

ACTIONS
Board of Supervisors Meeting of May 12, 2010

May 13, 2010

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 6:04 p.m. by the Chair, Ms. Mallek. Also present were Bob Tucker, Larry Davis, and Ella Jordan. 	
<p>4. From the Board: Matters not Listed on the Agenda. <u>Dennis Rooker</u>:</p> <ul style="list-style-type: none"> Asked staff to reschedule the development fees on the Board's agenda. <p><u>Ken Boyd</u>:</p> <ul style="list-style-type: none"> Discussed the issue of homeless people living under Free Bridge and along the greenway trail. Mr. Tucker said he will talk with the Police Chief about monitoring the situation. 	<p><u>Mark Graham/Clerk</u>: Schedule on appropriate agenda.</p>
<p>5. From the Public: Matters not Listed for Public hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>Pam Evans</u>, spoke regarding the amendment that allows HI in LI through special permit. She asked that the Board include language requiring that off-site adjoining roads must be able to handle the HI traffic, both physically and safely in the community under discussion. <u>Marcia Joseph</u>, commented on "The Eye of The Beholder" report by the Free Enterprise Forum. She commented on the role and work of the ARB and spoke about the importance of preserving the character and quality of the County. <u>Candace Smith</u>, commented on "The Eye of The Beholder" report by the Free Enterprise Forum and expressed concerns about it not being a balanced report. She urged the Board to understand the complexity of the issues the ARB evaluates and the importance of having a diverse and professional Board who are qualified to make the necessary aesthetic evaluations needed to preserve the beauty and foster good business in the County. <u>Jeff Werner</u>, on behalf of Piedmont Environmental Council, spoke regarding Item 7.2 on the consent agenda, sign regulations. PEC is concerned that the process for developing ordinance changes appears to be limited with staff proposing "roundtables to solicit suggestions and comments from business owners as the ordinance amendment is developed". He asked if the community will be allowed to be part of and participate in the discussions and process or if it will only be limited to business owners. <u>Jo Higgins</u>, spoke about the role of the ARB 	

<p>and expressed concerns about the ARB guidelines.</p> <ul style="list-style-type: none"> • <u>Neil Williamson</u>, President of the Free Enterprise Forum, provided Board members with a copy of “<i>The Eye of The Beholder</i>” report. Asked the Board to issue a Resolution of Intent to form roundtables that include citizens and stakeholders to review the ARB process and to address the recommendations in the report. • <u>Paul Wright</u>, commented on “<i>The Eye of The Beholder</i>” report by the Free Enterprise Forum. 	
<p>6.</p> <p>a. Recognition: Proclamation – Charlottesville/ Albemarle Senior Independence Day.</p> <ul style="list-style-type: none"> • READ the attached proclamation. <p>b. Recognition: Proclamation - Business Appreciation Week.</p> <ul style="list-style-type: none"> • READ the attached proclamation and presented to Susan Stimart. • Susan Stimart, Business Development Facilitator, recognized the Virginia Department of Business Assistance, and their successful work in the County. Present from DBA were: Peter Su, Assistant Secretary of Commerce & Trade and Director; Preston Wilhelm, Director, Virginia Jobs Investment Program, Virginia Department of Business Assistance, and Debbie Melvin, Project Manager. 	<p>(Attachment 1)</p> <p>(Attachment 2)</p>
<p>7.1.</p> <p>Amend Charlottesville/Albemarle Commission on Children and Families Agreement; Adopt Resolution to Create Community and Policy Management Team (CPMT); and Appoint Members of CPMT.</p> <ul style="list-style-type: none"> • APPROVED, by a vote of 5:0, the amended Agreement between the Albemarle County Board of Supervisors and the Charlottesville City Council on the Commission on Children and Families (Attachment B) and AUTHORIZED the Chair to execute it. • ADOPTED Resolution to Establish a Community Policy and Management Team (Attachment C) pursuant to Virginia Code § 2.2-5204; and • APPOINTED the following recommended members to the CPMT: Bryan Elliott, County Representative; Robert Johnson, Community Services Board Representative; Martha Carroll, Sixteenth District Court Services Unit representative; Dr. Lillian Peake, Department of Health Representative; Katherine D. Ralston, Albemarle County Social Services Representative; Kevin Kirst, Albemarle County School Division Representative; Jackie Bryant, Community Youth and Family Services Representative; and Amy Laufer, Parent representative. 	<p><u>County Attorney</u>: Circulate agreement for Chair and Mayor to sign, and provide Clerk with fully executed copy of agreement. (Attachment 3)</p> <p><u>Clerk</u>: Forward copy of signed resolution to Social Services and County Attorney’s office. (Attachment 4)</p>
<p>7.2.</p> <p>Resolution of Intent to Amend the Zoning Ordinance, Sign Regulations.</p>	<p><u>Clerk</u>: Forward copy of resolution to Planning, Community Development and County</p>

<ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, the attached Resolution of Intent. • CONSENSUS to include Bruce Bateman and a representative of either PEC or SELC on the roundtable committee. 	Attorney's offices. (Attachment 5)
<p>7.3. Resolution Commemorating the Life of Paul Goodloe McIntire on the Occasion of the 150th Anniversary of His Birth.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, the resolution. 	<u>Clerk</u> : Forward resolution to Historical Society. (Attachment 6)
<p>8. <u>PROJECT: SP-2009-00009. BB&T (Charlottesville) – ATM (Sign #39).</u></p> <ul style="list-style-type: none"> • APPROVED, by a vote of 5:0, SP-2009-00009, subject to the one condition recommended by the Planning Commission. 	<u>Clerk</u> : Set out condition of approval. (Attachment 7)
<p>9. <u>ZTA-2009-0009. Entrance Corridor Overlay District ("ECOD").</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, ZTA-2009-0009. 	<u>Clerk</u> : Forward copy of adopted ordinance to Community Development and County Attorney's offices. (Attachment 8)
<p>10. <u>CPA-2008-00003. Village of Rivanna Master Plan.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, CPA-2008-003. 	
<p>11. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • At 7:54 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, under Subsection (1) to discuss an administrative evaluation; under Subsection (3) to discuss the acquisition of property for a public parking area; and under Subsection (7) to discuss pending litigation regarding a donation to a charitable organization. • At 8:45 p.m., the Board reconvened into open meeting and certified the Closed Meeting. <p><u>Dennis Rooker</u>:</p> <ul style="list-style-type: none"> • Mentioned a letter Board members received from the Burley High School Varsity Club requesting donation towards a plaque for Burley High School Coaches. CONSENSUS to donate \$200. <p><u>Lindsay Dorrier</u>:</p> <ul style="list-style-type: none"> • Provided Board members with a copy of a proposal for reuse of the Old County Jail by the Albemarle Charlottesville Historical Society. CONSENSUS that Bill Letteri report back to the Board on the proposal. 	<p><u>OMB</u>: Include appropriation request on June 2nd agenda.</p> <p><u>Bill Letteri</u>: Provide report back to Board.</p>
<p>12. Adjourn.</p> <ul style="list-style-type: none"> • At 8:50 p.m., with no further business to come before the Board, the meeting was adjourned. 	

