

BOOK 33**VIRGINIA:**

At a regular meeting of the Board of Supervisors of Amherst County held at the Amherst Education Center on Trojan Lane thereof on Tuesday, the 16th day of March, 2010 at 7:00 p.m. at which the following members were present and absent:

BOARD OF SUPERVISORS:

PRESENT:	Mr. C. Adams	ABSENT: None
	Mr. D. Kidd	
	Mr. R. Vandall	
	Ms. C. Tucker	
	Mr. F. Campbell	

Mr. C. Adams, Chairman, called the meeting to order.

Mr. R. Vandall led in the invocation and pledge of allegiance.

IN RE: CITIZEN COMMENTS

John Marks, 225 Clark St. District 5 – spoke regarding dismissal of county attorney – put matter behind and move forward

Barry Lundren – supports Mr. Don Kidd on matter of county attorney

Sam Davis – 2279 Elon Rd. – real estate, construction and development – supported Mr. Marks comments – did not have a very good relationship with Mr. Hunt.

Robert Arrington – 429 Mansion Way – agreed with Mr. Marks – do away with resolution and move forward

Janice Camden – 419 Main Street – against dismissal of county attorney

Dan Hughes 168 Main Street – spoke in favor of reinstating county attorney

Rodney Taylor – 343 Poor House Farm Rd – thanked Tucker and Campbell for their support in reinstating county attorney

On motion of Mr. Kidd and with the following vote, he invited Mr. Hunt to sign a release giving the Board the opportunity to release information regarding his dismissal.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell
NAY: None

Ms. Tucker thanked everyone for being involved with the governing of the county.

IN RE: APPROVAL OF AGENDA

After discussion in which Mr. Vandall stated that the resolution asking for the reinstating of the county attorney was not in accordance with county code, he moved to have the section XV.a. Resolution from Supervisors Frank Campbell and Claudia Tucker asking for the reinstating of Mr. Hunt as the county attorney stricken from the agenda.

AYE: Mr. C. Adams, Mr. D. Kidd and Mr. R. Vandall

NAY: Ms. C. Tucker and Mr. F. Campbell

On motion of Mr. Vandall and with the following vote, the Board moved to strike number XVI. Closed Meeting section from the Agenda also.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

On motion of Mr. Vandall and with the following vote, the board moved to add:

- 1) Change position of representative to the Social Services Board
- 2) GIS System

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

On motion of Mr. Vandall and with the following vote, the Board moved to approve the agenda with the changes of the above.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

IN RE: PUBLIC HEARINGS ZONING CASES

2010-01 Request by David Childress for a conditional zoning from the R-1 Limited Residential District to the A-1 Agricultural Residential District. The parcel is located at 133 Partridge Place, and is further identified as tax map number 122-A-16. The request will include an amendment to the Amherst County future land use map 2027 to change the land use category from Low Density Residential to Agricultural General.

Mr. Childress spoke regarding his request and asking the Board to approve.

Proponents: None

Opponents: Linda Mitchell – against approval of request – She presented the following:

RESTRICTIONS

HUNT CLUB SUBDIVISION – SECTION II

1. Lots shall be used for residential purposes only
2. Each lot shall constitute a single building unit, except where two or more contiguous lots or portions thereto are purchased by the same owner for use as one building unit, and then said lot shall constitute one building unit. The building unit or lots are limited to one single family residence only. Garages are permitted for private vehicles.
3. No swine, cattle, poultry, goats, or sheep shall be kept or maintained on any lot.
4. No mobile homes, double wide mobile homes, shacks or temporary buildings shall be placed or maintained on any of these lots. No modular homes shall be placed or maintained on any of these lots.
5. No fences shall be permitted on the front of lots or on sides of lots in front of dwelling.

6. Satellite dishes are permitted on the rear of lots only.
7. No permanent on street parking.
8. No commercial vehicles or school bus parking shall be permitted except for usual deliveries.
9. Developer reserves the right to modify these restrictions as deemed necessary.
10. All set back lines and side lines shall be as per plat of record.

PETITION

Benjamin L. & Linda L. Hesson – 212 Hunt Club Dr.
 Troy and Yvette Humphreys – 14 Belmont Terrace
 L. Fontaine – 109 Belmont Terrace
 Ricky Bates – 117 Belmont Terrace
 Tracey and Dale Hudson – 191 Hunt Club Dr.
 James W. and Monica Dalton – 208 Hunt Club Dr.
 George L. and Linda B. Mitchell – 126 Belmont Terrace
 C. William Neighbors – 183 Hunt Club Dr.
 Karen Reese – 111 Partridge Pl.
 Charles E. Campbell – 170 Hunt Club Dr.
 Brian G. Camm – 200 Hunt Club Dr.
 James C. and Christine F. Fore II – 192 Hunt Club Dr.
 Lee and Kerri Humphreys – 2314 Elon Rd.
 Sam E. Davis – 2279 Elon Road

After investigation and the difference in information made unclear as to whether the property was zoned Residential or Agricultural, the Planning Commission recommended denial of the request.

On motion of Ms. Tucker and with the following vote, the Board of Supervisors approved the recommendation of the Planning Commission to deny the request for a conditional zoning from the R-1 Limited Residential District to the A-1 Agricultural Residential District for 133 Partridge Place.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell
 NAY: None

2009-12 Request by the County of Amherst for a zoning text amendment in the B-2 General Commercial District and the V-1 Village Center District. The purpose of the zoning text amendment is to allow above ground liquefied petroleum containers as a special exception use in the above mentioned zoning districts. The ordinance states: "Above ground liquefied petroleum gas containers between one-hundred and twenty-five (125) gallons water capacity and two-thousand (2,000) gallons water capacity, provided there is a distance of three (3) feet between other liquefied petroleum gas containers. Liquefied petroleum gas containers shall be setback twenty-five (25) feet from roads and lot lines of adjoining properties and fifty (50) feet from all structures and installed in a manner to reduce exposure and proximity to vehicular traffic. The Board of Supervisors may impose greater setbacks if above ground liquefied petroleum gas containers are located in close proximity to the following non-exhaustive list of land uses: dwellings, schools, churches, government facilities, or other uses in which higher densities of people gather." Also, the ordinance provides a definition of a liquefied petroleum gas container.

At the June 16, 2009 Board of Supervisors meeting the Board of Supervisors directed the Planning Commission to re-review the ordinance and consider adding setbacks that exceeded the provisions set forth in the previously proposed documents.

Opposition: None

Proponents: Mr. McDowell

At their February 18, 2010 meeting, the Planning Commission recommended approval with the provision that the amendment include language to modify the setbacks if an engineering analysis was performed.

On motion of Mr. Kidd and with the following vote, the Board of Supervisors moved to approve the Planning Commission recommendation of approval of the zoning text amendment to allow above ground liquefied petroleum containers as a special exception use in the B-2 General Commercial and the V-1 Village Center Districts as follows:

302. Specific Definitions.

302.25.2. Container, liquefied petroleum gas. A vessel, such as a tank, cylinder or drum used for storage of liquefied petroleum gas composed predominately of propane, propylene, butanes or butylenes, or mixtures thereof that are gaseous under normal conditions, but are capable of being liquefied under moderate pressure at normal temperatures.

707. General Commercial District B-2.

707.01. Intent of General Commercial District B-2. This district covers those areas intended for the conduct of any retail business. Those with extended hours of operation and generating high volumes of traffic are permitted in this zone.

