Hotels, motels, inns. | SP | SP | SP | SP |
| Outdoor storage, display and/or sales serving or associated with a permitted use, other than a residential, agricultural or forestal use, any portion of which would be visible from the EC street to which it is contiguous or from any other EC street which is located within five hundred (500) feet; provided that review shall be limited to determining whether the outdoor storage, display and/or sales is consistent with the applicable design guidelines. | SP | SP | SP | SP |
| Subordinate retail sales for any use permitted by right; use does not exceed 25% of the gross floor area of the primary industrial use. | BR | BR | BR | BR |
| Subordinate retail sales for any use permitted by right; use exceeds 25% of the gross floor area of the primary industrial use. | SP | SP | SP | SP |
| Supporting commercial; use does not exceed 25% of the gross floor area of freestanding building or of multiple buildings on an industrial site. | BR | BR | BR | BR |

| Use | LI | HI | PD-IP Cat. 1 | PD-IP Cat. 2 |
|---|---|---|---|---|
| Supporting commercial; use exceeds 25% of the gross floor area of freestanding building or of multiple buildings on an industrial site. | SE | SE | SE | SE |
| **Parking**** | | | | |
| Parking structures, as part of an occupied structure (reference 4.12, 5.1.41). | BR | BR | BR | BR |
| Parking structures, stand alone (reference 4.12, 5.1.41). | SP | SP | SP | SP |
| Parking area, stand alone (reference 4.12, 5.1.41). | SP | SP | SP | SP |
| Stormwater management facilities shown on an approved final site plan or subdivision plat. | BR | BR | BR | BR |
| **Uses Not Served By Public Water or Public Sewer**** | | | | |
| Uses permitted by right in the Light Industry (LI) and Heavy Industry (HI) districts, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. | SP | SP | SP | SP |
| Uses permitted by right in the Light Industry (LI) and Heavy Industry (HI) districts, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. | SP | SP | SP | SP |

* Applies to all uses within this use classification, as defined, except for those uses expressly identified below.
**Heading is for organizational purposes only and is not a use classification

BR: The use is permitted by right.
SP: The use is permitted by special use permit.
SE: The use is permitted by special exception.
N: The use is not permitted.

b. *Accessory uses and structures*. Accessory uses and structures are permitted within each industrial district, subject to the following:

1. *When accessory use is permitted*. No accessory use is permitted until the primary use to which it is accessory has been established.

2. *When accessory structure is permitted*. No accessory structure is permitted until either construction of the primary structure or the primary use to which it is accessory has commenced.

3. *Prohibited accessory uses and structures*. Parking structures, other than parking lots and parking garages located entirely at or below grade, and drive-in windows are prohibited accessory uses and structures in all industrial districts.

c. *Prohibited uses and structures*. The following uses and structures are prohibited within each industrial district:

1. *Incinerators*. The establishment or use of an incinerator.

2. *Manufacture of certain products*. The manufacture of acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, explosives, fireworks, fish meal, nitrogenous tankage, paints, varnish, shellac that requires distillation or heating ingredients, phosphates, turpentine, and vinegar.

3. *Sludge*. The storage of sludge.

4. *Toxic wastes*. The disposal or storage of toxic wastes regulated under the federal Toxic Substances Control Act (15 U.S.C. § 2601 *et seq*.).

d. *Independent office uses; special exceptions*. In evaluating a request for a special exception for an independent office to exceed three thousand (3,000) square feet gross floor area, the board shall consider whether the independent office use and its proposed size are consistent with the intent of the applicable industrial district.

(Amended 11-7-84)

~~**Sec. 26.4 Standard ratios**~~

~~26.4.1 Floor area ratio. Maximum total floor area permissible for individual lots shall not exceed 0.70 times the land area of the lot.~~

~~26.4.2 Maximum land coverage by buildings of an individual lot shall not exceed 0.50 times the land area of the lot.~~

~~**Sec. 26.5 Off-street parking and loading requirements**~~

~~All off-street parking and all off-street loading space requirements shall be in accordance with section 4.12. (Amended 3-18-81)~~

**Sec. 26.6~~3~~ ~~Height regulations~~ Structure height and setback**

The maximum structure height and minimum setback for structures exceeding thirty-five (35) feet in height in the industrial districts are as follows:

a. *Maximum height*. Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet.~~; provided that a~~

b. *Minimum setback*. Any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or ~~single-family~~ residential or agricultural district~~; in addition to minimum yard requirements,~~ a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet plus the applicable minimum yard. (Amended 9-9-92)

~~**Sec. 26.7 Performance standards**~~

~~The performance standards set forth in sections 4.14 through 4.14.5 shall apply.~~

~~(§ 26.7, 12-10-80; Ord. 11-18(8), 8-3-11)~~

~~**Sec. 26.8 Sign regulations**~~

~~Sign regulations shall be as prescribed in section 4.15.~~

~~**Sec. 26.9 Minimum landscaped area**~~

~~See section 32.7.9 for landscaping and screening requirements. (Amended 7-10-85; 9-9-92)~~

**Sec. 26.~~10~~4 Minimum yards ~~requirements~~**

The minimum yard requirements in the industrial districts are as follows:

a. *Adjacent to public streets.* No portion of any structure, excluding signs, shall be ~~erected~~ closer than fifty (50) feet ~~to~~ from any public street right-of-way. No off-street parking or loading space shall be ~~located~~ closer than ten (10) feet ~~to~~ from any public street right-of-way. (Amended 7-10-85; 7-8-92)

b. *Adjacent to residential or rural areas districts.* No portion of any structure, excluding signs, shall be ~~located~~ closer than fifty (50) feet ~~to~~ from any residential or rural areas district and no off-street parking space shall be closer than thirty (30) feet to any residential or rural areas district. In the heavy industry (HI) district, no portion of any structure, excluding signs, shall be ~~located~~ closer than one hundred (100) feet ~~to~~ from any residential or rural areas district and no off-street parking shall be closer than thirty (30) feet ~~to~~ from any residential or rural areas district. (Amended 7- 10-85; 7-8-92)

c. *Buffer ~~zone adjacent to~~ abutting residential and rural areas districts.* No construction activity, including grading or clearing ~~of~~ vegetation (collectively, "disturbance"), shall occur closer than thirty (30) feet ~~to~~ from any residential or ~~rural areas~~ agricultural district except in the following circumstances: (i) adequate landscape screening does not currently exist and disturbance is necessary to install screening that meets or exceeds the screening requirements in section 32.7.9; (ii) an arborist or landscape architect certifies that trees in the buffer are dying, diseased or will constitute a fall hazard and must be removed; (iii) the county engineer determines that disturbance is necessary in order to address an existing drainage problem; or (iv) disturbance will result in improved screening through the use of a berm, a retaining wall or similar physical modification or improvement. When disturbance is allowed under subsection (i), (ii), (iii) or (iv), the developer shall submit an illustration showing the existing screening without disturbance and the screening that would be installed after the disturbance, and disturbance shall be allowed only if the screening installed after the disturbance is equal to or exceeds the screening existing prior to disturbance. ~~Screening shall be provided as required in section 32.7.9.~~ (Amended 9-9-92)

1. ~~*Waiver by the commission* The commission may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case wherethe developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met; and (ii) existing landscaping in excess of minimum requirements is substantially restored. (Added 7-10-85)~~

2. ~~*Waiver by the agent*. In accordance with the procedures stated in section 2.5 of this chapter, the agent may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer zone in the following circumstances: (i) adequate landscape screening does not currently exist and the installation of screening which meets or exceeds ordinance requirements would result in disturbance to the buffer; (ii) an arborist or landscape architect certifies that trees in the buffer are dying, diseased or will constitute a fall hazard; (iii) the county engineer determines that disturbance of the buffer is necessary in order to address an existing drainage problem; or (iv) disturbance of the buffer will result in improved screening through the use of a berm, a retaining wall or similar physical modification or improvement. In such a case, the developer or subdivider shall illustrate the result of both the existing screening without disturbance of the buffer and the screening that would be provided as a result of the disturbance of the buffer.~~

d. *Special exception to disturb buffer abutting residential or agricultural district*. The board of supervisors may authorize a disturbance in the buffer required to be maintained under subsection (c) by special exception. The board shall consider whether disturbance is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met; and (ii) existing landscaping in excess of minimum requirements is substantially restored. (Added 7-10-85)

(12-10-80, §§ 26.10, 26.10.1, 26.10.2, 26.10.3; 7-10-85, 7-8-92, 9-9-92; Ord. 09-18(1), 1-14-09, §26.10)

~~**Sec. 26.11 Utility requirements**~~

~~All utility lines shall be placed underground where practical.~~

~~**Sec. 26.12 Site planning – external relationships**~~

~~Site planning within the district shall provide for protection of individual sites from surrounding adverse influences, and for protection of surrounding areas from adverse influences within the district.~~

~~**Sec. 26.12.1 Vehicular access**~~

~~Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district.~~

~~**Sec. 26.12.2 Screening (Deleted 7-10-85)**~~

~~**Sec. 26.13 Building separation**~~

~~Whether or not located on the same parcel, main structures shall be constructed and separated in accordance with Table 401 Fire Resistance Ratings of Structure Elements of the BOCA Basic Building Code, 1984 Edition or its equivalent in the current edition of the BOCA Basic Building Code. (Added 1-1-83) (Amended 10-15-86)~~

**Sec. 26.5 Site development and use**

Subject to sections 26.3 and 26.4, each site within an industrial district shall comply with the applicable site development and use requirements in sections 4, 5 and 32.

**Sec. 27.1 Intent, where permitted**

~~LI districts are hereby created and may hereafter be established by amendment to the zoning map to permit industries, offices and limited commercial uses which are compatible with and do not detract from surrounding districts. Uses and land previously established in industrial limited (M-1) and research and technical manufacturing (RTM) districts, where in conformity to the comprehensive plan, shall be encouraged to develop as active centers of employment on both individual sites as well as within industrial parks. It is intended that LI districts may be established in areas having all of the following characteristics:~~

~~-Areas served by water and sewer facilities or if such facilities are reasonably available;~~

~~-Areas served by major highway, rail or air service, or secondary road improved to standards approved by the county; and~~

~~-Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.~~

The intent of the light industry (LI) district is to permit industrial and supporting uses that are compatible with, and do not detract from, surrounding districts.

**Sec. 27.2 Permitted uses**

The uses permitted by right, by special use permit and by special exception in the light industry (LI) district are set forth in the table in section 26.2.

~~**Sec. 27.2.1 By right**~~

~~Except as otherwise limited by section 27.2.2.10, the following uses shall be permitted by right in the LI district, subject to the applicable requirements of this chapter: (Amended 2-13-85, 5-5-10)~~

~~1. Compounding of drugs, including biological products, medical and chemical as well as pharmaceutical.~~

~~2. Fire and rescue squad stations (reference 5.1.9).~~

~~3. Manufacture, processing, fabrication, assembly, distribution of products such as but not limited to: (Amended 12-2-81; 2- 20-91)~~

~~-Artists' supplies and equipment.~~

~~-Business, office machines and equipment.~~

~~-Cosmetics, including perfumes, perfumed toiletries and perfumed toilet soap.~~

~~-Drafting supplies and equipment.~~

~~-Electrical lighting and wiring equipment.~~

~~-Electrical and electronic equipment and components including radio, telephone, computer, communication equipment, TV receiving sets, phonographs.~~

~~-Food products, such as bakery goods, dairy products, candy, beverages, including bottling plants.~~

~~-Gifts, novelties including pottery, figurines and similar ceramic products.~~

~~-Glass products made of purchased glass.~~

~~-Industrial controls.~~

~~-Jewelry, silverware.~~

~~-Light machinery and machine parts, including electrical household appliances but not including such things as clothes washers, dryers and refrigerators.~~

~~-Musical instruments.~~

~~-Paper products such as die-cut paperboard and cardboard, sanitary paper products, bags and containers.~~

~~-Photographic equipment and supplies including processing and developing plant.~~

~~-Rubber, metal stamps.~~

~~-Small electrical parts such as coils, condensers, transformers, crystal holders.~~

~~-Surgical, medical and dental instruments and supplies.~~

~~-Toys, sporting and athletic equipment, except firearms, ammunition or fireworks.~~