/ewj

- Attachment 1 – Recognition: Proclamation – Charlottesville/ Albemarle Senior Independence Day.
- Attachment 2 - Recognition: Proclamation - Business Appreciation Week.
- Attachment 3 – Agreement - Charlottesville/Albemarle Commission on Children and Families Agreement
- Attachment 4 - Resolution to Create Community and Policy Management Team (CPMT)

Attachment 5 - Resolution of Intent to Amend the Zoning Ordinance, Sign Regulations

Attachment 6 - Resolution Commemorating the Life of Paul Goodloe McIntire on the Occasion of the 150th
Anniversary of His Birth

Attachment 7 – Condition of Approval - SP-2009-00009 – BB&T – Charlottesville ATM

Attachment 8 – Ordinance - ZTA-2009-0009. Entrance Corridor Overlay District ("ECOD")

Charlottesville/Albemarle Senior Independence Day

WHEREAS, *we are ever mindful that our nation is built on the wisdom, talents, and hard work of those who were born before us;*

WHEREAS, *we acknowledge with gratitude their contributions to those great gifts of peace and prosperity which we now enjoy;*

WHEREAS, *as a society fortified by independence, our aim is to nurture those who are younger and follow the example of those whose years exceed ours; and*

WHEREAS, *our older citizens have worked long and hard to ensure that our lives are better, and our community acknowledges and supports their right to live independently and actively into their later years.*

NOW, THEREFORE, *I, Ann H. Mallek, Chair, on behalf of the Albemarle Board of County Supervisors, do hereby proclaim*

May 28, 2010

Charlottesville/Albemarle Senior Independence Day

and call upon all of our citizens to serve one another and the common good by celebrating this day going forward.

IN WITNESS WHEREOF, *I have hereunto set my hand this 12th day of May, 2010.*

BUSINESS APPRECIATION WEEK
May 16 – 22, 2010

- WHEREAS,** Governor Robert F. McDonnell has recognized **May 16-22, 2010** as **BUSINESS APPRECIATION WEEK** in the **COMMONWEALTH OF VIRGINIA**, and called this observance to the attention of all citizens; and
- WHEREAS,** Virginia and its localities recognize that jobs and investment follow private businesses that seize opportunities to enhance economic activity, develop new products, and invest in equipment that improves productivity; and
- WHEREAS,** economic vitality is a stated goal of Albemarle County's Strategic Plan and an important component of our Comprehensive Plan; and
- WHEREAS,** the citizens of Albemarle County benefit from jobs and investment that our business community provides; and
- WHEREAS,** our business partners make a positive and lasting impact with their civic involvement, financial support of local charities and non-profit organizations, and sharing of resources; and
- WHEREAS,** Albemarle County applauds the success of local businesses that provide economic opportunity while supporting the County's goals and values of sustainability, environmental protection and an attractive, vibrant, and livable community; and
- WHEREAS,** over the last three years the Virginia Department of Business Assistance's Jobs Investment Program has assisted seven Albemarle County businesses that anticipate creating or retraining 260 jobs and adding over \$13,745,000 in capital investment , thereby providing significant support in the critical area of job creation and economic vitality;
- NOW, THEREFORE, BE IT RESOLVED** that, we, the Albemarle County Board of Supervisors, do hereby recognize

May 16-22, 2010 as BUSINESS APPRECIATION WEEK

in the **County of Albemarle**, and express our appreciation to our local and state business partners for their valuable contributions to our community.

Signed and sealed this 12th day of May, 2010.

**AGREEMENT BETWEEN THE
ALBEMARLE COUNTY BOARD OF SUPERVISORS
AND THE CHARLOTTESVILLE CITY COUNCIL ON
THE COMMISSION ON CHILDREN AND FAMILIES**

The Albemarle County Board of Supervisors (the “County”) and the Charlottesville City Council (the “City”) agree to join together to form the Commission on Children and Families (the “Commission”) whose sole responsibility shall be to plan, coordinate, monitor and evaluate a community wide system of children and family agencies. The intended goal of the Commission is to improve services to children, youth and families, to be accountable for the efficient use of public/private resources and to be responsive to the changing needs of the community. In doing so, we agree to the following:

- 1) With respect to the STRUCTURE OF THE COMMISSION, the City and the County agree that:
 - a) The Commission shall consist of twenty-eight voting members. Eleven of the voting members shall be citizen representatives (“Citizen Members”): five appointed by the County, five appointed by the City and one jointly appointed private service provider. Of the eleven citizen members, at least one appointee from each jurisdiction must be a parent, and at least one appointee from each jurisdiction must be a youth under the age of eighteen years at the time his or her appointment takes effect. Fourteen of the voting members shall be as follows (“Agency Members”): the School Division Superintendent from both the City and the County; one elected School Board member from both the City and the County; the Director of the Department of Social Services from both the City and the County; the Chief of Police from both the City and the County; the Director of Parks and Recreation from both the City and the County; the Director of the Sixteenth District Court Services Unit; the Director of the Thomas Jefferson Health District; the Director of Region Ten Community Services Board; a representative of the University of Virginia; an Albemarle Assistant County Executive; a City representative that represents senior management/leadership, as designated by the City Manager; and the President of the United Way – Thomas Jefferson Area.
 - b) Terms of Appointment. Each Citizen Member of the Commission shall be appointed for a term that shall expire three years from the first day of July of the year of appointment, except the youth Citizen Members shall be appointed for a term that shall expire one year from the first day of July of the year of appointment. With the exception of the private service provider representative, each Citizen Member shall be eligible for reappointment to one additional term of the same length as the initial appointment. The private service provider shall not be eligible for reappointment to a second term. Notwithstanding the foregoing, any Citizen Member, including the private service provider, who is initially appointed to fill a vacancy, may serve an additional successive term. Appointment shall be staggered for continuity. Each Agency Member of the Commission shall serve for as long as they hold their public office or until replaced by the appointing authority.
 - c) Manner of Appointments. The City and/or County shall appoint the specific individuals representing that locality who will serve on the Commission, unless the member is solely designated by his position or office, and by identifying the date upon which that individual’s appointed term will expire, if applicable. The representative of the University of Virginia will be jointly appointed by the City and the County.
- 2) With respect to the RESPONSIBILITIES OF THE COMMISSION, the City and the County agree that the Commission shall:
 - a) Provide comprehensive short and long range planning for children and family services within the Charlottesville/Albemarle community;
 - b) Make program and funding recommendations to the City and County governing bodies within the budgetary procedures and guidelines set by each jurisdiction;

- c) Review and evaluate current service delivery systems to ensure that the needs of children and families are being met effectively and efficiently;
 - d) Identify and encourage new and innovative approaches to program development for children and families;
 - e) Identify additional public and private funding sources for children and youth programs;
 - f) Participate in the yearly evaluation of the director of Commission staff;
 - g) Provide structured opportunities for community input and participation on the needs of families, e.g. public hearings workshops focus groups and work teams;
 - h) Provide an annual report to the Board of Supervisors and City Council to insure that the County and City are in agreement with the policy and direction set by the Commission.
- 3) With respect to STAFFING OF THE COMMISSION, the City and the County agree that:
- a) Staff will be hired, supervised and evaluated as mutually agreed upon by the City and the County with assistance and input from the Commission;
 - b) Staff will be employees of the County of Albemarle subject to all personnel policies and entitled to all its benefits.
- 4) With respect to FUNDING OF THE COMMISSION, the City and the County intend to:
- a) Provide an annual contribution as mutually agreed upon for the operation of the Commission;
 - b) Direct the Commission on Children and Families to actively seek funding for children and family projects from other sources, including public and private grants, local service groups and the business community;
 - c) The County of Albemarle will provide fiscal and legal services to the Commission for an administrative fee equal to one percent (1%) of the Commission's operating budget for a period of five (5) years beginning January 1, 2007. At the conclusion of the five year period the City and County will negotiate a fiscal agent fee consistent with the fee charged for other joint City – County agencies.

