

Albemarle County Planning Commission
August 7, 2018

The Albemarle County Planning Commission reconvened from the 3:00 p.m. work session to a regular meeting at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Planning Commissioners attending were Tim Keller, Chair; Julian Bivins, Pam Riley, Vice-Chair; Daphne Spain, and Bruce Dotson. Absent was Karen Firehock, Jennie More and Bill Palmer, UVA representative.

Other officials present were Elaine Echols, Chief of Planning; Bill Fritz, Manager of Special Projects, Chip Boyles, Thomas Jefferson Planning District Commission; Margaret Maliszewski, Chief of Planning; Heather McMahon, Senior Planner; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, County Attorney.

Call to Order and Establish Quorum

Mr. Keller, Chair, called the regular meeting of the Albemarle County Planning Commission to order at 6:00 p.m. and established a quorum.

The meeting moved to the next item.

Public Hearing

ZTA-2017-00006 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions

The Planning Commission will hold a public hearing to receive comments on its intention to recommend adoption of an ordinance amending Secs. 18-33.1, Purpose and intent, through Sec. 18-33.9, Special exceptions; relevant factors to be considered conditions, of Chapter 18, Zoning, of the Albemarle County Code. Section 18-33 establishes the procedures and requirements for zoning text amendments (ZTAs), zoning map amendments (ZMAs), special use permits (SPs), and special exceptions (SEs). The proposed ordinance would reorganize 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 primary proposed substantive changes would: (1) amend the times by which recommendations and actions must be taken on ZTAs and County-initiated ZMAs (County Code §§ 18-33.5, 18-33.6, 18-33.11, and 18-33.12); (2) amend the criteria considered by the Director of Planning to not require certain information with applications for ZMAs and SPs (County Code §§ 18-33.15 and 18-33.32); (3) allow applications for ZMAs, SPs, and SEs to be electronically filed (County Code §§ 18-33.20, 18-33.34, and 18-33.45); (4) require notice to be given to open-space and conservation easement holders when complete ZMA, SP, or SE applications affecting the property are filed (County Code §§ 18-33.20, 18-33.34, and 18-

33.45); (5) establish procedures and consequences when applications for ZMAs, SPs, and SEs are incomplete (County Code §§ 18-33.20, 18-33.34, and 18-33.45); (6) authorize the Director of Planning to require studies to identify impacts of ZMAs, SPs, and SEs (County Code §§ 18-33.21, 18-33.35, and 18-33.46); (7) incorporate the requirements of Virginia Code § 15.2-2303.4 for proffers related to residential and mixed use residential ZMAs; (8) amend the criteria for determining when a community meeting may be required for a ZMA or SP (County Code §§ 18-33.24 and 18-33.37); (9) establish when an application for an SE must be reviewed by the Planning Commission (County Code § 18-33.48); (10) authorize an SE to be revoked for noncompliance with conditions (County Code § 18-33.50); and (11) amend the procedures and requirements to withdraw an application, to suspend application review and defer action, and to take action after deferral (County Code §§ 18-33.52, 18-33.53, and 18-33.54). The proposed ordinance would also: (1) delete the procedure that allowed any member of the public to apply for a ZTA (current County Code § 18-33.2); and (2) delete the State law reference to judicial review of Board of Supervisors' decision on a ZMA or SP (current County Code § 18-33.4(t)). A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Elaine Echols)

Ms. Echols noted that she needed to find the document.

Ms. Spain said asked for clarification between a special exception and a special use permit while Elaine is doing that, and Mr. Keller asked that she tell us about what is on the dais.

Ms. Spain said this attractive award went to Elaine Echols for her work and that of the staff on the 2016 Planning Commission annual report. She said it was recognized by the Virginia Chapter of the American Planning Association as one of the best over two dozen nominations in this category of citizen planning and so we are very appreciative to Elaine for making this happen and making the Commission look good. Thank you.

Ms. Echols replied that it was very special to receive that award and that we all did this together so thank you all for everything you did, too.

Mr. Keller asked staff to answer Ms. Spain's question first.

Mr. Fritz replied that a special use permit is a legislative action that is permitting a use that is by special use permit in a particular zoning district. A special exception in its simplest form, we used to call those waivers or modifications, and it where you are adopting a different provision or modifying the provisions of a planned development.

Ms. Spain asked have we seen those recently.

Mr. Fritz replied that special exceptions go to the Board of Supervisors.

