



**ALBEMARLE COUNTY PLANNING
ZONING TEXT AMENDMENT
STAFF REPORT SUMMARY**

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| Project Name: ZTA 201900008 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions | Staff: Bill Fritz |
| Planning Commission (PC) Work Session: January 12, 2021 | Board of Supervisors (BOS) Hearing: February 17, 2021 |
| Proposal(s): Amendment of the submittal and review procedures for Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions. | |
| Factors Favorable: <ol style="list-style-type: none"> 1. Corrects unintended impacts caused by amendments adopted in 2018. 2. Improves submittal and review procedures. 3. Corrects technical errors in the existing ordinance. 4. Complies with State Code. | Factors Unfavorable: <ol style="list-style-type: none"> 1. Removes requirement that application must be acted on within 36 months or project is deemed withdrawn. |
| Recommendation: Staff recommends that the Board of Supervisors and the Planning Commission support the proposed ordinance as presented or specify revisions and direct that this item be scheduled for public hearing. | |

STAFF CONTACT: William D. Fritz, AICP
PLANNING COMMISSION: January 12, 2021
BOARD OF SUPERVISORS: February 17, 2021

ZTA: ZTA 201900008 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions

ORIGIN:

PROPOSAL: Amendment of the submittal and review procedures for Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions.

PUBLIC PURPOSE TO BE SERVED: The proposed amendments are intended to reduce inefficient and unnecessary administrative procedures. This will allow for a more efficient review process for both the County and applicants. Submittal requirements are clarified allowing for a more understandable process for the applicant and the public. The proposed amendments include changes to make the ordinance consistent with the State Code.

BACKGROUND: The Board of Supervisors amended the provisions of Section 33 in 2018.

During the 2018 amendment the staff report included a summary of the proposed changes. Below are the changes noted in 2018 with staff comment on how the current proposal relates to the 2018 changes:

- reorganizing Section 18-33 by, among other things, splitting existing sections into multiple sections and organizing those sections into divisions based on the type of application or action, and would revise, clarify and standardize the text;

The proposed ordinance substantially revises the organization of the ordinance. These changes eliminate repetition.

- amending the times by which recommendations and actions must be taken on ZTAs and County-initiated ZMAs;

The proposed ordinance does not have time limitations on County initiated ZTA and ZMA. The maximum review time is replaced with a provision that clarifies that the County is not required to accept a request for deferral.

- amending the criteria considered by the Director of Planning to not require certain information with applications for ZMAs and SPs;

The proposed ordinance maintains provisions that the Director of Planning may not require certain information with a ZMA or SP application.

- allowing applications for ZMAs, SPs, and SEs to be electronically filed;

The proposed ordinance maintains this provision.

- requiring that notice to be given to open-space and conservation easement holders when complete ZMA, SP, or SE applications affecting the property are filed;

The proposed ordinance maintains this provision.

- establishing procedures and consequences when applications for ZMAs, SPs, and SEs are incomplete;

The proposed ordinance maintains this provision and includes procedures to notify when applications that are incomplete, collection of fees and establishing start date for calculating time to review.

- authorizing the Director of Planning to require studies to identify impacts of ZMAs, SPs, and SEs

The proposed ordinance maintains this provision.

- incorporating the requirements of Virginia Code § 15.2-2303.4 for proffers related to residential and mixed use residential ZMAs;

The proposed ordinance repeals this provision due to changes in the State Code.

- authorizing an SE to be revoked for noncompliance with conditions; and

The proposed ordinance maintains this provision.

- deleting the State law reference to judicial review of Board of Supervisors' decision on a ZMA or SP.

The proposed ordinance repeals this provision and inserts judicial review language.

- add language that allows the Planning Director to require a second community meeting if a deferral has taken place and substantive changes have occurred to an application.

The proposed ordinance maintains this provision.

After the adoption of the ordinance procedural issues were identified as well as errors in the language of the ordinance. Below is an outline of the problems identified and a description of the changes.

