

Albemarle County Planning Commission
September 25, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, September 25, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Bruce Dotson, Julian Bivins, Jennie More, Daphne Spain; Pam Riley, Vice-Chair and Luis Carrazana, UVA representative. Karen Firehock was absent.

Other officials present were Bill Fritz, Manager of Special Projects; Megan Nedostup, Principal Planner; Tim Padalino, Senior Planner; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Sharon Taylor, Clerk to Planning Commission and Andy Herrick, Assistant County Attorney.

Call to Order and Establish Quorum

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

The meeting moved to the next agenda item.

Public Hearing Items.

PROJECT: ZTA201800005 – Section 35 – Fees

ZTA 201800005 - Fees The Planning Commission will hold a public hearing on September 25, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, to receive comments on its intent to recommend adoption of the following ordinance to amend Chapter 18, Zoning, of the Albemarle County Code: (1) Amend Section 18-35.1 (Fees) in order: (i) to delete the fee for a citizen-initiated zoning text amendment; (ii) to delete the fee to defer scheduled public hearings at the applicant's request, but to extend existing notice fees to the re-advertisement and notification of a public hearing after advertisement of a public hearing and a deferral is made at the applicant's request; (iii) to require applicants to pay calculated notification and legal advertisement costs for citizen-initiated zoning map amendments solely pertaining to proffers that do not affect use or density, when the board of supervisors authorizes alternative application and procedural requirements under Section 18-33; (iv) to add a fee of \$1,770 to reapply for a zoning map amendment or a special use permit that is substantially the same as a withdrawn application, when authorized by the Board of Supervisors; (v) to add an Initial notice fee of \$435, to be provided in conjunction with application, for preparing and mailing notices and published notice, except for uses under Sections 18-5.1.47 and 18-5.2A, or applications submitted under Section 18-30.7.6, for which there would be no fee; and (vi) to add a notice fee of \$220 for farmers' markets for published notice under Section 35.1(c)(7); (2) Amend Section 18-35.2 (Calculation of Fees in Special

Circumstances) to limit the availability of the reduced fee when there is a simultaneous review of an application for a zoning map amendment or a special use permit and a site plan or subdivision plat to only when an application for a special use permit for outdoor display and sales is reviewed simultaneously with a site plan; (3) Amend Section 18-35.3 (Mode and Timing for Paying Fees) to allow zoning application fees to be paid by credit or debit card; (4) Amend Section 18-35.4 (Fee Refunds) to allow initial notice fees to be refunded if a zoning application is withdrawn within 70 days after the date the application is officially submitted; and (5) Amend Section 18-35.5 (Pre-Existing Use Fee Waiver) to eliminate pre-existing use fee waivers for zoning text amendments. The proposed fees and fee increases are authorized by Virginia Code §§ 15.2-2241(9) and 15.2-2286(A)(6). A copy of the full text of the proposed ordinance amendments 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. (Bill Fritz)

Bill Fritz noted that Elaine Echols had wrote the repair and did all the hard work and so he gets none of the credit here. This is a zoning text amendment to amend the fees to catch up with the recent amendments to Section 33 and it:

- removes the fee for the zoning text amendment;
- changes the notice fees to be a flat fee;
- adds a fee for re-advertisement and re-applications;
- eliminates the fee for deferral;
- changes the fee calculations for when a site plan is submitted in conjunction with a rezoning and special use permit;
- adds credit and debit transactions; and
- Includes a refund for projects that are withdrawn within 70 days of the official submittal.

Mr. Fritz pointed out that after the ordinance was written he found very few mistakes and they are all because of the renumbering within Section 35 or the changes to Section 33. He said those changes could be made before we go to the Board because it is not substantive at all; it simply points you to the right number and he can go through and tell you what those are.

Mr. Keller invited questions for staff.

Ms. Spain said in Section C, second page F3 zoning clearance for tourist lodging that is not the Airbnb type lodging that we have been discussing.