Ms. Spain said so special exceptions do not come to the Planning Commission.

Ms. Echols replied that special exceptions do come to the Commission when there is a planned district where something requires a special exception and it is included with that zoning map amendment (ZMA). Typically, staff has a report with an analysis of the special exception within that ZMA or SP report.

Mr. Fritz pointed out that the Commission also sees special exceptions in instances where staff may not be recommending approval of the special exception and we will bring it to you. He said the Commission saw a special exception on the wireless facility not that long ago about the attachments to the high voltage power lines that was then taken to the Board of Supervisors. He said that was the simplest way of explaining it.

Elaine Echols said she will not be able to see this amendment through and Bill Fritz and Greg Kamptner, County Attorney, will be carrying it on through. This has been a joint effort among at least the three of us if not more trying to modernize Section 33, which the bulk of the work Greg did and Bill has been part of the whole thing. She said if there were questions about the content that Greg or Bill would probably be the ones who jump in. She said we are having the public hearing tonight on this group of changes that really originated from the County Attorney's Office and as you know Section 33 relates to the processes and procedures for special use permits (SP), zoning map amendments (ZMA), special exceptions (SE) and zoning text amendments (ZTA). The proposed changes were the ones outlined in the staff report; the first one was to:

- Reorganize Section 18-33 into multiple sections and adding the things that are pertinent to each section with that section.
- Adding deadlines for action for county initiated ZTA's and ZMA's and applicant initiated ZMA's and SP's.
- Allowing the planning director to not require certain information when that information is not relevant.
- Ability to file electronically.
- Requiring notice to open space and conservation easement holders, which is also very important.
- Adding criteria for completeness that has to do with the fact that we get a lot of applications that are just not complete when turned in. What we have added to this section is some procedures for what do we do when we get those incomplete applications.
- The changes in the proffer legislation have prompted us to need to ask applicants to give us additional information on evaluating the impacts from their development.
- The State Code language related to proffers needed to be added in for a residential mix use ZMA's.
- The consequences for noncompliance with the special exceptions. We don't have anything right now that says your special exception can be revoked if you do not abide by the decision of the Board, and we need that in there.
- Removing the information on the judicial review because that is already in the State Code.
- There needs to be corresponding changes to Section 35 fees because of when we are collecting certain fees and our recommendations to remove the fee for deferrals, remove the ZTA that is citizen initiated. As we said last time and is in the staff report, we are looking

at trying to standardize the way of managing a refund for public hearing cost if a project does not go to public hearing within the first 70 days. After we finish this, we can talk about that resolution of intent.

Ms. Echols said tonight we are asking the Commission after you hold the public hearing to discuss this ZTA and tell us if you think any changes are needed and if not we would ask that you move for approval of the ZTA to the Board of Supervisors. She said if it were completed tonight, it would go to the Board of Supervisors in September 12.

Mr. Keller invited questions for staff. Hearing none, he opened the public hearing and invited public comment.

Valerie Long, attorney, said she met earlier with Elaine and Bill on this when they held a work session and was one of two people who attended so she shared a lot of comments with them. She said the only one that did not get incorporated, but will admit she was on vacation last week so did not get a chance to dig in to all of this as much as she would have liked, is the issue of the requiring that the legal advertising fees be collected at the time of the application. She said that is because right now the way it works is after an application is submitted the staff reviews it to confirm that it is complete and roughly 7 days later they will write you to let you know it is deemed complete and what your application fee is and then you have 5 to 7 days to get it to us. Then the legal advertising fees are usually required prior to the staff placing the legal for the Planning Commission hearing and you can either pay the Planning Commission public hearing ad before that and then pay the Board hearing before that is advertised or you can pay them both at the same time. She did not know how often applications get withdrawn, but was concerned if the fee is specifically intended to cover the county's expenses associated with the legal advertisements and other notices it is perfectly fine to allocate those to the applicant. However, if the applicant has withdrawn the application such that there will not be any legal advertising fees she thinks it is appropriate at a minimum to refund that portion of the fee to the applicant. She said in advance of the hearing my suggestion was when staff contacts us and says okay your application is ready to go to the Planning Commission here is what your legal fee is and you need to get this to us by Friday if you want this Planning Commission date of August 7. She noted that we pretty much move heaven and earth to make sure we get that from our clients so we keep the date and our client is usually incentivized. Staff has shared with me that they have other applicants who are not so good about following up and my suggestion was well if they want to have their application reviewed by the Planning Commission it is perfectly reasonable that you have a deadline to get the fee to them. She said there may be far more other issues involved that have lead staff to go the way they have but she just wanted to share her perspective with you. She said maybe it is just as easy if you collect at the front end but there is a process in place that the fee is refunded to the applicant within a certain number of days after it is withdrawn. Either way she thinks it is important that the fees are refunded if they are not actually incurred for the purpose.