707.02 Permitted uses. Within the General Commercial District B-2, the following uses are permitted:

1. Accessory buildings and uses as provided in Section 901 herein;
2. Banks and savings and loan institutions;
3. Clinics and medical offices;
4. Clubs and lodges, fraternal, civic and patriotic;
5. Drug stores and other establishments for the filling of prescriptions and sale of pharmaceutical and similar supplies;
6. Emergency services;
7. Food stores;
8. General convenience stores;
9. Newsstands;
10. Oil and gas exploration, extraction and production, provided the provisions of Sections 45.1-361.1 through 45.1-361.144, Code of Virginia, 1950, as amended, and the oil and gas rules and regulations promulgated by the Virginia Department of Labor and Industry are adhered to;
11. Professional office buildings;
12. Public utilities such as poles, lines, transformers, pipes, meters and related or similar facilities; water sewer distribution lines;
13. Retail nurseries and greenhouses;
14. Retail service stores such as bakeries, barber shops, beauty parlors, shoe shops, self-service laundries, and establishments for receiving and distributing articles for laundering, drying and dry cleaning;
15. Signs as provided in Section 907 herein;
16. U. S. Post Offices;
17. Wearing apparel stores;
18. Antique and gift shops;
19. Automobile service stations as provided in Section 902 herein;
20. Cemeteries;
21. Churches, manses, parish houses and adjacent cemeteries;
22. Day care centers;

23. Garages, public;
24. Hardware stores;
25. Motels, motor hotels and motor inns;
26. Restaurants;
27. Schools;
28. School support facilities;
29. Shopping center, subject to restrictions of Section 909 herein;
30. Shopping complex;
31. Single-family dwelling and a retail sales and/or service store within the same main structure, provided the single-family dwelling unit occupies fifty (50) percent or more of the structure;
32. Telephone repeater substations, with no external antennas;
33. Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
34. Bakeries employing not more than ten (10) persons other than clerks and vehicle drivers;
35. Cabinet making shops;
36. Catering establishments;
37. Cold storage plants and frozen food lockers not including lard rendering and abattoirs;
38. Dry cleaning plants;
39. Funeral homes;
40. Furniture stores;
41. Printing plants and newspaper offices;
42. Radio and TV offices and studios;
43. Retail automotive parts stores;
44. Satellite dish antenna sales and service establishments;
45. Theaters, indoor;
46. Videotape sales and rental establishments;
47. Wholesale and jobbing establishments;
48. Bowling alleys, roller skating and ice skating rinks, billiard parlors, pool rooms, dance halls, game rooms, pinball parlors, electronic game centers, golf driving ranges and similar forms of amusement;
49. Colleges;
50. Community centers;
51. Contractor facilities and storage yards and establishments for installation and servicing the following: air conditioning, electrical service, flooring, heating, interior decorating, painting, plumbing, roofing, steel erection, tiling or ventilating with all material stored entirely in buildings enclosed on all sides or with walls or fences, supplemented by plantings as may be prescribed by the board of supervisors;
52. Dormitories;
53. Excavation contractor's facilities and yards for storage of equipment intended for off-site use;
54. Feed and seed stores;
55. Golf driving range;
56. Kennels;
57. Light manufacturing, processing or packaging of products (including machine shops without punch presses) provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or a school district; shall not store or otherwise maintain any parts or waste material outside such building; and shall not create conditions of smoke, fumes, noise, odor or dust detrimental to health, safety or general welfare of the community; and shall be permanently screened from adjoining residential lots and districts by a wall, fence, evergreen hedge and/or other suitable enclosure of a minimum height of seven (7) feet at the original elevation of the property line;
58. Pest exterminating businesses;
59. Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping stations; microwave and radio wave transmission and relay towers and substations; telephone exchange centers, offices, equipment storage, dispatch centers and warehouse facilities;

60. Radio and TV transmission towers (provided the tower is so located that its minimum distance from any lot line shall equal the maximum height of the tower above ground level);
61. Radio and TV transmitters;
62. Sign manufacturing;
63. Truck stop;
64. Veterinary hospitals and clinics;
65. Libraries;
66. Public utilities;
67. Public streets;
68. Wireless communication facilities as provided in Section 914 herein;
69. Short-term tourist rental of dwelling;

707.03. Special Exceptions.

1. Bulk storage and sale of sand, gravel and rock;
2. Automobile sales, used;
3. Building and excavating contractor facilities with outside storage;
4. Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
5. Building materials dealer, not including handling of bulk materials such as sand and gravel;
6. Farm machinery display, sales and services;
7. Machinery sales and services;
8. Arenas, auditoriums or stadiums;
9. Automotive repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or public lands district and which shall not store or otherwise maintain any parts or waste material outside such building;
10. Tire recapping, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or school district and which shall not store or otherwise maintain any parts or waste material outside such building;
11. Adult entertainment establishments in accordance with Section 915;
12. Tattoo establishments;
13. Auction house;
14. Self-service mini-storage and warehouse facilities;
15. Travel trailer sales.

16. Above ground liquefied petroleum gas containers between one-hundred and twenty-five (125) gallons water capacity and two-thousand (2,000) gallons water capacity, provided there is a distance of three (3) feet between other liquefied petroleum gas containers. Liquefied petroleum gas containers shall be setback twenty-five (25) feet from roads and lot lines of adjoining properties and fifty (50) feet from all structures and installed in a manner to reduce exposure and proximity to vehicular traffic. The Board of Supervisors may impose greater setbacks if above ground liquefied petroleum gas containers are located in close proximity to the following non-exhaustive list of land uses: dwellings, schools, churches, government facilities, or other uses in which higher densities of people gather. The Board of Supervisors may provide for a reduction in setbacks if engineered provisions are made for blast containment. All requirements shall be in accordance with Chapter 4, Article II, Section 4-27 of the Amherst County Code, as amended.

706. Village Center District V-1.

706.01. Intent of the Village Center District. This district is designed to allow minimal concentrations of commercial activity and residential-type development within a large agricultural or residential area. As an adjunct to the Public Lands District P-1 and Agricultural District A-1, it is the intent to encourage cluster development of residential, commercial and public uses, thereby helping to discourage random scattering of these uses throughout agricultural and forested areas. To this end, retail activity is greatly limited to

neighborhood convenience sales and services and tourists-oriented specialties, thereby protecting against encroachment of general commercial or other similar uses likely to generate noise, light, odors, smoke, or other obnoxious influences.

706.02. Permitted uses. Within the Village Center District V-1 the following uses are permitted:

1. Those allowed in R-1 Limited Residential;
2. Churches and adjacent cemeteries;
3. Signs as provided in Section 907;
4. General convenience stores;
5. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone;
6. Public streets;
7. Banks;
8. Emergency services;
9. Hair-cutting shops;
10. Laundromats.

706.03. Special exceptions:

1. Signs as provided for in Section 907.
2. Retail stores to include: antique, gift & craft, hair cutting, agricultural products, hardware and building supplies.
3. Cemeteries.
4. Private clubs.
5. Civic organization meeting facilities.
6. Parks and recreational facilities where land is owned privately.
7. Professional offices.
8. Restaurants.
9. Manufactured homes.
10. Dual use structure limited to a single-family dwelling use and a business use.
11. Nursing Homes.
12. Machine shops.
13. Short-term tourist rental of dwelling.

14. Above ground liquefied petroleum gas containers between one-hundred and twenty-five (125) gallons water capacity and two-thousand (2,000) gallons water capacity, provided there is a distance of three (3) feet between other liquefied petroleum gas containers. Liquefied petroleum gas containers shall be setback twenty-five (25) feet from roads and lot lines of adjoining properties and fifty (50) feet from all structures and installed in a manner to reduce exposure and proximity to vehicular traffic. The Board of Supervisors may impose greater setbacks if above ground liquefied petroleum gas containers are located in close proximity to the following non-exhaustive list of land uses: dwellings, schools, churches, government facilities, or other uses in which higher densities of people gather. The Board of Supervisors may provide for a reduction in setbacks if engineered provisions are made for blast containment. All requirements shall be in accordance with Chapter 4, Article II, Section 4-27 of the Amherst County Code, as amended.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. R. Campbell

NAY: None

2009-27 Request by the County of Amherst for a zoning text amendment in the V-1 Village Center District. The purpose of the zoning text amendment is to add more permitted and special exception uses. The amendment also modifies a portion of the existing language.

The Planning Commission recommended approval of the proposed text amendment.

Opposition: None

Proponents: None

On motion of Mr. Kidd and with the following vote, the Board of Supervisors approved the zoning text amendment to add more permitted and special exception uses in the V-1 Village Center District as follows:

706. Village Center District V-1.

706.01. Intent of the Village Center District. This district is designed to allow minimal concentrations of commercial activity and residential-type development within a large agricultural or residential area. As an adjunct to the Public Lands District P-1 and Agricultural District A-1, it is the intent to encourage cluster development of residential, commercial and public uses, thereby helping to discourage random scattering of these uses throughout agricultural and forested areas. To this end, retail activity is greatly limited to neighborhood convenience sales and services and tourists-oriented specialties, thereby protecting against encroachment of general commercial or other similar uses likely to generate noise, light, odors, smoke, or other obnoxious influences.

706.02. Permitted uses. Within the Village Center District V-1 the following uses are permitted:

1. Those allowed in R-1 Limited Residential;
2. Churches and adjacent cemeteries;
3. Signs used for commercial and institutional uses as provided in Section 907;
4. General convenience stores;
5. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone;
6. Public streets;
7. Banks;
8. Emergency services;
9. Hair-cutting shops;
10. Laundromats;
11. Wearing apparel stores;
12. U.S. Post Offices;
14. Catering establishments.
15. Retail stores such as: antique, gift & craft, agricultural products, hardware and building supplies, bookstores, consignment, hobby and collectibles provided that the use does not exceed 10,000 square feet.