- The proposed ordinance corrects existing and previous errors in references within the ordinance. For example, the existing ordinance requires that a special use permit for Historic Taverns and Inns be reviewed considering the factors in Section 33.8. However, this section describes how to initiate a zoning text amendment. Numerous existing internal inconsistencies were found and are proposed to be corrected.
- The proposed ordinance clarifies the procedures to determine if any application is complete or incomplete.
- The proposed ordinance adds non-severability language to conditions associated with a special exception. This change will invalidate the special exception if any one condition is found to be unreasonable, invalid, void or unlawful.
- The proposed ordinance allows for review of projects while in state of deferral. Existing language states all review ceases. The proposed language defers only the public hearings.
- The proposed ordinance provides that once a deferred application is reactivated the timeline for review is reset. The current ordinance creates significant procedural difficulties because the timelines for deferred applications is not clear.
- The proposed ordinance allows for collection of new fee for a reactivated application.
- The proposed ordinance provides that an application is deemed withdrawn if a deferral request is accepted and the project is not reactivated within 6 months.

STAFF COMMENT:

Analysis of the proposed zoning text amendment:

Zoning Ordinance section 33.6(B) establishes factors to be reasonably considered by the Planning Commission and Board of Supervisors in the review of ZTAs. Each factor is reviewed below:

- (i) the existing use and character of property

The purpose of legislative review includes evaluating the existing uses and character of the property. This amendment does not directly impact use or character of any property.

- (ii) the Comprehensive Plan

This amendment provides for implementation of the Comprehensive Plan during legislative reviews.

- (iii) the suitability of property for various uses

This amendment is intended to allow a full and fair review of the appropriateness of using any property for any use.

- (iv) the trends of growth or change

This amendment allows the County to efficiently review legislative request in order to address or anticipate trends of growth or change.

- (v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies

The proposed ordinance maintains provisions to require necessary studies during the review of any legislative application.

- (vi) the community's transportation requirements

The proposed ordinance allows for consideration of transportation requirements during the review of any legislative application

- (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services

The proposed ordinance allows for consideration of public services during the review of any legislative application

- (viii) the conservation of natural resources

The proposed ordinance allows for consideration of natural resources during the review of any legislative application

- (ix) preserving flood plains

The proposed ordinance allows for consideration of flood plains during the review of any legislative

application

- (x) protecting life and property from impounding structure failures

Impounding structures are not directly impacted by this proposed amendment. The impact on impounding structures and the impact of structure failure may be evaluated during legislative reviews as needed.

- (xi) preserving agricultural and forestal land

The proposed ordinance allows for consideration of the impacts on agricultural and forestal lands during the review of any legislative application

- (xii) conserving properties and their values

The proposed amendments allow for the County to consider the impact of legislative actions on property and their values. Public participation is maintained allowing public input and analysis.

- (xiii) encouraging the most appropriate use of land throughout the County

Legislative reviews are a significant component of encouraging the most appropriate use of land throughout the County. An efficient, understandable, enforceable procedure for the review of legislative actions allows for the implementation of the recommendations of the Comprehensive Plan.

Strategic Plan:

This ordinance will be reviewed by the three (3) criteria previously established by the Board for amendments:

Administration/Review Process:

The proposed amendments improve the administrative and review process.

Housing Affordability:

The proposed amendments have no direct impact on housing affordability. A more efficient land use review process may reduce overall development cost and indirectly improve housing affordability.

Implications to Staffing/Staffing Costs:

The proposed amendments are expected to improve efficiency in the review of land use applications. The existing ordinance provisions require significant administrative resources. Improving the review process will allow the resources to be reallocated.

RECOMMENDED ACTION:

Staff recommends that the Board of Supervisors and the Planning Commission support the proposed ordinance as presented or specify revisions and direct that this item be scheduled for public hearing.

ATTACHMENTS

Attachment A – Resolution of Intent

