

COUNTY OF ALBEMARLE TRANSMITTAL TO THE BOARD OF SUPERVISORS

SUMMARY OF PLANNING COMMISSION ACTION

AGENDA TITLE: ZTA201900007 Fill Areas and Waste Areas	AGENDA DATE: September 16, 2020
SUBJECT/PROPOSAL/REQUEST: A proposed ordinance to amend the Albemarle County Code to define types of fill activity and establish regulations for the placement of fill.	STAFF CONTACT(S): Andy Herrick, Bill Fritz
SCHOOL DISTRICTS: N/A	PRESENTER (S): Bill Fritz

BACKGROUND:

On September 18, 2019, the Board of Supervisors conducted a midyear review of the Community Development work program. The Board directed staff to prioritize the review of fill and waste regulations. On November 6, 2019, the Board of Supervisors adopted a resolution of intent to consider amending the Zoning Ordinance regulations for fill and waste areas. The Board of Supervisors directed staff to begin work immediately and to hold a work session in January 2020. The Board of Supervisors held a work session on January 15, 2020. During the work session, the Board of Supervisors endorsed the ordinance approach presented by staff. On August 4, 2020, the Planning Commission held a public hearing and voted unanimously (7:0) to recommend approval of the zoning text amendment with minor changes.

DISCUSSION:

The Planning Commission made several requests and recommendations:

1. The Commission requested minor changes to the ordering of the ordinance to permit easier reading and clarification of terms. The proposed ordinance has been revised accordingly.
2. The Commission also requested that the ordinance not permit the burying of live trees by filling around them. Though certain trees may still be cut, under proposed Section 18-5.1.28(a)(10), they may not be buried.
3. The Commission also discussed the provision limiting fill activity to two acres. Proposed Section 18-5.1.28(a)(11) now clarifies that fill activity is limited to two acres on any parcel in existence at the time of adoption of this ordinance.
4. The Commission also discussed the proposed provision that if an abutting owner does not receive notice of a special exception request, but does participate in the public hearing, the owner may not appeal based on an alleged failure to receive notice. Proposed Section 18-5.1.28(d) has been reorganized to clarify that it limits the ability to appeal only on grounds of failure to receive notice. The owner may still appeal on other grounds. This language is consistent with *Virginia Code* § 15.2-2204 and is also found elsewhere in the Albemarle County Code. The Commission only requested clarification of this provision, but did not request any substantive change.

In addition to the proposed Zoning Ordinance amendment, staff has prepared a proposed ordinance (Attachment E) to amend County Code Chapter 7, Health and Safety, Article I, Noise, Section 7-103, Definitions, to amend the definition of Agricultural Activity. The proposed amendment would clarify that agricultural activity does not include the above ground application or storage of sewage sludge, or the storage or disposal of non-agricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act.

RECOMMENDATIONS:

Staff recommends adoption of the proposed ordinances to amend Chapter 18, Zoning and Chapter 7, Health and Safety (Attachments D and E).

ATTACHMENTS:

- Attachment A – Staff report for the August 4, 2020 Planning Commission Hearing
- Attachment B – Action Letter for the August 4, 2020 Planning Commission Hearing
- Attachment C – Minutes for the August 4, 2020 Planning Commission Hearing
- Attachment D – Proposed Chapter 18, Zoning, ordinance for adoption
- Attachment E – Proposed Chapter 7, Health and Safety, ordinance for adoption