ALBEMARLE COUNTY BOARD OF SUPERVISORS

BY: _____
CHAIRMAN

CITY OF CHARLOTTESVILLE

BY: _____
MAYOR

**RESOLUTION TO ESTABLISH
A COMMUNITY POLICY AND MANAGEMENT TEAM**

WHEREAS, pursuant to Virginia Code §§ 2.2-5204 et seq., the County desires to create a Community Policy and Management Team (CPMT); and

WHEREAS, the CPMT shall have the powers and duties as set forth in Virginia Code §§ 2.2-5206 and 2.2-5207; and

WHEREAS, the CPMT shall be comprised of the following members appointed by the County:

1. An elected official or appointed official or his designee from the County;
2. A representative from the Community Services Board;
3. A representative from the Sixteenth District Juvenile Court Services Unit;
4. A representative from the Thomas Jefferson Health District;
5. The Director of Albemarle County Department of Social Services or her designee;
6. The Superintendent of the Albemarle County Schools or her designee;
7. A representative from the Community Youth and Family Services (CYFS); and
8. A parent representative from the Albemarle community; and

WHEREAS, the term of appointment for members holding public positions shall be for so long as they serve in that public position or until replaced by the Board; and

WHEREAS, the term of appointment for the CYFS representative and the parent representative shall be for three (3) years, such term commencing from the date of appointment, or until replaced by the Board. The CYFS representative shall not be eligible for reappointment and the parent representative may be appointed to one additional three (3) year term or until replaced by the Board; and

WHEREAS, the County CPMT will conduct joint meetings with the City of Charlottesville CPMT to ensure continuing efficiency and consistency within the Albemarle/Charlottesville Community.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby creates and establishes a CPMT pursuant to Virginia Code §§ 2.2-5204 et seq. with all the powers and duties as set forth in Virginia Code §§ 2.2-5206 and 2.2-5207 consisting of the members identified above for the prescribed terms of service.

RESOLUTION OF INTENT

WHEREAS, the Albemarle County Zoning Ordinance includes regulations pertaining to the location, size, height, number and, along entrance corridors, the design, of signs; and

WHEREAS, the Board of Supervisors' "2010 Albemarle County Action Plan," dated January 6, 2010, included as one of its objectives the re-examination of the County's sign regulations "to ensure they do not overly restrict economic vitality of area businesses" with the goal of developing new regulations that "will help promote good business practices as well as maintaining quality aesthetic values;" and

WHEREAS, the issues identified for study and action include the sign review and approval process, regulations pertaining to temporary signs, sign height, and signs within business centers, industrial parks and business parks, and definitions; and

WHEREAS, it may be desirable to amend the County's sign regulations to address the issues identified above and other related issues pertaining to the regulation of signs.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code § 18-4.15, Signs, and any other sections of the Zoning Ordinance deemed to be appropriate to achieve the purposes described herein; and

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

RESOLUTION

**Commemorating the life of Paul Goodloe McIntire on the Occasion
of the 150th Anniversary of his Birth**

- WHEREAS,** *Paul Goodloe McIntire, son of George M. McIntire and Catherine Clark McIntire, was born in Charlottesville, Virginia, on May 28, 1860, and graciously enriched the Charlottesville and Albemarle County community with many generous gifts until his death on July 1, 1952; and*
- WHEREAS,** *Mr. McIntire attended the University of Virginia for the 1878-79 session and in 1880 moved to Chicago to work as a coffee salesman, beginning his successful career in finance; and*
- WHEREAS,** *in 1891 Mr. McIntire married Edith Clark and in 1896 purchased a seat on the Chicago Stock Exchange working as a commission broker for customers, trading in his own interest, and attaining a reputation as a specialist in rail stocks; and*
- WHEREAS,** *Mr. McIntire welcomed the birth of his only child, Charlotte Virginia McIntire, in 1901; and he moved to New York, purchasing a seat on the New York Stock Exchange; and*
- WHEREAS,** *in 1918 Mr. McIntire left active business to retire to Charlottesville, and in 1919 endowed the University of Virginia with a School of Fine Arts, consisting of a School of Art and Architecture and a School of Music; and in 1921, the same year that he married Anna Dearing Rhodes, he donated funds for the establishment of a School of Commerce and Finance at the University; and*
- WHEREAS,** *Mr. McIntire desired to share his fortune and his passion for international culture, reading, and learning with the citizens and children of Charlottesville and Albemarle County, he did so with a gift of rare books to Alderman Library at the University of Virginia that included works from the 14th through 17th centuries; a donation of 473 art objects to the Museum of Fine Arts at the University; the gift of a public library building and collection to Charlottesville; and numerous contributions of books, scholarships, and maps to Charlottesville and Albemarle County schools; and*
- WHEREAS,** *Mr. McIntire is fondly remembered as one of our community's greatest benefactors, who shaped the Charlottesville cityscape with five public parks (Lee, Jackson, Belmont, Washington, and McIntire); statues of Robert E. Lee in Lee Park; Stonewall Jackson in Jackson Park; Meriwether Lewis, William Clark, and Sacajawea at the intersection of McIntire Road and Ridge Street; and George Rogers Clark at the intersection of West Main Street and Jefferson Park Avenue; and the amphitheater at the University of Virginia, as a site for concerts and lectures; and*
- WHEREAS,** *Mr. McIntire contributed heavily to Albemarle County's 4-H Clubs and public schools, providing aid for the building of new County schools in Crozet and Scottsville; provided educational materials (maps, lithographs, and records) for all County schools from the high schools to one-room elementary schools; and established scholarships for an outstanding graduating boy and girl from each high school each year; and*
- WHEREAS,** *Mr. McIntire received the Algernon Sydney Sullivan Award for his service to mankind in 1928, was awarded the honor of Chevalier of the French Legion of Honor in 1929 for his generous gifts to the education of World War I orphans, served on the University of Virginia Board of Visitors from 1922 to 1934, returned to New York following the death of his wife in 1933, married Hilda Berkel Hall in 1934, and was honored by the City of Charlottesville in the first Paul Goodloe McIntire Day on May 20, 1942;*

NOW, THEREFORE, BE IT RESOLVED BY the Albemarle County Board of Supervisors that it commend Paul Goodloe McIntire on the 150th Anniversary of his birth for his unfailing generosity to the community of his birth, the City of Charlottesville and Albemarle County; and

BE IT FURTHER RESOLVED, that the Clerk of the Albemarle County Board of Supervisors prepare a copy of this resolution for presentation to the Albemarle Charlottesville Historical Society as an expression of respect for Paul Goodloe McIntire's memory and contributions, in honor of the 150th anniversary of his birth.

