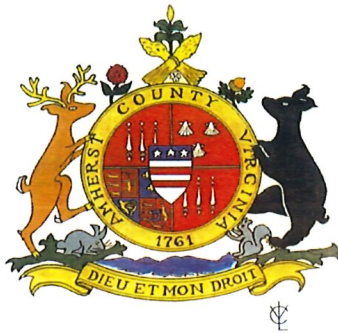


Board of Supervisors

Claudia D. Tucker, Chair
District 2
David W. Pugh, Jr., Vice-Chair
District 4
L. J. Ayers III, Supervisor
District 3
Kenneth M. Campbell, Supervisor
District 1
John A. Marks, Jr., Supervisor
District 5



County Administrator
Dean C. Rodgers

Interim County Attorney
Michael W. S. Lockaby

AMHERST COUNTY BOARD OF SUPERVISORS

MINUTES

AGENDA
November 7, 2017

Administration Building - 153 Washington Street - Public Meeting Room
Amherst, Virginia 24521
Informal Luncheon - 12:00 p.m.
Meeting Convened - 1:00 p.m.

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Citizen Comment**
- V. Ordinance - First Read**

A. Ordinance 2017-0008, Amending §§ 3-1 through 3-75 of Chapter 3 of the Amherst County Code to update the provisions of Chapter 3 -- Animals of the County Code in order to make terminology more consistent and conform to the latest changes in State Code.

VI. Consent Agenda

- A. Minutes
 - 1. October 3, 2017
 - 2. October 12, 2017
- B. Appropriation Request - Refunds and Reimbursements Collected FY18
- C. Sheriff's Office Appropriation Request to Distribute Drug Asset Forfeitures
- D. Sheriff's Office Appropriation Request
- E. Solid Waste Appropriation

VII. New Business

- A. 60W Convenience Center
- B. Credit Card Consolidation Credit Line Application

C. Request for Emergency Services Capital Funds for Amherst Fire Department, Monelison Rescue Squad and Pedlar Fire Department

VIII. County Administrator's Report

- A. County Administrator Changes (CAC) to Regulations
- B. Boards/Commissions/Committees - quarterly report
- C. Projects Status Report

IX. Liaison and Committee Reports

- A. Alliance Executive Board, 13 Oct 2017
- B. Metropolitan Planning Organization, 19 Oct 2019
- C. Local Government Council, 19 Oct 2017

X. Departmental Reports

- A. Departmental Spotlight
- B. Quarterly Financial Report - September 2017
- C. Robert E. Lee Soil Water Conservation District July 2016- June 2017 Annual Report
- D. 2017 VACo meeting - proxy

Item D. was added to the Agenda by the County Administrator. The County Administrator requested that the Board appoint Jeremy Bryant to serve as its proxy at the 2017 VACo meeting.

XI. Citizen Comment

XII. Matters from Members of the Board of Supervisors

XIII. Adjournment

MINUTES

At a Regular Meeting of the Board of Supervisors of Amherst County, Virginia and held at the Amherst County Administration building thereof on Tuesday, the 7th day of November 2017, at 1:00 p.m., the following members were present:

BOARD OF SUPERVISORS:

PRESENT:	Claudia D. Tucker, Chair David W. Pugh, Jr., Vice-Chair Kenneth M. Campbell, Supervisor L. J. Ayers, III, Supervisor John A. Marks, Jr., Supervisor	ABSENT: None
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STAFF PRESENT: County Administrator Dean C. Rodgers; Deputy County Administrator David R. Proffitt; Interim County Attorney Michael W. S. Lockaby; and Executive Administrative Assistant Regina M. Rice

OTHERS PRESENT: Finance Director Stacey Wilkes
Public Safety Director Gary Roakes

I. Call to Order

Chair Tucker called the meeting to order at 1:00 p.m. Chair Tucker thanked everyone involved with the grand opening today of the new addition to the County Administration Building.

II. Invocation and Pledge of Allegiance

Supervisor Marks led the Invocation and Pledge of Allegiance.

III. Approval of Agenda

By motion of Supervisor Ayers and with the following vote, the Board approved the Agenda November 7, 2017.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

IV. Citizen Comment

Mr. Keith Odgen of Amherst, Virginia addressed the Board concerning a proposed convenience center on Forest Sale Road. Mr. Odgen said he was opposed to this site because of the narrow road and dangerous intersection. He said he did not want this trash site to be located across from his home.

Chair Tucker remarked that the County has been looking for a site for at least twelve years and the County did own land at that location. She thanked Mr. Odgen for his comment.

The citizen comment session was closed.

V. Ordinance - First Read

A. Ordinance 2017-0008, Amending §§ 3-1 through 3-75 of Chapter 3 of the Amherst County Code to update the provisions of Chapter 3 -- Animals of the County Code in order to make terminology more consistent and conform to the latest changes in State Code.

County Attorney Lockaby advised there were several ambiguities in the current ordinance with regard to the definition of an animal control officer. There were references to "animal warden" and "animal officer", which created confusion with regard to enforcement.

