



**BEDFORD COUNTY PLANNING COMMISSION AGENDA
JOINT WORK SESSION & MEETING WITH THE BOARD OF SUPERVISORS**

**County Administration Board Room
122 E. Main Street, Bedford, VA
Monday, July 10, 2017
Work session: 5:00 pm
Regular meeting 7:00 pm**

Work Session

1. Short Term Rentals – transient occupancy tax – Gregg Zody
2. Up-zoning from C1 to C2 –Gregg Zody/Jordan Mitchell/Carl Boggess
(staff will bring map(s) to meeting)
3. Drainfield easements and reserve areas – Jordan Mitchell
4. Discussion of offsetting cost of residential development

Regular Meeting

1. Approval of Agenda
2. Citizen Comment Period
3. Public Hearings
 - a) Zoning Ordinance text amendment Docks
 - b) Zoning Ordinance text amendments Commercial Indoor & Outdoor
Sports & Recreation
4. Old Business
5. New Business – No New Business to come before the Planning Commission for the
July 18, 2017 meeting
6. Adjourn

Work Session Items for Discussion

**Short Term Rentals
Gregg Zody**

**Up-Zoning from C1 to C2
Gregg Zody/Jordan Mitchell/Carl Boggess
(Staff will bring map(s) to meeting)**

**Drainfield Easements
Jordan Mitchell**

**Discussion of offsetting cost of residential
development
Gregg Zody**



COUNTY OF BEDFORD, VIRGINIA

COUNTY ADMINISTRATION BUILDING
122 EAST MAIN STREET, SUITE G-03
BEDFORD, VIRGINIA 24523

GREGG B. ZODY, AICP
DIRECTOR

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF PLANNING

Draft Agenda July 10, 2017 Joint PC/BOS Meeting

Work Session @ 5:00

1. Short Term Rentals - Gregg transient occupancy tax
2. Up-zoning from C1 to C2 - Gregg/Jordan/Carl (staff will bring map(s) to meeting)
3. Drainfield Easements and Reserve Areas- Jordan
4. Discussion of offsetting cost of residential development

Work Session Item #1
Short Term Rental Amendment
July 10, 2017

Sec. 30-100-18. Short-term rentals.

~~(A)~~ The following regulations shall apply to all short-term rentals on parcels ~~within five hundred feet (500') of the seven hundred and ninety five foot (795') elevation contour~~ for any period less than thirty (30) days of residential dwelling units in AP, AR, AV, R-1, R-2, PCD, and PRD zoning districts:

[...]

~~(7) (a) An owner's failure to register a short-term rental property (including single and multiple rooms in a residential structure) with the County will result in civil penalties, as now authorized by new Va. Code sec. 15.2-983(C), will result in a civil penalty of \$500.00 per violation.~~

~~(b) Unless and until the subject property is registered, and any penalty imposed under subsection (a) is paid in full, the subject property may not be offered as a short-term rental.~~

~~(c) Upon three or more violations of any applicable state or local laws, ordinances or regulations as relating to a specific property offered for short-term rental (including, but not limited to, the requirement to register any such property), the County may prohibit such property from being registered and offered as a short-term rental.~~

~~(8) No person shall be required to register a short-term rental pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.~~

Work Session Item # 3
Proposed Drainfield Reserve Area
And Easement Ordinance
July 10, 2017

That **Section 31-396, Private Waste Disposal Systems**, be added to the Subdivision Ordinance to establish standards for a full reserve area of and to restrict the use of drainfield easements.

Sec. 31-396. - Private Waste Disposal Systems

- (a) Private waste disposal systems. All private waste disposal systems, including the reserve areas pursuant to subsection (b) herein, shall be located on the same lot as the building site that the private waste disposal system benefits. All private waste disposal systems shall be reviewed and approved by the Bedford County Virginia Department of Health.
- (b) Reserve Area. All new lots of a minor or major subdivision plat that are served with a private waste disposal system shall be required to have a full reserve area in the event their primary waste disposal system fails. Reserve areas for private waste disposal systems shall be reviewed and approved by the Bedford County Virginia Department of Health.
- (c) Grandfathered subdivisions. Any subdivision plat (major or minor) that was recorded, currently under official review (submitted with applicable associated filing fee), or had been to the Technical Review Committee prior to (adoption date of ordinance place here), shall not be subject to the requirements of Sec. 31-396(a) and Sec. 31-396(b).
- (d) Waiver requests. Waivers of any requirement of Sec. 31-396 shall not be permitted.