Neil Williamson, with the Free Enterprise forum, said that he did not attend the meeting that Ms. Long referenced, as he was not notified of it and that being said, there are two issues that

he has with these necessary and important changes. He said the first is the removal of deleting the procedure that allowed any member of the public to apply for a ZTA, which he did think there have been that many. When this came forward from staff, there was a discussion that this way you have to get somebody on the Board to weigh in and he was concerned about the alternative folks or the folks who do not have Board representation in their particular corner. He asked why are you silencing them and what data is driving this since he did not know how many citizen inspired ZTA's have been filed or why you need to get rid of them. He understands that it might be an issue that you have to discuss that does not have the support of a member of the Board; however, that still might be an issue you should discuss if the community is willing to put down the money to bring forward a zoning text amendment. He said that issue is one of two.

Mr. Williamson said the second issue is something that he is glad Greg is here because he certainly complained about this for about 15 years – the idea that required notice be given to open space and conservation easements when a ZTA is filed. When a conservation easement is given there is no public hearing, however, when you put something into an Agricultural/Forestral District there is a public hearing and the public gets a chance to comment. He asked why these property owners get super property rights since they should be notified if they are neighboring parcels just as any other neighboring parcel would be notified. He said the idea that you now have super property rights because you have chosen to give up some of your property rights for an open space easement kind of seems unfairness to me because they did not have to come forward to get a public hearing to do what they did on their property. However, you have to notify them of public hearings of other people that want to do things with their property and he asks for a little bit of equity here. Thank you.

Valerie Long said she echoed Neil's comment about both issues but in particular, the zoning text amendment she was remiss in not mentioning that but had shared those comments with staff as well. She said we have successfully obtained approval of two applicant initiated zoning text amendments at significant savings to the county and she would be happy to elaborate further.

Mr. Keller invited further public comment. Hearing none, he closed the public hearing to bring it back for discussion and action. He invited further discussion.

Mr. Kamptner said touching on Neil's two issues the first dealing with allowing applicants to apply for a zoning text amendment that staff took that issue to the Board several months ago and the Board's decision was when this ordinance comes forward to remove that provision, which is more generous than state law. He said state law really does not enable individuals to apply for zoning text amendments and when initiated by the Planning Commission or the Board we have had this kind of clunky process, and he will let staff elaborate on the process. However, the Board already made that decision so the ordinance that has come to the Commission is consistent with that Board direction on that issue. With respect to the notice being given to easement holders, the easement holders would be not the owner of the fee simple interest but the third party that holds an easement, for example the Virginia Outdoors Foundation so that

they get notice of when an owner of property that is under easement has applied for a zoning approval. He said he would let staff address Valerie's comment regarding the fees. He noted that the current and the proposed ordinance both provide that the fees be to be collected when the application is deemed complete. He said the practice has been to separate the advertising fees to request those later.

Ms. Echols said that is right and she thinks that was in an effort to better manage when a project came to the Planning Commission it did not work out as well as we had hoped it would work out. She said that because of the number of people who are not like Ms. Long's clients who will fail to follow through on something for whatever reason and then we are left holding an application with no idea what to do with it. She said that is part of the reason that we have put an ending on it and we at the very beginning want to be able to within that 90 days get an application to you for an action. She said we hope that will be an incentive for an applicant who decides they really do not want a recommendation for disapproval to either ask for a deferral or withdrawal.

Mr. Kamptner said the fees resolution of intent when the amendments take place they will provide for the refunds and Ms. Echols said that is what is in the proposal right now to provide for those refunds.

Mr. Fritz noted that the fees are not part of the ZTA that is before you tonight and they will be coming to you later.

Mr. Keller invited questions for staff.

Ms. Spain said on page 29 of Attachment B she made a note where it says 33.20.d mailed notice that a complete application has been filed is this email or snail mail. When she looked for the same section in Attachment C, she did not find it so where is that in Attachment C and does it mean email or snail mail notification that a complete application has been filed.

