

ACTIONS
Board of Supervisors Meeting of June 10, 2009

June 11, 2009

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 5:03 p.m., by the Chairman, Mr. Slutzky. All Board members were present. Also present were Bob Tucker, Larry Davis and Ella Jordan. 	
1a. Closed Meeting. <ul style="list-style-type: none"> At 5:03 p.m., the Board went into Closed Meeting to conduct an administrative evaluation; to discuss with legal counsel and staff specific matters requiring legal advice relating to the negotiation of a contract for services provided by the SPCA; and to discuss with legal counsel and staff specific matters requiring legal advice relating to the negotiation of an agreement related to the provision of public safety services. 	
2a. Certify Closed Meeting. <ul style="list-style-type: none"> After calling the meeting back to order at 6:13 p.m., the Board immediately certified the Closed Meeting. 	
4. From the Board: Matters Not Listed on the Agenda. <u>Lindsay Dorrier:</u> <ul style="list-style-type: none"> Discussed the issue of the closing of the Hatton Ferry. Following discussion, the Board voted 6:0 that it would guarantee funding to continue operating the Ferry for one quarter (beginning July 1), subject to the expectation that it would be reimbursed by private funds. Mr. Dorrier stated that he would contact Butch Davies regarding the Board's action. 	
5. From the Public: Matters not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> There were none. 	
6.2 Resolution of Intent to amend the Zoning Ordinance to improve processes for site plans. <ul style="list-style-type: none"> ADOPTED the attached Resolution of Intent to initiate the proposed text amendment. 	<u>Clerk:</u> Forward copy of adopted resolution to Community Development and County Attorney's office. (Attachment 1)
6.3 Resolution of Intent to amend the Subdivision Ordinance to improve processes for subdivision plats. <ul style="list-style-type: none"> ADOPTED the attached Resolution of Intent to initiate the proposed text amendment. 	<u>Clerk:</u> Forward copy of adopted resolution to Community Development and County Attorney's office. (Attachment 2)
7. <u>Ordinance No. 09-03(1) – Agricultural and Forestal Districts.</u> <ul style="list-style-type: none"> ADOPTED the attached ordinance. 	<u>Clerk:</u> Forward copy of adopted ordinance to Community Development and County Attorney's office. (Attachment 3)
8. <u>Ordinance No. 09-A.1(1) – Acquisition of Conservation Easements.</u> <ul style="list-style-type: none"> ADOPTED the attached ordinance. 	<u>Clerk:</u> Forward copy of adopted ordinance to Community Development and County Attorney's office. (Attachment 4)
9. <u>Public Hearing: PROJECT: SP 2007-052. Nortonsville Church of God Facility Expansion.</u> <ul style="list-style-type: none"> APPROVED SP-2007-052, by a vote of 6:0, subject to ten conditions as modified at the Board meeting. 	<u>Clerk:</u> Set out conditions of approval in Attachment 5.
10. <u>Public Hearing: PROJECT: SP-2008-048. Matheny</u>	