Signed and sealed this 12th day of May, 2010.

CONDITION OF APPROVAL - PLANNING

SP-2009-00009 – BB&T – Charlottesville ATM

1. Development of the site will be in general accord with the site plan drawing titled *Proposed Site Layout revisions for new ATM Bldg*, dated 08.18.09, and initialed SEF(copy on file in Clerk's office).

ORDINANCE NO. 10-18(5)

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

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

By Amending:

- Sec. 3.1 Definitions
- Sec. 4.15.2 Definitions
- Sec. 4.15.15 Regulations applicable in the entrance corridor overlay district
- Sec. 30.6.8 Appeals

By Amending and Renaming:

- Sec. 30.6.1 Purpose and intent
- Sec. 30.6.2 Boundaries of the district
- Sec. 30.6.3 Permitted uses and applicable standards
- Sec. 30.6.4 Certificates of appropriateness
- Sec. 30.6.7 Submittal, review and action on application; final review

By Amending, Renumbering and Renaming (old section number first, followed by name, followed by new section number):

- Sec. 30.6.3.1 By right Sec. 30.6.3 (part)
- Sec. 30.6.3.2 By special use permit Sec. 30.6.3 (part)
- Sec. 30.6.6 Development exempt from requirement to obtain certificate of appropriateness Sec. 30.6.5
- Sec. 30.6.6.1 Untitled Sec. 30.6.5 (part)
- Sec. 30.6.6.2 Repair and maintenance of structures Sec. 30.6.5 (part)
- Sec. 30.6.6.3 Exemptions

By Adding:

- Sec. 30.6.6 Submittal, review and action on application; preliminary review
- Sec. 30.6.9 Public health or safety considered

By Repealing:

- Sec. 30.6.5 Signs

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions

...

Certificate of appropriateness: A decision made by the architectural review board or, on appeal, by the board of supervisors, certifying that a proposed structure and/or site improvements located within the entrance corridor overlay district, as may be modified by terms and conditions of the certificate, are consistent with the applicable design guidelines.

Certificate of appropriateness, county-wide: A decision made by the architectural review board establishing specific design criteria consistent with applicable design guidelines for a class of structures, sites, improvements, or architectural elements. The decision applies to any structure, site, improvement or architectural element within that class that complies with the specific design criteria.

...

Nonconforming Structure: The term “nonconforming structure” means a lawful structure existing on the effective date of the zoning regulations applicable to the district, including any overlay district, in which the structure is located, that does not comply with the minimum applicable bulk, height, setback, floor area or other structure requirements of that district. (Amended 6-14-00)

...

Article II. Basic Regulations

Sec. 4.15.2 Definitions

(36.1) *Opaque background:* The term “opaque background” means the portion of the face of a sign that lies behind the message portion of the sign, made of a material through which light cannot pass when the sign is internally illuminated at night.

...

Sec. 4.15.15 Regulations applicable in the entrance corridor overlay district

In addition to all other regulations set forth in this section 4.15, the following regulations shall apply within the entrance corridor overlay zoning district:

- a. *Certificate of appropriateness required.* Prior to the erection of a sign that would be visible from an entrance corridor street, including a sign erected on or visible through a window on a structure, the owner or lessee of the lot on which the sign will be located shall obtain a certificate of appropriateness for that sign unless the sign is exempt under section 30.6.5.
- b. *Authority and procedure for acting upon application for certificate of appropriateness.* The authority and procedure for acting upon an application for a certificate of appropriateness for a sign shall be as set forth in section 30.6.
- c. *Opaque backgrounds.* All internally illuminated box-style and cabinet-style signs shall have an opaque background.

(12-10-80; 7-8-92, § 4.15.12.8; Ord. 01-18(3), 5-9-01)

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

Article III. District Regulations

Sec. 30.6 Entrance corridor overlay district - EC (Added 10-3-90)

Sec. 30.6.1 Purpose and intent

The purpose of this section 30.6 is to implement the enabling authority in Virginia Code § 15.2-2306(A) by identifying those arterial streets and highways found to be significant routes of tourist access to the county and to designated historic landmarks, structures or districts within the county or in contiguous localities, and to require that the erection, reconstruction, alteration or restoration of structures, including signs, on parcels contiguous to those streets and highways as provided herein, be architecturally compatible with those historic landmarks or structures.

The comprehensive plan provides that scenic resources contribute to the community’s desirability as a place to live, enhance and protect property values, and contribute to the overall quality of life for the county’s residents. The comprehensive plan also acknowledges that scenic resources are important to visitors as well as the county’s residents, and that visitors to the Blue Ridge Mountains and the county’s rural historic structures gather a lasting impression of the county as they travel the county’s scenic roadways. The significant routes of tourist access within the entrance corridor overlay district provide access to the county and to many of the county’s historic landmarks, structures and districts including, but not limited to Monticello, the home of Thomas Jefferson, which is on the World Heritage List administered by the United Nations and a National Historic Landmark, Ash Lawn-Highland, the home of James Monroe,

the University of Virginia, whose Rotunda is on the World Heritage List and a National Historic Landmark, and whose academical village is on the World Heritage List, a National Historic Landmark and a National Register Historic District, and the county's eight historic districts on the National Register of Historic Places, including the Southwest Mountains Rural Historic District and the Southern Albemarle Rural Historic District.

The entrance corridor overlay district is intended to implement the comprehensive plan's goal to preserve the county's scenic resources because they are essential to the county's character, economic vitality and quality of life. An objective of this goal is to maintain the visual integrity of the county's roadways by using design guidelines. The entrance corridor overlay district will ensure that development is compatible with the county's natural, scenic, historic and architectural resources by providing for review of new construction along the identified significant routes of tourist access by an architectural review board under design guidelines promulgated by that board and ratified by the board of supervisors.

Sec. 30.6.2 Boundaries of the district

The entrance corridor overlay district is established upon and comprised of those parcels contiguous to significant routes of tourist access, regardless of the underlying zoning district or the existence of other applicable overlay districts, as provided in section 30.6.2(b) as follows:

- a. *Significant routes of tourist access.* The following arterial streets and highway are found to be significant routes of tourist access and are hereinafter referred to in section 30.6 as "EC streets":
 1. U.S. Route 250 East (Richmond Road).
 2. U.S. Route 29 North (Seminole Trail).
 3. U.S. Route 29 South (Monacan Trail).
 4. Virginia Route 20 South (Monticello Avenue and Scottsville Road).
 5. Virginia Route 631 (5th Street and Old Lynchburg Road) from Charlottesville City limits to Route 708 (Red Hill Road) and Virginia Route 631 (Rio Road West) from U.S. Route 29 North (Seminole Trail) to Route 743 (Earlsville Road). (Amended 11-14-90; Amended 4-12-00)
 6. U.S. Route 250 West (Ivy Road and Rockfish Gap Turnpike).
 7. Virginia Route 6 (Irish Road).
 8. Virginia Route 151 (Critzlers Shop Road).
 9. Interstate Route 64.
 10. Virginia Route 20 North (Stony Point Road).
 11. Virginia Route 22 (Louisa Road).
 12. Virginia Route 53 (Thomas Jefferson Parkway).
 13. Virginia Route 231 (Gordonsville Road).
 14. Virginia Route 240 (Three Notch'd Road).
 15. U.S. Route 29 Business (Fontaine Avenue)
 16. U.S. Route 29/250 Bypass.
 17. Virginia Route 654 (Barracks Road). (Added 11-14-90)