Mr. Fritz replied that is the existing ordinance that deals with up to five rooms.

Ms. Spain said the tourist lodging would be an established B&B not transient lodging, and Mr. Fritz replied yes.

Ms. Spain said then under 5f, this is my personal interest zoning clearance for temporary funding activity. She asked if raising funds for the Girl Scouts in my garage then would she need

to apply for a zoning clearance, and Mr. Fritz responded that he did not administer that so can't answer that question of whether a zoning clearance would be required for that.

Ms. Spain said she would imagine that most people do not realize that it is a requirement.

Mr. Fritz responded that to my knowledge it is only done when they are making use of commercial sites; however, since he does not administer that section so he is not 100 percent positive.

Ms. Spain said she would expect the Girl Scouts do not apply for those since they sell outside of grocery stores but since it is no loss of revenue it is okay. She said the final 10, 11 and 12 at the bottom are 11 and 12 the variation or exception and is that supposed to be indented and apply to the floodplain impact plan or are they separate.

Mr. Fritz replied that 11 and 12 are their own thing and if you are asking for a variation or exception from one of the provisions in Section 32 and there are a couple of different sections. He said however when you have a site plan and you are going through it is a provision of the ordinance.

Mr. Bivins said he had a question on 35.5 on the last page because he had a hard time understanding a. since the use applied for does not conform to the zoning prescribed for the district in which the use is situated so therefore there is no fee because the use is not an allowed use. He said so we are not going to charge you to tell you no you cannot do this thing there.

Mr. Fritz responded no, what he believes that is saying is that if you have a nonconforming use and that actually you would not be applying for anything.

Mr. Bivins agreed.

Mr. Fritz replied that he would have to follow up on that one because he did not know the answer and it may no longer be necessary because that may have applied only in the case of zoning text amendments.

Mr. More said she had a question for Attachment C on the second page, number 12 the deferral of scheduled public meeting at applicant's request and that is struck through and just wondered if you could clarify is that after advertisement of a public hearing has occurred.

Mr. Fritz replied that we got rid of that because we are collecting the notice fee up front and then we are adding a re-advertisement and if they defer we need to re-advertise that; there is now a re-advertisement fee.

Ms. More said so that would take care of the time when we have had an advertisement and then a deferral the Commission still had to convene and staff is here, nothing happens but we are required to because we advertised.

Mr. Fritz pointed out if we had to do a re-advertisement yes, but with the other changes that are going on that kind of situation should be much more infrequent and due to some circumstances beyond control.

Mr. Keller invited further questions.

Ms. Spain pointed out on the first page on the staff report and this is a wordsmithing issue as Commissioner Dotson calls it on the fourth bullet point down that says provide a fee and she made this point on the draft and it was supposed to be changed and she thinks it should just say "include a fee". She said that the other ones all are include, remove or add a fee so provide is not consistent with the other uses and confusing to me.

Mr. Fritz agreed to the correction and that it should be included.

Ms. Spain said also we have talked here in the past about the additions to the orientation materials for new Planning Commissioners and she thinks this chapter with the fees would be important for commissioners to understand just how expensive it is for applicants to apply and reapply but also to know when the fee would be waived. She asked is there a way to make that request.

Mr. Herrick responded that we certainly could include this in the orientation materials.

Mr. Fritz pointed out that all of the fees are scheduled for reevaluation next year so we should have better numbers about what the actual costs of review is so that when we are working with the County Attorney's Office we will have better numbers.

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

Mr. Dotson moved that the Planning Commission recommend adoption by the Board of Supervisors of ZTA-2018-5 Section 35 Fees.

Ms. Spain seconded the motion.

The motion was approved by a vote of 6:0 (Firehock absent).

Mr. Keller said the ZTA-2018-5 Fees would be forwarded to the Board of Supervisors to a date to be determined with a recommendation for approval.

The meeting moved to the next item on the agenda.