<p><u>Development Right Request.</u></p> <ul style="list-style-type: none"> • Motion to APPROVE SP-2008-048 subject to staff's recommended condition FAILED by a vote of 2:4 (Thomas,Mallek,Rooker,Slutzky). • Motion to DENY SP-2008-048 PASSED by a vote of 4:2 (Boyd,Dorrier). 	
<p>11. <u>Public Hearing: PROJECT: SP-2008-058. Harris Garage.</u></p> <ul style="list-style-type: none"> • APPROVED SP-2008-058, by a vote of 6:0, subject to nine conditions as modified at the Board meeting. 	<p><u>Clerk:</u> Set out conditions of approval in Attachment 5.</p>
<p>12. <u>Public Hearing: PROJECT: SP-2008-061. Slingluff Dock.</u></p> <ul style="list-style-type: none"> • APPROVED SP-2008-061, by a vote of 6:0, subject to four conditions as modified at the Board meeting. 	<p><u>Clerk:</u> Set out conditions of approval in Attachment 5.</p>
<p>13. From the Board: Matters Not Listed on the Agenda. <u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Asked who planned to attend the High Growth Coalition meeting on June 29, 2009, in Culpeper. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Moved to authorize that the Fire Rescue Review Advisory Committee reconvene to further review and discuss a draft ordinance built upon the collaborative fire chief model ordinance for operation of the County Fire/Rescue system; and moved that the Committee specifically examine the creation of a third party mediation panel to review appeals of system policy decisions of the County's Fire Chief in this collaborative model; and further moved that the Board of Supervisors cancel its June 17, 2009 work session with representatives of the Albemarle County Fire/Rescue Advisory Board. The motion passed by a vote of 6:0. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • Moved that the Board adopt a resolution to request VDOT to acquire Route 29 right-of-way. The motion passed by a vote of 6:0 	<p><u>Clerk:</u> Provide notice to ACFR Advisory Board and appropriate individuals.</p> <p><u>Clerk:</u> Forward copy of resolution to County Attorney's office and Community Development.</p> <p><u>County Attorney's office:</u> Forward resolution to appropriate individuals including Jim Utterback, Allan Sumpter and Butch Davies. (Attachment 6)</p>
<p>14. Adjourn.</p> <ul style="list-style-type: none"> • At 9:27 p.m. the Board adjourned its meeting. 	

/ewj

- Attachment 1 – Resolution of Intent to amend the Zoning Ordinance to improve processes for site plans
- Attachment 2 – Resolution of Intent to amend the Subdivision Ordinance to improve processes for subdivision plats
- Attachment 3 – Ordinance No. 09-03(1) – Agricultural and Forestal Districts
- Attachment 4 – Ordinance No. 09-A.1(1) – Acquisition of Conservation Easements
- Attachment 5 - Conditions of Approval on Planning Items
- Attachment 6 – Resolution to request VDOT acquire Route 29 right-of-way

RESOLUTION OF INTENT

WHEREAS, Subdivision Ordinance § 14-404 establishes the standards for subdivision lots having a single access from an internal street, shared driveway or alley, allows its requirements to be waived by the Planning Commission, and requires the county engineer to recommend an alternative standard when the Commission is considering a waiver request; and

WHEREAS, Subdivision Ordinance § 14-412 establishes the standards for private streets and authorizes the Planning Commission to waive easement and right-of-way widths; and

WHEREAS, in 2008, Chapter 17, Water Protection, of the County Code was amended to establish standards for lot access (stream crossings); and

WHEREAS, in order to improve efficiency in development review processes, it is desired to amend Subdivision Ordinance § 14-404 to eliminate the requirement that the county engineer recommend an alternative standard to the Planning Commission when it is considering a waiver from the single access requirement since the question of whether a lot should access an internal or an external street and the impacts therefrom does not require engineer review and comment; to amend Subdivision Ordinance § 14-412 to expand the scope of permissible waivers to include not only easement and right-of-way widths but also other private street standards and that the county engineer should be authorized to act on these waiver requests, subject to appeal to the Planning Commission; and to add a new section to provide that a plat cannot be approved if it does not meet the lot access (stream crossing) requirements in Chapter 17, Water Protection, of the County Code, and that this requirement should apply to subdivisions, rural subdivisions, and family subdivisions.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good land development practices, the Board of Supervisors hereby adopts a resolution of intent to amend Albemarle County Code §§ 14-206, 14-207, 14-208, 14-404, 14-412 and any other regulations of the Subdivision Ordinance, and to add any new sections, deemed appropriate to achieve the purposes described herein.

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the subdivision text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

RESOLUTION OF INTENT

WHEREAS, Zoning Ordinance § 4.12 regulates parking and authorizes the county engineer to review and approve alternative approaches to providing parking and travelway design; and

WHEREAS, Zoning Ordinance § 32.7.4 establishes requirements for erosion and sediment control and stormwater management as part of site plan review; and

WHEREAS, in order to improve efficiency in development review processes, it is desired to amend Zoning Ordinance § 4.12 because alternative approaches are already provided in the county's parking regulations and, by their nature, they do not raise engineering issues, and because alternative travelway designs can be stated as minimum standards without case-by-case review; and it is desired to amend Zoning Ordinance § 32.7.4 because most of the subject matter of that section and its subsections is already addressed in Chapter 17, Water Protection, of the County Code.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance §§ 4.12 and 32.7.4 and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein.

