

ORANGE COUNTY

PLANNING COMMISSION

COMMUNITY DEVELOPMENT BLDG.
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



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Regular Meeting
Gordon Building Meeting Room
112 W. Main St, Orange, VA, 22960
Thursday, March 3rd, 2016
AGENDA

6:00 pm

1. Call to order and determination of quorum
2. Approval of agenda
3. Approval of minutes:
 - A. January 7th, 2016 regular meeting
 - B. February 4th, 2016 Division Policies Subcommittee meeting
 - C. February 4th, 2016 regular meeting
4. Work session:
 - A. Presentation on proffer law in Virginia – County Attorney
 - B. Draft Zoning Ordinance amendment – home-based business regulations
 - C. Draft Zoning Ordinance amendment – Article II amendment (zoning permits, site plans, and general application submittal requirements)
5. Public comment
6. Old business:
 - A. Board of Supervisors report – Jim Crozier
 - B. Planning & Zoning report – Josh Frederick
 - C. Germanna-Wilderness Area Plan Steering Committee report – Nigel Goodwin & George Yancey
7. Public hearings (none)
8. New business
9. Commissioner comments
10. Next meeting date – April 7th, 2016
11. Adjourn for Division Policies Subcommittee meeting @ 8:00 p.m.

The Planning Commission reserves upon itself the right to amend a meeting agenda at any point and with any frequency prior to adoption of said agenda, pursuant to any required public notice.

Any property for which a public hearing is being held will be posted on-site with a notification sign, in accordance with a policy adopted by the Planning Commission.

Orange County Planning Commission

March 3rd, 2016 regular meeting

Agenda items 3A, B, & C

**Orange County Planning Commission
Regular Meeting
Gordon Building Meeting Room
112 W. Main Street, Orange, VA 22960
Thursday, January 7, 2016**

Present: Donald Brooks, George Yancey, Crystal Hale, Nigel Goodwin,
Jason Capelle and James Crozier, BOS Representative

Absent: None

Staff Present: Josh Frederick, Planning Director; Tom Lacheney, County Attorney;
Thomas Wysong, Planner; Susan Crosby, Senior Administrative Assistant

All discussion and comment made during this meeting was captured via digital audio recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.

1. Call to Order and Determination of Quorum

Chairman Yancey called the meeting to order at 6:03 pm.

2. Election of chairman and vice chairman; appointment of secretary

Mr. Frederick stated the by-laws stipulate the first meeting of each year the Commission will need to elect officers. Mr. Frederick opened the floor to nominations of officers.

Mr. Goodwin nominated George Yancey for Chairman. Mr. Yancey nominated Mr. Brooks as Chairman. Mr. Yancey declined his nomination for Chairman. Ms. Hale seconded the motion for Mr. Brooks. There were no other nominations. Nominations closed.

Mr. Frederick called for a vote.

Voting Aye: Capelle, Yancey, Hale and Goodwin

Abstained: Brooks

Motion carried 4-0; Brooks abstained. Mr. Brooks was elected Chairman.

Mr. Frederick turned the floor over to Chairman Brooks. Chairman Brooks called for nominations for Vice Chairman. Mr. Yancey nominated Ms. Hale for Vice Chairman; Mr. Goodwin nominated Mr. Capelle.

There being no further nominations, the nomination period was closed.

Chairman Brooks stated that with two nominations he will take a roll call for Ms. Hale first since she was nominated first. He stated if she receives 3 votes there will not be a roll call for Mr. Capelle.

Chairman Brooks called for a vote.

Voting Aye: Brooks, Yancey, Hale
Nay: Goodwin
Abstained: Capelle

Motion carried 3-1, Capelle abstained. Ms. Hale was elected Vice Chairman.

Chairman Brooks stated they also needed to appoint a Secretary. Chairman Brooks appointed Mr. Frederick as Secretary.

3. Approval of Agenda

Chairman Brooks asked if there were any additions to or deletions from the agenda.

Mr. Frederick requested item 7A be moved forward before item 5. A motion was made by Mr. Yancey that the agenda be approved as amended; motion was seconded by Ms. Hale. Motion carried 5-0.

4. Approval of Minutes:

There are no Minutes to approve.

7A. Old business:

A. REZ 15-01: Application by Robert Springer, on behalf of Garrett Street LLC, to rezone tax parcels 52A-105 and 115 and 52-26, containing 45.947 acres in Barboursville, from Limited Residential (R-1) and General Residential (R-2), to Planned Residential (R-3) (action deferred from the December 3rd, 2015 regular meeting and public hearing)

Chairman Brooks turned the floor over to Mr. Frederick for him to explain where they were with the application. Mr. Frederick explained that the applicant has supplied a copy of the recorded Quit Claim Deed for the small strip of land that had been in question before. Mr. Frederick also stated he had asked for RSA to provide an updated letter as to clarify how many lots they could serve with public water, so the issue with public water supply has been clarified as well. He stated the applicant supplied a new proffer statement which clarifies some issues as well as volunteers some additional proffers. Mr. Frederick opened to any questions.

Mr. Capelle asked if there an actual commitment to build infrastructure for public water. Mr. Frederick referred to the added Proffer #5 which stated if there are additional funds required off-site they will not provide public water. Mr. Capelle noted that RSA stated there will need to be work off-site, so it is Mr. Capelle's understanding that there will be no public water and that they would be drilling wells. Mr. Frederick stated that was correct. Mr. Brooks asked what surety does the county have that there is an appropriate water source there for the wells. Mr. Frederick stated that part comes at the preliminary subdivision plat stage. They have to show there is sufficient water supply and will not impact neighboring supplies which has to be approved before the plat can even be accepted for review. Discussion ensued.

Chairman Brooks calls the applicant or representative forward. Mr. Justin Shimp who is the engineer for the project came forward. Mr. Shimp stated there have been changes made to the proffers to provide for a higher-quality neighborhood. He also

stated if the costs were reasonable, the owners were still interested in going with public water. That is however yet to be determined.

Chairman Brooks calls for questions. Mr. Yancey asked for clarification on the upgrade from the water tower to the new line for the community. Mr. Shimp stated RSA has identified several thousand linear feet of water lines which would need to be upgraded. He also stated they have not offered any paybacks or offsets in connection fees for the additional improvements. Chairman Brooks confirmed that the cost of these upgrades and the inability to recoup or share any of the costs was deterring their commitment to public water; Mr. Shimp responded yes.

Ms. Hale asked Mr. Frederick if there had been any feedback from the school system or any others. Mr. Frederick stated staff had received a small impact analysis from the Superintendent. Mr. Frederick highlighted the analysis and the identified potential impacts the county's school system. Discussion ensued.

Chairman Brooks stated that per the by-laws their discussions need to take place before the vote. He asked each Commissioner for their thoughts.

Mr. Capelle stated that water supply is a major issue and it is an issue in the area. He sees it as increasing their potential buildout from 65 homes to 113 and does not see where that is a win for the county. He stated there is also the issue with the schools. And he doesn't see anything that will offset the cost.

Mr. Yancey stated he too has some major disappointments. The applicant's "hedge on the water service issue and a lack of prudence in other areas" as well causes him concern. He would encourage other applicants in the future to do a better job of doing their homework.

Ms. Hale stated she would like to echo a lot of what Mr. Yancey said and some of what Mr. Capelle has mentioned. She has some pretty big concerns about the water supply and the negative impact to the schools. She also expressed concern over the lack of involvement by the other departments within the county that could provide the Commission with some important feedback and information that could help them in the decision-making process. Ms. Hale stated she also keeps in the back of her mind that with the current zoning, it would allow for a greater number of homes to be built.

Chairman Brooks stated it appears to him that they "have come to a Y in the road". He stated he thinks the current proposal is better than the by-right development. He further stated he hears Mr. Capelle's statements and concerns. As for the applicant, he does have concerns about the water supply, but again they need to rely on county staff in ensuring that the water supply must be proven before the subdivision may be built. Mr. Brooks stated he thinks Mr. Lacheney and Mr. Frederick do a fine job for the county and they are basically saying go forward. With that being said he is inclined to agree with Ms. Hale that the county should do a better job of getting people involved. The positives he sees in this is someone has to build these houses and will have to buy building materials somewhere. He stated he would like to ideally see a buy-local or employ-local proffer, which will bring Orange County some revenue and return now, not just after the taxes are paid.

Mr. Goodwin stated he shares the concern about the water supply. It is obviously a bit of a gamble and he doesn't like the idea of the county having to pick up the pieces if the gamble fails. But, his main concern is they haven't reviewed many residential rezonings over the past several years; the last one was Signature Station in 2013. He does not see any proffers that would help to offset the impact to the schools and other services such that they had in the Signature Station proffers.

There being no further discussion, Ms. Hale made a motion to recommend approval. The motion was seconded by Mr. Yancey.

Vote:

Aye: Yancey, Hale, Brook

Nay: Capelle, Goodwin

Motion passed 3-2

5. Work session:

A. Draft General Industrial (I-2) zoning district rewrite and related definitions

Mr. Frederick explained the reasons for the proposed rewrite of the I-2 zoning district. He stated that the Board initiated Planning Commission action to amend the setback, buffer, and other requirements of the district, the restrictiveness of which currently puts the county at an economic development disadvantage compared to some of the other counties. Mr. Frederick stated the intent was also to incorporate some of the deeded Thomas E. Lee Industrial Park covenants that are currently in place for all properties in the Park. Ultimately, covenants are performance standards and are more appropriately placed in the Zoning Ordinance. The Board's rationale was they didn't think it was fair that some I-2-zoned properties were treated differently and felt they should treat all I-2 zoning the same. Mr. Frederick further stated that staff chose to rewrite the district language after noting a number of deficiencies and other issues with the dated current I-2 zoning district regulations.

Chairman Brooks stated he would like to go page by page in their review. Mr. Goodwin asked to what extent the proposed language was taken from other localities and to what extent it was original work. Mr. Frederick explained.

Page 3 - Mr. Goodwin stated he felt two of the paper manufacturing-related permitted uses were quite similar and should be combined. Mr. Capelle initiated discussion about farm breweries and commercial breweries with regards to state code requirements. Discussion on the matter ensued. The consensus was that breweries should be permitted in other districts as well. Mr. Yancey stated he had concern about permitted use # 10 – Lumberyard/Sawmill. He stated sawmills are very noisy and messy and having one in an Industrial area to him would not be prudent to attract potential industrial prospects. Discussion ensued. Mr. Lacheney suggested putting it in as an SUP. Mr. Frederick stated they had tried to reduce the number of special uses by adding performance standards for permitted uses, such as lumberyards/sawmills, in order to try to address some of those concerns.

Page 4 - Mr. Capelle noted under special uses the county could potentially have a restaurant in conjunction with a brewery and he doesn't see why the county would

want this in an industrial area. Discussion ensued. Mr. Crozier stated a prime example of this discussion is in Spotsylvania County's Industrial Park. They have a distillery, light manufacturing, distribution, a brewery, restaurants and tasting rooms; it all does work together.

