

ORANGE COUNTY

PLANNING COMMISSION

JASON CAPELLE, DISTRICT 1
GEORGE YANCEY, DISTRICT 2
DONALD BROOKS, DISTRICT 3
CRYSTAL HALE, DISTRICT 4
NIGEL GOODWIN, DISTRICT 5



MAILING ADDRESS:
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JOSH FREDERICK
DIRECTOR OF PLANNING & ZONING

Regular Meeting
Gordon Building Meeting Room
112 W. Main St, Orange, VA, 22960
Thursday, April 7th, 2016
AGENDA

6:00 pm

1. Call to order and determination of quorum
2. Approval of agenda
3. Approval of minutes:
 - A. March 3rd, 2016 regular meeting
4. Work session:
 - A. Presentation on proffer law in Virginia – Tom Lacheney
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:
 - A. Draft Zoning Ordinance amendment – home-based business regulations
 - B. Draft Zoning Ordinance amendment – Article II amendment (zoning permits, site plans, and general application submittal requirements)
8. New business
9. Commissioner comments
10. Next meeting date – May 5th, 2016
11. Adjourn for Division Policies Subcommittee meeting @ 7:30 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

April 7th, 2016 regular meeting

Agenda item 3A

**Orange County Planning Commission
Regular Meeting
Gordon Building Meeting Room
112 W. Main Street, Orange, VA 22960
Thursday, March 3, 2016**

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

Absent: Donald Brooks; James Crozier, BOS Representative

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

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 6:09 with Ms. Hale serving as Chair.

2. Approval of agenda

Mr. Capelle made a motion to strike the Presentation by the County Attorney until the next meeting so Chairman Brooks can be present; motion was seconded by Mr. Yancey. Motion carried 4-0. Mr. Capelle then made a motion to approve the agenda as amended; motion was seconded by Mr. Goodwin. Motion carried 4-0.

3. Approval of minutes:

- A. January 7th, 2016 regular meeting**
- B. February 4th, 2016 Division Policies Subcommittee meeting**
- C. February 4th, 2016 regular meeting**

A motion was made by Mr. Yancey to approve all 3 sets of minutes; motion was seconded by Mr. Goodwin. Motion carried 4-0.

4. Work session:

A. Presentation on proffer law in Virginia – County Attorney

Struck from the agenda and postponed until next meeting.

B. Draft Zoning Ordinance amendment – home-based business regulations

Thomas Wysong, Planner, presented the amendment. Mr. Wysong explained the Board initiated Planning Commission action to revise and improve the existing regulations for home based businesses. Mr. Wysong stated in the Agricultural

district, staff feels it is appropriate to have some more intensive home based businesses. Staff presented a new use to the Commission strictly for the Agricultural district allowing for the more intensive home business use defined as “home enterprise” and would be processed the same as the Home Occupation. Discussion ensued concerning what constitutes a home business.

Mr. Goodwin was concerned with line #6 (definition) “nearby and adjacent land”, stating he thinks it is too broad. After discussion, all agreed to remove “nearby and” and add it to Home enterprise performance standards.

Mr. Capelle stated he did not like #8, line 65, regarding digital advertising. He feels it would be too restrictive to businesses since so many rely heavily on those methods to reach their customer base. All agreed it should be removed.

Mr. Capelle’s suggestion would be to strike #9 and alter the language to cover multiple home occupations so that 30% of the gross square footage, when combined, stays within the standards. Mr. Capelle made a motion to strike #9 and make the performance standards include multiple businesses. Mr. Goodwin stated he would rather give the Administrator more flexibility to allow more than one. Mr. Yancey asked Mr. Capelle if he would be willing to modify his motion to include “at the Zoning Administrators discretion”. Mr. Capelle stated he would agree to that. Mr. Yancey seconded motion with the modification. All agreed.

After additional discussions, it was agreed to change the total number of employees to 4 under Home Occupation and 8 for Home Enterprise. For item #4, line 75, add “stationary machinery” in place of “machinery.” Item #7, line 85 relating to deliveries, add “regular” before “commercial deliveries.”

C. Draft Zoning Ordinance amendment – Article II amendment (zoning permits, site plans, and general application submittal requirements)

Mr. Frederick explained why this was coming to the Commission and an overview of what is being changed and why.

Line 41, replace “terminate” with “abate.” Line 44, it should specify BZA instead of just board. All agreed Sec. 70-42 relating to Comprehensive Plan consistency should be removed

Line #335: Change to “Article V” and line # 336: change 8 to “VIII”

5. Public comment

There was no public comment.

6. Old business:

A. Board of Supervisors report – Jim Crozier

Mr. Crozier was absent; there was no Supervisor report.

B. Planning & Zoning report – Josh Frederick

Mr. Frederick suggested going to quarterly reports instead of monthly. Mr. Capelle stated that he is ok with it as long as they are notified if anything

significant happens. Mr. Frederick explained that he would still give a verbal report every month but provide a hard copy quarterly. All agreed.

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

Mr. Goodwin gave the report. He highlighted that the county’s contracted engineering firm, Draper Aden, has produced a preliminary report regarding anticipated densities and water demand projections in the Germanna-Wilderness Area. They utilized the GWAP, growth projections, demand ranges, and other variables to produce the initial analysis. Mr. Goodwin stated they have not yet gotten as far as determining the cost or how to supply it, but at least in theory they know what has to be covered. Mr. Goodwin also stated they received a copy of the matrix for the historic resources so now if a developer comes and is interested in a parcel you will be able to see what is of historic importance on that parcel.

7. Public hearings (none)

8. New business

There was no new business.

9. Commissioner comments

Mr. Capelle spoke of the recent closing of Stone Fire Kitchen in his district and what he saw as some of the factors attributing to it, including the massive land clearing occurring across the road. He used it as an example of when property/business owners don’t always have concern for their neighbors, and added that the Commission could help in similar situations.

