

**ACTIONS**  
**Board of Supervisors Meeting of January 12, 2011**

January 21, 2011

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 6:04 p.m. by the Chair, Ms. Mallek. All Board Members were present. Also present were Tom Foley, Larry Davis, and Meagan Hoy.</li> </ul>	
<p>Resolution regarding On-Site Sewage Disposal Systems.</p> <ul style="list-style-type: none"> <li>Board Members to discuss at the end of the meeting.</li> </ul>	
<p>VACo request Re: Citizens' Appeal of Local Tax Assessments.</p> <ul style="list-style-type: none"> <li>Board Members to discuss at the end of the meeting.</li> </ul>	
<p>Reorder of Agenda items 7 and 8.</p> <ul style="list-style-type: none"> <li>Consensus of the Board to change the order of these agenda items.</li> </ul>	
<p>4. From the Board: Matters not Listed on the Agenda.  <u>Dennis Rooker</u>:</p> <ul style="list-style-type: none"> <li>Handed out information on upcoming free training sessions being offered by the TJPDC.</li> </ul> <p><u>Rodney Thomas</u>:</p> <ul style="list-style-type: none"> <li>The Fire/rescue Ordinance meeting was canceled last night, and has been moved to Tuesday, January 18<sup>th</sup> at 6:00 p.m.</li> </ul> <p><u>Ken Boyd</u>:</p> <ul style="list-style-type: none"> <li>Asked about the date/time for the joint water meeting with the City. Mr. Foley said that the County is waiting for confirmation from the City.</li> </ul> <p><u>Duane Snow</u>:</p> <ul style="list-style-type: none"> <li>County met with the City for the final meeting on Social Services consolidation. The final finding is that there would be no reduction of expenses.</li> </ul> <p><u>Ann Mallek</u>:</p> <ul style="list-style-type: none"> <li>Updated the Board on the joint City/County Fire/Rescue group that she and Mr. Thomas are on.</li> <li>Shared information on the prescription drug plan with the Board.</li> <li>On Wednesday January 26, 2011, from 6-8 p.m., there will be an event here at the County Office Building, in the lobby and the Auditorium, titled Carbon Our Energy Future &amp; You.</li> </ul>	
<p>5. From the Public: Matters not Listed for Public hearing on the Agenda.</p> <ul style="list-style-type: none"> <li><u>Todd Nehimer</u>, member of the Rivanna Trails Foundation Board of Directors, asked the Board to allocate funding for a survey and dedication of a greenway trail corridor near the Eagles Landing development in the amount of \$1,500.00.</li> <li><u>Daniel Bowman</u>, Advocates for a Sustainable Albemarle Population, encouraged Board</li> </ul>	<p><u>County Executive/Amelia McCulley</u>: Schedule discussion on a future agenda.</p>

	members to read the reports on growth.	
6.1.	Request from applicant to withdraw ZMA 2006-0008 – Berkmar Business Park. <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, the applicants request to withdraw.</li> </ul>	
6.2	Housing Funds - Contingent Approval of Donations to Nonprofit Agencies. <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the proposed donations to three nonprofit agencies (Habitat for Humanity, Piedmont Housing Alliance/Jordan Development Corp., and Albemarle Housing Improvement Program) contingent upon appropriation of funds for this purpose and execution of agreements between the Office of Housing and the agencies. <b>DIRECTED</b> staff to bring the proposed appropriations to the Board at a future meeting.</li> </ul>	<u>Ron White/OMB</u> : Bring the proposed appropriations to the Board at a future meeting.
6.3	FY 2011 Budget Amendment and Appropriation. <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the budget amendment in the amount of \$11,276.00 and <b>APPROVED</b> Appropriation #2011062.</li> </ul>	<u>Clerk</u> : Forward copy of signed appropriation forms to Finance, OMB and appropriate individuals.
8.	<b><u>ZTA-2009-00012. Home Occupations.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, by a vote of 6:0, the attached ordinance as modified at the Board meeting.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to Community Development, Zoning, and County Attorney's office. (Attachment 1)
7.	<b><u>PROJECT: SP-2010-00029. Hungarian Bakery (Sign #65).</u></b> <ul style="list-style-type: none"> <li>• With approval of ZTA-2009-00012 above, this public hearing was canceled.</li> </ul>	
9.	<b><u>ZTA-2010-00007. Body Shops.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, by a vote of 6:0, the attached ordinance.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to Community Development, Zoning, and County Attorney's office. (Attachment 2)
10.	<b><u>ZMA-2010-00014. Hollymead Town Center (A-1) (Signs #33,36&amp;37).</u></b> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> ZMA-2010-00014, by a vote of 6:0, the proffers as signed and dated January 12, 2011 incorporating the changes made at the meeting.</li> </ul>	(Attachment 3)
11.	From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Ann Mallek</u> : <ul style="list-style-type: none"> <li>• Asked the Board if they were in support of the resolution regarding On-Site Sewage Disposal Systems. Board <b>ADOPTED</b>, by a vote of 6:0, the attached resolution.</li> </ul> <u>Tom Foley</u> : <ul style="list-style-type: none"> <li>• Updated the Board on a request from VACo for a special assessment of at least \$3,000 to help protect the current standard of proof in real estate and property assessment. Board <b>APPROVED</b>, by a vote of 6:0, the allocation of funds, and <b>DIRECTED</b> staff to bring back an appropriation.</li> </ul>	<u>Clerk</u> : Forward copy of adopted resolution to Committee on Education and Health and area Legislators. (Attachment 4)  <u>OMB</u> : Bring back appropriation on February 2, 2011.
12.	Adjourn. <ul style="list-style-type: none"> <li>• At 8:17 p.m., the meeting was adjourned to Tuesday January 18, 2011 at 2:00 p.m., Room 241.</li> </ul>	