~~-Watches, clocks and similar timing devices.~~

~~-Wood cabinets and furniture, upholstery.~~

4. Publishing, printing, lithography and engraving, including but not limited to newspapers, periodicals and books.

5. Preparation of printing plates including typesetting, etching and engraving.

6. Research and development activities including experimental testing.

7. Scientific or technical education facilities.

8. Assembly and fabrication of light aircraft from component parts manufactured off-site.

9. Storage yard. (Amended 11-12-08)

10. Engineering, engineering design, assembly and fabrication of machinery and components, including such on-site accessory uses as machining, babbitting, welding and sheet metal work and excluding such uses as drop hammering and foundry. (Amended 10-3-01)

11. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)

12. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)

13. Temporary construction uses (reference 5.1.18).

14. Business and professional office buildings.

15. Dwellings (reference 5.1.21). (Added 4-17-85)

16. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)

17. Warehouse facilities and wholesale businesses not involving storage of gasoline, kerosene or other volatile materials; dynamite blasting caps and other explosives; pesticides and poisons; and other such materials which could be hazardous to life in the event of accident. (Added 12-2-87)

18. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)

19. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

20. Farmers' markets that will be conducted outdoors or within a temporary or existing permanent structure (reference 5.1.47). (Added 5-5-10)

(§ 27.2.1, 12-10-80, 12-2-81, 2-13-85, 4-17-85, 3-5-86, 12-2-87, 11-1-89, 5-12-93; § 18-27.2.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 10-18(4), 5-5-10)

**~~Sec. 27.2.2 By special use permit~~**

~~The following uses shall be permitted by special use permit in the LI district:~~

~~1. Laboratories, medical or pharmaceutical.~~

~~2. Airport, helistop or heliport (reference 5.1.1).~~

~~3. Assembly of modular building units.~~

~~4. Moving businesses, including storage facilities.~~

~~5. Warehouse facilities not permitted under section 27.2.1.17. (Amended 12-2-87)~~

~~6. Wholesale business not permitted under section 27.2.1.17. (Amended 12-2-87)~~

~~7. Truck terminal.~~

~~8. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances.~~

~~9. Temporary events sponsored by local nonprofit organizations (reference 5.1.27). (Added 7-7-82)~~

~~10. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. (Added 2-13-85)~~

~~11. Body shops (reference 5.1.31). (Added 12-7-88)~~

~~12. Towing and storage of motor vehicles (reference 5.1.32). (Added 6-6-90)~~

~~13. Uses listed under section 27.2.1 with subordinate retail sales exceeding fifteen (15) percent of the floor area of the main use. (Added 2-20-91)~~

~~14. Supporting commercial uses (reference 9.0). (Added 6-19-91)~~

~~15. Indoor athletic facilities. (Added 9-15-93)~~

~~16. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 2-5-03)~~

~~17. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)~~

~~18. Heavy equipment and heavy vehicle parking and storage yards. (Added 11-12-08)~~

~~19. Farmers' markets that will be conducted in a new permanent structure (reference 5.1.47). (Added 5-5-10)~~

~~20. Uses permitted by right in the Heavy Industry (HI) zoning district that are not otherwise permitted by right under section 27.2.1. (Added 6-2-10)~~

(§ 20-27.2.2, 12-10-80; 7-7-82; 2-13-85; 12-2-87; 12-7-88; 6-6-90; 2-20-91; 6-19-91; 9-15-93; § 18-27.2.2, Ord. 98-A(1), 8-5-98; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 10-18(4), 5-5-10; Ord. 10-18(6), 6-2-10)

~~**Sec. 27.3 Minimum area required for establishment of district**~~

~~Minimum area required for establishment of an LI district shall be five (5) acres. Unless otherwise provided in section 26.2, there shall be no minimum area requirements for additions to an established LI district, provided such area to be added adjoins and forms a logical addition to the existing LI district.~~

**Sec. 27.~~4~~3 ~~Additional requirement~~ Structure height, yard, setback, development, use**

~~In addition to the requirements contained herein, the requirements of section 26.0, industrial districts, generally, shall apply within all LI districts.~~

The structure height, yard, setback, development and use standards in sections 26.3, 26.4 and 26.5, and the sections cross-referenced therein, shall apply to all light industry (LI) districts.

**Sec. 28.1 Intent, where permitted**

~~HI districts are hereby created and may hereafter be established by amendment to the zoning map to permit industries and commercial uses which have public nuisance potential and will therefore be subject to intensive review for locational impact on surrounding land uses and environment. Uses and lands previously established in industrial general (M-2) and certain industrial limited (M-1) districts, where in conformity to the comprehensive plan, shall be encouraged to develop as active centers of employment on individual sites.~~

~~It is intended that HI districts may be established in areas having all of the following characteristics:~~

~~-Areas served by a major highway, rail or air service, or secondary road improved to standards approved by the county;~~

~~-Areas either served by public water and sewer or meeting requirements of the local office of the Virginia Department of Health; and~~

~~-Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.~~

The intent of the heavy industry (HI) district is to permit industrial and supporting uses having the potential to cause public nuisances and therefore requiring enhanced performance standards and review for their impacts on surrounding lands and the environment.

**Sec. 28.2 Permitted uses**

The uses permitted by right, by special use permit and by special exception in the heavy industry (HI) district are set forth in the table in section 26.2.

~~**Sec. 28.2.1 By right**~~

~~Except as otherwise limited by section 28.2.2.14, the following uses shall be permitted by right in the HI district, subject to the applicable requirements of this chapter: (Amended 2-13-85, 5-5-10)~~

~~1. Automotive, farm and construction and machinery products assembly.~~

~~2. Brick manufacturing, distribution.~~

~~3. Concrete mixing plant, storage, distribution.~~

~~4. Dry-cleaning plants.~~

~~5. Fire and rescue squad stations (reference 5.1.09).~~

~~6. Machine shops, tool and die, blacksmithing, boiler shops and similar operations.~~

~~7. Manufacture of heavy household, commercial and industrial appliances.~~

~~8. Manufacture of building components.~~

~~9. Manufacture, distribution, service of individual sewage disposal systems.~~

~~10. Manufacture and recycling of tires.~~

~~11. Metal fabrication and welding operations.~~

~~12. Mobile home manufacturing, distribution.~~

~~13. Moving businesses, including storage facilities.~~

~~14. Petroleum, gasoline, natural gas and manufactured gas bulk storage (reference 5.1.20).~~

~~15. Recreational vehicle and components manufacturing, distribution.~~

~~16. Sawmills (reference 5.1.15), planing mills, wood preserving operations, woodyards.~~

~~17. Veterinary or dog/cat hospitals, indoor accessory kennels (reference 5.1.11).~~

~~18. Warehouse facilities.~~

~~19. Storage yards. (Amended 11-12-08)~~

~~20. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. (Amended 5-12-93)~~

~~21. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)~~

~~22. Temporary construction uses (reference 5.1.18).~~

~~23. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)~~

~~24. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)~~

~~25. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)~~

~~26. Heavy equipment and heavy vehicle parking and storage yards. (Added 11-12-08)~~

~~27. Body shops (reference 5.1.31(a) and (b)). (Added 8-5-09)~~

~~28. Towing and temporary storage of motor vehicles (reference 5.1.32(b)). (Added 8-5-09)~~

29. Farmers' markets that will be conducted outdoors or within a temporary or existing permanent structure (reference 5.1.47). (Added 5-5-10)

(§ 20-28.2.1, 12-10-80; 2-13-85; 3-5-86; 11-1-89; 5-12-93; § 18-28.2.1, Ord. 98-A(1), 8-5-98; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 09-18(7), 8-5-09; Ord. 10-18(4), 5-5-10)

**Sec. 28.2.2 By special use permit**

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

1. Abattoirs.

2. Airport, helistop or heliport (reference 5.1.01).

3. Asphalt mixing plants.

4. Cement, lime gypsum manufacture or processing.

5. Chemical, plastics manufacture or processing.

6. Fertilizer manufacture or processing.

7. Food processing plants such as meat, poultry and fish processing and packing and rendering plants.

8. Junk yards, screened (reference 5.1.10).

9. Kennels for boarding of domestic pets (reference 5.1.11).

10. Petroleum refining, including by-products (reference 5.1.20).

11. Pulp, paper manufacture or processing.

12. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers; substations and appurtenances (reference 5.1.12).

13. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. (Added 2-13-85)

14. Motorcycle and off-road recreation vehicles sale and service. (Added 10-15-86)

15. Supporting commercial uses (reference 9.0). (Added 6-19-91)

16. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 2-5-03)

17. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

18. Farmers' markets that will be conducted in a new permanent structure (reference 5.1.47). (Added 5-5-10)

(§ 20-28.2.2, 12-10-80; 2-13-85; 10-15-86; 6-19-91; § 18-28.2.2, Ord. 98-A(1), 8-5-98; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 10-18(4), 5-5-10)

~~**Sec. 28.3 Minimum area required for establishment of district**~~

~~Minimum area required for establishment of an HI District shall be five (5) acres. There shall be no minimum area requirements for additions to established HI districts, provided the area to be added adjoins and forms a logical addition to the existing HI district.~~

**Sec. 28.4~~3~~ ~~Additional requirements~~ Structure height, setback, yard, development, use**

~~In addition to requirements contained herein, the requirements of section 26.0, industrial districts, generally, shall apply in all HI districts.~~

The structure height, yard, setback, development, and use standards in sections 26.3, 26.4 and 26.5, and the sections cross-referenced therein, shall apply to all heavy industry (HI) districts.

**Sec. 29.1 Intent, where permitted**

~~PD-IP districts are hereby created and may hereafter be established by amendment to the zoning map to permit a variety of industrial uses, together with certain uses ancillary thereto, which are compatible with and do not detract either from each other or from surrounding districts. It is intended that PD-IP districts may be established in areas in conformity with the comprehensive plan and having all of the following characteristics:~~

~~-Areas served by water and sewer facilities, or if such facilities are reasonably available;~~

~~-Areas served by major highway, rail or air service, or secondary road improved to standards approved by the county; and~~

~~-Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.~~

~~In the establishment of any PD-IP district, the board of supervisors shall designate the category of uses which shall be permitted in each parcel, or part thereof, which is the subject of the application for such amendment~~.

The intent of the planned development industrial park (PD-IP) district is to permit a variety of industrial and supporting uses, together with delineated uses that are ancillary thereto within a planned development that are compatible with and do not detract either from each other or surrounding districts. In establishing a PD-IP district, the board of supervisors shall designate the category of uses in section 29.2 that will be permitted on each parcel, or part thereof, within the district.

**Sec. 29.2 Permitted uses**

The uses permitted by right, by special use permit and by special exception within those areas designated as Category I or Category II on the application plan applicable to the planned development – industrial park (PD-IP) district are set forth in the table in section 26.2. No separate application for a special use permit shall be required for any special use identified on the approved application plan.

~~**Sec. 29.2.1 By right – Category I**~~

~~The following uses shall be permitted in any area designated as Category I on the approved application plan:~~

~~1. Uses permitted by right shall include uses permitted by right in the LI light industry district.~~

~~**Sec. 29.2.2 By special use permit – Category I**~~

~~The following uses shall be permitted only by special use permit provided that no separate application shall be required for any use included on the approved application plan: (Amended 6-28-95)~~

~~1. Uses permitted by special use permit in the LI light industry district;~~

~~2. Hotels, motels, inns (reference 9.4.2). (Added 6-28-95)~~

~~**Sec. 29.2.3 By right – Category II**~~

~~The following uses shall be permitted in any area designated as Category II on the approved application plan:~~

~~1. Uses permitted by right shall include uses permitted by right in the LI light industry district and the HI heavy industry district.~~

~~**Sec. 29.2.4 By special use permit – Category II**~~

~~Uses by special use permit shall include uses permitted by special use permit in the LI light industry district and the HI heavy industry district; provided that no separate application shall be required for any use included on the approved application plan.~~

~~**Sec. 29.3 Minimum area required for creation of district**~~

~~Minimum area required for creation of a PD-IP district shall be fifty (50) acres; provided, however that when an initial PD-IP district has been created, incremental additions to such district shall be permitted if such incremental addition adjoins and forms a logical addition to the existing district.~~

~~**Sec. 29.4 Number of permitted uses**~~

~~The number of permitted uses shall not exceed the total number of acres within the district divided by ten (10).~~

**Sec. 29.~~5~~3 ~~Additional requirements~~ Structure height, setback, yard, development, use**

~~In addition to requirements contained herein, the requirements of sections 8.0 and 26.0 shall apply to all PD-IP districts, except as hereinafter expressly provided. Any requirements of sections 26.0 and 29.0 shall be subject to modification, variation or waiver as provided in section 8.0, planned development districts, generally. For such areas as may be located on the perimeter of a PD-IP district, the commission shall be particularly mindful of the intent to protect the character of adjoining development. In addition to materials required by section 8.5.1, a transportation analysis plan shall be submitted with the application for PD-IP district designation. Such plan shall show: projected automobile and truck traffic generation; percent of truck traffic by type; internal and access point turning movement; general alignments of internal roads; rights-of-way widths and roadway typical sections including base strength designs; proposed improvements to the existing transportation network; percentage estimate of traffic distribution to and from the site on external roads; bus and car pool programs, if any. The phasing of improvements enumerated in this section shall be indicated on the plan.~~

The structure height, yard, setback, development, and use standards in sections 26.3, 26.4 and 26.5, and the sections cross-referenced therein, shall apply to all planned development – industrial park (PD-IP) districts.