No comments by Mr. Yancey or Mr. Goodwin.

Ms. Hale thanked everyone for baring with her as she chaired her first meeting and apologized for being tardy.

10. Next meeting date – April 7th, 2016

11. Adjourn for Division Policies Subcommittee meeting @ 8:21 p.m.

Crystal Hale, Vice Chair

Josh Frederick, Secretary

Orange County Planning Commission

April 7th, 2016 regular meeting

Agenda item 6B

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



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MEMORANDUM

TO: Orange County Planning Commission
FROM: Josh Frederick, Director of Planning & Zoning
DATE: March 30th, 2016
SUBJECT: Jan. / Feb. / Mar. 2016 – Department of Planning & Zoning Activity / Information

The following is a list of activity/information for the Department of Planning & Zoning for the months of January, February, and March, 2016:

ARC

No ARC meeting was held. No applications were received.

BZA

The BZA did not meet in January.

Code Enforcement

Follow-up inspections were conducted on past/active complaints. Staff appeared in court for a junk/scrap materials complaint in February, but due to a change in property ownership the case was dismissed. Staff will be likely pursuing this again at a future date.

Current Planning Activity (2016)

New buildable lots created in January: 1

New buildable lots created in February: 12

New buildable lots created in March: 4

New buildable lots created in 2016 through March: 17

Total buildable lots created in 2015: 9 Total buildable lots created in 2014: 21

Plats Submitted for Review

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	3	7	4										14
2015	4	3	3	1	7	7	9	5	6	4	1	5	55

Plats Approved

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	3	3	5										11
2015	5	1	3	2	4	9	4	4	8	5	1	6	52

Zoning Permits Issued (Total)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	21	17	25										63
2015	12	16	33	52	29	39	32	42	33	28	21	24	361

Zoning Permits Issued (for construction/placement of dwellings)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	7	6	9										22
2015	2	5	20	15	9	9	9	10	9	9	5	11	113

Certificates of Occupancy Issued for Dwellings (data provided by Building Dept.)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	4	2	7										13
2015	7	3	6	9	4	14	14	7	13	6	14	16	113

Building Permits Issued (data provided by Building Dept.)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD TOTAL
2016	50	53	59										162
2015	66	44	48	87	70	69	78	74	65	88	92	73	854

Erosion and Sediment Control

Erosion & sediment control permits issued: (? YTD for 2016; 86 total for 2015)

Erosion & sediment control project inspections: (? YTD for 2016; 408 total for 2015)

Site Plans

Site plan received: 1 (Industrial Park business expansion)

Other Items of Interest

The Board established a public comment period earlier this year in order to receive comments on a proposed trash and debris ordinance currently under their consideration. This period will conclude on April 12th when they will hold their final public hearing on the matter. The proposed ordinance is part of the county code rather than the zoning ordinance, which would permit much easier enforcement measures and not carry the same potential for jail time that a zoning violation would. However, should the ordinance be approved, the Planning & Zoning Department will likely be responsible for its enforcement and administration. The purpose of the ordinance is to prohibit the collection of household garbage and other refuse where it is visible from public roads.

You may recall that the Rapidan Hills subdivision in Locust Grove has 2 remaining roads that were never taken into the state secondary road system. The Board approved a resolution requesting the CTB/VDOT to utilize a portion of the county's Rural Addition Funds to improve the roads and accept the roads. This will improve the subdivision's road network and will also clean up some

issues with road bond mismanagement on behalf of a previous zoning administrator. This will likely be completed over the next 12 months.

The REZ 15-01 application (Garrett Street/Winterberry Creek) is still before the Board. The applicant has been attempting to coordinate with Greene County to obtain their approval to extend public water supply to the development, but has yet to find a resolution on the matter. They have also preliminarily engaged a geologist to examine the underlying bedrock formations and availability of groundwater. This item will be on the Board's April 12th agenda.

During their March 8th work session, the Board approved amendments to the I-2 zoning district regulations. However, they only adopted the revised intent, permitted uses, special uses, and setback changes for the Thomas E. Lee Industrial Park. The rest of the amendment, including the performance standards, was discarded.

VDOT informed the county they will be using state funds to relocate a small portion of River Rd (Route 636) which has been jeopardized by its proximity to the Rapidan River. The project will be completed this year.

Staff met with VDOT and representatives of Tricord regarding relocation plans for Route 711, which provides the primary access for the Wilderness Shores neighborhood. Plans were approved by the county in the mid-2000s to relocate the entrance of Route 711 onto Route 3 approximately 500 feet to the southeast. Following the economic downturn, these plans were no longer viable for Tricord due to cost. They will likely be amending the plans to upgrade the existing right-of-way rather than acquiring new right-of-way. However, VDOT and staff will be requiring some upgrades for safety and efficiency.

Staff received notice of anticipated funding from VDOT for a roundabout project in Somerset. The Route 231/Route 20 intersection is currently the 9th most impaired intersection in the Culpeper District. This is due to sight distance issues and vehicle volumes, which have contributed to high levels of accidents, property damage, and some fatalities. After consulting with the county, VDOT applied for and received federal Highway Safety Improvement Funding (HSIP) for the roundabout project which will alleviate the issues with the current intersection. Construction should begin and be finalized over the next few years.

Staff met with the engineering firm that is designing the proposed 3rd entrance for Lake of the Woods. The current proposal is a new entrance and guard shack in front of the main dam on Route 3, which would align with an existing median crossover as well as the entrance to Section 16 on the opposite side of Route 3. The county will likely be coordinating with VDOT to change the existing median crossover to a partial access design in order to prohibit cars leaving Lake of the Woods from taking left turns onto Route 3 (for safety reasons). This will complement the partial redesign of the intersection of the main gate entrance and Goodwin Dr (Route 1059) which is currently underway.

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

Orange County Planning Commission

April 7th, 2016 regular meeting

Agenda item 7A

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



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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 – April 7th, 2016 public hearing

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 new regulations 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.