/mrh

Attachment 1 – Home Occupations Ordinance.

Attachment 2 – Body Shops Ordinance.

Attachment 3 – ZMA-2010-00014. Hollymead Town Center (A-1) Proffers.

Attachment 4 – Resolution - On-Site Sewage Disposal Systems.

**ORDINANCE NO. 11-18(1)**

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

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

**By Amending:**

- Sec. 3.1 Definitions
- Sec. 4.15.2 Definitions
- Sec. 4.15.6 Signs exempt from the sign permit requirement
- Sec. 5.1 Supplementary regulations
- Sec. 5.1.34 Accessory apartment
- Sec. 10.2.1 By right
- Sec. 10.2.2 By special use permit
- Sec. 31.5 Zoning clearance
- Sec. 35.1 Fees

**By Amending, Reorganizing, Renaming and Incorporating the Substance into Another Section (old section number first, followed by section number in which substance incorporated):**

- Sec. 5.2 Home occupations in zoning districts other than the rural areas zoning district
- Sec. 5.2.1 Sec. 5.2 Clearance of zoning administrator required
- Sec. 5.2.2 Sec. 5.2 Regulations governing home occupations
- Sec. 5.2.3 Sec. 5.2 Certain permits required

**By Repealing:**

- Sec. 5.2.4 Revocation

**By Adding:**

- Sec. 5.2.A Home occupations in the rural areas zoning district

**Chapter 18. Zoning**

**Article I. General Provisions**

**Sec. 3.1 Definitions**

*Home Occupation, Class A:* An occupation, not expressly prohibited by section 5.2, conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit; provided that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit to engage in the occupation. (Amended 8-5-09)

*Home Occupation, Class B:* An occupation, not expressly prohibited by section 5.2, conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit and up to two (2) additional persons not residing within the dwelling unit, with or without the use of accessory structures; provided that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit or to any accessory structure to engage in the occupation. (Amended 8-5-09)

*Home Occupation, Major:* An occupation, not expressly prohibited by section 5.2A, conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit and up to two (2) additional persons not residing within the dwelling unit, with or without the use of accessory structures; provided

that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit or to any accessory structure to engage in the occupation.

*Home Occupation, Minor:* An occupation, not expressly prohibited by section 5.2A, conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit; provided that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit to engage in the occupation.

...

*Nonconforming Use:* The term “nonconforming use” means a lawful principal use of the lot or a Class A, Class B, major or minor home occupation existing on the effective date of the zoning regulations applicable to the district in which the use is located, or a more restricted use, that does not comply with the applicable use regulations of that zoning district. A nonconforming use may have accessory uses, but an accessory use, other than a Class A, Class B, major or minor home occupation, shall not be eligible to be a nonconforming use. A use that is seasonal on the effective date of this chapter shall be eligible to be a nonconforming use. A use that is casual, intermittent, or temporary on the effective date of this chapter shall not be eligible to be a nonconforming use. (Amended 6-14-00)

...

## Article II. Basic Regulations

### Sec. 4.15.2 Definitions

The following definitions shall apply in the interpretation and implementation of this section 4.15:

...