18. Virginia Route 742 (Avon Street). (Added 11-14-90)
19. Virginia Route 649 (Airport Road) from U.S. Route 29 North (Seminole Trail) to Virginia Route 606 (Dickerson Road). (Added 4-12-00)
20. Virginia Route 743 (Hydraulic Road and Earlysville Road) from U.S. Route 29 North (Seminole Trail) to Virginia Route 676 (Woodlands Road). (Added 4-12-00)
21. Virginia Route 631 (Rio Road) from U.S. Route 29 North (Seminole Trail) easterly to the Norfolk Southern Railway tracks. (Added 11-2-05)

b. *Parcels contiguous to EC streets.* Parcels contiguous to EC streets are:

1. *Parcels sharing boundary with an EC street on reference date.* Each parcel that had a boundary that was shared at any point with the right-of-way of an EC street on one of the following applicable reference dates: (i) on October 3, 1990 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(1) through (16); (ii) on November 14, 1990 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(17) and (18); (iii) on April 12, 2000 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(19) and (20); and (iv) on November 2, 2005 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(21) (hereinafter, the “applicable reference date”).
2. *Parcels not sharing boundary with an EC street.* Each parcel within five hundred (500) feet of the right-of-way of an EC street that did not share at any point a boundary with the right-of-way of an EC street on the applicable reference date.

c. *Extent of overlay district.* The overlay district extends across the entire width of each parcel contiguous to an EC street. The overlay district extends to the depth of each parcel as follows:

1. *Parcels sharing boundary with an EC street on reference date.* If the parcel shared a boundary with an EC street on the applicable reference date as provided in section 30.6.2(b)(1), the overlay district extends to the full depth of the parcel.
2. *Parcels not sharing boundary with an EC street.* If the parcel is within five hundred (500) feet of an EC street and did not share a boundary with an EC street on the applicable reference date as provided in section 30.6.2(b)(2), the overlay district extends to a depth of five hundred (500) feet from the right-of-way of the EC street.

d. *Effect of subsequent change to parcel boundaries.* The subdivision, boundary line adjustment, or any other change to the boundaries of a parcel after the applicable reference date shall not reduce the area subject to this section 30.6 without a zoning map amendment that changes the boundaries to the entrance corridor overlay district.

(12-10-80, § 30.6.2; 11-14-90; 9-9-92; Ord. 00-18(4), 4-12-00; Ord. 01-18(3), 5-9-01; Ord. 05-18(9), 11-2-05)

Sec. 30.6.3 Permitted uses and applicable standards

Within the EC overlay district:

- a. *Uses.* The following uses may be permitted within the EC overlay district in accordance with the applicable requirements of this section 30.6 and the underlying zoning district:
 1. *By right.* Uses permitted by right in the underlying zoning district shall be permitted by right in the EC overlay district, except as otherwise provided in section 30.6.
 2. *By special use permit.* The following uses shall be permitted by special use permit in the EC overlay district:

- a. Uses authorized by special use permit in the underlying zoning district.
 - b. Outdoor storage, display and/or sales serving or associated with a permitted use, other than a residential, agricultural or forestal use, any portion of which would be visible from the EC street to which it is contiguous or from any other EC street which is located within five hundred (500) feet; provided that review shall be limited to determining whether the outdoor storage, display and/or sales is consistent with the applicable design guidelines. (Amended 9-9-92)
 - c. The construction or location of any structure, including any subdivision sign or sign identifying a planned development as provided in section 4.15.16(l), upon the superjacent and subjacent airspace of an EC street that is not required for the purpose of travel or other public use by the Commonwealth of Virginia or other political jurisdiction owning such street.
- b. *Area and bulk and other regulations.* The area and bulk, minimum yard and setback requirements, and maximum building height requirements of the underlying zoning district shall apply to all uses and structures in the EC overlay district.
 - c. *Bonus factors.* A condition of a certificate of appropriateness that requires improvements or design features for which a bonus might otherwise be permitted under the applicable district regulations shall not affect the eligibility for the bonus.
 - d. *Grading or land disturbing activity.* No grading or other land disturbing activity (including trenching or tunneling), except as necessary for the construction of tree wells or tree walls, shall occur within the drip line of any trees or wooded areas designated on the site plan to be preserved, nor intrude upon any other existing features designated in the certificate of appropriateness for preservation.
 - e. *Method for preserving designated features.* An applicant for a development subject to the provisions of section 30.6 shall sign a conservation checklist provided by the director of planning or his or her designee (the "director of planning") specifying the method for preserving the designated features, and the method shall conform to the specifications contained in Standard and Specification 3.38 at pages III-393 through III-413 of the Virginia Erosion and Sediment Control Handbook; provided that the architectural review board, or the director of planning, may require alternative methods of tree protection if greater protection is deemed necessary.
 - f. *Designating and protecting preserved features.* Areas on a site containing features to be preserved shall be identified on approved site plans and building plans and shall be clearly and visibly delineated on the site prior to commencing grading or other land disturbing activity, including trenching or tunneling. No grading, other land disturbing activity, or movement of heavy equipment shall occur within the delineated areas. The visible delineation of the boundaries of the areas to be preserved shall be maintained until a certificate of occupancy is issued by the county. All features designated for preservation shall be protected during development.

(12-10-80, § 30.6.3.2; 9-9-92; Ord. 01-18(3), 5-9-01)

Sec. 30.6.4 Certificates of appropriateness

The architectural review board is authorized to issue certificates of appropriateness for any structure, and associated improvements, or any portion thereof, that are visible from the EC street to which the parcel is contiguous, as follows:

- a. *Development requiring a certificate of appropriateness.* The following developments require a certificate of appropriateness:
 - 1. *Building permits required.* Each structure and/or site improvement for which a building permit is required, even though it is not a development for which a site plan is required,

unless the structure and/or site improvement is exempt under section 30.6.5. No building permit shall be approved until the certificate of appropriateness is obtained.