Mr. Lockaby said corrections were made to references in the County code section that no longer exists in State Code, and amendments made regarding hybrid animals and dangerous and vicious dogs.

By motion of Vice-Chair Pugh and with the following vote, the Board directed staff to schedule a public hearing for November 21, 2017 regarding the ordinance modifications.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VI. Consent Agenda

A. Minutes

1. October 3, 2017
2. October 12, 2017

B. Appropriation Request - Refunds and Reimbursements Collected FY18

C. Sheriff's Office Appropriation Request to Distribute Drug Asset Forfeitures

D. Sheriff's Office Appropriation Request

E. Solid Waste Appropriation

By motion of Supervisor Marks and with the following vote, the Board approved the Consent Agenda for November 7, 2017.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VII. New Business

A. 60W Convenience Center

County Administrator Rodgers advised Board members they had received information regarding three identified sites for placement of a manned convenience center; one at the intersection of Buffalo Springs Turnpike and the other two sites located on Forest Sale Road.

Mr. Rodgers remarked that the Buffalo Springs Turnpike location is the most expensive site because of the purchase price of that land.

Supervisor Marks asked if the County was going to close all the other four unmanned sites once a site was selected.

Mr. Rodgers stated that once the County constructed the manned convenience center, all four of the unmanned collection sites would be closed.

By motion of Supervisor Marks and with the following vote, the Board appropriated \$410,000 from the unobligated general fund for construction of a manned convenience center at the Buffalo Springs Turnpike location and directed staff to seek further appropriations needed to hire personnel, purchase equipment, modify service contracts and undertake other actions necessary to place the new center into operation.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

B. Credit Card Consolidation Credit Line Application

Finance Director Wilkes addressed the Board in the matter of sharing credit cards between department staff.

Ms. Wilkes advised that it was a best practice that each department have its own credit card. The Finance office will review and manage the spending. Finance will oversee this account that would have sub-layers. Finance would then merge those sub-layers into one single account.

Ms. Wilkes said that each department will manage any purchase under \$1,000; however, her office would review and see what is being spent.

By motion of Vice-Chair Pugh and with the following vote, the Board approved the Commercial Card application with BB&T and directed the Board Chair and Vice-Chair to sign on the Board's behalf.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

C. Request for Emergency Services Capital Funds for Amherst Fire Department, Monelison Rescue Squad and Pedlar Fire Department

Public Safety Director Gary Roakes advised the Board that the Emergency Services Council met in October and recommended funds be appropriated from its capital fund for the following projects: 1) Amherst Fire Department - roof and boiler replacement - \$35,000; 2) Monelison Rescue - roof replacement and duct work cleaning - \$26,000; and Pedlar Fire Department - replacement of a floor - \$50,000.

Mr. Roakes advised the total cost of those projects would be \$111,000. He asked the Board that this money be drawn from the ESC Capital Fund account.

Chair Tucker asked Mr. Roakes if the ESC vote was unanimous and he advised it was.

Vice-Chair Pugh remarked that the reason of putting aside capital funds and the having the process go through the Board of Supervisors was to allow control over those funds. He commended everyone and thanked all for their service.

Mr. Roakes said that the ESC will continue to work with the Board and provide services to the County.

By motion of Supervisor Ayers and with the following vote, the Board appropriated \$111,000 from the Emergency Services Capital fund for the capital improvement projects identified above and directed disbursement of \$35,000 to the Amherst Fire Department, \$26,000 to the Monelison Rescue Squad and \$50,000 to the Pedlar Fire Department as they present invoices from the contractors for payment.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VIII. County Administrator's Report

A. County Administrator Changes (CAC) to Regulations

County Administrator Rodgers explained it was necessary that changes addressing finance regulations and procedures need to be documented. This was a request made by the auditors, and would be effective immediately once the Board voted to adopt those changes.

By motion of Chair Tucker and with the following vote, the Board adopted the regulations as proposed by the County Administrator.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

B. Boards/Commissions/Committees - quarterly report

For Board information only.

C. Projects Status Report

County Administrator Rodgers provided an update on Winton. He advised an Order of Publication was published and the deadline citizens can respond to the suit is December 19, 2017.

IX. Liaison and Committee Reports

A. Alliance Executive Board, 13 Oct 2017

B. Metropolitan Planning Organization, 19 Oct 2019

C. Local Government Council, 19 Oct 2017

For Board information.

X. Departmental Reports

A. Departmental Spotlight

Planning/Zoning Director Bryant provided the Board with an overview of the functions of the Planning/Zoning Department and the Board of Zoning Appeals. He also provided the Board a copy of the Planning Commission's 2016 Annual Report. **(See Attachments 1 and 2)**

B. Quarterly Financial Report - September 2017

Finance Director Stacey Wilkes advised the Board that all departments are on target for now and this report is for the Board's information.

C. Robert E. Lee Soil Water Conservation District July 2016- June 2017 Annual Report

For Board information.

D. 2017 VACo meeting - proxy

County Administrator Rodgers advised that the annual VACo meeting is scheduled for November 12-14, 2017. He said that he would not be attending nor any Board members due to a scheduled joint meeting with the Board of Supervisors and School Board on November 13th.