Page 9 - Mr. Goodwin referenced performance standard #9 – Testing; he recommended mandatory setbacks for testing areas. Chairman Brooks stated those types of businesses want that buffer to not have incidents. Mr. Capelle stated it is incumbent upon the county to make sure those businesses do right and not rely on the business to do the right thing on their own. Mr. Frederick stated he could research that sort of setback requirement if it was agreeable to the Commissioners. There was a general consensus to do so. Mr. Yancey asked if there was a reason why staff proposed not allowing digital signs in the I-2 zone. Mr. Frederick responded that typically digital signage is used to convey a commercial message and the intent of I-2 is not to allow the type of commercial activity typically associated with digital signage. He didn't feel it was consistent with the types of activity typically found in rural-located industrial areas.

Ms. Hale thanked Mr. Frederick and staff for all their work. Mr. Frederick noted the inclusion of a support letter from the EDA in the agenda packet.

Chairman Brooks stated that this was excellent and would encourage Mr. Frederick to look at the other parts of the Zoning Ordinance to incorporate things as necessary and some of them you may want to do without the Board's prodding if you have time. Mr. Frederick stated he would like to go ahead and advertise for the public hearing; there was consensus to move forward.

6. Public comment

There was no public comment.

7. Old business:

B. Board of Supervisors report – Jim Crozier

Mr. Crozier stated the Board had not yet had their first meeting of the year. Currently they have approved the CIP, but not yet appropriated funding for it. Next they will start working on the budget process. Mr. Crozier also added that the Board had been contacted by the Commissioner of Revenue informing them the rate per acre for properties in the use value taxation program has gone up quite a bit this year, which should have a positive impact on the budget. He stated the rate does vary based on the particular use but it is consistent with the state.

C. Planning & Zoning report – Josh Frederick

Mr. Frederick stated there wasn't anything notable since the last meeting, except that a new site plan was submitted for Montpelier's new Claude Moore Hall.

D. Route 3 Steering Committee report – Nigel Goodwin

Mr. Goodwin turned the report over to Mr. Yancey as he did not attend the last meeting. Mr. Yancey stated that Tommy Miller from Economic Development stated his department will make the marketing effort to promote the GWAP area as he goes forth in his dealings with prospects. Mr. Goodwin stated they had a meeting with Zann Nelson on the Historic Resources Matrix she was creating for the area. She is making progress and has gotten access to a database from DHR. She is beginning to populate the matrix subarea by subarea. He stated this was relevant for both the county and for prospective developers. Mr. Yancey stated that the information in the database however is less than desirable in his opinion.

8. Public hearings (none)

9. New business:

A. Review of current subcommittee appointments:

i. Germanna-Wilderness Area Plan Steering Committee

Chairman Brooks reappointed Mr. Goodwin and Mr. Yancey as the Commission's representatives on the GWAP Steering Committee.

ii. Division Policies Subcommittee

Chairman Brooks reappointed Mr. Capelle to continue to serve and appointed Ms. Hale as Chairman Brooks' replacement. Chairman Brooks stated he wanted to have one more face-to-face meeting before they present a final recommendation. The Chairman set the next subcommittee meeting after the next regular meeting on Feb. 4, 2016.

B. Annual review of bylaws

Chairman Brooks stated he had pointed a few things out to staff. He stated he would like gender-neutral terms to be used. Mr. Frederick suggested inputting "he/she". Discussion ensued concerning the structure of the meetings. Following the discussion, Mr. Frederick stated if the will of the Commission is such, he could work with the County Attorney, Mr. Lacheney, to refine parts of the by-laws and bring them back before the Commission in a future meeting.

10. Commissioner comments

Mr. Goodwin stated he had no further comments.

Chairman Brooks thanked the other Commissioners for his election as Chairman.

Ms. Hale thanked all for showing up. She stated she had not forgotten her statement about her attempt to vamp up public input and would like to work with Mr. Capelle and putting some thoughts together. Chairman Brooks stated he and Ms. Hale had decided to make a small presentation at the town councils of both towns and some organizations they feel would be interested. He stated they would also be making a presentation at the Board of Supervisors meeting to try to get better feedback from various departments. Mr.

Yancey stated he didn't feel it was the Board they needed to speak with and suggested attending the weekly department head meetings.

Mr. Yancey thanked everyone for giving him the opportunity to serve as Chairman this past year.

Mr. Capelle stated he was thoroughly disappointed in the vote for the night's rezoning application. He stated he thinks they missed an opportunity. He stated we know there is an issue with schools being over-crowded, there is the issue with water supply and they are proposing lower-value homes and the commissioners did nothing to try to encourage them to go to the Board with proffers or ways to rectify it. He stated the Commission has an opportunity to do more. Discussion ensued.

11. Next meeting date – February 4th, 2016

12. Adjourn

Mr. Goodwin made a motion to adjourn; motion was seconded by Mr. Yancey.
Meeting adjourned at 8:15 pm.

Donald Brooks, Chairman

Josh Frederick, Secretary

**Division Policies Subcommittee Meeting
Gordon Building Meeting Room
112 W. Main St, Orange, VA, 22960
Thursday, February 4th, 2016**

Present: Donald Brooks, Crystal Hale, Jason Capelle

Staff Present: Josh Frederick, Planning Director; Thomas Wysong, Planner; Susan Crosby, Senior Administrative Assistant

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1. Call to order

Chairman Brooks called the meeting to order at 8:13p.m.

2. Continued discussion regarding updating the county's subdivision policies and formulation of a recommendation to the Planning Commission

Chairman Brooks suggests that Mr. Frederick put together from the Subcommittee suggestions and present to Commission like he has done with the other ordinance amendments. Ms. Hale asked to be brought up to date on the subcommittee and what the goals and objectives were as well as what they were wanting to accomplish. Chairman Brooks and Mr. Capelle explained where they are up to this point and why this is necessary for the county. They stated the goal is to present a recommendation for reasonable regulations for by-right subdivision in the Agricultural district and ultimately present to the Planning Commission and the Board. Discussion ensued recapping what the subcommittee is working toward.

Mr. Frederick explained the necessity of adopting new subdivision regulations. The county used to have restrictions on agricultural divisions related to the Comprehensive Plan. He stated that is the ultimate goal, because right now we are not in compliance with our own Comp. Plan. He stated he would like to run down the suggestions again and get a consensus among the subcommittee and once he has that he can then write some code they can review. Mr. Frederick suggested to come up with a range of recommendations. From a staff perspective we need to align with the Comprehensive Plan. His first recommendation is major subdivisions, which are 8 or more lots, cannot be permitted in Ag. Zoning; you would have to rezone in order to do that. Discussion ensued.

Ms. Hale stated the best thing to do is to have a starting point. To let Mr. Frederick put together what he has in mind based on what has already been discussed. She stated she did not want them to start from scratch just because she is just coming into the committee. Let's put faith in Mr. Frederick as we know he does good work and use that as a starting point for the next meeting. Mr. Frederick touched upon a few additional recommendations for the subcommittee to agree to have included in the template.

3. Adjourn

Mr. Capelle made a motion to adjourn, seconded by Ms. Hale. Meeting adjourned at 9:06 p.m.

Donald Brooks, Chairman

Josh Frederick, Secretary

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**Orange County Planning Commission
Regular Meeting
Gordon Building Meeting Room
112 W. Main Street, Orange, VA 22960
Thursday, February 4, 2016**

Present: Donald Brooks, George Yancey, Crystal Hale, Nigel Goodwin,
Jason Capelle

Absent: James Crozier, BOS Representative; Tom Lacheney, County Attorney

Staff Present: Josh Frederick, Planning Director; Thomas Wysong, Planner; Susan Crosby, Senior Administrative Assistant

All discussion and comment made during this meeting was captured via digital audio recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.

1. Call to order and determination of quorum:

The meeting came to order at 6:00 pm.

2. Approval of agenda:

Mr. Yancey made a motion to approve the agenda as presented. Motion was seconded by Mr. Goodwin. Motion carried 5-0.

3. Approval of minutes:

A. December 3rd, 2015 Division Policies Subcommittee meeting

Mr. Yancey made a motion to approve the minutes as presented. Motion was seconded by Ms. Hale. Motion carried 5-0.

B. December 3rd, 2015 regular meeting

Mr. Goodwin made a motion to approve the minutes as presented. Motion was seconded by Mr. Yancey. Motion carried 5-0.

4. Work session:

Chairman Brooks asked the other Commissioners to review the article that was in the Free Lance Star concerning proffers. He stated he had asked Mr. Frederick to take before the County Administrator to give the Commissioners a proffer clinic for about 30 minutes, but would like to wait until after the General Assembly's session to know about any state code changes. Discussion ensued. Chairman Brooks stated Orange County needs a better proffer guide. Mr. Frederick stated Mr. Lacheney has a presentation he has

given before and is going to have Mr. Lacheney give the presentation the next meeting.
Discussion Continued.

Chairman Brooks stated he had another item for the work session. He noted an article that states that population in Virginia is generally migrating away from counties and back into the cities, and he thinks that is why they see such contention over proffers. Mr. Frederick stated it is actually a national trend, the millennial generation is largely driving the migration to urban areas. He stated the same thing is happening for seniors too. It is not just to be closer to things but for health care reasons as well as quality of life.

Mr. Yancey asked Mr. Frederick if he had received anymore feedback from the other department heads regarding the rezoning they decided on in the previous meeting. Mr. Frederick stated he had not and had discussed it with the county administrator a couple of months ago, but he didn't realize it was that much of an issue. He stated it will likely be addressed from an executive level at some point. Mr. Frederick stated he has a meeting with him next week and will bring it up to see what his thoughts are.

Discussion ensued on past issues concerning proffers.

5. Public comment

No one came forward.

6. Old business:

A. Discussion on potential bylaws revisions

Mr. Frederick stated he did not have anything to hand out. Mr. Frederick stated he did meet with the County Attorney and he had some specific thoughts on things that could be changed / removed. He stated a lot of things are required by law so it unnecessary to be in the bylaws. Chairman Brooks stated he would like for Mr. Frederick to come up with a template for the Commission to use for conducting public hearings. He just thinks the public needs to know the process when they come in to present themselves before the Commission. He would also like to have it posted on the website. Discussion ensued.

B. Board of Supervisors report – Jim Crozier

Mr. Crozier was absent. Chairman Brooks stated he did not have a report from Mr. Crozier but stated he himself had checked out the new Dollar General and there were quite a few people there.

C. Planning & Zoning report – Josh Frederick

Mr. Frederick stated their packets included a monthly report as well as an annual report from last year pretty much recapping the year. Mr. Yancey asked for additional information concerning the fiber optic line proposed along the Rt 522 corridor. Mr. Frederick stated Mr. David would be a better source for the complete information but the Mid Atlantic Broadband Corp. have fiber lines all over the state and decided to add a new route from somewhere around Richmond up through several counties up Rte. 522 on its way up to Ashburn. Louisa County

and Orange County are going to partner with that and we are actually going to get some access points on the line. In turn that is going to give the county the ability to implement a communications plan to get wireless broadband to the whole county. He stated they are planning to begin construction later in the year.

D. Germanna-Wilderness Area Plan Steering Committee report – Nigel Goodwin & George Yancey

Mr. Goodwin stated they did not meet but will have a meeting on the 18th. Mr. Goodwin stated he went to a meeting between Spotsylvania County and VDOT regarding the Rt. 3 corridor study underway for the section between Fredericksburg and the Orange County line. Mr. Goodwin stated he thinks it's something they would hopefully do on Rte. 3 once we firm up the plan. He stated he passed the summary onto Mr. Frederick.