(12-10-80; Ord. 98-A(1), 8-5-98; Ord. 99-18(1), 4-14-99)

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

_____
Clerk, Board of County Supervisors

| | Aye | Nay |
|---|---|---|
| Mr. Boyd | ____ | ____ |
| Mr. Dumler | ____ | |
| Ms. Mallek | ____ | |
| Mr. Rooker | ____ | |
| Mr. Snow | ____ | |
| Mr. Thomas | ____ | |

**ATTACHMENT F**

**RESOLUTION OF INTENT**

**WHEREAS,** one of the short-term priorities of the County's Economic Development Policy is to initiate zoning text amendments that further enable business and industrial uses in appropriate zoning districts; and

**WHEREAS,** in implementing the County's Economic Development Policy and the Economic Vitality Action Plan, the Board has already adopted two zoning text amendments pertaining to industrial uses (ZTA-2010-001 and ZTA-2010-002) and will soon be considering a third (ZTA-2012-004); and

**WHEREAS,** it is now desired to consider amending the regulations in the Zoning Ordinance pertaining to industrial uses in order to reflect current industrial technologies and their reduced impacts, and to allow certain industrial uses to be allowed by right or by special use permit within the commercial zoning districts, subject to suitable conditions, while at the same time preserving those districts' integrity.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning Commission hereby adopts a resolution of intent to amend the Zoning Ordinance, including sections 22, 23, 24, 25, 25A, and any other sections deemed appropriate, as described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on this resolution of intent, and return its recommendations to the Board of Supervisors at the earliest possible date.

* * * * *

**Attachments for ZTA-2012-00006 PROCESS IMPROVEMENTS**

**ATTACHMENT F**

**PRE-APPLICATION PROCESS – PROCESS CONCEPT OUTLINE**

***Exploratory/Information Gathering Meetings***

- Anticipate will continue to be regularly used by prospective applicants and staff to exchange information regarding proposals and review processes.
- Anticipate will be held prior to scheduling of a required pre-application meeting to determine if the scope, scale and complexity of the prospective project requires a pre-app meeting. Also provides opportunity to determine if applicant desires a pre-application work session with the Planning Commission.

***Required Pre-Application Meeting***

- It is anticipated that for some prospective projects it will be determined during the exploratory/information gathering meetings that a pre-app meeting will not be required when:
  - The scope/level of complexity does not warrant the required pre-app meeting.
  - The exploratory /info gathering meetings will have provided the opportunity to exchange relevant information prior to application submittal.
- Necessary for newly proposed Planned Development, ZMAs /SPs that create a significant change in land use intensity or otherwise could have significant or unique impacts to the community or significant resources.
- Timed to take be scheduled when the location, concept and scope of the project are known and the applicant is working on a specific application for submittal.
- It is estimated that the required pre-app meeting process will take about 25 days from request for meeting to distribution of written comments after meeting; time needed for:
  - Submittal of pre-app material from applicant approximately 2 weeks before pre-app meeting.
  - Distribution of information from applicant to relevant reviewing departments and agencies for review prior to pre-app meeting.
  - Hold meeting on Monday afternoons (as currently).
  - Allow time for review/response to any follow-up questions from meeting. Revise/finalize comments as necessary and forward to applicant (no more than 10 days after meeting);
- Information to be provided by applicant:
  - Completed pre-app checklist as provided by County.
  - Narrative of the proposal describing the proposed use, density/intensity of development, location and size of property, etc.
  - If determined necessary for staff to provide appropriate guidance, sketch plan of project showing very basic generalized layout of proposed development (build and no- build areas, road access points, etc.). Information provided will depend on project scope.

***Community Meetings***

- To inform the community about the project, County policies related to the project, the review process and allow for dialogue (questions/comments on project).
- The need for community meetings will be determined in the pre-app process.
- It is anticipated that some projects, particularly in the Rural Areas, will not need a community meeting.
- Need for community meeting based on complexity of project, potential impacts to area (major changes to land use, traffic patterns, etc.).
- May be waived if there are no major issues relevant to neighborhood/area or community meetings or the equivalent have already been held.
- May utilize Master Plan Citizen Advisory Councils for neighborhood meeting/meeting location with notification of adjacent property owners and appropriate HOAs or neighborhood association.

**ATTACHMENT C**

**Draft: 10/11/12**

**ORDINANCE NO. 12-18( )**

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

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

**By Amending:**

| | |
|---|---|
| Sec. 3.1 | Definitions |
| Sec. 4.15.5 | Signs authorized by special use permit |
| Sec. 4.8.1 | Determinations concerning unspecified uses |
| Sec. 10.5.2 | Where permitted by special use permit |
| Sec. 20.1 | Intent, where permitted |
| Sec. 20.2 | Application |
| Sec. 30.1.2 | Application |
| Sec. 31.1 | Designation of zoning administrator, authority |
| Sec. 34.4 | Application for variances |
| Sec. 35.1 | Fees |

**By Amending and Renaming:**

| | Old | New |
|---|---|---|
| Sec. 1.7 | Official zoning map | Zoning map |
| Sec. 30.5.5 | Permitted uses by right and special permit permit | Permitted uses by right and by special use |

**By Repealing:**

| | |
|---|---|
| Sec. 1.9 | Application for land use permit; payment of delinquent taxes |
| Sec. 8.5.1 | Applications and documents to be submitted |
| Sec. 8.5.2 | Preapplication conferences |
| Sec. 8.5.3 | Review and recommendation by the planning commission |
| Sec. 8.5.4 | Review and action by the board of supervisors; effect of approval |
| Sec. 8.6 | Amendments to planned development districts |
| Sec. 20A.3 | Application requirements; required documents and information |
| Sec. 20A.4 | Application plans |
| Sec. 31.6 | Special use permits |
| Sec. 31.6.1 | Reserved to board of supervisors |
| Sec. 31.6.2 | Application |
| Sec. 31.6.3 | Conditions |
| Sec. 31.6.4 | Revocation |
| Sec. 31.8 | Special exceptions |
| Sec. 33.0 | Amendments |
| Sec. 33.1 | Statement of purpose and intent |
| Sec. 33.2 | Initiation of amendments |
| Sec. 33.2.1 | Property owner petition |
| Sec. 33.2.2 | Untitled |
| Sec. 33.2.3 | Untitled |
| Sec. 33.3 | Proffer of conditions |
| Sec. 33.3.1 | Effect of conditions |

Sec. 33.3.2 Zoning map notation
Sec. 33.3.3 Authority of zoning administrator
Sec. 33.4 Public hearing -- notice
Sec. 33.5 Report by planning commission to board of supervisors after hearing
Sec. 33.6 Limitation on filing new petition after original denial
Sec. 33.7 Withdrawal of petitions
Sec. 33.8 Posting of property
Sec. 33.8.1 Posting of property – planning commission hearing
Sec. 33.8.2 Validation of prior notice requirement (Amended 6- 19-96)
Sec. 33.8.3 Maintenance and removal of signs
Sec. 33.9 Matters to be considered in reviewing proposed amendments
Sec. 33.10 Schedule of review
Sec. 33.10.1 Untitled
Sec. 33.10.2 Untitled

**By Adding:**

Sec. 33.1 Purpose and intent
Sec. 33.2 Uniform requirements for the initiation of zoning text amendments and zoning map amendments
Sec. 33.3 Uniform procedures for zoning text amendments and county-initiated zoning map amendments
Sec. 33.4 Uniform procedures for owner-initiated zoning map amendments and special use permits
Sec. 33.5 Uniform procedures for special exceptions
Sec. 33.6 Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval
Sec. 33.7 Owner-initiated zoning map amendments; authority to accept proffers
Sec. 33.8 Special use permits; relevant factors to be considered; conditions; revocation
Sec. 33.9 Special exceptions; relevant factors to be considered; conditions

## Chapter 18. Zoning

### Article I. General Provisions

**Sec. 1.7 ~~Official zoning map~~ Zoning map**

~~The unincorporated areas of Albemarle County, Virginia, are hereby divided into districts, as indicated on a set of map sheets entitled "Zoning Map of Albemarle County, Virginia" which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.~~

~~The Zoning Map shall be identified by the signature or the attested signature of the Chairman of the Board of Supervisors, together with the date of adoption of this ordinance.~~

~~The zoning administrator shall be responsible for maintaining the Zoning Map, which shall be located in his offices, together with the current zoning status of land and water areas, buildings and other structures in the county.~~

~~The zoning administrator shall be authorized to interpret the current zoning status of land and water areas, buildings and other structures in the county.~~

~~No changes of any nature shall be made on said Zoning Map or any matter shown thereon except in conformity with the procedures and requirements of this ordinance. It shall be unlawful for any person to make unauthorized changes on the official Zoning Map. Violations of this provision shall be punishable as provided in section 37.0.~~

The zoning map is identified, and shall be interpreted, as follows:

a. *Zoning map identified*. The zoning map is composed of the several maps and digital source files, and all dimensions, symbols, notations, and designations shown on the maps and in the digital source files, is maintained by the department of community development, and is incorporated by reference as part of this chapter. The zoning map is the digital form of the zoning map adopted on December 10, 1980, as amended by all zoning map amendments after that date. The zoning map also may exist in an analog zoning map book.

b. *Zoning map establishes the location and boundaries of zoning districts*. The location and boundaries of the zoning districts created by this chapter are hereby established as shown on the zoning map. The zoning map also includes symbols that represent the existence of conditions, including proffers, attaching to the zoning of a parcel on the zoning map.

c. *Interpretation*. The zoning map shall be interpreted as follows:

1. *District lines follow lot lines and center lines; boundary designated*. The district boundaries shown on the zoning map are intended to follow the lot lines and the center lines of streets or alleys as they existed on December 10, 1980 and as hereafter amended; provided that where a district boundary obviously does not follow any such line, and is not depicted on an approved subdivision plat or site plan or described by dimensions or other means, the district boundary shall be determined by measurement using a scale.

2. *Waterways, roads, streets, highways, railroads, and other rights-of-way; boundary not designated*. All waterways, alleys, roads, streets, highways, railroads, and other rights-of-way (collectively, "features"), if not otherwise specifically designated and if not part of a parcel abutting the feature, shall be deemed to be in the same zoning district as the immediately abutting parcels, and the departing boundary lines from those abutting parcels shall be deemed to extend to the centerline of the feature. If the center line of a feature serves as a parcel boundary, the zoning of the feature, if not otherwise specifically designated, shall be deemed to be the same as that of the parcel to which it is a part.

3. *Areas not otherwise designated*. The intent of this chapter is to have the entire unincorporated territory of the county within a zoning district. Except for those features identified in subsection (c)(2), any area shown on the zoning map having a white background shall be deemed to be in the rural areas (RA) zoning district.

4. *Inconsistencies*. If there is an inconsistency between any information shown on the zoning map and any decision made by the board of supervisors or an interpretation of the zoning map made by the board of zoning appeals after December 10, 1980, then the decision of the board of supervisors or the interpretation of the board of zoning appeals shall govern.

d. *Alterations and amendments*. The zoning map shall not be altered or amended in any way except in compliance with the procedures and standards established by this chapter for a zoning map amendment.