Mr. Rodgers recommended that Jeremy Bryant attend the VACo conference and serve as the Board's proxy to vote on the VACo legislative agenda.

By motion of Chair Tucker and with the following vote, the Board appointed Jeremy Bryant to serve at its proxy at the 2017 VACo meeting.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

XI. Citizen Comment

Mr. Bill Peters of Amherst, Virginia, commented that the presentation by the Planning Director was extremely thorough; however, it was difficult to understand and should be presented to the public in a simpler manner. He believed that 95% of citizens would not look at this.

Ms. Barbara Pryor of Amherst, Virginia, commented that a neighbor who owns one acre of land across from her property has decided to turn that acre into a junk yard. She understood that he is allowed to have three vehicles on his property; however, she is concerned about this property becoming a potential junk yard across from her property. Ms. Pryor asked the Board to look into this matter.

The citizen comment session was closed.

XII. Matters from Members of the Board of Supervisors

Supervisor Marks had no matter to discuss.

Supervisor Campbell had no matter to discuss.

Supervisor Ayers reminded all of the Roger Lee Floyd bridge dedication on November 12, 2017 at 2:00 p.m. at the intersection of Buffalo Springs Turnpike and Wagon Trail Road in Amherst County.

Supervisor Ayers remarked about the over-grown grass, trash and sediment in the gutters and storm drains along Route 29 Business in Madison Heights.

Chair Tucker asked the County Administrator to contact VDOT to address this matter.

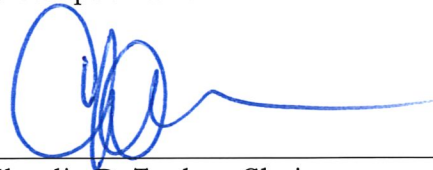
Vice-Chair Pugh had no matter to discuss.

Chair Tucker had no matter to discuss.

xiii. Adjournment

By motion of Chair Tucker and with the following vote, the Board adjourned at 1:55 p.m.

AYE:	Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY:	None
ABSTAIN:	None



Claudia D. Tucker, Chair
Amherst County Board of Supervisors



Dean C. Rodgers, Clerk

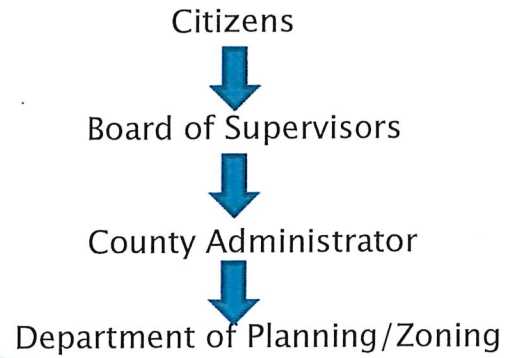


Amherst County, Virginia Department of Planning and Zoning

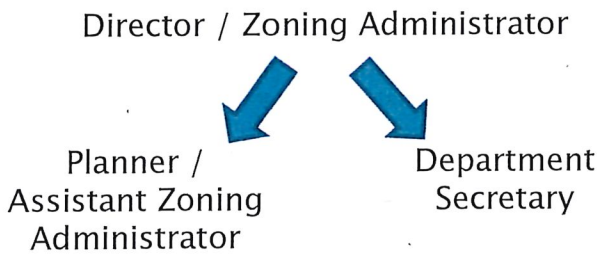
October 3, 2017



Organizational Level of Department



Hierarchy within Department



Role of Department

- ▶ Ensure development within the County is consistent with the County Code (primarily the Zoning / Subdivision Ordinance) and the County's Comprehensive Plan.
- ▶ Investigate possible violations and enforce the County Code to correct confirmed violations.
- ▶ Assist in the development process by working with other agencies and aim to streamline the process when legally possible.
- ▶ Protect and enhance the County's natural, scenic, historical and cultural resources.
- ▶ Serve as professional staff to the Board of Supervisors, Planning Commission, Board of Zoning Appeals and Business Taskforce.
- ▶ Work on directed Zoning Amendments, Rezoning applications, Zoning Permits, Special Exception Permits, Site Plans, Subdivision Plats, etc.



What is Zoning and Why Do We Have It ?



History of Zoning: The Early Years

- ▶ Colonial America:
 - As British colonists, we enacted regulatory ordinances banning slaughter houses, gunpowder mills, and other offensive uses; these uses were banished to the outskirts of municipalities
 - Later "Fire Districts" were established which prohibited wooden buildings in certain areas
 - Think health, safety and welfare



Principle of Zoning

- ▶ Historically speaking:
 - Zoning is an extension of the concept of prohibiting public nuisance by legislation
 - Government protecting the health, safety and welfare of the citizenry



Nuisance

Early Law Dictionary Observation:

“The exact amount of annoyance or inconvenience necessary to constitute a private nuisance has never been settled. In general terms, the injury should cause an inconvenience materially interfering with the ordinary comfort, physically, or human existence; not merely according to elegant or dainty modes and habits of living, but according to plain, sober, and simple notions”.



