

ACTIONS
Board of Supervisors Meeting of October 3, 2012

October 4, 2012

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 9:05 a.m. by the Chair, Ms. Mallek. All BOS members were present. Also present were Tom Foley, Larry Davis, and Travis Morris. 	
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> • MOVED Consent Agenda #8.12 as part of Agenda #14. • ADDED for discussion additional funding to the Sheriff's budget to assist the Game Warden. • ACCEPTED the final agenda. 	
<p>5. Brief Announcements by Board Members. There were none.</p>	
<p>6. Recognitions:</p> <ol style="list-style-type: none"> a. Digital Government Award. <ul style="list-style-type: none"> • Tony Hansan, Motorola representative, presented the Digital Government Award to Mike Culp, Director of IT. b. Officer Pam Greenwood – Community Policing Initiative. <ul style="list-style-type: none"> • Chair read and presented accommodation to Officer Pam Greenwood. • Officer Greg Jenkins spoke to the Board on the Community Policing Initiative “Geo Policing”. c. Proclamation recognizing October 2012 as Domestic Violence Awareness Month. <ul style="list-style-type: none"> • Chair read proclamation. d. Proclamation recognizing October 2012 as Community Planning Month. <ul style="list-style-type: none"> • Chair read and presented proclamation to Wayne Cilimberg, Director of Planning. e. Proclamation recognizing The Kiwanis Club of Charlottesville in Celebration of 90 years. <ul style="list-style-type: none"> • Chair read and presented proclamation to Jim Hart, Kiwanis Club of Charlottesville member. 	<p>(Attachment 1)</p> <p>(Attachment 2)</p> <p>(Attachment 3)</p> <p>(Attachment 4)</p>
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>The following persons spoke in opposition to the outdoor Police Firing Range and Technical Facility at the Keene Landfill:</u> <ul style="list-style-type: none"> • Paula Beasley • Bill Tunner • Cyndra Van Clief • Barry Van Clief • Michael Sheet • Trish Van Clief • D.G. Van Clief • <u>Robbie Morrison</u> spoke on the 4-H Program and National 4-H week. • <u>Charles Battig</u> made a presentation with the subject titled “Addicted to Science and Optimism”. • <u>Jeff Werner</u>, of the Piedmont Environment 	

	<p>Council, asked the Board to think about the impact that winery events and the proposed shooting range will have on people in the rural areas.</p> <ul style="list-style-type: none"> • <u>Lydia Wilson</u> spoke about a petition to Board members requesting cell phone service in southern Albemarle County. • <u>Valerie Long</u>, of Williams and Mullen, spoke on the proposed revisions to the wireless ordinance. • <u>John Martin</u> addressed the Board in support of funding the Sheriff's Office with overtime pay to assist the Game Warden during hunting season. • <u>Neil Williamson</u>, of the Free Enterprise Forum, announced that Keswick Vineyards 2009 Cabernet Sauvignon beat out Napa Valley's Chateau Motelena as best Cabernet at the Virginia Wine Summit. He also spoke about economic vitality in the rural areas. 	
8.2	<p>Appointment of Travis O. Morris as Senior Deputy Clerk.</p> <ul style="list-style-type: none"> • APPOINTED Travis O. Morris as Senior Deputy Clerk for the remaining Calendar Year 2012. 	<u>Clerk:</u> Notify Human Resources.
8.3	<p>FY 2012 Budget Amendment and Appropriations.</p> <ul style="list-style-type: none"> • APPROVED appropriations #2012092, #2012093 and #2012094. 	<u>Clerk:</u> Notify OMB, Finance and appropriate individuals.
8.4	<p>Resolution Accepting Conveyance of Scottsville Library Property from Albemarle County School Board to Albemarle County Board of Supervisors.</p> <ul style="list-style-type: none"> • ADOPTED resolution accepting the conveyance of TMP 130A2-90 from the School Board, and AUTHORIZED the County Executive to sign the Quitclaim Deed and all documents necessary to accept the conveyance once they are reviewed and approved by the County Attorney. 	<u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 5)
8.5	<p>Adoption of Resolutions of Intent to amend the personal wireless service facilities regulations in the Zoning Ordinance.</p> <ul style="list-style-type: none"> • PULLED to discuss at the end of the agenda. 	
8.6	<p>Public Safety Recruitment and Retention Programs.</p> <ul style="list-style-type: none"> • APPROVED the Public Safety Recruitment and Retention Programs as recommended. 	<u>Human Resources/Fire and Rescue/Police:</u> Proceed as approved.
8.7	<p>Authorize County Executive to Execute Agreement for the Jefferson Madison Regional Library.</p> <ul style="list-style-type: none"> • AUTHORIZED the County Executive to execute the agreement for Jefferson Madison Regional Library dated January 1, 2013 (draft dated August 31, 2012). 	<u>County Attorney:</u> Provide Clerk with fully executed copy of agreement. (Attachment 6)
8.8	<p>Set public hearing to consider amending lease agreement between the County and the Field School of Charlottesville to increase the square footage to be leased by the Field School in the Old Crozet School.</p> <ul style="list-style-type: none"> • SET for public hearing on November 7, 2012. 	<u>Clerk:</u> Advertise and schedule on November 7 th agenda.
8.9	<p>Road Name Change of Holly Fork Lane Road to Merifields Road.</p>	<u>Community Development:</u> Proceed as approved.

	<ul style="list-style-type: none"> • APPROVED changing the road name of Holly Fork Lane to Merifields Road and AUTHORIZED staff to implement the change. 	
8.10	<p>Voting Credentials for the 2012 VACo Annual Business Meeting.</p> <ul style="list-style-type: none"> • AUTHORIZED Ann Mallek as Voting Delegate and Duane Snow as Alternate Delegate for the VACo 2012 Annual Meeting. 	<u>Clerk:</u> Forward completed Voting Credential Form to VACo.
8.11	<p>Resolution Authorizing Submission of Application to the Virginia Department of Conservation and Recreation for Recreation Trails Program Funding Assistance Grant for Preddy Creek Trail Park Phase II Project.</p> <ul style="list-style-type: none"> • ADOPTED resolution. 	<u>Clerk:</u> Forward copy of resolution to Parks and Recreation, and County Attorney's Office. (Attachment 7)
8.12	<p>Resolution – VDoT Notification for Spraying.</p> <ul style="list-style-type: none"> • DEFERRED to October 10, 2012. 	<u>Clerk:</u> Schedule on October 10 th agenda.
8.13	<p>SUB-2011-00111. Belvedere Phase 2 Preliminary Plat – Zoning Ordinance Waiver & Variations from Belvedere Code of Development.</p> <ul style="list-style-type: none"> • APPROVED critical slopes waiver and variations #45 and #48, both variations with conditions as recommended. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
8.14	<p>Equal Rights Amendment (ERA) Resolution.</p> <ul style="list-style-type: none"> • DENIED, by a vote of 3:3(Snow/Thomas/Boyd). 	
9.	<p>Pb. Hrg: SP-2012-00008. Daylily Preschool (Signs #44&89).</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED SP-2012-0008 subject to the recommended conditions. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
10.	<p>Pb. Hrg: SP-2012-00014. Free Union Baptist Church Extension (Signs #39&41).</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED SP-2012-00014 subject to the recommended conditions. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
11.	<p>Pb. Hrg: SP-2012-00017. NTELOS Wireless - Llandaft Property - Tier III PWSF.</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the special exception to allow the facility to be up to 10' above the reference tree for reasons outlined in the staff report for Section 5.1.40(d)(6) under the special exception criteria of Section 31.8 and mentioned in the presentation. • By a vote of 6:0, APPROVED SP-2012-00017 subject to the recommended conditions. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
12.	<p>Pb. Hrg: SP-2012-00020. NTELOS (CV830) Glendower/Schmidt Property Tier III Personal Wireless Service Facility (Signs #42&45).</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the special exception to modify monopole height for SP-2012-00020. • By a vote of 6:0, APPROVED SP-2012-00020 subject to the recommended conditions. 	<u>Clerk:</u> Set out conditions of approval. (Attachment 8)
13.	<p>FY13 Budget Amendment.</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the FY2013 budget amendment in amount of \$12,224.350.45 and APPROVED appropriations #2013040, #2013041, #2013042, #2013043, #2013044, #2013045, #2013046, #2013047, #2013048 and #2013049 to provide funds for various local government and school projects and programs. 	<u>Clerk:</u> Notify OMB, Finance and appropriate individuals.

	Recessed. At 11:28 a.m., the Board recessed, and then reconvened at 11:36 a.m.	
14.	<p>VDoT Quarterly Report, Joel DeNunzio.</p> <ul style="list-style-type: none"> Announced that he is the Acting Resident Administrator; VDoT is in the process of recruiting for a new Resident Administrator. Announced that a berm was installed on Rio Road. Announced that VDoT is working to change the lane configuration coming out of Riverside Drive. Highlighted various items from VDoT's monthly report. 	
15.	<p>Black Cat Road (Route 616) Bridge Replacement and Through Truck Restriction Update.</p> <ul style="list-style-type: none"> DIRECTED staff to look at VDoT requirements to determine if this is feasible. 	<u>Jack Kelsey:</u> Proceed as directed.
16.	<p>FY14 VDOT Revenue Sharing Program Participation.</p> <ul style="list-style-type: none"> By a vote of 6:0, APPROVED the County's application for the FY14 Revenue Sharing Program with four identified projects and requested the funding of deployment of an adaptive traffic control system or other equivalent signal synchronization enhancements to US 29, from the City limits to Hollymead. 	<u>David Benish:</u> Proceed as approved. (Attachment 9)
17.	<p>Charlottesville/Albemarle County Inter-City Leadership Visit.</p> <ul style="list-style-type: none"> By a vote of 4:2 (Rooker/Snow), AGREED to participate in the Charlottesville/Albemarle County Inter-City Leadership Visit to Austin, Texas and APPROVED sending three representatives (to be determined at a later date) from the County. 	
18.	<p>Crozet Library First Floor Space.</p> <ul style="list-style-type: none"> By a vote of 6:0, ENDORSED the goals/guiding principles for determining appropriate uses for the space recognizing that they are not exclusive and DIRECTED staff to continue analysis of the tourism support, Crozet history/culture, and collaborative workspace options as described by staff, with the understanding that additional desirable uses may emerge from that analysis. 	<u>Trevor Henry/Lee Catlin:</u> Proceed as directed.
19.	<p>Closed Meeting. Personnel and Legal Matters.</p> <ul style="list-style-type: none"> At 1:28 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to discuss and consider appointments to specific boards, committees, and commissions; under subsection (3) to discuss the acquisition of real property for a public park because an open meeting discussion would adversely affect the bargaining position of the county; under subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for implementing a cooperative cost recovery program for emergency service 	

<p>transports; and under subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the coordinated fire and rescue system ordinance.</p>	
<p>20. Certify Closed Meeting.</p> <ul style="list-style-type: none"> At 2:47 p.m., the Board reconvened into open meeting and certified the closed meeting. 	
<p>21. Boards and Commissions: Appointments.</p> <ul style="list-style-type: none"> APPOINTED Mr. Robert Gest III to the Jefferson Area Board for Aging with said term to expire March 31, 2013. REAPPOINTED Mr. James H. McGrath III to the Jefferson Area Board for Aging with said term to expire October 20, 2014. APPOINTED Mr. Whit Faulconer to the Places 29 Community Advisory Council with said term to expire January 31, 2014. APPOINTED Ms. Heather Stokes to the Places 29 Community Advisory Council with said term to expire January 31, 2013. APPOINTED Ms. Yris Vaca to the Social Services Advisory Board with said term to expire December 31, 2015. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>
<p>22. ZTA-212-0009 Site Plan Process Improvements (deferred from September 5, 2012).</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED ordinance with an effective date of January 1, 2013. 	<p><u>Clerk:</u> Forward signed copy of ordinance to Community Development and County Attorney's Office. (Attachment 10)</p>
<p>23. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> Consent Agenda Item 8.5, by a vote of 6:0, ADOPTED resolutions and DIRECTED staff to proceed with work on the zoning text amendments. <p><u>Duane Snow:</u></p> <ul style="list-style-type: none"> Gave report on town hall meeting held at Yancey School. Announced that Century Link will have 96% of the County available with broadband by early 2014. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Asked Board members if they wanted more information on providing additional revenue to the Sheriff to help the Game Warden provide additional services. Announced that the One Stop Center/Piedmont Workforce Network has met all of its Federal and State benchmarks. Announced the results of an Arts Economic Prosperity study, that the Piedmont Council for the Arts raised money to get the area into. <p><u>Chris Dumler:</u></p> <ul style="list-style-type: none"> Asked if there is a form available relative to the recently adopted ordinance to designate police to enforce trespass violations. 	<p><u>Clerk:</u> Forward copies of adopted resolution to Community Development and County Attorney's office. (Attachments 11 and 12)</p> <p><u>County Executive:</u> Provide additional information.</p> <p><u>County Executive/Police Department:</u> Provide additional information.</p>
<p>24. From the County Executive: Report on Matters Not Listed on the Agenda.</p>	

<ul style="list-style-type: none"> • There were none. 	
<p>25. Adjourn to October 10, 2012 at 1:30 p.m., Room 241.</p> <ul style="list-style-type: none"> • At 4:31 p.m., the Board adjourned until October 10, 2012. 	

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- Attachment 1 – Officer Pam Greenwood – Community Policing Initiative
- Attachment 2 – Proclamation recognizing October 2012 as Domestic Violence Awareness Month
- Attachment 3 – Proclamation recognizing October 2012 as Community Planning Month
- Attachment 4 – Proclamation recognizing The Kiwanis Club of Charlottesville in Celebration of 90 years
- Attachment 5 – Resolution Accepting Conveyance of Scottsville Library Property from Albemarle County School Board to Albemarle County Board of Supervisors
- Attachment 6 – Agreement for Jefferson Madison Regional Library
- Attachment 7 – Resolution for Recreation Trails Program Funding Assistance Grant for Preddy Creek Trail Park Phase II Project
- Attachment 8 – Conditions on Planning items
- Attachment 9 – FY 2014 Revenue Sharing Program Projects
- Attachment 10 – Ordinance - ZTA-2012-009 Site Plan Process Improvements
- Attachment 11 – Resolution of intent to amend the personal wireless service facilities regulations (Phase 1)
- Attachment 12 – Resolution of intent to amend the personal wireless service facilities regulations (Phase 2)

*On behalf of the Albemarle County Board of Supervisors,
we would like to recognize*

Officer Pam Greenwood

for her valuable community policing initiatives in Albemarle County.

We are grateful for the time, energy and dedication Officer Greenwood gave to the Crozet community on August 7, 2012 when she brought together a very successful community picnic at the Crozet Mobile Home Village as part of National Night Out.

As part of her efforts, Officer Greenwood took on the challenge to find a willing hostess, to arrange for onsite cooking, and to arrange for fire department and police department activities for children and their parents, including distribution of bicycle helmets for many small riders.

Officer Greenwood's initiatives brought together neighbors who had never met, generations who had not made recent connections, and an excitement to a neighborhood which had been struggling in its relationships with the department. Neighbors met police officers and the duty crew from the Crozet Volunteer Fire Company.

We as a community are strengthened and uplifted by individuals such as Officer Greenwood who step forward to support improving the quality of life of our residents. We offer our sincere appreciation to Officer Greenwood for her dedication and for being a great example of living the spirit of her job while serving citizens of the County of Albemarle.

PROCLAMATION

DOMESTIC VIOLENCE AWARENESS MONTH

WHEREAS, *violence against women, children, and men continues to become more prevalent as a social problem in our society; and*

WHEREAS, *the problems of domestic violence are not confined to any group or groups of people but cross all economic, racial and societal barriers, and are supported by societal indifference; and*

WHEREAS, *the crime of domestic violence violates an individual's privacy, dignity, security, and humanity, due to systematic use of physical, emotional, sexual, psychological and economic control and/or abuse, with the impact of this crime being wide-ranging; and*

WHEREAS, *in our quest to impose sanctions on those who break the law by perpetrating violence, we must also meet the needs of victims of domestic violence who often suffer grave physical, psychological and financial losses; and*

WHEREAS, *it is victims of domestic violence themselves who have been in the forefront of efforts to bring peace and equality to the home; and*

WHEREAS, *no one person, organization, agency or community can eliminate domestic violence on their own—we must work together to educate our entire population about what can be done to prevent such violence, support victims/survivors and their families, and increase support for agencies providing services to those community members; and*

WHEREAS, *the Shelter for Help in Emergency has led the way in the County of Albemarle in addressing domestic violence by providing 24-hour hotline services to victims/survivors and their families, offering support and information, and empowering survivors to chart their own course for healing; and*

WHEREAS, *the Shelter for Help in Emergency commemorates its 33rd year of providing unparalleled services to women, children and men who have been victimized by domestic violence;*

NOW THEREFORE, BE IT RESOLVED, *in recognition of the important work being done by the Shelter for Help in Emergency, that I, Ann H. Mallek, Chair of the County of Albemarle Board of Supervisors, do hereby proclaim the month of **October 2012 as DOMESTIC VIOLENCE AWARENESS MONTH**, and urge all citizens to actively participate in the scheduled activities and programs sponsored by the Shelter for Help in Emergency, and to work toward the elimination of personal and institutional violence against women, children and men.*

PROCLAMATION

COMMUNITY PLANNING MONTH

- WHEREAS,** *change is constant and affects the County of Albemarle; and*
- WHEREAS,** *community planning and plans can help manage this change in a way that provides better choices for how people work and live; and*
- WHEREAS,** *community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of the County of Albemarle; and*
- WHEREAS,** *the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and*
- WHEREAS,** *the month of October is designated as **National Community Planning Month** throughout the United States of America and its territories; and*
- WHEREAS,** *this month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the County of Albemarle; and*
- WHEREAS,** *we recognize the many valuable contributions made by the professional planners in the County of Albemarle and extend our heartfelt thanks for the continued commitment to public service by these professionals.*
- NOW, THEREFORE, BE IT RESOLVED THAT** *I, Ann H. Mallek, Chair on behalf of the Board of Supervisors of Albemarle County, Virginia, do hereby recognize **October 2012 as COMMUNITY PLANNING MONTH** in the County of Albemarle, and call this observance to the attention of all our citizens.*

PROCLAMATION

KIWANIS CLUB OF CHARLOTTESVILLE

- WHEREAS,** *Kiwanis International was founded in Detroit, Michigan in 1915; and*
- WHEREAS,** *there are over 350,000 Kiwanians and more than 600,000 Kiwanis Family members in 84 countries around the world. Kiwanis International's current world service project in conjunction with UNICEF aims to Eliminate Maternal and Neonatal Tetanus (MNT) from the face of the earth. This project follows Kiwanis International's previous successful project, also with UNICEF, of ridding the world of Iodine Deficiency Disorders (IDD); and*
- WHEREAS,** *founded in April, 1922, the Kiwanis Club of Charlottesville is celebrating its 90th year of service; and*
- WHEREAS,** *Kiwanis has been a pioneer in empowering community volunteers dedicated to tackling local and international community issues, especially those that affect young children; and*
- WHEREAS,** *Kiwanis is perhaps best known for its service leadership programs, with Key Clubs at five local high schools, a K-Kids program at Venable Elementary School, and a Circle K International (CKI) Club at the University of Virginia. Four hundred youth are members of these clubs; and*
- WHEREAS,** *The Kiwanis Club of Charlottesville is truly committed to serving the children and youth of the community through volunteer projects, civic engagement, fund-raising, and leadership development. Kiwanians and Kiwanis Family leaders have been giants of service and leadership in this community for a third of the span of this community's history; and*
- WHEREAS,** *we, in Albemarle County, value the rich community service and leadership that is connected with this County.*
- NOW, THEREFORE,** *I, Ann H. Mallek, Chair, on behalf of the Albemarle Board of County Supervisors, do hereby issue this proclamation honoring the The Kiwanis Club of Charlottesville as it celebrates its 90th year of “**Serving the Children of the World**”.*

RESOLUTION APPROVING ACQUISITION OF PARCEL 0130A2-00-00-09000

WHEREAS, Parcel 130A2-00-00-09000 contains a building commonly known as the Scottsville Library and

WHEREAS, the County School Board of Albemarle County, Virginia acquired Parcel 130A2-00-00-09000 by deed dated June 6, 1918; and

WHEREAS, for many years, the general public has used Parcel 130A2-00-00-09000 for library services; and

WHEREAS, the County School Board of Albemarle County has offered to convey its interest in Parcel 130A2-00-00-09000; and

WHEREAS, the County's acquisition of Parcel 130A2-00-00-09000 will provide clear title to the County for its continued use of the site for the Scottsville Library.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby accepts the conveyance of Parcel 130A2-00-00-09000 and authorizes the County Executive to sign, in a form approved by the County Attorney, a deed and all other documents necessary to acquire Parcel 130A2-00-00-09000 in the County of Albemarle.

