

ORDINANCE NO. 09-18()

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, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 8.2 Relation of planned development regulations to other zoning regulations
- Sec. 8.3 Planned development defined
- Sec. 8.5.1 Applications and documents to be submitted
- Sec. 8.5.2 Preapplication conferences
- Sec. 8.5.3 Review and recommendation by the planning commission
- Sec. 8.5.4 Review and action by the board of supervisors
- Sec. 8.5.5 Final site plans and subdivision plats
- Sec. 8.5.5.1 Contents of site plans and subdivision plats
- Sec. 8.5.5.2 Review of site plans and subdivision plats
- Sec. 8.5.5.3 Variations from approved plans, codes, and standards of development
- Sec. 8.5.5.4 Building permits and erosion and sediment control permits
- Sec. 8.5.5.5 Site plan and subdivision plat requirements for planned development zoning districts established without an application or application plan
- Sec. 8.6 Amendments to planned development districts
- Sec. 20A.3 Application requirements; required documents and information
- Sec. 20A.4 General development plans
- Sec. 20A.5 Codes of development
- Sec. 20A.6 Permitted uses
- Sec. 20A.7 Residential density
- Sec. 20A.9 Green spaces, amenities, conservation areas and preservation areas
- Sec. 20A.10 Streets

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions

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Application plan: The graphic depiction of a proposed development containing the information required by section 8.5.1(4)(e) and, within the neighborhood model district, section 20A.4. A plan designated and approved as a general development plan for a neighborhood model district between March 19, 2003 and [insert effective date] is an application plan for the purposes of this chapter. (Added 3-19-03)

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Block: An area shown on an application plan ~~or a general development plan~~ that is typically surrounded by streets and within which land use activities occur. Although blocks usually imply a grid street system, where steep topography exists blocks may exist in non-rectilinear shapes. (Added 3-19-03)

...
General development plan: An application plan for a proposed development within the neighborhood model district, containing the information required by sections 8.5.1(d) and 20A.4. (Added 3-19-03)

Article II. Basic Regulations

Sec. 8.2 ~~Relation of planned development regulations to other zoning regulations~~ Applicable regulations; waivers and modifications

Planned developments shall be subject to the following regulations in this chapter:

- a. Sections applicable. Unless expressly superseded by a regulation of the applicable planned development district, ~~the regulations in section 8 shall apply to the establishment and regulation of all planned development districts of this chapter, other than those pertaining to conventional development districts stated in sections 10 through 18, 20B, 22, 23, 24, 27 and 28, shall apply to each planned development district unless the subject matter is expressly addressed in the code of development under section 20A.5, or the regulation is waived or modified as provided in subsection (b).~~
- b. Waivers and modifications. An applicant may request that any requirement of sections 4, 5, 21, 26 and 32, or the applicable planned development district regulations be waived or modified if ~~it is found~~ the board of supervisors finds the regulation to be inconsistent with planned development design principles and that the waiver or modification is consistent with the intent and purposes of the planned development district under the particular circumstances.
 - 1. Submittal of request for waiver or modification. If the applicant requests such a waiver or modification as part of the application plan, the applicant shall submit its request in writing as part of the application plan, and shall demonstrate that the waiver or modification would not adversely affect the public health, safety or general welfare and, in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.
 - 2. Timing of request. Notwithstanding any regulation in sections 4, 5, 21, 26 or 32 establishing a procedure for considering a waiver or modification, any request for such a waiver or modification shall be reviewed and considered as part of the application plan. ~~Nothing in this section prohibits ; provided that~~ an owner within a planned development from requesting may request a waiver or modification of any requirement of sections 4, 5, 21, 26 or ~~and~~ 32 at any time, under the procedures and requirements established therefore.
 - 3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26 or ~~and~~ 32, such a waiver or modification may be granted only if it is also found to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8.
 - 4. Express waiver or modification. Each waiver and modification must be expressly granted and no waiver or modification shall be deemed to have been granted by implication.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

Sec. 8.3 Planned development defined

A planned development is a development that meets all of the following criteria at the time it is established or amended: (1) the ~~land~~ area proposed to be rezoned or the area within the planned development district is under

unified control and will be planned and developed as a whole; (2) the development ~~is in general accord~~ conforms with one or more approved application plans; and (3) in all planned development districts other than a planned historic district, the development will provide, operate and maintain common areas, facilities and improvements for some or all occupants of the development where these features are appropriate.