7. Public hearings:

A. Amendments to the Zoning Ordinance – General Industrial (I-2) zoning district rewrite

Chairman Brooks asked Mr. Frederick to present brief overview of what has been done. Mr. Frederick stated that it is based on comments received from the last meeting. He detailed the changes made to the language since the last meeting. Discussion ensued concerning different items. Ms. Hale suggested adding items 64 (Carbon fiber and fiberglass products) and 68 (Materials recovery facility) to the SUP list since there were concerns raised by other commissioners. Mr. Goodwin made a motion to approve the adding of the 2 items to the SUP list. Motion was seconded by Ms. Hale. Motion carried 5-0. Discussion Ensuend regarding keeping the 100' setback from agricultural and residential properties as opposed to the 50' setback being proposed.

Chairman Brooks opened the floor to public hearing. No one came forward. Public hearing closed.

Mr. Capelle made a motion to approve as amended plus keep the discussed setback at 100'. There was no second. Motion died due to lack of second. Mr. Goodwin made a motion to approve as amended (adding items 64 & 68 to the SUP list). Motion was seconded by Mr. Yancey. Motion carried 4-1, with Mr. Capelle voting Nay.

8. New business

No new business.

9. Commissioner comments

Mr. Yancey stated he would not be here for May or November meetings.

Mr. Goodwin had no additional comments.

Mr. Capelle stated he wanted Commissioners to decide what is it we want to compete for with regards to development, the bottom or the top or not care and want whatever.

Chairman Brooks wanted to apologize for his earlier exchange with Mr. Capelle and thanking others for getting him back on track. Chairman Brooks stated he thinks the most important job he has is to represent the citizens. He also mentioned to the others that when speaking they should be mindful not to be critical of the staff. He stated you can be in total disagreement with a staff analysis but critiquing staff in front of folks is hard on them and they have a tough job to do. Chairman Brooks stated that staff may have chosen something different but his boss may guide him in another direction and asks to be mindful of that. He also mentioned that if there was anything he could as Chairman to make it a better meeting or a better Commission please let him know and thanked all for their help.

Ms. Hale stated she wants to go back to balance. Need to look for the common ground and need to look out for the safety of the citizens and have their best intentions at heart and mind. But sometimes that means making decisions that don't always make them happy but it is all about balance. She stated the great thing about this group is we have different thoughts, diverse backgrounds and different perspectives but that is a good thing. We need to capitalize on that rather than be fearful of it or disgruntled about it or combative with it.

Mr. Frederick stated that since more and more of these ordinance rewrites will be coming the Commissioners' way he asked for any suggestions on how the process could be improved. Commissioners agreed staff has done a great job on this and Ms. Hale's only suggestion would be to do some sort of overlay to show when changes are made to work already done; all agreed. Chairman Brooks and the others agreed for staff to continue to do others in this same manner.

10. Next meeting date – March 3rd, 2016

11. Adjourn for Division Policies Subcommittee meeting @ 7:15 p.m.

Mr. Capelle made a motion to adjourn, seconded by Ms. Hale. Meeting adjourned at 8:11 pm.

Donald Brooks, Chairman

Josh Frederick, Secretary

Orange County Planning Commission

March 3rd, 2016 regular meeting

Agenda item 4B

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
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MEMORANDUM

TO: Orange County Planning Commission
FROM: Josh Frederick, Director of Planning & Zoning
DATE: February 26th, 2016
RE: Draft home-based businesses zoning ordinance amendment

At their February 9th work session, the Board initiated Planning Commission action to revise and improve the county's regulations pertaining to home-based businesses. Currently, the county only permits *home occupations* which are bound to very strict performance standards. While this is appropriate for denser areas, such as Lake of the Woods, where it is necessary to protect the community character, it is overly restrictive for the agriculturally-zoned areas of the county which are far less dense. To add some flexibility, planning staff have developed the attached amendment which would allow for slightly more-intensive home businesses, known as *home enterprises*, in the agricultural (A) zoning district. This amendment provides for a greater level of home-based businesses while retaining some reasonable performance standards to protect the areas in which they're located. Having varying intensities of home-based businesses is quite common in other localities and it addresses the need in Orange County for such.

This draft amendment is being presented for the Commission's review as a work session item during the March 3rd, 2016 regular meeting. If there is consensus to move forward, the earliest date for a public hearing will be April 7th, 2016.

Cc: Board of Supervisors
R. Bryan David, County Administrator
Tom Lacheney, County Attorney
Alyson Simpson, Chief Deputy Clerk to the Board
File

Att: Draft amendment language (3 pages)

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1 **Article I – In General**

2
3 **Sec. 70-1. Definitions.**

4 [...]

5 *Home enterprise* means a low-impact, home-based business that is conducted within a single-family
6 dwelling and/or accessory structure, along with the passive, incidental use of nearby and adjacent land.
7 For the purpose of this chapter, a home enterprise is intended to be more intensive than a home
8 occupation, but remains an accessory use to a dwelling.

9 *Home occupation* means any occupation customarily incidental to and conducted within a dwelling unit
10 or accessory structure on site (such as a garage), ~~in which the business owner resides on the premises,~~
11 ~~no more than one additional nonfamily employee works on site at a time, retail sales conducted on the~~
12 ~~premises constitute only a minor part of the occupation, no mechanical equipment is used that is not~~
13 ~~customarily incidental to a residence, and there is no evidence, except one sign, that would indicate~~
14 ~~from the exterior that the building is used for any nonresidential use.~~ For the purpose of this chapter, a
15 home occupation is an accessory use to a dwelling.

16 [...]

17 **Article IV – District Regulations**

18
19 **DIVISION 2. – AGRICULTURAL ZONING DISTRICT**

20
21 **Sec. 70-302. - Permitted uses.**

22 In the agricultural district, land may be used for the following uses, and any accessory use that is
23 customarily incidental to such uses, including home occupations and home enterprises:

24 [...]

25 **Article V. – Supplementary District Regulations**

26
27 **DIVISION 3. – BUILDING STANDARDS**

28
29 **Sec. 70-624. Home-based businesses.**

30 (a) *Intent.* Home occupations and home enterprises may be permitted upon the issuance of a
31 zoning permit by the zoning administrator, provided such home-based business are allowed in
32 the underlying zoning district. The intent of allowing these uses is to provide for a limited, but
33 flexible means of encouraging home-based economic development balanced with the need to
34 protect the quality and character of the areas and neighborhoods in which they're operated.

35 (b) *Administration.* The zoning administrator shall have the authority to review and approve zoning
36 permit applications for home occupations and home enterprises, and interpret the provisions
37 set forth in this section. In addition to the performance standards provided in this section, the
38 zoning administrator may impose other reasonable conditions necessary to mitigate any
39 potential adverse impacts arising from a home-based business, while preserving the intent of
40 these regulations. No permit for a home occupation or home enterprise shall be granted unless
41 it is found to:

- 42 1) Not impair the public health, safety and general welfare;

DRAFT

- 43 2) Not increase congestion in a public street or danger of fire or other hazards;
44 3) Not substantially diminish property values for neighboring properties and the
45 surrounding area; and
46 4) Observe the spirit and intent of the comprehensive plan.
- 47 (c) *Home occupation performance standards.* The following performance standards shall apply to
48 any permitted home occupation:
- 49 1. The home must be the business owner’s principal residence;
50 2. If the home occupation is conducted solely within the dwelling unit, no more than thirty
51 (30) percent of the gross square footage of the dwelling unit may be used for the home
52 occupation. If the home occupation is conducted solely within an accessory structure,
53 the area devoted to the use may not exceed one-thousand (1,000) square feet.
54 3. No more than one additional nonfamily employee may work on site at a given time;
55 4. Retail sales conducted on the premises may constitute only a minor part of the
56 occupation;
57 5. No mechanical equipment or machinery is used that is not customarily incidental to a
58 residence, including the use of tractor trailers for commercial deliveries to or from the
59 property;
60 6. There is no evidence, except one sign permitted in accordance with the underlying
61 zoning district, that would indicate from the exterior that the building is used for any
62 nonresidential use;
63 7. Traffic generated by a home occupation shall generally not exceed eight (8) vehicle trips
64 per day;
65 8. No advertising through local media, including telephone books, flyers, and the internet
66 shall advertise the residential address of the home occupation; and
67 9. There shall be no more than one home enterprise or home occupation per lot.
- 68 (d) *Home enterprise performance standards.* The following performance standards shall apply to
69 any permitted home enterprise:
- 70 1. The home must be the business owner’s principal residence;
71 2. In addition to the business owner, no more than two employees may work on site at a
72 given time;
73 3. Retail sales conducted on the premises may constitute only a minor part of the home
74 enterprise;
75 4. Storage of products, materials, machinery, or equipment associated with the home
76 enterprise shall be solely within a valid accessory building or structure, with the
77 exception of one business-use vehicle;
78 5. Within the dwelling unit, no more than thirty (30) percent of the gross floor area may be
79 used for the home enterprise. When a home enterprise is conducted within the
80 principal dwelling unit and an accessory building or structure, no more than forty (40)
81 percent of the aggregate gross floor area shall be used for the home enterprise or
82 fifteen-hundred (1,500) square feet, whichever is less;
83 6. No building or structure to be used for a home enterprise shall be substantially altered
84 so as to change its residential character;
85 7. The commercial delivery of goods to or from the property via tractor trailer shall be
86 prohibited;

DRAFT

- 87 8. Traffic generated by a home enterprise shall generally not cause the total number of
- 88 vehicle trips per day to exceed twenty (20) for the entire property;
- 89 9. A farm tenant house shall not qualify for a home enterprise use; and
- 90 10. There shall be no more than one home occupation or home enterprise per lot.

91 (e) *Uses specifically prohibited.* Permitted home occupations or home enterprises shall not include
92 any of the following uses:

- 93 1) Vehicle or equipment rental.
- 94 2) Camps and campgrounds.
- 95 3) Adult-oriented businesses.
- 96 4) Veterinary services (not including pet grooming).
- 97 5) Animal rescues/kennels.
- 98 6) Recreational uses.
- 99 7) Medical offices.
- 100 8) Junkyards.
- 101 9) Salvage operations.

102 (f) *Application and permitting.* The zoning administrator shall be responsible for maintaining zoning
103 permit applications for home-based business, and shall have the authority to reasonable require
104 any and all information necessary to ensure compliance with the provisions of this section.
105 Approved home occupation permits and home enterprise permits shall be issued in accordance
106 with the zoning permit requirements established in Sec. 70-116.

107 (g) *Appeal.* For any application for a home occupation or home enterprise that is denied, the
108 property owner may apply for a special use permit if the proposed use is permitted as such, or
109 file an appeal pursuant to Sec. 70-68.

110 (h) *Compliance.* Should any permitted home-based business be found to be in violation of the
111 performance standards established in this section or conditions placed on an application, the
112 zoning administrator may cause for the zoning permit for the use to be revoked.