AGREEMENT FOR JEFFERSON-MADISON REGIONAL LIBRARY

THIS AGREEMENT is made and entered into this 1st day of January, 2013, by and among the **CITY OF CHARLOTTESVILLE, VIRGINIA** ("Charlottesville"), **ALBEMARLE COUNTY, VIRGINIA** ("Albemarle"), **GREENE COUNTY, VIRGINIA** ("Greene"), **LOUISA COUNTY, VIRGINIA** ("Louisa"), and **NELSON COUNTY, VIRGINIA** ("Nelson"), each of which is hereinafter referred to as a "Participating Locality", and all of which are hereinafter collectively referred to as "Participating Localities".

RECITATIONS:

R-1 The Participating Localities are members of the Jefferson-Madison Regional Library ("Regional Library"), a regional free library system for the areas ("Region") of the Participating Localities, established by an agreement of the Participating Localities dated August 11, 1972.

R-2 The Participating Localities have heretofore amended the August 11, 1972 agreement for the funding and operation of the Regional Library by further agreements executed in 1974, 1982, and 1991.

R-3 The Participating Localities have concluded that it would be to their mutual benefit to enter into a new Agreement for the terms and conditions on which the Regional Library shall be funded and operated and to address other relevant matters.

R-4 The Participating Localities make and enter into this Agreement for the purpose of evidencing the terms and conditions agreed to among them for the establishment, operation and maintenance of a regional free library system.

WITNESSETH: That for and in consideration of the mutual and reciprocal benefits inuring to the parties hereunder, and in further consideration of the duties imposed on the parties hereby, the parties covenant and agree as follows:

1. **CREATION OF REGIONAL LIBRARY:** The Participating Localities, each of which has qualified for participation in the Commonwealth of Virginia's regional library program, all of which have heretofore been recognized as a Region by the State Library Board, and each of which has heretofore made the minimum local appropriation of funds recommended by the State Library Board, hereby exercise their statutory authority to enter into this Agreement to ratify and reaffirm their creation of the Regional Library and the Board of Trustees for the Jefferson-Madison Regional Library ("Board of Trustees") to administer and control the Regional Library services within the Region.
2. **MEMBERSHIP OF BOARD OF TRUSTEES:**
 - a. The members of the Board of Trustees shall be appointed by the respective governing bodies of the Participating Localities pursuant to § 42.1-39 of the Code of Virginia.
 - b. The Participating Localities have agreed that there shall be nine (9) members on the Board of Trustees, appointed as follows: three (3) members appointed by the governing body of Charlottesville; three (3) members appointed by the governing body of Albemarle; one (1) member appointed by the governing body of Greene; one (1) member appointed by the governing body of Louisa; and one (1) member appointed by the governing body of Nelson. Each Participating Locality may appoint one alternate member who may attend all meetings but may vote only in the absence of a voting member of that Participating Locality.
 - c. The members currently serving on the Board of Trustees are confirmed and shall continue for the four (4) year terms or the remainder of the four (4) year unexpired term for which they have been appointed.
 - d. No member shall be eligible to serve more than two (2) consecutive terms; however, if a member is appointed to fill an unexpired term, that appointee shall be eligible for appointment to two (2) full, successive terms.

- e. A member of the Board of Trustees may be removed for misconduct, or neglect of duty, by the governing body which appointed that member. After conclusion of each Fiscal Year, the Board of Trustees shall provide to the governing body of each Participating Locality a report of the Board of Trustees' meetings conducted, and the attendance at each such meeting by the Board of Trustees members from the Participating Locality to which such report is submitted, for the immediately-preceding Fiscal Year.
- f. The Board of Trustees shall recommend qualifications for candidates for appointment to the Board of Trustees and shall provide orientation information for new appointees to the Board of Trustees

3. POWERS AND DUTIES OF BOARD OF TRUSTEES:

- a. The Board of Trustees shall have all of the powers vested in such boards by law, and shall have the authority to determine all matters of policy for the Regional Library not otherwise limited by this Agreement.
- b. The Board of Trustees shall elect officers, and adopt such By-Laws, rules and regulations for their own guidance and for the governing of the Regional Library, as may be expedient. It shall determine hours and places of library service and all Regional Library policies, in accordance with State statutes and State library regulations. Policies shall govern the selection, emphasis and distribution of library books, periodicals, and other library materials, the provisions of supplementary services to schools and other institutions, the use of public meeting rooms, and every other question of service, policies, or expenditures within the limits of annual appropriations by Participating Localities.
- c. The Board of Trustees shall have the right to accept donations and bequests of money, personal property, or real estate for the establishment and maintenance of the Regional Library, or endowments therefore, or for use or benefit of the particular library branch or locality designated by the donor.
- d. The Board of Trustees shall employ a Regional Library Director who meets state certification requirements and shall maintain an ongoing performance appraisal process for the Regional Library Director.
- e. The Board of Trustees shall adopt personnel policies and provide an adequate salary scale and fringe benefits for all Regional Library employees.
- f. The Board of Trustees shall maintain, in force at all times, a policy of broad form general public liability insurance issued by an insurer qualified to do business in Virginia, having a single limit coverage of at least three million dollars (\$3,000,000). Such policy shall name each Participating Locality, and its officers and employees, as additional named insureds for branch libraries of that Participating Locality.
- g. The Board of Trustees shall maintain, in force at all times, a policy of public officials liability insurance with coverage deemed adequate by it to protect the interests of the Board of Trustees.

4. BUDGET AND COSTS FOR THE REGIONAL LIBRARY:

- a. The Board of Trustees shall submit the annual budget request for the Regional Library to each Participating Locality by January 15th of each year in a format generally in accordance with the Uniform Financial Reporting System of the Auditor of Public Accounts for the Commonwealth of Virginia. In preparation of its budget request, and by no later than October 15th of each year, the Regional Library Director shall convene and meet with a committee consisting of at least one member of the executive branch of each Participating Locality to explain the Library's anticipated financial requirements for the upcoming year, to determine the level of funding that may be available from the Participating Localities, and to discuss potential means and methods to adequately fund the Regional Library (the "Strategic Planning Meeting"). Each Participating Locality shall consider the budget request as part of its normal budget process.

- b. Funding requests by the Board of Trustees pursuant to this section shall be in the amount determined by the Board of Trustees to provide library services for the Participating Localities on as equitable a basis as possible, consistent with the service levels requested by the Participating Localities, and to the extent reasonably necessary to maintain the Regional Library's eligibility for State aid.
- c. All costs of operating the Regional Library shall be designated as either a regional cost, Charlottesville-Albemarle cost, or a local cost.
- d. Regional costs shall include all costs of providing regional reference services, book purchasing, cataloging and automation services, financial management, branch coordination and related expenses, fiscal agent fees, and the fair market rental value of space (which shall be based upon the current assessed value for that space) required in any library to provide the foregoing regional services. Unless otherwise agreed to by the Participating Localities, regional reference service costs shall equal ten percent (10%) of the costs of the reference service costs of the Central Library branch. A separate cost accounting of the Central Library branch reference services shall be established and maintained for this purpose.
- e. Charlottesville-Albemarle costs shall include all costs of providing facilities to house the collections at the Central Library, Gordon Avenue Library, and Northside Library branches, which shall be deemed local libraries serving Charlottesville and Albemarle, and shall include the compensation and related expenses for personnel who work in those three branches, except those personnel working in the Central Library branch or any other branch library who are engaged primarily in rendering the services described in subparagraph 4(d), above.
- f. Local costs, which shall be borne by the Participating Locality incurring said costs, shall include all costs of housing local book collections in all branches of the Regional Library other than the Central Library, Gordon Avenue Library, and Northside Library branches, and shall include compensation and related expenses for personnel who work in such other branches.

5. FUNDING REQUEST FOR THE REGIONAL LIBRARY:

- a. Regional costs shall be determined by the Board of Trustees consistent with this Agreement. Each Participating Locality shall pay a percentage of the regional costs equal to the percentage of the circulation by its residency of the Regional Library system's total circulation.
- b. Charlottesville-Albemarle costs shall be determined by the Board of Trustees consistent with this Agreement. These costs shall be allocated between Charlottesville and Albemarle in direct proportion to their respective shares of the percentage of the circulation by their residency at the Central Library, Gordon Avenue Library, and Northside Library branches.
- c. Local costs shall be determined by the Board of Trustees consistent with this Agreement. Local costs shall be paid by the Participating Locality for which they are incurred.
- d. Bookmobile and other extension services shall be contracted separately by a Participating Locality and the Board of Trustees. The costs of these services shall be allocated upon such terms and conditions as the Participating Locality and the Board of Trustees find mutually agreeable.
- e. For purposes of this Agreement, the term "circulation" shall be defined as the total number of items checked out from any branch library, bookmobile, or other point of circulation within the Regional Library system, including but not limited to, books and electronic media. The circulation percentage to be used for any fiscal year shall be based on the circulation figures for the previous three fiscal years. Circulation from University of Virginia students shall be classified by their place of local residence. Circulation for users whose residence is from out of the Region shall not be included in the calculation of circulation unless and until an "Out-of-Area Library Card Fee" has been established pursuant to paragraph 8 of this Agreement. Thereafter, the circulation for users of local branches whose residence is from out of the region shall be included in the calculation of the participating locality's circulation in which the local branch is located; provided, however, the circulation for users of the Central Library, Gordon Avenue Library, and Northside Library branches whose residence is from out of the Region shall be included in the calculation of Albemarle's circulation.

- f. The Board of Trustees will retain all fines and fees, excluding Out-of-Area Library Card Fees, in a separate equipment fund to be used for maintenance, replacement, and purchase of equipment, and purchase of books and other library materials.
- g. Non-recurring capital items identified for a Participating Locality branch library or for a Charlottesville-Albemarle branch library shall be submitted to the Participating Locality as a part of its Capital Improvement Program (CIP). Capital items include (i) land acquisition, and construction of new facilities; (ii) renovations to existing facilities; (iii) major additions or rehabilitations of buildings; (iv) major studies such as facility assessments, engineering or feasibility studies related to facility needs; and (v) equipment requirements. Funding for capital items shall be subject to approval by the Participating Locality. Each Participating Locality shall be responsible for its facility capital costs for its branch library or libraries. Charlottesville and Albemarle shall be jointly responsible on an equal basis for the capital costs for the Central Library and Gordon Avenue Library. Project management costs for Charlottesville-Albemarle capital item projects shall be governed by a separate Memorandum of Understanding between Charlottesville and Albemarle.
- h. The Regional Library may retain a year-end fund balance not to exceed five percent (5%) of the total annual operating budget. The Board of Trustees will, after each Fiscal Year audit, return to each Participating Locality its share of any carryover funds in excess of those amounts necessary to fund the reserve fund. The return of such funds to each Participating Locality will be prorated on the same basis in which the funds were contributed for Regional, Charlottesville-Albemarle and Local costs. In lieu of returning such funds, the Board of Trustees may formally request alternative uses for such carryover funds, subject to the approval of the Participating Locality.
- i. In conjunction with the submittal of the annual budget request as stated in Paragraph 4(a), the Regional Library Director or his designee will report to each Participating Locality statistics of use, status of programs, results of an annual audit, and a summary of Regional Library activities for the prior Fiscal Year.

6. FUNDING BY PARTICIPATING LOCALITIES:

- a. Participating Localities shall provide funding consistent with this Agreement; provided, however, any funding by a Participating Locality shall be subject to its annual appropriation to the Regional Library.
- b. Subject to final approval by each governing body, it shall be the intent of each Participating Locality to appropriate their proportional share of regional costs at an amount equal to the budget request for the Regional Library provided such costs are reasonable, justifiable and in general conformance with the level of funding anticipated to be available pursuant to the committee process set forth in Section 4(a) or as otherwise determined by the governing bodies of the Participating Localities. If a Participating Locality does not fund its proportional share of regional costs, the Regional Library Director shall present to the executive branch representative for that Participating Locality a plan for how the Regional Library intends to modify services funded as local costs or in the case of Charlottesville or Albemarle, services funded as local costs or Charlottesville-Albemarle costs, in order to provide services within the funding level to be appropriated by the Participating Locality. The governing body of the Participating Locality may make an evaluation and indicate the particular areas of service it wishes to be reduced. Final decisions regarding service reductions shall rest solely with the Board of Trustees; however, the Board of Trustees shall give consideration to the Participating Locality's request for service reductions required to reduce Charlottesville-Albemarle and/or local costs to meet the funding level provided for such Charlottesville-Albemarle and/or local cost services. No Participating Locality shall be required to fund regional or Charlottesville-Albemarle costs at an amount greater than its proportional share as determined pursuant to Section 5 unless such Participating Locality elects to provide supplemental funding on a non-matching basis.

- c. In making funding determinations, Participating Localities shall make a good faith effort to maintain the Regional Library's eligibility for State Aid.

7. OWNERSHIP OF REGIONAL LIBRARY FACILITIES:

- a. Each Participating Locality shall own or lease the real property within that Participating Locality which is used for Regional Library purposes. Charlottesville-Albemarle branch facilities may be jointly owned or leased by Charlottesville and Albemarle. Such real property shall be provided for use by the Regional Library at no cost to it pursuant to separately executed lease agreements with the exception of the Northside branch which shall be a sub-lease to the Regional Library and funded as a Charlottesville-Albemarle cost.
- b. Each Participating Locality shall, during the term of this Agreement, maintain in force general public liability insurance and property insurance for the properties owned or leased by it for use by the Regional Library in amounts equivalent to coverage for its other public buildings and facilities or such greater amounts deemed necessary, and shall name the Regional Library as an additional named insured. The cost of this insurance shall be the responsibility of each Participating Locality. The Board of Trustees shall maintain in force an insurance policy providing contents coverage for all Regional Library materials, fixtures, and equipment in such amounts as shall be adequate to insure replacement coverage for such items.

8. OUT-OF-AREA LIBRARY CARD FEE:

- a. The Board of Trustees shall establish an "Out-of-Area Library Card Fee" effective no later than January 1, 2013. This fee shall be required to be paid annually by any person who is not a resident of the Region prior to the issuance of a Regional Library card to that person. The minimum annual fee for such card shall be thirty dollars (\$30).
- b. Out-of-Area Library Card Fees shall be separately identified and accounted by the branch library location at which the fees are collected.
- c. Out-of-Area Library Card Fees shall be credited to the Participating Locality at whose local branch the fee was collected, except that the fees collected at the Central Library, Gordon Avenue Library, and Northside Library branches shall be credited to Albemarle.
- d. Out-of-Area Card Fees collected during the Fiscal Year shall be credited toward the budgeted second quarter payment of the ensuing Fiscal Year for each Participating Locality due such fees.

9. FISCAL AGENT:

- a. Charlottesville shall act as the fiscal agent for the Regional Library. As fiscal agent it shall act as the Regional Library's accounting and disbursing office, provide personnel services and maintain personnel and payroll records, provide information technology services, provide procurement services and maintain purchasing accounts and monthly statements, and contract for annual audits.
- b. Charlottesville shall be paid an annual sum equal to two percent (2%) of the annual operating budget of the Regional Library for fiscal services rendered.
- c. Each Participating Locality shall pay its share of the Regional Library's approved costs, as provided for in this Agreement, on a quarterly basis.

10. WITHDRAWAL FROM THE REGIONAL LIBRARY:

- a. No Participating Locality shall have the right to withdraw as a member of the Regional Library without providing two years' notice, pursuant to § 42.1-42 of the Code of Virginia, to each Participating Locality except by consent of all the Participating Localities.