706.03. Special exceptions:

1. Signs for uses not specified in the permitted use section and as provided for in Section 907.
2. Retail stores to include: antique, gift & craft, hair cutting, agricultural products, hardware and building supplies.
3. Cemeteries;
4. Private clubs;
5. Civic organization meeting facilities;
6. Parks and recreational facilities where land is owned privately;
7. Professional offices;
8. Restaurants;
9. Manufactured homes;
10. Dual use structure limited to a single-family dwelling use and a business use;
11. Nursing Homes & Assisted Living Facilities;
12. Machine shops;

13. Short-term tourist rental of dwelling;

14. Automobile service stations as provided in Section 902 herein;

15. Day care centers;

16. Farm machinery display, sales and services;

17. Taxidermy;

18. Retail nurseries and greenhouses;

19. Museum;

20. Bed & Breakfast.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. R. Campbell

NAY: None

2009-07 Request by Ronald Lovelace, Rising Sun Baptist Church for a zoning text amendment to allow off-site directional signs as a special exception use in all of the zoning districts. Additional regulations regarding off-site directional signs are included in the proposed ordinance, as well as regulations regarding temporary non-commercial signs and nonconforming and illegal signs.

The draft ordinance incorporated many of the regulations that are included in the VDOT Outdoor Advertising Regulations, 2005 Handbook.

The Planning Commission recommended approval of the text amendment to allow off-site directional signs as a special exception use in all of the zoning districts. Additional regulations regarding off-site directional signs are included in the proposed ordinance, as well as regulations regarding temporary non-commercial signs and nonconforming and illegal signs.

Rev. Ronald Lovelace spoke regarding his request.

Mr. Kidd asked if the ordinance met VDOT regulations.

Opposition: None

Proponents: Mr. McDowell

Mr. Vandall had a question for Mr. Bryant.

On motion of Mr. Kidd and with the following vote, the Board of Supervisors approved the Planning Commission recommendation of approval of the request of the text amendment to allow off-site directional signs as a special exception use in all of the zoning districts. Additional regulations regarding off-site directional signs are included in the proposed ordinance, as well as regulations regarding temporary non-commercial signs and nonconforming and illegal signs.

302.132.1 Sign, multitenant. A sign that serves as a common or collective identification for two or more uses on the same premises.

ARTICLE VII. USE REQUIREMENTS BY ZONING DISTRICTS

701. Public Lands District P-1.

701.01. Intent of public lands zone. To recognize lands owned or leased by the federal, state, county government and local and/or regional authority as being distinct from non-public properties.

701.02. Permitted uses. Those uses deemed by the county to serve the public interests, necessity, and convenience of Amherst County including but not limited to lands designated as national forest, publicly owned reservoirs, parks, schools, libraries, water/sewer utilities, emergency services, animal shelters,

pounds, industrial parks, governmental facilities, and wireless communication facilities. Such uses shall be approved only by the board of supervisors upon application for an amendment to this ordinance and upon such terms and conditions as may be agreed by the applicant upon a proffer, and by the board of supervisors.

701.03 Special exceptions.

1. Jail.

2. Landfill.

3. Off-site directional signs, per Section 907.04(2)(b).

(Ord. of 3-20-07; Ord. of 6-19-07(2))

702. Agricultural Residential District A-1.

702.01. Intent of the Agricultural Residential District A-1. This district is designed to accommodate farming, forestry and limited residential use. While it is recognized that certain rural areas may logically be expected to develop residentially, it is the intent however to discourage the random scattering of residential, commercial or industrial uses in this district.

702.02. Permitted uses. Within the A-1 district, the following uses are permitted:

1. Agriculture and forestry operations; crop production, livestock production, except no confinement facility may be closer than one thousand (1,000) feet to a property line; sale of agricultural and forestall products grown in the county.
2. Temporary sawmills, only for timber on-site or proximate to site.
3. Single-family dwellings that are built in accordance with the statewide building code.
4. Manufactured homes as provided in Section 908.
5. Accessory structures.
6. Emergency services.
7. Home occupations.
8. Reserved.
9. Camping for less than four (4) consecutive weeks in portable facilities; i.e. tent or camper or per Section 904.
10. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone.
11. Bed and breakfast lodging.
12. Public streets.
13. Confined livestock facilities subject to the following conditions:
 - a. Located more than one thousand five hundred (1,500) feet from any house not on the property owned by the applicant;
 - b. Located more than two thousand five hundred (2,500) feet from a public place such as a school or church;
 - c. Located more than one thousand (1,000) feet from a perennial stream as indicated on the 7.5 minute U.S.G.S. topographic survey maps;
 - d. Located more than one thousand (1,000) feet from a state maintained road;
 - e. A maximum of two hundred fifty (250) animal units may be confined per fifty (50) acres of contiguous property;
 - f. The CLF must be approved by all necessary state agencies prior to county approval;
 - g. The applicant for all permits must be a county resident and the property owner;
 - h. It cannot be visible from a state maintained road;
 - i. A zoning permit must be issued prior to any development of the CLF.
14. Flag lot.
15. Wireless communication facilities as provided in Section 914 herein.

702.03. Special exceptions (A-1 zone).

1. Public entertainment.

2. Schools.
3. Saw mills.
4. Pallet manufacturing.
5. Wood yards.
6. Feed mills.
7. Truck business.
8. Churches and related facilities.
9. Signs as provided in Section 907.
10. Planned unit developments.
11. Short-term tourist rental of dwelling.
12. Machinery sales and service.
13. Storage of biosolids as provided in Section 917.
14. Mineral extraction per Section 910.

15. Off-site directional signs, per Section 907.04(2)(b).

(Ord. of 3-18-03(2); Ord. of 9-20-05(2); Ord. of 8-15-06(3); Ord. of 10-17-06(4); Ord. of 1-15-08(1); Ord. of 7-15-08(2); Ord. of 10-21-08(2))

702.1. Time-Share Projects in the A-1 Zoning Classification; Prohibited.

(a) *Definitions.* As used in this section, or in a time-share instrument, unless the context requires a different meaning:

Time-share means either a time-share estate or a time-share use plus its incidental benefits;

Time-share estate means a right to occupy a unit or any of several units during five (5) or more separated time periods over a period of least five (5) years, including renewal options, coupled with a freehold estate or an estate for years in a time-share project or a specified portion thereof;

Time-share instrument means any document, however denominated, which creates the time-share project and program, and which may contain restrictions or covenants regulating the use, occupancy, or disposition of time-shares in a project;

Time-share program or program means any arrangement of time-shares in one or more time-share projects whereby the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five (5) years;

Time-share project means all of the real property subject to a time-share program created by the execution of a time-share instrument;

Time-share unit or unit means the real property or real property improvement in a project which is divided into time-shares and designated for separate occupancy and use; and

Time-share use means a right to occupy a time-share unit or any of several time-share units during five (5) or more separated time periods over a period of at least five (5) years, including renewal options, not coupled with a freehold estate or an estate for years in a time-share project or a specified portion thereof. "Time-share use" shall not mean a right to use which is subject to a first-come, first-served, space available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.

(b) *Prohibited.* Time-share projects shall be prohibited on any land or improvement thereon lying within the A-1 ("Agricultural Residential") Zoning District in the County of Amherst, Virginia.

(Ord. of 2-21-06(2))

703. Limited Residential District R-1.

703.01. Intent of Limited Residential District R-1. This district is composed of certain quiet, relatively low-density single-family residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district. To that end, development is limited to single unit dwellings plus certain low impact uses that serve the individual households of the district.

703.02. Permitted uses. Within the Limited Residential District R-1 the following uses are permitted:

1. Single-family dwellings that are built in accordance with the Virginia Statewide Building Code.
2. Accessory structures.
3. Home occupations, so long as the following criteria are met, are permitted: no outside storage, no signage, no employees or customers may come to the property, no increase in neighborhood traffic or change in type of traffic may occur.
4. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone.
5. Public streets.
6. Wireless communication facilities in which an antenna array and supporting equipment are placed on an existing electrical utility tower or radio tower, provided that the requirements of Section 914 are met.

703.03. Special exceptions:

1. Churches.
2. Public schools.
3. Cemeteries, private or church.
4. Emergency services.
5. Homes for aged.
6. Two-family dwelling which has an outward appearance of a single-family dwelling.
7. Private clubs having facilities such as golf courses, tennis courts and swimming pools.
8. Planned unit developments.
9. Short-term tourist rental of dwelling.
10. Wireless communication facilities in which an antenna array and supporting equipment are placed on a freestanding, non-residential structure or tower other than those listed in Section 703.02(6.) above, provided that the requirements of Section 914 are met.
11. Neighborhood entrance signs.