- (25) *Home occupation sign.* The term “home occupation sign” means a sign on the premises of a dwelling unit that has an authorized Class B or major home occupation that does not exceed four (4) square feet in sign area and only states the name of the person occupying the dwelling and identifies the product or service offered by the home occupation.

...

### Sec. 4.15.6 Signs exempt from the sign permit requirement

The following signs are exempt from the sign permit requirement set forth in section 4.15.4 provided that they comply with the regulations set forth below and all other applicable regulations of this section 4.15:

...

- (7) *Home occupation sign.* A home occupation sign.

...

### Sec. 5.1 Supplementary regulations

The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Code, and all other applicable laws. Unless a waiver or modification is expressly prohibited, any requirement of section 5 may be modified or waived in an individual case, as provided herein:

- a. The commission may modify or waive any such requirement upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement; and upon making any finding expressly required for the modification or waiver of a specific requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4 or any district regulation. In granting a modification or waiver, the commission may impose conditions as it deems necessary to protect the public health, safety, or welfare.
- b. The board of supervisors shall consider a modification or waiver of any requirement of section 5 only as follows:

1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a).

(12-10-80; 9-9-92; Ord. 01-18(4), 5-9-01)

#### **Sec. 5.1.34 Accessory apartment**

Each accessory apartment shall be subject to the following:

- a. An accessory apartment shall be permitted only within the structure of the main dwelling to which it is accessory. Usage of freestanding garage or other accessory structure for an accessory apartment is expressly prohibited. Not more than one (1) accessory apartment shall be permitted within any single-family detached dwelling.
- b. The gross floor area devoted to an accessory apartment shall not exceed thirty-five (35) percent of the total gross floor area of the structure in which it is located.
- c. The gross floor area of an accessory apartment shall not be included in calculating the gross floor area of the main dwelling unit for uses such as home occupations as provided in sections 5.2 and 5.2A and other similar uses in this chapter whose area within a dwelling unit is regulated.
- d. An accessory apartment shall enjoy all accessory uses availed to the main dwelling, except that no accessory apartment shall be permitted as accessory to another accessory apartment.
- e. Any single family dwelling containing an accessory apartment shall be provided with a minimum of three (3) off-street parking spaces, arranged so that each parking space shall have reasonably uninhibited access to the street, subject to approval of the zoning administrator.
- f. A single-family dwelling which adds an accessory apartment shall be deemed to remain a single-family dwelling and shall be considered one (1) dwelling unit for purposes of area and bulk regulations of the district in which such dwelling is located.
- g. A guest or rental cottage shall not be deemed to be an accessory apartment, but shall be deemed to be a single-family detached dwelling, whether or not used as such, subject to area and bulk regulations of the district in which such cottage is located. No accessory apartment shall be permitted within any guest or rental cottage.
- h. The owner must reside in any dwelling to which the apartment unit is accessory or the apartment unit itself.
- i. The provisions of section 4.1.6 notwithstanding, for lots not served by a central sewer system, no accessory apartment shall be established without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement fields adequate to serve the main dwelling and accessory apartment.
- j. An accessory apartment shall be deemed to be a dwelling unit for the purposes of sections 14-234 and 14-410 of the Code. (Added 8-10-94)

#### **Sec. 5.2 Home occupations in zoning districts other than the rural area zoning district**

Each home occupation authorized in a zoning district other than the rural areas zoning district shall be subject to the following:

- a. *Purpose and intent.* The purpose for authorizing home occupations in zoning districts other than the rural areas zoning district is to encourage limited home-based economic development, balanced with the need to protect and preserve the quality and character of the county's residential neighborhoods. The regulations in this section are intended to ensure that authorized home occupations will be compatible with other permitted uses and the residential neighborhood by regulating the scale, hours, external activities, external appearance and other impacts that may arise from a home occupation.
- b. *Location and area occupied by a home occupation.* A home occupation shall be located and sized as follows:
  1. *Class A home occupations.* A Class A home occupation shall be conducted entirely within the dwelling unit, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.
  2. *Class B home occupations.* A Class B home occupation shall be conducted within the dwelling unit or an accessory structure, or both, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the cumulative gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.
- c. *Exterior appearance.* The exterior appearance of a parcel with a home occupation shall be subject to the following:
  1. *Class A home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a Class A home occupation.
  2. *Class B home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a Class B home occupation, except that one home occupation sign may be erected as authorized by section 4.15. Accessory structures shall be similar in façade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a residential area and shall be specifically compatible in design and scale with other residential development in the area in which it is located. Any accessory structure that does not conform to the applicable setback and yard requirements for primary structures shall not be used for a home occupation.
- d. *Sales.* No home occupation shall sell goods to a customer who comes to the site except for goods that are hand-crafted on-site and goods sold that are directly related to a beauty shop or a one-chair barber shop home occupation.
- e. *Traffic generated by a home occupation.* The traffic generated by a home occupation shall not exceed the volume that would normally be expected by a dwelling unit in a residential neighborhood.
- f. *Parking.* All vehicles used in a home occupation and all vehicles of employees, customers, clients or students shall be parked on-site.
- g. *Performance standards.* All home occupations shall comply with the performance standards in section 4.14.
- h. *Prohibited home occupations.* The following uses are prohibited as home occupations: (1) tourist lodging; (2) nursing homes; (3) nursery schools; (4) day care centers; and (5) private schools.
- i. *Zoning clearance required.* No home occupation shall commence without a zoning clearance issued under section 31.5, subject to the following:

1. *Class A home occupations.* Prior to the zoning administrator issuing a zoning clearance for a Class A home occupation, the applicant shall sign an affidavit affirming his understanding of the requirements of section 5.2.
2. *Class B home occupations.* Prior to the zoning administrator issuing a zoning clearance for a Class B home occupation: (a) there shall be a valid special use permit for the Class B home occupation; (b) the applicant shall provide the zoning administrator evidence that the Virginia Department of Transportation has approved the entrance to the site; and (c) the applicant shall sign an affidavit affirming his understanding of the requirements of section 5.2.

#### **Sec. 5.2A Home occupations in the rural areas zoning district**

Each home occupation authorized in the rural areas zoning district shall be subject to the following:

- a. *Purpose and intent.* The purpose for authorizing home occupations in the rural areas zoning district is to encourage limited home-based economic development, balanced with the need to protect and preserve the quality and character of the county's agricultural areas and residential neighborhoods in the rural areas zoning district. The regulations in this section are intended to ensure that authorized home occupations will be compatible with other permitted uses, the agricultural areas, and the residential neighborhoods by regulating the scale, hours, external activities, external appearance and other impacts that may arise from a home occupation.
- b. *Location and area occupied by a home occupation.* A home occupation shall be located and sized as follows:
  1. *Major home occupations.* A major home occupation shall be conducted within the dwelling unit or accessory structures, or both, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the cumulative area used for the home occupation, including the gross floor area within the dwelling unit or any accessory structure and the area used for outdoor storage as provided in section 5.2A(g), shall not exceed one thousand five hundred (1500) square feet. Plants that are planted in the ground that are to be used for a major home occupation do not count toward the one thousand five hundred (1500) square feet limitation.
  2. *Minor home occupations.* A minor home occupation shall be conducted entirely within the dwelling unit, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.
- c. *Exterior appearance.* The exterior appearance of a parcel with a home occupation shall be subject to the following:
  1. *Major home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a major home occupation, except that one home occupation sign may be erected as authorized by section 4.15. Accessory structures shall be similar in façade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a residential area and shall be specifically compatible in design and scale with other residential development in the area in which it is located. Any accessory structure that does not conform to the applicable setback and yard requirements for primary structures shall not be used for a home occupation.
  2. *Minor home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a minor home occupation.
- d. *Visitors and sales.* Visitors and sales related to a home occupation shall be subject to the following:
  1. *Major home occupations.* Customers, clients and students may visit a major home occupation. The sale of goods by the major home occupation to a customer who comes to the site is prohibited except for goods that are hand-crafted on-site and accessory goods that are directly



related to a major home occupation, including but not limited to tools for pottery making and frames for artwork.