- b. In the event of withdrawal by a Participating Locality, the withdrawing locality shall retain for its use or disposal all library books and other media permanently assigned to its local branch library at the time the notice to withdraw is given. For the Central Library, Gordon Avenue Library, and Northside Library branches, Charlottesville or Albemarle shall be entitled to a pro rata distribution of such books and media based on its percentage of contribution for the acquisition of such property. In addition, the withdrawing locality shall be entitled to a pro rata distribution of the personal property purchased during the operation of the Regional Library based on its percentage of contribution for the acquisition of such property, unless otherwise agreed to by such locality. Buildings and property shall remain under the ownership of the locality owning or jointly owning such property unless otherwise agreed to by such locality.
- c. Upon receiving notice by a Participating Locality of its intent to withdraw from the Regional Library, the chief executive officer of each Participating Locality shall appoint one member to a joint committee to oversee the withdrawal and distribution of assets as provided for in this Agreement or as otherwise provided by unanimous mutual agreement.

11. REGIONAL LIBRARY AGREEMENT REVIEW COMMITTEE:

- a. A Regional Library Agreement Review Committee (“Review Committee”) shall be convened and shall meet no less than once every five (5) years beginning in calendar year 2017. The Review Committee shall meet to review this Agreement and recommend any amendments that it may propose thereto.
- b. The Review Committee shall also be convened and meet at any time that a request is received from a new locality to become a member of the Regional Library or there is a proposal to add additional library facilities that are not local branch libraries. The Review Committee shall meet to review such requests and make recommendations as to the merits of the proposal.
- c. The chief executive officer of each Participating Locality shall appoint one (1) member to the Review Committee. The Regional Library Director shall provide all necessary information and support required for the Review Committee to perform its functions.
- d. The Review Committee shall report its recommendations to the governing bodies of the Participating Localities and to the Board of Trustees.

12. EFFECTIVE DATE OF AGREEMENT:

- a. On January 1, 2013, all terms and conditions hereof shall become effective, whereupon all terms and conditions of the 1991 Amended Regional Library Agreement shall automatically terminate.
- b. Until January 1, 2013, the Regional Library shall continue to be operated under the current agreement and practices.

13. CONTROLLING LAW: The parties acknowledge that the terms and conditions hereof shall be interpreted, construed and enforced under the laws of the Commonwealth of Virginia.

14. MODIFICATIONS OR AMENDMENTS: The parties agree that any modification or amendment of this Agreement shall be in writing and signed by all parties before such modification or amendment shall have force or effect.

15. BINDING AGREEMENT: The terms and conditions of this Agreement shall be binding on the parties hereto, their assigns and successors in title.

IN WITNESS WHEREOF, each Participating Locality has caused this Agreement to be duly executed on its behalf in counterparts, with the express provision that the five (5) separate signature pages hereto, taken together, shall constitute one complete document, binding among all parties.

On behalf of Albemarle County, Virginia, the undersigned signature constitutes the duly authorized execution of the Agreement dated January 1, 2013, by and among the City of Charlottesville, Albemarle County, Greene County, Louisa County, and Nelson County, which Agreement consists of fourteen (14) pages.

ALBEMARLE COUNTY, VIRGINIA

By: _____
Name: Thomas C. Foley
Title: County Executive
Date: _____

Approved as to form:

County Attorney

On behalf of the City of Charlottesville, Virginia, the undersigned signature constitutes the duly authorized execution of the Agreement dated January 1, 2013, by and among the City of Charlottesville, Albemarle County, Greene County, Louisa County, and Nelson County, which Agreement consists of fourteen (14) pages.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Name: Maurice Jones
Title: City Manager
Date: _____

Approved as to form:

City Attorney

On behalf of Greene County, Virginia, the undersigned signature constitutes the duly authorized execution of the Agreement dated January 1, 2013, by and among the City of Charlottesville, Albemarle County, Greene County, Louisa County, and Nelson County, which Agreement consists of fourteen (14) pages.

GREENE, VIRGINIA

By: _____
Name: _____
Title: _____
Date: _____

Approved as to form:

County Attorney

On behalf of Louisa County, Virginia, the undersigned signature constitutes the duly authorized execution of the Agreement dated January 1, 2013, by and among the City of Charlottesville, Albemarle County, Greene County, Louisa County, and Nelson County, which Agreement consists of fourteen (14) pages.

LOUISA COUNTY, VIRGINIA

By: _____

Name: Robert Dubé

Title: County Administrator

Date: _____

Approved as to form:

County Attorney

On behalf of Nelson County, Virginia, the undersigned signature constitutes the duly authorized execution of the Agreement dated January 1, 2013, by and among the City of Charlottesville, Albemarle County, Greene County, Louisa County, and Nelson County, which Agreement consists of fourteen (14) pages.

NELSON COUNTY, VIRGINIA

By: _____

Name: Stephen A. Carter

Title: County Administrator

Date: _____

Approved as to form:

County Attorney

Recreational Trails Program Authorizing Resolution

A resolution authorizing application(s) for federal funding assistance from the Recreational Trails Program (RTP) to the Virginia Department of Conservation & Recreation (DCR).

WHEREAS, under the provisions of RTP, federal funding assistance is requested to aid in financing the cost of construction and rehabilitation of trails and trail related amenities; and

WHEREAS, the County of Albemarle, Virginia considers it in the best public interest to complete the trail project described in the application.

NOW, THEREFORE, BE IT RESOLVED that:

- 1 The County Executive be authorized to make formal application to DCR for funding assistance; and
- 2 Any fund assistance received be used for implementation and completion of the construction of a pedestrian bridge over Preddy Creek and seven miles of sustainable, multi-use trails at Preddy Creek Trails Park located on State Route 641, Burnley Station Road, within the specified timeframe ; and
- 3 The Board of Supervisors hereby certifies that project funding is currently available and is committed for this project; and
- 4 We are aware that the grant, if approved by DCR and the Federal Highway Administration, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid to our vendors and evidence of such has been provided to DCR in the format required; and
- 5 We acknowledge that any property utilizing RTP funding that is not in public ownership will require evidence of landowner permission for use of the property for trail purposes and that the associated easement allowing the use is for a time period comparable to the nature and magnitude of the investment of the federal funds associated with the project; and
- 6 We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act and all other applicable state and federal laws; and
- 7 We acknowledge that appropriate opportunity for public comment has been provided on this application and evidence of such is a required component for approval; and
- 8 This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation.

CONDITIONS ON PLANNING ITEMS

SUB-2011-00111. Belvedere Phase 2 Preliminary Plat – Zoning Ordinance Waiver & Variations from Belvedere Code of Development

VARIATION #45:

1. This variation approval is only for changes to Block 5 and portions of Blocks 7 and 9, including: a 0.07 acre reduction in 'Park E,' the swap of open space between 'Park G' (-1.15 acre) and 'Open Space Block 9' (+1.26 acre); and a modest increase in the conservation (0.02 acre) and preservation (0.17 acre) areas in 'Block 9, Preservation Easement.' No other deviations from Table 4 or the application plan have been reviewed or approved with this variation.
2. The remaining conservation and preservation areas approved in 'Open Space Block 9' will be platted when the remaining portions of Block 7 and 9 are developed, including the conservation area between the last lot in Block 9 and the 50' reserved R/W for connection to Dunlora.
3. Prior to final subdivision plat approval for Belvedere Phase 2, a landscape plan must be provided for the required amenity areas shown on the general development plan and described in the code of development. The plan must show the minimum features as required by the Belvedere Code of Development for Parks E (Dabney Park) and G (Griffen Park).
4. Provide an updated Table 4 showing only the changes listed above must be provided as part of an updated Code of Development and Application Plan reflecting all variations approved since February 2, 2010 (the latest Code revision date) comprehensively prior to Final Plat approval.

VARIATION #48:

1. Shift the Phase line for Phase 2 to include the entire R/W for Road I, including the planting strip and sidewalk.
2. An updated Table 8 showing all of the changes listed above must be provided as part of an updated Code of Development and Application Plan reflecting all variations approved since February 2, 2010 (the latest Code revision date) comprehensively prior to Final Plat approval.

PROJECT: SP-2012-00008. Daylily Preschool

1. Development of the use shall be in general accord with the conceptual plan titled "Special Use Permit 200900022 Daylily Preschool," prepared by the County of Albemarle, signed by the applicant and dated December 4, 2009, and amended by the applicant and re-submitted on July 2, 2012 under SP201200008 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
 - Location of buildings and preschool
 - Location of parking area and entrance to be used for the preschool
 - Relation of buildings and parking to the street
 - Site access including pick-up and drop-off locations and circulation as shown on the plan.

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. The maximum enrollment shall not exceed twenty (20) children.
3. The maximum number of children and staff shall not exceed the capacity determined by the Health Department.
4. The hours of operation for the preschool shall be limited to four (4) hours each day, Monday through Friday.
5. The use shall not operate without the required licensure by the Virginia Department of Social Services, as required by Section 5.1.06 of the Zoning Ordinance.
6. The stairway enclosure and smoke detector installation improvements noted in the Building Official's letter of July 19, 2012 shall be completed, inspected, and approved by the Building Official, prior to the use occupying the upper floor.
7. No portion of the building shall be used without Albemarle County Fire Official approval.
8. No more than five (5) children under the age of two and one-half (2-1/2) years are permitted.

9. No food preparation is permitted on-site.
10. No washing of clothes is permitted on-site.

PROJECT: SP-2012-00014. Free Union Baptist Church Extension

1. No new construction shall occur on the site except for the proposed addition to the church building.
2. The floor area of the addition to the existing church building shall not exceed six hundred (600) square feet.
3. Construction of the addition shall not commence until the Virginia Department of Transportation has approved the location of the church sign on Route 784.

PROJECT: SP-2012-00017. Llandaff Property-NTELOS Tier III PWSF

1. Development and use shall be in general accord with the conceptual plan titled "Carter's Bridge (Llandaff, LC Property) CV828" prepared by Brian Crutchfield latest revision date 8/7/12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in **general** accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a. Height
 - b. Mounting type
 - c. Antenna type
 - d. Number of antenna
 - e. Distance above reference tree
 - f. Color
 - g. Location of ground equipment and monopole

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

PROJECT: SP-2012-00020. NTELOS (CV830) Glendower/Schmidt Property Tier III Wireless Facility

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "nTelos Glendower (Schmidt Family Limited Partnership Property) CV830", with a final zoning drawing submittal date of 7/30/12.
2. Development and use shall be in general accord with the conceptual plan titled "nTelos Glendower (Schmidt Family Limited Partnership Property) CV830" prepared by Brian Crutchfield and dated 7-18-12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - h. Height
 - i. Mounting type
 - j. Antenna type
 - k. Number of antenna
 - l. Distance above reference tree
 - m. Color
 - n. Location of ground equipment and monopole

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

FY 2014 REVENUE SHARING PROGRAM PROJECTS

1. Old Lynchburg Road, (new construction and replacement/relocation) from Region10 Offices to Fifth Street;
2. Rio Road, from existing sidewalks to the Pen Park Road intersection and on Pen Park Road;
3. Avon Street at two locations: 1) from Peregory Lane to Mill Creek Drive and 2) from Stoney Creek Drive to Arden Drive, and including crosswalks at Cale Elementary School;
4. US 250 West in Crozet, in the Cory Farms and Blue Ridge Shopping Center area

ORDINANCE NO. 12-18(6)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, ADMINISTRATION, AND 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 I, Administration, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 35.1 Fees
- Sec. 35.2 Calculation of fees in special circumstances

By Repealing:

- Sec. 32.1 Intent
- Sec. 32.2 When site plan is required; waiver of drawing of site plan
- Sec. 32.3 Administration
- Sec. 32.3.1 Review by planning commission; agent review; site review committee
- Sec. 32.3.2 Agent
- Sec. 32.3.3 Site review committee
- Sec. 32.3.4 Untitled
- Sec. 32.3.5 Improvements – construction and bonding
- Sec. 32.3.6 Untitled
- Sec. 32.3.7 Untitled
- Sec. 32.3.8 Revisions
- Sec. 32.3.9 Fees
- Sec. 32.3.10 Modification, waiver, or substitution
- Sec. 32.4 Procedure
- Sec. 32.4.1 Preliminary conference with staff
- Sec. 32.4.2 Preliminary plan submittal (Amended 10-3-01)
- Sec. 32.4.3 Final site plan submittal (Amended 10-3-01)
- Sec. 32.5 Preliminary site plan content
- Sec. 32.5.1 Untitled
- Sec. 32.5.2 Untitled
- Sec. 32.5.3 Untitled
- Sec. 32.5.4 Untitled
- Sec. 32.5.5 Untitled
- Sec. 32.5.6 Untitled
- Sec. 32.5.7 Groundwater assessment information
- Sec. 32.6 Final site plan content
- Sec. 32.6.1 Untitled
- Sec. 32.6.2 Untitled
- Sec. 32.6.3 Untitled
- Sec. 32.6.4 Untitled
- Sec. 32.6.5 Untitled
- Sec. 32.6.6 Untitled
- Sec. 32.7 Minimum standards for improvements
- Sec. 32.7.1 Comprehensive plan
- Sec. 32.7.2 Safe and convenient access; circulation; pedestrian ways; parking and loading
- Sec. 32.7.3 Streets; roads
- Sec. 32.7.4 Drainage; stormwater management; soil erosion
- Sec. 32.7.5 Water, sewer and other utilities
- Sec. 32.7.6 Fire protection
- Sec. 32.7.7 Recreation requirements
- Sec. 32.7.8 Signs and lighting
- Sec. 32.7.9 Landscaping and screening requirements
- Sec. 32.7.9.1 When required
- Sec. 32.7.9.2 Administration
- Sec. 32.7.9.3 Variation; waiver

- Sec. 32.7.9.4 Contents (Amended 10-3-01)
- Sec. 32.7.9.5 Minimum standards
- Sec. 32.7.9.6 Street trees
- Sec. 32.7.9.7 Parking lot landscaping
- Sec. 32.7.9.8 Screening
- Sec. 32.7.9.9 Tree canopy
- Sec. 32.7.10 General

By Adding:

- Sec. 32.1 General Provisions
- Sec. 32.1.1 Purposes
- Sec. 32.1.2 Relation of section 32 to other laws and private contracts
- Sec. 32.1.3 Rules of construction
- Sec. 32.2 Applicability
- Sec. 32.3 Administration
- Sec. 32.3.1 Designation of agent; powers and duties
- Sec. 32.3.2 Establishment of site review committee; powers and duties
- Sec. 32.3.3 Amendments to a site plan
- Sec. 32.3.4 Fees
- Sec. 32.3.5 Variations and exceptions
- Sec. 32.3.6 Appeals of decisions pertaining to variations and exceptions
- Sec. 32.4 Procedures for submittal, review and action on site plans
- Sec. 32.4.1 Procedure for review of preapplication plans
- Sec. 32.4.1.1 Submittal of preapplication plan and other information
- Sec. 32.4.1.2 Form and style of preapplication plan
- Sec. 32.4.1.3 Contents of preapplication plan
- Sec. 32.4.1.4 Review of preapplication plan
- Sec. 32.4.2 Procedure for review and action on initial site plan
- Sec. 32.4.2.1 Submittal of initial site plan; determination of completeness
- Sec. 32.4.2.2 Review of initial site plan by site review committee and architectural review board
- Sec. 32.4.2.3 Revisions to address required changes
- Sec. 32.4.2.4 Deferral of review; when application deemed withdrawn
- Sec. 32.4.2.5 Review and action on initial site plan by agent
- Sec. 32.4.2.6 Appeal and judicial review
- Sec. 32.4.2.7 Period of validity of approved initial site plan
- Sec. 32.4.2.8 Effect of approval of initial site plan on other future and pending approvals
- Sec. 32.4.3 Procedure for review and action on final site plan
- Sec. 32.4.3.1 Submittal of final site plan; determination of completeness
- Sec. 32.4.3.2 Review of final site plan by site review committee
- Sec. 32.4.3.3 Review of final site plan by architectural review board; certificate of appropriateness
- Sec. 32.4.3.4 Revisions to address required changes
- Sec. 32.4.3.5 Deferral of review; when application deemed withdrawn
- Sec. 32.4.3.6 Review and action on final site plan by agent
- Sec. 32.4.3.7 Appeal and judicial review
- Sec. 32.4.3.8 Period of validity of approved final site plan
- Sec. 32.5 Initial site plan; form and content
- Sec. 32.5.1 Form and style of an initial site plan
- Sec. 32.5.2 Contents of an initial site plan
- Sec. 32.5.3 Response to information during preapplication process
- Sec. 32.5.4 Groundwater assessment information
- Sec. 32.5.5 Parking structure information
- Sec. 32.6 Final site plan; form and content
- Sec. 32.6.1 Form and style of a final site plan
- Sec. 32.6.2 Contents of a final site plan
- Sec. 32.6.3 Parking structure elevations
- Sec. 32.7 Minimum standards for improvements
- Sec. 32.7.1 Dedications and reservations
- Sec. 32.7.1.1 Dedication of land for vehicular access parks, schools and open space
- Sec. 32.7.1.2 Reservation for future dedication of land for public use
- Sec. 32.7.1.3 Reservation of land for streets, alleys, walkways, waterways or public areas shown on official map

- Sec. 32.7.2 Vehicular access to site; streets, sidewalks and other pedestrian ways
- Sec. 32.7.2.1 Vehicular access to site
- Sec. 32.7.2.2 Streets and travelways composing the internal road network
- Sec. 32.7.2.3 Sidewalks and other pedestrian ways
- Sec. 32.7.3 Parking
- Sec. 32.7.4 Water and soil protection
- Sec. 32.7.4.1 Erosion and sediment control, stormwater management, and other water regulations; water pollution; soil characteristics
- Sec. 32.7.4.2 Easements for facilities for stormwater management and drainage control
- Sec. 32.7.5 Water, sewer and other utilities
- Sec. 32.7.5.1 Water supply and sewage system
- Sec. 32.7.5.2 Location of utilities above and below ground
- Sec. 32.7.5.3 Dedication of public water and sewer facilities
- Sec. 32.7.5.4 Easements for cable television and public service corporations
- Sec. 32.7.6 Fire protection
- Sec. 32.7.7 Recreation
- Sec. 32.7.8 Signs and outdoor lighting
- Sec. 32.7.9 Landscaping and screening
- Sec. 32.7.9.1 Purposes
- Sec. 32.7.9.2 Submittal of landscape plan, timing
- Sec. 32.7.9.3 Review and action on landscape plan by agent
- Sec. 32.7.9.4 Contents of a landscape plan
- Sec. 32.7.9.5 Landscaping along streets
- Sec. 32.7.9.6 Landscaping within a parking area
- Sec. 32.7.9.7 Screening
- Sec. 32.7.9.8 Tree canopy
- Sec. 32.7.9.9 Installation and maintenance of required landscaping and screening
- Sec. 32.8 Completion of on-site improvements and surety
- Sec. 32.8.1 Completion of on-site improvements required prior to final site plan approval
- Sec. 32.8.2 Agreement and surety
- Sec. 32.8.3 Release of surety
- Sec. 32.8.4 Effect of acceptance or approval of improvements
- Sec. 32.8.5 Inspections; right of entry
- Sec. 32.8.6 Improvements completed at expense of developer; exception

Chapter 18. Zoning

Article I. Administration

Sec. 3.1 Definitions

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Recommendations: As used in section 32, suggestions for design change as may be deemed in the public interest by site review committee members in the area of their respective expertise or by the architectural review board.