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

ORDINANCE NO. 09-03(1)

AN ORDINANCE TO AMEND CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, AND ARTICLE III, DISTRICTS OF LOCAL SIGNIFICANCE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, and Article III, Districts of Local Significance, are hereby amended and reordained as follows:

By Amending:

- | | |
|------------|----------------------------------|
| Sec. 3-201 | Creation of district |
| Sec. 3-205 | Withdrawal of land from district |
| Sec. 3-301 | Creation of district |
| Sec. 3-305 | Withdrawal of land from district |

Chapter 3. Agricultural and Forestal Districts

Article II. Districts of Statewide Significance

Division 1. Procedure

Sec. 3-201 Creation of district.

Each agricultural and forestal district of statewide significance shall be created as provided herein:

A. *Application.* On or before November 1 of each year, an owner or owners of land may submit an application to the department of community development for the creation of a district. An application shall be signed by each owner of land to be included within the district. The application shall be made on a form developed and provided by the director of planning. The application form shall comply with Virginia Code § 15.2-4303(D). Each submitted application shall be accompanied by: (i) a United States Geologic Survey 7.5 minute topographic map that clearly shows the boundaries of the district and each addition, and the boundaries of the properties owned by each applicant; (ii) a Virginia Department of Transportation general highway map for the locality that shows the general location of the proposed district; and (iii) the fee required by section 3-206.

B. *Initiation of application review.* Upon receipt of an application for a district, the planning commission shall:

1. Accept the application at a regularly scheduled meeting;
2. Direct the department of community development to provide notice of the application pursuant to Virginia Code § 15.2-4307(1); and
3. Refer the application to the advisory committee for review and comment.

C. *Evaluation criteria.* Each application shall be evaluated as provided in Virginia Code § 15.2-4306.

D. *Advisory committee review.* Upon referral of an application by the planning commission, the advisory committee shall review and make recommendations concerning the application and any proposed modifications to the planning commission.

E. *Planning commission review.* Upon receipt of the report of the advisory committee on an application, the planning commission shall conduct a public hearing on the application and any proposed modifications, and thereafter report its recommendations to the board of supervisors, as provided herein:

1. In conducting its review, the planning commission shall evaluate the application as provided in paragraph (C), and also shall consider the potential effect of the district and any proposed modifications on the county's planning policies and objectives.

2. Upon conclusion of the public hearing, the planning commission shall direct the department of community development to publish and provide the notice required by Virginia Code § 15.2-4307.

F. *Hearing by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the application as provided in Virginia Code § 15.2-4307.

G. *Action on application.* After a public hearing, the board of supervisors may by ordinance create a district as applied for or with any modifications it deems appropriate, as provided herein.

1. The ordinance shall be adopted pursuant to the conditions and procedures provided in Virginia Code § 15.2-4309, and shall be subject to section 3-202(A).

2. The board of supervisors shall act to either adopt the ordinance creating the district, or reject the application, or any modification to it, by the May 1 following the November 1 by which the application was received.

(§ 2.1-2; 6-8-83, §§ 3, 4, 5; 12-16-87; 12-11-91; 7-1-92; Code 1988, § 2.1-2; Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Va. Code §§ 15.2-4303 through 15.2-4309.

Sec. 3-205 Withdrawal of land from district.

An owner of land within an agricultural and forestal district of statewide significance may request that his land be withdrawn from the district, as provided herein:

A. *Withdrawal by right by owner.* After the planning commission initiates the review of a district and before the board of supervisors acts to continue, modify or terminate the district, an owner of land may withdraw the land from the district by filing a written notice of withdrawal with the department of community development.