Work Session Item #4
Offsetting Cost of Residential Development
Voluntary Proffers As A Means Of Accommodating Growth

Proffers (a/k/a “Conditional Zoning”) Generally

Where proposed development creates additional burdens on public facilities, proffers are a means of offsetting the costs of improvements to such facilities.

Conditional zoning means the allowing of reasonable conditions (proffers) governing the use of property, where the conditions are in addition to, or the modification of, the regulations provided for in a particular zoning district.

When proffers are accepted by the locality's governing body, they become part of the zoning ordinance.

Proffered conditions allow a rezoning to be approved that might not otherwise occur because the proffers impose additional regulations or conditions on the land being rezoned for the protection of the community that are not generally applicable to land similarly zoned.

Nature of Proffers

Proffered conditions are intended to be voluntary;

Proffers must be reasonable conditions that are in addition to the applicable zoning regulations;

The rezoning itself must give rise to the need for the conditions;

Conditions must have a reasonable relation to the rezoning;

Proffers must be consistent with the comprehensive plan; and

Proffers run with the land until the property is rezoned.

Key Terms

"Offsite proffer"

Addresses impacts outside the boundaries of the rezoned property

All cash proffers are deemed "offsite proffers"

The "reasonableness" standard is much more stringent than for onsite proffers

"Onsite proffer"

Addresses impacts within the boundaries of the rezoned property

No cash proffers qualify as "onsite proffers"

"Public facilities" and "Public facility improvement"

These terms refer to only four specified categories: transportation; public safety; public school; and public park facilities and improvements

No other forms of public infrastructure (e.g., libraries) are included in this definition

"Small area comprehensive plan"

Refers to a portion of a comprehensive plan that applies only within a delineated area and not the locality as a whole

Proffers Must be Reasonable

Localities may not request or accept an unreasonable proffer.

Locality may not deny an application if the denial is wholly or partly based on applicant's refusal to submit an unreasonable proffer

Standard for Reasonable Proffers

All proffers - onsite and offsite - are deemed unreasonable unless they address an impact that is "specifically attributable" to the project

Inquiry for reasonableness of an onsite proffer ends here

Additionally, offsite proffers are deemed unreasonable unless they address an impact to an offsite public facility to the following extent:

The project "creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer"; and

The project receives a "direct and material benefit" from a proffer related to such a public facility improvement

Remedies for Violation

Applicant or landowner must sue in circuit court within 30 days of decision pursuant to § 15.2-2285(F).

Where an application has been denied, and the applicant can prove by a preponderance of the evidence that it refused to submit an unreasonable proffer that was "suggested, requested, or required" by the locality, "the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial"

Attorneys fees may be assessed against the locality

Court may order the local governing body to approve the project as applied for- without the unreasonable proffer- within 90 days, and enjoin the local governing body from interfering with development of the project if it fails to do so

Practical Considerations

The staff and ultimately the Planning Commission and the governing body, each need to identify all of the anticipated impacts resulting from the proposed rezoning.

These impacts need to be substantiated and documented in the record before the planning commission and the governing body as part of the public hearing.

It is then up to the applicant to decide whether it wants to provide proffers to address all or some of those impacts. If the impacts are not completely addressed, the applicant can then try to persuade the locality that the impacts need not be addressed or that the proposed project has

other public benefits that would justify accepting the impacts and approving the rezoning.

If the locality denies the rezoning and the owner did not volunteer proffers to address all of the identified impacts, the decision must be based on the impacts of the zoning (a reasonable proffer) and not simply on the fact that the owner did not proffer an inappropriate (unreasonable) proffer.