(12-10-80; Ord. 03-18(2), 3-19-03; Ord. 05-18(5), 6-8-05)

Sec. 8.5.1 Applications and documents to be submitted

Each application for a planned development district shall be submitted as provided for other zoning map amendments. The documents required by subsections (a) through (e) below shall be submitted with the application. After the application is submitted, the ~~director of planning and community development~~ director of planning may request additional plans, maps, studies and reports such as, but not limited to, traffic impact analyses, identification of specimen trees, and reports identifying potential non-tidal wetlands which are deemed reasonably necessary to analyze the application:

- a. A regional context map at a scale of not less one (1) inch equal to one thousand (1000) feet showing topography at a maximum of ten (10) foot intervals, surrounding properties, improvements to those properties, surrounding public streets, private roads, and other thoroughfares;
- b. An accurate boundary survey of the ~~tract or plan limit~~ area to be rezoned showing the location and type of boundary evidence and the source of the survey;
- c. A map at a scale of not less than one (1) inch equal to one hundred (100) feet, provided that another interval and/or scale may be required or permitted by the director of planning where the size of the area proposed to be rezoned or topographic considerations warrant, showing:
 1. The following existing physical conditions: streams, wooded areas, potential non-tidal wetlands, slopes in excess of twenty-five (25) percent, historic structures and sites included in the records of the Virginia Department of Historic Resources, cemeteries, floodplain, and any identified features in the open space element of the comprehensive plan;
 2. Existing topography accurately shown ~~with a maximum of five (5) foot contour intervals at a scale of not less than one (1) inch equal to one hundred (100) feet; other interval and/or scale may be required or permitted by the director of planning and community development where topographic considerations warrant~~ using the county's geographic information system or better topographical information, and the source of the topographical information;
 3. Existing roads, easements, and utilities;
 4. ~~The existing owners and zoning district~~ The name of the proposed development; the names of all owners; the name of the developer, if different from the owner; the name of the person who prepared the plan; all tax map and parcel numbers in fourteen (14) digit format; the zoning district and all overlay zoning districts; the magisterial district; the north point; the scale; one datum reference for elevation; if any part of the area proposed to be rezoned is within the flood hazard overlay district (section 30.3), United States Geological Survey vertical datum shall be shown and/or correlated to plan topography; sheet numbers on each sheet and the total number of sheets; the date of the drawing; and the date and description of the last revision;
 5. The present use of ~~adjoining tracts~~ adjacent parcels; ~~and~~ the location of structures on ~~adjoining~~ adjacent parcels, if any; and departing lot lines; and
 6. The existing location, type and size of ingress and egress to the site;

- d. A traffic impact statement meeting the requirements of state law including, but not limited to, 24 VAC 30-155-10 et seq.:
- e. An application plan based on a minimum of two (2) data references for elevations to be used on plans and profiles at a scale of not less than one (1) inch equal to one hundred (100) feet, provided that another interval and/or scale may be required or permitted by the director of planning where the size of the area proposed to be rezoned or topographic considerations warrant, showing:
1. The areas to be designated as preservation areas, if appropriate, and areas to be designated as conservation areas, such as streams, wooded areas, specimen trees, non-tidal wetlands, and other significant environmental features;
 2. The proposed Conceptual grading/topography with a maximum of five (5) foot contour intervals using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where existing slopes are twenty-five (25) percent or greater;
 3. The general location of proposed streets, alleys, sidewalks, and pedestrian paths;
 4. Typical street cross-sections to show proportions, scale, and streetscape;
 5. Connections to existing and proposed streets, as well as proposed thoroughfares shown on the comprehensive plan;
 6. ~~_____ Trip generation figures;~~
 76. The general lay-out for the water and sewer systems, conceptual stormwater management, and a conceptual mitigation plan;
 87. The location of central features or major elements within the development essential to the design of the development, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas;
 98. A summary of land uses including dwelling types and densities, and the gross floor areas for commercial and industrial uses;
 109. ~~The general~~ A conceptual lot lay-out layout; and
 1110. Standards ~~for~~ of development including proposed yards, building heights, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district.

(12-10-80; Ord. 03-18(2), 3-19-03)

Sec. 8.5.2 Preapplication conferences

Each applicant for a planned development shall attend a joint meeting with the ~~planning, engineering, and zoning~~ staff of the department of community development as well as other qualified officials from outside agencies such as the Virginia Department of Health, the Virginia Department of Transportation, and the Albemarle County Service Authority to review the application plan and the proposed development before the application is submitted. The purpose of the preapplication conference shall be to assist the applicant to assure that the application and the documents to be submitted with the application comply with all applicable regulations, and to identify as soon as possible conflicting regulations and necessary waivers or modifications.

Each applicant is encouraged to use the guidance provided in the preapplication conference process to develop an application for a planned development that, when submitted with its supporting documents, will be as complete and comprehensive as possible.