12. Off-site directional signs, per Section 907.04(2)(b).

(Ord. of 8-15-06(4); Ord. of 10-17-06(4); Ord. of 7-17-07(4); Ord. of 12-16-08)

704. General Residential District R-2.

704.01. Intent of General Residential District R-2. This district is composed of certain quiet, medium density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district. To that end, development is limited to one-, two-, three- and four-unit dwellings, plus certain low impact uses that serve the individual households and the neighborhood as a whole.

704.02. Permitted uses. Within the General Residential District R-2 the following uses are permitted:

1. All those allowed in R-1.
2. Manufactured homes which must be transported in two (2) or more sections, each of which is attached to a permanent chassis.
3. Two-, three-, and four-family dwellings that are built in accordance with the statewide building code.
4. Public facilities; i.e.; schools, parks, emergency services, libraries, post offices.
5. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone.

704.03. Special exceptions:

1. All special exceptions listed in R-1 zone.
2. Day care centers.
3. Multi-family dwellings with an aggregate of not more than eight (8) units.

4. Signs as provided in Section 907.
5. Manufactured homes as provided in Section 908.
6. Short-term tourist rental of dwelling.

(Ord. of 2-18-03(4); Ord. of 10-17-06(4); Ord. of 12-16-08)

705. R-3 Multi-Family Residential District.

705.01. Intent of the R-3 Multi-Family Residential District. To maximize the use of available public sewer and water and roads by allowing dense developments.

705.02. Permitted uses. Within the Multi-family Residential District R-3, the following uses are permitted:

1. Those allowed in R-1 and R-2.
2. Multi-family dwellings as provided in Sections 906, 911 or 912.

705.03. Special exceptions.

1. All special exceptions listed in R-1 and R-2 zones.
2. Nursing homes.
3. Retirement communities.
4. Mobile home parks.
5. Short-term tourist rental of dwelling.

(Ord. of 10-17-06(4))

706. Village Center District V-1.

706.01. Intent of the Village Center District. This district is designed to allow minimal concentrations of commercial activity and residential-type development within a large agricultural or residential area. As an adjunct to the Public Lands District P-1 and Agricultural District A-1, it is the intent to encourage cluster development of residential, commercial and public uses, thereby helping to discourage random scattering of these uses throughout agricultural and forested areas. To this end, retail activity is greatly limited to neighborhood convenience sales and services and tourists-oriented specialties, thereby protecting against encroachment of general commercial or other similar uses likely to generate noise, light, odors, smoke, or other obnoxious influences.

706.02. Permitted uses. Within the Village Center District V-1 the following uses are permitted:

1. Those allowed in R-1 Limited Residential;
2. Churches and adjacent cemeteries;
3. Signs as provided in Section 907;
4. General convenience stores;
5. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone;
6. Public streets;
7. Banks;
8. Emergency services;
9. Hair-cutting shops;
10. Laundromats.

706.03. Special exceptions:

1. Signs as provided for in Section 907.
2. Retail stores to include: antique, gift & craft, hair cutting, agricultural products, hardware and building supplies.
3. Cemeteries.

4. Private clubs.
5. Civic organization meeting facilities.
6. Parks and recreational facilities where land is owned privately.
7. Professional offices.
8. Restaurants.
9. Manufactured homes.
10. Dual use structure limited to a single-family dwelling use and a business use.
11. Nursing Homes.
12. Machine shops.
13. Short-term tourist rental of dwelling.

14. Off-site directional signs, per Section 907.04(2)(b).

706.04. Site plan. Before a building and zoning permit shall be issued for any use in the Village Center District V-1, other than residential or agricultural, a site plan of the proposed development shall be approved by the commission or the zoning administrator, whichever is applicable, in conformance with Section 1003 and Article XI herein.

706.05. All uses in the V-1 zone shall comply with the terms of Section 1301.08 entitled "Operating Conditions in V-1 Village Zone".

1. Site Plan. Before a building and zoning permit shall be issued for any use in the V-1 Village Zone, a site plan of the proposed development shall be approved by the commission or the zoning administrator, whichever is applicable, in conformance with Section 1003 and Article XI herein.
(Ord. of 10-16-06(4))

707. General Commercial District B-2.

707.01. Intent of General Commercial District B-2. This district covers those areas intended for the conduct of any retail business. Those with extended hours of operation and generating high volumes of traffic are permitted in this zone.

707.02 Permitted uses. Within the General Commercial District B-2, the following uses are permitted:

1. Accessory buildings and uses as provided in Section 901 herein;
2. Banks and savings and loan institutions;
3. Clinics and medical offices;
4. Clubs and lodges, fraternal, civic and patriotic;
5. Drug stores and other establishments for the filling of prescriptions and sale of pharmaceutical and similar supplies;
6. Emergency services;
7. Food stores;
8. General convenience stores;
9. Newsstands;
10. Oil and gas exploration, extraction and production, provided the provisions of Sections 45.1-361.1 through 45.1-361.144, Code of Virginia, 1950, as amended, and the oil and gas rules and regulations promulgated by the Virginia Department of Labor and Industry are adhered to;
11. Professional office buildings;
12. Public utilities such as poles, lines, transformers, pipes, meters and related or similar facilities; water sewer distribution lines;
13. Retail nurseries and greenhouses;
14. Retail service stores such as bakeries, barber shops, beauty parlors, shoe shops, self-service laundries, and establishments for receiving and distributing articles for laundering, drying and dry cleaning;
15. Signs as provided in Section 907 herein;
16. U. S. Post Offices;
17. Wearing apparel stores;

18. Antique and gift shops;
19. Automobile service stations as provided in Section 902 herein;
20. Cemeteries;
21. Churches, manses, parish houses and adjacent cemeteries;
22. Day care centers;
23. Garages, public;
24. Hardware stores;
25. Motels, motor hotels and motor inns;
26. Restaurants;
27. Schools;
28. School support facilities;
29. Shopping center, subject to restrictions of Section 909 herein;
30. Shopping complex;
31. Single-family dwelling and a retail sales and/or service store within the same main structure, provided the single-family dwelling unit occupies fifty (50) percent or more of the structure;
32. Telephone repeater substations, with no external antennas;
33. Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
34. Bakeries employing not more than ten (10) persons other than clerks and vehicle drivers;
35. Cabinet making shops;
36. Catering establishments;
37. Cold storage plants and frozen food lockers not including lard rendering and abattoirs;
38. Dry cleaning plants;
39. Funeral homes;
40. Furniture stores;
41. Printing plants and newspaper offices;
42. Radio and TV offices and studios;
43. Retail automotive parts stores;
44. Satellite dish antenna sales and service establishments;
45. Theaters, indoor;
46. Videotape sales and rental establishments;
47. Wholesale and jobbing establishments;
48. Bowling alleys, roller skating and ice skating rinks, billiard parlors, pool rooms, dance halls, game rooms, pinball parlors, electronic game centers, golf driving ranges and similar forms of amusement;
49. Colleges;
50. Community centers;
51. Contractor facilities and storage yards and establishments for installation and servicing the following: air conditioning, electrical service, flooring, heating, interior decorating, painting, plumbing, roofing, steel erection, tiling or ventilating with all material stored entirely in buildings enclosed on all sides or with walls or fences, supplemented by plantings as may be prescribed by the board of supervisors;
52. Dormitories;
53. Excavation contractor's facilities and yards for storage of equipment intended for off-site use;
54. Feed and seed stores;
55. Golf driving range;
56. Kennels;
57. Light manufacturing, processing or packaging of products (including machine shops without punch presses) provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or a school district; shall not store or otherwise maintain any parts or waste material outside such building; and shall not create conditions of smoke, fumes, noise, odor or dust detrimental to health, safety or general welfare of the community; and shall be permanently screened from adjoining residential lots and districts by a wall, fence, evergreen hedge and/or other suitable enclosure of a minimum height of seven (7) feet at the original elevation of the property line;
58. Pest exterminating businesses;
59. Public utilities: public water and sewer transmission lines, treatment facilities, and pumping stations; electrical power transmission lines and substations; oil and gas transmission pipelines and pumping

stations; microwave and radio wave transmission and relay towers and substations; telephone exchange centers, offices, equipment storage, dispatch centers and warehouse facilities;

60. Radio and TV transmission towers (provided the tower is so located that its minimum distance from any lot line shall equal the maximum height of the tower above ground level);
61. Radio and TV transmitters;
62. Sign manufacturing;
63. Truck stop;
64. Veterinary hospitals and clinics;
65. Libraries;
66. Public utilities;
67. Public streets;
68. Wireless communication facilities as provided in Section 914 herein;
69. Short-term tourist rental of dwelling.