2. *Minor home occupations.* No customers, clients or students may visit a minor home occupation for a purpose related to the home occupation. The sale of goods or the provision of services by the minor home occupation to a customer, client or student at the site is prohibited.
- e. *Traffic generated by a major home occupation.* The traffic generated by a major home occupation shall not exceed ten (10) vehicle round trips per day or more than thirty (30) vehicle round trips per week. For the purposes of this section, a "vehicle round trip" means one vehicle entering and exiting the site.
- f. *Parking.* All vehicles used in a home occupation and all vehicles of employees, customers, clients or students related to a major home occupation shall be parked on-site.
- g. *Outdoor storage.* The storage of goods, products, equipment other than vehicles used in a home occupation, or any materials associated with a home occupation, other than natural landscaping materials such as mulch and plants, outside of an enclosed structure is prohibited.
- h. *Days and hours of operation for major home occupations.* Major home occupations may operate up to six (6) days per week and the hours of operation shall be between 7:00 a.m. and 8:00 p.m. for those home occupations that have employees, customers, clients or students visiting the site.
- i. *Number of vehicles used in a home occupation.* The number of vehicles that may be used in a home occupation that are parked or stored on-site shall not exceed two (2) motor vehicles and two (2) trailers.
- j. *Number of home occupations.* More than one home occupation is permitted on a parcel, provided that the area occupied and the traffic generated by the home occupations shall be considered cumulatively and all requirements of this section shall apply.
- k. *Performance standards.* All home occupations shall comply with the performance standards in section 4.14.
- l. *Prohibited home occupations.* The following uses are prohibited as home occupations: (1) any use requiring a special use permit under section 10.2.2; (2) animal rescue centers; (3) automobile graveyards; (4) restaurants; (5) storage yards; (6) gun sales, unless the guns are made on-site by one or more family members residing within the dwelling unit; (7) on-site pet grooming; (8) body shops; (9) equipment, trailers, vehicles or machinery rentals; (10) shooting ranges; (11) commercial stables; (12) rummage or garage sales other than those determined by the zoning administrator to be occasional; (13) veterinary clinics or hospitals; (14) pyrotechnic (fireworks or bomb) device manufacturing or sales; and (15) any other use not expressly listed that is determined by the zoning administrator to be contrary to the purpose and intent of section 5.2A.
- m. *Waivers and modifications.* The waiver or modification of any requirement of section 5.2A is prohibited except as provided herein:
  1. *Area.* The area requirements in section 5.2A(b) may be waived or modified, provided that the waiver or modification shall not authorize the home occupation to occupy more than forty-nine (49) percent of the gross floor area of the dwelling. In granting a waiver or modification of the area requirement, the commission shall make the following findings in addition to those findings in section 5.1: (1) the nature of the home occupation requires storage or additional space within the dwelling unit to conduct the home occupation; (2) the primary use of the dwelling unit as a residence is maintained; and (3) the waiver or modification would not change the character of the neighboring agricultural area or the residential neighborhood.
  2. *Traffic.* The traffic limitation in section 5.2A(e) may be waived or modified. In granting a waiver or modification of the traffic limitation, the commission shall find, in addition to those findings in section 5.1, that the waiver or modification would not change the character of the neighboring agricultural area or the residential neighborhood.

- n. *Zoning clearance required; notice of request.* No home occupation shall commence without a zoning clearance issued under section 31.5. For each zoning clearance requested for a major home occupation, the zoning administrator shall provide written notice that an application for a zoning clearance has been submitted to the owner of each abutting parcel under different ownership than the parcel on which the proposed home occupation would be located. The notice shall identify the proposed home occupation, its size, its location, and whether any waiver or modification is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed at least five (5) days prior to the action on the zoning clearance as provided in section 32.4.2.5.

**Article III. District Regulations**

**Sec. 10.2.1 By right**

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

. . .

- 7. Accessory uses and buildings including major home occupations (reference 5.2A), minor home occupations (reference 5.2A), and storage buildings.

. . .

**Article IV. Procedure**

**Sec. 31.5 Zoning clearance**

The zoning administrator shall review requests for zoning clearances as follows:

- a. *When required.* A zoning clearance shall be required in the following circumstances:

- 1. *New use.* Prior to establishing a new non-residential, other than an agricultural, use.
- 2. *Change or intensification of existing use.* Prior to changing or intensifying an existing non-residential, other than an agricultural, use.
- 3. *Change of occupant.* Prior to a new occupant taking possession of an existing non-residential, other than an agricultural, use.
- 4. *Specific buildings, structures or uses.* Prior to establishing any building, structure or use for which a zoning clearance is required under section 5.

- b. *Approval.* If the proposed building, structure, improvements, and site, and the proposed use thereof, comply with this chapter, the zoning administrator shall issue the zoning clearance.

- c. *Circumstance when zoning clearance shall not be issued.* The zoning administrator shall not issue a zoning clearance if, after review of any site, the zoning administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan. (Added 9-9-92; Amended 10-3-01) (§ 31.2.3.3, 9-9-92; Ord. 01-18(6), 10-3-01)

- d. *Commercial and industrial uses defined.* For the purposes of this section 31.5, production agriculture is not a commercial or industrial use, and a class A, class B, minor or major home occupation is a commercial use. (Added 9-9-92; Amended 10-3-01)

- e. *Effect of renumbering and renaming.* Any other section of this chapter that refers to section 31.2.3.2 or to a zoning compliance clearance shall be deemed to be a reference to section 31.5 or a zoning clearance.