(§ 8.5.3, 12-10-80; Ord. 03-18(2), 3-19-03)

(Former § 8.5.2 Planning Commission Procedures Repealed 3-19-03)

Sec. 8.5.3 Review and recommendation by the planning commission

Each application ~~for~~ to establish or amend a planned development district shall be reviewed and acted on by the planning commission as follows:

- a. The commission shall consider and make its recommendation to the board of supervisors on each application for a planned development district as it does for other zoning map amendments. Within the time provided to make a recommendation, the commission may hold work sessions on the application and proceed to a public hearing after it determines that no further work sessions are necessary, or at any time the applicant requests a public hearing.
- b. ~~In making its recommendation on the application to the board of supervisors, the commission shall make findings about the following~~ In addition to any other factors relevant to the consideration of a zoning map amendment, the commission shall consider the following:
 - 1. Whether the proposed planned development or amendment thereto satisfies the purpose and intent of the planned development district.
 - ~~2.~~ 2. The suitability of the tract for the proposed planned development in terms of its relation to all applicable provisions of the comprehensive plan Whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; the physical characteristics of the land area proposed to be rezoned; and it's the relation of the area proposed to be rezoned to the surrounding area; and
 - ~~3.~~ 3. The relation of the proposed planned development to major roads, utilities, public facilities and services;
 - ~~4.~~ 4. Each requested waiver or modification, including whether the requirements of section 8.2 are satisfied.
- c. ~~Depending on the findings it makes, t~~The commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the board of supervisors, or disapproval. The commission shall also make recommendations on all requested waivers and modifications.

(§ 8.5.4, 12-10-80; Ord. 03-18(2), 3-19-03)

Sec. 8.5.4 Review and action by the board of supervisors; effect of approval

Each application to establish or amend a planned development district shall be reviewed and acted on by the board of supervisors, and approval of the application shall have effect, as follows:

- a. Review and action. The board of supervisors shall consider and act on each application for a planned development district as it does for other zoning map amendments. If the board approves the application,

the approving action shall constitute approval of the application plan, ~~and all standards for of~~ development submitted by the applicant, ~~and the code of development, as applicable.~~ The board's action shall also identify which proffers it has accepted and which waivers or modifications it has granted.

- b. ~~Effect of approval. Once an application is approved~~ Upon approval of an application, the application plan, all ~~submitted~~ standards ~~for of~~ development ~~submitted by the applicant, the code of development, as applicable, and~~ all accepted proffers, ~~and all approved waivers and modifications~~ shall be included as part of the zoning regulations applicable to the planned development.

(§ 8.5.5, 12-10-80; Ord. 03-18(2), 3-19-03)

Sec. 8.5.5 Final ~~s~~Site plans and subdivision plats

Sec. 8.5.5.1 Contents of site plans and subdivision plats

Each site plan and subdivision plat submitted for development in a planned development shall comply with the following:

- a. *Generally.* Each site plan for a planned development shall comply with section 32 of this chapter, subject to the waiver or modification of any such regulation pursuant to section ~~8.5.3(b)(3)~~ 8.2(b). Each subdivision plat for a planned development shall comply with ~~Chapter 14 of the Code of Albemarle,~~ subject to the waiver, variation or substitution of any such regulation pursuant to section 14-237.
- b. *Within the neighborhood model zoning district.* In addition to the requirements of ~~paragraph~~ subsection (a), each site plan or subdivision plat for a planned development within the neighborhood model zoning district shall pertain to a minimum area of one block and shall include a phasing plan, and each site plan shall include building elevations for all new or modified structures.

(§ 8.5.6.1, 12-10-80; 9-9-92; § 8.5.5.1, Ord. 03-18(2), 3-19-03)

Sec. 8.5.5.2 Review of site plans and subdivision plats

~~Each preliminary and final site plan or subdivision plat for a planned development shall be reviewed for compliance with the applicable regulations: (1) in effect at the time the lands were zoned to a planned development district; or, (2) at the option of the applicant, currently in effect. In addition, each preliminary and final site plan or subdivision plat for a planned development shall be reviewed for compliance with the following:~~

- a. ~~The approved application plan, the approved standards for development, the accepted proffers, and the authorized waivers or modifications and any conditions imposed therewith, if any;~~
- b. ~~The permitted uses within the planned development zoning district, including all proffers, as determined by the zoning administrator after consultation with the director of planning and community development; in making this determination, the zoning administrator shall be guided by section 22.2.1 of this chapter;~~
- c. ~~In addition to the foregoing, conformity with the application plan and the standards of development. Within each neighborhood model zoning district, the general development plan and the code of development, as determined by the director of planning and community development after consultation with the zoning administrator.~~

Each preliminary and final site plan and subdivision plat for a planned development shall be reviewed for compliance with the applicable regulations, as follows:

- a. Planned development districts established on or before December 10, 1980. Each preliminary and final site plan and subdivision plat within a planned development district established on or before December 10, 1980 shall be reviewed for compliance with the applicable regulations when the site plan or subdivision plat is under county review; provided that, at the option of the developer or subdivider, each preliminary and final site plan and subdivision plat may be reviewed for compliance with the applicable regulations in effect when the planned development was approved if the developer or subdivider establishes a vested right as provided in Virginia Code §§ 15.2-2297 or 15.2-2307 to develop under the previously approved planned development district.
- b. Planned development districts established after December 10, 1980. Each preliminary and final site plan and subdivision plat within a planned development district established after December 10, 1980 shall be reviewed for compliance with the applicable regulations in effect when the planned development district was established or, at the option of the developer or subdivider, in effect when the site plan or subdivision plat is under county review; subject to the following:
 1. Election to comply with regulations in effect when district established; exception for certain current subjects of regulation unless vested rights established. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, all of the following subjects of regulation in effect when the site plan or subdivision plat is under county review shall apply unless vested rights are established under Virginia Code §§ 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2307: (i) entrance corridor overlay district (section 30.6); (ii) flood hazard overlay district (section 30.3); (iii) landscaping and screening (section 32.7.9); (iv) outdoor lighting (section 4.17); (v) parking (section 4.12); and (vi) signs (section 4.15). If rights are determined to have vested, the regulations for these six subjects in effect when rights vested shall apply. For the purposes of this section 8.5.5.2(b), an application plan approved on and after March 19, 2003 that complies with the requirements of an application plan under section 8.5.1(e) or section 20A.4, or a prior version thereof in effect on and after March, 19, 2003, is a significant governmental act within the meaning of Virginia Code § 15.2-2307.
 2. Election to comply with regulations in effect when district established; election to comply with certain current subjects of regulation. If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, the developer or subdivider may also elect to comply with one or more of the subjects of regulation listed in subsection 8.5.5.2(b)(1) in effect when the site plan or subdivision plat is under county review instead of with the corresponding regulations in effect when the planned development district was established.
- c. Review for compliance and conformance. A site plan or subdivision plat shall be reviewed to determine whether it complies with the applicable regulations and other requirements of law, and whether it conforms to the application plan, as follows:
 1. Zoning administrator. The zoning administrator shall determine whether a site plan or subdivision plat complies with the applicable regulations. In addition, the zoning administrator, after consultation with the director of planning, shall determine whether the proposed permitted uses comply with the applicable regulations and, in doing so, may permit as a use by right a use that is not expressly classified in this chapter if the zoning administrator further determines that the use is similar in general character to the uses permitted by right in the district or by the code of development and is similar in terms of locational requirements, operational characteristics, visual impacts, and traffic, noise and odor generation.

2. Director of planning. The director of planning shall determine whether a site plan or subdivision plat conforms to the application plan. In determining conformity, the director shall decide whether the central features or major elements within the development are in the same location as shown on the application plan and if the buildings, parking, streets, blocks, paths and other design elements are of the same general character, scope and scale as shown on the application plan.
3. County engineer. The county engineer shall determine whether an erosion and sediment control plan, grading plan, stormwater management plan, road or street plan, and mitigation plan conform with the concept grading, stormwater management, streets, and mitigation shown on the application plan.

- d. Applicable regulations defined. For the purposes of this section 8.5.5.2, the term “applicable regulations” means, as appropriate and applicable, all zoning regulations, all subdivision regulations, the application plan (except for those elements authorized to be shown at a conceptual or general level), including those plans formerly referred to as general development plans, conditions of approval, accepted proffers, the code of development, special use permits, variances, and waivers, modifications and variations.
- e. Applicability of chapter 17. Each preliminary and final site plan and subdivision plat within a planned development district shall be reviewed for compliance with chapter 17 of the Albemarle County Code in effect when the site plan or subdivision plat is under county review, regardless of when the planned development was established or whether the developer or subdivider elects, or establishes vested rights, under sections 8.5.5.2(a) and (b) to proceed with review under the applicable regulations in effect when the planned development was approved.
- f. Vested rights not impaired. Nothing in this section shall be construed as authorizing the impairment of a vested right that may be established under Virginia Code §§ 15.2-2261(C), 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2307.