B. *Withdrawal by right by certain successors to deceased owner.* Within two years of the date of death of an owner of land within a district, any heir, devisee, surviving co-tenant or personal representative of a sole owner of any fee simple interest of land may, upon the inheritance or descent of such land, withdraw the land from the district by filing a written notice of withdrawal with the department of community development and the department of finance.

C. *Withdrawal in discretion of board of supervisors.* At any time after the creation of a district, an owner of land may request the board of supervisors to withdraw all or part of the land from the district, as provided herein:

1. *Filing of written request.* The owner shall file a written request for withdrawal with the department of community development. The request shall identify the owner of the land, identify the land or part thereof proposed to be withdrawn, state the reason for the request, and address the criteria for review set forth in paragraph (C)(2). The request shall be accompanied by the fee required in section 3-206.

2. *Criteria for review.* A request to withdraw land from a district may be approved only if the withdrawal satisfies all of the following criteria:

(a) The proposed new land use will not have a significant adverse impact on agricultural or forestal operations on land within the district;

(b) The proposed new land use is consistent with the comprehensive plan;

(c) The proposed land use is consistent with the public interest of the county in that it promotes the health, safety or general welfare of the county, rather than only the proprietary interest of the owner; and

(d) The proposed land use was not anticipated by the owner at the time the land was placed in the district, and there has been a change in circumstances since that time.

3. *Advisory committee review.* Upon receipt of a request to withdraw, the advisory committee shall review the request and report to the planning commission its recommendations. In conducting its review, the committee shall evaluate the request as provided in paragraph (C)(2).

4. *Planning commission review.* Upon receipt of the report of the advisory committee on a request, the planning commission shall conduct a public hearing and evaluate the request as provided in paragraph (C)(2). The planning commission shall report to the board of supervisors its recommendations, together with the advisory committee's recommendations.

5. *Hearing by board.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the request.

D. *Effect of withdrawal.* Land that is withdrawn from a district shall be subject to roll-back taxes as provided in Virginia Code § 58.1-3237, and subject to all local laws and ordinances otherwise prohibited from applying to land within a district, as provided in section 3-202(C). The withdrawal of land from a district shall not itself terminate the district.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Virginia Code §§ 15.2-4307, 15.2-4314.

Article III. Districts of Local Significance

Division 1. Procedure

Sec. 3-301 Creation of district.

Each agricultural and forestal district of local significance shall be created as provided herein:

A. *Application.* On or before November 1 of each year, an owner or owners of land may submit an application to the department of community development for the creation of a district. An application shall be signed by each owner of land to be included within the district. The application shall be made on a form developed and provided by the director of planning. Each submitted application shall be accompanied by: (i) a tax map showing the boundaries of the proposed district and each addition, and the boundaries of properties owned by each applicant; and (ii) the fee required by section 3-306.

B. *Initiation of application review.* Upon receipt of an application for a district, the planning commission shall:

1. Accept the application at a regularly scheduled meeting;

2. Direct the department of community development to provide notice of the application pursuant to Virginia Code § 15.2-4405(C)(1); and

3. Refer the application to the advisory committee for review and comment.

C. *Evaluation criteria.* Each application shall be evaluated as provided herein:

1. All land within the district shall be devoted to agricultural, horticultural, forestal or open space use at the time of the application, except that a reasonable amount of residential or other use, not exceeding five (5) acres per district and related to the agricultural, horticultural, forestal or open space use, may be included.

2. If the land is located in the rural areas identified in the comprehensive plan, then the owner shall have first attempted to include the land in a new or existing agricultural and forestal district of statewide significance.