The Commission had a chance to review and comment on this proposed amendment during the March 3rd, 2016 regular meeting as a work session item. Based on that meeting, the following changes were made to the language:

- Line 6 – "...nearby and..." was replaced with "immediately" to clarify the part of the property (not within a building) that can be used in conjunction with the home enterprise.
- Line 54 – one additional employee was increased to three for home occupations.
 - *Staff comment: The intent of this amendment was not to alter the existing home occupation regulations, which permit a total of 2 employees (including the business owner) as part of a permitted home occupation. This restriction is to ensure that the business does not become a nuisance in a residential area or otherwise detract from its residential character. Doubling the number of employees drastically increases the potential for conflicts and defies the intent of a "home occupation," particularly in heavily-populated areas such as Lake of the Woods or Wilderness Shores. Staff strongly recommends the Commission retain the existing requirement of 2 employees.*
- Line 65 – the limitation on digital advertising was removed.

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

- Lines 66:67 – the limit of one home-based business per property was supplemented to give the zoning administrator discretion to permit multiples based on their nature of the uses.
- Line 71 – two additional employees was increased to seven for home enterprises.
 - *Staff comment: Permitting 7 employees (plus the business owner) to work within a dwelling unit is wildly inappropriate for the intent of these regulations, and has the potential to cause serious issues with neighboring properties. If a home-based business reaches the point of needing 7 employees working on-site, it would no longer be classified as an accessory use. A home-based business this intensive should be permitted via the special use permit process to give the public a chance to voice concerns. Staff strongly recommends the Commission retain the staff-suggested requirement of 3 total employees.*
- Line 75 – the requirement for machinery and equipment to be stored indoors was clarified as pertaining to *stationary* machinery/equipment only.
- Line 85 – “*regular*” was added to the limitation on commercial deliveries for home enterprises.
- Lines 90:91 – the limit of one home-based business per property was supplemented to give the zoning administrator discretion to permit multiples based on their nature of the uses.
- Lines 106:109 – zoning administrator discretion was added to help safeguard neighboring properties based on the nature and location of the proposed home business.

Except for the excessive allowance for on-site employees (as noted above), Staff recommends approval of this amendment.

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

Att: Draft Resolution #16-03 w/amendment language

ORANGE COUNTY
PLANNING COMMISSION

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JOSH FREDERICK
DIRECTOR OF PLANNING & ZONING

DRAFT RESOLUTION RECOMMENDING APPROVAL / DENIAL

MOTION: April 7th, 2016
Regular Meeting
SECOND: Res. No. 16-03

Amendments to County Code Chapter 70: Zoning Ordinance Sections 70-1, 70-302, and Article V, Division 3 (home-based businesses)

WHEREAS, Planning Commission action was initiated to consider certain Zoning Ordinance amendments; and

WHEREAS, the Planning Commission held a duly advertised public hearing during the April 7th, 2016 regular meeting; and

WHEREAS, Staff of the Department of Planning and Zoning have recommended approval of these proposed amendments; and

WHEREAS, the Planning Commission discussed these proposed amendments, considered comments received during the public hearing and desires to recommend **approval / denial** of the proposed Zoning Ordinance amendments.

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Planning Commission hereby recommends, based on public necessity, convenience, general welfare and good zoning practice, that the Orange County Board of Supervisors **approve / deny** the proposed amendments to the above-referenced Zoning Ordinance sections, as attached.

Votes

Ayes:

Nays:

Abstained from Vote:

Absent from Meeting:

For Information: Clerk to the Board of Supervisors
County Attorney

Attached: Draft amendment language (3 pages)

CERTIFIED COPY

Secretary to the Planning Commission

DRAFT

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 immediately 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;

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- 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. In addition to the business owner, no more than three (3) employees may work on site
55 at a given time;
56 4. Retail sales conducted on the premises may constitute only a minor part of the
57 occupation;
58 5. No mechanical equipment or machinery is used that is not customarily incidental to a
59 residence, including the use of tractor trailers for commercial deliveries to or from the
60 property;
61 6. There is no evidence, except one sign permitted in accordance with the underlying
62 zoning district, that would indicate from the exterior that the building is used for any
63 nonresidential use;
64 7. Traffic generated by a home occupation shall generally not exceed eight (8) vehicle trips
65 per day; and
66 8. There shall be no more than one home enterprise or home occupation per lot, unless
67 otherwise approved by the zoning administrator for uses that are similar in nature.
- 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 seven (7) employees may work on site
72 at a 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 stationary machinery/equipment
76 associated with the home enterprise shall be solely within a valid accessory building or
77 structure, with the 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 regular commercial delivery of goods to or from the property via tractor trailer shall
86 be 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, unless
91 otherwise approved by the zoning administrator for uses that are similar in nature.

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

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

103 (f) *Application and permitting.* The zoning administrator shall be responsible for maintaining zoning
104 permit applications for home-based business, and shall have the authority to reasonable require
105 any and all information necessary to ensure compliance with the provisions of this section.
106 He/she shall also have the authority, based on the nature of the proposed use, the anticipated
107 impacts to neighboring properties, the proximity of neighboring structures, and whether or not
108 the property is within an established subdivision, to issue a home occupation permit in lieu of a
109 home enterprise, regardless of the application. Approved home occupation permits and home
110 enterprise permits shall be issued in accordance with the zoning permit requirements
111 established in Sec. 70-116.

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

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

118

119 **Secs. 70-6245-70-645. – Reserved.**

Orange County Planning Commission

April 7th, 2016 regular meeting

Agenda item 7B

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: March 29th, 2016
RE: Draft Zoning Ordinance Article II amendment – April 7th, 2016 public hearing

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.

