



**COUNTY OF ALBEMARLE**  
**Department of Community Development**  
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June 9, 2006

Stephen von Storch  
Stoneking/von Storch Architects  
P.O. Box 1332  
Charlottesville, VA 22902

RE: Official Determination of Process to Modify Height of Light Poles

Dear Mr. von Storch:

You have asked if the planning commission may modify the height limitations of the Rural Areas zoning district to allow light poles that exceed 35 feet. It is my determination that light poles are not exempt from height limitations, that luminaires are separate from the poles upon which they are mounted and that the planning commission may only modify the luminaire used for sports lighting. A modification of pole height requires a variance. I have consulted Wayne Cilimberg, Director of Planning, Greg Kamptner, Deputy County Attorney, Amelia McCulley, Zoning Administrator and Webster's New Collegiate Dictionary.

**1. Light poles are structures that are not exempt from height limitations.**

A lighting pole is a structure. A structure is subject to the area and bulk regulations of the zoning district in which it is located. Section 4.10.3.1 lists certain structures that are exempt from height limitations. Light poles are not on the list. Therefore, the modification of the height limit for structures set forth in the area and bulk regulations of a district requires a variance.

**3.1 DEFINITIONS**

*Structure:* Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, etc. For the purpose of the determination of setback, signs shall be excluded as a structure. (Amended 7-8-92)

**10.4 AREA AND BULK REGULATIONS**

Maximum structure height                      35 feet

#### **4.10.3.1 EXCEPTIONS--EXCLUDED FROM APPLICATION**

The structures identified below shall be subject to height limitations as follows:

a. The height limitations of this chapter shall not apply to barns, silos, farm buildings, agricultural museums designed to appear as traditional farm buildings, residential chimneys, spires, flag poles, monuments, transmission towers and cables, smokestacks, water tanks, or radio or television antennas or towers.

### **2. Luminaires are separate from the poles upon which they are mounted.**

Section 4.17.3 defines luminaire as, "a complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture."

Webster's New Collegiate Dictionary, copyright 1980, defines fixture as something that is fixed or attached (as to a building) as a permanent appendage or as a structural part (a fluorescent lighting fixture or a plumbing fixture).

The term "components designed to distribute the light" in the zoning definition does not serve to include the pole as part of the luminaire or fixture. Rather, the components designed to distribute the light refers to the lamp, lenses reflectors and the like.

The term "to position" in the zoning definition does not serve to include the pole as part of the luminaire or fixture. Rather, to position refers to the components that attach the luminaire to the pole and aim the light that emanates from it.

### **3. The planning commission may only modify the luminaire used for sports lighting.**

Section 4.17.4.a requires that each luminaire subject to these regulations shall be full cutoff.

Section 4.17.5.a.2 allows the planning commission to waive any standard of 4.17.4.a for athletic lighting based on accepted standards. This section only allows modification of full cut off aspect of the luminaire. This section makes no specific reference to poles or other elements of the lighting system. This section does make reference to "system of luminaires." We find that this term refers an array of luminaires used for the lighting of a field. We do not find that the system of luminaires includes the poles. The referenced ordinance sections are provided below.

#### **4.17.4 STANDARDS**

The following standards shall apply to each outdoor luminaire:

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a. Except as provided in section 4.17.6, each outdoor luminaire subject to these outdoor lighting regulations shall be a full cutoff luminaire. (Amended 10-17-01)

#### **4.17.5 MODIFICATION OR WAIVER**

Any standard of section 4.17.4.a may be modified or waived in an individual case, as provided herein: (Amended 10-17-01)

a. The commission may modify or waive any standard set forth in section 4.17.4.a in an individual case, and the commission may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations, in either of the following circumstances: (Amended 10-17-01)

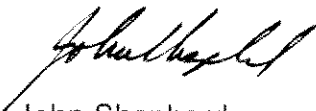
1. Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.

2. Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable. (Amended 10-17-01)

If you are aggrieved by this determination, you have a right to appeal it within thirty days of the date notice of this determination is given, in accordance with Section 15.2-2311 of the Code of Virginia. If you do not file a timely appeal, this determination shall be final and unappealable. An appeal shall be taken only by filing with the Zoning Administrator and the Board of Zoning Appeals a notice of appeal which specifies the grounds for the appeal. An appeal application must be completed and filed along with the fee of \$120. The date notice of this determination was given is the same as the date of this letter.

If you have any questions, please contact me.

Sincerely,



John Shepherd  
Manager of Zoning Administration

Copy: SP-2006-8 & Reading File- Light Poles