113
114 **Secs. 70-6245-70-645. – Reserved.**

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Orange County Planning Commission

March 3rd, 2016 regular meeting

Agenda item 4C

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

MEMORANDUM

TO: Orange County Planning Commission
FROM: Josh Frederick, Director of Planning & Zoning
DATE: February 26th, 2016
RE: Draft Zoning Ordinance Article II amendment

If you'll recall, last year planning staff presented a list of potential ordinance amendments for prioritization by the Board, a few of which have already been completed. The next amendment for consideration, which is attached to this memo, is a rewrite of zoning permit, site plan, and application submittal requirements, as contained within Article II of the Zoning Ordinance. The goal of this amendment to more clearly establish submittal, procedural, and administrative requirements for different types of development applications that property owners submit to the county. The amendment also removes quite a bit of ambiguity from the dated language while instituting a greater degree of flexibility in the requirements. It also serves to codify existing practices and addresses some inconsistency with state code and case law.

This draft amendment is being presented for the Commission's review as a work session item during the March 3rd, 2016 regular meeting. If there is consensus to more forward, the earliest date for a public hearing will be April 7th, 2016.

Cc: Board of Supervisors
R. Bryan David, County Administrator
Tom Lacheney, County Attorney
Alyson Simpson, Chief Deputy Clerk to the Board
File

Att: Draft amendment language (24 pages)

1 **Article II - Administration**

2 **DIVISION 1. - GENERALLY**

3 **Sec. 70-36. - ~~Enforcement~~ Authority.**

4 ~~This chapter shall be enforced by the zoning administrator, who shall be appointed by the board of~~
5 ~~supervisors. The zoning administrator shall serve at the pleasure of that body.~~

6 (a) The authority of the zoning administrator shall be vested in the position of Planning Director
7 unless otherwise appointed by the County Administrator. The zoning administrator shall have all
8 necessary authority on behalf of the board of supervisors to administer and enforce the
9 provisions of this chapter, including, but not limited to:

- 10 1) Interpreting this chapter and the county's zoning maps and zoning district boundaries;
11 2) Making determinations and decisions on matters arising from or related to the
12 provisions of this chapter;
13 3) Ordering in writing the correction of any violation of this chapter and taking all
14 necessary steps, including bringing legal action, to ensure compliance;
15 4) Administering and enforcing all conditions placed on any approved special use permit or
16 special exception; and
17 5) Administering and enforcing proffers accepted as part of any approved conditional
18 zoning application.

19 (b) The zoning administrator may appoint other staff members to act on his/her behalf in order to
20 assist with the administration of his/her duties.

21 (c) The specific authority expressly granted to the zoning administrator in other sections of this
22 chapter shall not be construed to be a limitation on the authority of the zoning administrator to
23 administer and enforce those sections where specific authority is not expressed.

24 (Ord. of 5-2-1996, § 1801)

25
26 **Sec. 70-37. - Violations.**

27 (a) All departments, officials or public employees of the county vested with the duty or authority to
28 issue permits or licenses shall perform their duties in accordance with the provisions of this
29 chapter. They shall issue permits for uses or buildings only when such permits conform to the
30 provisions of this chapter. Any permits issued in conflict with the provisions of this chapter shall
31 be null and void, unless a vested rights claim is substantiated in accordance with applicable
32 provisions of the Code of Virginia. In such cases, the established use(s) and/or building(s) shall
33 be considered a lawful nonconformity in accordance with Article III of this chapter.

34 (b) Upon receipt of a complaint pertaining to any alleged violation of this chapter, the zoning
35 administrator or his/her appointee shall first verify the legitimacy of the complaint and then
36 serve a written notice of violation to the person committing or permitting the violation(s). The
37 notice shall specify the violation, necessary actions by which to abate the violation, a reasonable

38 timeframe by which the abatement is to be completed, and any right-of-appeal notice required
39 by the Code of Virginia. Should the violation(s) not be abated by the offending party within the
40 timeframe specified by the zoning administrator or his/her designee, then the zoning
41 administrator shall initiate such action as necessary to terminate or remedy the violation(s).

- 42 (c) Any person to whom a notice of violation has been issued may file with the board of zoning
43 appeals an application for administrative appeal pursuant to Sec. 70-68 of this chapter. In such
44 cases, enforcement action shall continue only after the board reaches a decision to deny the
45 appeal. The determination of a violation shall be final and unappealable if not appealed within
46 thirty (30) days of the date of the notice of violation, pursuant to § 15.2-2311 of the Code of
47 Virginia.

48 (Ord. of 5-2-1996, § 1802)

49
50 **Sec. 70-38. - Penalties.**

51 Any person, whether as principal, agent, employee or otherwise, violating, causing or permitting the
52 violation of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not
53 less than \$10 nor more than \$1,000. If the violation is uncorrected at the time of the conviction, the
54 court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance,
55 within a time period established by the court. Failure to remove or abate a zoning violation within the
56 specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less
57 than \$10 nor more than \$1,000, and any such failure during any succeeding 10-day period shall
58 constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than
59 \$100 nor more than \$1,500.

60 (Ord. of 5-14-2013, - Ord. # 130514-PH2)

61
62 **Sec. 70-39. – Interpretation of zoning district boundaries.**

63 Unless zoning district boundary lines are fixed by dimensions or otherwise clearly shown or described,
64 and where uncertainty exists with respect to the boundaries of any zoning district as shown on the
65 zoning map, the following rules shall apply.

- 66 (a) ~~(1)~~ Where zoning district boundaries are indicated as following property lines, such property
67 lines shall be construed to be the zoning district boundaries.
- 68 (b) ~~(2)~~ Where zoning district boundaries are indicated as following or being parallel to or at right
69 angles with the centerlines of streets, highways, alleys or railroad main tracks, such centerlines
70 or lines parallel to or at right angles with such centerlines shall be construed to be such
71 boundaries, as the case may be.
- 72 (c) ~~(3)~~ Where a zoning district boundary is indicated to follow a river, creek, branch or other body of
73 water, the boundary shall be construed to follow the centerline at low water of such body of

74 water. In the event of change of the centerline, such boundary shall be construed as moving
75 with the actual centerline.

76 (d) ~~(4)~~ Where a zoning district boundary is indicated to follow the centerline of a public or private
77 right-of-way, the zoning of such areas shall be construed to be the same as the abutting
78 property up to said centerline.

79 (e) Whenever any public right-of-way is vacated or abandoned, the zoning district applicable to the
80 property to which it is reverted shall apply to such vacated or abandoned right-of-way.

81 (f) If no distance, angle, curvature description or other means is given to determine a boundary line
82 accurately and the foregoing provisions do not apply, the boundary shall be determined by the
83 use of the scale shown on the zoning map. In case of subsequent dispute, the zoning
84 administrator shall refer the matter ~~shall be referred~~ to the board of zoning appeals, which shall
85 determine the boundary.

86 (Ord. of 5-2-1996, § 1804)

87

88 **Sec. 70-40. - Conflicting ordinances, statutes and regulations.**

89 Whenever any section or provision of this chapter imposes higher standards than are required in any
90 other county ordinance or regulation, the provision of this chapter shall govern. Whenever any section
91 or provision of any federal or state statute or other county ordinance or regulation imposes higher
92 standards than are required by this chapter, the provision of such statute, ordinance or regulation shall
93 govern.

94 (Ord. of 5-2-1996, § 1805)

95

96 **Sec. 70-41. Payment of all delinquent taxes and fees prior to filing application**

97 Prior to, or in conjunction with, the initiation of an application by the owner of the subject property, the
98 owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent,
99 for a special exception, special use permit, variance, rezoning or other land disturbing permit, including
100 building permits and erosion and sediment control permits, or prior to the issuance of final approval, the
101 applicant shall be required to produce satisfactory evidence that any delinquent real estate taxes,
102 nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on
103 the subject property, that are owed to the County and have been properly assessed against the subject
104 property, have been paid, in accordance with § 15.2-2286(B) VA Code Ann.

105 (Ordinance 10-09-12).

106

107 **Sec. 70-42. Relation to Comprehensive Plan.**

108 This ordinance has been created and shall be implemented with reasonable consideration of the
109 comprehensive plan. It is an explicit purpose of this ordinance to realize and implement the
110 comprehensive plan such that development is encouraged in the Village, Town/Suburban, Economic

111 Development, and Germanna-Wilderness Area recommended land use designations contained within
112 the plan, as well as in the Town of Orange and the Town of Gordonsville, and discouraged in the
113 Agricultural A1 recommended land use designation and where not specifically stated or indicated.
114

115 **Sec. 70-43. Severability.**

116 Should any section or provision of this ordinance be decided by the courts to be unconstitutional or
117 invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other
118 than the part so held to be unconstitutional or invalid.
119

120 Secs. 70-~~4244~~--70-60. - Reserved.
121

122 **DIVISION 2. - BOARD OF ZONING APPEALS**

123 **Sec. 70-61. - Appointment and organization.**

124 A board of zoning appeals (BZA) consisting of five members must be appointed by the circuit court in
125 accordance with the provisions of Code of Virginia, § 15.2-2308. It shall have the powers set forth in
126 Code of Virginia, § 15.2-2309. Any member may be removed for malfeasance, misfeasance or
127 nonfeasance in office, or for other just cause, by the circuit court after a hearing held after at least 15
128 days' notice.

129 (Ord. of 5-2-1996, § 1601.01; Ord. of 3-9-2010)
130

131 **Sec. 70-62. - Rules and regulations.**

132 (a) Meetings. The BZA shall adopt such rules and regulations as it deems necessary to carry out the
133 duties imposed by this ordinance [Ordinance of 3-9-2010]. The meetings of the BZA will be held at the
134 call of the chair or at such times as a quorum of its members may determine. All meetings of the BZA
135 must be open to the public. For the conduct of any hearing, a quorum shall be not less than a majority of
136 all the members of the BZA.

137 (b) Minutes. The BZA must appoint a secretary to the BZA, without vote, to prepare minutes of
138 meetings, keep all records, and conduct official correspondence of the BZA. The BZA may elect as
139 secretary either a member of the BZA or a qualified individual who is not a member of the BZA. If the
140 secretary is not a member of the BZA, then the secretary is not entitled to vote on any matters before
141 the BZA. In the absence of the secretary at any meeting, the BZA must appoint some other person, who
142 may or may not be a member of the BZA, to prepare the minutes. The minutes must show the vote of
143 each member upon each question, or indicate if any member is absent or fails to vote. All records of
144 official actions become part of the permanent records of the BZA.

145 (c) Voting. The concurring vote of three members is necessary to reverse or modify any order,
146 requirement, decision or determination of the zoning administrator or to grant a variance. No action of

147 the BZA is valid unless authorized by a majority vote of those present and voting. Excluded from the
148 requirements of this section are matters governed by § 15.2-2312, VA. Code Ann.

149 (d) Conflict. Any member of the BZA is disqualified to act upon a matter with respect to property in
150 which the member has an interest as set forth in the Virginia Conflict of Interests Act, § 2.2-3100 et seq.,
151 VA Code Ann.

152 (Ord. of 5-2-1996, § 1601.02; Ord. of 3-9-2010; Ord. of 6-28-2011(8))

153

154 **Sec. 70-63. - Officers.**

155 The board of zoning appeals shall choose annually its own chair and a vice-chair who shall act in the
156 absence of the chair. The chair or, in his absence, the acting chair, may administer oaths and compel the
157 attendance of witnesses.

