

<b><u>STAFF CONTACT:</u></b>	Lea Brumfield
<b><u>PLANNING COMMISSION:</u></b>	October 15, 2019
<b><u>BOARD OF SUPERVISORS:</u></b>	December 4, 2019

**ZTA: 2019-05 Submittal of Special User Permit Applications**

**ORIGIN:** The Board of Supervisors adopted a Resolution of Intent to amend the Zoning Ordinance on July 17, 2019. (Attachment A)

**PROPOSAL:** Amend the Zoning Ordinance to allow electric cooperatives to submit a special use permit application prior to acquiring easements on all properties impacted by proposed infrastructure.

**PUBLIC PURPOSE TO BE SERVED:** Facilitates uninterrupted electric service to rural area residents and may increase availability of affordable broadband access to underserved rural communities.

**BACKGROUND:** Expanding and improving the electrical grid may require a special use permit. Currently, only a property owner, contract purchaser with the owner's consent, the owner's authorized agent, or an eligible easement holder may file an application for a special use permit. The nature of the electrical grid results in long corridors of infrastructure, potentially impacting many parcels.

**STAFF COMMENT:**

Electric cooperatives have historically and continue to provide a vital service to rural areas, and are uniquely structured, member-owned organizations. Multiple electric cooperatives serving Albemarle County have also prioritized the delivery of affordable broadband access to underserved rural communities within their service areas.

While only a property owner, contract purchaser with the owner's consent, the owner's authorized agent, or an eligible easement holder may file an application for a special use permit, electric cooperatives have the power of eminent domain to obtain easements. Currently, if the electric cooperative is unable to obtain permission to submit the application from unresponsive property owners, they must acquire rights by eminent domain prior to submitting the application. As the application may be denied, this has posed an unnecessary burden on electric cooperatives seeking to expand or improve service.

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. The factors applicable are reviewed below:

(i) the existing use and character of property

Electric Cooperatives may seek special use permits to expand existing facilities or establish new facilities such as power lines or substations. The special use permit review process will address the appropriateness of the requested changes. This ZTA includes a provision requiring the notification of the property owner on which a special use permit application has been made. This provides an opportunity for property owners to provide comment on how a proposed special use permit impacts the existing use and character of property.

(ii) the Comprehensive Plan

The Comprehensive Plan states in Chapter 12 – Community Facilities:

Strategy 10a: Continue to ensure the adequate provision of electricity, telephone, fiber optics, and natural gas services to support existing and anticipated development in the County through coordination with utility companies. One of the primary issues for growth in the County is to assure that capacities are available for present and future populations and businesses. In order to achieve this objective, cooperative and coordinated planning efforts must be maintained by the County and the respective utilities. The County should continue to inform utility agencies of long-term planning goals and current development proposals, which are reviewed by the County.

This ZTA was sought by an electric cooperative as a more efficient method of processing requests to maintain and improve capacity in Albemarle County.

(iii) the suitability of property for various uses

The agricultural, forestal, and residential uses of the rural area properties where electrical grid infrastructure would be expanded or improved will be evaluated for the potential impact of special use permits.

(iv) the trends of growth or change

Growth in the County generates an increased demand for reliable electrical service and potential broadband service. There has also been an increased use of renewable power generated both at an industrial and residential scale. This may contribute to the need to improve the electric grid.

(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

Reliable electrical service has been and will continue to be a requirement for the well being of the community. Provision of electricity generated by various sources may require improvements to the electric grid. Increased electric consumption by electric powered vehicles may also increase the demands on the power grid. This ZTA allows for applications to be made by electric cooperatives to address the needs of the community for reliable electrical power. Electric cooperatives will still have to follow the review process and will have to acquire necessary easements prior to constructing improvements.

(vi) the community's transportation requirements

As stated above increased use of electric vehicles places additional burdens on the electric grid. This ZTA may help electric cooperatives to provide enhancements to the power supply system and perhaps encourage the use of electric vehicles.

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

Electric cooperatives clearly provide a public service within their designated service areas. This ZTA allows for an application process that removes the burden of acquiring easements prior to determining if the improvements will be authorized by the County. This is a more efficient process for the electric cooperatives and places no burden on the locality or property owners.

(viii) the conservation of natural resources

This ZTA does not impact natural resources.

(ix) preserving flood plains

This ZTA does not impact flood plains.

(x) protecting life and property from impounding structure failures

This ZTA does not impact impounding structures.

(xi) preserving agricultural and forestal land

This ZTA does not directly impact agricultural or forestal land. Impacts on agricultural or forestal land will be reviewed when a special use permit application is submitted.

(xii) conserving properties and their values

This ZTA does not change the criteria for review of a special use. During the special use permit review process one of the factors considered is “whether the proposed special use will be a substantial detriment to adjacent parcels”. This will consider the potential impacts on properties and their values.

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

This ZTA merely allows electric cooperatives to make an application. The appropriateness of the use will be determined during the special use review process.

Strategic Plan

Improvement of the electrical grid may be consistent with the County’s Climate Action Planning and Economic Development Program.

Staff Time and Budgetary Impacts

The adoption of this Zoning Text Amendment is not anticipated to have any staff time or budgetary impacts.

**RECOMMENDED ACTION:**

Staff recommends adoption of the Zoning Text Amendment as outlined in Attachment B.

**ATTACHMENTS:**

Attachment A – [Resolution of Intent](#)

Attachment B – [Proposed Ordinance Language](#)