The Commission had a chance to review and comment on this proposed amendment during the March 3rd, 2016 regular meeting as a work session item. Based on that meeting, the following changes were made to the language:

- Line 41 – *terminate* was replaced with *abate*
- Line 44 – *board* was clarified as the *board of zoning appeals*
- Line 107 – the Comprehensive Plan consistency section was removed
- Line 327 – the Article V reference was added for clarity
- Line 328 – the Roman numeral was used for consistency with the rest of the ordinance
- Lines 350:351 – a nonresidential category for administrative site plans was added to give flexibility to small commercial projects
- Line 394 – the threshold for minor/major site plans was changed from 10,000 square feet to 1 acre
- Line 406 – the Article V reference was added for clarity
- Lines 408, 411:412 – major site plan requirements were moved to minor site plan requirements
- Lines 414:417 – erosion control items were moved from major site plan requirements to minor site plan requirements
- Line 453 – the threshold for minor/major site plans was changed from 10,000 square feet to 1 acre
- Line 454 – residential uses subject to administrative site plans were added as a reference

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

- Line 461 – a requirement for boundary surveys was added
- Lines 473:474 – added section
- Line 493 – minor site plans were also included
- Line 494 – *permanent* was added so as not to prohibit the Building Official from granting temporary certificates of occupancy for things like store stocking, equipment installation, etc.

Staff recommends approval of this amendment as presented.

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

Att: Draft Resolution #16-04 w/amendment language

ORANGE COUNTY
PLANNING COMMISSION

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JOSH FREDERICK
DIRECTOR OF PLANNING & ZONING

DRAFT RESOLUTION RECOMMENDING APPROVAL / DENIAL

MOTION: April 7th, 2016
REGULAR MEETING
SECOND: Res. No. 16-04

Amendments to County Code Chapter 70: Zoning Ordinance Article II

WHEREAS, Planning Commission action was initiated to consider certain Zoning Ordinance amendments; and

WHEREAS, the Planning Commission held a duly advertised public hearing during the April 7th, 2016 regular meeting; and

WHEREAS, Staff of the Department of Planning and Zoning have recommended approval of these proposed amendments; and

WHEREAS, the Planning Commission discussed these proposed amendments, considered comments received during the public hearing and desires to recommend **approval / denial** of the proposed Zoning Ordinance amendments.

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Planning Commission hereby recommends, based on public necessity, convenience, general welfare and good zoning practice, that the Orange County Board of Supervisors **approve / deny** the proposed amendments to Zoning Ordinance Articles II, as attached.

Votes

Ayes:

Nays:

Abstained from Vote:

Absent from Meeting:

For Information: Clerk to the Board of Supervisors
County Attorney

Attached: Draft amendment language (24 pages)

CERTIFIED COPY

Secretary to the Planning Commission

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 abate 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 of zoning appeals reaches a
45 decision to deny the appeal. The determination of a violation shall be final and unappealable if
46 not appealed within thirty (30) days of the date of the notice of violation, pursuant to § 15.2-
47 2311 of the Code of 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. Severability.**

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

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Secs. 70-~~4243~~--70-60. - Reserved.

DIVISION 2. - BOARD OF ZONING APPEALS

Sec. 70-61. - Appointment and organization.

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

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

Sec. 70-62. - Rules and regulations.

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

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

(c) Voting. The concurring vote of three members is necessary to reverse or modify any order, requirement, decision or determination of the zoning administrator or to grant a variance. No action of the BZA is valid unless authorized by a majority vote of those present and voting. Excluded from the requirements of this section are matters governed by § 15.2-2312, VA. Code Ann.

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

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

Sec. 70-63. - Officers.

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

150 (Ord. of 5-2-1996, § 1601.03)

151

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

153 The board of zoning appeals shall have the power and duty to hear and decide ~~on applications for~~
154 ~~variances, special exceptions and~~ appeals, and to hear and decide applications for variances in
155 accordance with Code of Virginia, § 15.2-2309. The board of zoning appeals shall ~~decide the issue within~~
156 ~~60 days of such hearing. Before deciding on any application for appeal, variance or special exception, the~~
157 ~~board of zoning appeals shall advertise and hold a public hearing pursuant to Code of Virginia, § 15.2-~~
158 ~~2204 and 15.2-2309 have no power to grant special exceptions.~~

159 (Ord. of 5-2-1996, § 1601.04)

160

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

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

165 (Ord. of 5-2-1996, § 1601.05)

166

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

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

172 ~~(b) Purpose. The purpose of a variance is to protect a property owner when he can show that his~~
173 ~~property was acquired in good faith and where by reason of the exceptional narrowness, shallowness,~~
174 ~~size or shape at the time of the effective date of the ordinance, or where by reason of exceptional~~
175 ~~topographical conditions or other extraordinary situation or condition of the piece of property, or of the~~
176 ~~condition, situation or development of property immediately adjacent thereto, the strict application of~~
177 ~~the terms of this ordinance [Ord. of 3-9-10] would effectively prohibit or unreasonably restrict the~~
178 ~~utilization of the property or where the board is satisfied, upon hearing the evidence, that the granting~~
179 ~~of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or~~
180 ~~convenience sought by the property owner, provided that all variances shall be in harmony with the~~
181 ~~intended spirit and purpose of the ordinance.~~

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

- 183 ~~(1) The strict application of this ordinance [Ord. of 3-9-10] would produce undue hardship~~
184 ~~relating to the property;~~
185 ~~(2) Such hardship is not shared generally by other properties in the same zoning district and the~~
186 ~~same vicinity;~~
187 ~~(3) The authorization of such variance will not be of substantial detriment to an adjacent~~
188 ~~property and that the character of the district will not be changed by the granting of the~~
189 ~~variance; and~~
190 ~~(4) The condition or situation of the property concerned is not of so general and recurring a~~
191 ~~nature as to make reasonably practical the formulation of a general regulation to be adopted as~~
192 ~~an amendment to this ordinance [Ord. of 3-9-10], and~~
193 ~~(d) Conditions. In authorizing a variance, the BZA may impose such conditions regarding the~~
194 ~~location, character and other features of the proposed structure or use as it deems necessary in~~
195 ~~the public interest, and may require a guarantee or bond to ensure that the conditions imposed~~
196 ~~will be complied with.~~