Ms. Echols replied that it was on page 32 of Attachment C. She said the County Attorney could tell us if there is a requirement for there to be snail mail since we have typically done an email but we look for an acknowledgement that the email was received.

Mr. Fritz pointed out that he believes all of our applications have an option where an applicant can choose to receive everything by email also.

Mr. Kamptner said he was looking to see where we provide for that in the ordinance and it may be helpful to include that provision. Generally, if it is a state law requirement it dictates how the notice is to be provided when the county gives notice that is in addition, there is some flexibility in how the notice is provided and we can clarify that in the ordinance.

Ms. Spain said in Attachment C, page 27, 33.1.5.a and b. talks about existing proffers and she was confused about why a. and b. are in the document. She said there does not seem to be

prior reference to proffers or where the proceeding part of that is and did not think they can do proffers anymore.

Mr. Fritz replied that you can do proffers on residential development, on-site proffers in particular, are still easily permitted and commercial development can have proffers as well as industrial development.

Ms. Spain said but the residential being proportionate to the impact of the development.

Mr. Fritz replied that there are on-site and off-site proffers and then there are cash proffers. He said cash proffers and off-site proffers are very difficult if not impossible to accept right now, but on-site proffers would be that they would increase the stream buffers or that they would do block 1 before they do block 2 and so on.

Ms. Spain asked why it is there.

Mr. Kamptner replied that it is there because when we think of a rezoning we are thinking from rezoning to R1 to Neighborhood Model or something like that but there are two other classes of rezonings. One is when property has already been rezoned and there are proffers and the purpose of the rezoning is simply to amend those existing proffers and what subsection A1 does is lay out the legal requirements for those types of applications in who can apply. He said for years around the state there was an assumption that if I am in, for example Hollymead Town Center and own parcel 1 everybody in Hollymead Town Center has to consent to amendments to those proffers and that is not the law. He said the law is that is I own parcel one I can apply to amend the proffers as they apply just to proffer one. He said subsection A2 deals with a similar issue when we are dealing with property that is already part of a Planned Development and it is the same issue who can apply under what circumstances. He said that is what A1 and A2 do and they apply to subsets of the typical zoning map amendment.

Mr. Bivins said you would recall in the staff report where they mention sub item 2 and in our work session he had asked if there was a way if a particular individual was not responsive is there a way to keep that from coming to the Planning Commission. He said that at that time he did not realize there is a whole process before that block that if a person is not responsive and if the director has not deemed that the application is complete that they do not get to this point.

Ms. Echols said the applicant may get their first set of comments and not respond so we want to force them into an action and you might get some of those but hopefully not many.

Mr. Fritz said if the applicant requests a withdrawal that we would have a response we refund part of the fee.

Mr. Riley asked Greg to explain the reason for notification for property holders of conservation easements.

Mr. Kamptner explained that was a request by the Board going back that predates this ordinance and this was the opportunity to include it in a regulation. He said we have a number of processes that are in the ordinance that have been incorporated over the years where we go beyond the minimum that is required by state law. He said what we have learned is that posted signs are the most valuable way to get information out that there is an pending application and that is not required by state law. He said we have certain procedures where we require that in site plan and plats where notice is given to adjoining owners is just something above and beyond what is required by state law.

Mr. Fritz pointed out that the notice he thought was only for the property that is subject to the rezoning. He said if the adjoining property is applying you don't notify VOF unless the easement holder is holding the property owner to the easement that they have and not expanding where the adjacent property owner put their property into a conservation easement and somehow it is bleeding over into the other property.

Mr. Riley said that was good clarification.

Mr. Keller asked if anyone objects to Mr. Williamson commenting. Hearing no one, he asked Mr. Williamson to speak.

Neil Williamson clarified that he was concerned that adjoining property owners if you have a conservation on your property and are applying for a rezoning the easement holder should know about that.

Ms. Riley asked what is new under the procedures for the special exception provision under f. and g. or what is the content of what the Board of Supervisors was requesting be new.

Ms. Echols replied that was the conservation easement because when she looked at that it looked like f. is there but not g. and f. has to do with the conservation easement holder.

Mr. Kamptner replied that he was not sure and it could just be a cut and paste.

Ms. Riley said she wanted to make sure she was not missing something of substance.

Mr. Fritz pointed out that it must be from an old draft.

Ms. Echols said that we believe that it was from a renumbering error and there is no substance to it. She said staff would let you know whether there is any substance to it and how to deal with that.