**State law reference** – Va. Code §§ 15.2-2285(A), 15.2-2286(A)(7), 15.2-2300.

**~~Sec. 1.9 Application for land use permit; payment of delinquent taxes~~**

~~Prior to initiation of the review of an application for a zoning map amendment, special use permit, variance or other land use permit, the zoning administrator shall require the applicant to produce satisfactory evidence that all delinquent real estate taxes owed to the County which have been properly assessed against the subject property have been paid. The applicable time periods for the review,~~

~~recommendation and decision on an application for a land use permit shall be tolled until such evidence is received by the zoning administrator.~~

**Sec. 3.1 Definitions**

. . .

*Digital source file*: The media type and format to which an analog or digital source material is encoded, and the file is used to produce a digital derivative.

. . .

*Owner*: The owner or owners of the fee simple interest of real property.

. . .

*Special exception*: An exception to the general regulations in any particular zoning district pertaining to the size, height, area, bulk or location of structures or the areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, that is not permitted in any particular zoning district except by a special exception granted under this chapter.

. . .

*Special use permit*: A permit for a special use that is not permitted in a particular zoning district except by a special use permit granted under this chapter.

. . .

*Zoning map amendment*: An amendment to the zoning map, which may include changing the boundaries of one or more zoning districts or the zoning district classification of one or more parcels; also sometimes referred to as a "rezoning."

. . .

*Zoning text amendment*: An amendment to the regulations of this chapter, which may include amending, changing
or supplementing the regulations.

**State law reference** – Va. Code § 15.2-2286(A)(4).

**Article II. Basic Regulations**

**Sec. 4.8.1 Determinations concerning unspecified uses**

Uses other than those specified in district regulations as permitted by right or accessory uses may be added to a district on application by ~~a landowner~~ an owner if the commission and board of supervisors find:

a. That there is no clear intent to exclude such uses; and

b. That the proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district.

In such cases, the board of supervisors shall proceed to amend the ordinance in accord with the provisions of section 33.~~0.~~

**State law reference** – Va. Code § 15.2-2286(A)(4).

**Sec. 4.15.5 Signs authorized by special use permit**

Except as provided in subsection (d), electric message signs, off-site signs, and signs in public rights-of-way may be authorized only by special use permit, as provided herein:

. . .

c. *Procedure and administration*. The application procedure, the findings and conditions to be applied by the board of zoning appeals when considering an application for a special use permit, and the authority to revoke such a permit, shall be as provided in section ~~31.6~~ 33 of this chapter. In addition to the foregoing:

1. For an off-site sign, the board of zoning appeals shall also find that the issuance of a special use permit is necessary because an on-site sign would be ineffective to communicate its message off-site because of topography or vegetation.

2. For an electric message sign, the board of zoning appeals shall also find that the sign complies with all applicable state laws for such signs.

3. A permit number for each special use permit issued for an off-site sign shall be affixed to the sign in a conspicuous place.

. . .

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

~~**Sec. 8.5.1 Applications and documents to be submitted**~~

~~Each application for a planned development district shall be submitted as provided for other zoning map amendments. The documents required by subsections (a) through (e) below shall be submitted with the application. After the application is submitted, the director of planning may request additional plans, maps, studies and reports such as, but not limited to, traffic impact analyses, identification of specimen trees, and reports identifying potential non-tidal wetlands which are deemed reasonably necessary to analyze the application:~~

~~a. A regional context map at a scale of not less one (1) inch equal to one thousand (1000) feet showing topography at a maximum of ten (10) foot intervals, surrounding properties, improvements to those properties, surrounding public streets, private roads, and other thoroughfares;~~

~~b. An accurate boundary survey of the area to be rezoned showing the location and type of boundary evidence and the source of the survey;~~

~~c. A map at a scale of not less than one (1) inch equal to one hundred (100) feet, provided that another interval and/or scale may be required or permitted by the director of planning where the size of the area proposed to be rezoned or topographic considerations warrant, showing:~~

~~1. The following existing physical conditions: streams, wooded areas, potential non-tidal wetlands, slopes in excess of twenty-five (25) percent, historic structures and sites included in the records of the Virginia Department of Historic Resources, cemeteries, floodplain, and any identified features in the open space element of the comprehensive plan;~~

2. Existing topography accurately shown using the county's geographic information system or better topographical information, and the source of the topographical information;

3. Existing roads, easements, and utilities;

4. The name of the proposed development; the names of all owners; the name of the developer, if different from the owner; the name of the person who prepared the plan; all tax map and parcel numbers in fourteen (14) digit format; the zoning district and all overlay zoning districts; the magisterial district; the north point; the scale; one datum reference for elevation; if any part of the area proposed to be rezoned is within the flood hazard overlay district (section 30.3), United States Geological Survey vertical datum shall be shown and/or correlated to plan topography; sheet numbers on each sheet and the total number of sheets; the date of the drawing; and the date and description of the last revision;

5. The present use of abutting parcels; the location of structures on abutting parcels, if any; and departing lot lines; and

6. The existing location, type and size of ingress and egress to the site;

d. A traffic impact statement meeting the requirements of state law including, but not limited to, 24 VAC 30-155-10 *et seq*.;

e. An application plan at a scale of not less than one (1) inch equal to one hundred (100) feet, provided that another interval and/or scale may be required or permitted by the director of planning where the size of the area proposed to be rezoned or topographic considerations warrant, showing:

1. The areas to be designated as preservation areas, if appropriate, and areas to be designated as conservation areas, such as streams, wooded areas, specimen trees, non-tidal wetlands, and other significant environmental features;

2. Conceptual grading/topography using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where existing slopes are twenty-five (25) percent or greater;

3. The general location of proposed streets, alleys, sidewalks, and pedestrian paths;

4. Typical street cross-sections to show proportions, scale, and streetscape;

5. Connections to existing and proposed streets, as well as proposed thoroughfares shown on the comprehensive plan;

6. The general lay-out for the water and sewer systems, conceptual stormwater management, and a conceptual mitigation plan;

7. The location of central features or major elements within the development essential to the design of the development, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas;

8. A summary of land uses including dwelling types and densities, and the gross floor areas for commercial and industrial uses;

9. A conceptual lot layout; and

10. Standards of development including proposed yards, building heights, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

**Sec. 8.5.2 Preapplication conferences**

Each applicant for a planned development shall attend a joint meeting with the staff of the department of community development as well as other qualified officials from outside agencies such as the Virginia Department of Health, the Virginia Department of Transportation, and the Albemarle County Service Authority to review the application plan and the proposed development before the application is submitted. The purpose of the preapplication conference shall be to assist the applicant to assure that the application and the documents to be submitted with the application comply with all applicable regulations, and to identify as soon as possible conflicting regulations and necessary waivers or modifications.

***Each applicant is encouraged to use the guidance provided in the preapplication conference process to develop an application for a planned development that, when submitted with its supporting documents, will be as complete and comprehensive as possible.***

(§ 8.5.3, 12-10-80; Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

(Former § 8.5.2 Planning Commission Procedures Repealed 3-19-03)

**Sec. 8.5.3 Review and recommendation by the planning commission**

Each application to establish or amend a planned development district shall be reviewed and acted on by the planning commission as follows:

a. The commission shall consider and make its recommendation to the board of supervisors on each application for a planned development district as it does for other zoning map amendments. Within the time provided to make a recommendation, the commission may hold work sessions on the application and proceed to a public hearing after it determines that no further work sessions are necessary, or at any time the applicant requests a public hearing.

b. In addition to any other factors relevant to the consideration of a zoning map amendment, the commission shall consider the following:

1. Whether the proposed planned development or amendment thereto satisfies the purpose and intent of the planned development district.

2. Whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; the physical characteristics of the area proposed to be rezoned; and the relation of the area proposed to be rezoned to the surrounding area; and

3. The relation of the proposed planned development to major roads, utilities, public facilities and services.

c. The commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the board of supervisors, or disapproval. The commission shall also make recommendations on all requested waivers and modifications.

(§ 8.5.4, 12-10-80; Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

**Sec. 8.5.4 Review and action by the board of supervisors; effect of approval**

Each application to establish or amend a planned development district shall be reviewed and acted on by the board of supervisors, and approval of the application shall have effect, as follows:

a. *Review and action*. The board of supervisors shall consider and act on each application for a planned development district as it does for other zoning map amendments. If the board approves the application, the approving action shall constitute approval of the application plan, all standards of development submitted by the applicant, and the code of development, as applicable. The board's action shall also identify which proffers it has accepted and which waivers or modifications it has granted.

b. *Effect of approval*. Upon approval of an application, the application plan, all standards of development submitted by the applicant, the code of development, as applicable, all accepted proffers, and all approved waivers and modifications shall be included as part of the zoning regulations applicable to the planned development.

(§ 8.5.5, 12-10-80; Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

**Sec. 8.6 Amendments to planned development districts**

A planned development district may be amended after it is established, either by the addition or removal of land, or by an amendment to the application plan, code of development, proffers or any waiver or modification, in accordance with the procedures and requirements of section 8 and those applicable to zoning map amendments generally, and subject to the following additional requirements:

a. *Eligible applicant*. Any owner, contract purchaser with the owner's consent, or any authorized agent of the owner, of one or more parcels within a planned development district may apply to amend the existing planned development district as it pertains to the owner's parcel(s). The owner of each parcel to which the proposed amendment would result in or require a physical change to the parcel, a change in use, density or intensity on that parcel, a change to any proffer or regulation in a code of development that would apply to the parcel, a change to an owner's express obligation under a proffer or regulation in a code of development even if the proffer or regulation is not expressly changed, or a change to the application plan that would apply to the parcel, shall be an applicant.

b. *Amendment affecting less area than the entire district; map*. If the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any waiver or modification would apply.

c. *Individual notice*. In addition to any notice required by Virginia Code § 15.2-2204 and sections 33.4 and 33.8 of this chapter, written notice of the proposed amendment shall be provided to the owner of each parcel within the planned development district. The substance of the notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.

d. *Factors to consider during review of proposed amendment*. In addition to any other applicable factors to be considered in the review of a zoning map amendment, the following shall also be considered:

1. Whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section 8.3.

2. The extent to which the proposed amendment impacts the other parcels within the planned development district.

~~(§ 8.6, Ord. 09-18(9), 10-14-09)~~

## Article III. District Regulations

### Sec. 10.5.2 Where permitted by special use permit

10.5.2.1 The board of supervisors may authorize the issuance of a special use permit for more lots than the total number permitted under section 10.3.1 and section 10.3.2; provided that no such permit shall be issued for property within the boundaries for the watershed of any public drinking water supply impoundment, and further provided that no such permit shall be issued to allow more development lots within a proposed rural preservation development than that permitted by right under section 10.3.3.3(b). (Added 11-8-89; Amended 5-5-04 effective 7-1-04)

The board of supervisors shall determine that such division is compatible with the neighborhood as set forth in section ~~31.2.4.1~~ 33.8 of this chapter with reference to the goals and objectives of the comprehensive plan relating to rural areas including the type of division proposed and specifically, as to this section only, with reference to the following: (Amended 11-8-89)

. . .

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

### Sec. 20.1 Intent, where permitted

PUD districts may hereafter be established by amendment to the zoning map in accordance with the provisions set forth generally for planned development districts in sections 8~~.0~~ and 33~~.0~~ and with densities and uses in locations in accordance with recommendations of the comprehensive plan. As described by the comprehensive plan, PUD districts are intended to serve as neighborhoods or mini-neighborhoods within designated communities and the urban area. Additionally, PUD districts may be appropriate where the establishment of a "new village" or the nucleus of a future community exists and where the PUD development would not preclude achievement of the county's objectives for the urban area, communities and villages.

In order to encourage the community function, appropriate commercial and industrial uses are provided in addition to a variety of residential uses. It is intended that commercial and industrial development be limited to a scale appropriate to the support of the residential uses within the PUD; provided that additional commercial and industrial activity may be permitted upon a finding that the area in which the PUD is to be located is not adequately served by such use.

It is intended that these regulations provide flexibility in residential development by providing for a mix of residential uses with appropriate nonresidential uses, alternative forms of housing, flexibility in internal relationships of design elements and, in appropriate cases, increases in gross residential densities over that provided in conventional districts.

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

### Sec. 20.2 Application

Notwithstanding the requirements and provisions of section 8~~.0~~, planned development districts, generally, where certain planned community districts have been established and have been developed or received final site development plan approval prior to the adoption of this ordinance, such districts shall be considered to have been established as PUD districts under this ordinance and shall be so designated on the zoning map.