2. *Site plans required.* Each structure and/or site improvement for which a building permit is required in a development for which a site plan is required, unless the improvement is exempt under section 30.6.5. No site plan shall be approved until the certificate of appropriateness is obtained.
- b. *Types of certificates of appropriateness.* The architectural review board is authorized to issue the following types of certificates of appropriateness:
1. *Specific developments.* For specific developments associated with one or more building permits or a single site plan.
 2. *Signs in a new multi-business complex or shopping center.* For all of the signs in a new multi-business complex or shopping center, where the architectural review board first conducts a comprehensive sign review. Once a certificate of appropriateness for signs in a new multi-business complex or shopping center is issued, the director of planning is authorized to determine whether a particular sign satisfies the conditions of the certificate of appropriateness.
 3. *County-wide certificates of appropriateness.* County-wide certificates of appropriateness may be issued for classes of structures, sites, improvements, or architectural elements, subject to the applicable design criteria and procedures, as follows:
 - a. *Categories of structures, sites, improvements, or architectural elements eligible for county-wide certificates of appropriateness.* The following categories of structures, sites, improvements, or architectural elements shall be eligible for county-wide certificates of appropriateness:
 1. Structures located seven hundred fifty (750) feet or more from an EC street that are not more than five (5) stories tall.
 2. Structures that are proposed to be located behind another structure that fronts an EC street as viewed from the EC street, where the rear structure is no more than twice the height of the front structure.
 3. Personal wireless service facilities.
 4. Wall signs proposed for structures having a single occupant.
 5. Safety fencing and screening fencing.
 6. New or replacement rooftop-mounted or ground-mounted equipment.
 7. Additions to structures or improvements for which a certificate of appropriateness was issued, where the design of the addition to the structure or improvement is consistent with the architectural design approved with the certificate of appropriateness.
 8. New structure or site lighting or changes to existing structure or site lighting.
 9. Minor amendments to site plans and architectural plans.
 10. Building permits for which the proposed change occupies fifty (50) percent or less of the altered elevation of an existing structure.

11. Permits classified in sections 5-202, 5-203, 5-204 and 5-208(A) not otherwise exempt under section 30.6.5(k).
- b. *Design criteria.* The board may establish appropriate architectural or design features under the design guidelines that a structure, site, improvement or architectural element must be found to be consistent with in order to be eligible to be subject to a county-wide certificate of appropriateness. The architectural or design features may include, but are not limited to: (i) building and structure height; (ii) building and structure size; (iii) scale or mass; (iv) appropriate roof forms; (v) appropriate building materials and/or colors; (vi) minimum planting requirements; (vii) minimum screening requirements; (viii) building, structure and/or site improvement locations; and (ix) the structural and design details of signs.
- c. *Determination of compliance by director of planning.* Once a county-wide certificate of appropriateness is issued, the director of planning is authorized to determine whether a particular structure, site, improvement or architectural element satisfies the specific design criteria of the county-wide certificate of appropriateness. The director or a member of the architectural review board may request at an upcoming meeting that the architectural review board, instead of the director, determine whether a particular structure, site, improvement or architectural element satisfies the specific design criteria of the county-wide certificate of appropriateness.
- d. *Action and appeal.* Any person requesting a determination whether a proposed structure, site, improvement or architectural element satisfies the specific design criteria of a county-wide certificate of appropriateness shall submit a request to the director of planning providing the information required by the director. The procedure for submittal and action under section 30.6.6(b), (c), (d) and (f) shall apply.
 1. *By the director.* If the director determines that the proposed structure, site, improvement or architectural element does not satisfy the specific design criteria of the county-wide certificate of appropriateness, the director shall send notice to the person requesting the determination of his decision. The person requesting the determination may either: (1) appeal the director's decision to the architectural review board by filing an appeal with the director within ten (10) days after the date of the director's notice of decision; or (2) file an application and proceed under sections 30.6.6 and 30.6.7.
 2. *By the board.* If the board determines in its own review or on an appeal of the director's decision that the proposed structure, site, improvement or architectural element does not satisfy the specific design criteria of the county-wide certificate of appropriateness, the board shall send notice to the person requesting the determination of its decision. The person requesting the determination may either: (1) appeal the board's decision to the board of supervisors under the procedure in section 30.6.8(b), (c) and (d); or (2) file an application and proceed under sections 30.6.6 and 30.6.7.
- c. *Authority to assure consistency with applicable design guidelines.* In determining whether a structure or associated improvements are consistent with the applicable design guidelines, the architectural review board may specify the following, which are in addition to the requirements of the underlying zoning district or of section 32, provided that the board may not authorize any maximum standard to be exceeded, or any minimum standard to not be met:
 1. *Architectural features.* The appearance of any architectural feature including, but not limited to, its form and style, color, texture and materials.

2. *Size and arrangement of structures.* The configuration, orientation and other limitations as to the mass, shape, area, bulk, height and location of structures. In considering the arrangement and location of structures, the architectural review board may require that the existing vegetation and natural features be used to screen structures and associated improvements from one or more EC streets to which the parcel is contiguous as provided in section 30.6.2(b).
 3. *Location and configuration of parking areas and landscaping.* The location and configuration of parking areas and landscaping and buffering requirements.
 4. *Landscaping measures.* In addition to the requirements of section 32.7.9, landscaping measures determined to be appropriate to assure that the structures and associated improvements are consistent with the applicable design guidelines.
 5. *Preservation of existing vegetation and natural features.* The preservation of existing trees, wooded areas and natural features.
 6. *Appearance of signs.* In addition to the applicable requirements of section 4.15, the appropriate style, size, colors, materials, illumination and location of all proposed signs, and any other applicable design guidelines. Each application for a certificate of appropriateness for one or more signs shall be accompanied by a site plan or sketch plan that shows the location of all signs proposed to be erected on the lot or lots subject to the site plan or sketch plan.
 7. *Fencing.* The location, type and color of all fencing, including safety fencing.
- d. *Authority to impose conditions to assure development is consistent with the applicable design guidelines.* The architectural review board is authorized to impose reasonable conditions in conjunction with any approved certificate of appropriateness to assure that the development is consistent with the applicable design guidelines. The architectural review board also is authorized to approve plans showing, or identifying in a certificate of appropriateness, existing trees, wooded areas and natural areas to be preserved, the limits of grading or other land disturbing activity including trenching and tunneling, in order to, among other things, protect existing features, and grade changes requiring tree wells or tree walls.
 - e. *Authority of zoning administrator to determine compliance with certificate of appropriateness.* The zoning administrator is authorized to determine whether a development, including a sign, satisfies the terms and conditions of the certificate of appropriateness.
 - f. *Effect of certificate of appropriateness.* Each structure or associated improvement for which a certificate of appropriateness was issued shall be established and maintained in accordance with the terms, conditions and requirements of the certificate. Each site plan and building permit shall demonstrate that the structures and associated site improvements will satisfy the terms, conditions and requirements of the certificate.

(12-10-80, § 30.6.3.2; 7-8-92; Ord. 01-18(3), 5-9-01)

Sec. 30.6.5 Development exempt from requirement to obtain certificate of appropriateness

The following development is exempt from the requirements of section 30.6:

- a. Primary and accessory dwelling units if no site plan is required by this chapter.
- b. Structures for agricultural or forestal uses if no site plan is required by this chapter.
- c. Temporary construction headquarters (section 5.1.18(a)), temporary construction yards (section 5.1.18(b)), and temporary mobile homes (section 5.7).
- d. Agricultural product signs, temporary signs and sandwich board signs.

- e. The repair and maintenance of structures and site improvements where there is no substantial change in design or materials.
- f. The repair and maintenance of nonconforming structures or site improvements as authorized by section 6.3(B).
- g. Additions or modifications to structures or site improvements where there is no substantial change in design or materials.
- h. Additions or modifications to structures to the extent necessary to comply with the minimum requirements of the Americans with Disabilities Act, the Fair Housing Act, or any other similar federal or state law providing for the reasonable accommodation of persons with disabilities.
- i. Additions or modifications to nonconforming structures as authorized by sections 6.3(A)(3) and 6.3(A)(5).
- j. Interior alterations to structures where there is no change in the exterior appearance of the structures.
- k. Issuance of permits classified in sections 5-202, 5-203, 5-204 and 5-208(A) if a building permit has also been issued and the work authorized by the permit classified in those sections does not change the external appearance of the structure.

