



**COUNTY OF ALBEMARLE**  
**Department of Community Development**  
401 McIntire Road, North Wing  
Charlottesville, Virginia 22902-4596

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July 10, 2012

Pete Caramanis  
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Charlottesville, VA 22902

**Re: Official Zoning Determination (LOD 2012-005) – Mechums Trestle, LLC {Tax Map 57, Parcel 31A}**

Dear Pete,

This is in response to your letter of determination request referenced above. You have asked for a finding in three areas: setbacks, nonconforming parking and requirement for site plan approval. This is a determination under the Zoning Ordinance and does not constitute a finding under the Water Protection Ordinance or other regulations that I do not administer.

1. **Setbacks**

VA 95-05 was conditionally approved by the Albemarle County Board of Zoning Appeals on June 6, 1995 to reduce the building setback for 1-story from 30 feet from public streets, to 7 feet from Rt. 680 and to 9 feet from Rt. 240 (Section 21.7.1). This approval does not have an expiration or sunset date and remains in full force and effect. If the development complies with the conditions of approval, the footprint remains the same and the second floor complies with the setback requirements, it may occur under this approval and does not require an amendment.

2. **Nonconforming Parking Lot**

With a February 2, 2005 official determination, the County Engineer and I determined that the parking area depicted within the limits of the "previous parking area" on the site plan approved by the County on September 8, 1997 (SDP 96-051) and which was within the technical limits of the Water Protection buffer, is lawfully nonconforming and may remain in accordance with the provisions for nonconformities. Even though the site was not developed in accord with this site plan, I have regularly observed that it has been continuously and informally used for parking since this determination. There is no evidence of an intent to abandon or an actual abandonment of the use of parking on this property for various purposes and by various entities, public and private. The use has not discontinued for more than two years, nor has it changed to a more restrictive nonconforming use. Under the provisions for nonconformities in the Zoning Ordinance, Section 6.0, the parking area may continue to be used for parking, including for parking to serve a new use that will be developed.

3. **Requirement for Site Plan Approval**

The use of this property as a restaurant ceased well over two years ago and closer to

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two decades ago. Therefore, it has not been used continuously as a restaurant and any nonconforming rights to "continue" that use or a similar use without the requirement of a site plan have been extinguished. The proposed use of this property as a restaurant is not exempt from the requirement of a site plan. Specifically, the change from informal and occasional parking to a restaurant is an intensification of use for which the Virginia Department of Transportation will require an alteration of the ingress/egress {Section 32.2.a (5ii)}.

In the event the owner / applicant chooses to submit a site plan for review, it will be reviewed in accordance with the regulation in effect at the time, except as modified by the approved building setback variance or by the continuation of nonconforming parking area. Please ask the owner / applicant to contact us to set up a preapplication conference to go over proposed development plans.

If you are aggrieved by this determination, you have a right to appeal it within thirty (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311. If you do not file a timely appeal, this determination shall be final and unappealable.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with § 34.3 of the Zoning Ordinance, along with a fee of \$240 plus the actual cost of advertising the appeal for public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at [www.albemarle.org/cdapps](http://www.albemarle.org/cdapps). This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are located in Chapter 18, Section 34.3 of the Zoning Ordinance. They may be reviewed online at [www.albemarle.org/countycodebza](http://www.albemarle.org/countycodebza).

(Please note that our online documents are in Adobe Acrobat PDF format and must be viewed with the Adobe Acrobat Reader or an equivalent. A link to download the free plug-in is available at the bottom of [www.albemarle.org/cdapps](http://www.albemarle.org/cdapps).)

Sincerely,



Amelia G. McCulley, A.I.C.P.  
Zoning Administrator