(§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01)

**Sec. 35.1 Fees**

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

...

- g. Matters considered by the zoning administrator or other officials:
  - 1. Official determinations regarding compliance: \$185.00
  - 2. All other official determinations, including development rights: \$100.00
  - 3. Zoning clearance for tourist lodging: \$100.00
  - 4. Zoning clearance for a home occupation, class A, a major home occupation, or a minor home occupation: \$25.00
  - 5. Zoning clearance for temporary fundraising activity: No fee
  - 6. All other zoning clearances: \$50.00
  - 7. Sign permits under section 4.15.4; no ARB review required: \$25.00
  - 8. Sign permits under section 4.15.4; ARB review required: \$120.00

...

The fee shall be in the form of cash or a check payable to the "County of Albemarle." An application presented without the required fee shall not be deemed to be submitted and shall not be processed.

(Amended 5- 5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; Ord. 10-18(7), adopted 8-5-10 to be effective 1-1-11)

**ORDINANCE NO. 10-18(2)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, 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 III, District Regulations, is hereby amended and reordained as follows:

**By Amending:**

Sec. 24.2.2 By special use permit

**Chapter 18. Zoning**

**Article III. District Regulations**

**Sec. 24.2.2 By special use permit**

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

...

17. Body shops.



**PROFFER FORM**

Date: January 12, 2011

ZMA #: ZMA 2010-00014 Hollymead Town Center Area A-1

Tax Map Parcel Numbers: 32-42A, 32-44 (portion), 32-45 (portion) and 46-5

59.162 Acres to be rezoned from PD-MC to PD-MC

Tax Map Parcel Numbers: 32-42A, 32-44 (portion), 32-45 (portion) and 46-5, comprising approximately 59.162 acres are subject to rezoning application ZMA 2010-00014 and to this Proffer Statement (the "Property"). The Property is described with more particularity on a plan entitled "ZMA Application Plan for PD-MC Portion of Hollymead Town Center Area A, Sheets A1, A2, A3, A4, A5, Exhibit A, and Exhibit B," approved September 12, 2007, hereinafter referred to as "the Project," prepared by Dominion Development Resources LLC, (the "Application Plan"). The Owner of the Property is Route 22, LLC, a Virginia limited liability company (the "Owner").

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property to Planned Development Mixed Commercial (PD-MC) as requested, the Owner shall develop the Property in accord with the following proffers pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the requested rezoning, and the Owner acknowledges that the conditions are reasonable. These proffers supersede those accepted in conjunction with ZMA 2005-015 provided that, if rezoning application ZMA 2010-00014 is denied, these proffers shall immediately be null and void and of no further force and effect, and the proffers accepted in conjunction with ZMA 2005-015 shall remain in full force and effect.

- I. **Road Improvements** - To the extent not currently completed, the Owner shall design, construct and dedicate to public use for acceptance by VDOT the roads listed in Proffer 1(B) as provided herein:
  - A. **Design and construct.** The roads shall be constructed in accordance with road plans submitted by the Owner and approved by the Virginia Department of Transportation ("VDOT"). All of the foregoing improvements shall be constructed to VDOT design standards pursuant to detailed plans agreed to between the Owner, the County and VDOT.
  - B. **The roads and the time of their completion.** The following roads shall be designed and constructed by the milestones provided herein:
    1. **Within two years from the date of approval of the first site plan or subdivision plat.** The road plans for the following roads will be submitted to VDOT and the County with the first site plan or subdivision plat, and the following roads shall be will be constructed and accepted by VDOT within two years from the date of approval of the first site plan or subdivision plat:
      - a. A continuous right turn lane on Route 29 southbound from the intersection of Town Center Drive to the southern boundary of Area A. This proffer, identified as Proffer 1A from ZMA 2005-00015, has been satisfied.
      - b. An entrance to Route 29 southbound (right in / right out only) in the area to the south

of building B, as shown on the Application Plan. This proffer, identified as Proffer 1C from ZMA 2005-00015, has been satisfied.

