

COUNTY OF ALBEMARLE

TRANSMITTAL TO THE BOARD OF SUPERVISORS

SUMMARY OF PLANNING COMMISSION ACTION

AGENDA TITLE: ZTA 2016-01 Eligible Applicants	AGENDA DATE: April 6, 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	STAFF CONTACT(S): Amanda Burbage, Amelia McCulley, Greg Kamptner
	PRESENTER (S): Amanda Burbage

BACKGROUND:

On February 23, 2016, the Planning Commission adopted an expanded Resolution of Intent (Attachment B) and recommended approval of ZTA 2016-01 by a vote of 7:0 as recommended by staff, with one grammatical correction. The Commission also recommended that, before approving ZTA 2016-01, the Board of Supervisors be satisfied that 1) the County is appropriate in the role of interpreting private easement terms, 2) there is a clear understanding of what happens if a property owner objects to the determination that an easement holder is eligible to apply, and 3) the process for notifying an owner as provided in the proposed zoning text amendment (ZTA) (Attachment A) is acceptable. The Planning Commission's action letter, staff report, and minutes from the meeting are attached (Attachments C through E).

DISCUSSION:

The staff report for the February 23, 2016 Commission public hearing (Attachment D) outlines the background and provisions of the proposed ZTA. The Commission's recommended conditions for approval are set forth below, with staff's response provided in italics.

- 1) The Board of Supervisors is satisfied that the County is appropriate in the role of interpreting private easement terms
The County Attorney's office routinely evaluates deeds between private parties, as well as articles of incorporation, operating agreements, by laws, and resolutions of private entities in order to make various decisions affecting a land use application. The easement holder will have the burden of demonstrating to the satisfaction of the County that the special use permit that it seeks would allow a use that clearly falls within the scope of the easement.
- 2) There is a clear understanding of what happens if a property owner objects to the determination that an easement holder is eligible to apply
The County is legally required to process a complete application within an established timeframe set forth in the Zoning Ordinance. An application will not be deemed complete if staff or the County Attorney's office finds any information provided by the applicant to be inadequate in satisfying the County's application requirements. A property owner who disagrees with the determination that the easement holder is an eligible applicant may have standing to appeal the determination to the Board of Zoning Appeals (BZA). Processing the application would be stayed until the BZA acts on the appeal. In the absence of an appeal pending before the BZA, once the County deems an application to be complete, any disputes between the property owner and the easement holder regarding the merits of the application are a private matter and would not halt the County's review process without the consent of the applicant.
- 3) The Board is satisfied that the process for notifying an owner as provided in the proposed ZTA is acceptable
The proposed ZTA requires that written notice be sent to the property owner(s) by mail to the

address on record within 10 days after receiving the complete application. This new notification requirement ensures that the property owner(s) receives early notice that an application has been made. In addition, special use permits and variance applications require posted notice and written notice prior to the public hearing. Although special exceptions do not have the same notice requirements, staff believes that the notification to owners at the beginning of the application process will allow them to remain informed.

RECOMMENDATIONS:

Staff recommends that the Board adopt the proposed zoning text amendment (Attachment A).

ATTACHMENTS:

- A – Proposed Ordinance
- B – Resolution of Intent
- C – February 23 Planning Commission action letter
- D – February 23 Planning Commission staff report
- E – February 23 Planning Commission minutes