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PLANNING COMMISSION: December 11, 2018
BOARD OF SUPERVISORS: TBD

ZTA 2018-02 Commercial and Industrial Zoned Properties not served by public water or central water supply systems in the Rural Area of the Comprehensive Plan.

ORIGIN: Resolution of Intent adopted by the Board of Supervisors on February 7, 2018.

PROPOSAL:

The proposed amendment would impact the following uses:

- Eating establishments
- Fast food restaurants
- Automobile service stations
- Convenience stores

The proposed amendment would make these uses by-right in the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) districts if served by public water or a central water system and by special use permit if not served by public water or a central water system.

The proposed amendment would also make uses permitted by-right in the Rural Areas (RA) district available to properties zoned Commercial (C-1), Commercial Office (CO) or Highway Commercial (HC) not served by public water or a central water system.

The proposed ordinance would also clarify that convenience stores are a permitted use in the Commercial (C-1) by listing them as a specific use. Currently convenience stores are not listed in the Commercial (C-1) district. However, they are permitted because of a determination by the zoning administrator that other uses listed in the district are of similar character. This amendment would reduce confusion and codify long standing practice of the County.

PUBLIC PURPOSE TO BE SERVED:

Amends the Zoning Ordinance to make it more consistent with the Comprehensive Plan.

BACKGROUND: This zoning text amendment (ZTA) was initiated by the Board of Supervisors with a resolution of intent adopted on February 7, 2018. A round table was held on April 17th. The Planning commission held a public hearing on May 8th and May 22nd and recommended approval of the ZTA. The Board of Supervisors held a public hearing on June 13th and deferred action. On August 8th, the Board held a work session to discuss the review procedures for the ZTA. The Board directed staff to continue to work on the ZTA. Staff is bringing back the first phase of the ZTA.

STAFF COMMENT:

As directed by the Board, staff has considered a ZTA that addresses both water and land use issues. Staff has identified a small number of uses that may generate impacts inconsistent with the Rural Area designation. Those uses are:

- Eating establishments
- Fast food restaurants
- Automobile service stations
- Convenience stores

Some of the impacts that may be generated by these uses include: high traffic volume, extended hours of operation, lighting, building design inconsistent with the character of the area, high water use (impacting both well and septic system designs), sound, and smells.

Analysis of the proposed zoning text amendment:

Zoning Ordinance section 33.6(B) establishes factors to be reasonably considered by the Planning Commission and Board of Supervisors in the review of ZTAs. Each factor is reviewed below:

(i) the existing use and character of property

Properties served by public water or central water system are located in the development areas or have otherwise been identified by the Board by prior actions to be suitable for development. The Board's actions to identify properties as suitable for intense development occurred by either placing them within the Albemarle County Service Authority jurisdictional area or approving a central water system.

The Board also has zoned properties as either commercial or industrial in prior actions. However, since the adoption of the zoning, either as part of the 1980 comprehensive rezoning or by individual applicant-initiated rezonings, the Comprehensive Plan has been amended and the character of the County has changed or potentially changed in various locations. This change warrants a re-evaluation of the character of affected properties, and the special use permit process allows this reevaluation to occur. If this ZTA were approved, certain currently existing uses would become non-conforming, and would either be subject to the provisions of Chapter 6 (Nonconformities) or the conditions of previously approved special use permits.

(ii) the Comprehensive Plan

Attachment C includes various Goals and Strategies from the Comprehensive Plan. The overriding concept is the difference between the Rural Area and Development Area. An ideal ordinance would make a distinction in the permitted uses based on the parcel's designation in the Comprehensive Plan. However, because the Comprehensive Plan lacks the necessary level of specificity, staff has utilized service by public water or central water system as the best parcel by parcel identification of the Board's intent for by-right intense development of a property. Below, staff will analyze various chapters, goals, strategies and objectives of the Comprehensive Plan.

Rural Area vs. Development Areas

The Comprehensive Plan repeatedly emphasizes that development should occur within the Development Areas, with only limited exceptions. For example, the Growth Management chapter states as a strategy: "Continue to encourage approval of new development proposals in the Development Areas as the designated location for new residential, commercial, industrial, and mixed-use development. Only approve new development proposals in the Rural Area that are supported by Rural Area goals, objectives, and strategies." This ZTA would allow the Board to analyze the uses proposed in the Rural Area (of the Comprehensive Plan) to determine if they are consistent with the Comprehensive Plan's goals and strategies.

Interstate Interchange and Economic Development

The Economic Development chapter states as an objective: "Promote economic development activities that help build on the County's assets while recognizing distinctions between expectations for the Development Areas and the Rural Area." During the review of a special use permit, the Board is able to analyze how a proposed project may support this objective.