. . .

Requirements: As used in section 32, the regulatory provisions of this chapter, including all applicable proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and other applicable laws, and the rules, regulations and design guidelines identified by the architectural review board as being required to be satisfied in order to obtain a certificate of appropriateness.

. . .

Submit. To pay the applicable required fee and to have an application or other required document marked by the county as “received.”

. . .

Turnaround. An area for vehicles to reverse movement at the end of a street or travelway.

Article IV. Procedure

Sec. 32.1 General Provisions

Sec. 32.1.1 Purposes

The purposes of section 32 are to:

- a. Improve the public health, safety, convenience and welfare of the citizens of the county by assuring the orderly development of land;
- b. Provide residential areas with healthy surroundings for family life by assuring that land being developed for residential uses is developed in a manner that is harmonious with its surrounding lands;
- c. Implement the policies of the comprehensive plan through the standards and procedures established herein;
- d. Assure that the development of the county is consonant with the efficient and economical use of public funds;
- e. Assure that all required improvements are designed, constructed and maintained so as not to become an undue burden on the community; and
- f. Establish standards for development that are specific to, and most appropriate for, the lands within the county.

State law reference – Va. Code §§ 15.2-2200, 15.2-2240 *et seq.*, § 15.2-2283.

Sec. 32.1.2 Relation of section 32 to other laws and private contracts

The requirements of section 32 are:

- a. Separate from, but supplementary to, all other applicable requirements of the Code. Compliance with the requirements of section 32 shall not be deemed to be compliance with other applicable ordinances or regulations.
- b. Separate from, but supplementary to, all other applicable requirements of state or federal law. If the requirements of section 32 are in direct conflict with mandatory state or federal requirements, then the state or federal requirements shall apply.
- c. Separate from the requirements, terms or conditions of any private easement, covenant, agreement or restriction, and nothing in this chapter authorizes the county or any of its officers, employees or agents to enforce a private easement, covenant, agreement or restriction.

State law reference – Va. Code § 15.2-2241(9).

Sec. 32.1.3 Rules of construction

Section 32 protects paramount public interests and shall be liberally construed to effectuate its several purposes. In addition to the rules of construction set forth in section 1-101 of the Code, the following rules of construction apply to the construction of section 32, unless the application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

- a. All references to any statute, regulation, guideline, manual or standard are to that statute, regulation, guideline, manual or standard as it exists on the date of adoption of this chapter, and includes any amendment thereafter or reissue in a subsequent edition.
- b. The word “days” means calendar days, unless otherwise expressly provided.
- c. All distances and areas shall be measured in a horizontal plane unless otherwise expressly provided.
- d. The word “current” means the point in time at which a matter is under consideration and shall not mean the date of adoption of the most recent amendment to section 32.

- e. All provisions requiring that improvements be designed or constructed to prescribed standards, or otherwise comply with delineated standards, refer to the minimum standard and nothing in section 32 shall prohibit an improvement from exceeding the standard.

State law reference – Va. Code § 15.2-2241(9).

Sec. 32.2 Applicability

Any construction, use, change in use or other development is permitted in any zoning district only with an approved site plan complying with the requirements of section 32, other applicable requirements of this chapter, and all other applicable laws; provided that no site plan shall be required for the following:

- a. The construction or location of any single-family detached dwelling on a lot on which not more than two (2) dwellings are located or proposed to be located if the lot has public street frontage, or the construction or location of one (1) dwelling unit on a lot that does not have public street frontage.
- b. The construction or location of a two-family dwelling on any lot not occupied by any other dwellings.
- c. Any structure that is accessory to a single-family detached or two-family dwelling.
- d. Any agricultural activity except as otherwise provided in section 5.
- e. Any change in or expansion of a use unless: (i) the change or expansion requires additional parking under section 4.12; (ii) additional ingress/egress or alteration of existing ingress/egress is required by the Virginia Department of Transportation based on the intensification of the use; or (iii) additional ingress/egress or the alteration of existing ingress/egress is proposed by the developer.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.3 Administration

Sec. 32.3.1 Designation of agent; powers and duties

The director of community development is hereby designated the agent of the board of supervisors for the purpose of administering section 32 except as otherwise expressly provided. The agent shall have the powers and duties to:

- a. Receive, process and act on site plan applications as provided in section 32.
- b. Establish reasonable administrative procedures as deemed necessary for the proper and efficient administration of section 32.
- c. Make all determinations and findings and impose all applicable requirements in reviewing a site plan.
- d. Consider and act on requests to vary or except the regulations of section 32 as provided in section 32.3.5.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 32.3.2 Establishment of site review committee; powers and duties

A site review committee is hereby established and it shall be composed of representatives of the department of community development, including a planner to evaluate the issues relevant to a certificate of appropriateness that will be considered by the architectural review board for those site plans for sites within an entrance corridor overlay district, the department of fire rescue, the Albemarle County Service Authority, the Virginia Department of Health, the Virginia Department of Transportation, the United States Department of Agriculture, and the Natural Resource Conservation Service. Each member of the site review committee shall identify the requirements and may make recommendations on those matters within the authority of the bodies and entities that they represent. The site review committee shall have the powers and duties to:

- a. Meet from time to time to review site plans as provided in section 32, including requests for variations or exceptions.
- b. Transmit to the agent the requirements and recommendations it has identified regarding each site plan, and information and recommendations on each request for a variation or exception.
- c. Transmit recommended conditions to the agent and the program authority regarding any grading permit that may be sought in conjunction with an approved initial site plan.
- d. Propose rules for the conduct of its business to the agent, which shall be established and approved as administrative procedures under section 32.3.1(b).

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 32.3.3 Amendments to a site plan

Changes, revisions or erasures (collectively, “amendments”) to a site plan, including amendments to a landscape plan, may be made as follows:

- a. *Prior to approval.* Before a site plan is approved by the agent, the developer may amend a site plan or accompanying data sheet that has been submitted to the county if the agent authorizes the amendment in writing or if the site review committee requires the amendment in its review of the site plan. The procedures and requirements for initial and final site plans apply to amendments to a site plan.
- b. *After approval.* After a site plan is approved by the agent, the developer may amend the site plan if the amended site plan is submitted, reviewed and approved as provided in section 32.4; provided that the agent may approve amendments to an approved final site plan without proceeding under section 32.4 as follows:
 - 1. *Minor amendments.* The agent may approve the amendment as a minor amendment if he determines that the site plan, as amended: (i) complies with all requirements of this chapter and all other applicable laws; (ii) is substantially the same as the approved site plan; and (iii) will have no additional adverse impact on adjacent land or public facilities; or
 - 2. *Letters of revision.* The agent may approve the amendment by a letter of revision if he determines that the site plan, as amended, complies with subsections (b)(1)(i), (ii) and (iii) and that the proposed amendment is de minimis and requires only limited review.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 32.3.4 Fees

The developer shall pay the applicable fees as provided in section 35.1.

State law reference – Va. Code § 15.2-2241(9).

Sec 32.3.5 Variations and exceptions

The requirements of section 32 may be varied or excepted as follows:

- a. *Exception from requirement to provide certain details in site plan.* The agent may except certain details of a site plan and any amendment to a site plan otherwise required by sections 32.5 and 32.6 as provided herein:
 - 1. *Request for exception.* A developer requesting an exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable finding in subsection (a)(2).
 - 2. *Finding.* An exception may be approved if the agent finds that unusual situations exist or that strict adherence to requiring the details in sections 32.5 or 32.6 would result in substantial injustice or hardship. This finding shall be supported by information from the site review

committee that all of the details required by sections 32.5 and 32.6 are not necessary for its review of the proposed development, and from the zoning administrator, in consultation with the county engineer, that the details waived are not necessary to determine that the site is developed in compliance with this chapter and all other applicable laws.

3. *Action by the agent on a request.* The agent may approve or deny the request. In approving an exception, the agent shall identify the details otherwise required by sections 32.5 and 32.6 that are excepted.
- b. *Variation or exception from any requirement of section 32.7.* Any requirement of section 32.7 may be varied or excepted in an individual case as provided herein:
1. *Request for a variation or exception.* A developer requesting a variation or exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable findings in subsections (b)(2) and (b)(3). When a variation is requested, the developer also shall describe the proposed substituted technique, design or materials composing the substituted improvement. The request should be submitted before the site review committee considers the initial site plan. The agent may request that the site review committee provide information and a recommendation on any request for a variation or exception.
 2. *Findings required for a variation.* The agent may approve a request for a variation to substitute a required improvement upon finding that because of an unusual situation, the developer's substitution of a technique, design or materials of comparable quality from that required by section 32.7 results in an improvement that substantially satisfies the overall purposes of this chapter in a manner equal to or exceeding the desired effects of the requirement in section 32.7.
 3. *Findings required for an exception.* The agent may approve a request for an exception from any requirement of section 32.7 upon finding that: (i) because of an unusual situation, including but not limited to the unusual size, topography, shape of the site or the location of the site; or (ii) when strict adherence to the requirements would result in substantial injustice or hardship by, including but not limited to, resulting in the significant degradation of the site or to adjacent properties, causing a detriment to the public health, safety or welfare, or by inhibiting the orderly development of the area or the application of sound engineering practices.
 4. *Findings required for a variation or exception of any requirement of section 32.7.5.2.* If the developer requests a variation or exception of any requirement of section 32.7.5.2, the agent shall consider whether the requirement would unreasonably impact the existing above-ground electrical network so that extensive off-site improvements are necessary. In approving a variation or exception, the agent shall find, in addition to the required findings under subsection (b)(2) or (3), that requiring undergrounding would not forward the purposes of this chapter or otherwise serve the public interest and that granting the variation or exception would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.
 5. *Action by the agent on a request; conditions.* The agent may approve, approve with conditions, or deny the request. If a request is approved, the agent shall prepare a written statement regarding the findings made. If a request is denied, the agent shall inform the developer in writing within five (5) days after the denial, and include a statement explaining why the request was denied. In approving a request, the agent may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.
- c. *Appeals.* The decision of the agent may be appealed as provided in section 32.3.6.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2242(1).

Sec. 32.3.6 Appeals of decisions pertaining to variations and exceptions

A denial of a request for a variation or an exception or the approval of a variation or exception with conditions objectionable to the developer may be appealed by the developer as follows:

- a. *To the planning commission.* A developer may appeal the decision of the agent to the planning commission by submitting a written request for appeal to the agent within ten (10) days after the date of the agent's decision. In acting on an appeal, the commission shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 32.3.5. The commission may approve or deny the request. In approving a request on an appeal from a decision under section 32.3.5(b), the commission may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.
- b. *To the board of supervisors.* A developer may appeal the decision of the planning commission to the board of supervisors by submitting a written request for appeal to the clerk of the board of supervisors within ten (10) days after the date of the commission decision. In acting on an appeal, the board shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 32.3.5. The board may approve or deny the request. In approving a request on an appeal from a decision under section 32.3.5(b), the board may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.
- c. *Effect of filing appeal.* An appeal shall suspend the running of the time by which the agent must act on a site plan under sections 32.4.2.5 and 32.4.3.6 from the date the appeal is submitted until the date the planning commission or the board of supervisors acts on the appeal, whichever takes the last action.

State law reference – Va. Code § 15.2-2242(1).

Sec. 32.4 Procedures for submittal, review and action on site plans

Sec. 32.4.1 Procedure for review of preapplication plans

Sec. 32.4.1.1 Submittal of preapplication plan and other information

A developer may request a preapplication review by submitting the following to the department of community development in accordance with the submittal schedule established by the agent:

- a. *Preapplication plan.* A preapplication plan meeting the requirements of sections 32.4.1.2 and 32.4.1.3.
- b. *Other information.* A letter stating which provisions of this chapter the developer believes will require a variation or exception under section 32.3.5 or a special exception. The letter need not include a justification or any supporting information.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 32.4.1.2 Form and style of preapplication plan

Each preapplication plan submitted shall comply with the following:

- a. *Number of copies.* Three (3) clearly legible copies in blue or black ink of the plan shall be submitted.
- b. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of the sheet shall be approximately either north or east.
- c. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 1. *Boundary, setback and zoning lines:* One foot in one thousand (1:1,000) feet.
 2. *Existing contours:* One-half (½) of the contour interval required in section 32.5.2(d).
 3. *Proposed contours:* Within five (5) feet horizontally and vertically.
 4. *Existing structures, utilities and other topographic features:* Within five (5) feet.

5. *Proposed structures, roads, parking lots and other improvements:* Within five (5) feet.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 32.4.1.3 Contents of preapplication plan

Each preapplication plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (if the site includes land subject to section 30.3, flood hazard overlay district, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.
- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas, percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial uses; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and whether a landscape plan is required under section 32.7.9.
- c. *Phase lines.* If phasing is planned, phase lines.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are critical slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
- f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
- h. *Flood plain.* The one hundred (100) year flood plain limits as shown on the official flood insurance maps for Albemarle County.
- i. *Streets, easements and travelways.* The existing and proposed streets, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, and pavement widths.
- j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, and drainage easements.
- k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.

- l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.
- m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the site, showing the distance to the centerline of the nearest existing street intersection.
- n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; and loading and service areas.
- o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use.
- p. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 32.4.1.4 Review of preapplication plan

Each preapplication plan meeting the requirements of sections 32.4.1.2 and 32.4.1.3 and each letter provided by section 32.4.1.1(b) shall be reviewed by the agent. Within ten (10) days after the submittal, the agent shall send written comments to the developer addressing the following:

- a. *Compliance with zoning.* Whether the proposed use and density complies with this chapter and all applicable proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans and codes of development.
- b. *Variations, exceptions and special exceptions.* Identify all variations and exceptions that will be required under section 32 and all special exceptions that will be required, including references to the sections in this chapter under which the variation, exception or special exception will be sought, the sections authorizing the variation, exception or special exception, and the sections identifying the information the developer must submit in order for the variation, exception or special exception to be considered.
- c. *Fees.* The amount of the fees required for reviewing the site plan and any request for a variation or exception.
- d. *Required changes.* Identify any features on the plan required to be changed in order to comply with this chapter or any applicable requirement of a proffer, special use permit, special exception, variance, application plan or code of development.
- e. *Recommended changes.* Identify any features on the plan recommended to be changed to address components of the comprehensive plan or sound planning, zoning or engineering practices.
- f. *Additional information.* The agent may require additional information to be shown on the initial site plan as deemed necessary in order to provide sufficient information for the agent to adequately review the plan including, but not limited to, information from a traffic study, landscaping, historic resources and groundwater.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2283, 15.2-2286(A)(8).

Sec. 32.4.2 Procedure for review and action on initial site plan

Sec. 32.4.2.1 Submittal of initial site plan; determination of completeness

Each initial site plan shall be submitted to the agent and processed as follows:

- a. *Date of official submittal.* An initial site plan shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plan and the agent's determination that the plan is complete.

- b. *Timing of review to determine completeness.* The agent's review to determine whether an initial site plan is complete shall be made within ten (10) days after the application submittal deadline.
- c. *Determination that plan is incomplete; notice.* An initial site plan omitting any information required by section 32.5 shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the developer in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- d. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the developer may resubmit the initial site plan. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.
- e. *Transmittal to site review committee, architectural review board, and state agency.* An initial site plan deemed officially submitted shall be transmitted to the site review committee and, for plans for sites within an entrance corridor overlay district, the architectural review board as provided in section 32.4.2.2. If state agency approval of an initial site plan is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the initial site plan is deemed officially submitted.
- f. *Notice; recipients.* When the agent determines that an initial site plan is officially submitted, he shall send notice that the plan has been submitted to the owner of each lot abutting the site and to each member of the board of supervisors and the planning commission. The notice shall describe the type of use proposed; the specific location of the development; the appropriate county office where the plan may be viewed; and the dates the site review committee and, if applicable and if known, the architectural review board will review the plan.
- g. *Notice; how provided.* The notice required by subsection (f) shall be mailed or hand delivered at least ten (10) days prior to the site review committee meeting and, if applicable, the architectural review board meeting at which the initial site plan will be reviewed. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement. If a lot abutting the site is owned by the developer, the notice shall be given to the owner of the next abutting lot not owned by the developer.
- h. *Notice; defect does not affect validity of site plan.* The failure of any person to receive the notice required by subsection (f), or any error in the notice, shall not affect the validity of an approved site plan, and shall not be the basis for an appeal.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 32.4.2.2 Review of initial site plan by site review committee and architectural review board

Upon receipt of an initial site plan from the agent, the site review committee and the architectural review board shall review the plan as follows:

- a. *Site review committee review.* The site review committee shall review each plan for compliance with the technical requirements of this chapter and other applicable laws. Upon completion of its review, the site review committee shall transmit to the agent its requirements and recommendations. The site review committee also may recommend to the agent conditions of initial site plan approval, including conditions required to be satisfied before a grading permit may be issued under chapter 17. Any recommended conditions shall pertain to any requirements of this chapter and other applicable laws.