Evolution of Zoning Regulation

- ▶ In 1889
 - A Wisconsin statute authorized cities to create districts with building regulations
 - Building restrictions were enacted in Washington, D.C.
- ▶ In 1909
 - Boston adopted restrictions which were held to be Constitutional
- ▶ In 1916
 - New York City adopted the FIRST comprehensive zoning ordinance



A Time Line History

- ▶ 1920's
 - Federal government Department of Commerce published the Standard State Zoning Enabling Act.
 - Most state legislatures vested local governments with the power to adopt and enforce zoning ordinances
- ▶ 1926
 - Supreme Court held that the new zoning technique did not, in principle, violate the due process clause of the Fourteenth Amendment.



Zoning in Virginia

- ▶ Dillon Rule
 - Limits local authority to powers expressly granted by the General Assembly;
 - Or necessarily or fairly implied from the express grant of power;
 - Or that are essential and indispensable



The Dillon Rule

- ▶ Acts that violate Dillon's Rule are “Ultra Vires”, meaning beyond the scope of authority
 - Ultra vires actions are void
 - Legislative acts are strictly construed against legislative body
 - Courts make these findings



Due Process

- ▶ No person shall be deprived of life, liberty or property without due process of law.
- ▶ Two types of due process:
 - Procedural
 - Substantive



Procedural Due Process

- ▶ Requires reasonable notice of a regulatory action and a reasonable opportunity to be heard.
- ▶ Generally covered by statutory notice and hearing requirements in the Code of Virginia.
 - Higher standard for quasi-judicial proceedings (Violation Cases and Appeals)



Substantive Due Process

- ▶ All laws, at minimum, must be rationally related to the goal the law is meant to achieve.
- ▶ Zoning ordinances adopted without adequate justification, or with little relation to the issue it is meant to address may be subject to challenge.
- ▶ May not be “arbitrary and capricious”



Substantive Due Process and Zoning

- ▶ Zoning is trying to ascertain “a right thing in the wrong place, like a pig in a parlor instead of the barnyard”.
- ▶ “If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control”.
 - (Planning Director discretion/interpretation; BZA decision-making process; Board of Supervisor’s decision making process, and policies and regulations)



Authority to Zone in Virginia

- ▶ Statutes authorizing local land-use ordinances are generally set forth in:
 - Code of Virginia § 15.2-2200 through 2327
 - Derivative of local police powers
 - Localities are political subdivisions of the State
 - Cities and towns have charters and other statutory enabling legislation



Purpose of Planning

- ▶ The interest of public health, public safety, and for the promotion of the general welfare of the community



Zoning Responsibilities

- ▶ Zoning regulations are generally the responsibility of the
 - Elected Governing Body
 - Appointed Planning Commission
 - Appointed BZA
 - Hired Staff



Role of the Governing Body

- ▶ Responsible for enacting all legislation action
- ▶ Policy decisions
- ▶ “The voice of the people”; may not delegate this duty to others
- ▶ Directs hired staff
- ▶ Appoints Commission and recommends BZA members



Role of the Governing Body

- ▶ To adopt and amend:
 - Comprehensive Plan
 - Zoning Ordinance
 - Subdivision Ordinance
 - Capital Improvement Plan (CIP)



The Comprehensive Plan

- ▶ All localities are required to prepare a Comprehensive Plan and to update the plan every 5 years
- ▶ Is only a guide for future development patterns (is NOT law)
 - Leads the locality in administration of all other land use regulations
 - Used to achieve the long-range planning goals for the general development of the locality



The Comprehensive Plan

- ▶ Designate the general or approximate location, character, and extent of each feature shown on the plan; and
- ▶ Indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be (future land use map).



The Comprehensive Plan

- ▶ The Comprehensive Plan shall show:
 - Existing conditions and trends of growth
 - A comprehensive transportation plan for the locality
 - Long range land use recommendations (future land use map)
 - Areas and implementation measures designated for affordable housing
 - Designated Urban Development Area(s) for applicable localities
 - Environmental constraints (i.e. minerals and dam inundation zone)



The Comprehensive Plan

- ▶ The Comprehensive Plan may show:
 - Designation of areas for various land use
 - Designation of community service facilities
 - Designation of historical areas/resources
 - Areas of ground water protection measures
 - Ordinance maps
 - Location of existing and proposed recycling centers
 - Location of military installations/bases
 - Routes for high voltage electricity transmission lines



The Zoning Ordinance

- ▶ Zoning ordinances must be drawn with “reasonable consideration” for the comprehensive plan
- ▶ Zoning is a legislative act
- ▶ Zoning is optional and is not mandatory for localities in Virginia
- ▶ For health, safety and general welfare



The Zoning Ordinance

- ▶ The Code of Virginia authorizes localities to divide their jurisdictions into districts within which the locality may regulate:
 - The use of land
 - The size, height, location, construction, repair, maintenance and removal of structures
 - Areas and dimensions of land, water and air space occupied by structures, buildings and uses
 - As well as yards and open space, and the size of lots based upon the availability of public utilities



