

COUNTY OF ALBEMARLE

STAFF REPORT

AGENDA TITLE: ZTA 2016-1 Eligible Applicants Zoning Text Amendment	AGENDA DATE: February 23, 2016
SUBJECT/PROPOSAL/REQUEST: Public Hearing to Amend the Zoning Ordinance to Address Requirements When an Easement Holder Files for a Special Use Permit, Special Exception or Variance	ACTION: X INFORMATION:
STAFF CONTACT(S): Amanda Burbage, Amelia McCulley, Greg Kamptner	CONSENT AGENDA: ACTION: INFORMATION:
	ATTACHMENTS: Yes

BACKGROUND:

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. This language and the definition of “owner” were added with the legislative process amendments that were effective 4-1-13. The current Code language becomes problematic when a prospective applicant, such as an electric utility interested in replacing its electric transmission lines and towers, is an easement holder seeking a special use permit for a use allowed by the deed of easement. A similar limitation exists in the Code for an easement holder seeking a special exception (Albemarle County Code § 18-33.5) or variance (Albemarle County Code § 18-34.4). Under current regulations, 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 that particular purpose.

A Resolution of Intent to clarify when an easement holder may be eligible to file an application for a special use permit was adopted by the Board on January 6, 2016 (Attachment B). At the time of this action, a Board member asked how owners would be informed about applications that are made by easement holders. With this ordinance amendment, staff proposes a new notice requirement to owners to address this concern (#5 below). The Resolution of Intent has since been revised to also include circumstances when an easement holder may be eligible to file an application for a special exception or variance (Attachment C).

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:

The draft ordinance (Attachment A) provides the following:

1. Adds an easement holder as an eligible applicant for a special use permit, special exception or variance when the use is allowed by the deed of easement
2. Enables the planning director to require documentation to verify the easement holder’s eligibility as an applicant for a special use permit or special exception
3. Enables the zoning administrator to require documentation to verify the easement holder’s eligibility as an applicant for a variance
4. Waives the requirement that delinquent taxes be paid if the applicant for a special use permit, special exception or variance is an easement holder and not the owner
5. Requires notice of the application to the property owner(s) 10 days after the application has been deemed complete. *This provision has been added to assure that property owners receive early notice that an application has been made.*

BUDGET IMPACT: Staff does not anticipate that this ordinance will result in the need for additional staff or funding.

RECOMMENDATION: Staff recommends that the Planning Commission recommend approval of the draft ordinance found in Attachment A.

ATTACHMENTS:

Attachment A: Draft Ordinance

Attachment B: January 6 Resolution of Intent

Attachment C: Revised Resolution of Intent