

ACTIONS
Board of Supervisors Meeting of February 8, 2012

February 9, 2012

AGENDA ITEM/ACTION

ASSIGNMENT

3:00 P.M., ROOM 241

1. Call to Order.

- Meeting was called to order at 3:01 p.m. by the Chair, Ms. Mallek, and Chair of the Planning Commission, Mr. Morris. All Board Members were present. Also present were Tom Foley, Larry Davis, and Ella Jordan.

2. Joint meeting with Planning Commission.

- All Commission members were present. Also present were Greg Kamptner, Wayne Cilimberg, Mark Graham, Lee Catlin and Elaine Echols.

3. **Public Hearing: ZTA-2012-00001. Special Exceptions.**

- By a vote of 6:0, the Planning Commission recommended approval of ZTA-2012-00001.
- By a vote of 6:0, the Planning Commission supported staff's recommendation for processing applications for special exceptions.
- By a vote of 6:0, the Board **ADOPTED** ZTA-2012-00001.
- By a vote of 5:1 (Thomas), the Board supported staff's recommendation for processing applications for special exceptions as follows:
 1. Applications that have a staff recommendation for approval, the applicant agrees to staff's recommended conditions, and no Board member has requested this be discussed will be placed on the Board's consent agenda. In placing an application on the consent agenda, staff will provide the Board the specific request with the applicable ordinance section(s), a summary of staff's findings as to required considerations, and a recommendation. (It is anticipated this process will be used for the vast majority of Special Exception applications.)
 2. Applications that are not placed on the consent agenda and were previously decided by the Planning Commission will first go to the Planning Commission for a recommendation and then be forwarded to the Board. Staff will continue to provide a report to the Planning Commission with analysis of the application and this report will be forwarded to the Board with the Planning Commission's recommendation. (It is anticipated this will be the process for some Special Exception applications.)
 3. Applications that are not placed on the consent agenda and were previously decided by staff will be placed on the

Clerk: Forward copy of adopted ordinance to Community Development and County Attorney's office. (Attachment 1)

<p>Board's regular agenda. Staff will provide a report to the Board with analysis of the application and a recommendation. (It is anticipated this process will be use few applications.)</p>	
<p>4. Work Session: Economic Vitality Action Plan Implementation Schedule:</p> <ul style="list-style-type: none"> a. Target Industry Study Results b. Comprehensive Plan Update Schedule regarding LI and Interstate Interchange Policy <ul style="list-style-type: none"> • By a vote of 5:1 (Boyd), the Board APPROVED maintaining the current schedule for the update of the Comprehensive Plan. 	
<p>5. Adjourn.</p> <ul style="list-style-type: none"> • At 4:47 p.m., the Planning Commission meeting was adjourned. • At 4:47 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees and commissions. 	
<p>6:00 P.M., LANE AUDITORIUM</p>	
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 6:03 p.m. by the Chair, Ms. Mallek. All Board Members were present. Also present were Tom Foley, Larry Davis, and Ella Jordan. 	
<p>NonAgenda. Certify Closed Meeting.</p> <ul style="list-style-type: none"> • At 6:04 p.m., the Board certified the closed meeting motion. • By a vote of 6:0, APPOINTED the following individuals to fill vacancies on boards and committees: <ul style="list-style-type: none"> • Mr. Kevin Quick to the Equalization Board, with said term to expire December 31, 2012. • Mr. A. Bruce Dotson, as the at-large representative on the Planning Commission, with said term to expire December 31, 2013. 	
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> • Mr. Thomas said he would like to discuss the issue related to Rockydale Quarries. • By a vote of 6:0, adopted the final agenda as amended. 	
<p>5. Brief Announcements by Board Members. <u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • For residents who live in the Moore's Creek watershed, there may be some money available. The Thomas Jefferson Soil and Water Conservation District can provide 50%-85% cost share assistance to install conservation measures within this watershed. 	
<p>6. From the Public: Matters not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>Nancy Carpenter</u>, a County resident, spoke about her attendance at a recent talk by John Morton, Director of ICE (Immigration and Customs Enforcement). 	