158 (Ord. of 5-2-1996, § 1601.03)

159

160 **Sec. 70-64. - Powers, duties.**

161 The board of zoning appeals shall have the power and duty to hear and decide ~~on applications for~~
162 ~~variances, special exceptions and~~ appeals, ~~and to hear and decide applications for variances in~~
163 accordance with Code of Virginia, § 15.2-2309. The board of zoning appeals shall ~~decide the issue within~~
164 ~~60 days of such hearing. Before deciding on any application for appeal, variance or special exception, the~~
165 ~~board of zoning appeals shall advertise and hold a public hearing pursuant to Code of Virginia, § 15.2-~~
166 ~~2204 and 15.2-2309 have no power to grant special exceptions.~~

167 (Ord. of 5-2-1996, § 1601.04)

168

169 **Sec. 70-65. - Other employees; compensation.**

170 Within the limits of funds appropriated by the board of supervisors, the board of zoning appeals may
171 employ or contract for secretaries, clerks, legal counsel, consultants, and other technical or clerical
172 services. Members may receive such compensation as the board of supervisors authorizes.

173 (Ord. of 5-2-1996, § 1601.05)

174

175 **Sec. 70-66. – Variances Reserved.**

176 ~~(a) Authorization. The BZA may authorize variances from the terms of this ordinance [Ord. of 3-9-10],~~
177 ~~when, owing to special conditions a literal enforcement of the provisions would result in unnecessary~~
178 ~~hardship, provided that the spirit of this ordinance [Ord. of 3-9-10] must be observed and substantial~~
179 ~~justice done, pursuant to the Code of Virginia, § 15.2-2204 and 15.2-2309.~~

180 ~~(b) Purpose. The purpose of a variance is to protect a property owner when he can show that his~~
181 ~~property was acquired in good faith and where by reason of the exceptional narrowness, shallowness,~~
182 ~~size or shape at the time of the effective date of the ordinance, or where by reason of exceptional~~
183 ~~topographical conditions or other extraordinary situation or condition of the piece of property, or of the~~

184 condition, situation or development of property immediately adjacent thereto, the strict application of
185 the terms of this ordinance [Ord. of 3-9-10] would effectively prohibit or unreasonably restrict the
186 utilization of the property or where the board is satisfied, upon hearing the evidence, that the granting
187 of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or
188 convenience sought by the property owner, provided that all variances shall be in harmony with the
189 intended spirit and purpose of the ordinance.

190 (c) Criteria. No variance may be granted by the BZA unless it finds that:

191 (1) The strict application of this ordinance [Ord. of 3-9-10] would produce undue hardship
192 relating to the property;

193 (2) Such hardship is not shared generally by other properties in the same zoning district and the
194 same vicinity;

195 (3) The authorization of such variance will not be of substantial detriment to an adjacent
196 property and that the character of the district will not be changed by the granting of the
197 variance; and

198 (4) The condition or situation of the property concerned is not of so general and recurring a
199 nature as to make reasonably practical the formulation of a general regulation to be adopted as
200 an amendment to this ordinance [Ord. of 3-9-10], and

201 (d) Conditions. In authorizing a variance, the BZA may impose such conditions regarding the
202 location, character and other features of the proposed structure or use as it deems necessary in
203 the public interest, and may require a guarantee or bond to ensure that the conditions imposed
204 will be complied with.

205 (e) Procedures for variances.

206 (1) In accordance with the provisions of this ordinance [Ord. of 3-9-10] and Code of Virginia,
207 '15.2-2309, any person seeking a variance from the application of regulations of this ordinance
208 [Ord. of 3-9-10], must first submit an application to the zoning administrator on a form provided
209 by the zoning administrator.

210 (2) Variances must be accompanied by a cash payment to the county in accordance with the
211 established fee schedule.

212 (3) The zoning administrator shall transmit the application promptly to the secretary of the BZA,
213 who shall place the matter on the docket to be acted upon by the BZA. The zoning administrator
214 must also transmit a copy of the application to the planning commission which may send a
215 recommendation to the BZA or appear as a party at the hearing.

216 (4) No variance may be authorized except after notice and hearing before the BZA pursuant to
217 Code of Virginia, '15.2-2204.

218 (5) The applicant for a variance bears the burden of producing evidence to support the required
219 findings and to establish that the requested variance satisfies all standards for a variance.

220 (Ord. of 5-2-1996, § 1602; Ord. of 3-9-2010)

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Sec. 70-67. - ~~Special exceptions. Reserved.~~

~~(a) The board of zoning appeals shall have the authority to hear and decide on applications for such special exceptions as authorized in this chapter. In certain cases, the board of supervisors has reserved this authority to itself. See sections 70-485, 70-515 and 70-545.~~

~~(b) In granting a special exception, the board of zoning appeals may impose such conditions as it deems necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed will be complied with. See section 70-166~~

(Ord. of 5-2-1996, § 1603)

Sec. 70-68. - Appeals from decisions of the zoning administrator.

(a) Appeals authorized. An appeal to the BZA may be taken by any person aggrieved or by any officer, department or board of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article or any ordinance adopted pursuant to this ordinance ~~[Ord. of 3-9-10]~~. Such appeals must be made within 30 days after the decision appealed from. Appeals are made by filing a notice of appeal with the zoning administrator and with the BZA. The notice of appeal must specify the grounds for appeal.

(b) Document transmittal. The zoning administrator must immediately transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

(c) Stay in proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the BZA that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(d) Fee. Appeals must be accompanied by a cash payment to the county in accordance with the established fee schedule **set by the board of supervisors.**

(e) Time of hearing. Upon receipt of the appeal, the BZA must fix a reasonable time for the hearing, give public notice in accordance with Code of Virginia, § 15.2-2204 and 15.2-2309, as well as due notice to the parties in interest as required by law.

(f) Time of decision. The BZA must make its decision within 90 days of the filing of the appeal.

(g) Decision by BZA. In exercising its powers the BZA may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from.

(h) Withdrawal of appeal. An appeal to the BZA may be withdrawn by the appellant at any time prior to the deadline for cancellation of the newspaper advertisement provided for in this article. After such deadline, an appeal may be withdrawn only with the permission of the BZA. An appeal which is not

257 withdrawn as provided for in this subsection must be either granted or denied on the merits by the BZA,
258 either in whole or in part.
259 (Ord. of 5-2-1996, § 1604; Ord. of 3-9-2010)

260

261 **Sec. 70-69. - Appeals from decisions of board of zoning appeals.**

262 Any person or persons jointly or severally aggrieved by any decision of the BZA, or any aggrieved
263 taxpayer, or any officer, department, board or bureau of the county, may file with the circuit court a
264 petition specifying the grounds on which it is aggrieved within 30 days after the final decision of the BZA.
265 (Ord. of 5-2-1996, § 1605; Ord. of 3-9-2010)

266

267 **Sec. 70-70. - Fees.**

268 There may be a charge for the examination and hearing of applications for appeals to the board of
269 zoning appeals. Fees shall be established by the board of supervisors and shall be paid at the time the
270 appeal is filed.
271 (Ord. of 5-2-1996, § 1606)

272

273 **Sec. 70-71. - Administrative variance.**

274 * Repealed (Ord. 04-28-2015)

275

276 **Secs. 70-72—70-90. - Reserved.**

277

278 **DIVISION 3. - APPEALS FROM DECISION OF BOARD OF SUPERVISORS**

279 **Sec. 70-91. - Authorized.**

280 Any person aggrieved by any decision of the board of supervisors, or any aggrieved taxpayer, or an
281 officer, department, board or bureau of the county may appeal such decision by presenting to the circuit
282 court a petition specifying the grounds on which aggrieved. Such appeal shall be taken within 30 days of
283 the decision of the board of supervisors.
284 (Ord. of 8-11-1998, § 1606.01)

285

286 **Sec. 70-92. - Reserved.**

287

288 **Sec. 70-93. - Reserved.**

289

290 **Sec. 70-94. - When testimony required.**

291 If upon a hearing under this division it shall appear to the court that testimony is necessary for the
292 proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence
293 as it may direct and report to the court with his findings of fact and conclusions of law, which shall

294 constitute a part of the proceedings upon which the determination of the court shall be made. The court
295 may reverse or affirm, wholly or partly, or modify the decision brought up for review.
296 (Ord. of 8-11-1998, § 1606.04)

297
298 **Sec. 70-95. - Costs.**

299 Costs shall not be allowed against the board of supervisors unless it shall appear to the court that it
300 acted in bad faith or with malice in making the decision appealed from.
301 (Ord. of 8-11-1998, § 1606.05)

302
303 **Secs. 70-96--70-115. - Reserved.**

304
305 **DIVISION 4. - ZONING PERMITS AND SITE PLANS.**

306 **Sec. 70-116. - ~~Required Zoning permit requirements.~~**

307 ~~A zoning permit is required for construction of or addition to any building or structure for which a~~
308 ~~building permit is required, and a zoning permit is required for any proposed change in use within a~~
309 ~~structure that is used in whole or in part for nonresidential purposes. A temporary zoning permit is also~~
310 ~~required for certain temporary uses permitted in individual zoning districts pursuant to section 70-122.~~

311 (a) *When required.* Except as provided for in the following subsections, a zoning permit shall be
312 required for:

- 313 1) The erection, construction, reconstruction, or moving of building and/or structure or
314 part thereof;
- 315 2) Any alteration of a building and/or structure whereby the physical footprint and/or
316 height is changed;
- 317 3) For the establishment of any new land use; and
- 318 4) For any proposed change in use within a structure that is used in whole or in part for
319 nonresidential purposes.

320 (b) *When not required.* Unless otherwise regulated by approved proffers or county-imposed
321 conditions, a zoning permit shall not be required for:

- 322 1) At-grade modifications (e.g. patios, landings, sidewalks, and driveways, but not including
323 pools);
- 324 2) Below-grade modifications, not including new well and septic drainfield installations;
- 325 3) Building interior modifications not qualified under Sec. 70-116(a);
- 326 4) Accessory structures up to one-hundred, fifty (150) square feet;
- 327 5) Graveyards, including crypts/mausoleums up to fifteen-hundred (1,500) square feet;
- 328 6) Sign “refacing” (i.e. the like-for-like replacement of a permanent, conforming sign’s
329 advertising message whereby the physical dimensions of the sign do not change);
- 330 7) Fences, handrailing, screening walls, and retaining walls; and

- 331 8) Common residential yard accessories (e.g. LP-gas or oil tanks, air conditioning units,
332 mailboxes, flagpoles, satellite dishes);
- 333 (c) *Agricultural uses.* A zoning permit shall not be required for any bona fide agricultural structure
334 (e.g. a pole barn or silo) or the establishment of any agriculture use as defined in Sec. 70-1,
335 unless the use is identified as having parking requirements in Division 5 of this chapter. A zoning
336 permit shall be required for any structure or use regulated by Article 8 of this chapter (Intensive
337 Livestock, Dairy, and Poultry Facilities).
- 338 (d) *Expiration.* An approved zoning permit shall expire if construction and/or establishment of the
339 permitted use does not commence within six (6) months from the date of approval.
- 340 (e) *Temporary uses.* A temporary zoning permit ~~is also shall be~~ required for certain temporary uses
341 permitted in individual zoning districts ~~pursuant to section 70-122~~ as provided for elsewhere in
342 this chapter.