707.03. Special Exceptions.

1. Bulk storage and sale of sand, gravel and rock;
2. Automobile sales, used;
3. Building and excavating contractor facilities with outside storage;
4. Automobile laundry or car wash, provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process;
5. Building materials dealer, not including handling of bulk materials such as sand and gravel;
6. Farm machinery display, sales and services;
7. Machinery sales and services;
8. Arenas, auditoriums or stadiums;
9. Automotive repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or public lands district and which shall not store or otherwise maintain any parts or waste material outside such building;
10. Tire recapping, provided all operations are conducted in a building which shall not have any opening other than a stationary window within one hundred (100) feet of a residential, agricultural or school district and which shall not store or otherwise maintain any parts or waste material outside such building;
11. Adult entertainment establishments in accordance with Section 915;
12. Tattoo establishments;
13. Auction house;
14. Self-service mini-storage and warehouse facilities;
15. Travel trailer sales.

16. Off-site directional signs, per Section 907.04(2)(b).

707.04. Site Plan. Before a building and zoning permit shall be issued for any use in the General Commercial District B-2, a site plan of the proposed development shall be approved by the commission or the zoning administrator, whichever is applicable, in conformance with Section 1003 and Article XI herein.

(Ord. of 8-20-02(2); Ord. of 11-19-02; Ord. of 10-17-06(4); Ord. of 7-17-07(3); Ord. of 7-15-08(1); Ord. of 9-16-08)

708. Industrial District M-1.

708.01. Intent of Industrial District M-1. This district is to allow production, wholesale, storage or distribution of products.

708.02. Permitted uses. Within the Industrial District M-1, the following uses are permitted:

1. All wholesalers;
2. Manufacturing, processing, fabricating, assembling, distributing or packaging of products;
3. Printing establishments;

4. Public utilities and all attendant structures necessary for transmission or storage;
5. Signs as provided in Section 907;
6. Truck and freight facility;
7. Warehousing operations not open to the general public;
8. Utilities;
9. Public streets;
10. Wireless Communication Facilities as provided in Section 914 herein.

708.03. Special exceptions:

1. Salvage yards;
2. Quarries;
3. Paper mills;
4. Wholesale and retail modular homes.

5. Off-site directional signs, per Section 907.04(2)(b).

708.04. Site plan. Before a building or zoning permit shall be issued for any use in the Industrial District M-1, a site plan of the proposed development shall be approved by the commission or the zoning administrator, whichever is applicable, in accordance with Section 1003 and Article XI herein. (Ord. of 11-20-07(2))

907. Signs.

907.01. Intent. The intent of this ordinance is to allow signs that do not compromise public health, welfare, and safety, and to allow signs that create a more attractive business climate and protect the natural beauty of the county. Therefore these regulations should prevent signage that by reason of location, size, number or manner of display endanger the public or obstruct views of scenic beauty or detract from the neighborhood and surrounding area.

907.02. General Requirements. All signs unless otherwise specified herein, are subject to the permitting procedure required in Section 1003 of this ordinance.

All signs, whether permanent or temporary, shall comply with the applicable requirements of the county building code and any regulations promulgated by the Virginia Department of Transportation.

Prohibited signs shall include the following types:

1. Portable signs with an area larger than thirty-two (32) square feet. All portable signs may be displayed on the same property for a period of no more than thirty (30) days each year.
2. Signs attached to a roof.
3. Signs that obstruct the ability to see oncoming motor vehicle traffic at any intersection or entrance to a property.

907.03. Exempt signs. The following signs are permitted and exempt from the zoning and building permit process. These signs shall conform to all other applicable standards stated in this ordinance:

1. Real estate signs not exceeding six (6) square feet in area for residential properties or thirty-two (32) square feet in area for commercial properties. Only two (2) such signs are allowed per parcel.
2. Political campaign signs.
3. Identification and or address signs, not exceeding two (2) square feet in area.
4. Construction signs pertaining to on-site activity that do not exceed thirty-two (32) square feet in area.
5. Nonilluminated, nonportable church identification signs not exceeding thirty-two (32) square feet in area.
6. In agricultural areas, non-illuminated signs that advertise products which have been produced on the premises from on-site resources, not exceeding thirty-two (32) square feet in area.
7. Directional signs.

a. One (1) for each on-site intersection requiring visual prompting. All directional signs are limited to a maximum width of eighteen (18) inches and a maximum height of forty-two (42) inches.

b. Temporary non-commercial signs that are displayed for up to thirty (30) days and do not exceed eighteen (18) inches in width and a maximum height of forty-two (42) inches.

907.04. Standards.

1. Illumination:

a. Any illumination of signs shall be done in such a manner that no light is reflected or is apparent beyond the sign structure itself.

2. Set backs and other:

a. *Generally.* The following set back requirements notwithstanding, all signs or support structures shall not impair or jeopardize adequate sight distance of traffic movement.

b. Off-site **directional** signs. No portion of an off-site **directional** sign shall be located closer than ~~twenty-five (25)~~ **eight (8)** feet from the right-of-way of any public road **and must be located outside of a public utility easement.** ~~Off-site signs shall be located no closer than one thousand (1,000) feet from a residential or village zone.~~ Off-site **directional** signs shall be spaced a minimum ~~one thousand (1,000)~~ **three hundred (300)** feet from each other regardless of the location. **Offsite signs are permitted only in the M-1 Industrial zone. Off-site directional signs are limited to a maximum height of six (6) feet. Church and civic signs may not exceed eight (8) square feet in total area, any other use(s) other than church and civic signs must be located at an intersection of two (2) or more public streets and may not exceed two (2) square feet in total area. Such signs shall be allowed only if a special exception for that sign has been granted. Conditions which may be placed on off-site directional signs may include, but not be limited to the following:**

1. Appropriate separation shall be provided between the off-premises business sign and surrounding residences and other uses. The Board of Supervisors may require that such signs not be visible from surrounding residences or residential districts.

c. *Front yard.* No portion of a sign shall be located closer than eight (8) feet from the right-of-way of any public road. For the purpose of this sign ordinance, these standards shall be applicable to both frontages on corner lots.

d. *Side yard.* No portion of a sign shall be located closer than five (5) feet from a side property line.

e. *Rear yard.* No portion of a sign shall be located closer than five (5) feet from a side property line.

f. *Number of signs.* This section shall not apply to signs regulated by the exempt sign section of this ordinance. A property may have one on-site freestanding sign for every public road it fronts on.

g. *Area.* All signs shall have a maximum area of two hundred (200) square feet. On-site, nonattached sign area is determined by multiplying the width of the property along the frontage in feet by 0.5. Attached signs may cover a maximum of twenty (20) percent of the view of the structure to which it is attached.

h. *Height.* Attached signs shall not extend above the eaves of the roof and shall not project above the height of the roof peak. The maximum allowable height of freestanding signs shall be defined by a plane that extends from the setback line at a height of six (6) feet to the eaves of the principal building on site.

907.05. *Nonconforming and illegal signs.* Abandoned signs. Any nonconforming sign **including a sign structure** that does not display advertisement **(real-estate signs may not be used to reface existing signs)** that is in good condition or advertises an event, product or business that no longer exists for one hundred twenty (120) days or more shall be considered abandoned. Abandoned signs **and sign structures** shall be removed.

(a) A sign erected without a permit that is required to have a permit is an illegal sign.

(b) A sign that is subject to a condition that was imposed or accepted as part of any land use decision made prior to September 20, 2005, shall continue to be subject to the condition and such condition shall supersede any corresponding requirement specified in this ordinance. If there is a conflict between conditions and this ordinance, then the conditions shall apply. If there is no condition which addresses a specific requirement, then the requirement of this ordinance shall apply.

(c) Any sign not lawfully existing prior to September 20, 2005, shall not become a legal sign by the enactment of this ordinance on that date.

(d) Any sign lawfully existing prior to September 20, 2005, which does not comply with the requirements of this ordinance as amended on that date, shall be deemed to be a nonconforming sign and may continue subject to the following conditions:

(1) The sign shall be properly maintained.

(2) If the sign is enlarged or altered structurally, the sign must come into compliance with all requirements of this ordinance, as amended.

(3) If the sign is repaired or refurbished at a cost in excess of fifty (50) percent of the replacement costs of the total sign structure (excluding the cost of sign faces) the sign must be brought into compliance with this ordinance's requirements.

Costs associated with normal maintenance and refacing of outdoor advertising signs shall not be deemed to be repair or refurbishing costs.

(4) Nonconforming signs and their structures that are damaged to an extent where the estimated reconstruction cost (excluding the cost of sign faces) is fifty (50) percent or more of their appraised value shall not be rebuilt or repaired, unless brought into compliance with this ordinance.