- b. *Architectural review board review.* The architectural review board shall review each plan for sites within an entrance corridor overlay district proposing development that is not exempt from review under section 30.6.5 as follows:
1. *Purpose and scope of review.* The architectural review board shall review the plan for consistency with the design guidelines. The scope of review by the board shall be to consider: (i) those elements delineated in section 30.6.4(c)(2) that may be evaluated under the initial site plan and which may include, but not be limited to, the location and configuration of structures; (ii) the location and configuration of parking areas and the location of landscaped areas under section 30.6.4(c)(3); and (iii) to identify existing trees, wooded areas and natural features that should be preserved under section 30.6.4(c)(5). The specific types of landscaping and screening to be provided on the site under section 30.6.4(c)(4) shall not be considered by the board for consistency with the design guidelines during its review of the plan.
 2. *Submittal requirements.* The architectural review board's review shall be based on the initial site plan and the information provided with the initial site plan under sections 32.5.2, 32.5.3, 32.5.4 and 32.5.5. The developer shall not be required to submit any other information.
 3. *Transmittal of requirements and recommendations.* Upon completing its review, the architectural review board shall transmit to the agent: (i) its requirements resulting from its review of the elements of sections 30.6.4(c)(2), (3) and (5) delineated in subsection (b)(1) in order to satisfy the design guidelines; (ii) any recommendations including, but not limited to, recommendations pertaining to those elements of sections 30.6.4(c)(2), (3) and (5) for which requirements were not identified under subsection (b)(3)(i); and (iii) any recommended conditions of initial site plan approval, including conditions required to be satisfied before a grading permit may be issued under chapter 17. Any recommended conditions shall pertain to ensuring compliance with the design guidelines under the elements of sections 30.6.4(c)(2), (3) and (5) delineated in subsection (b)(1).
 4. *Appeal.* The architectural review board's identified requirements under subsection (b)(3) is a decision that may be appealed as provided in section 30.6.8.
- c. *Consistency; reconciliation of conflicts.* Any requirement of the architectural review board shall be consistent with the requirements of this chapter. If there is a conflict between any requirement of any applicable law and any requirement identified by the architectural review board, the requirement of the applicable law shall control. If there is a conflict between a requirement and a recommendation, the requirement shall control.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260, 15.2-2286(A)(4), 15.2-2306.

Sec. 32.4.2.3 Revisions to address required changes

Each initial site plan for which changes are required shall be revised as follows:

- a. *Requirements identified; letter to the developer.* If the site review committee or the architectural review board require or recommend revisions to the initial site plan, the agent shall promptly issue a letter to the developer stating the required changes that must be made and the recommended changes that may, in the developer's discretion, be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the developer in writing, by fax or email.
- b. *Plan revised to address required changes.* The developer shall revise the plan to address all of the required changes before approval of the initial site plan by the agent. The developer is not required to revise the plan to address any recommendations of the site review committee or the architectural review board.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 32.4.2.4 Deferral of review; when application deemed withdrawn

The review of, and action on, an initial site plan may be deferred, and an application for an initial site plan may be deemed withdrawn, as follows:

- a. *Request to defer by developer.* A developer may request that review or action on its application for an initial site plan be deferred for a specified period up to six (6) months. If during the deferral period the developer does not request the agent to take action on the initial site plan as provided in section 32.4.2.5 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.
- b. *Failure to submit revised plan.* If a developer fails to submit a revised initial site plan to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 32.4.2.3, the application shall be deemed to have been voluntarily withdrawn by the developer.
- c. *Extension of deferral period or period to submit revised plan.* Before the deferral period in subsection (a) expires, the developer may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension for a period determined to be reasonable, taking into consideration the size or nature of the proposed development, the complexity of the review, and the laws in effect at the time the extension request is made.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 32.4.2.5 Review and action on initial site plan by agent

The agent shall review and act on an initial site plan as follows:

- a. *Review.* The agent shall review the initial site plan for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the recommendation of the site review committee as to whether the plan complies with all applicable requirements and any statement by the developer. The agent also may consider any other evidence pertaining to the plan's compliance with the requirements of this chapter as deemed necessary for a proper review of the plan.
- b. *Time for action.* The agent shall act on the initial site plan within sixty (60) days after the date the plan was officially submitted, provided:
 - 1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plan by a state agency is required, the agent shall approve or disapprove the plan within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plan was officially submitted.
 - 2. *Suspension of running of time for action.* The running of the time by which the agent must act on a plan shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 32.3.6 until the date the planning commission or the board of supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the developer until the date the revised initial site plan addressing the required changes is submitted under section 32.4.2.3(b); (iii) from the date of the developer's request for a deferral under section 32.4.2.4(a); and (iv) during any extension granted under section 32.4.2.4(c).
- c. *Action to approve and notice of approval.* If the agent determines that the initial site plan complies with all applicable requirements, he shall approve the plan and promptly issue a letter to the developer informing the developer of the approval and stating the requirements that must be included with submittal of the final site plan and those conditions which must be satisfied prior to approval of the final site plan and, where applicable, those conditions which must be satisfied prior to issuance of a grading permit under section 17-204(E). The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- d. *Action to disapprove and notice of disapproval.* If the agent determines that the plan does not comply with all applicable requirements, he shall disapprove the plan and promptly issue a letter to the developer stating the reasons for disapproval by identifying the plan's deficiencies and citing the applicable sections of this chapter or other applicable laws, and what corrections or modifications will permit approval of the plan. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.

- e. *Action to disapprove because of failure to make required revisions; notice of disapproval; opportunity to resubmit.* If the developer submits a revised plan under section 32.4.2.3 that fails to address all of the required changes, the plan shall be disapproved. Within fifteen (15) days after the date the notice of disapproval required by subsection (d) is mailed or delivered by the agent, the developer may resubmit the initial site plan. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 32.4.2.6 Appeal and judicial review

The disapproval of an initial site plan may be appealed as follows:

- a. *Appeal to commission and board of supervisors.* If an initial site plan is disapproved by the agent, or is approved with conditions that the developer objects to, the developer at its sole option may appeal the decision of the agent to the commission and, if the commission disapproves the initial site plan or affirms the objectionable conditions, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the decision by the agent or by the commission, as the case may be. The action by the commission and the board shall comply with subsections 32.4.2.5(c), (d) and (e), as applicable.
- b. *Judicial review.* If an initial site plan is disapproved by the agent, the commission or the board of supervisors, the developer may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2260(E). No developer is required to appeal the disapproval of the plan under subsection (a) before appealing it to the circuit court.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 32.4.2.7 Period of validity of approved initial site plan

An approved initial site plan is valid as follows:

- a. *Valid for five years; prerequisites.* An initial site plan shall be valid for: (i) a period of five (5) years from the date it is approved pursuant to this chapter, provided that the developer submits a final site plan for all or a portion of the site within one (1) year after the approval as provided in section 32.4.3.1, and thereafter diligently pursues approval of the final site plan; and (ii) any additional period as may be provided by state law.
- b. *Revocation of approval after three years.* After three (3) years following initial site plan approval, the agent may, after ninety (90) days' written notice provided by certified mail to the developer, revoke the approval of the initial site plan upon a specific finding of fact that the developer failed to diligently pursue approval of the final site plan.
- c. *Approval null and void if final site plan not submitted within one year.* The failure of a developer to officially submit a final site plan as provided in section 32.4.3.1 within one (1) year after approval of the initial site plan shall render the approval of the initial site plan null and void. For purposes of this section, the date the initial site plan is approved shall be the date that the letter of approval required by section 32.4.2.5(c) is mailed or otherwise delivered as provided therein.

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2261

Sec. 32.4.2.8 Effect of approval of initial site plan on other future and pending approvals

The approval of an initial site plan affects the following pending and future approvals:

- a. *Issues pertaining to a certificate of appropriateness.* An approved initial site plan that has complied with the architectural review board's requirements identified under section 32.4.2.2(b) shall be deemed to be consistent with the applicable design guidelines pertaining to the elements of sections 30.6.4(c)(2), (3) and (5) delineated in section 32.4.2.2(b)(1).

- b. *Erosion and sediment control plan and grading permit; conventional zoning districts.* On any site within a conventional zoning district, including any conventional zoning district also within an entrance corridor overlay district, an approved initial site plan is an “approved site plan” within the meaning of section 17-204(E). As such, an erosion and sediment control plan and corresponding grading permit may be approved under chapter 17, provided that the developer has satisfied the conditions of approval identified by the agent in the letter required by section 32.4.2.5(c).
- c. *Erosion and sediment control plan and grading permit; planned development zoning districts.* Notwithstanding section 8.5.5.4(c), on any site within a planned development zoning district, including a planned development zoning district also within an entrance corridor overlay district, an approved initial site plan is an “approved site plan” within the meaning of section 17-204(E). As such, an erosion and sediment control plan and corresponding grading permit may be approved under chapter 17, provided that the developer has satisfied the conditions of approval identified by the agent in the letter required by section 32.4.2.5(c). Nothing in this section shall affect the ability of a developer to obtain approval of an erosion and sediment control plan and corresponding grading permit prior to approval of an initial site plan as provided in section 8.5.5.4(b).

State law reference – Va. Code §§ 10.1-563, 15.2-2241, 15.2-2286(A)(4), 15.2-2306.

Sec. 32.4.3 Procedure for review and action on final site plan

Sec. 32.4.3.1 Submittal of final site plan; determination of completeness

Each final site plan shall be submitted to the agent and processed as follows:

- a. *Prerequisites to submittal.* A final site plan shall not be submitted unless: (i) an initial site plan was approved for the development and it remains valid; (ii) the final site plan satisfies all of the requirements of section 32.6; and (iii) the final site plan satisfies all of the conditions delineated in the letter provided under section 32.4.2.5(c) required to be satisfied prior to submitting the final site plan.
- b. *Date of official submittal.* A final site plan shall be submitted for approval within one (1) year after the date of approval of the initial site plan was mailed or delivered as provided in section 32.4.2.5(c). A final site plan submitted ten (10) days or less before the one (1) year period expires shall be deemed to be officially submitted on the date it is submitted provided that it is complete by satisfying the requirements of subsection (a). A final site plan submitted more than ten (10) days before the one (1) year period expires shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plan and the agent’s determination that the plan is complete.
- c. *Timing of review to determine completeness.* The agent’s review to determine whether a final site plan is complete shall be made within ten (10) days after it was submitted.
- d. *Determination that plan is incomplete; notice.* A final site plan not satisfying the requirements of subsection (a) shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the developer in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- e. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the developer may resubmit the final site plan together with payment of the fee for the reinstatement of review. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.
- f. *Transmittal.* A final site plan deemed officially submitted shall be transmitted to the site review committee. If state agency approval of a final site plan is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the final site plan is deemed officially submitted.

Sec. 32.4.3.2 Review of final site plan by site review committee

Upon receipt of a final site plan from the agent, the site review committee shall review the plan and make its recommendations as follows:

- a. *Review for compliance with section 32.* The plan shall be reviewed to determine that it complies with the requirements of section 32 in effect when the initial site plan was approved.
- b. *Review for compliance with chapter 18 and other laws.* The plan shall be reviewed to determine whether it complies with the requirements of chapter 18 and other applicable laws in effect at the time of final site plan review, including but not limited to sections 17-403 and 17-404; provided that the developer may establish that its rights have vested to have the final site plan reviewed under prior versions of chapter 18 or other applicable laws.
- c. *Review for compliance with conditions of initial site plan approval.* The plan shall be reviewed to confirm that it satisfies all of the conditions required to be satisfied prior to submitting the final site plan, and all of the conditions required to be satisfied prior to final site plan approval, delineated in the letter provided under section 32.4.2.5(c).
- d. *Recommendation.* Upon completion of its review, the site review committee shall transmit to the agent its recommendation for approval if it determines that the plan satisfies the requirements of subsections (a), (b) and (c), or its recommendation for required changes if it determines the plan does not satisfy the requirements of subsections (a), (b) or (c).

State law reference – Va. Code §§ 15.2-2121, 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259, 15.2-2286(A)(8).

Sec. 32.4.3.3 Review of final site plan by architectural review board; certificate of appropriateness

Prior to approval by the agent of any final site plan for a development within an entrance corridor overlay district, the developer shall obtain a certificate of appropriateness for the development from the architectural review board as follows:

- a. *Submittal requirements.* The developer shall submit an application for review under sections 30.6.6 and 30.6.7.
- b. *Scope of review.* The scope of review by the architectural review board shall be as provided in section 30.6.4, subject to the following:
 1. *Effect of initial site plan approval.* If the final site plan satisfies the requirements of the architectural review board identified during its review under section 32.4.2.2(b), it shall be deemed to be consistent with the applicable design guidelines pertaining to the elements of sections 30.6.4(c)(2), (3) and (5) delineated in section 32.4.2.2(b)(1) and they shall not be reconsidered by the board during its review of the application for a certificate of appropriateness.
 2. *If final site plan varies from approved initial site plan.* A final site plan may vary from the approved initial site plan and not satisfy the requirements of the architectural review board identified during its review under section 32.4.2.2(b). In such a case, the board shall consider all of the issues under section 30.6.4 during its review of the application for a certificate of appropriateness.
- c. *Failure to incorporate recommendations.* The architectural review board shall not deny a certificate of appropriateness on the sole ground that the final site plan failed to incorporate any recommendation of the board during its review of the initial site plan under section 32.4.2.2(b).
- d. *Reconciliation of conflicts.* Conflicts among the requirements of this chapter and other applicable laws and recommendations shall be reconciled as provided in section 32.4.2.2(c).

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2286(A)(4), 15.2-2306.

Sec. 32.4.3.4 Revisions to address required changes

A final site plan for which changes are required shall be revised as follows:

- a. *Requirements identified; letter to the developer.* If the site review committee identifies required changes to the final site plan, the committee shall promptly issue a letter to the developer stating the changes required to be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the developer in writing, by fax or email.
- b. *Response to address requirements.* The developer shall revise the plan to address all of the required changes before approval of the final site plan by the agent.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

Sec. 32.4.3.5 Deferral of review; when application deemed withdrawn

The review of, and action on, a final site plan may be deferred, and an application for a final site plan may be deemed withdrawn, as follows:

- a. *Request to defer by developer.* A developer may request that review or action on its application for a final site plan be deferred for a specified period up to six (6) months. If during the deferral period the developer does not request the agent to take action on the final site plan as provided in section 32.4.3.6 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.
- b. *Failure to submit revised plan.* If a developer fails to submit a revised final site plan to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 32.4.3.4, the application shall be deemed to have been voluntarily withdrawn by the developer.
- c. *Extension of deferral period or period to submit revised plan.* Before the deferral period in subsection (a) expires, the developer may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension for a period determined to be reasonable, taking into consideration the size or nature of the proposed development, the complexity of the review, and the laws in effect at the time the extension request is made.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 32.4.3.6 Review and action on final site plan by agent

The agent shall review and act on a final site plan as follows:

- a. *Review.* The agent shall review the final site plan for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the recommendation of the site review committee as to whether the plan complies with all applicable requirements and any statement by the developer. The agent also may consider any other evidence pertaining to the plan's compliance with the requirements of this chapter as deemed necessary for a proper review of the plan.
- b. *Time for action.* The agent shall act on the final site plan within sixty (60) days after the date the plan was officially submitted, provided:
 1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plan by a state agency is required, the agent shall approve or disapprove the plan within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plan was officially submitted.
 2. *Alternative time for action if certificate of appropriateness required.* For sites within an entrance corridor overlay district for which a certificate of appropriateness is required for the development under section 30.6 *et seq.*, the agent shall approve or disapprove the plan within seven (7) days after the certificate is issued or sixty (60) days after the date the plan was officially submitted, whichever is later.

3. *Suspension of running of time for action.* The running of the time by which the agent must act on a plan shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 32.3.6 until the date the planning commission or the board of supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the developer until the date the revised initial site plan addressing the required changes is submitted under section 32.4.3.4(b); (iii) from the date of the developer's request for a deferral under section 32.4.3.5(a); and (iv) during any extension granted under section 32.4.3.5(c).
- c. *Action to approve and notice of approval.* If the agent determines that the final site plan complies with all applicable requirements, he shall approve and sign the plan, and may issue a letter to the developer informing the developer of the approval. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
 - d. *Action to disapprove and notice of disapproval.* If the agent determines that the plan does not comply with all applicable requirements, he shall disapprove the plan and promptly issue a letter to the developer stating the reasons for disapproval by identifying the initial site plan's deficiencies and citing the applicable sections of this chapter or other law, and what corrections or modifications will permit approval of the plan. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
 - e. *Submittal of corrected or modified plan.* Any developer who has received a notice of disapproval under subsection (d) may submit a corrected or modified final site plan addressing the deficiencies identified in the notice of disapproval, as follows:
 1. *Deadline for submittal.* The developer shall submit the corrected or modified plan within sixty (60) days after the date of the notice of disapproval.
 2. *Time for action.* The agent shall act on the corrected or modified plan within forty-five (45) days after it was submitted.
 3. *Action to approve or disapprove.* The agent shall approve or disapprove the corrected or modified plan and provide notice of the action to the developer as provided under subsections (c) and (d).

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

Sec. 32.4.3.7 Appeal and judicial review

The disapproval of a final site plan maybe appealed as follows:

- a. *Appeal to planning commission and board of supervisors.* If a final site plan is disapproved by the agent, the developer at its sole option may appeal the disapproval to the planning commission and, if the commission disapproves the plan, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the disapproval by the agent or by the commission, as the case may be. The action by the commission and the board shall comply with sections 32.4.3.6(c) and (d).
- b. *Judicial review.* If a final site plan is disapproved by the agent, the planning commission or the board of supervisors, the developer may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2259(D). No developer is required to appeal the disapproval of the plan under subsection (a) before appealing it to the circuit court.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 32.4.3.8 Period of validity of approved final site plan

An approved final site plan is valid as follows:

- a. *Valid for five years or longer.* An approved final site plan shall be valid for: (i) a period of not less than five (5) years after the date of its approval or for a longer period as the agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development; and (ii) any additional period as may be provided by state law. A plan shall be deemed to be approved once it has been signed by the agent and if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.
- b. *Request for extension.* Upon application by the developer submitted prior to expiration of the final site plan, the agent may grant one or more extensions of the approval for additional periods as the agent may, at time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, and the laws, ordinances and regulations in effect at the time of the request for an extension. If the agent denies the request, he shall promptly issue a letter to the developer stating the reasons for the denial. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- c. *Judicial review if request for extension denied.* If the agent denies an extension requested under subsection (b) and the developer contends that the denial was not properly based on the regulation applicable thereto, the considerations for granting an extension delineated in subsection (b), or was arbitrary or capricious, the developer may appeal the denial to the circuit court as provided in Virginia Code § 15.2-2261.
- d. *Rights attached to valid approved final site plan.* For so long as the final site plan remains valid in accord with the provisions of this section, no change or amendment to any county ordinance, map, resolution, rule, regulation, policy or plan adopted after the date the plan was approved shall adversely affect the right of the developer or its successor in interest to commence and complete an approved development in accordance with the lawful terms of the approved plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.
- e. *Effect of minor amendments.* The developer's application for a minor amendment to the approved final site plan during its period of validity shall not constitute a waiver of the provisions of this section. The agent's approval of a minor amendment shall not extend the period of validity of the final site plan.