The Zoning Ordinance

- ▶ All regulations within a particular district must be uniform
 - But regulations of one district may differ from those of another
- ▶ Must not arbitrarily discriminate either in its terms or application
 - The drawing of zoning boundaries must depend upon some rational basis



Authorized Objectives of Zoning

- ▶ Provide for adequate light, air, access, safety from fire, flood and other dangers
- ▶ Reduce and prevent congestion in streets
- ▶ Facilitate creation of convenient, attractive and harmonious communities
- ▶ Facilitate public services, public safety and public facilities
- ▶ Protect historic areas
- ▶ Protect against the overcrowding of land, and undue density of population, in relation to public facilities existing



Authorized Objectives of Zoning

- ▶ Encourage economic development and expansion of the employment and tax bases
- ▶ Preserve agricultural and forestal land and other lands of significance for the protection of the natural environment; protect water quality
- ▶ Protect airport approach slopes, etc.
- ▶ Promote the creation and preservation of affordable housing for meeting the current and future needs of the locality



Authorized Objectives of Zoning

- ▶ Conditional or proffered rezoning are permitted
- ▶ Including acceptance of proffers



Spot Zoning

- ▶ Spot zoning is prohibited
- ▶ Means zoning one or a small number of parcels in a manner different from established zoning patterns or the comprehensive plan's recommendations solely to serve the private interests of one or more landowners
 - However, if the legislative purpose is to further the welfare of the entire county as a part of an overall zoning plan, the ordinance does not constitute illegal spot zoning even though private interests are simultaneously benefited.



Downzoning

- ▶ The legislative action of reducing the number of type of permitted uses within a zone by a zoning "text amendment"
- ▶ Or by changing the designation of one or more parcels on the zoning map to a less intensive category



Downzoning

- ▶ There are different standards for comprehensive downzoning v. "piecemeal" downzoning
- ▶ Piecemeal downzonings will be invalidated unless a locality can show
 - That the original zoning was the product of fraud or mistake
 - Or that there has been a change in circumstances substantially affecting the public health, safety or welfare



Special Exceptions Permit

- ▶ The process permits the imposition of special conditions on certain uses (as designated by the Ordinance):
 - These conditions must be tailored to ensure compatibility with other surrounding uses when the underlying use would otherwise be questionable
 - The Planning Commission makes a recommendation on the request along with any conditions to the Board of Supervisors for their ultimate review and decision



Limits on Local Zoning Power: Non-Conforming Uses and Vested Rights

- ▶ A use of land that is lawful prior to the adoption of or amendment to a zoning ordinance is a "non-conforming" use
 - Generally, non-conforming uses may continue, notwithstanding a change in the zoning ordinance, so long as they are not expanded or enlarged
 - A non-conforming use that is discontinued for two years may be lost (declared abandoned)



Limits on Local Zoning Power: Non-Conforming Uses and Vested Rights

- ▶ A “vested” right is one that belongs so completely and definitely to a person that it cannot be taken away from him without his permission
 - Zoning ordinances may not impair vested rights



Limits on Local Zoning Power: Non-Conforming Uses and Vested Rights

- ▶ Rights are deemed vested when a property owner:
 - Obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project.
 - Relies in good faith on the significant affirmative governmental act.
 - Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.



Limits on Local Zoning Power: Non-Conforming Uses and Vested Rights

- ▶ An “affirmative governmental action” means:
 - Acceptance of proffers or proffered conditions which specify uses related to a rezoning
 - Approval of an application for a rezoning for a specific use or density
 - Granting a special exception or use permit with conditions



Limits on Local Zoning Power: Non-Conforming Uses and Vested Rights

- ▶ Approval of a variance by the BZA
- ▶ Approval of a preliminary subdivision plat, site plan or plan of development for the landowner’s property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances
- ▶ Approval of a final subdivision plat, site plan or plan of development for the landowner’s property.



Role of the Planning Commission

- ▶ Appointed by the Governing Body (Board of Supervisors)
- ▶ Duties include:
 - Preparation and recommendation of:
 - Comprehensive Plan and Zoning Map
 - Zoning Ordinance (amendments)
 - Capital Improvement Plan
 - Special exceptions requests and rezonings
 - May make recommendation to BZA or variance and appeal requests
- ▶ Subdivision and site plan review and approval



Board of Zoning Appeals (BZA)

- ▶ Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of five (or seven) residents of the locality, appointed by the circuit court for the locality.
- ▶ Terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year.



Board of Zoning Appeals (BZA)

- ▶ The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs.
- ▶ Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.



Role of the BZA

- ▶ To consider and grant variances from the Zoning Ordinance (waivers from the subdivision ordinance may be granted by Circuit Court);
- ▶ To hear and decide appeals from the decision of the zoning administrator; and
- ▶ To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a (zoning) district boundary.



Variances

- ▶ "... a reasonable deviation from those provisions regulating the **size** or **area** of a lot or parcel of land, or the **size, area, bulk** or **location** of a **building** or **structure** when the **strict application** of the ordinance would result in **unnecessary** or **unreasonable hardship** to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning."