(e) A nonconforming sign may be refaced without affecting its nonconforming status.

(f) A new tenant in a multi-tenant building may erect new building mounted signs in conformance with this ordinance without affecting the nonconforming status of other signs on the building.

(g) A nonconforming sign may be replaced under the following conditions:

(1) The sign is brought into conformance with this ordinance; or

(2) The area and height of the sign are reduced by fifty (50) percent of the amount the size and height exceed the current ordinance and all other requirements of this ordinance are met.

(h) A business that has closed shall be required to remove any on-site or off-site signs **including sign structures** associated with the business within four (4) months of the date of the business closure.

(i) All nonconforming off-site signs lawfully existing prior to September 20, 2005, may remain in place after becoming nonconforming, provided that they are maintained in accordance with this ordinance.

(Ord. of 8-20-02; Ord. of 5-17-05; Ord. of 10-18-05(8); Ord. of 11-21-06(5))

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker

NAY: None

2010-02 Request by Donnie C. Campbell Sr., for a zoning amendment. The request is for changes in existing proffers that were approved by the Board of Supervisors on August 15, 2006. The property is zoned A-1 Agricultural Residential District and is located at the south west corner of Route 778 (Lowesville road) and Route 621 (Indian Creek Road), the property is further identified as tax map number 29-A-37. The proffers below are being considered for modification:

1. **Operation can only operate from Monday – Friday from 7:00 AM – 5:00 PM 6-42 15** loads per day
2. No lighting or signs on property.
3. No operations to be conducted when St. Mary's Church notifies of any functions being held at the church location.
4. No residue on highway.
5. Vegetation to be established by seeding, fertilizing and mulching as each section is completed.
6. ~~Trees along property lines block all views of quarry operation and noise and dust levels will be minimum.~~ **Trees within one-hundred (100) feet of property line will be preserved and shall not be removed.**
7. ~~No increase in truck traffic.~~
8. Land to be put back to original condition, **property will be permanently seeded once mining operation is complete.** ~~And mining permit will not be passed to any owners outside of the Baldwin Excavating and Trucking family.~~
9. Will comply with all state and county erosion and pollution laws.
10. All operations will be controlled by the Department of Mines and Minerals.

The Planning Commission recommended approval of the request and also recommended modifying proffers.

Mr. Campbell had Mr. Bill Tucker to speak for him.

Opposition: None

Proponents: None

On motion of Ms. Tucker and the following vote, the Board of Supervisors approved Planning Commission recommendation as requested for changes in the existing proffers that were approved by the Board of Supervisors on August 15, 2006. The property is zoned A-1 Agricultural Residential District and is located at the south west corner of Route 778 (Lowesville road) and Route 621 (Indian Creek Road), the property is further identified as tax map number 29-A-37. The proffers are listed below:

1. **Operation can only operate from** Monday – Friday from 7:00 AM – 5:00 PM ~~6-12~~ **15** loads per day
2. No lighting or signs on property.
3. No operations to be conducted when St. Mary's Church notifies of any functions being held at the church location.
4. No residue on highway.
5. Vegetation to be established by seeding, fertilizing and mulching as each section is completed.
6. ~~Trees along property lines block all views of quarry operation and noise and dust levels will be minimum.~~ **Trees within one-hundred (100) feet of property line will be preserved and shall not be removed.**
7. ~~No increase in truck traffic.~~
8. Land to be put back to original condition, **property will be permanently seeded once mining operation is complete.** ~~And mining permit will not be passed to any owners outside of the Baldwin Excavating and Trucking family.~~
9. Will comply with all state and county erosion and pollution laws.
10. All operations will be controlled by the Department of Mines and Minerals.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

2010-06 Request by Christopher B. von Elten for a rezoning from R-1 Limited Residential District to the A-1 Agricultural Residential District. The proposed rezoning is to allow a substance abuse treatment facility on the property, which is a special exception use. The property is located at 1770 Early Farm Road, and is further identified as tax map number 141-A-6.

The Planning Commission recommended approval of the request.

Opposition: None

Proponents: None

On motion of Mr. Kidd and with the following vote, the Board of Supervisors approved the Planning Commission recommendation for a rezoning from R-1 Limited Residential District to the A-1 Agricultural Residential District to allow a substance abuse treatment facility on the property, which is a special exception use.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

2010-07 Request by Christopher B. von Elten for a special exception use in the A-1 Agricultural Residential District to allow a substance abuse treatment facility. The property is located at 1770 Early Farm Road, and is further identified as tax map number 141-A-6.

The Planning Commission recommended approval of the request with conditions.

Mr. Kidd asked Dr. von Elten to expand on the type of treatment program that they were proposing.

Ms. Tucker encouraged them to look at open land.

Opposition: None

Proponents: Dr. B. Brown, Mr. Martineau, Judy Campbell, Paul Kilgore (representing owner of property) Wanda Beverly and Randy Summers.

On motion of Mr. Kidd and with the following vote, the Board of Supervisors approved the Planning Commission recommendation of approval with the following proffers:

- 1) There will be no medical detoxification on the premises.
- 2) No acutely ill patients, whether mentally ill, physically ill, or in withdrawal will be admitted.
- 3) No controlled substances will be stored or administered on the property.
- 4) Twenty-four (24) hour staff with minimum one (1) staff member per seven (7) patients.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

IN RE: GIS DATA AND MAPPING DEVELOPMENT PROJECT

Mr. Bryant presented a change order request from the Timmons Group relating to the upgrading of our currently contracted Internet Mapping Site to Web LoGIStics. There is no fee associated with this change order.

Ms. Tucker reminded Mr. Bryant about VPI well trained grad students that are capable of handling this type of job.

On motion of Mr. Vandall and with the following vote, the Board of Supervisors moved approval of the change order request and to allow Mr. Lintecum to carry through with any paper work needed.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. F. Campbell

NAY: None

IN RE: PUBLIC HEARING INOPERABLE MOTOR VEHICLE ORDINANCE AMENDMENT

Public Hearing to discuss a revision to the Amherst County Code Chapter 9, Division 3, "Keeping of Inoperable Motor Vehicle, etc., on Residential or Commercial Property," and to make this division additionally to apply to commercially used or zoned property.

Opposition: Gary Jennings – stated that he thought the County already had this ordinance.

He was informed that this was an amendment to the code.

Mr. McDowell had a question.

On motion of Mr. Vandall and with the following vote, the Board of Supervisors approved the amendment to Chapter 9, Division 3, "Keeping of inoperable motor vehicles, etc. on Residential or Commercial Property," and to make this division additionally to apply to commercially zoned property as well as residential property.

DIVISION 3. KEEPING OF INOPERABLE MOTOR VEHICLES, ETC., ON RESIDENTIAL OR COMMERICAL PROPERTY*

***State law references:** Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty, Code of Virginia, § 15.2-904.

Subdivision I. General Provisions

Sec. 9-132.1. Declarations of findings and policy.

It is hereby declared that the existence of inoperable motor vehicles, trailers and semi-trailers on residential **or commercial** property in the county is a fire hazard and a hindrance in fighting fires, creates an unsanitary harborage for rodents and insects, constitutes an attractive nuisance to children, and poses other substantial health and safety hazards to the citizens of this county; that such conditions are detrimental to the welfare of the citizens of this county, as the existence of such vehicles on property in the county reduces the market value of such properties and surrounding properties, dissuades the relocation of families and businesses to the area, and discourages tourism; and that such conditions are aesthetically unappealing to the citizens of this county.

(Ord. of 12-20-05, § I (A); Ord. of 6-17-08)

Sec. 9-132.2. Severability.

If any portion of this division shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the ordinance in its entirety, or any of the remaining portions thereof.

(Ord. of 12-20-05, § I (B); Ord. of 6-17-08)

Sec. 9-132.3. Administration and enforcement.

The zoning administrator or his/her designee shall be responsible for the administration and enforcement of this division.

(Ord. of 12-20-05, § I(C); Ord. of 6-17-08)

Sec. 9-132.4. Definitions.

The following terms shall, for the purposes of this division, have the meanings set forth below:

Inoperable motor vehicle means any motor vehicle, trailer or semi-trailer which is not in operating condition; or does not display valid license plates; or does not display an inspection decal that is valid; or displays an inspection decal that has been expired for more than sixty (60) days.

Motor vehicle, as defined in Code of Virginia, § 46.2-100, means every vehicle which is self-propelled or designed for self-propulsion, unless otherwise provided in Code of Virginia, tit. 46.2. Any structure designed, used or maintained primarily to be loaded or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Bicycles and mopeds shall not be deemed to be a motor vehicle.

