



Albemarle County

Legislation Text

File #: 16-104, **Version:** 1

AGENDA DATE: 12/9/2015

TITLE:

County Code Regulations Regarding Applications for Rezoning and Special Use Permits

SUBJECT/PROPOSAL/REQUEST: Resolutions of Intent to amend County Code regulations regarding applications for rezonings to amend proffers that do not affect use or density, and to amend the definition of "owner"

ITEM TYPE: Consent Action Item

STAFF CONTACT(S): Foley, Walker, Davis, Kamptner, Graham, Cilimberg

PRESENTER (S): N/A

LEGAL REVIEW: Yes

REVIEWED BY: Thomas C. Foley

BACKGROUND: Virginia Code § 15.2-2302 authorizes the Board to waive the requirement for a public hearing when an applicant for a rezoning seeks only to amend existing proffers that do not affect use or density. County Code § 18-33.7(f) implements Virginia Code § 15.2-2302 and allows applications to first come to the Board to decide whether to require the Planning Commission to hold a public hearing, whether to refer the application to the Planning Commission at all, and whether the Board will require itself to hold a public hearing on the application.

Albemarle County Code § 18-33.4 authorizes an "owner" to apply for rezonings and special use permits, which is defined in Albemarle County Code § 18-3.1 as the fee simple owner of the parcel to which the application pertains. It has become apparent from a recent inquiry from an electric utility interested in upgrading its electric transmission lines that the definition may be too restrictive where, as in the case of the electric utility, the prospective applicant is an easement holder seeking a special use permit for a use allowed by the deed of easement. Without the amendment, the owner of the fee simple interest in a parcel retains complete control over how the easement lands may be used under the Zoning Ordinance, even though the owner previously sold the property right to the easement holder to use the easement lands for a particular purpose.

STRATEGIC PLAN: Goal 2. Critical Infrastructure. Prioritize, plan and invest in critical infrastructure that responds to past and future changes and improves the capacity to serve community needs.

DISCUSSION:

Proffer Procedures and Requirements Although the Board may waive the requirement for a public hearing when an applicant for a rezoning is seeking only to amend existing proffers that do not affect use or density, County Code § 18-33.4 still requires an applicant for such a rezoning to comply with a number of requirements that apply to all rezoning applications, including: (1) a pre-application meeting, unless it is waived by the director of planning; (2) submitting a complete application in the requisite number of copies; (3) paying the applicable fee for a rezoning (the current fee regulations do not distinguish this type of application from any other rezoning application); (4) holding a work session, if required by the director of planning; and (5) holding a

community meeting, if required by the director of planning.

Some applications to amend proffers that do not affect use or density may be minor, technical, or noncontroversial, and a further simplified application process may be warranted in the Board's discretion. Thus, County Code § 18-33.7 could be amended to simplify the application requirements for such rezonings, allow the Board to decide whether work sessions and community meetings may be eliminated in conjunction with its decision as to whether public hearings will be required, and establish a separate fee for this class of zoning map amendment. With each such application, the Board would decide the appropriate level of public engagement and whether Planning Commission and board public hearings would be required.

Definition of "Owner" The definition of "owner" in County Code § 3.1 could be amended to clarify that certain easement holders may be eligible to apply for a special use permit when the permit they seek is consistent with the uses for which the easement was acquired.

BUDGET IMPACT: An analysis of the budget impact related to the ordinance amendments will be provided as part of the ordinance amendment discussion.

RECOMMENDATION:

Staff recommends that the Board adopt the resolutions of intent (Attachments A and B).

A - Resolution of Intent for Proffer Amendments

B - Resolution of Intent for Definition of Owner