Variances

- ▶ Things to Consider When Granting a Variance:
 - Was the property acquired in good faith?
 - The exceptional narrowness, shallowness, size or shape of a specific piece of property (including topography).
 - Strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property (takings issue).
 - Granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant.
 - All variances shall be in harmony with the intended spirit and purpose of the ordinance.



Variances

- ▶ No variance shall be authorized by the BZA unless it finds:
 - Strict application of the ordinance would produce undue hardship relating to the property;
 - The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed.



Variances

- ▶ No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
- ▶ Each case must be heard and decided upon, based upon its own merit (precedence is not a factor).



Variances

- ▶ The BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- ▶ Substantially, the same application will not be considered by the BZA within one year of the original variance request.



Variances

- ▶ What is not considered to be an undue hardship:
 - Financial loss/consideration
 - Signage in general
 - Accessory structure locations
 - Self-inflicted causes
 - Hardship is shared by numerous other properties (should consider a zoning text amendment rather than granting a single variance)
 - The restrictions on the property do not create conditions of confiscation of the property



Appeals

- ▶ May be made by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator.
- ▶ A written appeal may be made within 30 days from the issuance of a Notice of Violation / written decision from the Zoning Administrator.
- ▶ The decision shall be final and unappealable if not appealed within 30 days.



Appeals

- ▶ "The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not accrue or be assessed during the pendency of the 30-day appeal period."



Role of the Zoning Administrator

- ▶ To administer and enforce the zoning and subdivision ordinances
- ▶ Interpret zoning ordinance and proffers
- ▶ Make vested rights determinations with assistance (at times) of County Attorney
- ▶ Create Staff reports and provide information for meetings (Planning Commission and BZA)
- ▶ Research and create draft language for potential text amendments (as directed and requested by the Planning Commission and Board of Supervisors)



Questions

?





Amherst County, Virginia

Planning Commission Annual Report 2016

Route 29 Beautification Committee

INSIDE THIS ISSUE:

- ▶ 2016 Numbers 2
- ▶ Special Exceptions/
Site Plans/Rezoning 2
- ▶ Train Depot 2
- ▶ Meet the Planning
Commission 3
- ▶ Ordinance Changes 3

On July 21, 2016 the Planning Commission approved a charter for the Route 29 Business Beautification Committee. The purpose of the Route 29 Business Beautification Committee is to beautify the roadways of Amherst County so as to instill pride and appreciation of the citizenry and the attractiveness of their community. The Committee will work towards promoting the attraction of customers to the 29 Business corridor and will provide citizens an opportunity to take an active role in the appearance of our community.

The Route 29 Business Beautification Committee will be an advisory committee of the Planning Commission as allowed in County Code, Chapter 11, and Section 11-19 (7). The Committee will consist of nine (9) voting members to achieve representation from a wide variety of stakeholders. Five (5) at large members will be selected by the Planning Commission, of the five (5) at large members; three (3) members will be business owners that own property or manage a business within the defined corridor and two (2) members will be citizens. Two (2) members will be from County staff, one (1) member will be from the Planning Commission, one (1) member will be from the Economic Development Authority.

Community Development Block Grant

Amherst County hopes to provide housing and infrastructure funding to properties along Main Street within the Old Town Madison Heights Community. The County received a \$30,000 grant in 2016 to assess the needs, including housing, commercial property façade improvements and infrastructure in the neighborhood, and develop a strategy that would benefit the entire community.

The planning process has determined that the second area to focus community improvements is along Main Street, beginning at Route 210 and running through 2nd Street, in Old Town Madison Heights. The first phase of the grant was successfully completed in 2014 in the Stumps Hill area of Old Town Madison Heights, which included water, sewer, drainage and housing improvements. The second phase of the grant includes community improvements, including housing, water, sewer, and commercial property upgrades, proposed for the project. Although the planning for the second phase commenced in 2016, if funded, it will likely proceed for the next couple of years.



2016's Numbers¹

In 2017, the Amherst County Planning Commission will meet on the third Thursday of every month at 7 PM at the Amherst County Administration Building.

In 2016 the Planning and Zoning Department approved the following:

- 330 Zoning permits
- 66 Single family dwelling permits.
- 19 Building addition permits.
- 87 Home occupation permits.
- 98 Accessory structure permits.
- 9 Wireless communication facility permits.
- 5 New sign permits.
- 4 Replacement or modification sign permits.
- 4 Commercial/ 1 Institutional site plans.
- 0 PC Approved Major subdivisions.

Special Exceptions / Site Plans / Rezoning

Five special exceptions were recommended to the Board of Supervisors for approval by the Planning Commission in 2016 and all five were approved by the Board of Supervisors in the following month. In March the Planning Commission heard a request for a manufactured home in the R-2 General Residential District. An expansion of the outdoor display area for the James River Equipment facility was recommended for approval in June. Two cases were heard by the Planning Commission in October for uses in the A-1 Agricultural Residential District. A request was approved to expand an existing home occupation into a retreat facility and a request to construct a cabinet shop, kennel, and associated sign was also approved. In November a special exception was heard to allow for the operation of an automotive repair garage in the RMU-1 Residential Mixed Use District.