343 (Ord. of 5-2-1996, § 1101; Ord. of 3-9-2010)

344

345 **Sec. 70-117. - ~~Agricultural, limited residential and general residential zoning districts~~ Administrative**
346 **site plans.**

347 ~~Each application for a zoning permit in the districts shall be accompanied by a scale drawing showing the~~
348 ~~size and shape of the parcel of land, and the proposed location and use of the structure. The zoning~~
349 ~~administrator shall review and approve the application and may submit it to the commission for its~~
350 ~~review and recommendation.~~

351 (a) *Applicability.* An administrative site plan shall accompany each application for a zoning permit to
352 establish or modify any of the following:

- 353 1) Single-family dwelling, two-family dwelling, or manufactured home.
- 354 2) Any use which is customarily incidental (i.e. accessory) to the above principal uses.
- 355 3) Farm stand, wayside stand, or farm enterprise.
- 356 4) ADA-accessibility improvements, of up to two-thousand, five-hundred (2,500) square
357 feet, to any existing building or structure.
- 358 5) Any nonresidential change of use within an existing structure that results in no land
359 disturbance nor necessitates any additional site improvements that may be required by
360 this chapter.
- 361 6) Temporary uses.
- 362 7) Signs.

363 (b) *Plan preparation.* An administrative site plan may be hand-drawn or prepared by a licensed
364 surveyor, engineer, or architect. Hand-drawn plans shall not be accepted for the modification of
365 any nonconforming structure or for any principal use on property zoned Planned Residential (R-
366 3) or Multifamily Residential (R-4).

367 (c) *Contents of plan.* Each administrative site plan shall be shown on either a current survey of the
368 property or on the most-current survey of the property on record in the Circuit Court, and shall
369 depict, as appropriate:

- 370 1) Property lines and their courses and measurements;
- 371 2) The tax parcel number, acreage of the lot, scale, and north arrow;
- 372 3) The location, dimensions, height, and proposed setbacks from property lines and from
373 bodies of water for all existing and proposed buildings and structures on the lot;
- 374 4) Existing and proposed driveways, travelways, and parking areas;
- 375 5) The location of streams and other bodies of water on the lot;
- 376 6) Modifications to existing drainageways;
- 377 7) Installation or modification of a stormwater best management practice (BMP);
- 378 8) Compliance with any proffers, variances, and/or county-imposed conditions; and
- 379 9) All public and private rights-of-way (including easements), their name(s), and the width
380 of said rights-of-way; and

381 (d) *Exceptions.* For properties which have no current plat or survey, or where the plat or survey is of
382 too large a scale so as to inhibit the accurate drawing of the site plan, an illustration of property
383 line locations along with the site plan elements may be accepted in lieu of a plat or survey. This
384 shall be at the sole discretion of the zoning administrator.

385 (e) *Modification of requirements.* Any of the administrative site plan elements may be waived or
386 modified in circumstances in which they are not applicable or where they bear no relation to the
387 proposed use. The zoning administrator may require the submission of additional materials
388 necessary to satisfactorily administer the requirements of this ordinance.

389 (f) *Expiration.* Administrative site plans shall have the same expiration provisions as the
390 accompanying zoning permit, as specified in Sec. 70-116.

391 (Ord. of 5-2-1996, § 1101.01)

392
393 **Sec. 70-118. - ~~Planned residential district~~ Minor site plans.**

394 ~~Each application for a zoning permit in the planned residential district shall be accompanied by three~~
395 ~~copies of a plat prepared by a certified land surveyor. The plat shall show the size and shape of the~~
396 ~~parcel of land, and the proposed location and use of the structure. The zoning administrator shall review~~
397 ~~and approve the application, and may submit it to the commission for its review and recommendation.~~

398 (a) *Applicability.* Prior to an application for a zoning permit, a minor site plan shall be reviewed and
399 approved by the zoning administrator for the following:

- 400 1) Any nonresidential, commercial, or industrial use which results in total land disturbance
401 of less than ten-thousand (10,000) square feet, unless specifically subject to
402 administrative site plan requirements.

- 403 (b) *Plan preparation.* A minor site plan shall be prepared by a licensed surveyor, engineer, or
404 architect.
- 405 (c) *Contents of plan.* In addition to the administrative site plan elements specified in Sec. 70-117(c),
406 a minor site plan shall also depict, as appropriate:
- 407 1) Project name, a written description of the proposed use(s), current property owner(s)
408 and address(es), and the plan preparer's information;
 - 409 2) A vicinity map;
 - 410 3) The zoning classification of the property;
 - 411 4) Approval blocks for relevant review departments and/or agencies;
 - 412 5) All information necessary to show compliance with the parking, loading/unloading, and
413 landscaping requirements pursuant to Division 5 of this chapter;
 - 414 6) Any required buffer yards and the associated fencing and landscaping;
 - 415 7) All easements;
 - 416 8) All existing and proposed utilities;
 - 417 9) Existing topography and proposed final grades;
 - 418 10) The extent of any land disturbance;
 - 419 11) The location of any flood hazard areas, mapped dam inundation zones, or previously-
420 delineated wetlands present on the site;
 - 421 12) All proposed transportation improvements within the site and external to the site; and
 - 422 13) Any other information as may be required by the zoning administrator or his/her
423 designee in order to evaluate the plan.
- 424 (d) *Timeframe for review.* Permissible timeframes for review and approval of any minor site plan
425 shall be in accordance with § 15.2-2259 of the Code of Virginia.
- 426 (e) *Expiration.* Minor site plan approval shall expire after five years unless construction has begun
427 and work has been diligently pursued.

428 (Ord. of 5-2-1996, § 1101.02)

429

430 **Sec. 70-119. - ~~Multifamily residential, commercial and industrial districts~~ Major site plans.**

431 ~~Each application for a zoning permit in the multifamily residential, commercial and industrial districts~~
432 ~~shall be accompanied by four copies of a site plan which shall include the following information~~

433 ~~(1) A vicinity map at a scale of one inch equals 2,000 feet.~~

434 ~~(2) The property boundaries and source of title as shown on the most recent survey.~~

435 ~~(3) Existing topography and proposed grading.~~

436 ~~(4) Existing and proposed roads.~~

437 ~~(5) Existing and proposed utilities.~~

438 ~~(6) Proposed provisions for handling stormwater.~~

439 ~~(7) Location, floor area, height and use of each existing or proposed building or structure.~~

440 ~~(8) Location, type and height of all fencing, screening and retaining walls.~~
441 ~~(9) Parking and loading areas, including dimensions and type of surface.~~
442 ~~(10) A lighting and landscape plan (to include designated buffer zone).~~
443 ~~(11) Elevation drawings of each principal side of each building or structure.~~
444 ~~(12) Information relating to archaeological, historical and natural resources, if any.~~
445 ~~(13) Soil analysis listing representative soil types on site, weights per cubic foot of the soils and whether~~
446 ~~or not they have shrink-swell potential. Soils should be shown as per the current soil survey of the~~
447 ~~county.~~
448 ~~(14) Location of trash collection/recycling facilities and provision for private collection service.~~
449 ~~(b) The site plan shall be submitted to the zoning administrator for review within five years of rezoning~~
450 ~~approval by the board of supervisors. Failure to submit the site plan within five years of rezoning~~
451 ~~approval may trigger a review of the zoning classification by the board of supervisors.~~
452 ~~(a) *Applicability.* Prior to an application for a zoning permit, a major site plan shall be reviewed and~~
453 ~~approved by the zoning administrator for the following:~~
454 ~~1) Any use which results in total land disturbance of ten-thousand (10,000) square feet or~~
455 ~~more, unless specifically subject to administrative site plan requirements.~~
456 ~~(b) *Plan preparation.* A major site plan shall be prepared by a licensed surveyor, engineer, or~~
457 ~~architect.~~
458 ~~(c) *Contents of plan.* In addition to the minor site plan elements specified in Sec. 70-118(c), a major~~
459 ~~site plan shall also depict, as appropriate:~~
460 ~~1) The owners, tax parcel numbers, sources of title, zoning classifications, and current uses~~
461 ~~of all adjacent properties;~~
462 ~~2) Existing and proposed lot coverage ratios;~~
463 ~~3) The estimated daily vehicular trip generation figures for the development;~~
464 ~~4) Provisions and best management practices for addressing stormwater requirements;~~
465 ~~5) Details for any retaining walls;~~
466 ~~6) Photometric drawings for all exterior lighting;~~
467 ~~7) The name, certification number, and certification expiration date for the designated~~
468 ~~responsible land disturber(s), pursuant to Chapter 26 of this code;~~
469 ~~8) Any known places of burial;~~
470 ~~9) Tree-save areas and/or areas to remain undisturbed;~~
471 ~~10) All erosion control measures and plans in accordance with Chapter 26 of this code~~
472 ~~and/or requirements of the Code of Virginia;~~
473 ~~11) Proposed signage;~~
474 ~~12) North, south, east, and west elevation drawings for all buildings and/or structures;~~
475 ~~13) Any proposed phasing of development;~~
476 ~~14) A soils evaluation;~~

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- 15) The identification and delineation of any wetlands;
- 16) The design and placement of any refuse facilities; and
- 17) Any information related to existing archeological or historical resources.

~~(c) Once a site plan has been submitted, the zoning administrator may refer the plan to the planning commission or the board of supervisors for review and recommendation if it is deemed necessary to do so. All multifamily development site plans shall be referred to the planning commission for review. The zoning administrator shall notify the applicant in writing of such referral, specifying the time and place the planning commission or board of supervisors will review the plan. If the zoning administrator finds that the proposal conforms with applicable ordinances, he shall notify the applicant in writing that he has approved the plan. If the zoning administrator finds that the proposal does not conform with applicable ordinances, he shall notify the applicant in writing that he has disapproved the plan, specifying the causes for disapproval and the steps necessary to correct such causes. Failure to notify the applicant within 30 days of receipt shall be deemed approval.~~

- (d) *Additional review.* The zoning administrator may refer a major site plan to the planning commission or other appointed or elected review committee if it is determined the proposed project, based on the intensity, potential impacts, or complexity of approved proffers or conditions, would warrant an additional level of review.
- (e) *Timeframe for review.* Permissible timeframes for review and approval of any major site plan shall be in accordance with § 15.2-2259 of the Code of Virginia.
- (f) *Zoning compliance certificates.* A zoning compliance certificate shall be required for all site work and improvements approved via the major site plan approval process, prior to issuance of any certificate of occupancy by the Building Official. The purpose of the zoning compliance certificate is to confirm that all site improvements required pursuant to this chapter, to the approved site plan, to accepted proffers, and/or to other county-imposed conditions are installed in substantial conformance with said requirements. The zoning administrator may rely on any reasonable means necessary to determine “substantial conformance,” particularly in circumstances where the professional licensure of others is required to properly confirm the validity of the installed improvement.

- 1) *Temporary certificates.* In situations where the building or structure must be occupied and the use must otherwise commence prior to completion of all required improvements, the zoning administrator may issue a temporary zoning compliance certificate subject to the following:
 - i. The period of validity for the temporary certificate may not exceed six (6) months, unless the zoning administrator approves a longer period of time for unusual circumstances.

