

# COUNTY OF ALBEMARLE

## EXECUTIVE SUMMARY

<b>AGENDA TITLE:</b> SP2012-00028 Stoner	<b>AGENDA DATE:</b> April 10, 2013
<b>SUBJECT/PROPOSAL/REQUEST:</b> Special use permit request for an additional development right in the Rural Areas zoning district.	<b>ACTION: X INFORMATION:</b>
<b>STAFF CONTACT(S):</b> Messrs. Benish, Clark and Kamptner	<b>CONSENT AGENDA:</b> <b>ACTION: INFORMATION:</b>
<b>LEGAL REVIEW:</b> Yes	<b>ATTACHMENTS:</b> Yes
	<b>REVIEWED BY:</b>

### **BACKGROUND:**

This special use permit was heard by the Planning Commission on February 26, 2013. The Commission recommended approval of this special use permit with the conditions shown in the action letter.

### **DISCUSSION:**

Staff's initial recommendation to the Planning Commission was to include a condition of approval limiting use of the new structure to habitation by family members or as a guest house, rather than specifying a period for use only by family members.

The Planning Commission has recommended that the new dwelling be limited to family or guest use for a 7-year period. After that time, there would be no restriction on the occupancy of the structure.

The Board has previously applied a time limit to approval of special use permit requests for additional lots for family members. In its approvals of SP2009-00033 Coleman Morris, SP2010-00017 Matheny, and SP2010-00034 Glenn Hall, the Board imposed minimum 15-year periods for each new lot to remain in the family. However, the circumstances of those approvals were not directly comparable to the current request. Those requests were for additional lots, while the current request is for an additional size-restricted dwelling in lieu of an accessory apartment on an existing lot that is not to be further subdivided.

Staff notes that time periods for restricting occupancy are generally difficult to enforce. Enforcement actions would primarily be driven by complaints received by the Community Development Department.

The Planning Commission recommended the following change to condition number 3:

3. The additional single-family dwelling unit shall be occupied by a member or members of the immediate family of the permittee, as that term is defined in Albemarle County Code §14-106 in effect on (date of Board action), 2013, or by transient guests of the permittee, **for a period of seven (7) years.**

Since the Commission hearing, the County Attorney's office has recommended that this condition be revised as follows to clarify the starting point of the seven-year period:

- 3. During the seven (7) year period after the date the certificate of occupancy is issued for it,** the additional single family dwelling unit shall be occupied **only** by a member or members of the immediate family of the permittee, as that term is defined in Albemarle County Code §14-106 in effect on **April 10, 2013, a copy of which is attached hereto,** or by transient guests of the permittee.

### **RECOMMENDATION:**

Staff recommends that the Board of Supervisors approve SP2012-00028 with the following revised conditions:

1. One single-family dwelling unit in addition to the existing single-family dwelling unit may be built on Tax Map Parcel 076N00000013A0.

2. The additional single-family dwelling unit shall not exceed one thousand three hundred (1,300) square feet of gross floor area.
3. During the seven (7) year period after the date the certificate of occupancy is issued for it, the additional single family dwelling unit shall be occupied only by a member or members of the immediate family of the permittee, as that term is defined in Albemarle County Code §14-106 in effect on April 10, 2013, a copy of which is attached hereto, or by transient guests of the permittee
4. No accessory apartment shall be established within the existing single-family dwelling unit or the additional single-family dwelling unit.
5. Construction of the additional single-family dwelling unit shall not commence without approval from the building official, the fire official, and the Virginia Department of Health.
6. Tax Map Parcel 076N00000013A0 shall not be subdivided or reduced in acreage.

**ATTACHMENTS:**

[View PC actions letter](#)

[View Staff Report](#)

[View PC minutes](#)

[Return to agenda](#)