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

~~**Sec. 20A.3 Application requirements; required documents and information**~~

~~Except where the option is exercised as provided in subsection 20A.3(b), below, the following documents and information shall be submitted in addition to any other documents required to be submitted under section 8.5 of this chapter:~~

~~a. A statement describing how the proposed NMD satisfies the intent of the zoning ordinance and is consistent with the applicable goals and objectives of the comprehensive plan, the land use plan, the master plan for the applicable development area, and the Neighborhood Model; if one or more characteristics of the Neighborhood Model delineated in section 20A.1 are missing from an application, the applicant shall justify why all of the characteristics cannot or should not be provided;~~

~~b. A parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8 of this chapter, and transportation demand management strategies as provided in section 4.12.12 of this chapter; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.~~

~~c. Strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.~~

~~d. An application plan, as provided in section 20A.4, including all information required by sections 8 or 20A to support any element of the plan.~~

~~e. A code of development, as provided in section 20A.5, including all information required by sections 8 or 20A to support any element of the code.~~

~~(Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)~~

~~**Sec. 20A.4 Application plans**~~

~~In addition to the application plan requirements of section 8.5.1(e), the following are required elements of an~~
~~application plan in the NMD:~~

~~a. The general location of proposed streets, alleys, sidewalks, and pedestrian paths;~~

~~b. The location of proposed green spaces, amenities, conservation areas or preservation areas, as provided in section 20A.9;~~

~~c. A conceptual lot lay-out;~~

~~d. Conceptual grading/topography using the county geographic information system or better topographic information supplemented where necessary by spot elevations and areas of the site where existing slopes are twenty-five (25) percent or greater;~~

~~e. Typical street cross-sections to show proportions, scale, and streetscape, which, alternatively, may be provided in the code of development;~~

~~f. Any proposed connections to existing and proposed streets, as well as proposed thoroughfares shown on the comprehensive plan;~~

~~g. The general lay-out for the water and sewer systems, conceptual stormwater management, and a conceptual mitigation plan; and~~

~~h. The location of central features or major elements within the development essential to the design of the development, such as building envelopes, major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas.~~

~~(Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)~~

**Sec. 30.1.2 Application**

Overlay districts and amendments thereof shall be established in accordance with the provisions of section 33.~~0~~ of this ~~ordinance~~ chapter.

**State law reference** – Va. Code § 15.2-2286(A)(4).

**Sec. 30.5.5 Permitted uses by right and by special use permit**

. . .

30.5.5.2 Within the immediate environs of any stream designated in section 30.5.2, no person shall
commence any use involving the construction of any structure, the cutting of any living tree over six (6) inches caliper measured at six (6) inches above ground level, or the grading or other like physical alterations of the immediate environs of such stream except as follows: (Amended 9-9-92)

. . .

d. The following uses by special use permit only:

. . .

6. Bridges, causeways and other similar structures designed for pedestrian and/or vehicular access; provided that the board of supervisors shall find, by clear and convincing evidence, in addition to the ~~findings required by section 31.2.4.1~~ factors to be considered under section 33.8, that:

. . .

## Article IV. Procedure

**Sec. 31.1 Designation of zoning administrator, authority**

The office of zoning administrator is hereby established, subject to the following:

a. *Authority*. The zoning administrator shall have all necessary authority on behalf of the board of supervisors to administer and enforce this chapter. This authority includes, but is not limited to:

1. Interpreting this chapter and the official zoning map;

2. Administering this chapter by making determinations and decisions on any matters arising under this chapter, including but not limited to, how a building, structure or use should be classified, whether a use is permitted within a particular zoning district, whether a proposed building or structure complies with setback, height, bulk and other requirements, whether a building, structure, use or lot is nonconforming, and whether a lot meets minimum lot size requirements.

3. Ordering in writing the remedying of any use or structure determined to be in violation of this chapter;

4. Insuring compliance with this chapter, bringing legal action, including an action for ~~l~~injunction, abatement, civil penalties or other appropriate action or proceeding subject to appeal as provided by Virginia Code § 15.2-2311 and this chapter;

5. In specific cases, making findings of fact and, with concurrence of the county attorney, conclusions of law regarding determinations of rights under Virginia Code §§ 15.2-2307 and 15.2-2311(C);

6. Enforcing the provisions of this chapter regulating the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance with applicable local, state and federal fair housing laws; ~~and~~

7. Making decisions and determinations as to whether a pending site plan, subdivision plat, building permit application or any other application subject to review and approval by the county or the program authority complies with this chapter~~.~~;

8. Administering and enforcing proffers accepted in conjunction with zoning map amendments, including: (i) ordering in writing the remedying of any noncompliance with the proffers; (ii) insuring compliance with the proffers by bringing legal action, including an action for injunction, abatement, or other appropriate action or proceeding; and (iii) requiring a guarantee in the form of a surety bond, letter of credit, cash deposit, or another form of guarantee determined to be acceptable by the county attorney, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the proffers, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the zoning administrator, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part; and

9. Keeping and making available for public inspection a conditional zoning index. The index shall provide ready access to the proffers accepted in conjunction with a zoning map amendment and the regulations provided for in a particular zoning district or zone. The index also shall provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the board of supervisors pursuant to Virginia Code § 15.2-2303.2. The zoning administrator shall update the index annually and no later than November 30 of each year.

b. *Absence of specific authority not a limitation*. The specific authority expressly granted to the zoning administrator in other sections of this chapter shall not be construed to be a limitation on the authority of the zoning administrator to administer and enforce those sections where specific authority is not expressed.

**State law reference** – Va. Code §§ 15.2-2286(A)(4), (14), 15.2-2299, 15.2-2300.

~~**Sec. 31.6 Special use permits**~~

~~(§ 31.2.4, 12-10-80; Ord. 09-18(3), 7-1-09)~~

~~**Sec. 31.6.1 Reserved to board of supervisors**~~

~~The board of supervisors hereby reserves unto itself the right to issue all special use permits permitted hereunder. Special use permits for uses as provided in this ordinance may be issued upon a finding by the board of supervisors that such use will not be of substantial detriment to adjacent property, that the character of the district will not be changed thereby and that such use will be in harmony with the purpose~~

and intent of this ordinance, with the uses permitted by right in the district, with additional regulations provided in section 5, and with the public health, safety and general welfare.

(§ 31.2.4.1, 12-10-80; Ord. 09-18(3), 7-1-09)

**Sec. 31.6.2 Application**

Application for a special use permit shall be made by the filing thereof by the owner or contract purchaser of the
subject property with the zoning administrator, together with a fee as set forth in section 35. No such permit shall be issued unless the board of supervisors shall have referred the application therefor to the commission for its recommendations. Failure of the commission to report within ninety (90) days after the first meeting of the commission after the application has been referred to the commission shall be deemed a recommendation of approval. Provided, however, any day between the date an applicant requests or consents to a deferral or continuance of the consideration of the application by the commission until the date of the deferred or continued hearing by the commission shall not be counted in computing the ninety (90) day review period. The board of supervisors may extend the review period upon a request by the commission.

The board of supervisors shall act upon such application and render a decision within a reasonable time period.

No such permit shall be issued except after notice and hearing as provided by Virginia Code § 15.2-2204 and section 33.8 of this chapter.

a. *Limitation of filing new application after original denial*. Upon denial by the board of supervisors of any application filed pursuant to section 31.6.2 above, substantially the same petition shall not be reconsidered within twelve (12) months of the date of denial.

b. *Withdrawal of petition*. An application shall be withdrawn, or be deemed to be withdrawn, as provided herein:

1. An application filed pursuant to section 31.6.2 above may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the commission or the board. Substantially the same application shall not be reconsidered within twelve (12) months of the date of the withdrawal unless the body considering the application at the time of withdrawal specifies that the time limitation shall not apply.

2. If the applicant requests that further processing or formal action on the application be indefinitely deferred, the application shall be deemed to have been voluntarily withdrawn by the applicant if the commission or the board does not take action on the application within twelve (12) months after the date the deferral was requested. Upon written request received by the director of planning before the application is deemed to be withdrawn, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made.

(§ 31.2.4.2, 12-10-80, 5-5-82, 6-19-96; Ord. 01-18(6), 10-3-01; § 31.2.4.2.1, 6-19-96; § 31.2.4.2.2, 6-19-96; Ord. 01-18(6), 10-3-01; Ord. 09-18(3), 7-1-09)

**Sec. 31.6.3 Conditions**

The board of supervisors may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest and may require a bond with surety or other approved security to ensure that the conditions so imposed shall be complied with. The conditions shall relate to the purposes of this ordinance, including, but not limited to, the prevention of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substance or condition; the provision of adequate police and fire protection, transportation, water, sewerage, drainage, recreation, landscaping and/or screening or buffering; the establishment of special requirements relating to the building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building height and/or other particular aspects of occupancy or use. Except as the board of supervisors may otherwise specifically provide in a particular case, any condition imposed under the authority of this section shall be deemed to be essential to and nonseverable from the issuance of the permit itself.

(§ 31.2.4.3, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 09-18(3), 7-1-09)

**Sec. 31.6.4 Revocation**

Any special use permit issued pursuant to this chapter may be revoked by the board of supervisors, after notice and hearing pursuant to Virginia Code § 15.2-2204, for willful noncompliance with this chapter or any conditions imposed under the authority of section 31.6.3. If the use, structure or activity for which a special use permit is issued is not commenced within twenty-four (24) months after the permit is issued, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate. For purposes of this section, if the use authorized by the permit requires the construction of one or more structures, the term "commenced" means starting the lawful physical construction of any structure necessary to the use authorized by the permit within twenty-four (24) months after the permit is issued. The board of supervisors may, as a condition of approval, impose an alternative period in which to commence the use, structure or activity as may be reasonable in a particular case. A determination that a permittee has commenced a use, structure or activity under this section is not a determination that the permittee has acquired a vested right under Virginia Code § 15.2-2307.

(§ 31.2.4.4, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 09-18(3), 7-1-09)

**Sec. 31.8 Special exceptions**

The board of supervisors reserves unto itself the authority to consider and act upon special exceptions as follows:

a. *Matters requiring a special exception*. Notwithstanding any other section of this chapter:

1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board.

2. Any requirement for a decision by the planning commission required by this chapter shall be considered and acted upon by the board. For the purposes of this section, a decision by the planning commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any action provided in section 32 enabled under Virginia Code § 15.2-2242(1).

b. *Consideration and action*. In acting upon a special exception, the board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.

c. *Conditions*. In approving a special exception, the board may impose reasonable conditions to address any possible impacts of the special exception.

d. *Time for action*. A request for a special exception shall be acted on by the board within ninety (90) days after the date of the request, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.

e. *Request*. Each request for a special exception shall be made as provided under the applicable section of this chapter.

(Ord. 12-18(1), 2-8-12)

## Section 33

## Amendments

## Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions

### Sec. 33.0 Amendments

The board of supervisors may amend, supplement, or change the regulations in this chapter, or the zoning boundaries or classifications of property on the zoning map, in conformity with the provisions of Article 7 of Chapter 22 of Title 15.2 of the Code of Virginia (1950), as amended, and the provisions and purposes of this section. (Amended 10-3-01)

(§ 33.0, 12-10-80; Ord. 01-18(6), 10-3-01)

### Sec. 33.1 Statement of purpose and intent

The board of supervisors finds that a portion of the police power of the Commonwealth has been delegated to each county to be exercised reasonably in determining the manner of its development. The Virginia Legislature has left much discretion to the county in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, good zoning practice and the aesthetic values and priorities of the local citizenry provide guiding factors for the board of supervisors in its quest to exercise its legislative mandate in formulating a reasonable policy of county planning for the general good and welfare.

### Sec. 33.2 Initiation of amendments

The board of supervisors may amend this ordinance by amending the text thereof, or by changing any district
boundary shown on the adopted zoning map, provided that proceedings for any amendment shall be initiated only in the following manner.