Semi-trailer, as defined in Code of Virginia, § 46.2-100, means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some of its own weight and that of its own load rests or is carried by another vehicle.

Shielded or screened from view means completely precluding visibility of the subject vehicles from all adjacent streets, alleys and properties, by placing the vehicle within an area completely enclosed either by a solid, rigid, opaque fence composed of standard fencing materials or by a landscaped arrangement of non-deciduous trees, sufficient in height, spacing, density and circumference to ensure precluding visibility of the subject vehicle from all adjacent streets, alleys and properties. The placing, draping or securing of a tarpaulin or other nonrigid cover over or around an inoperable motor vehicle shall not be sufficient to comply with the requirements of this division.

Trailer, as defined in Code of Virginia, § 46.2-100, means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including mobile homes.

Truck business means an operation where large trucks, such as tractor trailers, are used to haul and store goods; this includes maintenance and parking for the trucks.

Vehicle, as defined in Code of Virginia, § 46.2-100, means every device, in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

(Ord. of 12-20-05, § II; Ord. of 6-17-08)

Subdivision II. Inoperable Motor Vehicles, Trailers and Semi-Trailers

Sec. 9-132.5. Restriction on keeping of inoperable motor vehicles.

(a) No person shall keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned or used for residential **or commercial** purposes, any motor vehicle, trailer or semi-trailer, which is inoperable; however, not more than one (1) such vehicle may be kept outside a fully enclosed building or structure, provided that it is shielded or screened from view.

(b) The provisions of this division shall not apply to land that is agriculturally zoned or a licensed business which is regularly engaged in business as an automobile dealer, **truck business**, salvage dealer or scrap processor.

(Ord. of 12-20-05, § III (A); Ord. of 6-17-08)

Sec. 9-132.6. Notice of violation.

(a) The owner of any property zoned or used for residential **or commercial** purposes shall remove there from, or otherwise bring such vehicle into compliance with the provisions of this division, any inoperable motor vehicle on such property in violation of this division within seven (7) calendar days after receiving written notice of such violation.

(b) Notice given pursuant to this section shall:

(1) Reasonably describe the inoperable motor vehicle, and reference this division;

(2) State that failure to comply with the requirements of this division may result in the removal and disposal of the vehicle;

(3) State that such removal and disposal may be at the expense of the owner of such inoperable motor vehicle or the owner of the property upon which such vehicle is located; and

(4) State that any owner of such inoperable motor vehicle or property upon which such inoperable motor vehicle is located may informally appeal the zoning administrator's or his/her designee's decision that the vehicle is in violation of this division by filing a notice of appeal with the county administrator.

(c) Notice given pursuant to this section shall be given in the following manner:

(1) Notice shall be posted in a conspicuous place on the property upon which the inoperable motor vehicle is located; and

(2) Notice shall:

a. Be given the property owner in person, in which case an affidavit shall be completed by the person who delivers such notice attesting to the time and place of the giving of such notice and to whom it was given, or

b. Such notice may be mailed by United States Postal Service mail, postage prepaid, certified mail, return receipt requested, address to the owner as set forth in the records of the Treasurer for the County. Notice shall be deemed to have been received when received in person or upon receipt of a certified letter.

(3) In the event that a notice cannot be delivered for any reason to the property owner in the manner set forth above, the zoning administrator or his/her designee shall cause the notice to be published once in a newspaper of general circulation in the county. Notice shall be deemed to have been received the day of such publication.

(Ord. of 12-20-05, § III (B); Ord. of 6-17-08)

Sec. 9-132.7. Removal of inoperable motor vehicles.

Whenever an owner of property who has received a notice pursuant to this division of an inoperable motor vehicle fails to either remove such vehicle from the property or otherwise to bring such vehicle into

compliance with the provisions of this division within the time specified in the notice, the zoning administrator or his/her designee may cause, by the county or by an independent contractor, such vehicle to be removed from the property and taken to an impound lot for storage, and disposal if applicable. (Ord. of 12-20-05, § III(C); Ord. of 6-17-08)

Sec. 9-132.8. Disposal of unclaimed inoperable motor vehicles.

(a) Whenever the zoning administrator or his/her designee causes the removal of any inoperable motor vehicle to an impound lot, additional notice of such action shall be given in accordance with this division, except that no notice need be posted on the subject property, in writing as soon as possible, but in no event more than five (5) business days after the removal of the inoperable motor vehicle, to the owner of the subject property and, if different, the owner of record of the inoperable motor vehicle that has been taken into custody. The notice shall:

- (1) Describe the year, make, model and serial number of the inoperable motor vehicle;
- (2) Set forth the location of the facility where the inoperable motor vehicle is being held;
- (3) Inform the owner of the owner's right to reclaim the inoperable motor vehicle within fourteen (14) days after the date of such notice upon payment of the cost of removal;
- (4) State that the failure of the owner to exercise the owner's right to reclaim the inoperable motor vehicle within the time provided may result in the inoperable motor vehicle being disposed of; and
- (5) State that the owner of the inoperable motor vehicle, or the owner of the premises on which the inoperable motor vehicle was located at the time it was removed, may be liable for the costs of removal and disposal of the inoperable motor vehicle.

(b) Whenever any inoperable motor vehicle is not reclaimed by the owner of such inoperable motor vehicle by payment of the cost of removal of the inoperable motor vehicle within the time specified in such notice, the inoperable motor vehicle may be disposed of.

(c) If the value of any inoperable motor vehicle removed under the provisions of this division be determined by three (3) disinterested dealers or garage men to be less than three hundred dollars (\$300.00) which would be incurred by such advertising and public sale, it may be disposed of by private sale or junked. In the event of the inoperable motor vehicle being valued at greater than three hundred dollars (\$300.00) the zoning administrator or the zoning administrator's authorized agent shall sell it or cause it to be sold at public auction.

(d) If an inoperable motor vehicle is not reclaimed as provided above, the zoning administrator or zoning administrator's authorized agent, shall sell it or cause it to be sold at public auction. From the proceeds of the sale of an inoperable motor vehicle, the county or its authorized agent shall reimburse itself for the expenses of any auction, the cost of towing, preserving and storing the vehicle which resulted from placing the inoperable motor vehicle in custody. Any remainder from the proceeds of sale shall be held for the owner of the inoperable motor vehicle or any person having security interests therein, as their interests may appear, for ninety (90) days, and then be deposited with the treasurer of the county.

(e) The cost of the removal and disposal of an inoperable motor vehicle may be charged to the owner of such vehicle, or the owner of the property from which such vehicle was removed. Such costs may be collected by the county as taxes and levies are collected.

(f) Any such costs assessed against the property from which the vehicle was removed shall constitute a lien against the property and shall continue until actual payment of such costs has been made to the county.

(Ord. of 12-20-05, § III (D); Ord. of 6-17-08)

Sec. 9-132.9. Appeals.

Any person aggrieved by a decision of the zoning administrator or his/her designee that a motor vehicle, trailer, or semi-trailer is inoperable or is otherwise being kept in violation of this division may appeal such decision to the county administrator or his/her designee by filing a notice of appeal with the office of the county administrator within seven (7) days of receipt of the decision. Such notice of appeal shall state in writing:

- (1) The order, requirement, decision or determination which is the subject of the appeal;
- (2) The date upon which the decision was made; and
- (3) The reason(s) for the appeal.

An appeal under this section shall stay enforcement until after the appeal has been heard by the county administrator or his/her designee.

At a hearing under this section, the aggrieved person and zoning administrator or his/her designee shall have the right to appear and present written statements, documents, photographs, oral testimony and other evidence, but there shall be no formal rules of evidence or procedure required for the conduct of the hearing.

Hearings shall be conducted by the county administrator or his/her designee, who shall determine by a preponderance of the evidence whether there is probable cause to believe that the subject vehicle is inoperable or is otherwise being kept in violation of this division. The county administrator or his/her designee shall state his findings in writing and shall order the case dismissed, or order the immediate removal of the subject vehicle, or grant a reasonable time for compliance with this division, as in his discretion the case may require.

(Ord. of 12-20-05, § III (E); Ord. of 6-17-08)

Sec. 9-132.10. Other penalties and remedies.

In addition to the remedies provided for in this division, any person, firm or corporation violating this division shall be deemed guilty of a misdemeanor and shall be subject to the penalties provided in Code subsection 1-4(a)(1). The remedies provided in this division are cumulative and not exclusive and shall not be deemed to preclude the remedies available in Code subsection 1-4(a) (1) or otherwise available under the law.