2. Within one year after the date of approval of ZMA 2005-00015. Within one (1) year after the date of approval of ZMA 2005-00015, the following roads shall be completed:
  - a. Meeting Street from the intersection of Town Center Drive to the northern boundary of Area A. Meeting Street will have two northbound and two southbound travel lanes, one northbound and one southbound bicycle lane. Initially, one lane in each direction may be utilized as on-street parking.
  - b. Town Center Drive (previously Access Road A) from the eastern edge of the NMD zoning boundary at the intersection of Meeting Street to its intersection with State Route 606, also known as Dickerson Road. This section of Town Center Drive shall be constructed to accommodate two travel lanes, with a cross section approved by the County and VDOT in a minimum 60-foot wide right-of-way.
3. Within one year after request by the County. Within one (1) year after request by the County, Meeting Street from the intersection of Town Center Drive to the southern boundary of the Property.

C. When construction deemed complete. For purposes of Proffer 1(B)(2) and (3), construction of each street shall be deemed complete when it is ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the state-maintained system, and the owner has obtained from the County Engineer a written determination that the street is safe and convenient for traffic.

2. Regional Transportation Study - The Owner shall contribute \$59,000.00 cash to the County or VDOT for the purposes of funding a regional transportation study for the Route 29 corridor. The \$59,000.00 cash contribution shall be made, prior to the first site plan approval for Area A-1. This proffer, identified as Proffer 2 from ZMA 2005-00015, has been satisfied.

3. Public Transit Stop Construction - The Owner shall construct one public transit stop within Hollymead Town Center Area A-1. The location of the public transit stop shall be identified on the approved Application Plan and retained in the County files. The location shall be approved by the Director of Planning, prior to approval of the first subdivision plat or site plan for Hollymead Town Center Area A-1. Construction of the public transit stop shall occur in conjunction with improvements for the first site plan or the public street plans which include the area for the transportation stop. The design of the public transit stop shall be subject to approval by VDOT and the County Engineer, and shall include no less than 200 square feet of paved surface and two benches.

4. Public Transit Operating Expenses - Within thirty days after demand by the County after public transportation service is provided to the Project, the Owner shall contribute ~~\$25,000~~ <sup>\$50,000</sup> cash to the County to be used for operating expenses relating to such service, and shall contribute ~~\$25,000~~ <sup>\$50,000</sup> cash to the County each year thereafter for a period of nine (9) additional years, such that the cash contributed to the County pursuant to this Proffer 4, shall total ~~Two Hundred Fifty Thousand Dollars (\$250,000)~~ <sup>FIVE</sup>. The cash contribution in years two through ten shall be paid by the anniversary date of the first contribution. ~~If public transit service is not provided to the Project by July 1, 2018, this proffer shall be null and void.~~ <sup>\$500,000</sup>

mm  
1-19-17

5. **Intersection Analysis** - The Owner shall submit an analysis of the Conner Drive and Town Center Drive intersection with the first site plan for the Project. The analysis shall be prepared by a qualified traffic engineer for the purpose of determining when the intersection would need to be signalized. The analysis should take a five (5) year projection to determine, based on the submitted site plan, when the intersection would require a signal. The analysis shall be submitted for review and approval by the County Engineer. If that analysis concludes the need for the intersection to be signalized within the five (5) year projection period, the Owner shall pay for the cost of the signal and synchronization when VDOT determines the signal is needed. This proffer, identified as Proffer 5 from ZMA 2005-00015, has been satisfied.
6. **Community Development Authority** - Upon the request of the County, the Owner shall petition for and consent to a Community Development Authority ("CDA") established pursuant to Section 15.2-5152, *et seq.* of the Code of Virginia ("Code") to be created for the purpose of financing, funding, planning, establishing, constructing, reconstructing, enlarging, extending, or maintaining (except to the extent VDOT maintains any public improvements) Route 29, and roads and other improvements associated therewith.
7. **Critical Slopes, Erosion and Sediment Control and Stormwater Management**
  - A. **Critical Slopes.** The Owner shall apply for critical slope waivers for any roads located in critical slopes governed by § 18-4.2 *et seq.* of the Albemarle County Code.
  - B. **Erosion and Sediment Control.** The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate.)
  - C. **Revegetation.** Within nine (9) months after the start of grading under any erosion and sediment control permit, permanent vegetation shall be installed on all the denuded areas, except for areas the Program Authority determines are otherwise permanently stabilized or are under construction with an approved building permit. A three (3) month extension for the installation of permanent vegetation may be granted by the Program Authority due to special circumstances including but not limited to weather conditions.
  - D. **Stormwater.** The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional stormwater management to achieve a removal rate 20% better than would otherwise be required by the Water Protection Ordinance (Albemarle County Code § 17-100 *et seq.*) up to a maximum of an eighty percent (80%) removal rate for each phase.
8. **Greenway Dedication** - The Owner shall dedicate in fee simple a minimum 4.5 acre "Greenway" to Albemarle County. The land to be dedicated as the Greenway is identified on the Application Plan as "Greenway Area dedication to Albemarle County," and shall include all flood plain area along Powell Creek. The Owner shall complete the improvements shown on the Application Plan and shall dedicate the Greenway to the County at the time of the first site plan or subdivision plat approval. The Owner shall be responsible for the cost of a survey and preparing the deed to convey the Greenway to the County.
9. **Greenway Connection** - Upon the request of the County, the Owner shall contribute \$50,000 cash to the County to provide pedestrian access to and costs for a signalized, at-grade pedestrian crossing across Route 29 to connect Hollymead Town Center with Hollymead Drive. The final location and construction elements for the trail shall be determined by the Director of Parks and Recreation in