(§ 8.5.6.2, 12-10-80; 9-9-92; § 8.5.5.2, Ord. 03-18(2), 3-19-03)

Sec. 8.5.5.3 Variations from approved plans, codes, and standards of developments

The ~~director of planning and community development~~ director of planning may allow a site plan or subdivision plat for a planned development to vary from an approved application plan, standard of development and, also, in the case of a neighborhood model district, a ~~general development plan~~ or code of development, as provided herein:

- a. The director of planning is authorized to grant a variation from the following provisions of an approved plan, code or standard:
 1. Minor ~~variations~~ changes to yard requirements, build-to lines or ranges, maximum structure heights and minimum lot sizes;
 2. Changes to the arrangement of buildings and uses shown on the plan, provided that the major elements shown on the plan and their relationships remain the same;
 3. Changes to phasing plans;
 4. Minor changes to landscape or architectural standards; ~~and~~

5. Minor variations changes to street design and street location, subject to a recommendation for approval by the county engineer; and
6. Minor changes to the design and location of stormwater management facilities, land disturbance including disturbance within conservation areas, and mitigation, subject to a recommendation for approval by the county engineer.

- b. The applicant shall submit a written request for a variation to the director of planning; ~~¶~~The request shall specify the provision of the plan, code or standard for which the variation is sought, and state the reason for the requested variation; ~~¶~~The director may reject a request that fails to include the required information.
- c. The director of planning is authorized to grant a variation upon a determination that the variation: (1) is consistent with the goals and objectives of the comprehensive plan; (2) does not increase the approved development density or intensity of development; (3) does not adversely affect the timing and phasing of development of any other development in the zoning district; (4) does not require a special use permit; and (5) is in general accord with the purpose and intent of the approved application.
- d. The director of planning may require that the applicant provide an updated application plan and, in the case of changes to a code of development, a complete amended code of development, reflecting the approved variation and the date of the variation. If the director requires an updated application plan or code of development, the granting of the variation shall be conditional upon the applicant providing the plan or code within thirty (30) days after approval of the variation and a determination by the director that the plan or code were revised to correctly reflect the granted variation.
- e. Any variation not expressly provided for herein may be accomplished by ~~rezoning~~ zoning map amendment.

(§ 8.5.6.3, 12-10-80; 9-9-92; § 8.5.5.3, Ord. 03-18(2), 3-19-03)

Sec. 8.5.5.4 Building permits and ~~erosion and sediment control~~ grading permits

Building permits and ~~erosion and sediment control~~ grading permits may be issued as provided herein:

- a. A building permit, including any special footings or foundation permits, may be issued for any work within a planned development, excluding the installation of street signs, only after the approval of the final site plan or final subdivision plat in the area in which the permit would apply.
- b. ~~An erosion and sediment control~~ grading permit may be issued for site preparation grading associated with an approved planned development if ~~an~~ the erosion and sediment control plan measures, disturbed area and grading are in conformity with the concept grading and measures shown on the application plan as determined by the county engineer, after consultation with the director of planning, satisfactory to the director of engineering and public works has been submitted and reviewed in conjunction with the application plan, and the director of planning and community development determines the proposed grading is consistent with the approved application plan.
- c. ~~In cases where~~ If, after consultation with the director of planning, the county engineer finds that there is not enough detail on the approved application plan to assure consistency that the proposed grading and other measures are consistent with the application plan, no erosion and sediment control permit shall a grading permit shall not be issued until the final site plan is approved, or the final subdivision plat is tentatively approved.

ed. Within each neighborhood model district, the department of ~~planning and~~ community development shall review each building permit application or modification to determine whether the proposed structure conforms with the architectural and landscape standards in the approved code of development.

(§ 8.5.6.4, 12-10-80; 9-9-92; § 8.5.5.4, Ord. 03-18(2), 3-19-03)

Sec. 8.5.5.5 ~~Site plan and subdivision plat requirements for planned development zoning districts established without an application or application plan~~ Site plan and subdivision plat requirements when there is no application plan

Site plans and subdivision plats within a planned development district for which an application plan was not approved shall be subject to the following:

- a. ~~No valid site plan or subdivision plat at time district established.~~ If a planned development ~~zoning~~ district was established ~~without~~ before an ~~approved~~ application plan as was required by section 8 to be approved as part of the zoning map amendment and there was no valid site plan or subdivision plat pertaining to the entirety of the planned development district, then neither a site plan nor a subdivision plat shall be approved for any lands within the district unless and until an application plan and all other documents required by section 8.5 are submitted by the owner and are approved as provided therein.
- b. ~~Valid site plan or subdivision plat at time district established.~~ If such a district was ~~previously established in conjunction with an approved site plan~~ if a planned development district was established before an application plan was required by section 8 to be approved as part of the zoning map amendment but there was a valid site plan or subdivision plat pertaining to the entirety of the planned development district at the time the zoning map amendment was approved, the approved site plan or subdivision plat shall be deemed to be the application plan, and the district shall be deemed to have complied with the requirements of section 8. In such a case, if the site plan or subdivision plat has expired, a new site plan or subdivision plat must be approved prior to any development activity site plan or subdivision plat shall be reviewed as provided in section 8.5.5.2. (Amended 7-16-86)