3. If the land is located in a development area identified in the comprehensive plan, then a district shall be created only to protect either:

(a) Open space resources including stream valleys, mountains, wooded areas, buffer areas, or civic or cultural features, as identified on the growth areas open space composite maps; or

(b) Existing, bona fide agricultural and/or forestal operations as evidenced by a history of investment in farm or forest improvements, such as the regular production and sale of farm and/or forest products from the property during the last five (5) years, or other commitments to continuing agricultural or forestal use in the district. In the event such evidence of commitment is not available, the owner shall submit a notarized affidavit which describes the existing, bona fide agricultural and/or forestal use of the property. In addition, if the land is used for agricultural or horticultural purposes, the owner shall have obtained, or shall make or have made a request for, a current conservation plan with the Natural Resource Conservation Service. If the land is used for forestry, the owner shall have obtained, or shall make or have made a request for, a current conservation plan with the Virginia Department of Forestry or a private consultant.

4. Whether the land is currently enrolled in the land-use value assessment program.

D. *Advisory committee review.* Upon referral of an application by the planning commission, the advisory committee shall review and make recommendations concerning the application and any proposed modifications to the planning commission.

E. *Planning commission review.* Upon receipt of the report of the advisory committee on an application, the planning commission shall conduct a public hearing on the application and any proposed modifications, and thereafter report its recommendations to the board of supervisors, as provided herein:

1. In conducting its review, the planning commission shall evaluate the application not only as provided in paragraph (C), but also shall consider the potential effect of the district and any proposed modifications on the county's planning policies and objectives.

2. Upon conclusion of the public hearing, the planning commission shall direct the department of community development to publish and provide the notice required by section Virginia Code § 15.2-4405(E).

F. *Hearing by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the application as provided in Virginia Code § 15.2-4405(E).

G. *Action on application.* After a public hearing, the board of supervisors may by ordinance create a district as applied for or with any modifications it deems appropriate, as provided herein.

1. The ordinance shall be adopted pursuant to the conditions and procedures provided in Virginia Code § 15.2-4406, and shall be subject to the conditions provided in section 3-302.

2. The board of supervisors shall act to either adopt the ordinance creating the district, or reject the application, or any modification to it, within one year from the November 1 by which the application was received.

(9-15-93; Code 1988, §§ 2.1.1-2, 2.1.1-4; Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Va. Code § 15.2-4405.

Sec. 3-305 Withdrawal of land from district.

After the planning commission initiates the review of a district and before the board of supervisors acts to create, continue, modify or terminate the district, an owner of land may withdraw the land from the district by filing a written notice of withdrawal with the department of community development.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Va. Code § 15.2-4407.

ORDINANCE NO. 09-A.1(1)

AN ORDINANCE TO AMEND APPENDIX A-1, ACQUISITION OF CONSERVATION EASEMENTS PROGRAM, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Appendix A.1, Acquisition of Conservation Easements Program, is hereby amended and reordained as follows:

By Amending:

- Sec. A.1-103 Definitions and construction
- Sec. A.1-104 Designation of program administrator; powers and duties

Appendix A.1 Acquisition of Conservation Easements Program

Sec. A.1-103. Definitions and construction.

A. The following definitions shall apply in the interpretation and implementation of the ACE program:

(1) *Conservation easement.* The term “conservation easement” means a nonpossessory interest in one or more parcels of one or more qualified easement holders under section A.1-109(E) acquired under the Open-Space Land Act (Virginia Code § 10.1-1700 *et seq.*), whether the easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase pursuant to the ACE program, imposing limitations or affirmative obligations for the purpose of retaining or protecting natural or open-space values of the parcel or parcels, assuring availability for agricultural, forestal, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of the parcel or parcels.

(2) *Division rights.* The term “division rights” means the number of parcels into which a parcel could be divided and developed with a dwelling and all associated improvements and utilities, counting both those parcels less than twenty-one (21) acres in size and those twenty-one (21) acres in size or greater that could be created, by a by-right conventional development under the rural areas zoning district regulations stated in Section 10 of Chapter 18, Zoning, of the Albemarle County Code, where each potential parcel could comply with all applicable requirements of Chapter 14, Subdivision of Land, and Chapter 18, Zoning, of the Albemarle County Code. Each division right represents the right to build a single dwelling, regardless of whether it is a primary or secondary dwelling.