Other Mechanics of the Proffer System

Once proffers are accepted and rezoning is approved, the locality has seven years from the payment to begin (i) construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility relocation on the improvements for which the cash payments were proffered.

Cash proffers may not be used for any capital improvement to an existing facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility, or for any operating expense of any existing facility such as ordinary maintenance or repair.

Any locality eligible to accept cash proffers must (i) include in its capital improvements program or as an appendix to it, the amount of all proffered cash payments received during the most recent fiscal year, and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.

The locality must annually report to the Commission on Local Government whether cash proffers were collected by the locality, the amount of cash proffers collected, the amount of such payments expended by the locality, and a list of the public improvements on which the amount was expended.

No locality may require payment of a cash proffer prior to payment of any fees for the issuance of a building permit for construction on property that is the subject of a rezoning. However, a landowner petitioning for a zoning change may voluntarily agree to an earlier payment. If the landowner voluntarily agrees to an earlier payment, the proffered condition may be enforced as to the landowner and any successor in interest according to its terms as part of an approved rezoning.

No cash proffer amount can be scheduled to increase annually from the

time of proffer until tender of payment by a percentage greater than the annual rate of inflation.

No cash proffer can purport to waive future legal rights against the locality or its agents.

Exemptions

Localities are given more latitude when the proffers are sought for a development in a "small area comprehensive plan" in which the delineated area:

- is designated as a revitalization area,

- encompasses mass transit, which includes "rubber-tired, rail or other surface conveyance" providing "shared ride services open to the public on a regular and continuing basis",

- includes mixed use development, and

- "allows" a density of at least 3.0 Floor/Area Ratio in at least a portion of the area

Work Session Item #4
Offsetting Cost of Residential Development
Voluntary Proffers As A Means Of Accommodating Growth

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2298. Same; additional conditions as a part of rezoning or zoning map amendment in certain high-growth localities

A. Except for those localities to which § 15.2-2303 is applicable, this section shall apply to (i) any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. However, any such locality may by ordinance choose to utilize the conditional zoning authority granted under § 15.2-2303 rather than this section.

In any such locality, notwithstanding any contrary provisions of § 15.2-2297, a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map, provided that (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the comprehensive plan as defined in § 15.2-2223.

Reasonable conditions may include the payment of cash for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55 which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided

for in§ 15.2-2241;however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation. The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in

effect until a subsequent amendment changes the zoning on the property covered by the conditions; however, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

No proffer shall be accepted by a locality unless it has adopted a capital improvement program pursuant to § 15.2-2239 or local charter. In the event proffered conditions include the dedication of real property or payment of cash, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to the property, shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property. Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B above, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or

2. Accept or impose valid conditions pursuant to subdivision A 3 of § 15.2-2286 or other provision of law.

1989, c. 697, § 15.1-492.2:1; 1990, c. 868; 1991, c. 233; 1997, c. 587; 2001, c. 703; 2006, cc. 450, 882; 2007, c. 324.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2299. Same; enforcement and guarantees

The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including (i) the ordering in writing of the remedy of any noncompliance with the conditions; (ii) the bringing of legal action to insure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and (iii) requiring a guarantee, satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

1978, c. 320, § 15.1-491.3; 1983, c. 221 ; 1997, c. 587.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2300. Same; records

The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index . The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone . The Index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the local governing body pursuant to§ 15.2-2303.2. The zoning administrator shall update the Index annually and no later than November 30 of each year.

1978, c. 320, § 15.1-491.4; 1997, c. 587; 2004, c. 531.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2301. Same; petition for review of decision

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of § 15.2-2299 may petition the governing body for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the governing body on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

An aggrieved party may petition the circuit court for review of the decision of the governing body on an appeal taken pursuant to this section. The provisions of subsection F of § 15.2-2285 shall apply to such petitions to the circuit court, *mutatis mutandis*.