(§ 8.5.6.5, 12-10-80; 9-9-92; § 8.5.5.5, Ord. 03-18(2), 3-19-03)

Sec. 8.6 Amendments to planned development districts

~~Each amendment to a planned development district shall be submitted and reviewed as provided in section 8. In addition, with each application to amend the area of the planned development district, or to amend the proffers, the application plan, the general development plan, or the code of development within an area that is less than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended proffers, application plan, general development plan, or code of development will apply.~~

A planned development district may be amended after it is established, either by the addition or removal of land, or by an amendment to the application plan, code of development, proffers or any waiver or modification, in accordance with the procedures and requirements of section 8 and those applicable to zoning map amendments generally, and subject to the following additional requirements:

- a. ~~Eligible applicant.~~ Any owner, contract purchaser with the owner's consent, or any authorized agent of the owner, of one or more parcels within a planned development district may apply to amend the existing planned development district as it pertains to the owner's parcel(s). The owner of each parcel to which the proposed amendment would result in or require a physical change to the parcel, a change in use, density or intensity on that parcel, a change to any proffer or regulation in a code of development that would apply to the parcel, a change to an owner's express obligation under a proffer or regulation in

a code of development even if the proffer or regulation is not expressly changed, or a change to the application plan that would apply to the parcel, shall be an applicant.

- b. Amendment affecting less area than the entire district; map. If the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any waiver or modification would apply.
- c. Individual notice. In addition to any notice required by Virginia Code § 15.2-2204 and sections 33.4 and 33.8 of this chapter, written notice of the proposed amendment shall be provided to the owner of each parcel within the planned development district. The substance of the notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.
- d. Factors to consider during review of proposed amendment. In addition to any other applicable factors to be considered in the review of a zoning map amendment, the following shall also be considered:
 - 1. Whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section 8.3.
 - 2. The extent to which the proposed amendment impacts the other parcels within the planned development district.

Article III. District Regulations

Sec. 20A.3 Application requirements; required documents and information

Except where the option is exercised as provided in subsection (b), below, ~~t~~The following documents and information shall be submitted in addition to any other documents required to be submitted under section 8.5 of this chapter:

- a. A statement describing how the proposed NMD satisfies the intent of the zoning ordinance and is consistent with the applicable goals and objectives of the comprehensive plan, the land use plan, the master plan for the applicable development area, and the Neighborhood Model; if one or more characteristics of the Neighborhood Model delineated in section 20A.1 are missing from an application, the applicant shall justify why all of the characteristics cannot or should not be provided;
- b. A parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8 of this chapter, and transportation demand management strategies as provided in section 4.12.12 of this chapter; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.
- c. Strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.
- d. ~~A general development~~ An application plan, as provided in section 20A.4, including all information required by sections 8 or 20A to support any element of the plan.

- e. A code of development, as provided in section 20A.5, including all information required by sections 8 or 20A to support any element of the code.

(Ord. 03-18(2), 3-19-03)

Sec. 20A.4 General development Application plans

~~A general development plan shall serve as the application plan required by section 8.5.1(d) of this chapter. In addition to the application plan requirements of section 8.5.1(~~de~~), the following are required elements of the general development plan~~ an application plan in the NMD:

- ~~a. The amount of gross square footage devoted to nonresidential uses and a residential equivalent, expressed as the product of the square feet per unit multiplied by the number of dwelling units proposed. If a residential equivalent is not provided by the applicant, it shall be the product of one thousand five hundred (1500) square feet multiplied by the number of dwelling units proposed.~~
- ~~b. The general allocation of uses to each block in terms of residential, commercial, industrial, institutional, amenities, parks, recreational facilities open to the public, and any other use category proposed by the applicant and which complies with the requirements of section 20A.8.~~
- ~~c. The location of proposed green spaces, amenities, conservation areas or preservation areas, as provided in section 20A.9.~~
- ~~d. Building footprints or graphic representations of central features or major elements that are essential to the design of the development, shown at the block level.~~
- a. The general location of proposed streets, alleys, sidewalks, and pedestrian paths;
- b. The location of proposed green spaces, amenities, conservation areas or preservation areas, as provided in section 20A.9;
- c. A conceptual lot lay-out;
- d. Conceptual grading/topography using the county geographic information system or better topographic information supplemented where necessary by spot elevations and areas of the site where existing slopes are twenty-five (25) percent or greater;
- e. Typical street cross-sections to show proportions, scale, and streetscape, which, alternatively, may be provided in the code of development;
- f. Any proposed connections to existing and proposed streets, as well as proposed thoroughfares shown on the comprehensive plan;
- g. The general lay-out for the water and sewer systems, conceptual stormwater management, and a conceptual mitigation plan; and
- h. The location of central features or major elements within the development essential to the design of the development, such as building envelopes, major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas.