197 ~~(e) Procedures for variances.~~

- 198 ~~(1) In accordance with the provisions of this ordinance [Ord. of 3-9-10] and Code of Virginia,~~
199 ~~'15.2-2309, any person seeking a variance from the application of regulations of this ordinance~~
200 ~~[Ord. of 3-9-10], must first submit an application to the zoning administrator on a form provided~~
201 ~~by the zoning administrator.~~
202 ~~(2) Variances must be accompanied by a cash payment to the county in accordance with the~~
203 ~~established fee schedule.~~
204 ~~(3) The zoning administrator shall transmit the application promptly to the secretary of the BZA,~~
205 ~~who shall place the matter on the docket to be acted upon by the BZA. The zoning administrator~~
206 ~~must also transmit a copy of the application to the planning commission which may send a~~
207 ~~recommendation to the BZA or appear as a party at the hearing.~~
208 ~~(4) No variance may be authorized except after notice and hearing before the BZA pursuant to~~
209 ~~Code of Virginia, '15.2-2204.~~
210 ~~(5) The applicant for a variance bears the burden of producing evidence to support the required~~
211 ~~findings and to establish that the requested variance satisfies all standards for a variance.~~

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

213
214 **Sec. 70-67. - ~~Special exceptions. Reserved.~~**

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

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

221 (Ord. of 5-2-1996, § 1603)

222

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

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

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

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

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

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

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

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

246 (h) Withdrawal of appeal. An appeal to the BZA may be withdrawn by the appellant at any time prior to
247 the deadline for cancellation of the newspaper advertisement provided for in this article. After such
248 deadline, an appeal may be withdrawn only with the permission of the BZA. An appeal which is not
249 withdrawn as provided for in this subsection must be either granted or denied on the merits by the BZA,
250 either in whole or in part.

251 (Ord. of 5-2-1996, § 1604; Ord. of 3-9-2010)

252

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

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

258

259 **Sec. 70-70. - Fees.**

260 There may be a charge for the examination and hearing of applications for appeals to the board of
261 zoning appeals. Fees shall be established by the board of supervisors and shall be paid at the time the
262 appeal is filed.

263 (Ord. of 5-2-1996, § 1606)

264

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

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

267

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

269

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

271 **Sec. 70-91. - Authorized.**

272 Any person aggrieved by any decision of the board of supervisors, or any aggrieved taxpayer, or an
273 officer, department, board or bureau of the county may appeal such decision by presenting to the circuit
274 court a petition specifying the grounds on which aggrieved. Such appeal shall be taken within 30 days of
275 the decision of the board of supervisors.

276 (Ord. of 8-11-1998, § 1606.01)

277

278 **Sec. 70-92. - Reserved.**

279

280 **Sec. 70-93. - Reserved.**

281

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

283 If upon a hearing under this division it shall appear to the court that testimony is necessary for the
284 proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence
285 as it may direct and report to the court with his findings of fact and conclusions of law, which shall
286 constitute a part of the proceedings upon which the determination of the court shall be made. The court
287 may reverse or affirm, wholly or partly, or modify the decision brought up for review.

288 (Ord. of 8-11-1998, § 1606.04)

289

290 **Sec. 70-95. - Costs.**

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

294

295 **Secs. 70-96--70-115. - Reserved.**

296

297 **DIVISION 4. - ZONING PERMITS AND SITE PLANS.**

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

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

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

- 305 1) The erection, construction, reconstruction, or moving of a building and/or structure or
306 part thereof;
- 307 2) Any alteration of a building and/or structure whereby the physical footprint and/or
308 height is changed;
- 309 3) For the establishment of any new land use; and
- 310 4) For any proposed change in use within a structure that is used in whole or in part for
311 nonresidential purposes.

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

- 314 1) At-grade modifications (e.g. patios, landings, sidewalks, and driveways, but not including
315 pools);
- 316 2) Below-grade modifications, not including new well and septic drainfield installations;
- 317 3) Building interior modifications not qualified under Sec. 70-116(a);
- 318 4) Accessory structures up to one-hundred fifty (150) square feet;
- 319 5) Graveyards, including crypts/mausoleums up to fifteen-hundred (1,500) square feet;
- 320 6) Sign "refacing" (i.e. the like-for-like replacement of a permanent, conforming sign's
321 advertising message whereby the physical dimensions of the sign do not change);
- 322 7) Fences, handrailing, screening walls, and retaining walls; and
- 323 8) Common residential yard accessories (e.g. LP-gas or oil tanks, air conditioning units,
324 mailboxes, flagpoles, satellite dishes);

325 (c) *Agricultural uses.* A zoning permit shall not be required for any bona fide agricultural structure
326 (e.g. a pole barn or silo) or the establishment of any agriculture use as defined in Sec. 70-1,
327 unless the use is identified as having parking requirements in Article V, Division 5 of this chapter.

328 A zoning permit shall be required for any structure or use regulated by Article VIII of this chapter
329 (Intensive Livestock, Dairy, and Poultry Facilities).

330 (d) *Expiration.* An approved zoning permit shall expire if construction and/or establishment of the
331 permitted use does not commence within six (6) months from the date of approval.

332 (e) *Temporary uses.* A temporary zoning permit ~~is also shall be~~ required for certain temporary uses
333 permitted in individual zoning districts ~~pursuant to section 70-122~~ as provided for elsewhere in
334 this chapter.

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

336

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

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

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

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

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

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

- 364 1) Property lines and their courses and measurements;

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

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

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

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

385 (Ord. of 5-2-1996, § 1101.01)

386

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

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

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

394 1) Any use which results in total land disturbance of less than one (1) acre, unless
395 specifically subject to administrative site plan requirements.