(3) *Forced sale.* The term “forced sale” means a sale of a parcel with unused development rights in a manner prescribed by law that is conducted under a judgment, order or the supervision of a court of competent jurisdiction, other than a sale arising from a partition action; a sale resulting from foreclosure under the laws of the Commonwealth of Virginia; or, a sale that is not the voluntary act of the owner but is compelled in order to satisfy a debt evidenced by a mortgage, judgment, or a tax lien.

(4) *Hardship.* The term “hardship” means an economic hardship, other than a circumstance causing a forced sale, experienced by the owner of the parcel so as to compel him to place a parcel with unused development rights for sale or to use such development rights.

(5) *Immediate family.* The term “immediate family” means an owner’s spouse and his or her offspring residing in the same household as the owner.

(6) *Owner.* The term “owner” means the owner or owners of the freehold interest of the parcel.

(7) *Program administrator.* The term “program administrator” means the director of planning.

(8) *Parcel.* The term “parcel” means a lot or tract of land, lawfully recorded in the clerk’s office of the circuit court of the County of Albemarle.

(9) *Retained division rights.* The term “retained division rights” means the number of parcels into which a parcel subject to a conservation easement may be divided as provided in section A.1-109(A).

B. *Construction.* Because a conservation easement may contain one or more parcels, for purposes of the ACE program the term “parcel” shall include all parcels covered by, or proposed to be covered by, the conservation easement.

(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 07-A.1(1), 12-5-07; Ord. 09-A.1(1), 6-10-09)

Sec. A.1-104. Designation of program administrator; powers and duties.

A. *Designation.* The director of planning is hereby designated as the program administrator.

B. *Powers and duties.* The program administrator, or his designee, shall administer the ACE program and shall have the powers and duties to:

1. Establish reasonable and standard procedures and forms for the proper administration and implementation of the program.

2. Promote the program, in cooperation with the ACE committee, by providing educational materials to the public and conducting informational meetings.

3. Investigate and pursue, in conjunction with the county executive, state, federal and other programs available to provide additional public and private resources to fund the program and to maximize private participation.

4. Evaluate all applications to determine their eligibility and their ranking score, rank applications based on their ranking score, and make recommendations thereon to the ACE committee.

5. Determine the number of division rights existing on each parcel subject to an application, after obtaining the number of theoretical development rights from the zoning administrator.

6. Coordinate the preparation of appraisals.

7. Provide staff support to the appraisal review committee, the ACE committee and the board of supervisors.

8. Provide educational materials regarding other land protection programs to the public.

9. For each conservation easement, assure that the terms and conditions of the deed of easement are monitored and complied with by coordinating a monitoring program with each easement holder, and if the other easement holders are either unable or unwilling to do so, monitor and assure compliance with the terms and conditions of the deed of easement.

(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 09-A.1(1), 6-10-09)

CONDITIONS OF APPROVAL

SP-2007-052. Nortonsville Church of God Facility Expansion:

1. The development of the site shall be in general accord with the "Conceptual Site Plan" prepared for Nortonsville Church of God by TCS Engineering Co., LLC, dated April 3, 2009 (hereinafter, the "Conceptual Plan"), provided that the maximum building size shall be governed by Condition 2 rather than the Conceptual Plan. Minor variations from the Conceptual Plan may be approved by the Zoning Administrator in conjunction with site plan review to ensure compliance with the Zoning Ordinance. The arrangement of parking spaces may be altered so that County standards for safe and convenient access may be met. The total number of parking spaces shall be in accord with a parking study approved by Zoning staff before approval of the preliminary site plan for this use;
2. The footprint of the building identified on the Conceptual Plan as "Proposed Multi-Purpose Building" shall not exceed fourteen thousand five hundred (14,500) square feet;
3. A dwelling used by the church's staff, located within the church, may be permitted as an accessory use;
4. All structures shall meet commercial setback standards as set forth in Section 21.7(b) of the Albemarle County Zoning Ordinance. The tot lot is not subject to this condition;
5. A fire-suppression water supply meeting the approval of the Albemarle County Fire/Rescue Department shall be required before approval of the preliminary site plan for this use;
6. Health Department approval of well and/or septic systems;
7. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
8. There shall be no day care center or private school on site without approval of a separate special use permit;
9. If the use, structure, or activity for which this special use permit is issued is not commenced by June 10, 2014, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate; and
10. The applicant shall install and maintain a vegetative buffer, a fence, or a combination thereof, along the shared boundary line between TMP 9-3 and TMP 9-4, from the intersection of the boundary lines of TMP 9-3, TMP 9-4, and the Simmons Gap Road public right-of-way, to a point where the paved parking area on TMP 9-4 along the shared boundary line ends, and along the shared boundary line between TMP 9-4 and TMP 9-6C parallel to Silver Lace Lane, from the intersection of the boundary lines of TMP 9-4, TMP 9-6C, and the Simmons Gap Road public right-of-way. The purpose of the vegetative buffer and the fence is to provide visual screening of the uses and structures on TMP 9-4 from TMP 9-3 and TMP 9-6H, and to minimize dust and debris moving from TMP 9-4 onto TMP 9-3 or TMP 9-6H. Any vegetative buffer shall consist of a naturalistic pattern of multi-species trees and shrubs, as listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation. These plantings are to be arranged in a density that would mitigate views of the parking area, with a spacing allowing the natural form/habit of the plant material to be recognized. Any fence installed along these boundaries shall be at least four (4) feet tall and shall be opaque. The vegetative buffer, the fence, or a combination thereof shall be installed before the certificate of occupancy is issued for the building identified on the Conceptual Plan as the "Multi-Purpose Building." This requirement for screening shall be documented in a screening plan that shall be submitted with the site plan application and shall be subject to the approval of the Planning Director or his designee and shall be a condition of final site plan approval.

SP-2008-058. Harris Garage:

1. Development of the use shall be in accord with the conceptual plan titled "Amended Site Plan Harris' Garage", prepared by DW Enterprises, and dated March 16, 2009 (hereinafter, the "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the plan, development shall reflect the following major elements within the development essential to the design of the development:

- The size, height and location of the proposed buildings (16' X 30'/maximum 24' high);
 - The area designated for the special use (public garage);
 - The size, height and location of the existing buildings/structures (original garage – 1,936 square feet/24 feet high/3 vehicle bays; garage expansion – 1,496 square feet/24 feet high/1 vehicle bay; enclosed compressor room; paint mixing room; one outside lift; one dumpster pad/fence enclosure; 3 parking spaces carport; 2 parking spaces carport);
 - The number (maximum 15 spaces public garage) and location of the vehicle parking spaces;
 - The two (2) signage locations at the entrance to the special use permit area. The signs shall state, "All vehicles beyond this point must be placed in a marked parking space" and be a maximum of four (4) square feet.
 - The sign location at the area designated as "Parking for Private Vehicles." The sign shall state, "Parking for only personal vehicles of the Harris Family" and be a maximum of four (4) square feet.
2. Gasoline sales are prohibited;
 3. The sale or rental of vehicles or other motorized equipment is prohibited;
 4. All repairing or equipping of vehicles shall take place inside the existing garage, with the exception of vehicles being repaired on the vehicle lift located adjacent to the garage;
 5. The outdoor storage of parts, equipment, machinery and junk is prohibited;
 6. Only personal vehicles may be parked in the area marked "parking for personal vehicles" on the Conceptual Plan. No more than fifteen (15) vehicles associated with the public garage use shall be located outside the garage. All vehicles associated with the public garage use shall be parked in the spaces shown as "for garage only" on the Conceptual Plan. Any vehicles parked outside the area marked "parking for personal vehicles" shall be considered to be associated with the public garage and are counted in the fifteen (15) vehicle maximum.
 7. The hours of operation shall be between 10:00 A.M. and 10:00 P.M., Monday through Saturday. These hours of operation do not prohibit customers from dropping off vehicles outside of operating hours; and
 8. Within three (3) months following approval of the site plan or site plan waiver, the permittee shall install and thereafter maintain a minimum twenty (20)-foot deep landscape evergreen-screening buffer to shield the view of the garage and garage parking from Markwood Road. This landscape screening shall supplement existing landscape approved with SP 2001-49 and consist of Eastern Red Cedar or other material approved by the Planning Director, a minimum four (4) feet high at planting, and planted in staggered rows with a maximum of ten (10) feet on center spacing between the landscape materials. The permittee shall also submit a landscape plan with the site plan application that will be subject to the approval of the Planning Director or the Planning Director's designee; and
 9. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan (for new lighting) limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.