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2261.

Sec. 32.5 Initial site plan; form and content

Sec. 32.5.1 Form and style of an initial site plan

Each initial site plan shall comply with the following:

- a. *Number of copies.* Sixteen (16) clearly legible copies in blue or black ink of the plan shall be submitted.
- b. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of the sheet shall be approximately either north or east.
- c. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 1. *Boundary, setback and zoning lines:* One foot in one thousand (1:1,000) feet.
 2. *Existing contours:* One-half (½) of the contour interval required in section 32.5.2(d).
 3. *Proposed contours:* Within five (5) feet horizontally and vertically.
 4. *Existing structures, utilities and other topographic features:* Within five (5) feet.
 5. *Proposed structures, roads, parking lots and other improvements:* Within five (5) feet.

Sec. 32.5.2 Contents of an initial site plan

Each initial site plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (where section 30.3, flood hazard overlay district, is involved, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.
- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas; the percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial use; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and if a landscape plan is required, the maximum amount of paved parking and other vehicular circulation areas.
- c. *Phase lines.* If phasing is planned, phase lines and the proposed timing of development.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are critical slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
- f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
- h. *Flood plain.* The one hundred year flood plain limits as shown on the official flood insurance maps for Albemarle County.
- i. *Streets, easements and travelways.* The existing and proposed streets, including proposed bike lanes, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, centerline radii and pavement widths.
- j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, drainage channels, and drainage easements.
- k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.

- l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.
- m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the property, showing the distance to the centerline of the nearest existing street intersection.
- n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; loading and service areas; signs; and the proposed paving material types for all walks, parking lots and driveways.
- o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use under sections 32.7.1.1, 32.7.1.2 and 32.7.1.3, and shall include a note on the plan stating that the land is to be dedicated or reserved for public use.
- p. *Landscape plan.* A landscape plan that complies with section 32.7.9, if it is required to be submitted with the initial site plan.
- q. *Traffic generation figures.* If deemed appropriate by the agent due to the intensity of the development, estimated traffic generation figures for the site based on current Virginia Department of Transportation rates; indicate the estimated number of vehicles per day and the direction of travel for all connections from the site to a public street.
- r. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.
- s. *Additional information.* The agent may require additional information to be shown on the initial site plan as deemed necessary to provide sufficient information for the agent and the site review committee to adequately review the plan.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.5.3 Response to information during preapplication process

The application for an initial site plan shall include a response to all information for which a response was requested under section 32.4.1.4.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.5.4 Groundwater assessment information

The application for an initial site plan shall include draft groundwater management plans and aquifer testing workplans required by sections 17-403 and 17-404, if applicable. The requirements of sections 17-403 and 17-404 shall be satisfied prior to final site plan approval.

State law reference – Va. Code § 15.2-2121.

Sec. 32.5.5 Parking structure information

The application for an initial site plan shall include architectural elevations, drawings, photographs or other visual materials showing any parking structure proposed on the site and surrounding structures and land uses.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.6 Final site plan; form and content

Sec. 32.6.1 Form and style of a final site plan

Each final site plan shall comply with the following:

- a. *Authorized preparer.* The plan, and any amendments to a plan, shall be prepared and sealed, signed and dated by an architect, professional engineer, land surveyor, or certified landscape architect, each of whom shall be licensed to practice in the Commonwealth of Virginia.
- b. *Number of copies when first submitted.* Two (2) clearly legible copies in blue or black ink of the plan, in the scale and size required by subsection (d), and one (1) reduced copy of the plan no larger than eleven (11) by seventeen (17) inches in size shall be submitted.
- c. *Number of copies when submitted for final signature approval.* When submitting the final site plan for final signature approval, four (4) print copies of the plan shall be submitted.
- d. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or larger, or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of each sheet shall be approximately either north or east.
- e. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 1. *Boundary, setback and zoning lines:* Within one one-hundredth (0.01) of a foot.
 2. *Existing contours:* Within one-half ($\frac{1}{2}$) of the contour interval required in section 32.6.2(c).
 3. *Proposed contours:* Within one (1) foot horizontally and vertically.
 4. *Spot elevations:* Within one-tenth (0.10) of a foot.
 5. *Existing critical structures including utilities and other topographic features:* Within two (2) feet, provided that for critical structures, which include, but are not limited to, gas lines, other utilities, pipes, conduits, walls and buildings to be preserved, within one-tenth (0.10) of a foot.
 6. *Proposed structures, roads, parking lots and other improvements:* Within one one-hundredth (0.01) of a foot.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.6.2 Contents of a final site plan

Each final site plan shall contain the following information:

- a. *Information required.* All of the information required to be on an initial site plan, as provided in section 32.5.
- b. *Demonstrate compliance with chapter.* Specific written schedules or notes as necessary to demonstrate that the requirements of this chapter are satisfied.
- c. *Proposed grading.* Proposed grading (up to twenty [20] percent slope, maximum two [2] foot contours; over twenty [20] percent slope, maximum five [5] foot contours).
- d. *Water and sewer facilities.* Detailed plans for proposed water and sewer facilities, including all pipe sizes, types and grades; proposed connections to existing or proposed central water supplies and central sewage systems; location and dimensions of proposed easements and whether they are to be publicly or privately maintained; profiles and cross sections of all water and sewer lines including clearance where lines cross; all water main locations and sizes; valves and fire hydrant locations; all sewer appurtenances by type and number; the station on the plan to conform to the station shown on the profile and indicate the top and invert elevation of each structure.
- e. *Drainage and grading plans.* Detailed construction drainage and grading plans:

1. Profiles of all ditches and channels whether proposed or existing, showing existing and proposed grades, and invert of ditches, cross pipes or utilities; typical channel cross sections for new construction; and actual cross sections for existing channels intended to remain;
2. Profiles of all storm sewer systems showing existing and proposed grades;
3. Plan view of all drainage systems with all structures, pipes and channels numbered or lettered on the plan and profile views. Show sufficient dimensions and bench marks to allow field stake out of all proposed work from the boundary lines;
4. A drainage summary table for culverts, storm sewer and channels as described in the following example:

Structure Number	Description	Length	Invert In	Invert Out	Slope	Remarks
1	42" RCP Class III	50'	424.50	424.00	100.00%	Provide 2, EW
2	DI-3B	L=8	426.00	432.00	-	IS-1 Top
3	PG-2A	400'	420.00	400.00	5.00%	D=12"
4	Grade Swale	200'	420.00	415.00	2.50%	D=18"

5. A legend showing all symbols and abbreviations used on the plan;
 6. General notes, typical sections, and details of all items not covered by Virginia Department of Transportation standard drawings; and
 7. Flood plain limits for the one hundred (100) year storm for all watercourses with an upstream drainage area of fifty (50) acres or more provided that the county engineer may waive this requirement for drainage areas of less than one hundred (100) acres upon determining that the information is unnecessary for review of the proposed development.
- f. *Street sections.* Typical street sections together with specific street sections where street cut or fill is five (5) feet or greater; centerline curve data; radius of curb returns or edge of pavement; location, type and size of proposed ingress to and egress from the site together with culvert size; symmetrical transition of pavement at intersection with existing street; the edge of street surface or face of curb for full length of proposed street; when proposed streets intersect with or adjoin existing streets or travelways, both edges of existing pavement or travelway together with curb and gutter indicated for a minimum of one hundred (100) feet or the length of connection, whichever is the greater distance.
- g. *Public facilities and utilities.* All public facilities, utility and drainage easements outside the right-of-way of public streets, provided that new easements may be generally shown and accurately dedicated by separate plat. All water and sewer facilities to be dedicated to public use and the easements for those facilities and shall be identified by a statement that the facilities are to be dedicated to the Albemarle County Service Authority.
- h. *Signature panel.* Signature panel for signature by each member of the site review committee.
- i. *Parking and loading areas.* For all parking and loading areas, indicate the size, angle of stalls, width of aisles and specific number of spaces required and provided, and method of computation. Indicate type of surfacing for all paved or gravel areas.
- j. *Landscape plan.* A landscape plan that complies with section 32.7.9
- k. *Outdoor lighting.* Outdoor lighting information including a photometric plan and location, description, and photograph or diagram of each type of outdoor luminaire.
- l. *Recreational facilities.* Specifications for recreational facilities.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.6.3 Parking structure information

If the site will have a parking structure, the application for a final site plan shall include any revised architectural elevations, drawings, photographs or other visual materials submitted with the initial site plan under section 32.5.5. The elevations shall be part of the approved final site plan.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.7 Minimum standards for improvements

Sec. 32.7.1 Dedications and reservations

Sec. 32.7.1.1 Dedication of land for vehicular access, parks, schools and open space

Each developer shall dedicate to the county a part of the site abutting an existing street determined to be required for vehicular access from that street and may dedicate to the county a part of the property for parks, schools, and open space, as follows:

- a. *No compensation if dedication required.* The board of supervisors shall not be required to compensate the developer for the land dedicated if the dedication: (i) is required in conjunction with an improvement required by the Virginia Department of Transportation or by this chapter; (ii) is a gift; or (iii) is required by a proffer as part of a conditional rezoning, or a condition imposed in conjunction with the approval of a special use permit, special exception, variance, or other approval.
- b. *How accomplished.* The dedication of land shall be accomplished by a subdivision plat satisfying the requirements of chapter 14 and may be accompanied by a deed of dedication in a form and having the substance approved by the county attorney.

State law reference – Va. Code § 15.2-2241(5).

Sec. 32.7.1.2 Reservation for future dedication of land for public use

Any developer may reserve for future dedication to the county a part of the site suitable for parks, schools, and open space, as follows:

- a. *No compensation if dedication required.* The board of supervisors shall not be required to compensate the developer for the reservation of land if the future dedication: (i) is a gift; or (ii) is required by a proffer as part of a conditional rezoning, or a condition imposed in conjunction with the approval of a special use permit, special exception, variance, or other approval.
- b. *Land need not be identified in comprehensive plan.* Land may be reserved for public use even though it is not identified in the comprehensive plan for a future public use, provided the land is acceptable to the county for reservation.
- c. *Reserved in a usable manner.* The agent shall not require that land be reserved in a manner that would render it unusable to the developer if it will not be used for the intended public purpose.
- d. *Release of reservation.* The developer may petition the board of supervisors to release a reservation if the land will not be used for a public purpose.

State law reference – Va. Code § 15.2-2241(5).

Sec. 32.7.1.3 Reservation of land for streets, alleys, walkways, waterways or public areas shown on official map

The agent may request a developer to reserve for future dedication to the county a part of the site suitable for streets, alleys, walkways, waterways or public areas if they are shown on an official map adopted under Virginia Code § 15.2-2233, as follows:

- a. *Shown on site plan.* Land reserved for future dedication under this section shall be set apart on the final site plan and be identified by a note on the plan stating that the land is reserved for future dedication for public use. The land reserved shall not be developed except as provided in this section.
- b. *Procedure when site plan submitted to develop reserved lands.* When a site plan to allow the reserved land to be developed is submitted to the county, the plan shall be reviewed and acted on as provided in section 32. If the plan is disapproved for the sole reason that the county wants the land to be dedicated to public use, the county shall have sixty (60) days to request that the land be dedicated to public use and the dedication shall be completed within one hundred twenty (120) days after the date of disapproval. If the county has not acted within the one hundred twenty (120) day period, the plan shall be approved provided that all other requirements of law have been satisfied.
- c. *Release of reservation.* The developer may petition the board of supervisors to release the reservation if the official map is amended to remove the street, alley, walkway, waterway or public area from the lands reserved on the approved final site plan.

State law reference – Va. Code §§ 15.2-2233, 15.2-2241.

Sec. 32.7.2 Vehicular access to site; streets, sidewalks and other pedestrian ways

Sec. 32.7.2.1 Vehicular access to site

Any vehicular access to and from a site shall comply with the following:

- a. *General.* The agent may specify the number, type, location and, subject to subsections (b) and (c), the design of all streets or travelways providing vehicular ingress to and egress from a site for the purpose of reducing or preventing congestion on offsite streets, minimizing conflicts and friction with vehicular traffic on offsite and onsite streets or travelways, minimizing conflicts with pedestrians, and providing continuous and unobstructed access for emergency services such as police, fire and rescue vehicles.
- b. *Design.* Each entrance onto any public street shall be designed and constructed as required by the standards of the Virginia Department of Transportation. Each entrance onto a public street shall be subject to approval by the Virginia Department of Transportation. Each entrance onto a private street shall be subject to approval by the county engineer.
- c. *Principal means of access to residential development; design to avoid obstruction during flooding.* If discharge water of a twenty-five (25) year storm could be reasonably anticipated to inundate, block, destroy or otherwise obstruct a principal means of access to a residential development, the following also shall apply:
 - 1. The principal means of access shall be designed and constructed so as to provide unobstructed access at the time of flooding; and/or
 - 2. An alternative means of access which is not subject to inundation, blockage, destruction or obstruction, and which is accessible from each dwelling unit within the development shall be constructed.

State law reference – Va. Code §§ 15.2-2241(2), 15.2-2241(4).

Sec. 32.7.2.2 Streets and travelways composing the internal road network

Streets and travelways within a development shall be subject to the following:

- a. *Minimum design.* Each public street and travelway within a development shall be designed and constructed to the standards of the Virginia Department of Transportation. Each private street and travelway within a development shall be designed and constructed to the standards for private streets in chapter 14.
- b. *Geometric design.* The agent may vary street geometric design standards as provided under section 32.3.5 for public local, collector and minor loop streets, provided that:

1. Approval of the proposed variation is obtained from the Virginia Department of Transportation where applicable;
 2. Off-street parking spaces are provided to compensate for the loss of on-street parking due to varying the geometric design standards; and
 3. The developer shall be responsible for placing “no parking” signs on all travel lanes, driveways or streets to prohibit parking on the streets. Where turnarounds are used, if the right-of-way radius is fifty (50) feet and the paved radius is forty (40) feet, the developer shall install “no parking” signs for the complete circle where those signs are required by the agent. If the right-of-way radius is increased to sixty (60) feet and the paved radius is increased to fifty (50) feet, parking on the turnaround may be permitted.
- c. *Turnarounds.* All turnarounds shall have a turning radius required by the standards of the Virginia Department of Transportation. In the case of any private street, the agent may require that at least one sign of a type approved by the county engineer be posted giving notice that the street is not a through street.
- d. *Coordination.* All streets within a development shall be coordinated as to location, width, grades and drainage with other streets, as follows: (i) by coordinating with existing or planned streets within the general area of the development, including but not limited to existing or future adjacent subdivisions or developments, or subdivisions or developments contiguous to adjacent subdivisions or developments; and (ii) by continuing the streets to planned, existing, or platted streets into adjoining areas by dedication or reservation of right of way adequate to accommodate continuation of the streets.
- e. *Extension.* All streets within a development shall be extended and constructed to the abutting property lines to provide vehicular and pedestrian interconnections to future development on adjoining lands, terminating within the development with a temporary turnaround. The arrangement of the streets shall provide adequate access to adjoining lands within the development where necessary to provide for the orderly development of the county including, but not limited to, reserving temporary construction easements of sufficient area to accommodate the future completion of the street when the adjoining lands are developed.
- f. *Interconnectivity of bicycle ways.* The agent may require that any bicycle way connect to existing bicycle ways on abutting parcels.

State law reference – Va. Code §§ 15.2-2241(2), 15.2-2241(4), 15.2-2242(3).

Sec. 32.7.2.3 Sidewalks and other pedestrian ways

Sidewalks and pedestrian ways within a development shall be provided as follows:

- a. *Sidewalks along streets.* The agent may require sidewalks on one or both sides of streets in residential developments having a proposed density of two (2) or more dwelling units per acre and in commercial, industrial and mixed-use developments whenever he determines that sidewalks are reasonably necessary to protect the public health, safety and welfare. All sidewalks along streets, including all ramps for persons with mobility impairments, shall be designed and constructed to the standards of the Virginia Department of Transportation.
- b. *Other sidewalks and pedestrian walkways.* The agent may require sidewalks and pedestrian walkways which will enable pedestrians to walk safely and conveniently between buildings on the site and from the site to adjacent property and, where appropriate, to onsite private areas of recreation and open space and offsite public areas of recreation and open space such as schools, parks, gardens and similar areas. All sidewalks and pedestrian walkways that may be required by this subsection shall be designed and constructed to the standards established in the design standards manual, provided that all ramps for persons with mobility impairments shall be designed and constructed to the standards of the Virginia Department of Transportation.
- c. *Interconnectivity of sidewalks or pedestrian ways.* The agent may require that any sidewalk or other pedestrian way connect to existing sidewalks or pedestrian ways on abutting parcels.

State law reference – Va. Code §§ 15.2-2201, 2241(4), 15.2-2242(3), 15.2-2280.

Sec. 32.7.2.3 Parking

Onsite parking shall be subject to the following:

- a. *Design and construction.* Onsite parking and internal circulation shall be designed and constructed as provided in section 4.12.
- b. *Parking structures.* In addition to all other applicable requirements, each parking structure shall be subject to the following:
 1. Mechanical equipment or other utility hardware on the roof, ground, or building shall be screened from public view to the reasonable satisfaction of the agent with materials harmonious with the building or they shall be located so as not to be visible from public view.
 2. Air handlers shall be located so that emissions are directed away from any adjoining residential development.
 3. The structure shall be designed so that the light from all vehicle headlights and all lighting fixtures will not routinely shine directly outside the structure.

State law reference – Va. Code §§ 15.2- 2241(3), 15.2-2241(4), 15.2-2280.