- 513 ii. The site and building is in a safe and usable condition, free from conditions that
514 might endanger the health, safety, or welfare of persons using the site.
- 515 iii. The property owner or authorized agent submits a written performance
516 guarantee specifying the required improvements yet to be completed and the
517 timeframe required for their completion. The guarantee shall be accompanied
518 by a surety payable to the county in an amount determined by the county to be
519 sufficient to ensure satisfactory completion or all required improvements yet to
520 be completed within the timeframe of the temporary certificate. The guarantee
521 may be in the form of cash/check, an irrevocable letter of credit, or other
522 collaterally-assigned funds acceptable to the county attorney. The developer
523 shall submit a surety estimate, to be approved by the county, along with a
524 reasonable amount for administrative costs not to exceed ten (10) percent of
525 the estimated costs.
- 526 iv. The surety requirement may be waived in instances where the unfinished
527 improvements have an estimated cost of no greater than five-hundred dollars
528 (\$500).
- 529 v. The county may make use of the surety if the obligee fails to comply with the
530 terms of the performance guarantee or the county determines the unfinished
531 improvements have not been completed in a timely manner so as to negatively
532 impact the public health, safety, or general welfare. Alternatively, the county
533 may revoke the certificate of occupancy until said terms are fulfilled.

534 (f) ~~(d)~~ *Expiration.* Major site plan approval shall expire after five years unless construction has
535 begun and work has been diligently pursued.

536 (Ord. of 5-2-1996, " 1101.03, 1101.04; Ord. of 8-11-1998, " 1101.03, 1101.04;
537 Ord. of 5-8-2001; Ord. of 6-14-2011)

538

539 **Sec. 70-120. - Fee for review.**

540 An applicant for a zoning permit shall pay a fee for the review and approval of the site plan and the
541 issuance of the zoning permit in accordance with the schedule of fees adopted by the board of
542 supervisors.

543 (Ord. of 5-2-1996, § 1101.05)

544

545 **Sec. 70-121. - Electric service.**

546 It shall be unlawful for any electric company to furnish electricity to any new structure, building or newly
547 located manufactured or mobile home unless a zoning permit has been issued.

548 (Ord. of 5-2-1996, § 1101.06)

549

550 **Sec. 70-122. - Temporary use permits.**

551 (a) Permit and application requirements. A zoning permit for a temporary use is required for certain
552 temporary uses permitted in individual zoning districts. Application for such permit shall be made at
553 least one week prior to the date on which the permit is to take effect. The application shall be made on
554 a form provided by the zoning administrator and shall include information about the proposed use,
555 products to be sold, signs, and related licenses and permits.

556 (b) Revocation of temporary permit. The zoning administrator may revoke a temporary permit at any
557 time subsequent to the failure of the owner or operator of the permitted use to observe all
558 requirements of the law with respect to the maintenance and conduct of the use, and any conditions of
559 the permit that were designated by the zoning administrator when issued. Upon receipt of notice of
560 revocation of the permit, the property owner or operator of such activity shall cease operation of the
561 activity immediately. The foregoing provisions shall not be deemed to preclude the use of any other
562 remedy prescribed by law with respect to violations of the provisions of this section.

563 (c) Public uses excluded. Any use located on government-owned property which is approved by the
564 County, shall not be considered a temporary use subject to this section and section 70-940.

565 (d) Civic or non-profit organization use exempted. The operation of a temporary use by a civic or non-
566 profit organization is exempt from the requirements of this section and section 70-940.

567 (e) Signs. Notwithstanding other regulations governing signs in this ordinance [Ord. of 3-9-10], only one
568 sign is permitted for each temporary use, which shall be displayed only during the period approved for
569 the temporary use.

570 (Ord of 3-9-2010)

571 Secs. 70-123C70-140. - Reserved.

572

573 **DIVISION 5. - SPECIAL USE PERMITS**

574 **Sec. 70-141. - Considerations.**

575 In granting a special use permit, the **planning** commission and the board of supervisors shall consider
576 whether the proposed use would further the purposes of the comprehensive plan and this chapter;
577 whether it would threaten the public health, safety or welfare; whether it would be compatible with its
578 surroundings; **whether it would impact the environment or any natural, scenic, or historic features**; and
579 whether it would result in a substantial detriment to the surrounding property.

580 (Ord. of 5-2-1996, § 1103.01)

581

582 **Sec. 70-142. - Conditions authorized.**

583 In granting a special use permit, the **planning** commission may recommend and the board of supervisors
584 may impose reasonable conditions to protect the public health, safety and general welfare. **The board
585 may require the posting of a bond as a reasonable condition to ensure compliance with the approved
586 permit or any part thereof.**

587 (Ord. of 5-2-1996, § 1103.02)

588 **Sec. 70-143. - Notice and hearing required.**

589 No ~~action to approve, modify, or deny a~~ special use permit may be ~~granted~~ taken by the governing body
590 except after notice and hearing as provided in Code of Virginia, § 15.2-2204. ~~The Planning Commission~~
591 ~~shall hear and provide recommendations on all special use permit applications, unless otherwise~~
592 ~~specified.~~

593 (Ord. of 5-2-1996, § 1103.03)

594

595 **Sec. 70-144. – Expiration and revocation.**

596 (a) Unless otherwise provided in the conditions of approval, any special use permit shall ~~expire~~
597 ~~become void~~ if the applicant does not obtain a building permit for the facility or otherwise
598 commence the use within ~~nine months~~ two (2) years of its issuance. ~~The zoning administrator~~
599 ~~may grant an extension of up to three months upon written application and for good cause~~
600 ~~shown. Any request for an extension of more than three months will require a new application.~~
601 In the event any use allowed by a special use permit is discontinued for a period of two (2) years
602 or longer, the use shall be deemed abandoned and the special use permit shall become void.
603 Renewal and/or reestablishment of such a use shall require a new application, public notice, and
604 subsequent approval by the board of supervisors.

605 ~~(b) Pursuant to Code of Virginia, § 15.2-2288.4, any special use permit that was valid and~~
606 ~~outstanding as of January 1, 2009, is extended to July 1, 2011. Repealed.~~

607 (c) For instances in which the conditions of a special use permit are not met or when complaints
608 have been received and verified, and administrative enforcement procedures have been
609 pursued without success, the zoning administrator shall bring the matter before the board of
610 supervisors for a public hearing to determine the appropriateness of revoking the special use
611 permit.

612 (Ord. of 5-2-1996, § 1103.04; Ord. of 3-9-2010)

613

614 **Sec. 70-145. – Application submittal requirements and review.**

615 (a) Each application for a special use permit shall contain the following:

- 616 1) Application form(s), appropriate fees, and authorization by the property owner, if
617 applicable.
- 618 2) A general concept plan, no smaller than 11"x17", illustrated on a plat or survey of the
619 property, which may be hand-drawn or non-engineered, and which clearly shows all
620 existing conditions and proposed changes to the property that will result from the
621 application. These shall include, at a minimum:
- 622 i. Existing roads, driveways, utilities, and easements;
 - 623 ii. Existing structures and/or uses and their distances to property lines;

- 624 iii. Proposed structures and/or uses and their orientation on the property;
625 iv. Proposed utilities;
626 v. Proposed grading;
627 vi. General parking and landscaping areas;
628 vii. The location of wetlands, floodplains, streams, and other bodies of water;
629 viii. Any proposed subdivision of the property;
630 ix. Any proposed phasing of development;
631 x. General signage types and locations; and
632 xi. Proposed roads and driveways.
- 633 3) A written narrative describing the scope of the proposal, including at a minimum:
634 i. A detailed project description and how it aligns with the goals and objectives of
635 the comprehensive plan;
636 ii. Anticipated traffic volumes and related traffic impacts;
637 iii. A fiscal impact analysis including expected economic benefits and costs to the
638 county;
639 iv. Impacts on the provision of public services;
640 v. An environmental impact analysis;
641 vi. An analysis of impacts on historic and cultural resources; and
642 vii. Anticipated impacts to neighboring properties and how those impacts will be
643 mitigated.
- 644 4) Any other information, as required in writing upon review of the application by the
645 zoning administrator, that is relevant to the unique characteristics of the application
646 and/or will further assist the governing body in their decision of approval or denial of
647 the application.
- 648 (b) An application that provides all of the required information, in appropriate detail, shall be
649 determined to be complete and be accepted for review. An application omitting any required
650 information shall be deemed to be incomplete and shall not be accepted, unless the zoning
651 administrator determines the missing information is not required to adequately review the
652 application.
- 653 1) The zoning administrator shall determine whether an application is complete within 10
654 business days after the application is received. If the application is deemed to be
655 incomplete, the zoning administrator shall inform the applicant, in writing, of the
656 deficiencies in the application.
- 657 2) Applications deemed incomplete shall have the required missing information submitted
658 within 90 calendar days of the date of the zoning administrator’s notice, as required by
659 the above section, or the application will become void and subject to the provisions of
660 Sec. 70-146.

661 (c) The zoning administrator shall refer the application to the planning commission only after
662 allowing for a sufficient time period for review, not to exceed forty-five (45) business days, by
663 other county departments and external agencies.
664

665 **Sec. 70-146. – Limitation on applications.**

666 No application for a special use permit shall be accepted for any lot within one (1) year of the
667 application date for any previously submitted, withdrawn, or denied special use permit application for
668 the same lot. This section however shall not prohibit the board of supervisors from proposing a special
669 use permit by way of their own motion.
670

671 **Sec. 70-147. – Appeal.**

672 Any person aggrieved by a board decision to approve, modify, deny, or revoke a special use permit may
673 file an appeal in the circuit court within thirty (30) days of the date of the board action.
674

675 **Secs. 70-~~145~~148--70-165. - Reserved.**

676
677 **DIVISION 6. - SPECIAL EXCEPTIONS**

678 **Sec. 70-166. – ~~Authorized Generally.~~**

679 ~~The board of supervisors delegates to the board of zoning appeals the power to review and approve~~
680 ~~certain applications for special exceptions subject to the following guidelines; they shall:~~

- 681 ~~(1) Safeguard the public health, safety and welfare;~~
- 682 ~~(2) Not impair an adequate supply of light and air to adjacent property;~~
- 683 ~~(3) Not increase congestion in the public street or danger of fire or other hazards;~~
- 684 ~~(4) Not substantially diminish property values in surrounding areas; and~~
- 685 ~~(5) Observe the spirit of the comprehensive plan and this chapter such that substantial justice is done.~~

686 For the purposes of this chapter, the terms *special exception* and *special use permit* are interchangeable.
687 Special exceptions are considered special uses which constitute minor deviations from certain existing
688 ordinance requirements, where specifically authorized in this chapter. Special exceptions shall have the
689 same administrative and procedural requirements as special use permits, as specified by Division 5 of
690 this Article. However, applications for special exceptions shall only necessitate a public hearing by the
691 board of supervisors, unless the board refers an application to the planning commission for their review
692 and recommendation.