(Ord. of 12-20-05, § III (F); Ord. of 6-17-08)

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Ms. C. Tucker and Mr. R. Vandall

NAY: None

IN RE: AMHERST COUNTY ADMINISTRATION BUILDING ENTRANCES

Blair Smith, Architect for the County Administration Building entrance improvement project, met with the Board and presented findings on the south entrance project that deteriorated structural steel needs replacement. He also informed the Board that the previously discussed floor drain on the north entrance would not be installed by the contractor. The resulting additional cost for the needed steel would be \$1300, which brings the total change order amount approved to date for the project to \$19,016.

On motion of Mr. Adams and with the following vote, the Board approved the change order request to be paid from the bond revenue proceeds not to exceed \$1300.00.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker

NAY: None

IN RE: RESOLUTION TO RESCIND THE RESOLUTION OF JANUARY 5, 2010 AND APPROVE THE SIGNING OF THE REQUEST FROM MONELISON FIRE AND RESCUE SQUAD DEPARTMENT

On motion of Mr. Adams and with the following vote, the Board of Supervisors approved the rescinding of the resolution of January 5, 2010 and the approval of the signing of the following request from Monelison Fire and Rescue Squad:

CHIEF ELECTED EXECUTIVE OFFICER'S APPROVAL

Pursuant to Section 147(f) of the
Internal Revenue Code of 1986, as amended

Chief Elected Executive Officer's Name: Christopher R. Adams

Chief Elected Executive Officer's Title: Board of Supervisors, Chairman

Political Subdivision:Amherst County**Volunteer Fire Department:**Monelison Volunteer Fire Department and Rescue Squad, Inc.

Under Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the undersigned hereby certifies that:

1. I am the Chief Elected Executive Officer; as such term is used in section 147(f) of the Code of the above Political Subdivision.
2. The Volunteer Fire Department is required by a written agreement with the Political Subdivision or by an ordinance, resolution or other law adopted by the Political Subdivision (the "Service Agreement") to furnish firefighting services in an area which is within the jurisdiction of the Political Subdivision and which is not provided with any other firefighting services and the Service Agreement is, and is expected to remain, in full force and effect.
3. I hereby approve the Volunteer Fire Department entering into a lease-purchase agreement ("Lease-purchase") for the principal amount stated below to finance the equipment described below.

Amount to be Financed:	<u>\$446,125.00</u>
Equipment:	<u>2010 Pierce Impel Pumper</u>
Location:	<u>133 AmerCourt</u> <u>Madison Heights, VA 24572</u>

This approval is given following a public hearing held at the time; date and place stated on the attached copy of a Notice of Public Hearing and is solely for the purposes of satisfying the requirements of Section 147(f) of the Code. I hereby inform all recipients of this Approval that the Political Subdivision has no obligation (as lessee or otherwise) to pay any rent or to observe any agreement under the Lease-Purchase.

IN WITNESS WHEREOF, I have duly executed and delivered this instrument as of the date set forth below my signature.

Christopher R. Adams, Chairman
Amherst County Board of Supervisors

Date: _____ March 16, 2010 _____

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell, and Ms. C. Tucker
NAY: None

IN RE: CORRESPONDENCE

The Board of Supervisors reviewed the following correspondence on the agenda:

- a. Monthly Report
- b. Building Safety and Inspections Monthly Report – February 2010
- c. Letter of March 1, 2010 from Glenn Sullivan regarding rental inspections
- d. Robert E. Lee Soil & Water Conservation District Minutes of Jan. 28, 2010
- e. Letter of March 5, 2010 United States Department of Agriculture

- f. Letter of March 8, 2010 from Wendy Kendrick
- g. Letter of March 4, 2010 from Victor Leon Thomas
- h. Letter of March 3, 2010 from William Page Johnson, II
- i. VDOT Traffic Alert – March 8-12 and March 15-19, 2010

No action was required.

IN RE: FINANCIAL REPORT FOR MONTH OF FEBRUARY 2010

Ms. B. Campbell presenting the monthly report for February 2010 and was available for any questions regarding the report.

IN RE: IT REPORT

Mr. Lintecum reminded the board that they had taken care of this at the budget workshop.

IN RE: WAIVER OF FEES ON UNPAID TAXES

The Board had received a letter from Rich Drescher, Four Two Investment Group, LLC of 2292 Seaboard Rd, Virginia Beach, VA 23456, informing the Board that he had not received anything from the Treasurer of Amherst County in the previous four (4) years regarding taxes on a parcel of land that he and his partner had purchased. He submitted a check for \$1,117.32 in payment of the \$1,430.55 bill that he was sent in payment of these taxes and was requesting that the Board waive the \$313.23 amount in fees and interest on this bill.

On motion of Mr. Vandall and with the following vote, the Board denied the request for fees and interest on the request.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
NAY: None

IN RE: NOISE ORDINANCE

The Board received information regarding a draft noise ordinance.

On motion of Mr. R. Vandall and with the following vote, the Board approved the tabling of this ordinance until a later date.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
NAY: None

IN RE: APPROPRIATION/TRANSFER/DISBURSEMENTS

On motion of Mr. D. Kidd and with the following vote, the Board approved the appropriations/transfers as presented:

a. APPROPRIATIONS

Sheriff's Department

8-3125-7001	DMV	\$ 3,251.17
8-3130-7001	Grant	657.36
(Pass through revenue deposit with Treasurer's Office)		
031020-5804	Pre Employ – Misc	\$ 4,000.00
(Appropriate From Fine Revenue line – Currently \$39,274.65)		

Social Services Department

053020-5702	Aux Grant	+	\$ 9,600.00
053020-5750	Jobs/View	+	\$12,675.00
(New revenue local match already in place)			
053020-5711	Other PS	-	\$ 336.00
053020-5712	Non-view DC	-	22,942.00
(loss of revenue)			
053020-5726	View DC	+	\$ 8,100.00
053020-5720	Adult Serv	+	3,029.00
(new revenue)			
053020-5723	Federal DC	+	\$24,826.00
(new revenue – no local match)			
053010-5504	Travel – con/ed	+	\$ 2,000.00
053020-5703	Independent Living	+	2,500.00
053020-5716	Headstart DC	+	34,710.00
053020-5717	SN Adoption	+	12,154.00
053020-5719	Adoption Subs	+	2,230.00
(new revenue – no local)			
053010-1007	Comp-OA	+	\$ 7,000.00
053010-1008	Comp – SW	+	4,801.00
053010-1009	Comp – EW	+	11,672.00
053010-2001	FICA	+	1,795.00
053010-5401	Office Supplies	+	7,001.00
(new revenue – no local)			

Community Non Departmental

81090-5804-100-100-125	Brockman Park Recoupment		\$11,678.74
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b. TRANSFERSSocial Services DepartmentTransfer from:

53020-5701	GR	-	\$ 1,657.00
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Transfer to:

53020-5726	View DC	+	900.00
53020-5720	Adult Services	+	757.00

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
 NAY: None

IN RE: MATTERS FROM BOARD OF SUPERVISORS

Frank Campbell – None
 Don Kidd – None
 Chris Adams – None
 Ray Vandall – None

Claudia Tucker – change of Social Service representatives as follows:

IN RE: SOCIAL SERVICE BOARD REPRESENTATIVE

On motion of Mr. Vandall and with the following vote, the Board approved Ms. Tucker and Mr. Campbell switching position as to the primary (Mr. F. Campbell) and alternate (Ms. C. Tucker) board liaison on the Social Service Board.

Mr. F. Campbell will now be the primary representative and Ms. C. Tucker will now be the alternate.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
NAY: None

Ms. Tucker wanted to thank everyone in the audience for their being at the meeting and participating as that's what is needed for open government.

IN RE: REQUEST TO VIDEO MEETINGS

Ms. Tucker was also requesting approval of someone to video the Board meetings and then the DVD would be placed in the Library for anyone to look at with no cost to the County.

On motion of Mr. Vandall and with the following vote, the Board approved 2 volunteers to work with IT in videoing meetings and putting the DVD at the library for anyone to view at no cost to the County.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
NAY: None

IN RE: CITIZEN COMMENT – GARY JENNINGS

As Mr. Jennings had arrived at the meeting late, the Board allowed him time to speak.

Mr. Jennings was speaking on behalf of the County Attorney release.

Ms. Tucker thanked Mr. Jennings, the audience for their participation, she stated she was a supporter of open government and she was still working on that principle.

IN RE: ADJOURN

On motion of Mr. R. Vandall, seconded by Mr. D. Kidd and with the following vote, the Board adjourned to Wednesday, March 24, 2010 at 8:30 a.m.

AYE: Mr. C. Adams, Mr. D. Kidd, Mr. R. Vandall, Mr. F. Campbell and Ms. C. Tucker
NAY: None

Christopher R. Adams, Chairman
Amherst County Board of Supervisors

C. Lee Lintecum, County Administrator