consultation with the County Engineer. The location for the at-grade crossing and signal shall be determined by the County Engineer in consultation with the Director of Parks and Recreation and VDOT. This proffer, identified as Proffer 9 from ZMA 2005-00015, has been satisfied.

10. **LEED Standards for Core and Shell Development** - The Owner shall cause the commercial buildings in the Project to be designed and constructed to meet minimum standards for certification (twenty-three (23) credit points) under LEED Green Building Rating System for Core and Shell Development as set forth in the U.S. Green Building Rating System, Version 2.0, July 2006. Prior to the issuance of a building permit, the Owner shall submit a certification from a LEED certified architect to the Director of Community Development that the buildings meet LEED standards. Before the Owner requests that a certificate of occupancy for any building for which a licensed architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development a written statement from the architect that the building was built to the plans on which the certificate was based.
11. **Additional Public Space** - The Owner shall construct a plaza area, as identified as "Plaza Amenity" on the Application Plan, within the Project of no less than 5,000 square feet for the purpose of public gathering and passive outdoor recreation. The plaza shall contain areas of permanent outdoor seating, a water feature, and landscaping, the design and construction which shall be subject to final site plan review and subject to the satisfaction of the Director of Planning.

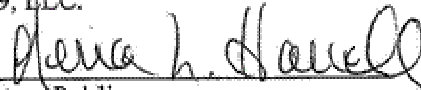
WITNESS the following signature:

ROUTE 29 LLC

By:   
Wendell W. Wood  
Operating Manager

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of January, 2010, by Wendell W. Wood, Operating Manager for Route 29, LLC.

My Commission expires: April 30, 2013   
Notary Public

Notary registration number: 112181

**RESOLUTION REGARDING ON-SITE SEWAGE DISPOSAL SYSTEMS**

**WHEREAS** the Albemarle County Board of Supervisors acknowledges that the Clean Water Act (CWA) is the cornerstone of surface water quality protection in the United States and that the CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States; and

**WHEREAS** the Albemarle County Board of Supervisors acknowledges that major portions of the Chesapeake Bay and its tidal tributaries within Virginia have been identified as not meeting water quality standards and that Virginia has submitted a Chesapeake Bay TMDL Phase 1 Watershed Implementation Plan to correct this; and

**WHEREAS** Albemarle County is beginning to see properties and neighborhoods with substantial reliance on On-Site Sewage Disposal Systems (OSDS) and drinking water wells; and

**WHEREAS** clean water is vital for long-term economic viability and health of the population in Albemarle County; and

**WHEREAS** the Commonwealth of Virginia has adopted laws and regulations that encourage the proliferation of engineered OSDS; and

**WHEREAS** the net effect of these laws and regulations has been to reduce local control over land use and water quality at the same time localities are being charged by the Commonwealth of Virginia with improving water quality in the Chesapeake Bay;

**NOW THEREFORE BE IT RESOLVED THAT** the Virginia Department of Health be required to develop effective monitoring, expedited enforcement, and effective repair protocols; and the General Assembly provide necessary funding to accomplish these actions before any additional engineered OSDS be approved.

**BE IT FURTHER RESOLVED THAT** the Albemarle County Board of Supervisors requests that the General Assembly reaffirm local zoning and land use authority to manage the location and timing of the installation of engineered Onsite Sewage Disposal Systems and that General Assembly specify in the Code of Virginia that the presence of each engineered OSDS must be recorded on the deed for the land where it has been installed so a prospective buyer is aware of specific maintenance requirements, the transfer of ownership is transparent, and the localities can track the installation of such devices in their areas of responsibility.