1978, c. 320, § 15.1-491.5; 1988, c. 856; 1997, c. 587; 2011, c. 457; 2012, c. 401.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2302. Same; amendments and variations of conditions

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection H of § 15.2-2204 to any landowner subject to such existing proffered conditions. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 until after a public hearing before the governing body advertised pursuant to the provisions of § 15.2-2204. However, where an amendment to such proffered conditions is requested pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

C. Once amended pursuant to this section, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

E. Notwithstanding any other provision of law, the governing body may waive the written notice requirement of subsection A in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

1978, c. 320, § 15.1-491.6; 1997, c. 587; 2009, c. 315; 2012, cc. 415, 465; 2013, c. 513.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2303.1:1. When certain cash proffers collected or accepted

A. Notwithstanding the provisions of any cash proffer requested, offered, or accepted pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 for residential construction on a per-dwelling unit or per-home basis, cash payment made pursuant to such a cash proffer shall be collected or accepted by any locality only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property.

B. Notwithstanding the provisions of any proffer to the contrary, the assertion of a right to delayed payment of cash proffers pursuant to this section shall not constitute cause for any action pursuant to § 15.2-2299.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action successfully challenging an ordinance, administrative or other action as being in conflict with this section.

2010, cc. 549, 613;2011,c. 173;2012, cc. 508, 798;2015,c. 346.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2303.3. Cash proffers requested or accepted by a locality

A. No locality may require payment of a cash proffer prior to payment of any fees for the issuance of a building permit for construction on property that is the subject of a rezoning. However, a landowner petitioning for a zoning change may voluntarily agree to an earlier payment, pursuant to §§ 15.2-2298 and 15.2-2303. If the petitioner voluntarily agrees to an earlier payment, the proffered condition may be enforced as to the petitioner and any successor in interest according to its terms as part of an approved rezoning.

B. No locality shall either request or accept a cash proffer whose amount is scheduled to increase annually, from the time of proffer until tender of payment, by a percentage greater than the annual rate of inflation, as calculated by referring to the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics or the Marshall and Swift Building Cost Index.

C. No locality shall request or accept any provision of any proffer entered pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 in which the profferor purports to waive future legal rights against the locality or its agents. Any such proffer provision contained in a proffer entered and enacted on or after January 1, 2012, shall be severable from the remainder of the proffer and shall be void ab initio. In the event that a proffer containing such a provision is entered and enacted on or after January 1, 2012, the rezoning to which the proffer containing such provision is attached shall not be nullified, rescinded, or repealed, however described or delineated, by reason of any alleged breach of such a provision by the profferor, notwithstanding any provisions of the proffer to the contrary.

2005, c. 552; 2012, c. 798.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment .

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no locality shall (i) request or accept any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, (i) as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for and (ii) an offsite proffer shall be deemed unreasonable pursuant to subdivision (i) unless it addresses an impact to an offsite public facility, such that (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. For the purposes of this section, a locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a locality in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285.

2. In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that it has proven was suggested, requested, or required by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a locality in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer. If the locality fails or refuses to approve the rezoning or proffer condition amendment within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the locality from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection,

the requirements of § 15.2-2204 shall not apply.

E. The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

F. This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

2016, c. 322.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Proposed Zoning Ordinance Text Amendment

Docks

**Presenter: Gregg Zody
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540-586-2059 (fax)
gzody@bedfordcountyva.gov**



COUNTY OF BEDFORD, VIRGINIA

COUNTY ADMINISTRATION BUILDING
122 EAST MAIN STREET, SUITE G-03
BEDFORD, VIRGINIA 24523

GREGG B. ZODY, AICP
DIRECTOR

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF PLANNING

TO: Planning Commission
Patrick Skelley, County Attorney

FROM: Gregg Zody, Director

SUBJECT: Docks Amendment

DATE: June 29, 2017

At their March 27th meeting, the Board of Supervisors a resolution directing staff to commence drafting a text amendment to remove reference to the longstanding practice of the County not issuing a building permit for a dock until AEP approved the structure.

The following is the draft language which addresses the Board's direction to staff.

1. Dock Text Amendment:

Sec. 30-9. - Zoning permits.