<ul style="list-style-type: none"> • <u>The following individuals spoke about climate change:</u> <ul style="list-style-type: none"> • Sally Thomas • Howard Epstein • Carlton Ray • Charles Battig • <u>The following individuals spoke about the proposed Route 29 Bypass and the need for a Supplemental Environmental Impact Statement:</u> <ul style="list-style-type: none"> • Shirley Midyette • George Larie • Saunders Midyette • John Cruickshank • Scott VandePol • Meredith Richards asked for the Board's support for two budget items introduced in the 2012 General Assembly – both of which relate to maintaining the State's support for the regional passenger trains. 	
<p>7. Consent Agenda.</p> <ul style="list-style-type: none"> • Mr. Davis suggested that Agenda Item No. 8 be moved to the Consent Agenda pursuant to the Board's action on ZTA-2012-00001. Board members concurred. 	
<p>7.1 SDP-2011-00072. Moore's Creek; Verizon Wireless Tier II Personal Wireless Service Facility (PWSF): Appeal of Planning Commission Denial of Tier II Permit.</p> <ul style="list-style-type: none"> • APPROVED the 7 foot extension of the personal wireless service facility. 	
<p>7.2 SDP-2011-00074. Turner Mountain Road; Verizon Wireless Tier II Personal Wireless Service Facility (PWSF): Appeal of Planning Commission Denial of Tier II Permit.</p> <ul style="list-style-type: none"> • APPROVED the 8.5 foot extension of the personal wireless service facility. 	
<p>7.3 SDP-2011-0011. Blue Ridge Swim Club-Site Plan Waiver – Request approval to waive requirement to submit site development plan.</p> <ul style="list-style-type: none"> • APPROVED the applicant's request to waive the requirement to submit a site plan as per Section 32.2 of the Zoning Ordinance. 	
<p>8. SDP-2011-0081. Verizon Wireless/Crossroads/Shifflett Property Tier II Personal Wireless Service Facility.</p> <ul style="list-style-type: none"> • APPROVED the proposed extension of the existing monopole with antennas, and associated ground equipment. 	
<p>9. <u>Pb. Hrg: ZMA-2011-00006. and SP-2011-00014. Albemarle Health and Rehab Center (Sign #28).</u></p> <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, ZMA-2011-00006, inclusive of proffers dated 1/25/12. • APPROVED, by a vote of 6:0, SP-2011-00014, with no conditions. • APPROVED, by a vote of 6:0, waivers of: <ul style="list-style-type: none"> - Section 21.7 (b), Minimum Yard Requirement; - Section 21.7 (c), Required Buffers; - Section 32.7.9.8(c), Required Screening; and - Section 4.12.4(a), Exceeding the maximum parking by more than 20%. 	<p><u>Clerk:</u> Set out proffers. (Attachment 1)</p>

<p>10. From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Rodney Thomas:</u></p> <ul style="list-style-type: none"> Announced that a community meeting is being planned to address the petition and issues related to Rockdale Quarries. <p><u>Chris Dumler:</u></p> <ul style="list-style-type: none"> By a vote of 6:0, AUTHORIZED the Chair to send letter in support of SB30 and HB30 - budget items in the 2012 General Assembly related to Lynchburg-DC passenger train. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Mentioned letter Board members received regarding aggressive dogs and support of Countywide leash law. She is currently looking into the issue of burning trash in barrels; will discuss it further when she has more information. Asked about the timetable and format for information going to VDOT on the EIS. Mr. Graham stated that staff would provide the Board with a summary of what they plan to forward to VDOT. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> Discussed what information would be coming to the Board in March when it discusses issues related to dogs. 	
<p>20. Adjourn.</p> <ul style="list-style-type: none"> At 7:02 p.m., the meeting was adjourned until February 24, 2012, 11:30 a.m., Room 241. 	

/ewj

Attachment 1 – Ordinance - ZTA-2012-00001. Special Exceptions
Attachment 2 - Proffers - ZMA-2011-00006. Albemarle Health and Rehab Center

ORDINANCE NO. 12-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article IV, Procedure, is hereby amended and reordained as follows:

By Adding:

Sec. 31.8 Special exceptions

Chapter 18. Zoning

Article IV. Procedure

Sec. 31.8 Special exceptions

The board of supervisors reserves unto itself the authority to consider and act upon special exceptions as follows:

- a. *Matters requiring a special exception.* Notwithstanding any other section of this chapter:
 - 1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board.
 - 2. Any requirement for a decision by the planning commission required by this chapter shall be considered and acted upon by the board. For the purposes of this section, a decision by the planning commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any action provided in section 32 enabled under Virginia Code § 15.2-2242(1).
- b. *Consideration and action.* In acting upon a special exception, the board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.
- c. *Conditions.* In approving a special exception, the board may impose reasonable conditions to address any possible impacts of the special exception.
- d. *Time for action.* A request for a special exception shall be acted on by the board within ninety (90) days after the date of the request, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.
- e. *Request.* Each request for a special exception shall be made as provided under the applicable section of this chapter.

Proffer Statement
Albemarle Health Care Center

Date: January 25, 2012
 Owner: Galaxie, LLC, a Virginia limited liability company
 Property: 91 Galaxie Farm Lane, PIN 09100-00-00-01200 (portion)
 Application: ZMA -2011-00006

This Proffer Statement accompanies and relates to the application by Albemarle Health Care Center, LLC for a zoning map amendment (the "Application"). The Owner is Galaxie, LLC, a Virginia limited liability company, or its successors (the "Owner").