693 (Ord. of 5-2-1996, § 1104.01)

694
695 **~~Sec. 70-167. – Expiration.~~**

696 ~~Any special exception shall expire if the applicant does not avail himself of the privilege granted by the~~
697 ~~exception within nine months of its issuance. The zoning administrator may grant an extension of up to~~
698 ~~three months upon written application and for good cause shown.~~

699 (Ord. of 5-2-1996, § 1104.02)

700

701 **Secs. 70-1687--70-190. - Reserved.**

702

703 **DIVISION 7. - ~~CONDITIONAL ZONING MAP AMENDMENTS~~**

704 **Sec. 70-191. - ~~Conditional Zoning Authorized. Generally.~~**

705 ~~The board of supervisors may rezone property subject to conditions, provided the applicant proffers~~
706 ~~such conditions in writing prior to the public hearing before the board of supervisors. Any such rezoning~~
707 ~~shall conform to the provisions of §§15.2-2296 through 15.2-2303 of the Code of Virginia.~~

708 ~~(1) Any landowner applying for rezoning may voluntarily proffer to place restrictions on the use of his~~
709 ~~land in addition to the restrictions imposed by this chapter. The landowner may also:~~

710 ~~(a) dedicate to the county, or to an agency approved by the county, real estate or public facilities~~
711 ~~located off the site to be rezoned;~~

712 ~~(b) pay to the county a fixed sum of cash or other consideration to defray the cost of capital~~
713 ~~improvements;~~

714 ~~(c) pay to the county a fixed sum of cash for any off-site road improvement or any off-site~~
715 ~~transportation improvement that is adopted as an amendment to the comprehensive plan and~~
716 ~~incorporated into the capital improvements program. provided that (i) the rezoning itself gives rise to~~
717 ~~the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all~~
718 ~~conditions are in conformity with the county comprehensive plan.~~

719 ~~(2) The board of supervisors may rezone the property on the condition that the landowner and his heirs~~
720 ~~and assigns abide by such conditions. Such conditions shall have the same force and effect as the~~
721 ~~regulations provided for the zoning district by this chapter. Failure to abide by such conditions shall~~
722 ~~render the rezoning voidable and may cause the zoning of the property to revert to its classification~~
723 ~~prior to the conditional rezoning.~~

724 ~~(3) The zoning administrator shall prepare a "proffer policy guide" to aid landowners in preparing and~~
725 ~~submitting proffers. Said policy guide shall be approved by the board of supervisors prior to~~
726 ~~implementation, and may be amended from time to time with the approval of the board.~~

727 ~~The board of supervisors may change the zoning classification of one or more properties, or part(s)~~
728 ~~thereof, whenever the public necessity, convenience, general welfare, and/or good zoning practice gives~~
729 ~~need for such action, and whereby a determination of general conformance with the comprehensive~~
730 ~~plan is found. The planning commission shall hear and provide recommendations on all zoning map~~
731 ~~amendments, and shall consider these bases when formulating its recommendations. Zoning map~~

732 amendments may be initiated by the board of supervisors, planning commission, or by the property
733 owner.

734

735 (Ord. of 5-14-2013, Ord.# 130514-PH3)

736

737 **Sec. 70-192. – Expiration Repealed.**

738 ~~Upon rezoning of property to limited residential (R-1), general residential (R-2) or planned residential (R-~~
739 ~~3), plats for the proposed subdivision must be submitted to the subdivision agent and home~~
740 ~~construction diligently pursued within five years of rezoning approval by the board of supervisors.~~

741 ~~Failure to do so may trigger a review of the zoning classification by the board of supervisors. Upon~~

742 ~~rezoning of property to multifamily residential (R-4), limited commercial (C-1), general commercial (C-2),~~

743 ~~limited industrial (I-1) or general industrial (I-2), site plans shall be submitted to the zoning administrator~~

744 ~~for review and construction diligently pursued within five years of rezoning approval by the board of~~

745 ~~supervisors. Failure to do so may trigger a review of the zoning classification by the board of supervisors.~~

746 (Ord. of 5-8-2001; Ord. of 6-14-2011)

747

748 **Sec. 70-193. – Conditional zoning.**

749 (a) *Authority to accept proffers.* The board of supervisors is authorized to accept proffers in
750 conjunction with an owner-initiated zoning map amendment pursuant to § 15.2-2296:2303 of
751 the Code of Virginia.

752 (b) *Purpose.* Proffers (i.e. voluntary conditions submitted by the applicant) are intended to provide
753 for the orderly development of land in situations where a more flexible and adaptable
754 regulatory mechanism is needed to adequately address impacts to the community and locality
755 arising from a proposed zoning map amendment. Such conditions are generally intended to be
756 unique to the property while supplementing the underlying zoning district regulations, and carry
757 the same applicability and enforceability as such.

758 (c) *Form.* All proffers to be volunteered shall be in writing and shall be signed by the applicant. Such
759 proffered conditions shall be made on a standard form approved by the county attorney.

760 (d) *Submittal.* Proffers may be submitted in conjunction with an application for a zoning map
761 amendment at any time prior to the public hearing by the board of supervisors. The applicant
762 may amend said proffers as so desired during that timeframe. The board may, at its sole
763 discretion, accept proffer amendments once the public hearing has begun, provided the changes
764 do not materially affect the proposal.

765 (e) *Acceptance and effect.* The board may accept proffers in their entirety, only accept certain
766 proffers, and/or accept portions thereof. Once accepted in conjunction with an approved zoning
767 map amendment, the proffers shall remain in full force and effect unless a subsequent
768 amendment to said proffers is approved or the zoning classification is changed.

769 (f) *Amendments to accepted proffers.* Once accepted by the board in conjunction with an approved
770 zoning map amendment, proffers may only be further amended via a subsequent owner-
771 initiated zoning map amendment. An application to amend proffers shall be subject to
772 procedural requirements under Sec. 70-194. However, no further recommendation by the
773 planning commission shall be required unless the board refers the proposed proffer amendment
774 to the commission for a public hearing and recommendation. In consideration of an application
775 to amend proffers, the board may, at its sole discretion, waive the public hearing requirement if
776 it determines the proposed amendments do not materially affect conditions relating to
777 allowable uses or density.

778
779 **Sec. 70-194. – Application submittal requirements and review.**

780 Application submittal requirements and review procedures for an owner-initiated zoning map
781 amendment shall be the same as those for special use permits, as prescribed in Sec. 70-145.
782 Additionally, the owner may choose to volunteer proffers in conjunction with the application, pursuant
783 to Sec. 70-193.

784
785 **Sec. 70-195. – Limitation on applications.**

786 No application for an owner-initiated zoning map amendment shall be accepted for any lot within one
787 (1) year of the application date for any previously submitted, withdrawn, or denied application. This
788 section however shall not prohibit the board of supervisors from initiating a zoning map amendment by
789 way of their own motion.

790
791 **Sec. 70-196. – Notice and hearing required.**

792 No action to approve or deny a zoning map amendment or amendment to previously-approved proffers
793 may be taken by the board except after notice and hearing as provided in the Code of Virginia, § 15.2-
794 2204. The Planning Commission shall hear and provide recommendations on all proposed zoning map
795 amendments.

796
797 **Sec. 70-197. – Appeal.**

798 Any person aggrieved by a board decision to approve or deny a zoning map amendment or proffer
799 amendment may file an appeal in the circuit court within thirty (30) days of the date of the board action.

800
801 **Secs. 70-193--70-210. - Reserved.**

802 **DIVISION 8. – ZONING TEXT AMENDMENTS**

803 **Sec. 70-211. - Intent.**

804 Pursuant to Code of Virginia, § 15.2-2285, the board of supervisors may amend, supplement, change,
805 modify or repeal the regulations, restrictions and boundaries established in this chapter, as provided in
806 this division.

807 (Ord. of 5-2-1996, § 1701)

808

809 **Sec. 70-212. - Initiation.**

810 Whenever the public necessity, convenience, general welfare or good zoning practice requires, the
811 board of supervisors may, by ordinance, amend or repeal the text of this chapter ~~or the zoning map.~~

812 Such amendments may be initiated by the board of supervisors or the commission, ~~or by a property~~
813 ~~owner in accordance with procedural requirements and application requirements established by the~~
814 ~~board of supervisors. An amendment to the map may be initiated by petition of the owner or agent of~~
815 ~~the owner of the property which is the subject of such amendment; provided that such petition shall be~~
816 ~~addressed to the board of supervisors, shall be on a standard form, and shall be accompanied by a fee in~~
817 ~~accordance with a fee schedule separately adopted by the board of supervisors.~~

818 (Ord. of 5-2-1996, § 1702)

819

820 **Sec. 70-213. - Report by the planning commission.**

821 Upon ~~receipt of an application to initiation to~~ amend the zoning ordinance, the planning commission
822 shall advertise and hold a public hearing ~~at its next regularly scheduled meeting,~~ pursuant to Code of
823 Virginia, § 15.2-2204 and report to the board of supervisors its recommendation with respect to the
824 proposed amendment. ~~The commission need not confine its recommendation to the proposed~~
825 ~~amendments as set forth in the petition but may reduce the extent of lands that it recommends be~~
826 ~~rezoned or may recommend that lands be rezoned to a less intensive zoning classification than that~~
827 ~~petitioned for. If the amendment was initiated by petition, failure to report within 40 days from the date~~
828 ~~of the first public hearing shall be deemed a favorable recommendation. Any application which is~~
829 ~~postponed at the request of the applicant shall be considered withdrawn, and any application~~
830 ~~withdrawn shall be resubmitted and shall be subject to the applicable fees.~~

831 (Ord. of 5-2-1996, § 1703; Ord. of 10-12-1999)

832

833 **Sec. 70-214. - Board of supervisors public hearing.**

834 Before adopting any amendment, the board of supervisors shall hold a public hearing on the
835 amendment, pursuant to Code of Virginia, § 15.2-2204, after which the board of supervisors may make
836 appropriate changes or corrections in the proposed amendment. ~~No other land shall be rezoned and no~~
837 ~~land shall be rezoned to a more intensive classification than was contained in the public notice without~~
838 ~~an additional public hearing after notice as required by Code of Virginia, § 15.2-2204.~~

839 (Ord. of 5-2-1996, § 1704)

840

841 **Sec. 70-215. - Minimum period for refiling denied applications.**

842 If the board of supervisors shall deny the petition of any property owner, substantially the same petition
843 shall not be reconsidered for a period of one year from the original decision by the board of supervisors
844 unless a change in conditions warrants rehearing.

845 (Ord. of 5-2-1996, § 1705)

846

847 **Sec. 70-216. - Withdrawal of petitions.**

848 Any petition filed pursuant to this division may be withdrawn upon written request by the applicant
849 provided that, if the request for withdrawal is made after publication of the notice of hearing, such
850 withdrawal shall be only with the consent of the planning commission or the board of supervisors,
851 whichever body has advertised the hearing.

852 (Ord. of 5-2-1996, § 1706)

853

854 **Sec. 70-217. - Fees.**

855 There shall be a charge for the filing, examination, advertising and conducting public hearings by the
856 agent, commission and board of supervisors. Fees shall be established by the board of supervisors and
857 shall be paid at the time of filing. Application fees are waived for the county school board or any agency,
858 board, division or commission acting in the name of the board of supervisors.

859 (Ord. of 5-2-1996, § 1707)

860

861 **Secs. 70-218--70-240. - Reserved.**