Sec. 30.6.6 Submittal, review and action on application; preliminary review

Applications for preliminary review under section 30.6 shall be subject to the following:

- a. *Applications.* An application for preliminary review shall contain a completed county-provided application form and supplemental information required by the director of planning (the “application”). The application may be filed with the department of community development by the owner, the owner’s agent, or a contract purchaser with the owner’s written consent (the “applicant”). Eight (8) collated copies of the application and all other information required by the application form for a preliminary review shall be filed. The application shall be accompanied by the fee required by section 35 at the time of its filing.
- b. *Determination of complete application; rejection of incomplete application.* An application that provides the information required by section 30.6.6(a) shall be accepted for review and decision. The agent shall make a determination as to whether an application is complete within ten (10) days after the submittal deadline.
 - 1. *Complete application; date deemed to be officially submitted.* The date of the next application deadline following the submittal of a complete application shall be deemed to be the date upon which the application was officially submitted.
 - 2. *Incomplete application; notice to applicant.* An application omitting information required by section 30.6.6(a) shall be deemed to be incomplete and shall not be accepted. The agent shall inform the applicant in writing of the reasons why the application was rejected as being incomplete. If the agent does not deliver the notice within the ten (10) day period, the application shall be accepted for review, provided that the agent may require the applicant to later provide omitted information within a period specified by the agent of not less than ten (10) days, and further provided that if the applicant fails to timely provide the omitted information the agent may deem the application to be incomplete and reject the application as provided herein.
- c. *Resubmittal of application originally determined to be incomplete.* Within fifteen (15) days after the date the notice of rejection was mailed or delivered by the agent as provided in section 30.6.6(b), the applicant may resubmit the application with all of the information required by section 30.6.6(a) together with payment of the fee for the reinstatement of review. The date of the next application

deadline following the resubmittal of the application shall be deemed to be the date upon which the application was officially submitted. If the applicant fails to resubmit the application within the fifteen (15) day period, the application shall be deemed to be denied and a new application and fee shall be required to submit the new application.

- d. *Resubmittal of revised application originally determined to be complete.* During the review process of a complete application, the director of planning (for county-wide certificates of appropriateness) or the architectural review board may request further revisions to the application in order to find that the application is consistent with the applicable design guidelines, or the applicant may revise the application on its own initiative in the absence of such a request, subject to the following:
1. *Request for revision.* The director of planning or the architectural review board shall inform the applicant in writing of the requested revisions to the application. The letter shall inform the applicant that if it chooses to make some or all of the requested revisions, it shall notify the director of planning within fifteen (15) days of the date of the writing. The letter shall also inform the applicant that it may choose to proceed to action on the application without further revisions, and request that the applicant notify the director of planning within fifteen (15) days of the date of the letter if it desires to do so. The failure of the applicant to respond to the letter shall be presumed to be a request by the applicant to proceed to action on the application without further revisions, provided that an untimely notification by the applicant that it desires to make some or all of the requested revisions shall not preclude the applicant from doing so.
 2. *Revision on applicant's initiative.* The applicant may revise the application at any time, provided that the applicant should inform the director of planning of it doing so when that decision is made.
 3. *Suspension of decision date.* The receipt by the director of planning of a writing from the applicant stating that it will revise its application shall suspend the sixty (60) day period in which a decision must be made on the application under subsection 30.6.6(f).
 4. *Date revised application deemed to be officially resubmitted.* The date of the next application deadline following the resubmittal of a revised and complete application shall be deemed to be the date upon which the application was officially resubmitted and the sixty (60) day period in which a decision must be made on the application shall recommence.
- e. *Notice of submitted application.* The director of planning shall send a notice to each member of the board of supervisors, the commission and the architectural review board that an application has been officially submitted. The notice shall be sent within five (5) days after the application is determined to be complete. The notice shall provide the location of the development by street address and magisterial district, identify the proposed use(s), state that the application may be reviewed in the offices of the department of community development, and provide the date of the architectural review board meeting at which the application will be considered.
- f. *Time for decision.* An application shall be acted on within sixty (60) days after the date the original application was officially submitted or by a later date requested by or agreed to by the applicant (collectively, the "decision date").
- g. *Recommendations and decisions.* The architectural review board shall review the application for consistency with the applicable design guidelines as follows:
1. *Recommendation and decision on preliminary review.* In making its recommendations on applications for preliminary review, the board shall consider the recommendations of the agent, the statements and information provided by the applicant, and any other information pertaining to the compliance of the application with the requirements of section 30.6. In making a decision on the application for preliminary review, the board also may make any recommendations it deems appropriate. The board shall send notice to the applicant of its decision on the preliminary review.

2. *Decision as action on final review.* The board, in its discretion, may determine that additional review of the application is not necessary and make a decision on the application under section 30.6.7(g).
- h. *Modes of sending notices, letters and other writings.* Notices, letters and other writings required by subsections 30.6.6(b), (d), (e) and (g) shall be mailed to the identified recipients by first class mail, be personally delivered to the applicant, or be sent by email.
- i. *Application defined.* For the purposes of sections 30.6.6 and 30.6.7, the term “application” means an application for a certificate of appropriateness and a review to determine whether submitted drawings satisfy the conditions of a certificate of appropriateness, and any other request by an applicant for review.

Sec. 30.6.7 Submittal, review and action on application; final review

Applications for final review under section 30.6 shall be subject to the following:

- a. *Applications.* An application for final review shall contain a completed county-provided application form and supplemental information required by the director of planning (the “application”). The application may be filed by the owner, the owner’s agent, or a contract purchaser with the owner’s written consent (the “applicant”), with the department of community development. Eight (8) collated copies of the application and all other information required by the application form for a final review shall be filed. The application shall be accompanied by the fee required by section 35 at the time of its filing.
- b. *Determination of complete application; rejection of incomplete application.* An application that provides the information required by section 30.6.7(a) shall be accepted for review and decision. The agent shall make a determination as to whether an application is complete within ten (10) days after the submittal deadline.
 1. *Complete application; date deemed to be officially submitted.* The date of the next application deadline following the submittal of a complete application shall be deemed to be the date upon which the application was officially submitted.
 2. *Incomplete application; notice to applicant.* An application omitting information required by section 30.6.7(a) shall be deemed to be incomplete and shall not be accepted. The agent shall inform the applicant in writing of the reasons why the application was rejected as being incomplete. If the agent does not deliver the notice within the ten (10) day period, the application shall be accepted for review, provided that the agent may require the applicant to later provide omitted information within a period specified by the agent of not less than ten (10) days, and further provided that if the applicant fails to timely provide the omitted information the agent may deem the application to be incomplete and reject the application as provided herein.
- c. *Resubmittal of application originally determined to be incomplete.* Within fifteen (15) days after the date the notice of rejection was mailed or delivered by the agent as provided in section 30.6.7(b), the applicant may resubmit the application with all of the information required by section 30.6.7(a) together with payment of the fee for the reinstatement of review. The date of the next application deadline following the resubmittal of the application shall be deemed to be the date upon which the application was officially submitted. If the applicant fails to resubmit the application within the fifteen (15) day period, the application shall be deemed to be denied and a new application and fee shall be required to submit the new application.
- d. *Resubmittal of revised application originally determined to be complete.* During the review process of a complete application, the director of planning (for county-wide certificates of appropriateness) or the architectural review board may request further revisions to the application in order to find that the application is consistent with the applicable design guidelines, or the applicant may revise the application on its own initiative in the absence of such a request, subject to the following:

1. *Request for revision.* The director of planning or the architectural review board shall inform the applicant in writing of the requested revisions to the application. The letter shall inform the applicant that if it chooses to make some or all of the requested revisions, it shall notify the director of planning within fifteen (15) days of the date of the writing. The letter shall also inform the applicant that it may choose to proceed to action on the application without further revisions, and request that the applicant notify the director of planning within fifteen (15) days of the date of the letter if it desires to do so. The failure of the applicant to respond to the letter shall be presumed to be a request by the applicant to proceed to action on the application without further revisions, provided that an untimely notification by the applicant that it desires to make some or all of the requested revisions shall not preclude the applicant from doing so.
 2. *Revision on applicant's initiative.* The applicant may revise the application at any time, provided that the applicant should inform the director of planning of it doing so when that decision is made.
 3. *Suspension of decision date.* The receipt by the director of planning of a writing from the applicant stating that it will revise its application shall suspend the sixty (60) day period in which a decision must be made on the application under subsection 30.6.7(f).
 4. *Date revised application deemed to be officially resubmitted.* The date of the next application deadline following the resubmittal of a revised and complete application shall be deemed to be the date upon which the application was officially resubmitted and the sixty (60) day period in which a decision must be made on the application shall recommence.
- e. *Notice of submitted application.* The director of planning shall send a notice to each member of the board of supervisors, the commission and the architectural review board that an application has been officially submitted. The notice shall be sent within five (5) days after the application is determined to be complete. The notice shall provide the location of the development by street address and magisterial district, identify the proposed use(s), state that the application may be reviewed in the offices of the department of community development, and provide the date of the architectural review board meeting at which the application will be considered.
- f. *Time for decision.* An application shall be acted on within sixty (60) days after the date the original application was officially submitted or by a later date requested by or agreed to by the applicant (collectively, the "decision date").
1. *When application may be deemed approved.* If the decision date has passed without the application being acted upon, the applicant may make a written demand for action that is delivered to the director of planning. If the board fails to act on the application within twenty-one (21) days after the receipt of the written demand, the application shall be deemed to be approved.
 2. *Notice if application deemed approved.* If an application is deemed approved, the agent shall send notice that the application was deemed approved to the applicant, the zoning administrator and the county executive. The notice shall be sent within five (5) days after the expiration of the twenty-one (21) day period in which the architectural review board had to act.
 3. *Consent to extend time for decision.* The applicant may consent to extend the time for a decision.
- g. *Decisions.* The architectural review board shall review the application for consistency with the applicable design guidelines, exercising the authority granted by section 30.6. In making a decision on an application for a certificate of appropriateness and other applications for review, the board shall consider the recommendations of the agent, the statements and information provided by the applicant, and any other information pertaining to the compliance of the application with the requirements of section 30.6.

1. *Issue or deny.* In making a decision on an application for a certificate of appropriateness, the board may issue the certificate of appropriateness and impose conditions and grant modifications if it finds that the application is consistent with the applicable design guidelines, or would be consistent with the applicable design guidelines subject to conditions of approval or specified modifications. The board shall send notice to the applicant of its decision on the final review.
 2. *Recommendations.* In lieu of issuing or denying a certificate of appropriateness, the board may make any recommendations it deems appropriate to the applicant to revise the application so that it is consistent with the applicable design guidelines before the board acts to issue or deny the application. If the time for a decision under section 30.6.7(f) would expire before the application could be thereafter considered by the board, the board must obtain the applicant's consent to extend the time for decision.
- h. *Period of validity of certificate of appropriateness.* A certificate of appropriateness shall be valid for the same period that the site plan is valid or, if no site plan is required for the structure or site improvements, for three (3) years. The architectural review board may extend the period of validity of a certificate of appropriateness upon the written request of the applicant. The written request must be received by the director of planning before the certificate's period of validity expires and, upon receipt, the running of the period of validity shall be suspended until the architectural review board acts on the request. The board may grant an extension determined to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances, regulations and design guidelines in effect at the time of the request for an extension and changes thereto since the certificate of appropriateness was originally issued.
 - i. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of denial.
 - j. *Modes of sending notices, letters and other writings.* Notices, letters and other writings required by subsections 30.6.7(b), (d), (e), (f) and (g) shall be mailed to the identified recipients by first class mail, be personally delivered to the applicant, or be sent by email.

Sec. 30.6.8 Appeals

A decision of the architectural review board on an application for a certificate of appropriateness and other applications for review, and an application deemed approved under section 30.6.7(f), may be appealed to the board of supervisors as follows:

- a. *Persons and entities having right to appeal.* An appeal may be filed by the applicant, any person aggrieved, the zoning administrator, or the county executive.
- b. *Written appeal required; timing for filing.* An appeal shall be in writing and be filed with the clerk of the board of supervisors within ten (10) days after the date of the architectural review board's decision under section 30.6.7(g), or within ten (10) days after the date of the required notice if the application is deemed approved under section 30.6.7(f). The appeal shall state the grounds for the appeal.
- c. *Consideration of appeal by board of supervisors.* The board of supervisors may affirm, reverse, or modify in whole or in part the issuing, the issuing with conditions or modifications, or the denial of the certificate of appropriateness. In so doing, the board shall give due consideration to the recommendations of the architectural review board together with any other information it deems necessary for a proper review of the appeal. When considering an appeal pertaining to a public safety facility, the board may issue a certificate of appropriateness if it finds that the facility is a public necessity.
- d. *Appeal of board of supervisors' decision.* The applicant or any person aggrieved may appeal the final decision of the board of supervisors to the circuit court by filing a petition setting forth the alleged illegality of the action of the board of supervisors. The petition shall be filed within thirty (30) days after the date of the final decision.

Sec. 30.6.9 Public health or safety considered

Where the public health or safety and any requirement of this section 30.6 or any term or condition of a certificate of appropriateness conflict, the public health or safety shall prevail. In addition:

- a. Nothing in section 30.6 shall be deemed to compromise, limit, or otherwise impair the agent or the commission in their review of a preliminary or final site plan under section 32. In their review of any preliminary or final site plan, the agent or the commission may modify, vary or waive any term or condition of a certificate of appropriateness upon finding that such action would better serve the public health or safety; provided that the agent may modify, vary or waive any such a term or condition only after consulting with the building official, the county engineer, a representative of the department of fire rescue or other public official who advises the agent that the public health or safety would be at risk if the condition is not modified, varied or waived.
- b. Nothing in section 30.6 shall be deemed to impair the authority of the zoning administrator under section 31.4(d).