Mr. Kamptner pointed out that error and the comment has been there for at least six months and just a cut and paste error.

Mr. Dotson said my question is about zoning text amendment and zoning map amendments and who may initiate those. He said the exhibit C on page 20 says initiating a zoning text amendment can be by the Board of Supervisors or by the Commission and it says the Commission may initiate a zoning text amendment by adopting either a motion or a resolution. He said it was the same thing on the county initiated zoning map amendment it says either by the Board of Supervisors or by the Planning Commission and he was not sure that it is right that we should be able to directly initiate either of those. He said the Commission could recommend that the Board initiate them, but it creates an awful situation where the staff has two masters. He said the Board controls the resources, the approval of the work plan for the department, the number of staff members they have to authorize in additional positions and so forth and even though the state law says it is possible for the Commission to initiate a zoning text amendment or a zoning map amendment that he was assuming that could mean the Board of Supervisors would not know about it until after the staff had done the work on it; we had held the hearing on it and then it suddenly appeared.

Mr. Kamptner replied that is possible and for the 21 years that he was advising the Planning Commission and assuming before then the Commission did adopt resolutions of intent to initiate zoning text amendments and the Commission is authorized by state law to do it just by motion. He said the practice here has always been to do it by resolution and the Board of Supervisors probably almost always adopted the major zoning text amendments or the Board at least knew about them. He said that sometimes just the timing was such that it was more efficient to have the Commission adopt the resolution. He said the practice here has been that the Commission does and he knows recently the practice evolved and the Commission would adopt a resolution that recommended that the Board adopt an ROI. Mr. Kamptner said he would recommend that the language in the draft stay as it is because it more closely parallels state law recognizing that the practice the Commission can decide no we are not going to do that we are going to let the Board.

Mr. Fritz pointed out that staff has found that helpful when we have had a zoning text amendment that we have been working on and in the process we discover that another section needs to be amended that was not included in the original zoning text amendment that we are able to come to the Planning Commission quicker than going back to the Board. He said it is consistent with the work so we are fixing the zoning text amendment so that it goes. He said when we have one that is a completely new ball of wax we will go to the Board of Supervisors and say the Planning Commission did or how do you want us to prioritize it. He said it is an efficient way of doing it to have that at our option.

Ms. Echols noted what Bill said the very last thing is how we make sure that we are not serving two masters is we take your resolution or intent to the Board and ask how do you want to prioritize this. She said that is how we make sure that we have their buy off in how we proceed. She said the ROI for tonight on Section 35 is a perfect example of what Bill was just explaining.

Mr. Dotson confusing said he finds that very confusing that we are adopting an ROI that says now therefore be resolved that the Board adopts a resolution.

Ms. Echols replied that should be something that should say the Planning Commission.

Mr. Dotson said so staff is not concerned with the two masters problem and it has been useful in the past and so would set that concern aside. He said the other comment is that by tradition the Commission when we want to recommend that the Board initiate something has used a ROI, which is sort of a misnomer if you think about it since Greg says that the state law would allow either a motion or a ROI. He said a motion it seems to me would be a lot clearer. He said the Commission makes a recommendation that the Board do something or other or that the staff do something or other and using a ROI both for the Commission's action and the Board's he finds confusing for ZMA's and ZTA's.

Mr. Fritz said under the language that says the Commission may initiate a zoning text amendment by adopting either a motion or a resolution of intent.

Mr. Kamptner said when the Commission wants to recommend that the Board adopt a ROI how they do it should be identified differently and it should not be called a resolution of intent. He said it could be by motion or if you want to have a written document to pass on to the Board it could be titled a resolution recommending that the Board adopt a resolution of intent or something like that.

Mr. Dotson replied that he thinks that addresses the question and we have sort of fallen into the ROI vocabulary, which we should not. He said that in Bill's point that it gives us the option and we are going to have a discussion about our bylaws and how we communicate with the Board so maybe that is where we decide how we want to term it either a resolution but not a resolution of intent or a motion.

Mr. Keller said it is an excellent point especially in light of what we have been through with the ROI's and then making that distinction between whatever we end up calling it having a different name than what the Supervisors. He said that Greg would be taking John Blair's place in working with you on how we are going to handle that official relationship that we want between our body and the Supervisors. He said so that gives him an opportunity to clean the language up later so we can accept what they have for now and that can be a modification after the fact. He asked Mr. Kamptner if that was correct if it needed to be.