The Application applies to approximately 5.38 acres in Albemarle County, Virginia (the "County") known as a portion of tax map parcel 09100-00-00-01200 (the "Property"). The Property is presently zoned R-1 in accordance with Section 13 of the Albemarle County Zoning Ordinance (the "Ordinance"). The Application seeks to designate the zoning for the Property as Planned Development Mixed Commercial (PD-MC) in accordance with Section 25A of the Ordinance.

Conditions. Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance and subject to the reservations and clarifications that follow, the Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the proposed Application is approved by the Board of Supervisors of Albemarle County. If the Application is denied, these conditions shall be immediately null, void and of no effect. These conditions are proffered as a part of the requested Application and it is agreed that: (1) the uses described in the Application itself give rise to the need for the conditions; and (2) such conditions have a reasonable relation to the uses described in the Application. The following shall be the sole proffers applicable to the Property.

1. Permitted Uses. The use of the Property shall be limited to those uses allowed by right under Section 25A.2.1(2), (3) and (4); those uses allowed by right under Section 24.2.1(45); and those uses allowed by special use permit under Section 24.2.2(7) and (16); of Chapter 18, Zoning, of the Albemarle County Code, as those sections are in effect on January 13, 2012, copies of which are attached hereto and incorporated herein as Attachment A.

2. Public Street. As a condition for the issuance of the first Certificate of Occupancy for any structure on the Property, the Owner shall design and complete construction of a public street between Mill Creek Drive (Point A) and to a point just beyond the private access road to the Property (Point C), as shown on Sheet 3 of the Application Plan ("Public Street"). The Public Street shall be designed and constructed to County and VDOT standards, including the design and construction of related drainage, slope and utility easements, as applicable; provided however, that with the approval of the County Engineer, the ultimate vertical alignment may be adjusted once final engineering has been developed and submitted as part of the Owner's final site plan. Construction of the Public Street shall be deemed complete when the County Engineer determines that the roadway is safe and convenient for traffic.

A. The Public Street from Point A to Point B on the Application Plan entitled "Application Plan for Albemarle Health & Rehabilitation Center, Tax Map 91, Parcel 12, Scottsville District, Albemarle County, Virginia," prepared by Shimp Engineering, P.C., dated 06/20/11, last revised 01/19/12, (the "Application Plan") shall be constructed to follow the same horizontal and vertical alignment, including sidewalks and planting strips, for the connecting portion of road on the Fire and Rescue Facility, as shown on the approved final site plan for the Monticello Fire and Rescue site (SDP 200100089, approved January 3, 2002, (the "Fire Station Site Plan")) The segment of the Public Street from Point A to Point B also shall be designed and constructed to the full section as shown on Sheet 5.0 of the Fire Station Site Plan. The minimum requirements for the sidewalks and planting strips shall be as provided in Proffer 2(E).

B. The Public Street from Point B to Point C shall be constructed as shown on Sheet 3 of the Application Plan, including a sidewalk and planting strip. The segment of the Public Street from Point B to Point C shall be designed and constructed to a twenty (20) foot VDOT half section. The minimum requirements for the sidewalk and planting strip shall be as provided in Proffer 2(E).

C. Upon request by the County and at the Owner's sole expense, the Owner shall prepare, or cause to be prepared, a subdivision plat meeting the requirements of the Albemarle County Subdivision Ordinance (Chapter 14 of the Albemarle County Code) to create a special lot composed of the right-of-way for the Public Street. The plat shall identify the Public Street right-of-way as being dedicated to public use. The plat shall be prepared for approval by the County under the Albemarle County Subdivision Ordinance, and shall identify the County as the owner and signatory.

D. Until the Public Street is accepted into the secondary system of State highways, the Owner shall be responsible for all maintenance, repairs, bonding and insurance for the Public Street. To satisfy this requirement, the Owner shall either: (1) enter into an agreement between the Owner and the County setting forth the Owner's obligations under this Proffer 2(D), which agreement shall first be approved as to substance and to form by the County Engineer and the County Attorney; or (2) provide surety for the maintenance of the Public Street as provided in Albemarle County Code § 14-435.1 or its successor in effect at the time the final subdivision plat required by Proffer 2(C) is approved.

E. Each sidewalk required by Proffers 2(A) and (B) shall be a minimum of five (5) feet in width. Each planting strip required by Proffers 2(A) and (B) shall be a minimum of six (6) feet in width. Each planting strip shall be located between the curb and the sidewalk.

Witness the following signature and seal.

Galaxie, LLC

By: David S. Witmer, Manager