396 (b) *Plan preparation.* A minor site plan shall be prepared by a licensed surveyor, engineer, or
397 architect.

398 (c) *Contents of plan.* In addition to the administrative site plan elements specified in Sec. 70-117(c),
399 a minor site plan shall also depict, as appropriate:

400 1) Project name, a written description of the proposed use(s), current property owner(s)
401 and address(es), and the plan preparer's information;

- 402 2) A vicinity map;
- 403 3) The zoning classification of the property;
- 404 4) Approval blocks for relevant review departments and/or agencies;
- 405 5) All information necessary to show compliance with the parking, loading/unloading, and
- 406 landscaping requirements pursuant to Article V, Division 5 of this chapter;
- 407 6) Any required buffer yards and the associated fencing and landscaping;
- 408 7) Any known places of burial;
- 409 8) All easements;
- 410 9) All existing and proposed utilities;
- 411 10) North, south, east, and west elevation drawings for all principal structures;
- 412 11) Proposed signage;
- 413 12) Existing topography and proposed final grades;
- 414 13) The extent of any land disturbance and all erosion control measures and plans pursuant
- 415 to Chapter 26 of this Code and/or requirements of the Code of Virginia;
- 416 14) The name, phone number, certification number, and certification expiration date for the
- 417 designated responsible land disturber(s), pursuant to Chapter 26 of this Code;
- 418 15) The location of any flood hazard areas, mapped dam inundation zones, or previously-
- 419 delineated/identified wetlands present on the site;
- 420 16) All proposed transportation improvements within the site and external to the site; and
- 421 17) Any other information as may be required by the zoning administrator or his/her
- 422 designee in order to evaluate the plan.

423 (d) *Timeframe for review.* Permissible timeframes for review and approval of any minor site plan

424 shall be in accordance with § 15.2-2259 of the Code of Virginia.

425 (e) *Expiration.* Minor site plan approval shall expire after five (5) years unless construction has

426 begun and work has been diligently pursued.

427 (Ord. of 5-2-1996, § 1101.02)

428

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

430 ~~Each application for a zoning permit in the multifamily residential, commercial and industrial districts~~

431 ~~shall be accompanied by four copies of a site plan which shall include the following information~~

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

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

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

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

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

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

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

439 ~~(8) Location, type and height of all fencing, screening and retaining walls.~~
440 ~~(9) Parking and loading areas, including dimensions and type of surface.~~
441 ~~(10) A lighting and landscape plan (to include designated buffer zone).~~
442 ~~(11) Elevation drawings of each principal side of each building or structure.~~
443 ~~(12) Information relating to archaeological, historical and natural resources, if any.~~
444 ~~(13) Soil analysis listing representative soil types on site, weights per cubic foot of the soils and whether~~
445 ~~or not they have shrink-swell potential. Soils should be shown as per the current soil survey of the~~
446 ~~county.~~
447 ~~(14) Location of trash collection/recycling facilities and provision for private collection service.~~
448 ~~(b) The site plan shall be submitted to the zoning administrator for review within five years of rezoning~~
449 ~~approval by the board of supervisors. Failure to submit the site plan within five years of rezoning~~
450 ~~approval may trigger a review of the zoning classification by the board of supervisors.~~
451 ~~(a) *Applicability.* Prior to an application for a zoning permit, a major site plan shall be reviewed and~~
452 ~~approved by the zoning administrator for the following:~~
453 ~~1) Any use which results in total land disturbance of one (1) acre or more, except for~~
454 ~~single-family detached dwellings, two-family dwellings, and manufactured homes.~~
455 ~~(b) *Plan preparation.* A major site plan shall be prepared by a licensed surveyor, engineer, or~~
456 ~~architect.~~
457 ~~(c) *Contents of plan.* In addition to the minor site plan elements specified in Sec. 70-118(c), a major~~
458 ~~site plan shall also depict, as appropriate:~~
459 ~~1) The owners, tax parcel numbers, sources of title, zoning classifications, and current uses~~
460 ~~of all adjacent properties;~~
461 ~~2) A current boundary survey of the site;~~
462 ~~3) Existing and proposed lot coverage ratios;~~
463 ~~4) The estimated daily vehicular trip generation figures for the development;~~
464 ~~5) Provisions and best management practices for addressing stormwater requirements;~~
465 ~~6) Details for any retaining walls;~~
466 ~~7) Photometric drawings for all exterior lighting;~~
467 ~~8) Tree-save areas and/or areas to remain undisturbed;~~
468 ~~9) Any proposed phasing of development;~~
469 ~~10) A soils evaluation;~~
470 ~~11) The identification and delineation of any wetlands;~~
471 ~~12) The design and placement of any refuse facilities;~~
472 ~~13) Any information related to existing archeological or historical resources; and~~
473 ~~14) Any other information as may be required by the zoning administrator or his/her~~
474 ~~designee in order to evaluate the plan.~~

475 ~~(c) Once a site plan has been submitted, the zoning administrator may refer the plan to the~~
476 ~~planning commission or the board of supervisors for review and recommendation if it is deemed~~
477 ~~necessary to do so. All multifamily development site plans shall be referred to the planning~~
478 ~~commission for review. The zoning administrator shall notify the applicant in writing of such~~
479 ~~referral, specifying the time and place the planning commission or board of supervisors will~~
480 ~~review the plan. If the zoning administrator finds that the proposal conforms with applicable~~
481 ~~ordinances, he shall notify the applicant in writing that he has approved the plan. If the zoning~~
482 ~~administrator finds that the proposal does not conform with applicable ordinances, he shall~~
483 ~~notify the applicant in writing that he has disapproved the plan, specifying the causes for~~
484 ~~disapproval and the steps necessary to correct such causes. Failure to notify the applicant within~~
485 ~~30 days of receipt shall be deemed approval.~~

486 (d) *Additional review.* The zoning administrator may refer a major site plan to the planning
487 commission or other appointed or elected review committee if it is determined the proposed
488 project, based on the intensity, potential impacts, or complexity of approved proffers or
489 conditions, would warrant an additional level of review.