Mr. Kamptner replied yes.

Mr. Bivins said he would find it helpful to have a primer at some point about the new proffer statutes because like Commissioner Spain he had been laboring under the impression that proffers were now foreboding but according to the statute, they are not. He said it appears to be an error that has been carved out that we cannot do any longer so thinks it would be helpful just as a small item on the agenda to just be brought up to speed.

Mr. Keller suggested that we take that up under new business. He asked if someone prepared to make a motion.

Mr. Bivins recommended approval of ZTA-2017-00006 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions to the Board of Supervisors.

Mr. Dotson seconded the motion.

Mr. Keller invited further discussion.

Mr. Kamptner said just to note it is with the understanding that he will dig through this and clarify the written notice provisions.

Mr. Keller asked for a roll call.

The motion was approved by a vote of 5:0. (Firehock, More absent).

Mr. Keller thanked staff for all the work on this and we will look forward to the next round with Mr. Fritz.

The meeting moved to the next agenda item.

Regular Item.

Resolution of Intent Amend Section 35 Fees to correspond with changes to Section 33

Adoption of a resolution of intent to amend the fee schedule for zoning map amendments (ZMA) and special use permits (SP) to include the minimum cost for notification of a public hearing, remove a fee for deferrals, modify circumstances for which a fee reduction for concurrent review of a site plan and ZMA or SP, remove a fee for citizen-initiated zoning text amendments, and others. (Elaine Echols)

Ms. Echols said staff made reference to this in the Section 33 staff report with a resolution of intent to make sure we have corresponding changes to Section 33. She said after we make the changes to the ordinance there will be a public hearing and we will bring it back to the Commission for a public hearing. She said there have been some people asking about changing all of the fees and relooking at them and we want everybody to know that is something that Mark has committed to for the following year so we are just trying to get at what we need immediately. She said we are not trying to increase or decrease but just sort of do the even exchange or the proposed changes this is the fee for the citizen initiated ZTA and we just talked about the notification and the refund and we are moving the deferral fee fee reduction. She said there is an existing fee reduction for a site plan if you submit it with a SP or a ZMA, but we find that has been causing a lot of problems and we thought that now would be a good time to

modify that so we would only be giving you the fee reduction when you have to have a site plan because of the use and that is outdoor display, an ARB thing. She said also, just putting in there the capability for credit or debit transaction to take place. She said so these are what we consider minor changes to the fee section and we either need you to adopt a resolution of intent or make a recommendation and a motion that the Board adopt a resolution of intent for this one where we want to get it done quickly so it can catch up with the other one. Therefore, our request is that someone make a motion to adopt the resolution of intent.

Mr. Keller invited questions for staff.

Ms. Spain pointed out the fourth item down did not show up on your screen and it says provide a fee for reapplication of a zoning or special use permit request – all the other phrases refer to removing or including or adding a fee. Therefore, she was confused about what provides mean.

Ms. Echols replied that this is to provide a fee for reapplication. She said if a project gets deferred and it turns out there is some reason why almost at 3 years or the applicant is going to go past 3 years, but the Board of Supervisors wants this project to continue on its path because you finally have gotten it so close to something that is acceptable. She said the Board can authorize a reduced fee for them to reapply so they don't have to start all over again with the same fee.

Ms. Spain asked could it say then charge a reduced fee.

Ms. Echols replied yes.

Mr. Bivins asked how the \$852 amount on page 1 of the staff report relates to \$435 amount on page 2.

Ms. Echols replied that the \$852 was the average cost for an advertisement fee and we got some push back on that being excessive if you did not need that much so we dropped back to say everybody has the same minimum and \$435 is the figure and so our recommendation for right now is that we make that fee lower.

Mr. Keller opened the public hearing and invited public comment. Hearing none, he closed the public hearing to bring the matter back for discussion and action.

Mr. Dotson moved that the Planning Commission adopt a resolution of intent, also known as Attachment B, that it be modified to say now therefore be it resolved that for purposes of public necessity, convenience, general welfare and good practices the Albemarle County Planning Commission hereby adopts . . .” He said my understanding is that this will not go to the Board, the Board knows and wants the fees to come along with the other Code changes to help implement them and so we are not really recommending to the Board, we are just enabling the staff to do the obvious.

Mr. Fritz noted that it was an integral part of the other action.

Ms. Spain seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

The motion passed by a vote of 5:0. (More, Firehock absent)

The meeting moved to the next item.