Sec. 32.7.4 Water and soil protection

Sec. 32.7.4.1 Erosion and sediment control, stormwater management, and other water regulations; water pollution; soil characteristics

Each site plan shall comply with the following:

- a. *Erosion and sediment control, stormwater management and other water regulations.* Each site plan shall comply with all applicable requirements of chapter 17.
- b. *Water pollution.* In addition to the provisions of section 4.14 and other applicable laws, each site plan shall provide for minimizing the pollution of downstream watercourses and groundwater where on-site measures are deemed warranted by the county engineer. In determining whether and what measures, if any, are warranted, the county engineer shall consider the character of the proposed use including, but not limited to, whether petroleum products, pesticides, poisons, synthetic organic compounds or other substances would be stored or used on the site which, if improperly stored or inadvertently discharged, may reasonably be anticipated to pollute surface water or groundwater.
- c. *Soil characteristics.* In reviewing site plans, the site review committee shall refer to the U. S. Department of Natural Resource Conservation Service, Soil Survey of Albemarle County, Virginia, August, 1985 in commenting on soil suitability for the intended development and, in particular, Table 10 Building Site Development, Table 12 Construction Materials, and Table 16 Soil and Water Features. If soils are rated as “poor” or “severely limited” for a proposed use, or where high seasonal water table and/or hydrologic group D soils are encountered, the site review committee shall notify the agent of these conditions and provide recommendations for special design measures.

State law reference – Va. Code §§ 10.1-560 *et seq.*, 10.1-603.2 *et seq.*, 10.1-2108, 15.2-2241(3), 15.2-2283.

Sec. 32.7.4.2 Easements for facilities for stormwater management and drainage control

The agent shall require each developer to dedicate easements to the county for facilities for stormwater management and drainage control as follows:

- a. *Easements required.* The following easements shall be required:
 1. An easement for all stormwater management facilities and drainage control improvements located on the site shall be established whenever the improvement is designed and/or constructed beyond a street right-of-way or access easement, and shall extend from all

drainage outfalls to an adequate channel as defined in 4 VAC § 50-30-10 that satisfies the minimum standards in 4 VAC § 50-30-40(19) to the boundary of the site.

2. An easement along any natural stream or man-made waterway located on the site that will be used for drainage purposes.
- b. *Area of easement.* The area of each easement shall be sufficient, as determined by the county engineer, to: (i) accommodate the facilities and the drainage characteristics from each drainage outfall from a drainage control facility; and (ii) allow access to a natural stream or man-made waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or man-made waterway for drainage purposes.
- c. *Right of ingress and egress.* Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the site.
- d. *Compensation not required.* The board of supervisors shall not be required to compensate the developer for any easement or any improvements thereon.
- e. *Not considered part of street width.* No easement shall be considered part of any required street width.

State law reference – Va. Code § 15.2-2241(3).

Sec. 32.7.5 Water, sewer and other utilities

Sec. 32.7.5.1 Water supply and sewage system

The water supply and sewage system serving a development shall comply with the following:

- a. *Whether a public or private water supply and sewage system required.* Whether the developer shall install or construct a public or private water supply and sewage system shall be determined under section 4.1.
- b. *Public water supply and sewage system.* All public water and sewer facilities required to be constructed to serve the development shall be designed and constructed to the standards of the Albemarle County Service Authority. The water supply also shall satisfy the requirements of section 32.7.6(a) to provide fire protection. To ensure that public water and sewer service is available to abutting parcels that would rely on those systems, the agent may require the developer to construct the water and sewer facilities to the boundary lines of the development with abutting lands. Sewer facilities constructed to the boundary lines of the site shall be constructed at a depth and location that allows gravity sewers to provide service to the developable land draining towards the sewer.
- c. *Private water supply and sewage system.* All private water and sewer facilities shall be designed and constructed to the standards of the Virginia Department of Health and be approved by the Health Director. The water supply also shall satisfy the requirements of section 32.7.6(b) to provide fire protection.
- d. *Dedication of public water and sewer facilities.* The developer shall dedicate any public water and sewer facilities as provided in section 32.7.5.3.

State law reference – Va. Code § 15.2-2241(3), 15.2-2241(4).

Sec. 32.7.5.2 Location of utilities above and below ground

All utilities, including but not limited to wires, cables, pipes, conduits and appurtenant equipment for electricity, gas, water, sewer, telephone or similar service, shall be located within a site as follows:

- a. *Conforming to natural topography.* Each utility shall be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of critical slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the site and existing or future development on adjoining lands.

- b. *Undergrounding.* All new utilities shall be located underground except the following, which may be located above ground: (i) electric transmission lines and facilities; (ii) equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antennae and associated equipment, which is, under accepted utility practices, normally installed aboveground; (iii) meters, service connections, and similar equipment normally attached to the outside wall of a utility customer's premises; and (iv) satellite dishes.
- c. *Within public street right-of-way.* If it is necessary to locate a new or existing public utility within the right-of-way of a public street, the developer shall first obtain a permit from the Virginia Department of Transportation.
- d. *Allowing street trees and landscaping.* Installation of utilities in or adjacent to the right-of-way shall not preclude the installation of street trees or required landscaping.

State law reference – Va. Code § 15.2-2241(4).

Sec. 32.7.5.3 Dedication of public water and sewer facilities

The agent shall require each developer to dedicate to the Albemarle County Service Authority for public use all water and sewer facilities required by this chapter that are designed, constructed and approved to be dedicated as public water supply and public sewage systems, and to establish an easement on the land appurtenant thereto and extending to any abutting property identified by the agent. The board of supervisors and the service authority shall not be required to compensate the developer for the dedicated facilities or the establishment of the easement.

State law reference – Va. Code § 15.2-2241(5).

Sec. 32.7.5.4 Easements for cable television and public service corporations

The agent may require a developer to convey, where appropriate, common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the site, as follows:

- a. The location of each easement shall be adequate for use by the franchised cable television operators and public service corporations which may be expected to occupy them.
- b. Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the site.

State law reference – Va. Code § 15.2-2241(6).

Sec. 32.7.6 Fire protection

Fire protection shall be provided as follows:

- a. *Public water reasonably available.* Where public water is reasonably available as determined under section 4.1(a):
 1. *Verification of capability.* Prior to final site plan approval, the Albemarle County Service Authority and the division of fire rescue shall verify that adequate capability exists to provide adequate fire protection to serve the site, including required fire flows, together with all other developments to be served by the system.
 2. *Required improvements.* Fire hydrants and distribution systems shall be installed and constructed by the developer. Hydrant locations and fire flow requirements shall be as prescribed by Insurance Service Offices (ISO) standards and shall be subject to approval by the division of fire rescue, provided that if the standards of the Albemarle County Service Authority are greater than the ISO standards, then the standards of the Albemarle County Service Authority shall apply.

- b. *Public water not reasonably available.* Where public water is not reasonably available as determined under section 4.1(a), the division of fire rescue may require the improvements and alternative provisions it deems reasonably necessary to provide adequate fire protection to serve the site.

State law reference – Va. Code § 15.2-2241(3).

Sec. 32.7.7 Recreation

Recreational areas shall be provided as required by section 4.16.

State law reference – Va. Code § 15.2-2241(3).

Sec. 32.7.8 Signs and outdoor lighting

Signs and outdoor lighting shall be provided as follows:

- a. *Signs.* All signs shall comply with the requirements of, and shall be subject to approval as provided in, section 4.15.
- b. *Outdoor lighting.* All outdoor lighting shall comply with the requirements of section 4.17.

State law reference – Va. Code § 15.2-2241(3).

Sec. 32.7.9 Landscaping and screening

Sec. 32.7.9.1 Purposes

The purposes for requiring landscaping and screening as part of a development are to:

- a. Ensure orderly development that is consistent with the policies and goals of the comprehensive plan related to natural resources and with the plan's environmental and land use policies and goals, as implemented in this chapter;
- b. Promote the public health, safety and welfare;
- c. Conserve energy by providing shade and wind breaks;
- d. Provide pervious area which helps to reduce the quantity of stormwater and to recharge groundwater;
- e. Improve air quality;
- f. Minimize noise, dust and glare;
- g. Promote traffic safety by controlling views and defining circulation patterns;
- h. Protect and preserve the appearance, character and value of the site's neighboring lands; and
- i. Protect the unique features of the site which could otherwise be irretrievably lost due to careless site design, but to implement these regulations so as not to prohibit development of the site.

State law reference – Va. Code §§ 15.2-2200, 15.2-2241(3), 15.2-2280, 15.2-2283, 15.2-2286(A)(6).

Sec. 32.7.9.2 Submittal of landscape plan, timing

A landscape plan shall be submitted as follows:

- a. *Prior to final site plan approval.* A landscape plan shall be submitted to the agent prior to final site plan approval, unless it is required to be submitted prior to initial site plan approval as provided in subsections (b) or (c).
- b. *Prior to initial site plan approval; impervious area exceeds 80% or site within entrance corridor overlay district.* A landscape plan shall be submitted to the agent prior to initial site plan approval if the

impervious coverage of the site exceeds eighty (80%) of the gross area of the site or if the site is within an entrance corridor overlay district.

- c. *Prior to initial site plan approval; special site conditions.* A landscape plan shall be submitted to the agent prior to initial site plan approval if the agent determines that review of the plan at that time is warranted because of unusual circumstances, conditions of the site, or the character of the proposed use.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.3 Review and action on landscape plan by agent

The agent shall review and act on a landscape plan as follows:

- a. *Review.* The agent shall review the landscape plan for compliance with the requirements of section 32.7.9, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the comments from other agencies before approving the plan, including the Virginia Department of Transportation and the Albemarle County Service Authority.
- b. *Revisions to address required changes.* The agent may require the developer to revise the landscape plan as provided in section 32.4.3.4.
- c. *Time for action.* The agent shall act on the landscape plan prior to final site plan approval.
- d. *Action.* If the agent determines that the landscape plan complies with all requirements of section 32.7.9, he shall approve the plan and promptly issue a letter to the developer stating so. If the agent determines that the plan does not comply with all requirements of section 32.7.9, he shall disapprove the plan and promptly inform the developer of the disapproval. A notice of disapproval shall state the reasons for disapproval by identifying the landscape plan's deficiencies and citing the applicable sections of section 32.7.9 and what corrections or modifications will permit approval of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- e. *Authority of agent in approving a landscape plan.* In approving a landscape plan, the agent may require the following:
 - 1. *Agreement with surety.* The agent may require that installation of the landscaping be subject to an agreement with surety as provided in section 32.8.2.
 - 2. *Preservation of features.* The agent may require that any or all features shown on a landscape plan be preserved upon determining after a site inspection that the features contribute significantly to the character of the Albemarle County landscape and that the preservation of those features is necessary to satisfy the purpose and intent of this chapter.
- f. *Submittal of corrected or modified landscape plan.* Any developer who has received a notice of disapproval under subsection (d) may submit a corrected or modified landscape plan addressing the deficiencies identified in the notice of disapproval.
- g. *Appeal.* The developer may appeal the disapproval of a landscape plan as part of its appeal of the disapproval of a final site plan as provided in section 32.4.3.7.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.4 Contents of a landscape plan

Each landscape plan shall contain the following information:

- a. *Proposed plant materials.* The landscape plan shall show the location, size and type of all proposed plant materials. The types of plant materials may be identified by using generic terms such as "large shade tree," "medium shade tree," "screening tree," "screening shrub," or "street shrub." The required plant materials shall be chosen from a recommended species list approved by the agent.

- b. *Existing trees; preservation in lieu of new plant materials.* Existing trees may be preserved in lieu of planting new plant materials in order to satisfy the landscaping and screening requirements of section 32.7.9, subject to the agent's approval. In such a case:
1. *Areas and other features shown on landscape plan.* The landscape plan shall show the trees to be preserved, the limits of clearing, the location and type of protective fencing, grade changes requiring tree wells or walls, and trenching or tunneling proposed beyond the limits of clearing.
 2. *Conservation checklist.* The applicant shall sign a conservation checklist approved by the agent to ensure that the specified trees will be protected during construction. Except as otherwise expressly approved by the agent in a particular case, the checklist shall conform to the specifications in the Virginia Erosion and Sediment Control Handbook, pages III-393 through III-413, and as hereafter amended.
- c. *Existing landscape features.* The landscape plan shall show the existing landscape features on the site, which shall include:
1. *Wooded areas.* All wooded areas, identifying whether they are composed of evergreen, deciduous, or a mix of type, and showing the location of the tree line;
 2. *Small groups of trees and individual trees.* Small groups of trees and individual trees of six (6) inch caliper or greater, or ornamental trees of any size, identified by common name and approximate caliper and showing their location;
 3. *Natural features.* Natural features which distinguish the site, such as prominent ridge lines, rock outcroppings or water features;
 4. *Man-made features.* Man-made features of local, historic or scenic importance; and
 5. *Scenic vistas.* Scenic vistas across the site from a public street.
- d. *Verification of compliance.* The landscape plan shall verify that it satisfies the minimum landscaping and screening requirements of section 32.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.5 Landscaping along streets

The minimum landscaping standards along streets are as follows:

- a. *When street trees required.* Street trees shall be required along existing or proposed streets in any development subject to section 32.
- b. *Street tree species.* Street trees shall be selected from a current list of recommended large shade trees approved by the agent, provided that medium shade trees may be planted instead when the agent determines that site conditions warrant smaller trees. All street trees to be planted shall meet the specifications of the American Association of Nurserymen.
- c. *Minimum caliper of street trees.* Large street trees shall be one and one-half (1 ½) inches to one and three-quarters (1 ¾) inches minimum caliper (measured six [6] inches above ground level) when planted. Medium street trees shall be one (1) inch to one and one-quarter (1 ¼) inches minimum caliper when planted.
- d. *Location and spacing of street trees.* Street trees shall be planted with even spacing in a row within the public street right-of-way or adjacent to the public street right-of-way if not permitted therein by the Virginia Department of Transportation, and within the private street right-of-way. One (1) large street tree shall be required for every fifty (50) feet of street frontage, or portion thereof, if twenty-five (25) feet or more. Where permitted, one (1) medium shade tree shall be required for every forty (40) feet of road frontage, or portion thereof, if twenty (20) feet or more. If required street trees cannot be planted within the parking setback or within ten (10) feet of the street right-of-way due to sight distance, utility

easements or other conflicting requirements, then the planting strip shall be enlarged to accommodate the trees. If this requirement creates a hardship by causing the relocation of required parking spaces, then the additional planting area may be counted toward the interior landscaping requirement.

- e. *Shrubs along public streets.* When a parking area is located so that the parked cars will be visible from an off-site street, the agent may require additional planting of low street shrubs between the street and the parking area, subject to the following:
 - 1. *Minimum size of shrubs.* Shrubs shall be a minimum of twelve (12) inches in height when planted.
 - 2. *Spacing of shrubs.* Shrubs shall be in a single row planted five (5) feet on center.
 - 3. *Alternatives.* The agent may authorize different landscaping designed to minimize the visual impact of the parking area.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.6 Landscaping within a parking area

The minimum landscaping standards for each parking area having five (5) or more parking spaces are as follows:

- a. *Minimum area.* An area of at least five (5) percent of the paved parking and vehicular circulation area shall be landscaped with trees or shrubs. Neither the areas of street trees and shrubs required by sections 32.7.9.5(d) and (e) nor shrubs planted between a parking area and a building on the site shall be counted toward the minimum area landscaped area for a parking area.
- b. *Types of plant materials.* The plant materials may be a mixture of shade trees and shrubs and shall include one (1) large or medium shade tree per ten (10) parking spaces or portion thereof, if five (5) spaces or more. The shade trees shall be selected from a current list of recommended large shade trees approved by the agent or other species approved by the agent and the agent may allow trees smaller than medium shade trees to be planted when site conditions warrant smaller trees. All shade trees to be planted shall meet the specifications of the American Association of Nurserymen.
- c. *Minimum caliper of street trees.* Large street trees shall be one and one-half (1 ½) inches to one and three-quarters (1 ¾) inches minimum caliper (measured six [6] inches above ground level) when planted. Medium street trees shall be one (1) inch to one and one-quarter (1 ¼) inches minimum caliper when planted.
- d. *Spacing.* The plant materials shall be located in reasonably dispersed planting islands within the parking area or abutting areas.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.7 Screening

The minimum landscaping standards for required screening are as follows:

- a. *When required.* Screening shall be required in the following circumstances:
 - 1. *Commercial and industrial uses.* Commercial and industrial uses shall be screened from the adjacent rural areas zoning district. Commercial and industrial uses shall be screened from residential uses when deemed necessary by the agent upon considering the proximity of the commercial or industrial use to the residential use, the nature of the commercial or industrial use, whether the uses are in single-use or mixed use developments, and other considerations he determines to be relevant under sound zoning principles.
 - 2. *Parking areas.* Parking areas consisting of four (4) spaces or more shall be screened from adjacent residential and rural areas districts.

3. *Features that may have negative visual impacts.* Features that may have negative visual impacts including, but not limited to, the following shall be screened from adjacent residential and rural areas districts and public streets: (i) loading areas; (ii) refuse areas; (iii) storage yards; (iv) detention ponds; and (v) recreational facilities determined to be of objectionable character by the agent, other than children's play areas where visibility is necessary or passive recreation areas where visibility is desirable.
 4. *Double frontage residential lots.* Double frontage residential lots shall be screened between the rear of the residences and the public right-of-way when deemed necessary by the agent.
 5. *Uses that may have negative visual impacts on historic properties.* The agent may require screening of any use, or portion thereof, upon determining that the use would otherwise have a negative visual impact on a property listed on the Virginia Historic Landmarks Register.
- b. *Types of screening permitted.* Screening shall consist of a planting strip, existing vegetation, a slightly opaque wall or fence, or a combination thereof, to the reasonable satisfaction of the agent.
 - c. *Minimum sizes of plant materials.* Evergreen trees shall be a minimum four (4) feet in height when planted. Shrubs shall be a minimum eighteen (18) inches in height when planted. All trees to be planted shall meet the specifications of the American Association of Nurserymen.
 - d. *Minimum depth and spacing requirements for a planting strip or existing vegetation.* If only a planting strip or existing vegetation is provided as screening, the planting strip or the existing vegetation shall not be less than twenty (20) feet in depth. If a planting strip is provided, the plant materials shall consist of a double staggered row of evergreen trees planted fifteen (15) feet on center, or a double staggered row of evergreen shrubs planted ten (10) feet on center, or an alternative vegetative screening approved by the agent.
 - e. *Minimum height of fence or wall; supplemental plant materials.* Each fence or wall provided as screening shall be a minimum of six (6) feet in height and the agent may require plantings at intervals along the fence or wall.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.8 Tree canopy

The tree canopy required to be established and maintained is subject to the following:

- a. *Minimum tree canopy.* Each site shall have a tree canopy covering the minimum percentage of the site as follows:
 1. *Commercial or industrial uses.* If the site is to be developed for commercial or industrial uses, the minimum tree canopy is ten (10) percent.
 2. *Residential uses, density of 20 dwelling units per acre or more.* If the site is to be developed for residential uses at a gross density of twenty (20) dwelling units per acre or more, the minimum tree canopy is ten (10) percent.
 3. *Residential uses, density of between 10 and 20 dwelling units per acre.* If the site is to be developed for residential uses at a gross density of more than ten (10) but less than twenty (20) dwelling units per acre or more, the minimum tree canopy is fifteen (15) percent.
 4. *Residential uses, density of 10 dwelling units per acre or less.* If the site is to be developed for residential uses at a gross density of ten (10) dwelling units per acre or less, the minimum tree canopy is twenty (20) percent.
- b. *Composition of tree canopy.* The tree canopy required by subsection (a) shall be composed of all areas of the site that would be covered by trees and other plant materials exceeding five (5) feet in height at a maturity of ten (10) years after planting. The trees and plant materials composing the tree canopy are those required to be planted under sections 32.7.9.5, 32.7.9.6 and 32.7.9.7, the existing trees preserved under section 32.7.9.4(b), and all additional trees selected from a recommended

species list approved by the agent that are planted in order to satisfy the minimum tree canopy coverage required by subsection (a).