(Ord. 03-18(2), 3-19-03)

Sec. 20A.5 Codes of development

A code of development shall establish the unifying design guidelines, the specific regulations for the district, and the use characteristics of each block; provide for certainty in the location of and appearance of central features, and the permitted uses in the district; and provide a flexible range of a mix of uses and densities. Any substantive or procedural requirement of this chapter shall apply to an NMD unless the subject matter is expressly addressed in the code of development. Each code of development shall be in a form required or otherwise approved by the director of planning. To satisfy these requirements, each code of development shall establish:

- a. The uses permitted in the district by right and by special use permit, as provided in section 20A.6.
- b. The amount of developed square footage proposed, delineated for the entire NMD and by block by use, and amenity, streets and lot coverage. The developed square footage may be expressed as a proposed range of square footage.
- c. The maximum ~~residential densities, as provided in section 20A.7, and the maximum number of residential units for individual residential land use categories and mixed use categories,~~ number of residential dwelling units, dwelling units by type, and delineating at least two (2) housing types, as provided in section 20A.8.
- d. The amount of land area and percentage of gross acreage devoted to green space and amenities, as provided in section 20A.9.
- e. All requirements and restrictions associated with each use delineated in paragraph (a).
- f. All uses expressly prohibited in the district, so that they may not be considered to be uses accessory to a permitted use.
- g. Architectural ~~and landscape~~ standards that will apply in the NMD, which shall address the following:
 1. The form, massing, and proportions of structures which may be provided through illustrations;
 - ~~2. Architectural styles;~~
 - ~~3. Materials, colors, and textures;~~
 - ~~4. Roof form and pitch;~~
 - ~~5. Architectural ornamentation;~~
 - ~~6. Façade treatments, including window and door openings;~~
 - ~~7. Landscape treatments; and~~
 - ~~8. The preservation of historic structures, sites, cemeteries, and archeological sites identified by the Virginia Department of Historic Resources; and~~
 4. Architectural styles, materials, colors and textures if these elements are determined to be necessary in order for a proposed development to be compatible with its contiguous developed surroundings.

The provisions in a code of development adopted prior to [effective date of ordinance] pertaining to subsections 20A.5(g)(1) through (4) shall be the only architectural standards in the code of development that apply to the planned development.

- h. Preliminary lot lay-out. Landscape treatments where landscaping in addition to that required by section 32 is proposed. The provisions in a code of development adopted prior to [effective date of ordinance] pertaining to landscape treatments as required under former subsection 20A.5(g)(7) shall apply to the planned development.
- i. For each block:
 - 1. ~~The range of~~ uses permitted on the block by right and by special use permit;
 - 2. ~~All requirements and restrictions associated with each use delineated in paragraph (i)(1);~~
 - 32. Build-to lines or ranges, which are the required distance from the right-of-way to a structure;
 - 43. Minimum and maximum lot and yard dimensions;
 - 54. Minimum number of stories and Mmaximum building heights;
 - 65. Location of Ssidewalks and pedestrian paths locations;
 - 76. Acreage devoted to and characteristics of Ggreen space, and amenities, and recreational areas and facilities as required by section 4.16;
 - 87. Location, acreage and characteristics of Cconservation areas and preservation areas as defined in section 3.1, if applicable;
 - 98. Location of Pparking areas;
 - 109. Location, acreage and characteristics of Ccivic spaces, which are public areas for community or civic activities (e.g., libraries and their associated yards, schools and places of worship);

(Ord. 03-18(2), 3-19-03)

Sec. 20A.6 Permitted uses

The following uses shall be permitted in an NMD, subject to the regulations in this section and section 8, the approved ~~general development~~ application plan and code of development, and the accepted proffers:

- a. By right uses. The following uses are permitted by right if the use is expressly identified as a by right use in the code of development or if the use is permitted by a determination by the zoning administrator pursuant to section 8.5.5.2(c)(1):
 - 1. Each use allowed by right or by special use permit in any other zoning district, except for those uses allowed only by special use permit delineated in subsections (b)(2) and (b)(3); provided that the use is identified in the approved code of development.
 - 2. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines,

pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformity with Chapter 16 of the Code of Albemarle and all other applicable law.