490 (e) *Timeframe for review.* Permissible timeframes for review and approval of any major site plan
491 shall be in accordance with § 15.2-2259 of the Code of Virginia.

492 (f) *Zoning compliance certificates.* A zoning compliance certificate shall be required for all site work
493 and improvements approved via the minor or major site plan approval process, prior to issuance
494 of any permanent certificate of occupancy by the Building Official. The purpose of the zoning
495 compliance certificate is to confirm that all site improvements required pursuant to this chapter,
496 to the approved site plan, to accepted proffers, and/or to other county-imposed conditions are
497 installed in substantial conformance with said requirements. The zoning administrator may rely
498 on any reasonable means necessary to determine “substantial conformance,” particularly in
499 circumstances where the professional licensure of others is required to properly confirm the
500 validity of the installed improvement.

501 1) *Temporary certificates.* In situations where the building or structure must be occupied
502 and the use must otherwise commence prior to completion of all required
503 improvements, the zoning administrator may issue a temporary zoning compliance
504 certificate subject to the following:

- 505 i. The period of validity for the temporary certificate may not exceed six (6)
506 months, unless the zoning administrator approves a longer period of time for
507 unusual circumstances.
- 508 ii. The site and building is in a safe and usable condition, free from conditions that
509 might endanger the health, safety, or welfare of persons using the site.
- 510 iii. The property owner or authorized agent submits a written performance
511 guarantee specifying the required improvements yet to be completed and the

512 timeframe required for their completion. The guarantee shall be accompanied
513 by a surety payable to the county in an amount determined by the county to be
514 sufficient to ensure satisfactory completion or all required improvements yet to
515 be completed within the timeframe of the temporary certificate. The guarantee
516 may be in the form of cash/check, an irrevocable letter of credit, or other
517 collaterally-assigned funds acceptable to the county attorney. The developer
518 shall submit a surety estimate, to be approved by the county, along with a
519 reasonable amount for administrative costs not to exceed ten (10) percent of
520 the estimated costs.

521 iv. The surety requirement may be waived in instances where the unfinished
522 improvements have an estimated cost of no greater than five-hundred dollars
523 (\$500).

524 v. The county may make use of the surety if the obligee fails to comply with the
525 terms of the performance guarantee or the county determines the unfinished
526 improvements have not been completed in a timely manner so as to negatively
527 impact the public health, safety, or general welfare. Alternatively, the county
528 may revoke the certificate of occupancy until said terms are fulfilled.

529 (f) ~~(d)~~ *Expiration.* Major site plan approval shall expire after five (5) years unless construction has
530 begun and work has been diligently pursued.

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

533

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

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

538 (Ord. of 5-2-1996, § 1101.05)

539

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

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

543 (Ord. of 5-2-1996, § 1101.06)

544

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

546 (a) Permit and application requirements. A zoning permit for a temporary use is required for certain
547 temporary uses permitted in individual zoning districts. Application for such permit shall be made at
548 least one week prior to the date on which the permit is to take effect. The application shall be made on

549 a form provided by the zoning administrator and shall include information about the proposed use,
550 products to be sold, signs, and related licenses and permits.

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

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

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

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

565 (Ord of 3-9-2010)

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

567

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

569 **Sec. 70-141. - Considerations.**

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

575 (Ord. of 5-2-1996, § 1103.01)

576

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

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

582 (Ord. of 5-2-1996, § 1103.02)

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

584 No **action to approve, modify, or deny** a special use permit may be **granted** taken by the governing body
585 except after notice and hearing as provided in Code of Virginia, § 15.2-2204. **The Planning Commission**

586 shall hear and provide recommendations on all special use permit applications, unless otherwise
587 specified.

588 (Ord. of 5-2-1996, § 1103.03)

589

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

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

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

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

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

608

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

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

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

- 623 vii. The location of wetlands, floodplains, streams, and other bodies of water;
- 624 viii. Any proposed subdivision of the property;
- 625 ix. Any proposed phasing of development;
- 626 x. General signage types and locations; and
- 627 xi. Proposed roads and driveways.

628 3) A written narrative describing the scope of the proposal, including at a minimum:

- 629 i. A detailed project description and how it aligns with the goals and objectives of
- 630 the comprehensive plan;
- 631 ii. Anticipated traffic volumes and related traffic impacts;
- 632 iii. A fiscal impact analysis including expected economic benefits and costs to the
- 633 county;
- 634 iv. Impacts on the provision of public services;
- 635 v. An environmental impact analysis;
- 636 vi. An analysis of impacts on historic and cultural resources; and
- 637 vii. Anticipated impacts to neighboring properties and how those impacts will be
- 638 mitigated.

639 4) Any other information, as required in writing upon review of the application by the

640 zoning administrator, that is relevant to the unique characteristics of the application

641 and/or will further assist the governing body in their decision of approval or denial of

642 the application.

643 (b) An application that provides all of the required information, in appropriate detail, shall be

644 determined to be complete and be accepted for review. An application omitting any required

645 information shall be deemed to be incomplete and shall not be accepted, unless the zoning

646 administrator determines the missing information is not required to adequately review the

647 application.

648 1) The zoning administrator shall determine whether an application is complete within ten

649 (10) business days after the application is received. If the application is deemed to be

650 incomplete, the zoning administrator shall inform the applicant, in writing, of the

651 deficiencies in the application.

652 2) Applications deemed incomplete shall have the required missing information submitted

653 within ninety (90) calendar days of the date of the zoning administrator's notice, as

654 required by the above section, or the application will become void and subject to the

655 provisions of Sec. 70-146.

656 (c) The zoning administrator shall refer the application to the planning commission only after

657 allowing for a sufficient time period for review, not to exceed forty-five (45) business days, by

658 other county departments and external agencies.