Three site plans were also approved by the Planning Commission in 2016. Two site plans were related to cabinet shops in the A-1 Agricultural Residential District. In May a site plan for the addition to an existing cabinet shop was approved and in December a site plan for the construction of a new cabinet shop was approved. An addition to an existing automotive repair garage on S. Amherst Hwy. was approved at the September meeting.

Amendments to existing proffers for a previously rezoned property were also approved by the Board of Supervisors in November after being recommended for approval in October. These removed proffers were for the hours of operation and playground fencing for a property zoned B-2 General Commercial District that was previously a daycare facility. The amended proffers allow for a new use for the facility as a multipurpose center.



Train Depot

Phase III of the Train Depot project commenced in the spring of 2016. Phase III included renovations to the interior of the building, such as; interior walls, flooring, HVAC, lighting, molding, trim and other customary finishes. Phase III also included paving of the parking lot with striping, exterior lighting, and an exterior metal railing. The building has a total of four offices, two conference rooms, kitchenette, bathrooms and a space for visitors.

The Depot will be the new home for the Amherst County Economic Development Authority and the Amherst County Chamber of Commerce. The Amherst County Chamber of Commerce will be in charge of running the Visitor Information Center.

1. For a complete breakdown of 2016's numbers see Appendix 1.

Meet the Planning Commission

Member	Phone Number	Email	District
George J. Brine – Chairman	929-6830	gibrine@countyofamherst.com	District 4
Michael K. Martineau – V. Chairman	946-2697	mkmartineau@countyofamherst.com	District 1
Lillian H. Floyd	929-7420	lhfloyd@countyofamherst.com	At-Large
Derin S. Foor	277-8940	dsfoor@countyofamherst.com	District 2
Beverly C. Jones	929-7617	bcjones@countyofamherst.com	District 5
Jim D. Thompson	841-7499	idthompson@countyofamherst.com	District 3
David Pugh (Board Liaison)	509-2038	dwpugh@countyofamherst.com	District 4

Ordinance Changes

A number of changes to the Zoning and Subdivision Ordinance were approved during 2016. In February the Planning Commission recommended allowing time-share projects as a special exception use in the A-1 Agricultural Residential District, where they had previously been prohibited, and as a permitted use in planned unit developments. Planning and Zoning staff, with assistance from the Economic Development Authority, drafted additions to uses in the B-2 General Business District and M-1 Industrial District that were recommended for approval by the Planning Commission in March. These two ordinances were approved by the Board of Supervisors on April 19, 2016.

The Board of Supervisors directed the Planning Commission to consider several code changes in 2016. The first change was to make all new construction of personal wireless service facilities a special exception use in all districts. The second amendment was to lengthen the allowable stay in travel trailer parks in the County from 45 days to 120 days. These ordinances were recommended for approval by the Planning Commission in May and approved by the Board of Supervisors in June. The Planning Commission also drafted a change at the direction of the Board of Supervisors to allow for a single carport meeting certain requirements on a lot without needing a zoning permit. This change was recommended for approval in December and will be heard by the Board of Supervisors in January 2017.

The Planning Commission recommended an ordinance in July that was approved by the Board of Supervisors in August that added limited breweries and limited distilleries as permitted uses in the A-1 Agricultural Residential District. Planning and Zoning staff has continued to work to make better broadband internet coverage a priority for Amherst County. An amendment was approved by the Board of Supervisors in November after receiving a favorable recommendation from the Planning Commission to make wireless broadband service facilities of certain heights permitted. This will allow for a more efficient development of wireless broadband throughout the County.

**AMHERST
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ZONING**

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PERMIT/PLAN TYPE:	Annual-13	Annual-14	Annual-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug 16	Sept-16	Oct 16	Nov 16	Dec 16	Annual-16
Parcels of Land: (Comm. Revenue)																
Zoning Permits:	436	360	325	25	18	27	35	26	34	34	27	32	14	33	25	330
Residential uses/structures:																
Single-family	55	58	50	5	4	6	5	2	9	5	7	3	5	7	8	66
Single-family, manufactured	11	15	7	0	0	0	1	0	0	3	0	1	0	0	0	5
Single-family, manufactured, transportable in two (2) or more sections (Doublewide)																
Single-family, attached (townhouses)	13	7	12	0	0	1	0	0	0	1	0	0	0	0	0	2
Dwelling, short-term tourist rental	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Two-family (duplexes)	3	3	2	1	0	0	1	0	0	0	0	0	0	0	0	2
Multi-family	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Building addition/expansion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Home occupations	21	19	20	1	1	0	1	3	1	4	1	5	1	1	0	19
Other	109	94	69	9	6	11	9	8	6	5	11	10	0	6	6	87
Commercial uses:																
New buildings/structures	2	2	2	0	0	0	0	0	0	1	0	0	0	0	0	1
Change in use to existing building or property	6	2	0	0	0	0	2	0	0	0	0	0	0	0	0	2
Mixed-use buildings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wireless Communication Facility	8	7	10	0	0	0	0	0	1	0	0	0	1	5	1	9
Other (Business Licenses)	41	33	25	6	3	1	1	0	3	2	1	2	0	2	0	21
Industrial uses/structures:	4	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Institutional uses/structures:	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0
Accessory structures/uses:																
Storage buildings/sheds	34	31	30	1	1	3	1	0	5	6	0	0	2	4	2	25
Carports/Garages	29	24	24	0	1	3	4	1	1	2	1	3	1	3	2	22
Pools, above-ground and in-ground	13	13	7	0	0	1	2	0	3	2	0	0	0	0	1	9
Agricultural buildings	10	14	12	0	0	1	2	2	0	0	0	1	0	0	1	11
Other (Decks, Porch, etc)	26	19	27	0	0	0	5	8	4	2	6	3	2	0	1	31
Signs:																
New signs	15	7	8	1	0	0	1	1	1	0	0	0	0	1	0	5
Replacements/modifications of existing signs	6	5	7	1	1	0	0	0	0	0	0	2	0	0	0	4
Zoning Permits for Special Exceptions:																
Residential	3	2	2	0	1	0	0	0	0	0	0	0	0	0	1	2
Commercial	8	3	5	0	0	0	0	1	0	0	0	1	1	0	0	3
Industrial	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Institutional	2	2	2	0	0	0	0	0	0	0	0	1	0	1	0	2