(a) A zoning permit shall be required for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use, except as listed below:

- (1) Patios at grade, driveways, and sidewalks.
- (2) Fences, provided their location and design conform to article V of this ordinance.
- (3) Satellite dishes.
- (4) The construction of a roof over an existing porch, stoop or deck which does not result in a change in the square footage of the structure.
- (5) Docks.

Sec. 30-9-1. Building permits; relation to zoning.

No building permit for the extension, erection, or alteration of any building or structure shall be issued before an application has been made and a zoning permit issued, except in the case of docks on Smith Mountain Lake and Leesville Lake, where no zoning permit is required. With the exception of docks on Smith Mountain Lake and Leesville Lake, No building or structure shall be occupied or used until a certificate of zoning compliance has been issued.

Sec. 30-83-3.5. Community dock location.

[...]

- (c) ~~The county will not accept an application for a special use permit for a dock or similar structure unless the applicant has received approval of the dock by Appalachian Power and/or the Federal Energy Regulatory Commission (FERC).~~

Sec. 30-100-13. Dock location.

COUNTY OF BEDFORD, VIRGINIA

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF PLANNING

Page 2

- (a) This section is intended for docks on or over the waters of the commonwealth. Community docks as defined in article II of this ordinance, shall follow the requirements of section 30-83-3.5. ~~Bedford County recognizes that docks on Smith Mountain Lake and Leesville Lake are within the purview of Appalachian Power.. and as such seeks to regulate docks consistently with its requirements.~~
- (b) Before any person erects, constructs, reconstructs, moves, or structurally expands any dock or similar structure, he/she shall apply for a ~~zoning and building permit, prior to the issuance of a building permit. Issuance of the required Bedford County permits is dependent upon approval of the dock by Appalachian Power.~~
- (c) Landowners are hereby advised that AEP conducts a separate permitting process for docks and similar structures on Smith Mountain Lake and Leesville Lake. Issuance of a building permit by Bedford County is not a substitute for an AEP permit. Landowners are strongly encouraged to consult with AEP prior to starting any construction activities on Smith Mountain Lake and Leesville Lake, and proceed at their own risk if they fail to do so. By obtaining a building permit for a dock from the County, landowners agree to hold the County harmless from any and all claims or disputes arising out of the construction of a dock without prior AEP approval.

Proposed Zoning Ordinance Text Amendments

Commercial Indoor & Outdoor Sports & Recreation

Presenter: Jordan Mitchell

540-586-7616 ext 1393

540-586-2059 (fax)

jmitchell@bedfordcountyva.gov



COUNTY OF BEDFORD, VIRGINIA

COUNTY ADMINISTRATION BUILDING
122 EAST MAIN STREET, SUITE G-03
BEDFORD, VIRGINIA 24523

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF PLANNING

TO: Planning Commission
Patrick Skelley, County Attorney

THROUGH: Gregg Zody, Director of Community Development *GZ*

FROM: Jordan Mitchell, Planner *JM*

DATE: June 30, 2017

SUBJECT: Zoning Ordinance Text Amendment - Commercial Indoor & Outdoor Sports and Recreation

Planning staff has been working on text amendment to the Permitted Use table of the Zoning Ordinance that will allow “Commercial Indoor Sports and Recreation” and “Commercial Outdoor Sports and Recreation” as a use permitted by special use permit in the Agricultural Rural Preserve (AP) and Agricultural Residential (AR) zoning districts. This ordinance amendment will afford those that would like to initiate commercial sports and recreational activities (baseball, soccer, football, basketball, etc) in the rural areas of the County, where deemed appropriate.

Staff looks forward to discussing the proposed text amendments with the Planning Commission at public hearing on July 10, 2017. If you have any questions or concerns prior to the hearing, please contact me at (540) 586-7616 or jmitchell@bedfordcountyva.gov.

Attachments:

Proposed Commercial Indoor and Outdoor Sports and Recreation Ordinance.

CC: G. Carl Boggess, County Administrator
Board of Supervisors