3. Accessory uses and buildings including storage buildings.
 4. Home occupation, Class A, where the district includes residential uses.
 5. Temporary construction uses.
 6. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies, public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority.
 7. Tourist lodgings, where the district includes residential uses.
 8. Homes for developmentally disabled persons, where the district includes residential uses.
 9. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
- b. *By special use permit.* ~~The following uses are permitted by special use permit~~ if the use is expressly identified as use permitted by special use permit in the code of development:
1. ~~Each use allowed by right or by special use permit in any other zoning district.~~
 - ~~2.~~ Drive-through windows serving or associated with permitted uses.
 - ~~3.~~ Outdoor storage, display and/or sales serving or associated with a by right permitted use, if any portion of the use would be visible from a travelway.

(Ord. 03-18(2), 3-19-03; Ord 04-18(2), 10-13-04)

Sec. 20A.7 Residential density

Residential density within each NMD shall be as follows:

- a. The gross residential density should be within the applicable recommended gross density range established in the land use element of the comprehensive plan. In its deliberations regarding the appropriate residential density for the district, the board of supervisors shall take into account the amount of land devoted to non-residential uses.
- b. The gross residential density shall be measured in dwelling units per acre and calculated by ~~taking the gross acreage of the district divided by the proposed number of dwelling units in the proposed district~~ dividing the proposed number of dwelling units in the proposed district by the gross acreage of the district.

(Ord. 03-18(2), 3-19-03)

Sec. 20A.9 Green spaces, amenities, conservation areas and preservation areas

Each NMD shall include the following:

a. *Green space.* The minimum area devoted to green space is as follows:

1. For areas shown in the land use element of the comprehensive plan as neighborhood density residential, urban density residential, transitional, neighborhood service, community service, or office service, the area devoted to green space shall be at least twenty percent (20%) of the gross acreage of the site area proposed to be rezoned.
2. For areas shown in the land use element of the comprehensive plan as regional service, office regional or industrial service, the area devoted to green space shall be at least fifteen percent (15%) of the gross acreage of the site area proposed to be rezoned.
3. For areas having a land use designation not addressed in ~~paragraphs~~ subsections (a)(1) and (a)(2), the recommendations of the applicable provisions of the comprehensive plan shall be guidance on the minimum area devoted to green space.
4. The minimum area devoted to green space may be reduced by the board of supervisors at the request of the applicant. In acting on a request, the board shall consider these factors: the relationship of the site to adjoining or nearby properties containing public green space such as parks or natural areas; the known future uses of the ~~of the~~ adjoining properties; and whether a reduction would better achieve the neighborhood model goals of the comprehensive plan.

b. *Amenities.* The minimum area devoted to amenities is as follows:

1. For areas shown in the land use element of the comprehensive plan as neighborhood density residential, urban density residential, neighborhood service, and community service, the area devoted to amenities shall be at least twenty percent (20%) of the gross acreage of the site area proposed to be rezoned.
2. For areas shown in the land use element of the comprehensive plan as regional service, office service, office regional service or industrial service, the area devoted to amenities shall be at least ten percent (10%) of the gross acreage of the site area proposed to be rezoned.
3. For areas having a land use designation not addressed in ~~paragraphs~~ subsections (b)(1) and (b)(2), the recommendations of the applicable provisions of the comprehensive plan shall be guidance on the minimum area devoted to amenities.
4. The minimum area devoted to amenities may be reduced by the board of supervisors at the request of the applicant. In acting on a request, the board shall consider these factors: the relationship of the site to adjoining or nearby properties containing amenities; the proportion of residential uses to nonresidential uses proposed; the known future uses of the ~~of the~~ adjoining properties; and whether a reduction would better achieve the neighborhood model goals of the comprehensive plan.

c. *Additional requirements for amenities.* Amenities shall also be subject to the following:

1. At least ninety percent (90%) of the residential units in the NMD shall be within a one-quarter mile walk of an amenity.
2. The size, location, shape, slope and condition of the land shall be suitable for the proposed amenity.
3. The amenity shall be suitable for the specific population to be served.

4. The design of any recreational facilities shall meet the minimum design requirements from recognized sources of engineering and recreational standards.
 5. In nonresidential areas of the development, amenities shall be located so that they are easily accessible to patrons and employees of the development.
- d. *Green space within parks and recreational amenities.* Any portion of an amenity that is covered in grass or other vegetation may be counted as both green space and an amenity.
 - e. *Preservation areas within green space.* Preservation areas that preserve environmental features shall be included as green space area.
 - f. *Conservation areas within green space.* Conservation areas that maintain environmental features shall be included as green space area.

(Ord. 03-18(2), 3-19-03)

Sec. 20A.10 Streets

Each street within an NMD shall meet the street standards for a traditional neighborhood development established by the department of ~~engineering and public works~~ community development.

(Ord. 03-18(2), 3-19-03)