	Annual-13	Annual-14	Annual-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug 16	Sept-16	Oct 16	Nov 16	Dec 16	Annual-16
Site Plans:																
Residential:																
Mobile home parks	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Two-family developments	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Townhouse developments	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Multi-family developments	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Commercial:	4	4	1	0	0	0	1	1	0	0	1	0	0	1	0	4
Agricultural:	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial:	3	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Institutional:	0	2	2	1	0	0	0	0	0	0	0	0	0	0	0	1
Total	8	7	5	1	0	0	1	1	0	0	1	0	0	1	0	5
Subdivision Plans:																
Subdivision, Planning Commission																
Preliminary plats	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Final plats	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Subdivision, administrative	12	9	8	1	0	1	2	0	0	2	0	2	0	3	0	12
Family Division	7	16	5	0	0	1	1	2	0	0	1	3	2	0	0	10
Reconfiguration	20	33	42	1	0	2	5	2	1	4	2	4	2	2	5	33
Resurvey (not a subdivision)	27	43	45	2	2	6	3	2	5	6	2	10	4	3	6	51
Subdivision Info:																
# of Lots (Admin., Family, Final, etc.)	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
# of Lots with Public Water	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Zoning Map Amendments (Rezoning):																
Ordinance Amendments:	0	2	1	0	0	0	0	0	0	0	0	1	0	0	0	1
	0	7	6	1	0	2	0	2	0	1	1	0	0	0	0	7
	0	0	3	1	0	2	0	2	0	1	1	0	0	0	0	7
BZA Appeals:																
	2	4	4	0	0	0	0	0	0	0	1	0	0	0	0	1
Erosion and Sediment Control Plans:																
Residential:	0	1	0	0	0	0	0	NA	NA	0	0	0	0	0	1	1
Commercial:	3	4	4	0	0	0	0	1	NA	0	0	0	0	0	0	1
Industrial:	0	0	1	0	0	0	0	NA	NA	0	0	0	0	0	0	0
Institutional:	0	1	0	0	0	0	0	1	NA	0	0	0	0	0	0	1
	0															
Land Disturbance Permits:																
Residential:	7	29	49	4	1	4	6	2	5	2	7	1	3	4	2	41
Commercial:	11	5	5	0	0	0	1	0	1	0	0	0	0	0	0	2
Industrial:	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Institutional:	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Total LDA (acres):		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Water Connection (ACSA)																
New Connections (Business)	1	1	1	1	0	0	0	0	0	0	0	0	0	0	0	1
New Connections (Residential)	26	24	24	1	2	6	3	4	3	5	5	2	2	0	4	37

	Annual-13	Annual-14	Annual-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug 16	Sept 16	Oct 16	Nov 16	Dec 16	Annual-16
Public Sewer Connection (ACSA)																
New Connections (Business)	1	1	2	1	0	0	0	0	0	0	0	0	0	0	0	1
New Connections (Residential)	11	5	9	0	1	4	1	1	0	3	2	0	0	1	2	15
911 Addresses Issued:	79	80	66	2	9	0	10	0	6	12	0	10	13	3	5	70
Complaints/Violations:	0															
Unpermitted Structures:	11	15	13	0	0	0	2	0	1	2	2	1	2	0	1	11
Illegal Signs:	2	3	1	0	0	0	0	0	0	2	0	0	0	0	0	2
Junk Vehicles:	5	5	9	1	0	0	1	1	0	0	2	0	1	0	1	8
Nuisance:	7	3	5	2	0	1	1	0	1	0	1	2	0	0	0	8
Misc:	1	6	1	0	0	0	0	1	0	0	0	0	0	0	0	1
Business Related:	4	7	8	1	0	0	3	3	1	0	0	0	0	0	0	8
Total:	30	40	37	4	0	2	7	5	3	4	5	3	3	0	2	38