PROJECT: SP-2008-061. Slingshuff Dock:

1. There shall be no lighting within twenty-five (25) horizontal feet of the Reservoir, measured from the elevation of normal pool, which is Elevation 382 (North American Vertical Datum of 1988);
2. There shall be no removal of vegetation or earth disturbance within the two hundred (200)-foot stream buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 391;
3. Structures and improvements located in the two hundred (200)-foot stream buffer shall be limited to those shown on the Schematic of Dock Design and Schematic of Dock Design, Side View, including a set of up to five steps without railings located directly adjacent to the dock; and
4. Non-invasive vegetation shall be allowed to naturally regenerate in the buffer area between the normal pool elevation of the Reservoir (Elevation 382) and the elevation of the edge of the floodplain (Elevation 391), except for a pathway of not wider than ten (10) feet leading to the dock.

**RESOLUTION TO REQUEST VDOT
ACQUIRE ROUTE 29 RIGHT-OF-WAY**

WHEREAS, in conjunction with the Virginia Department of Transportation (“VDOT”), the County of Albemarle (“County”) and the City of Charlottesville have strongly pursued public/private partnerships to make critical road improvements to Route 29; and

WHEREAS, part of this joint effort currently involves substantial improvements to southbound Route 29 from Greenbrier Drive to the Route 29/250 Bypass; and

WHEREAS, a key element of these improvements is to put in place a continuous turn lane from Greenbrier Drive to Hydraulic Road; and

WHEREAS, construction plans and funding are in place to pay for over \$3.5 million dollars of these Route 29 road improvements including this continuous turn lane; and

WHEREAS, construction of the continuous turn lane could commence within the year provided all right-of-way can be acquired; and

WHEREAS, all necessary right-of-way has been acquired except for approximately 654 square feet of right-of way and approximately 18,864 square feet of temporary construction easements on the frontage of Tax Map # 61W-3 Parcel 18; and

WHEREAS, although the conversion of this small portion of property would have no significant impact to the remainder of the property, efforts to acquire this right-of-way and the temporary construction easements have not been successful; and

WHEREAS, after careful review, engineers have found no viable alternative that would allow the construction of the continuous turn lane improvements without this right-of-way and the temporary construction easements; and

WHEREAS, this right-of-way, when acquired and improved, would be owned and maintained by VDOT as part of the Virginia Primary Road System and would be a VDOT public improvement rather than a County public improvement; and

WHEREAS, the continuous turn lane improvement is a necessary Route 29 improvement regardless of whether any additional development is constructed on this segment of Route 29; and

WHEREAS, VDOT rather than the County has required this improvement as part of the overall road improvements necessary to improve the capacity and safety of the Route 29 corridor; and

WHEREAS, it is essential that VDOT use its authority and expertise to acquire this right-of-way and the temporary construction easements to allow for these significant and necessary public road improvement to proceed in a timely manner; and

WHEREAS, the County can assure the payment to VDOT of all costs associated with the acquisition of this property and the construction of the associated Route 29 improvements.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby formally requests that VDOT acquire the right of way and temporary construction easements on Tax Map #61W-3 Parcel 18 necessary for the construction of the continuous turn lane proposed for construction on Route 29 from Greenbrier Drive to Hydraulic Road .

BE IT FURTHER RESOLVED that the County will assure that VDOT will be paid for all its costs associated with that acquisition and the construction of the associated Route 29 improvements on that property.