659

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

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

665
666 **Sec. 70-147. – Appeal.**

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

669
670 **Secs. 70-~~145~~148--70-165. - Reserved.**

671
672 **DIVISION 6. - SPECIAL EXCEPTIONS**

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

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

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

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

688 (Ord. of 5-2-1996, § 1104.01)

689
690 **~~Sec. 70-167. – Expiration.~~**

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

694 (Ord. of 5-2-1996, § 1104.02)

695
696 **Secs. 70-16~~8~~7--70-190. - Reserved.**

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

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

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

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

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

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

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

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

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

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

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

Sec. 70-192. - ~~Expiration Repealed.~~

~~Upon rezoning of property to limited residential (R-1), general residential (R-2) or planned residential (R-3), plats for the proposed subdivision must be submitted to the subdivision agent and home~~

734 ~~construction diligently pursued within five years of rezoning approval by the board of supervisors.~~
735 ~~Failure to do so may trigger a review of the zoning classification by the board of supervisors. Upon~~
736 ~~rezoning of property to multifamily residential (R-4), limited commercial (C-1), general commercial (C-2),~~
737 ~~limited industrial (I-1) or general industrial (I-2), site plans shall be submitted to the zoning administrator~~
738 ~~for review and construction diligently pursued within five years of rezoning approval by the board of~~
739 ~~supervisors. Failure to do so may trigger a review of the zoning classification by the board of supervisors.~~
740 (Ord. of 5-8-2001; Ord. of 6-14-2011)

741

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

- 743 (a) *Authority to accept proffers.* The board of supervisors is authorized to accept proffers in
744 conjunction with an owner-initiated zoning map amendment pursuant to § 15.2-2296:2303 of
745 the Code of Virginia.
- 746 (b) *Purpose.* Proffers (i.e. voluntary conditions submitted by the applicant) are intended to provide
747 for the orderly development of land in situations where a more flexible and adaptable
748 regulatory mechanism is needed to adequately address impacts to the community and locality
749 arising from a proposed zoning map amendment. Such conditions are generally intended to be
750 unique to the property while supplementing the underlying zoning district regulations, and carry
751 the same applicability and enforceability as such.
- 752 (c) *Form.* All proffers to be volunteered shall be in writing and shall be signed by the applicant. Such
753 proffered conditions shall be made on a standard form approved by the county attorney.
- 754 (d) *Submittal.* Proffers may be submitted in conjunction with an application for a zoning map
755 amendment at any time prior to the public hearing by the board of supervisors. The applicant
756 may amend said proffers as so desired during that timeframe. The board may, at its sole
757 discretion, accept proffer amendments once the public hearing has begun, provided the changes
758 do not materially affect the proposal.
- 759 (e) *Acceptance and effect.* The board may accept proffers in their entirety, only accept certain
760 proffers, and/or accept portions thereof. Once accepted in conjunction with an approved zoning
761 map amendment, the proffers shall remain in full force and effect unless a subsequent
762 amendment to said proffers is approved or the zoning classification is changed.
- 763 (f) *Amendments to accepted proffers.* (f) accepted by the board in conjunction with an approved
764 zoning map amendment, proffers may only be further amended via a subsequent owner-
765 initiated zoning map amendment. An application to amend proffers shall be subject to
766 procedural requirements under Sec. 70-194. However, no further recommendation by the
767 planning commission shall be required unless the board refers the proposed proffer amendment
768 to the commission for a public hearing and recommendation. In consideration of an application
769 to amend proffers, the board may, at its sole discretion, waive the public hearing requirement if

770 it determines the proposed amendments do not materially affect conditions relating to
771 allowable uses or density.

772

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

774 Application submittal requirements and review procedures for an owner-initiated zoning map
775 amendment shall be the same as those for special use permits, as prescribed in Sec. 70-145.

776 Additionally, the owner may choose to volunteer proffers in conjunction with the application, pursuant
777 to Sec. 70-193.

778

779 **Sec. 70-195. – Limitation on applications.**

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

784

785 **Sec. 70-196. – Notice and hearing required.**

786 No action to approve or deny a zoning map amendment or amendment to previously-approved proffers
787 may be taken by the board except after notice and hearing as provided in the Code of Virginia, § 15.2-
788 2204. The Planning Commission shall hear and provide recommendations on all proposed zoning map
789 amendments.

790

791 **Sec. 70-197. – Appeal.**

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

794

795 **Secs. 70-198--70-210. - Reserved.**

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

797 **Sec. 70-211. - Intent.**

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

801 (Ord. of 5-2-1996, § 1701)

802

803 **Sec. 70-212. - Initiation.**

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

806 Such amendments may be initiated by the board of supervisors or the commission, ~~or by a property~~

807 owner in accordance with procedural requirements and application requirements established by the
808 board of supervisors. ~~An amendment to the map may be initiated by petition of the owner or agent of~~
809 ~~the owner of the property which is the subject of such amendment; provided that such petition shall be~~
810 ~~addressed to the board of supervisors, shall be on a standard form, and shall be accompanied by a fee in~~
811 ~~accordance with a fee schedule separately adopted by the board of supervisors.~~

812 (Ord. of 5-2-1996, § 1702)

813

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

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

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

826

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

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

833 (Ord. of 5-2-1996, § 1704)

834

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

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

839 (Ord. of 5-2-1996, § 1705)

840

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

842 Any petition filed pursuant to this division may be withdrawn upon written request by the applicant
843 provided that, if the request for withdrawal is made after publication of the notice of hearing, such

844 withdrawal shall be only with the consent of the planning commission or the board of supervisors,
845 whichever body has advertised the hearing.

846 (Ord. of 5-2-1996, § 1706)

847

848 **Sec. 70-217. - Fees.**

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

853 (Ord. of 5-2-1996, § 1707)

854

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

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