### Sec. 33.2.1 Property owner petition

By the filing with the board of supervisors of a petition of any owner or owners of land proposed to be rezoned, which petition shall be addressed to the board of supervisors and shall be on a standard form and accompanied by a fee as set forth in section 35.0. (Amended 5-5-82)

33.2.2 By motion of the commission.

33.2.3 By motion of the board of supervisors.

### Sec. 33.3 Proffer of conditions

Prior to the public hearing before the board of supervisors on a rezoning application required by Virginia Code § 15.2-2285, the owner of the land that is the subject of the rezoning may proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions are authorized by,

and shall comply with, Virginia Code § 15.2-2303; provided that the proffering thereof by the owner shall be deemed prima facie evidence of such compliance. (Amended 4-4-90, 7-11-07)

**Sec. 33.3.1 Effect of conditions**

Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. All such conditions shall be in addition to the regulations provided for the district by the ordinance. (Amended 4-4-90)

**Sec. 33.3.2 Zoning map notation**

Each such rezoning shall be designated on the zoning map by an appropriate symbol designed by the zoning administrator. In addition, the zoning administrator shall keep and maintain the conditional zoning index which shall provide ready access to the ordinance creating such conditions.

**Sec. 33.3.3 Authority of zoning administrator**

The zoning administrator shall be vested with all necessary authority on behalf of the board of supervisors of the county to administer and enforce conditions attached to a rezoning including the ordering in writing of the remedy of any noncompliance with such conditions and the bringing of legal action for injunction, abatement or other appropriate action or proceeding.

**Sec. 33.4 Public hearing -- notice**

The commission and the board of supervisors shall hold public hearings on any such petition or resolution as provided by Virginia Code § 15.2-2285, after notice is provided as required by Virginia Code § 15.2-2204.

If any portion of the affected property is within a planned development, then, in addition to the notice required by Virginia Code § 15.2-2204, notice shall be given to the owners, or their agents or the occupants, of each parcel within the planned development. The notice shall be given in the manner provided in Virginia Code § 15.2-2204 for notice to abutting properties. However, failure to give the additional notice provided in this paragraph to an owner, agent or occupant of any parcel within the planned development shall not invalidate any action by the commission or the board of supervisors affecting the planned development.

(12-10-80; Ord. 03-18(2), 3-19-03)

**Sec. 33.5 Report by planning commission to board of supervisors after hearing**

After the conclusion of the hearing provided for in this section, unless the proceedings are terminated as provided herein, the commission shall report to the board of supervisors its recommendation with respect to the proposed amendment. Failure of the commission to report to the board of supervisors within ninety (90) days after the first meeting of the commission following the date the proposed amendment has been referred to the commission shall be deemed approval by the commission. In acting favorably with respect to a proposed amendment initiated by the petition of a property owner or owners, the commission need not confine its recommendation to the proposed amendment as set forth in the petition, but may reduce or enlarge the extent of land that it recommends be rezoned or may recommend that land be rezoned to a different zoning classification than that petitioned for, if, the commission is of the opinion that such revision is in accord with public necessity, convenience, general welfare and good zoning practice and is in furtherance of the purposes of this ordinance and section; provided that before recommending an enlargement of the extent of land or a rezoning to a less restricted classification than was set forth in the petition, the commission shall hold a further hearing on the matter, pursuant to the requirements of Virginia Code § 15.2-2204 and section 33.4. No amendment to the zoning map shall be approved for a change in zoning classification different from that applied for and contained in the public notice of hearing

nor for any land not included therein without referring said change to the commission for its review and recommendations and proceedings pursuant to this section and section 33.3; provided, however, that an amendment may be approved for only a portion of the area proposed for rezoning if the portion rezoned is accurately and sufficiently delimited in the approval action, or if a portion is reclassified pursuant to section 30.3.

(12-10-80; Ord. 03-18(2), 3-19-03)

**Sec. 33.6 Limitation on filing new petition after original denial**

Upon the denial by the board of supervisors of any petition filed pursuant to section 33.2.1 above, substantially the same petition shall not be reconsidered within twelve (12) months of the date of denial.

**Sec. 33.7 Withdrawal of petitions**

A petition shall be withdrawn, or be deemed to be withdrawn, as provided herein:

a. A petition filed pursuant to section 33.2.1 may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning its consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the petition shall cease without further action by the commission or the board. Substantially the same petition shall not be reconsidered within twelve (12) months of the date of withdrawal unless the body considering the petition at the time of withdrawal specifies that the time limitation shall not apply. (Amended 6-19-96; 10-3-01)

b. If the applicant requests that further processing or formal action on the petition be indefinitely deferred, the petition shall be deemed to have been voluntarily withdrawn by the petitioner if the commission or the board does not take action on the petition within twelve (12) months after the date the deferral was requested. Upon written request received by the director of planning and community development before the petition is deemed to be withdrawn, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. (Added 10-3-01)

(§ 33.7, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01)

**Sec. 33.8 Posting of property**

Additional notice regarding zoning map amendments initiated pursuant to section 33.2.1 above or special use permit applications initiated pursuant to section 31.2.4.2 shall be provided by posting signs on the subject property in the manner prescribed in section 33.8.1 and section 33.8.3. However, failure to comply with the posting requirements of this section shall not invalidate any action by the commission or the board of supervisors. (Amended 6-19-96)

**Sec. 33.8.1 Posting of property – planning commission hearing**

At least fifteen (15) days before the commission's public hearing, the zoning administrator or designee shall erect on the property specified in section 33.8 above, a sign or signs indicating the property is to be subject to public hearing and referencing how to obtain additional information regarding the hearing. The sign shall be erected within ten (10) feet of whatever boundary line of the property abuts a road and shall be so placed as to be clearly visible from the road. If more than one road abuts the property, then either: (1) a sign shall be erected in the same manner as above for each abutting road; or (2) if the area of the property to be used if the application was granted is confined to a particular portion of the property, a sign erected in the same manner as above for the abutting road that is in closest proximity to, or would be impacted by, the proposed use. If no road abuts the property, then signs shall be erected in the same manner as above on at least two boundaries of the property abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the petition or application shall be deemed

~~to grant consent to the zoning administrator or designee to enter upon the property and to erect the signs. Upon a finding by the board of supervisors that failure to comply with the posting requirements of this section has denied the public reasonable notice of the public hearing, the board may defer action on the petition or application until reasonable notice by posting is given. (Amended 6-19-96; 10-3-01)~~

~~(§ 33.8.1, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01)~~

**~~Sec. 33.8.2 Validation of prior notice requirement (Amended 6- 19-96)~~**

~~The adoption or amendment of any zoning map amendment or the approval of any special use permit shall not be declared invalid by reason of a failure to post notice as may have been required under prior provisions of section 31.2.4.2 and section 33.8, provided a public hearing was conducted by the board of supervisors prior to such adoption, amendment, or approval. (Amended 6-19-96)~~

**~~Sec. 33.8.3 Maintenance and removal of signs~~**

~~The applicant shall exercise due diligence to protect the sign or signs erected pursuant to section 33.8 from vandalism and theft; maintain the sign or signs in the location or locations in an erect position as placed by the zoning administrator or designee; and ensure that such sign or signs remain legible. Failure to comply with these responsibilities may be grounds for the commission or the board of supervisors to defer action on the petition or application until there is reasonable compliance.~~

~~Any sign erected pursuant to section 33.8 shall remain the property of the board of supervisors. It shall be unlawful for any person, except the applicant performing maintenance required by this section or the zoning administrator or an authorized agent of either, to remove or tamper with any sign erected pursuant to section 33.8. All such signs shall be removed by the zoning administrator or designee within fifteen (15) days following the board of supervisors' final action on the petition or application or the applicant's withdrawal of the petition or application. (Amended 6-19-96)~~

**~~Sec. 33.9 Matters to be considered in reviewing proposed amendments~~**

~~Proposed amendments shall be reviewed in regard to sections 1.4, Purpose and Intent; 1.5, Relationship to Environment; and 1.6, Relationship to Comprehensive Plan; of this ordinance.~~

**~~Sec. 33.10 Schedule of review~~**

~~Sec. 33.10.1~~

~~For the purposes of providing for orderly growth and reasoned consideration of the potential impact of proposed~~
~~rezonings, zoning text amendments and special use permits upon the comprehensive plan, the board of supervisors may establish timing procedures for consideration of rezoning applications.~~

~~Sec. 33.10.2~~

~~The board of supervisors shall consider zoning text amendment petitions by property owners at specified intervals of three (3) months. Hearing times in accord with such intervals shall be established by resolution of the board of supervisors during the month of January of each calendar year following enactment of this ordinance, and said resolution shall be published at least once per week for two consecutive weeks in a newspaper of general circulation in Albemarle County. (Amended 3-10-93)~~

**Sec. 33.1 Purpose and intent**

The purpose and intent of section 33 is to establish the procedural and substantive requirements and criteria for considering and acting on zoning text amendments, zoning map amendments, special use permits, except for those delegated by this chapter to the board of zoning appeals, and special exceptions.

**State law reference** – Va. Code §§ 15.2-2285, 15.2-2286(A)(3), (4), (7), 15.2-2303.

**Sec. 33.2 Uniform requirements for the initiation of zoning text amendments and zoning map amendments**

The board of supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The initiation of this process shall be as follows:

a. *Initiation of a zoning text amendment*. Any zoning text amendment shall be initiated: (i) by resolution of the board of supervisors; or (ii) by motion or resolution of the commission. Any county officer or any other person may request that the board of supervisors or the commission initiate a zoning text amendment. The board of supervisors shall consider an owner-requested zoning text amendment at specified intervals of three (3) months on dates established by resolution of the board in January each year.

b. *Initiation of a zoning map amendment*. Any proposed zoning map amendment shall be initiated: (i) by resolution of the board of supervisors; (ii) by motion or resolution of the commission; or (iii) by application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor (collectively, the "owner") of the parcel(s) that is the subject of the proposed zoning map amendment ("owner-initiated application").

1. *Required signatures on owner-initiated application*. Each owner-initiated application for a zoning map amendment shall be signed by the owner of each parcel that is the subject of the proposed zoning map amendment, provided that:

a. *Amendments to existing proffers*. An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely the owner's parcel, provided that written notice of the application is provided to the owners of other parcels subject to the same proffers under Virginia Code §§ 15.2-2204(H) and 15.2-2302. However, the signatures of the owners of the other parcels subject to the same proffers shall not be required

b. *Amendments to planned developments*. An owner within an existing planned development may apply for a zoning map amendment, and the signatures of any other owners within the planned development is required only if the amendment could result in or require: (i) a change in use, density or intensity on that parcel; (ii) a change to any regulation in a code of development that would apply to that parcel; (iii) a change to an owner's express obligation under a regulation in a code of development; or (iv) a change to the application plan that would apply to that parcel.

2. *Documentation*. The director of planning may require the applicant to submit documentation establishing ownership of any parcel and the authority of the signatory to sign the application on behalf of the owner.

**State law reference** – Va. Code §§ 15.2-2285, 15.2-2286(A) (4), (7), 15.2-2302.

**Sec. 33.3 Uniform procedures for zoning text amendments and county-initiated zoning map amendments**

Each zoning text amendment and each county-initiated zoning map amendment shall be subject to the following:

a. *Determining completeness of the application for zoning map amendment; rejecting incomplete applications*. An application that provides all of the information required by the director of planning shall be determined to be complete and be accepted for review and decision.

b. *Worksessions and community meetings*. The director of planning is authorized to schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, and community meetings, as he determines to be appropriate.

c. *Public hearings*. Before the board of supervisors acts on a zoning text amendment or a zoning map amendment, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board also shall hold at least one public hearing before acting on the zoning text amendment or zoning map amendment.

d. *Notice of public hearings*. Notice of public hearings shall be provided as follows:

1. *Published and mailed notice*. Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204 and Virginia Code § 15.2-2285(C).

2. *Posted notice*. Notice of the public hearing before the commission and the board of supervisors on each application for a zoning map amendment shall be posted as provided in section 33.4(m)(2) to the extent those provisions are applicable in the context of the application.

e. *Time for decision.* Decisions shall be made within the following periods:

1. *By the commission*. Once an application is determined to be complete as provided in subsection (a), it shall be acted on by the commission within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval, unless the commission extends the ninety (90) day period.

2. *By the board of supervisors*. An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the board extends the twelve (12) month period.