The Comprehensive Plan acknowledges the value of the interstate interchanges located in the County, and that each of these interchanges has a unique character. This ZTA would allow review of individual

development proposals to determine if the proposed use were consistent with the character of the interchange area.

The Comprehensive Plan speaks to by-right uses at interstate interchanges by stating: “Uses allowed by right in the Rural Area are appropriate at interchanges”. This ZTA would allow Rural Area (RA) district uses by-right on commercially zoned properties.

Rural Crossroads

As a strategy, the Comprehensive Plan states in part: “Crossroads communities are intended to provide only essential goods and services for their immediate area. Therefore, they should be limited in size, with carefully delineated permissible uses. Reusing existing buildings, especially historic buildings, is preferable to building new structures”. This ZTA would allow the Board to review individual projects on a site by site and project by project basis to determine if they were supportive of the Comprehensive Plan.

(iii) the suitability of property for various uses

Each commercial district includes a stated intent of the district. (Attachment D) The intent of each district is unique. However, the ordinance’s general intent statement for commercial districts includes the following:

To these ends, activities involving retail, wholesale and service business shall be permitted at appropriate locations within areas designated as the urban area, communities and villages in the comprehensive plan.

This ZTA would allow for an individual analysis of each property not served by public water, to determine if the character of the property were suitable for the proposed use. During the review of a special use permit, the Board considers the following factors (Reference Section 33.40(B))

1. No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.
2. Character of the nearby area is unchanged. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.
3. Harmony. Whether the proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the regulations provided in Section 5 as applicable, and with the public health, safety, and general welfare.
4. Consistency with the Comprehensive Plan. Whether the proposed special use will be consistent with the Comprehensive Plan.

In addition to considering these factors, the Board may impose reasonable conditions to address any possible impacts of a special use permit.

The special use permit process allows the County to determine the suitability of an individual property for various uses.

(iv) the trends of growth or change

As stated previously, the properties impacted by this ZTA were rezoned in the comprehensive 1980 rezoning or by applicant-initiated rezoning. Since then, the Comprehensive Plan has been amended, in most cases it has been amended several times. This ZTA would acknowledge the changes that have occurred in the County.

(v) the current and future requirements of the community as to land for various purposes as

determined by population and economic studies and other studies

The County requires commercial properties to serve the needs and desires of the community. This ZTA would not eliminate any commercial land nor would it automatically remove allowable uses on a property. It would require special use permit in certain cases, which may be denied. During the special use permit review, the Board can consider individual projects' consistency with the Comprehensive Plan and the needs of the community.

(vi) the community's transportation requirements

This ZTA would enable the Board to evaluate individual projects' impact on the community transportation requirements to a greater degree than if the uses were by-right.

(vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services

This ZTA would have no impact on this provision.

(viii) the conservation of natural resources

For those properties not served by public water or a central system, this ZTA would allow for an analysis of individual proposals' impact on natural resources.

(ix) preserving flood plains

This ZTA would have no impact on this provision.

(x) protecting life and property from impounding structure failures

This ZTA would have no impact on this provision.

(xi) preserving agricultural and forestal land

This ZTA would enable the Board to review the impacts of specific proposed developments on the agricultural and forestal lands of the County.

(xii) conserving properties and their values

This ZTA would not eliminate uses. It may make some currently by-right uses allowable only by special use permit. A reduction in by-right uses may reduce the value of a specific parcel. However, under the existing ordinance, adverse impacts of commercial development may reduce the value of adjacent rural land. Approval of this ZTA would allow the individual review of certain special use permit applications. During that review, the potential negative impacts on property values may be considered.

(xiii) encouraging the most appropriate use of land throughout the County

In staff's opinion, this ZTA would be consistent with the Comprehensive Plan. Through the special use permit review process, the Board can encourage and support appropriate land uses.

Strategic Plan:

Rural Area Character: Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity

This proposed ordinance will be reviewed by the three (3) criteria previously established by the Board for amendments:

Administration/Review Process: The proposed amendment would eliminate the analysis required to determine the water consumption of certain uses, for those sites not served by public water or a central water system. This process is time-consuming for both the applicant and the County and has resulted in lengthy appeals. The amendment would simply require a special use permit for certain proposed uses not served by public water or a central water system. Special use permits are discretionary and take more time than by-right reviews.

Housing Affordability: This proposal would have no impact on housing affordability.

Implications to Staffing/Staffing Costs: The analysis required to determine the need for a special use permit can be time consuming and complex. This amendment would eliminate this analysis for certain uses. The resources used to process a special use permit are less than those associated with the determination of a need for a special use permit and the subsequent review of the special use permit.

RECOMMENDED ACTION:

Staff recommends approval of the proposed ZTA.

ATTACHMENTS

Attachment A – Resolution of Intent

Attachment B – Proposed Ordinance Language

Attachment C – Comprehensive Plan

Attachment D – Purpose and intent of commercial districts