- c. *Calculating the area of the site.* For the purposes of calculating the area of the site to determine the minimum tree canopy coverage under subsection (a), the area of the site shall be its gross acreage less, at the option of the developer, one or more of the following on the site:
 - 1. Farm land or other areas devoid of wooded areas on June 20, 1990.
 - 2. Recreation areas required under section 4.16.
 - 3. Open space areas required under section 4.7.
 - 4. Land dedicated to public use.
 - 5. Playing fields and recreation areas provided at schools, day care centers, and other similar uses.
 - 6. Ponds or lakes determined by the agent to be a desirable open space amenity.
 - 7. Areas required to preserve wetlands, flood plain or other areas required to be maintained in a natural state by this chapter or other applicable law.
 - 8. Other areas approved by the agent under section 32.3.5.
- d. *Deductions cumulative.* The deductions allowed by subsection (c) are cumulative but shall not be duplicative.
- e. *Canopy bonus.* Where existing trees are maintained, the agent shall grant a canopy bonus as follows:
 - 1. The area of canopy coverage shall be calculated at a maturity of twenty (20) years after planting; and
 - 2. The area calculated in subsection (e)(1) shall be multiplied by a factor of 1.25.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.7.9.9 Installation and maintenance of required landscaping and screening

All landscaping and screening required by section 32.7.9 shall be installed and maintained as follows:

- a. *Timing of installation.* All landscaping shall be installed by the first planting season following the issuance of the first certificate of occupancy within the development, or a phase thereof.
- b. *Method of installation.* All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. Planting islands shall contain a minimum of fifty (50) square feet per tree, with a minimum dimension of five (5) feet in order to protect the landscaping and allow for proper growth. Wheel stops, curbing or other barriers shall be provided to prevent damage to landscaping by vehicles. Where necessary, trees shall be welled or otherwise protected against change of grade. All pervious areas of the site shall be permanently protected from soil erosion with grass or other ground cover or mulch material.
- c. *Maintaining and replacing landscaping and screening.* All landscaping and screening shall be maintained in a healthy condition by the current owner or a property owners' association, and replaced when necessary. Replacement material shall comply with the approved landscape plan.
- d. *Maintaining trees if site not under single ownership.* In the case of development with units for sale, the trees shall be maintained by a property owner's association. Prior to final site plan approval, the developer shall submit to the agent an instrument assuring the perpetual maintenance of the trees. The instrument shall be subject to review and approval by the county attorney and shall be in a form

and style so that it may be recorded in the office of the clerk of the circuit court of the county. The agent may require that the instrument be on a form prepared by the county attorney.

- e. *Maintaining street trees planted within a public street right-of-way.* If street trees are planted within the public street right-of-way, the trees shall be maintained in accordance with the requirements of the Virginia Department of Transportation.

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

Sec. 32.8 Completion of on-site improvements and surety

Sec. 32.8.1 Completion of on-site improvements required prior to final site plan approval

Except as provided in section 32.8.2, all on-site improvements required by section 32.7 shall be completed prior to approval of a final site plan. Prior to approval of the final site plan:

- a. *Certification regarding all completed improvements.* The developer shall submit to the agent a certificate of completion of all of the improvements prepared by a professional engineer or a land surveyor, to the limits of his license; and
- b. *Certification of payment.* The developer shall certify to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person constructing the improvements.

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

Sec. 32.8.2 Agreement and surety

Any developer who does not complete all required improvements as provided in section 32.8.1 shall, prior to approval of a final site plan, enter into an agreement with the county to complete the construction and installation of all improvements required by section 32.7 within a period of time agreed to by the parties, and shall provide a surety to guarantee the completion of the improvements, as follows:

- a. *Form of the agreement.* The agreement accompanying the surety shall be on a form prepared by the county attorney and any proposed amendment to the agreement shall be subject to review and approval by the county attorney.
- b. *Type of surety permitted and amount.* The developer shall furnish to the agent a certified check, official check, bond with surety, letter of credit, or collaterally assign funds in a manner satisfactory to the county attorney (collectively, the “surety instrument”), in an amount sufficient for and conditioned upon the completion of the construction and installation of the improvements, as determined under subsection (b). Any proposed surety instrument shall be subject to being acceptable to the county engineer, shall be in a form and have the substance approved by the county attorney, and shall be subject to review and approval by the county attorney.
- c. *Estimate.* The developer shall submit a request for an estimate of the surety amount to the county engineer. The county engineer shall prepare a cost estimate of all improvements, based upon unit prices for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs, including inspection fees required by section 35.1, inflation, and potential damage to existing streets or utilities, which shall not exceed ten (10) percent of the estimated construction costs.
- d. *Use of surety.* The county may make use of monies guaranteed by the surety instrument if either: (i) the developer fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the county engineer, in his discretion, determines that any of the improvements have not been completed in a timely manner and the completion of the improvements is deemed necessary to protect the public health, safety or general welfare. The county’s use of the monies guaranteed by the surety instrument shall not terminate the agreement accompanying the surety instrument.

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

Sec. 32.8.3 Release of surety

Any surety provided under section 32.8.2 shall be released as follows:

- a. *Partial releases, generally.* Upon written request by the developer, the agent shall make periodic partial releases of the surety as provided in Virginia Code § 15.2-2245.
- b. *Request for partial or final release; response.* Within thirty (30) days after receipt of a written notice by the developer of completion of part or all of any improvements required to be constructed by this chapter, the agent shall respond in writing to the developer in one of the following ways: (i) grant the partial or final release, if the applicable state agency, county department, or any applicable authority or other entity has accepted the improvements; or (ii) inform the developer that the improvement has not been accepted by the applicable state agency, county department, authority or other entity and/or identify any specified defects or deficiencies in construction and suggested corrective measures.
- c. *Failure to respond to request.* If the agent fails to take action within the thirty (30) day period provided in subsection (b), the request of the developer shall be deemed approved and a partial release shall be granted to the developer. No final release shall be granted until after expiration of the thirty (30) day period and there is an additional request in writing sent by certified mail by the developer to the county executive. The agent shall act within ten (10) working days after receipt of the request by the county executive. If he fails to timely act, the request shall be deemed approved and final release shall be granted to the developer.
- d. *Final release.* Upon final completion and acceptance or approval of the improvements and upon receipt from the developer of a certification of final completion from a professional engineer, land surveyor, or the county engineer, the agent shall release any remaining surety to the developer. A public improvement shall be deemed to be accepted when it is accepted by and taken over for operation and maintenance by the county, an authority, or a state agency or department responsible for maintaining and operating the improvement. A private improvement shall be deemed to be approved when the agent determines that the improvements are completed.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2245, 15.2-2255.

Sec. 32.8.4 Effect of acceptance or approval of improvements

Nothing in this chapter, including the approval of a final site plan, shall obligate the county, any authority, any state agency or department, or any other public body to accept and take over for operation and maintenance any improvements completed by a developer required by this chapter. Acceptance or approval of an improvement shall be made only if the improvement satisfies all applicable statutes, regulations, ordinances, guidelines and design and construction standards for acceptance or approval of the improvement, upon completion of inspections as provided in section 32.8.5.

State law reference – Va. Code § 15.2-2255.

Sec. 32.8.5 Inspections; right of entry

Improvements required by section 32.7 shall be inspected as follows:

- a. *Application deemed consent.* The submittal of an initial site plan by a developer shall constitute consent given by the developer to all officers and employees of the county, the Albemarle County Service Authority, the Virginia Department of Transportation, the Virginia Department of Health, and any other authority, and any state department or agency, responsible for permitting, approving and/or accepting any improvement required by section 32.7, to enter upon the site at all reasonable times for the purpose of making periodic inspections related to the review of the initial or final site plan for compliance with this chapter and to the completion of all improvements required by section 32.7. The deemed consent shall expire when all improvements required by section 32.7 are completed, permitted, approved, or accepted as the case may be, and all surety is finally released as provided in section 32.8.3(d).
- b. *Notice prior to request for inspection.* Each developer shall notify the zoning administrator when each stage of the development is ready for inspection.

- c. *Scope of inspections.* Any inspection of improvements required by section 32.7 shall be conducted solely to determine compliance with the requirements and specifications provided by law and the approved design plan.

State law reference – Va. Code § 15.2-2255.

Sec. 32.8.6 Improvements completed at expense of developer; exception

All improvements required by section 32.7 shall be completed at the expense of the developer, except where the developer and the county, or any authority, state agency or department, or any other public body, enter into a cost-sharing or reimbursement agreement prior to final site plan approval.

State law reference – Va. Code § 15.2-2255.

Sec. 35.1 Fees.

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

- a. Zoning text amendments: \$1000.00
- b. Zoning map amendments:
1. Less than 50 acres; application and first resubmission: \$2500.00
 2. Less than 50 acres; each additional resubmission: \$1250.00
 3. 50 acres or greater; application and first resubmission: \$3500.00
 4. 50 acres or greater; each additional resubmission: \$1750.00
 5. Deferral of scheduled public hearing at applicant's request: \$180.00
- c. Special use permits:
1. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation Class B, to amend existing special use permit, or to extend existing special use permit; application and first resubmission: \$1000.00
 2. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; each additional resubmission: \$500.00
 3. Signs reviewed by the board of zoning appeals: See subsection 35.1(f)
 4. All other special use permits; application and first resubmission: \$2000.00
 5. All other special use permits; each additional resubmission: \$1000.00
 6. Deferral of scheduled public hearing at applicant's request: \$180.00
 7. Farmers' markets without an existing commercial entrance approved by the Virginia Department of Transportation or without existing and adequate parking - \$490.00
 8. Farmers' markets with an existing commercial entrance approved by the Virginia Department of Transportation and with existing and adequate parking - \$110.00
- d. Site plans:
1. Initial site plans: \$1200.00 plus \$15 per dwelling unit and \$0.015 per square foot of nonresidential structure; the fee paid for preapplication plans shall be applied to the fee for initial site plans
 2. Preapplication plans: \$500.00
 3. Final site plans: \$1500.00
 4. Exception to drawing of site plan under section 32.3.5(a): \$1500.00
 5. Site plan amendments under section 32.3.3(b): \$500.00 (minor); \$100.00 (letter of revision)
 6. Site plan amendments under section 32.3.3(b) (major): \$1500.00
 7. Appeals under section ~~32.4.2.7~~ 32.4.2.6: \$240.00
 8. Reinstatement of review under sections 32.4.2.1(d) and 32.4.3.1(e) : \$240.00
 9. Reinstatement of review under section 32.4.2.5(e): \$80.00
 10. Extension of period of validity: \$475.00
 11. Inspections pertaining to secured site plan improvements; per inspection: \$280.00
 12. Deferral of scheduled public meeting at applicant's request: \$180.00
- e. Certificates of appropriateness considered by the architectural review board ("ARB"):
1. For a site plan; per review by the ARB: \$1000.00

2. For a building permit; per review by the ARB: \$590.00
 3. Amendment to approved certificate of appropriateness: \$225.00
- f. Matters considered by the board of zoning appeals:
1. Variances: \$500.00
 2. Appeals: \$240.00
 3. Special use permits for signs under section 4.15.5: \$500.00
- g. Matters considered by the zoning administrator or other officials:
1. Official determinations regarding compliance: \$185.00
 2. All other official determinations, including development rights: \$100.00
 3. Zoning clearance for tourist lodging: \$100.00
 4. Zoning clearance for a home occupation, class A, a major home occupation, or a minor home occupation: \$25.00
 5. Zoning clearance for temporary fundraising activity: No fee
 6. All other zoning clearances: \$50.00
 7. Sign permits under section 4.15.4; no ARB review required: \$25.00
 8. Sign permits under section 4.15.4; ARB review required: \$120.00
- h. Groundwater assessments:
1. Tier 1 assessment under section 17-401: \$50.00
 2. Tier 3 assessment under section 17-403: \$510.00
 3. Tier 4 assessment under section 17-404: \$1100.00
- i. Miscellaneous:
1. Change in name of development or change in name of street: \$80.00
 2. Relief from conditions of approval; modification or waiver of requirements: \$425.00
 3. Tier II personal wireless service facilities: \$1820.00
- j. Required notice:
1. Preparing and mailing or delivering up to fifty (50) notices: \$200.00, except for uses under sections 5.1.47 and 5.2A, for which there shall be no fee.
 2. Preparing and mailing or delivering, per notice more than fifty (50): \$1.00 plus the actual cost of first class postage.
 3. Published notice: cost based on a cost quote from the publisher, except for farmers' markets under section 35.1(c)(7) and (8) for which there shall be no fee.

The fee shall be in the form of cash or a check payable to the "County of Albemarle." An application presented without the required fee shall not be deemed to be submitted and shall not be processed. If the zoning administrator determines after a fee has been paid that the review and approval to which the fee pertains is not required to establish the use or structure, the fee shall be refunded to the applicant in full.

(Amended 5- 5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; Ord. 10-18(7), adopted 8-4-10, effective 1-1-11; Ord. 11-18(1), 1-12-11; Ord. 11-18(7), 6-1-11)

Sec. 35.2 Calculation of fees in special circumstances.

The provisions of 35.1 notwithstanding, the required fee shall be calculated in the special circumstances below as follows:

- a. If an initial site plan or preliminary subdivision plat is supportive of and will be reviewed simultaneously with an application for a zoning map amendment or a special use permit, the applicant shall pay the fee for the zoning map amendment or the special use permit, but not the fee for the initial site plan or preliminary subdivision plat.
- b. If multiple special use permits are required to establish a single use, the applicant shall pay only the largest single fee for a special use permit for the review of all of the special use permit applications.

(§ 35.0, 12-10-80; 5-5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; * to be effective 1-1-94; Ord. 02-18(4), 7-3-02; Ord. 04-18(3), 10-13-04; Ord. 04-18(4), adopted 12-8-04, effective 2-8-05; Ord. 10-18(7), adopted 8-4-10, effective 1-1-11)

This ordinance shall be effective on and after January 1, 2013; provided that: (i) any preliminary or final site plan submitted before January 1, 2013 shall be reviewed and acted upon under the site plan regulations in effect on October 2, 2012, (ii) the preliminary or final site plan submitted before January 1, 2013 is approved by April 1, 2013, and (iii) any final site plan submitted on or after January 1, 2013 for which a preliminary site plan was approved prior to January 1, 2013 shall be reviewed and acted upon under the site plan regulations effective on and after January 1, 2013.

RESOLUTION OF INTENT

WHEREAS, County Code § 18-5.1.40, which is part of the Albemarle County Zoning Ordinance, establishes regulations pertaining to personal wireless service facilities; and

WHEREAS, County Code § 18-3.1 defines a number of the terms used in County Code § 18-5.1.40; and

WHEREAS, recent changes in the law, including the Federal Communications Commission's "Shot Clock" declaratory ruling, and the enactment of Section 6409 of the Middle Class Tax Relief Act of 2012, affect the time within which the County must act on certain applications for personal wireless service facilities, and compel the County to approve certain qualifying applications for the collocation, replacement or removal of equipment on existing wireless "towers"; and

WHEREAS, practical experience resulting from administering County Code § 18-5.1.40 since it was adopted in 2004 has allowed the County to identify several requirements of that section that are no longer necessary; and

WHEREAS, in order to promote the efficient and effective administration of the County's regulations, it may be desirable to amend County Code §§ 18-3.1 and 18-5.1.40 to expressly incorporate recent changes in the law, amend and add definitions related to those recent changes in the law, and to delete those requirements that are no longer necessary.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code §§ 18-3.1 and 18-5.1.40 and any other sections of the Zoning Ordinance deemed to be appropriate, to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

RESOLUTION OF INTENT

WHEREAS, County Code § 18-5.1.40, which is part of the Albemarle County Zoning Ordinance, establishes regulations pertaining to personal wireless service facilities; and

WHEREAS, County Code § 18-3.1 defines a number of the terms used in County Code § 18-5.1.40; and

WHEREAS, the district regulations in County Code §§ 18-10 through 18-30 delineate those personal wireless facilities permitted by right and by special use permit within the particular zoning district; and

WHEREAS, practical experience resulting from administering County Code § 18-5.1.40 since it was adopted in 2004 has allowed the County to identify several standards and procedures that may be appropriate for amendment; and

WHEREAS, in order to promote the efficient and effective administration of the County's regulations, it may be desirable to amend County Code §§ 18-3.1 and 18-5.1.40 to change certain application requirements, procedures and standards for reviewing and approving personal wireless facilities, standards for monopoles and the equipment attached to monopoles, certain definitions of terms used in County Code § 18-5.1.40, and the district regulations in County Code §§ 18-10 through 18-30.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code §§ 18-3.1, 18-5.1.40, 18-10 through 18-30, and any other sections of the Zoning Ordinance deemed to be appropriate, to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.