3. *Referral*. The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board is within the twelve (12) month period provided in subsection (e)(2), unless the twelve (12) month period is extended.

f. *Judicial review*. Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

**State law reference** – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A) (4), (7).

**Sec. 33.4 Uniform procedures for owner-initiated zoning map amendments and special use permits**

Each application for an owner-initiated zoning map amendment or special use permit, except for those delegated by this chapter to the board of zoning appeals under section 4.15.5, shall be subject to the following:

a. *Pre-application meeting*. The director of planning is authorized to require a pre-application meeting with any applicant, to require that the applicant complete and submit information on county-provided forms before submitting an application, and to establish procedures for responding to the information submitted by the applicant (collectively, the "pre-application meeting"), subject to the following:

1. *Purposes for a meeting*. The purposes for a pre-application meeting are to allow the director to understand the purpose for the application, to identify the planning and zoning issues raised by the application, and to allow the director to identify what supplemental information delineated in subsection (c) the applicant must submit with the application. Receiving the relevant supplemental information will allow the application to be comprehensively and efficiently reviewed.

2. *Factors to consider in requiring meeting*. A pre-application meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the proposed use, the proposed density, the proposed zoning district, and other considerations he determines to be relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (c) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established either for the proposed application; or (iv) whether the application raises any complex issues that create the need for the meeting.

b. *Applications*. Each application shall be composed of a completed county-provided application form and supplemental information (collectively, the "application") required to review and act on the application.

1. *Application forms*. The director of planning is authorized to establish appropriate application forms for zoning map amendments and special use permits. The application form shall delineate the supplemental information required to be provided, as set forth in subsection (b)(2).

2. *When supplemental information may be required; establish or amend conventional zoning districts; amend planned development districts; obtain or amend special use permits*. For each application for a zoning map amendment to establish or amend a conventional zoning district, to amend a planned development district, and for each application to obtain or amend a special use permit, the director of planning may require some or all of the supplemental information delineated in subsection (c) to be submitted with each application. In determining what supplemental information must be submitted, the director shall consider the proposed use, the proposed density, the proposed zoning district, and other considerations he determines to be relevant under sound zoning principles.

3. *When supplemental information required; establish planned development districts*. Each application to establish a planned development district shall submit all of the supplemental information delineated in subsection (c).

c. *Elements of the supplemental information*. The supplemental information is the following:

1. *Project proposal*. A narrative of the project proposal, including its public need or benefit; an application to establish a neighborhood model district shall include a statement describing how the proposed district satisfies the intent of this chapter and if one or more characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant shall justify why any characteristics cannot or should not be provided.

2. *Comprehensive plan*. A narrative of the proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area; an application to establish a neighborhood model district also shall include a narrative as to the project's consistency with the neighborhood model.

3. *Impacts on public facilities and infrastructure*. A narrative of the proposed project's impacts on public facilities and public infrastructure.

4. *Impacts on environmental features.* A narrative of the proposed project's impacts on environmental features.

5. *Proposed proffers to address impacts*. A narrative of the proffers proposed to address impacts from the proposed project.

6. *Maps*. One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions; if the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply.

7. *Conceptual plan for zoning map amendments for conventional districts and special use permits*. For an application for a zoning map amendment to establish a conventional zoning district or a special use permit, a conceptual plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; and (ix) conceptual grading.

8. *Application plan for zoning map amendments for planned development districts*. For an application to establish a planned development zoning district or to amend an approved application plan for an existing planned development district, an application plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; (ix) conceptual grading; (x) a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features; (xi) topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing critical slopes; (xii) the general layout for water and sewer systems; (xiii) the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas; (xiv) standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district; (xv) a conceptual lot layout; and (xvi) if the application is to establish a neighborhood model

district, the location of proposed green spaces and amenities as provided in section 20A.9.

***9. Code of development in a proposed neighborhood model district. An application to establish a neighborhood model district shall include a code of development satisfying the requirements of section 20A.5.***

***10. Parking and loading needs study in a proposed neighborhood model district. An application to establish a neighborhood model district shall include a parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8, and transportation demand management strategies as provided in section 4.12.12; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.***

11. *Stormwater management in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.

12. *Traffic impact statement*. For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.

13. *Recorded plat or boundary survey*. The most recently recorded plat 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.

14. *Ownership information*. Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.

15. *Contact person*. The name, address, telephone number and e-mail address of a single contact person for communications between the county and the applicant.

16. *Other information*. Other special studies or documentation, if applicable, and any other information identified as necessary by the county on the pre-application comment form.

d. *Payment of delinquent taxes*. The applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid.

e. *Filing the application; number of copies*. The owner, the owner's agent, or a contract purchaser with the owner's written consent (the "applicant") may file the application with the department of community development. The director of planning is authorized to establish for each class of application the number of collated copies of the application required to be filed.

f. *Determining completeness of the application; rejecting incomplete applications*. An application that provides all of the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information shall be deemed to be incomplete and shall not be accepted.

1. *Timing of determination of completeness*. The director of planning shall determine whether an application is complete within ten (10) days after the application was received.

2. *Procedure if application is incomplete*. The director of planning shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or email.

3. *Effect if timely determination not made*. If the director of planning does not send or deliver the notice as provided in subsection (f)(2) within the ten (10) day period, the application shall be deemed to be complete, provided that the director may require the applicant to later provide the omitted information within a period specified by the director, and further provided that the director may reject the application as provided herein if the applicant fails to timely provide the omitted information.

4. *Notice to other owners of application for zoning map amendment to amend existing proffers*. Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment shall be provided to each owner subject to the same proffers as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.

g. *Payment of fees*. When an application is determined to be complete, the applicant shall pay the fee required by section 35.1 before the application is further processed.

h. *Resubmittal of application originally determined to be incomplete*. Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the director of planning as provided in subsection (f)(2), the applicant may resubmit the application with all of the information required by subsections (b) and (c) for a new determination of completeness under subsection (f).

i. *Worksessions*. For any application, the director of planning may schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, as he determines to be appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following:

1. *Purposes for a worksession*. The purposes for a worksession are to familiarize the boards or the commission with the application, to discuss issues of concern and obtain direction on those issues, and, if allowed by the boards or the commission, to receive public comments to learn of additional possible issues of concern.

2. *When applicant's consent required*. The applicant's consent to a worksession shall be required if the worksession would extend the time for action by the commission or the board beyond the deadlines in subsection (n).

j. *Community meetings*. For any application, the director of planning may schedule community meetings as he determines to be appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following:

1. *Purpose for a meeting*. The purpose for a community meeting is to provide interested members of the public information about the proposed project and to allow them to ask questions about the proposed project.

2. *Factors to consider in requiring meeting*. A community meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purpose for the meeting upon considering the following: (i) whether the application would be likely to generate any public concerns; or (ii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting under this subsection unnecessary.

3. *Guidelines*. The director of planning is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process community meetings should be conducted, and how a community meeting should be conducted including, but not limited to, how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.

4. *When applicant's consent required*. The applicant's consent to a community meeting shall be required if the community meeting would extend the time for action by the commission or the board beyond the deadlines in subsection (n).

k. *Review of staff comments*. Upon request by the applicant, the director of planning shall meet with the applicant to review comments to the application made by county staff.

l. *Public hearings*. Before the board of supervisors acts on a zoning map amendment or a special use permit, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.

m. *Notice of public hearings*. Notice of public hearings shall be provided as follows:

1. *Published and mailed notice*. Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2-2285(C); and, for zoning map amendments seeking to amend an existing planned development district, written notice of the proposed amendment also shall be provided to the owner of each parcel within the planned development district and the substance of that notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.

2. *Posted notice*. Notice of the public hearing before the commission and the board of supervisors on each application shall be posted, as follows:

a. *When sign must be posted*. The sign shall be posted by the zoning administrator at least twenty-one (21) days before the commission's public hearing on the application and shall remain posted until the board of supervisors has acted on the application or the application has been withdrawn.

b. *Where sign to be located*. The sign shall be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and shall be so placed as to be clearly visible from the street. If more than one street abuts the parcel(s), then either: (1) a sign shall be erected in the same manner as above for each abutting street; or (2) if the area of the parcel(s) to be used if the application was granted is confined to a particular portion of the parcel(s), a sign erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs shall be erected in the same manner as

above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application shall be deemed to grant consent to the zoning administrator to enter the parcel(s) to erect the signs.

c. *Content of sign*. Each sign shall state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.

d. *Maintaining the sign*. The applicant shall diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the commission or the board of supervisors to defer action on an application until there is reasonable compliance with this subsection.

e. *Ownership of sign; violation for removing or tampering with sign*. Each sign is the property of the board of supervisors. It shall be unlawful for any person to remove or tamper with any sign, except the applicant performing maintenance required by this subsection or the zoning administrator.

f. *Effect of failure to comply*. If the requirements of this subsection to post notice are not complied with:

1. *Prior to action by board*. The board of supervisors may defer taking action on an application if it finds that the failure to comply with this subsection materially deprived the public of reasonable notice of the public hearing.

2. *Action not invalid*. No action on an application shall be declared invalid solely because of the failure to post notice as required by this subsection.

n. *Time for decision.* Each application shall be acted on as follows:

1. *By the planning commission*. An application shall be acted on by the commission within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval unless the applicant requests or consents to the ninety (90) day period being extended.

2. *By the board of supervisors*. An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.

3. *Tolling*. The period in which action is required by the commission or the board of supervisors shall be tolled during any period in which the applicant has requested that the review of the application be suspended or the public hearings or action thereon be deferred or continued.

4. *Referral*. The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board of supervisors is within twelve (12) months following the first meeting of the

commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.

o. *Recommendation by commission*. The commission shall either recommend approval of the application as proposed, approval subject to changes being made prior to action by the board of supervisors, or disapproval. For any application for a zoning map amendment, the commission's recommendation also should include its recommendations on proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception requested by the applicant under section 8.2. For any application for a special use permit, the commission's recommendation should include its recommendations on the proposed conditions.

p. *Action by the board of supervisors*. The board of supervisors may either approve or deny the application, or defer action to allow changes to be made prior to final action by the board.

q. *Intensification of use classification prohibited without additional notice and hearing*. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).

r. *Withdrawal of application*. An application may be withdrawn, or be deemed to be withdrawn, as provided herein:

1. *Request to withdraw by applicant*. An application may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the commission or the board of supervisors. An applicant may not submit an application that is substantially the same as the withdrawn application within one (1) year of the date of withdrawal unless the body considering the application at the time of withdrawal specifies that the time limitation shall not apply.

2. *When application deemed withdrawn*. An application shall be deemed to have been voluntarily withdrawn if the applicant requested that further processing or formal action on the application be indefinitely deferred and the commission or the board of supervisors is not requested by the applicant to take action on the application within one (1) year after the date the deferral was requested. Upon written request received by the director of planning before the one (1) year period expires, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made.

s. *Resubmittal of similar denied application*. An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.

t. *Judicial review*. Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

**State law reference** – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (7), (B).

**Sec. 33.5 Uniform procedures for special exceptions**

Each application for a special exception shall be subject to the following:

a. *Matters requiring a special exception*. Notwithstanding any other section of this chapter:

1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board of supervisors, provided that no special exception shall be required for the development and construction of residential dwellings at the use, height and density permitted by right in the applicable zoning district as provided by Virginia Code § 15.2-2288.1.

2. Any requirement for a decision by the commission required by this chapter shall be considered and acted upon by the board of supervisors. For the purposes of this section, a decision by the commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any variation or exception provided in section 32.

b. *Application*. Each application for a special exception shall be made as provided by, and include the information required by, the applicable section of this chapter authorizing the waiver, modification, variation or substitution. An application shall be deemed to be officially submitted when the applicant has submitted all of the required information as determined by the director of planning.

c. *Public hearings*. Before the board of supervisors acts on a special exception that would increase by greater than fifty (50) percent the bulk or height of an existing or proposed building within one-half mile of an adjoining locality, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.

d. *Notice of public hearings*. Notice of public hearing before the commission and the board of supervisors on an application for which a public hearing is required under subsection (c) shall be provided as required by Virginia Code § 15.2-2204(C).

e. *Time for decision*. Each application for a special exception shall be acted on by the board of supervisors within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.

f. *Recommendation by planning commission*. For those applications considered by the commission, the commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the board of supervisors, or disapproval. The commission's recommendation should include its recommendations on the proposed conditions.

g. *Action by the board of supervisors*. The board of supervisors may either approve the application, either with or without the conditions recommended by the commission, if applicable, or otherwise, deny the application, or defer action to allow changes to be made prior to final action by the board.

h. *Judicial review*. Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

**State law reference** – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

**Sec. 33.6 Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval**

A zoning text amendment or a zoning map amendment shall be subject to the following:

a. *Basis to act*. The board of supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity,

convenience, general welfare, or good zoning practice requires. The commission shall consider these bases when making a recommendation on an application.

b. *Factors to be considered when acting*. The commission and the board of supervisors shall reasonably consider the following factors when they are reviewing and acting upon zoning text amendments and zoning map amendments: (i) the existing use and character of property; (ii) the comprehensive plan; (iii) the suitability of property for various uses; (iv) the trends of growth or change; (v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies; (vi) the transportation requirements of the community; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services; (viii) the conservation of natural resources; (ix) the preservation of flood plains; (x) the protection of life and property from impounding structure failures; (xi) the preservation of agricultural and forestal land; (xii) the conservation of properties and their values; and (xiii) the encouragement of the most appropriate use of land throughout the county.

1. *Additional factors to be considered when acting; application to establish planned development district*. In addition to the other factors relevant to the consideration of a zoning map amendment, the commission and the board of supervisors shall consider the following when reviewing an application to establish a planned development district: (i) whether the proposed planned development satisfies the purpose and intent of the planned development district; (ii) whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; and (iii) the relation of the proposed planned development to major roads, utilities, public facilities and services.

2. *Additional factors to be considered when acting; application to amend existing planned development district*. In addition to the other factors relevant to the consideration of a zoning map amendment, including those in subsections (b) and (b)(1), the commission and the board of supervisors shall consider the following when reviewing an application to amend an existing planned development district: (i) whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section 8.3; and (ii) the extent to which the proposed amendment impacts the other parcels within the planned development district.

c. *Effect of approval*. The board of supervisors' approval of a zoning map amendment shall constitute acceptance of the proffers and also, for any application to establish or amend a planned development district, approval of the application plan, all standards of development, the code of development, and any waivers or modifications it has approved by special exception as provided under section 8.2. The zoning district designation, the accepted proffers, and, if applicable, the approved application plan, standards of development, and code of development, and, if applicable, the special exception shall be included as part of the zoning regulations applicable to parcel(s) that were the subject of the zoning map amendment.

**State law reference** – Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286(A)(7).

**Sec. 33.7 Owner-initiated zoning map amendments; authority to accept proffers**

The board of supervisors is authorized to accept proffers pursuant to Virginia Code § 15.2-2303 in conjunction with owner-initiated zoning map amendments as follows:

a. *Purpose*. Proffers are conditions that are intended to provide for the protection of the community that are not generally applicable to land similarly zoned. Accordingly, proffers are reasonable conditions that are in addition to the regulations provided for the zoning district under this chapter.

b. *Form*. Proffers shall be in writing and in a form that is approved by the county attorney. The director of planning is authorized to provide applicants with a proffer statement form.

c. *Timing of submittal*. Proffers, signed by the owner of all parcels subject to the zoning map amendment, shall be submitted to the department of community development prior to the public hearing before the board of supervisors on the proposed public hearing. The director of planning is authorized to establish written guidelines that require signed proffers to be submitted a reasonable period of time prior to the public hearing so as to allow the county and members of the public a reasonable period of time to review the proffers.

d. *Amendments to proposed proffers after public hearing has begun*. The board of supervisors may accept, in its sole discretion, amended proffers once the public hearing on the zoning map amendment has begun if it concludes that the amended proffers do not materially affect the overall proposal.

e. *Effect of proffers once accepted*. Once proffered and accepted by the board of supervisors in conjunction with an approved zoning map amendment, the proffers shall continue in effect until a subsequent zoning map amendment changes the zoning of the parcel(s) subject to the proffers; provided that the proffers shall continue in effect if the subsequent zoning map amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

f. *Subsequent amendments to proffers*. Once accepted by the board of supervisors in conjunction with an approved zoning map amendment, proffers may be amended only by an owner-initiated zoning map amendment as provided in sections 33.4, 33.6 and this section. The board is authorized to waive, in its sole discretion, the requirement for a public hearing on an application to amend the proffers if it concludes that the proposed amendments do not pertain to conditions affecting use or density and, if applicable, the notice required by section 33.4(f)(4) was provided.

**State law reference** – Va. Code §§ 15.2-2296, 15.2-2302, 15.2-2303.

**Sec. 33.8 Special use permits; relevant factors to be considered; conditions; revocation**

Special use permits shall be subject to the following:

a. *Factors to be considered when acting*. The commission and the board of supervisors shall reasonably consider the following factors when they are reviewing and acting upon an application for 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 section 5 as applicable, and with the public health, safety and general welfare.

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

b. *Conditions*. The commission may recommend, and the board of supervisors may impose, conditions upon the special use to address impacts arising from the use in order to protect the public health, safety or welfare. The conditions may pertain to, but are not limited to, the following:

1. The prevention or minimization of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substances or conditions.

2. The provision of adequate police and fire protection.

3. The provision of adequate improvements pertaining to transportation, water, sewage, drainage, recreation, landscaping and/or screening or buffering.

4. The establishment of special requirements relating to building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building heights, and other particular aspects of occupancy or use.

5. The period by which the use must begin or the construction of any structure required for the use must commence.

6. The materials and methods of construction or specific design features, provided such a condition for residential uses shall comply with subsection (c).

c. *Conditions related to residential uses*. Any conditions imposed in connection with residential special use permits: (i) shall be consistent with the objective of providing affordable housing if the applicant proposes affordable housing; and (ii) shall consider the impact of the conditions on the affordability of housing where the conditions specify the materials and methods of construction or specific design features.

d. *Conditions deemed to be essential and nonseverable*. Except as the board of supervisors may specify in a particular case, any condition imposed on a special use shall be deemed to be essential and nonseverable from the permit itself and any condition determined to be invalid, void or unlawful shall invalidate the special use permit.

e. *Revocation for noncompliance with conditions*. A special use permit may be revoked by the board of supervisors after a public hearing if the board determines that there has not been compliance with the conditions of the permit. Notice of the public hearing shall be as provided in Virginia Code § 15.2-2204, provided that the written notice provided by the board of supervisors to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to the special use permit, the board of supervisors may be given by first-class mail rather than by registered or certified mail.

**State law reference** – Va. Code §§ 15.2-2286(A)(3), 15.2-2309(7).

**Sec. 33.9 Special exceptions; relevant factors to be considered; conditions**

Special exceptions shall be subject to the following:

a. *Factors to be considered when acting*. In acting upon a special exception, the board of supervisors shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.

b. *Conditions*. In approving a special exception, the board of supervisors may impose reasonable conditions to address any possible impacts of the special exception.

**State law reference** – Va. Code § 15.2-2286(A)(3).

**Sec. 34.4 Application for variances**

~~Application for variances may be made by any property owner, tenant, government official, department, board or~~
~~bureau~~ Any owner may apply for a variance. ~~Such~~ The application shall be made to the zoning administrator in accordance with the provisions of this section and with rules adopted by the board of zoning appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board of zoning appeals who shall place the matter on the docket to be acted on by the board of zoning appeals. No ~~such~~ variance shall be authorized except after notice and hearing is provided as required by ~~section 15.2-2204 of the Code~~ Virginia Code § 15.2-2204. ~~The zoning administrator shall also transmit a copy of the application to the commission which may send a recommendation to the board of zoning appeals or appear as a party at the hearing~~. The owner shall

provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid.

**State law reference** – Va. Code §§ 15.2-2286(B), 15.2-2309.

**Sec. 35.1 Fees**

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

a. Zoning text amendments: $1000.00

b. Zoning map amendments:
   1. Less than 50 acres; application and first resubmission: $2500.00
   2. Less than 50 acres; each additional resubmission: $1250.00
   3. 50 acres or greater; application and first resubmission: $3500.00
   4. 50 acres or greater; each additional resubmission: $1750.00
   5. Deferral of scheduled public hearing at applicant's request: $180.00

c. Special use permits:
   1. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation Class B, to amend existing special use permit, or to extend existing special use permit; application and first resubmission: $1000.00
   2. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; each additional resubmission: $500.00
   3. Signs reviewed by the board of zoning appeals: See subsection 35.1(f)
   4. All other special use permits; application and first resubmission: $2000.00
   5. All other special use permits; each additional resubmission: $1000.00
   6. Deferral of scheduled public hearing at applicant's request: $180.00
   7. Farmers' markets without an existing commercial entrance approved by the Virginia Department of Transportation or without existing and adequate parking - $490.00
   8. Farmers' markets with an existing commercial entrance approved by the Virginia Department of Transportation and with existing and adequate parking - $110.00

d. Site plans:
   1. Preliminary site plans; administrative review: $1200.00 plus $15 per dwelling unit and $0.015 per square foot of nonresidential structure
   2. Preliminary site plans; planning commission review: $1800.00 plus $15 per dwelling unit and $0.015 per square foot of nonresidential structure
   3. Final site plans; administrative review: $1500.00
   4. Final site plans; planning commission review: $2000.00
   5. Waiver of drawing of site plan under section 32.2: $1500.00
   6. Site plan amendments under section 32.3.8 ¶2: $500.00 (minor); $100.00 (letter of revision)
   7. All other site plan amendments (major): $1500.00
   8. Appeals to the board of supervisors under section 32.4.2.7: $240.00
   9. Reinstatement of review under section 32.4.2.1: $240.00
   10. Reinstatement of review under section 32.4.2.4: $80.00
   11. Extension of period of validity: $475.00
   12. Inspections pertaining to secured site plan improvements; per inspection: $280.00
   13. Deferral of scheduled public meeting at applicant's request: $180.00

e. Certificates of appropriateness considered by the architectural review board ("ARB"):
   1. For a site plan; per review by the ARB: $1000.00
   2. For a building permit; per review by the ARB: $590.00

3. Amendment to approved certificate of appropriateness: $225.00

f. Matters considered by the board of zoning appeals:
   1. Variances: $500.00
   2. Appeals: $240.00
   3. Special use permits for signs under section 4.15.5: $500.00

g Matters considered by the zoning administrator or other officials:
   1. Official determinations regarding compliance: $185.00
   2. All other official determinations, including development rights: $100.00
   3. Zoning clearance for tourist lodging: $100.00
   4. Zoning clearance for a home occupation, class A, a major home occupation, or a minor home occupation: $25.00
   5. Zoning clearance for temporary fundraising activity: No fee
   6. All other zoning clearances: $50.00
   7. Sign permits under section 4.15.4; no ARB review required: $25.00
   8. Sign permits under section 4.15.4; ARB review required: $120.00

h. Groundwater assessments:
   1. Tier 1 assessment under section 17-401: $50.00
   2. Tier 3 assessment under section 17-403: $510.00
   3. Tier 4 assessment under section 17-404: $1100.00

i. Miscellaneous:
   1. Change in name of development or change in name of street: $80.00
   2. Relief from conditions of approval; modification or waiver of requirements: $425.00
   3. Tier II personal wireless service facilities: $1820.00

j. Required notice:
   1. Preparing and mailing or delivering up to fifty (50) notices: $200.00, except for uses under sections 5.1.47 and 5.2A, for which there shall be no fee.
   2. Preparing and mailing or delivering, per notice more than fifty (50): $1.00 plus the actual cost of first class postage.
   3. Published notice: cost based on a cost quote from the publisher, except for farmers' markets under section 35.1(c)(7) and (8) for which there shall be no fee.

The fee shall be in the form of cash or a check payable to the "County of Albemarle." An application presented without the required fee shall not be deemed to be submitted and shall not be processed, provided that for applications for zoning map amendments and special use permits, the fee shall be paid when the application is determined to be complete. If the zoning administrator determines after a fee has been paid that the review and approval to which the fee pertains is not required to establish the use or structure, the fee shall be refunded to the applicant in full.

**State law reference** – Va. Code §§ 15.2-2286(A)(6).

This ordinance shall be effective on and after March 1, 2013.

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

_____
Clerk, Board of County Supervisors

| | Aye | Nay |
|---|---|---|
| Mr. Boyd | ____ | ____ |
| Mr. Dumler | ____ | ____ |

| | | |
|---|---|---|
| Ms. Mallek | ____ | ____ |
| Mr. Rooker | ____ | ____ |
| Mr. Snow | ____ | ____ |
| Mr. Thomas | ____ | ____ |